

**MEETING**

**CITY OF WALKER**

**ZONING BOARD OF APPEALS**

**Wednesday, July 14, 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; Brian Boelens, Sandra Howland, Beth Rogers, James Hickey, John Tuffelmire and Charles Deschaine. Absent: Randy Smith and Roger Crabtree. Also Present: Jeff Nelson, Building Official/Zoning Administrator and Shannon Bales, Deputy City Clerk.

**DECISION AND ORDER**

**Legal Description**

Property located at 2121 Arbor Ct., N.W. also known on the tax rolls as 41-13-07-451-027. Hearing requested by Russell VanDam.

The applicant's request is to house three (3) dogs instead of the allowed two (2). The third dog will be there on a limited basis while the applicant's daughter is at work. There will be no sales, boarding or breeding activities at the dwelling.

**Finding of Facts**

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

Russell VanDam was present to discuss his application. He believes he has the support of his neighbors and this is an isolated problem with one particular neighbor. They have two dogs and the other one would be at his house on a part time basis when his daughter is at work.

Deb Schroeder, 2133 Arbor Ct, stated that the dogs are either inside the home or in the fenced in back yard and she does not object to them.

Bruce Fahling, 2109 Arbor Ct, stated that they have three dogs now plus their daughters two that come over to visit for a total of five dogs. They bark continuously and

are allowed to roam. He feels they are not responsible dog owners. He has a petition of 14 signatures for neighbors who could not be present that he presented to the Board.

Barb Fahling, 2109 Arbor Ct, stated that her bedroom faces the applicant's back yard and it is a nuisance. Stated that on one instance there were five dogs at the applicant's home.

Kelly Schroeder, 2133 Arbor Ct, stated she never hears these dogs bark. It is a dog's nature to bark occasionally and go out at night before bed. What are dog owners suppose to do?

Christine VanDam, 2121 Arbor Ct, stated they have one Yorkie and two Maltese. They occasionally let them out at 11:00 pm for five minutes before bed in their fenced in back yard. They have had an ongoing problem with the Fahling's.

Aaron Rothenthaler, 2080 Deerfield Dr, stated he has heard continuous barking around 10:30 – 11:00 pm. He is a dog owner and is understanding of the situation but the applicant's statements are contradictory of their request.

Lori DeBryne, 2085 Deerfield Dr, stated that the dogs are not taken care of and this has been an ongoing problem.

Dori Rothenthaler, 2080 Deerfield Dr, stated this is an ongoing problem in the neighborhood and she can hear the barking.

Roger Schroeder, 2133 Arbor Ct, stated there are a lot of dogs in the neighborhood and they are not taken care of the way they should be. He lives next door to the applicant and doesn't see a problem with their dogs.

Public Comment was closed.

Beth Rogers asked the applicant to clarify how many dogs they are actually talking about as there seems to be some confusion. Christine VanDam stated they have two, their daughter has one that lives with them and then there would be an additional two dogs when they watch their daughters for a total of five dogs.

Beth Rogers asked how many dogs live at the house. The applicant stated two full time and one part time.

Jim Hickey inquired as to how many hours a week they watch their daughter's dogs. The applicant stated approximately 40 hours a week and it would be just one dog. When she comes to visit she brings her dogs with her.

Bob Marz stated that if the other dogs were visiting and their daughter was not there that they would be in violation of the ordinance.

Chuck Deschaine asked the applicant if they knew why 14 of their neighbors would sign the petition opposing their request. They stated they have had ongoing problems with their neighbors.

Aaron Rothenthaler, 2080 Deerfield Dr, stated that they have a neighborhood problem with dog owners not cleaning up after their dogs and letting them run loose. There is an ordinance that allows two for a reason and it should be upheld.

Deb Schroeder, 2133 Arbor Ct, stated that their bedroom is right next to the house and they do hear the dogs go out at night but that they hear more barking from other neighborhood dogs.

Bob Marz stated that he believes that allowing this would be a detriment to the neighbors.

Jim Hickey stated that the applicant filed their request for a third dog on a part time basis when the daughter was at work and now we are finding that the dog lives with them.

#### Motion

Jim Hickey moved and Beth Rogers supported the motion to deny the applicant's request to house three (3) dogs instead of the allowed two (2) as it could not be proven that the dogs were not a detriment to the neighborhood.

Motion carried unanimously.

### DECISION AND ORDER

#### Legal Description

Property located at 774 Wilson, S.W., also known on the tax rolls as 41-13-31-253-006. Hearing requested by Timothy Szubinski.

The applicant's request is to maintain a 2,925 sq. ft. accessory building after a 450 sq. ft. section of the enclosed lean-to is removed. The applicant is allowed an 832 sq. ft. garage and a 1,500 sq. ft. accessory building which the applicant would like to combine into this (1) structure. Additional screening will also be provided.

#### Finding of Facts

Robert Marz, Chairman reviewed the application and site plan submitted. He read a letter to the Board from Barb Nelson, 798 Wilson Ave, in support of the request.

Tim Szubinski was present to discuss his application.

Chuck Deschaine asked Mr. Szubinski to elaborate on the discussion he had with his neighbor that is referenced in her letter regarding fencing, etc.

Tim Szubinski stated that he will be removing the trees that are along the property line and the current chain link fence and installing a six foot high white fence from the front of his house along the property line back to cover approximately  $\frac{3}{4}$  of the building from her view. He will also be helping her landscape her side of the fence.

Sandi Howland inquired about the timeline for these items. He will be removing the trees this summer and installing the fence and landscaping next spring. He will be removing the 15' x 30' lean-to in October 2010.

Chuck Deschaine stated that these items should be made conditions if the request is approved.

Jim Hickey clarified that this accessory building will be used for personal use only and no commercial activity.

#### Motion

Jim Hickey moved and Sandi Howland supported the motion to approve the applicant's request to maintain a 2,925 sq. ft. accessory building after a 450 sq. ft. section of the enclosed lean-to is removed. The applicant is allowed an 832 sq. ft. garage and a 1,500 sq. ft. accessory building which the applicant would like to combine into this (1) structure. Additional screening will also be provided.

- a. There are exceptional and extraordinary circumstances applicable to the property in question as to the intended use of the property that does not apply generally to other properties in the same zoning district. No garage exists and the current building was added on to by the previous owner. The setting of the building is mostly hidden from view from all but one side.
- 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. The applicant understands that he made errors with the construction of the building by not obtaining the proper permits but did not do so purposely. Building was constructed to code and applicant will make building available for inspection.
- 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 topography and setting of this building fit into the natural landscape without obstruction or hindrance of adjacent properties. Applicant will construct screen as proposed to shield the one visible side. Additional landscape as requested.

- 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.  
Applicant is aware that this request exceeds the normal size of buildings in this area however there would be no negative influence to the neighboring properties. Any additional fees or permits will be paid by applicant. Screen will replace existing chain link fence with privacy fence to make building visible from all sides.
- e. Does not apply.

The Board proposed the following conditions:

- 1. The 15' x 30' section of lean-to be removed by November 1, 2010.
- 2. The proper permits be obtained for the square footage that is left.
- 3. The fence be constructed within one year.

Motion carried unanimously.

MOTION

Beth Rogers moved and Sandi Howland supported a motion to approve the minutes from June 23, 2010.

Brian Boelens moved and Sandi Howland supported a motion to adjourn the Zoning Board of Appeals meeting at 8:10 p.m.

Respectfully submitted,

---

Brian Boelens,  
Zoning Board of Appeals Secretary

---

Shannon Bales  
Deputy City Clerk