

MEETING

CITY OF WALKER

ZONING BOARD OF APPEALS

Wednesday, June 23, 2010

7:00 p.m.

The meeting of the Zoning Board of Appeals was called to order by Robert Marz, Chairman at 7:00 p.m. at City Hall 4243 Remembrance Rd., N.W., Walker, Michigan.

Members present: Robert Marz, Chairman; Roger Crabtree; Brian Boelens; Sandra Howland; Beth Rogers and James Hickey. Members absent: Charles Deschaine and Randy Smith. Jeff Nelson, Building Official/Zoning Administrator and Tammy Freedman, Recording Secretary.

DECISION AND ORDER

Legal Description

Property located at 1467 Gridley also known on the tax rolls as 41-13-17-428-030. Hearing requested by James R Keiling.

The applicant's request is to erect a 6' x 12' addition to existing house with a 42" below grade footing on concrete slab to match existing house foundation without a required crawl space or basement.

Finding of Facts

Robert Marz, Chairman reviewed the application and site plan submitted.

James Keiling appeared on behalf of this request.

Robert Marz read the letter from the surrounding neighbors that are in support of this addition.

No other citizens appeared on behalf of this request.

James Keiling stated that he had checked with the neighbors in the surrounding area they are in support of the addition.

Robert Marz asked the Mr. Keiling how they will be running the heat runs to the new addition.

James Keiling stated that the heat runs are in the attic everything for the new addition will come straight down.

Robert Marz asked Jeff Nelson if had any concerns with this addition.

Jeff Nelson stated that Mr. Keiling is doing a major remodel and he has taken out a 3" bow out of the roof line and they have made a definite improvement to the property.

Motion

Beth Rogers moved and Jim Hickey supported the motion to grant the applicant's request is to erect a 6' x 12' addition to existing house with a 42" below grade footing on concrete slab to match existing house foundation without a required crawl space or basement.

- a. There are exceptional and extraordinary circumstances applicable to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district. The request is for a 6' x 12' pad with a 42" footing to extend to the bedroom. The existing house does not have a basement for a crawl space.
- b. The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district. 234 Maynard and 4440 Burton.
- c. Authorization of the variance will not be of a substantial detriment to adjacent property and will not materially impair the intent and purpose of the ordinance or public interest in that the addition would not be a detriment to surrounding neighbors. It will square the house off and make the back of the house all even.
- d. The condition or the situation of the piece of property or the intended use of the property for which the variance is sought is not so general or recurrent a nature as to make reasonably practicable for the formulation of a general regulation. There are not many homes in Walker with this situation. The neighbors are all in agreement with the addition.
- e. Does not apply.

Motion carried unanimously.

DECISION AND ORDER

Legal Description

Property located at 4088 Hall St SW also known on the tax rolls as 41-17-06-226-022. Hearing requested by James A Spaak.

The applicant's request is to split (1) acre off of an existing approximately 16 acre parcel and combine with an adjacent property on a parcel without the required 180' of street frontage.

Finding of Facts

Robert Marz, Chairman reviewed the application and site plan submitted.

Robert Marz informed the applicants they only have 6 board members instead of 7.

James A Spaak appeared on behalf of this request.

No other citizens appeared on behalf of this request.

Brian Boelens asked Mr. Spaak if he is buying the additional 1 acre to build a building on it.

James Spaak stated he did not want to build a building he would just like more property.

Harold Jacobus of 4088 Hall St SW the owner of the property stated that Mr. Spaak the applicant was planning to move, but he suggested that Mr. Spaak purchase 1 acre of property from him to stay at this address.

Jeff Nelson stated he will not approve the split unless the property is combined.

Motion

Beth Rogers moved and Sandra Howland supported the motion to grant the applicant's request is to split (1) acre off of an existing approximately 16' acre parcel and combine with an adjacent property on a parcel without the required 180' of street frontage.

- a. There are exceptional and extraordinary circumstances applicable to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district current parcel has over 1 acre.
- b. The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district 3693 O'Brien, 1029 Cogswell and 4606 and 4620 Burton.
- c. Authorization of the variance will not be of a substantial detriment to adjacent property and will not materially impair the intent and purpose of the ordinance or public interest in that there will be no visual or physical changes to the property as a result of the variance.
- d. The condition or the situation of the piece of property or the intended use of the property for which the variance is sought is not so general or recurrent a nature as to make reasonably practicable for the formulation of a general regulation looking to preserve current condition of land. Sole purpose of purchase and sale is to ensure that land usage will not change.
- e. Does not apply.

Motion carried unanimously.

DECISION AND ORDER

Legal Description

Property located at 2356 Turner also known on the tax rolls as 41-13-12-401-013. Hearing requested by Greg Bol.

The applicant is requesting a use variance to allow a gymnastics training facility in an MH industrial zoning district.

Finding of Facts

Robert Marz, Chairman reviewed the application and site plan submitted.

Greg Bol appeals on behalf of this request.

Jeff Nelson stated this is a use variance they need to prove all 5 points of the variance. In this situation the applicant is only taking part of the industrial building and the applicant must be aware they have to do one of two things provide a rated wall or they have to have the whole building meet the assembly requirements of the code.

Robert Marz asked about the parking and exits, etc.

Jeff Nelson stated that if the applicant puts the rated wall in they will look at that section of the building for parking, exits, etc. if they don't put the rated wall in we will need to look at the whole building and treat it as an assembly use. Jeff Nelson stated that he wanted the applicant to be aware that when they are changing a use from a factory use to assembly use there are different requirements.

Jim Hickey asked Jeff Nelson if this building was sprinkled.

Jeff Nelson stated that he didn't think any buildings off of Turner are not sprinkled, but he hasn't been in the building in a while.

Randy Teller he's an employee of Alpine Gymnastics. Mr. Teller stated it was stated in the variance application that the proposed use would not have an impact on Alpine Gymnastics. Mr. Teller asked what is the company, he stated there is a third clinic off from Alpine and 4 Mile is this still in Walker.

Jeff Nelson stated the location on 4 Mile and Alpine Ave is in Alpine Township.

Randy Teller asked what is the name of this company and what is the name of the applicant applying for the variance. Mr. Teller stated he would like to know if it is one of their employees starting their own business.

Jeff Nelson stated that if the applicant would like to give you that information they can.

Robert Marz stated that the impact they are talking about is the immediate businesses in the area of where the variance is being applied for.

Robert Marz asked Mr. Bol if they have someone leasing this space.

Greg Bol stated that is correct they will have a tenant.

Brian Boelens asked the applicant if he currently has a business like this in another area.

Greg Bol replied that he is an employee of Visser Brothers.

Jim Hickey asked Jeff Nelson the only thing the applicant has to do to the building is put in a rated wall and put in a couple exit signs and then the parking would be sufficient.

Jeff Nelson stated that Visser Brothers has several buildings in the area and the businesses can share parking. Storage is 1 space for 500 sq. ft., factory is 1 space for 300 sq. ft. and gymnastics is 1 space for 250 sq. ft., so with the shared parking the applicant would have to show the parking meets the requirements.

Jim Hickey asked the applicant if the building is currently empty.

Greg Bol stated this is a 120,000 sq. ft. building and 45,000 sq. ft. is currently leased.

Jim Hickey stated this would meet the parking requirements.

Jeff Nelson stated that he wanted to make the applicant aware that aren't going to move in and put in a tenant separation wall and be open for business. Jeff Nelson stated that renovation at the youth center on Walkent Avenue was \$500,000 renovation with a stand- alone building this Turner Avenue site will be a little different operation.

Motion

Jim Hickey moved and Sandra Howland supported the motion to grant the applicant is requesting a use variance to allow a gymnastics training facility in an MH industrial zoning district.

- a. There are exceptional and extraordinary circumstances applicable to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district. Gymnastic Training Facilities require ceiling heights of 20' – 24' feet which are difficult if not impossible to find in General Business/Retail zoned districts. Additionally, the Training Facility requires a clear floor area (no columns) of 40' x 40' which is not common in general business districts. Particular tenant has been looking for 2 + years for a suitable building and would prefer to be located in the City of Walker.
- b. The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district. There is another gymnastics training facility currently operating in an industrial zoned property in the City of Walker – Alpine Gymnastics – 1975 Waldorf NW, granting this use variance would preserve a substantial property right possessed by other properties in the same zoning district.
- c. Authorization of the variance will not be of a substantial detriment to adjacent property and will not materially impair the intent and purpose of the ordinance or public interest in that DBV Partners LLC, owner of the property at 2356 Turner, also owns the adjoining properties. Majority of business will take place after typical manufacturing/warehousing hours and on weekends. This training facility is intended for private use and not open to the public on a walk-in type basis. This proposed use will have less impact on the neighboring properties than other permitted uses; pollutants not produced by this use i.e. noise, traffic, smells, etc.
- d. The condition or the situation of the piece of property or the intended use of the property for which the variance is sought is not so general or recurrent a nature as to make reasonably practicable for the formulation of a general regulation. There are occasions where a non-industrial use fits within an industrial zoned district and this happens to be one of them based on the unique needs of the Gymnastics Training Facility in regards to the requirements for ceiling heights and clear floor area. Additionally, it would be difficult to list all of those non-industrial uses that might fit better in the industrial zone; therefore a use variance allows approval on a case by case basis and eliminates a lengthy and cumbersome process of thinking of and listing all

potential uses of non-industrial nature that would fit better within the industrial zoning.

- e. Portions of this particular building have been vacant for the last five years. Because of the requirements of the proposed use which are typically found in industrial type buildings/industrial zoned districts, this building would be a great fit, all the while adding a new business to the City of Walker. The ordinance will not be materially impaired as there has already been a precedent set with Alpine Gymnastics and there are certain non-industrial type uses that just don't fit in retail/commercial zoned districts. Because it would be virtually impossible to determine all of the those uses and list them in the ordinance the use variance has been established to allow exceptions in certain instances of which this would be one.

The Zoning Board of Appeals Board Members imposed the following condition:

1. This application is limited to 15,000 sq. ft. the applicant would need to reapply for additional square footage.

Motion carried unanimously.

DECISION AND ORDER

Legal Description

Property located at 4646 Fenwood St SW also known on the tax rolls as 41-17-06-154-001. Hearing requested by John M Ott.

The applicant's request is to build (2) 14' x 20' steel accessory buildings on vacant lot without a primary residential structure to be used in conjunction with the single family resident at 4636 Fenwood.

Finding of Facts

Robert Marz, Chairman reviewed the application and site plan submitted.

Robert Marz read the letter from the surrounding neighbors.

John Ott appeared on behalf of this request.

Jeff Nelson stated that the City of Walker would request that these parcels be combined so there are not accessory buildings on a separate lot from a principle building.

John Ott stated that he thought it would be a benefit to the City of Walker to leave the lots as two separate lots.

John Ott stated these are actually carports and for the safety of the children in the neighborhood he put sheet metal on the sides and locks on the doors, they do not have foundations.

No other citizens appeared on behalf of this request.

Robert Marz asked if the properties were combined would the setbacks be a problem of where the buildings are currently located.

Jeff Nelson replied that the buildings would still be located in the side yard if the properties were combined.

Robert Marz stated he couldn't tell if these buildings were in the side yard or level with the front yard.

Jeff Nelson stated that the buildings are in line with the front line of the garage but it's still in the partial side yard.

Jim Hickey stated that the road next to Mr. Ott's house only goes back 100 feet.

Jeff Nelson stated that he wasn't sure if this is a dedicated right-of-way.

Jim Hickey stated he was at this site and the buildings are pre-manufactured carports they are well taken care of the applicant stores his lawn equipment inside the buildings. These buildings can be removed within 24 hours.

Jeff Nelson stated there are a couple of variances the first one is that these accessory buildings are on a lot without a principle building and the accessory buildings are steel sided which steel siding is only allowed in an agricultural zoning and the buildings are located in the side yard, they are required to be located in the rear yard.

Jeff Nelson stated by combining these two lots this would not prohibit the lots to their original configuration as long as the accessory buildings were removed.

Roger Crabtree asked if combined the two lots would he still need the variance.

Jeff Nelson stated that the applicant would still need a variance because he has steel siding and the accessory building is in the side yard. By combining the two lots it would at least eliminate the fact that the accessory buildings are on a lot without a principle building.

Jeff Nelson stated there is one other zoning violation the applicant is in violation of and that is the fact that per the ordinance he is only allowed a garage and 1 additional accessory building and he has two accessory buildings.

Jim Hickey stated that one way to eliminate one of the zoning violations is to combine the two lots.

Jeff Nelson replied that by combining the lots would be the cleaner way and the applicant can always come back and ask the lots be split back to the original plat. At that point the 2 accessory buildings would need to be removed. The right to the original platted lot isn't gone just because the lots are combined.

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Jim Hickey asked if the taxes would be more if the lots were left as two separate lots or if the lots were combined.

Jeff Nelson stated that he thought the applicant would be paying more on two separate lots for taxes instead of both lots being combined.

Motion

Beth Rogers moved and Roger Crabtree supported the motion to approve the applicant's request is to build (2) 14' x 20' steel accessory buildings on vacant lot without a primary residential structure to be used in conjunction with the single family residence at 4636 Fenwood.

- a. There are exceptional and extraordinary circumstances applicable to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district. Placement of existing septic system, walkout basement, and severe downward gradient from back of house to lot line prevents the placement of buildings behind house lot. Total property dimensions are 1.17 acres. Buildings are 14 ft x 26 ft totaling 728 sq. ft.
- b. The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district. Properties at the addresses of 1165 White Pine Dr., 1258 White Pine dr., and 3653 Grand Bluff Ct have built garages in front of their properties.
- c. Authorization of the variance will not be of a substantial detriment to adjacent property and will not materially impair the intent and purpose of the ordinance or public interest in that the location of these structures does not pose a safety hazard to the neighborhood.
- d. The condition or the situation of the piece of property or the intended use of the property for which the variance is sought is not so general or recurrent a nature as to make reasonably practicable for the formulation of a general regulation. I fully understand and support the necessity of control of placements of construction I our city's neighborhoods. Due to the layout of the existing home on the lot 4636 Fenwood St., I cannot place these structures there. The lot at 4646 Fenwood St. is the only reasonable location for their placement.
- e. Does not apply.

The Zoning Board of Appeals proposed the following condition:

1. Combine the 2 lots to make them one lot.

Motion carried unanimously.

MOTION

Beth Rogers moved and Sandra Howland supported a motion to grant the minutes from May 26, 2010.

Motion carried unanimously.

Roger Crabtree moved and Jim Hickey supported a motion to adjourn the Zoning Board of Appeals meeting at 7:55 p.m.

Motion carried unanimously.

Brian Boelens
Zoning Board of Appeals Secretary

Shannon Bales
Recording Secretary