



**BOARD OF BUILDING AND ZONING APPEALS
MINUTES OF THE PROCEEDINGS OF THE PUBLIC HEARING
June 29, 2021**

The hearing was called to order at 7:30 P.M. by Chairman Baesel

PRESENT: Board Members Karen Alfred, Bryan Baesel, Cynthia Nolde, Brad Lamb
ABSENT: Robert Swisher
ALSO PRESENT: Clerk of Commissions Nicolette Sackman and Law Director Michael Maloney

SELECTED CORRESPONDENCE

Docket 2021-20 Nolde

- Letter from Joseph & Regina Orange, 2882 Wakeman – in support
- Letter from Anthony Matalavage, 2861 Wakeman – in support
- Department review: Engineering, no comments

Docket 2021-23 Herdman

- Letter from Kathryn & Dennis Ielapi, 1370 Canterbury – in support

Docket 2021-25 Gingerich

- Revised site plan with more details
- Letter from Penny Lombardo, 1315 Queen Anne's Gate – opposed
- Letter from Traci Maurer, 1155 Charter Oak #105 & 107 – opposed
- Letter from DeWayne Ashcraft, 24165 Detroit – in support

Docket 2021-26 Melnyk

- Letter from Kristopher Kulik, 26140 Rose Rd. – in support
- Letter from Julian Norton, 26160 Rose Rd. – in support
- Letter from Robert Kerczewski, 26179 Rose Rd. – in support
- Letter from Joseph Lynch, 26161 Rose Rd. – in support

DOCKETS

Docket 2021-20

Applicant: Jason Nolde

Premises: 2894 Wakefield Lane, PP#21616020, Ward 4

Requesting to construct a 160 sf utility building. 1211.04(k): utility building shall be permitted in a rear yard provided that the maximum building size on lots under 20,000 sf is 120 sf; a **40 sf area variance**.

Mr. Nolde was sworn in by Mr. Maloney. He explained he would like a 40 sf variance for an oversized shed at 16 sf. He reviewed the property stating it is a pie shape with a 75' frontage. Due to the shape and width he is not able construct an addition to the garage as there is not

enough room in the side yard. Also due to the lot width they are only able to have a 462 sf garage and need addition space for storage. The shed will not change the character of the neighborhood as there are many sheds and the property behind his house is an Office Building zoned lot. His neighbors support his request.

Members of the board discussed the proposal and the lot is unique based on the evidence submitted.

After a careful review of the evidence and testimony, the Board made the following findings of fact:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance - yes
2. Whether the variance is substantial - no
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance - no
4. Whether the variance would adversely affect the delivery of governmental services - no
5. Whether the property owner purchased the property with the knowledge of the zoning restriction – n/a
6. Whether the property owner’s predicament feasibly can be obviated through some other method other than a variance – no
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance - yes

Motion: Mr. Alfred moved, seconded by Mr. Lamb to grant a 40 sf area variance.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Lamb

Nays: none, motion carried

Docket 2021-21

Applicant: Jeff Janosek

Premises: 1895 Bur Oak Dr., PP#21107007, Ward 5

Requesting to install the pool equipment in the side yard of the property. 211.04(g)(2)(B): the pool and all mechanical equipment used in conjunction therewith is [to be] located in the rear yard; a **location variance for the pool equipment from the rear to the side yard.**

Mr. Bay, contractor, was sworn in by Mr. Maloney. He reviewed the site plan and the location for the pool equipment. The proposal location in the side yard is adjacent to the utility connections for gas and electric. The house is the first house in the development and closest to Detroit Rd. There is a vacant parcel on Detroit Rd. that is to the south side of the applicant’s property where the pool equipment is proposed to be located. The rear yard of the property has a shallow rear yard and has limited room. The pad is 4’ x 8’ and there will be landscape surrounding the unit.

Members discussed the proposal and it was noted that it was uncertain if the homeowner’s association will do something with the vacant parcel.

After a careful review of the evidence and testimony, the Board made the following findings of fact:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance - yes
2. Whether the variance is substantial - no
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance - no
4. Whether the variance would adversely affect the delivery of governmental services - no
5. Whether the property owner purchased the property with the knowledge of the zoning restriction – n/a
6. Whether the property owner’s predicament feasibly can be obviated through some other method other than a variance – no
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance - yes

Motion: Ms. Alfred moved, seconded by Mr. Lamb to grant a location variance for the pool equipment from the rear to the side yard with the condition that the unit is screened.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Lamb

Nays: none, motion carried

Docket 2021-22

Applicant: Jessica Jung

Premises: 30959 Inverness Circle, PP#21606043, Ward 6

Requesting to install the pool equipment in the side yard of the property. 211.04(g)(2)(B): the pool and all mechanical equipment used in conjunction therewith is [to be] located in the rear yard; a **location variance for the pool equipment from the rear to the side yard.**

Mr. Leuschen, sworn in by Mr. Maloney, explaining the proposed pool equipment will be in the side yard behind the garage next to the side of the house and a walk. The yard has constraints that limits the location for the unit due to the shallow depth of the rear yard. There is a swale at the rear of the yard.

Members of the board discussed screening the unit, the location behind the garage, and the uniqueness of the property.

After a careful review of the evidence and testimony, the Board made the following findings of fact:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance - no
2. Whether the variance is substantial - no
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance - no
4. Whether the variance would adversely affect the delivery of governmental services - no

5. Whether the property owner purchased the property with the knowledge of the zoning restriction – n/a
6. Whether the property owner’s predicament feasibly can be obviated through some other method other than a variance – no
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance - yes

Motion: Mr. Lamb moved, seconded by Ms. Alfred to grant a location variance for the pool equipment from the rear to the side yard with the condition that the unit is screened.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Lamb

Nays: none, motion carried

Docket 2021-23

Applicant: Dan Herdman

Premises: 1379 Canterbury Road, PP#21318007, Ward 1

Requesting to construct a 1152 sf detached garage. 1211.04(a)(2): on lots of single family uses private garages may be attached or detached, and shall be limited to one garage area of 1,000 sf on lots sized 20,001 to 40,000 sf; **a variance for 152 sf.**

Mr. Herdman, sworn in by Mr. Maloney, explained he would like additional square footage for a new detached garage. He has automobiles that he would like to store in the building and if it were constructed per code there would not be enough storage. The house, which was built in 1949, does not have an attic and lacks storage space. There was an old dilapidated garage on the property that was demolished. The new garage will be in a similar space. He stated there are other similar garages in the area and he showed photos of the neighboring garage that received a variance numerous years ago. The proposed garage will be one story as he does not want to climb stairs to store items in an upper floor. He thought the new garage will improved the value of the property. He owns both properties on either side of this property.

The board reviewed the proposal and discussed: the lot size; the location of the old demolished garage; the distance from the house; the pitch of the roof and the size of the garage.

After a careful review of the evidence and testimony, the Board made the following findings of fact:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance - yes
2. Whether the variance is substantial - no
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance - no
4. Whether the variance would adversely affect the delivery of governmental services - no
5. Whether the property owner purchased the property with the knowledge of the zoning restriction – n/a
6. Whether the property owner’s predicament feasibly can be obviated through some other method other than a variance – no

7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance - yes

Motion: Mr. Lamb moved, seconded by Ms. Alfred to grant a variance for 152 sf.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Lamb

Nays: none, motion carried

Docket 2021-24

Applicant: Matt Matisko

Premises: 24677 Framingham Dr., PP#21531061, Ward 2

Requesting to construct a 6' tall fence in the side yard of this corner lot, 14'-3" from the planned right-of-way line. 1211.04(b)(3): fences may be permitted along the side or rear lot lines to a height of not more than 6' above the average finished grade except that on a corner lot, no fence shall be located within 25' from the planned right-of way line; a **10' 9"** **setback variance**.

Mr. Matisko, sworn in by Mr. Maloney, explained he would like to install a fence 14'3" from the right-of-way. His lot is a corner lot and if he were to install the fence per code there would a 2' strip of grass between the fence and a landscape area.

Members of the board discussed the following: the corner of the fence near the house is chamfered which helps with visibility; the location of the fence in relation to the existing landscape; the fence will not be very visible due to landscape.

Mr. Thomas Chalfant, 2893 Columbia Road stated he had no objections to the proposal.

Ward 2 Councilman Nick Nunnari, sworn in by Mr. Maloney, stated that he has seen the property and has no objections to this proposal.

After a careful review of the evidence and testimony, the Board made the following findings of fact:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance - yes
2. Whether the variance is substantial - no
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance - no
4. Whether the variance would adversely affect the delivery of governmental services - no
5. Whether the property owner purchased the property with the knowledge of the zoning restriction – n/a
6. Whether the property owner's predicament feasibly can be obviated through some other method other than a variance – yes
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance - yes

Motion: Mr. Lamb moved, seconded by Ms. Nolde to grant a 10' 9" setback variance.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Lamb

Nays: none, motion carried

Docket 2021-25

Applicant: Brad Gingerich

Premises: 24091 Detroit Rd., PP#21406013, Ward 1

Requesting to construct a fence 8' high fence (in the front yard) 15' off of the right-of-way, which abuts a lot zoned for nonresidential purposes (general business zoning to the west).

1211.04(b)(1): fences shall be permitted along the side lot line in the front yard but shall not be constructed within 15' the planned right-of-way line to a height not exceeding 6' when residential properties abut a lot used or zoned for nonresidential purposes; a **2' height variance**.

Mr. Gingerich, sworn in by Mr. Maloney, explained he is looking for a variance to install an 8' tall fence along the property adjacent to the General Business zoned property to the west. A 6' tall fence is permitted but he would like 8' due to lights on the commercial building. His property is unique as there is a creek and ravine. Due to the changes in grade the adjacent commercial building's wall packs shine into his home and vehicle lights as there is traffic 24/7 due to the business use. The proposed fence will be the length of the commercial property and will be a board on board fence. He reviewed the fence location and noted the neighbors that submitted letters of opposition are not adjacent neighbors.

Members of the board discussed the following: the grade of the properties; the elevation of the house in relation to the commercial building; the wall packs on the commercial building should be shielded and downcast so they do not shine off the property and should be reviewed by the city so they comply with zoning codes as well as the pole light. Mr. Gingerich advised that the owner of the commercial property supports his request and is working with him.

Ms. Laurel Schaefer, 24017 Detroit Rd., sworn in by Mr. Maloney, explained she lives next door to Mr. Gingerich to the east. She noted she was not opposed to the fence but has concerns with the 8' height, but could understand the reason due to lights as well as the objections other neighbors had since they will see the fence.

It was suggested to table the request until the city can look into the lights on the commercial property.

Motion: Mr. Lamb moved, seconded by Ms. Alfred to table the request to the July 27th hearing.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Lamb

Nays: none, motion carried

Docket 2021-26

Applicant: George & Deborah Melnyk

Premises: 26143 Rose Rd., PP#21518021, Ward 2

Requesting to install swimming pool equipment in the rear yard 2' off of the side property line. 1211.04(g)(2)(B): the pool and all mechanical equipment used in conjunction

therewith is [to be] located in the rear yard and is not less than 10' from any lot line; **an 8' setback variance for the pool equipment to be 2' from the side lot line.**

Mr. Warren (contractor), Mr. and Mrs. Melynk were sworn in by Mr. Maloney. They explained the proposal is to locate the pool equipment 2' from the property line behind the newly installed fence. There are large trees in the yard and along the property line at the rear corner of the property that they and the neighbor would like to remain. The trees are maybe 60-80 years old and very large. The side of the property for the proposed unit is adjacent to the neighbor's garage. Mr. Warren explained there will be an automatic pool cover and the unit cannot be closer than 10' and no more than 20' away.

Members of the board and the applicant discussed at length the location of the pad and proposed equipment unit; the setback from the fence and property line; possible other locations to place the unit as there were concerns with the proposed location of 2' off the property line; the location of the trees which the applicant stated made the other side of the yard not an option; costs associated with relocating the unit; placing landscape screening between the fence and the unit; level of sound; concerns that the unit is not placed by the house; concerns if the board on board fence were removed the unit would be visible and very close to the property line. The Melynks noted that four of the surrounding neighbors supported the request and the next door neighbor was concerned with possible damage to the large trees if the unit was placed in another location.

Mr. Rich Pohorence, 26122 Rose Rd., sworn in by Mr. Maloney, explained he lives to the north and two houses down from the applicant and did not have an issue with the placement of the unit, it would not be visible and lawn mowers are louder than the pool equipment.

Ward 2 Councilman Nick Nunnari, sworn in by Mr. Maloney, stated that he visited the property and there are large trees and tree roots in the rear yard so there is no other place for the unit to be located. He noted the yard is not very wide and the setback from the pool also needs to be considered and factored in. He also noted that new pool pumps are very quiet.

After a careful review of the evidence and testimony, the Board made the following findings of fact:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance - yes
2. Whether the variance is substantial - yes
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance - no
4. Whether the variance would adversely affect the delivery of governmental services - no
5. Whether the property owner purchased the property with the knowledge of the zoning restriction – yes
6. Whether the property owner's predicament feasibly can be obviated through some other method other than a variance – no
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance - no

At 8:55 pm the board adjourned to deliberate and returned to the floor at 9:01 pm. It was discussed that once a variance is granted the approval stays with the property forever and granting a variance to allow the unit to be 2' from the property line may set precedence for future requests. It was explained that the board could vote on the request as proposed or it could be tabled to look at possible revisions. The Melynks and Mr. Warren discussed options and requested that the variance amount be changed to 5' so the unit could be 5' from the property line as they still have concerns with damaging surrounding tree roots.

Motion: Mr. Lamb moved, seconded by Mrs. Nolde to grant a 5' setback variance for the pool equipment to be 5' from the side lot line with the condition that the unit is screened.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Lamb

Nays: none, motion carried

MISCELLANEOUS

None

APPROVAL OF MINUTES

Motion: Ms. Alfred moved, seconded by Mr. Swisher to approve the minutes of the May 25, 2021 Board of Building and Zoning Appeals meeting.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Lamb, Swisher

Nays: None, motion carried

ADJOURNMENT

Mr. Baesel adjourned the meeting at 9:15 P.M.

Bryan Baesel, Chairman

Nicolette Sackman, Clerk of Commissions

Approved: _____