

ZONING BOARD OF APPEALS

Regular Meeting March 22, 2011

Present: Chairman Steve Haberkorn, Vice-Chairman Vern Johnson, Secretary Marty Corbin, Members Norm Nykamp and Elliott Church. Also present was Zoning Administrator Jon Mersman, Assistant Zoning Administrator Meghann Reynolds and Recording Secretary Laurie Slater.

Absent: None

The meeting was called to order by Chairman Haberkorn at 5:30 p.m. Mr. Haberkorn explained to the audience the public hearing process.

1) Hearing declared open to consider a petition for a Nonuse Variance submitted by Douglas and Julie Komejan for vacant property located approximately at 10778 Bridgewater Drive to allow a rear yard of 25 feet to accommodate a deck. The requested variance is 10 feet from the required 35 foot rear yard. The property is zoned Residential PUD (70-16-14-220-004).

Present for this request was Doug Komejan.

Mr. Komejan explained that they would like to put an 11' x 12' deck on the rear of the proposed house. The lot is an odd shape, narrow in the front and wide in the back and fairly shallow. The house is a 1,700 square foot ranch with a basement. The house has been moved as far forward as possible in the building footprint and still meets with the setbacks. The deck would fit

in with the neighborhood, as the neighboring properties also have decks.

The property behind the lot is unlikely to be developed. It is zoned Agricultural.

There was no one present in the audience to speak to this request.

** It was moved by Ms. Corbin and supported by Mr. Church to close the hearing. Motion carried.

The Board went over the standards to review when considering a nonuse variance request.

1. Strict compliance would be unnecessarily burdensome in that they would be allowed to have a deck, but it would not be of a useable size. The surrounding properties have decks of comparable size and no one would be infringed upon with the minor setback variance. The property behind is unlikely to be developed.

2. Granting this request would do substantial justice to the applicant in that the surrounding houses have decks of a similar size. A deck of this size is consistent with the neighborhood.

3. The property is unique in that it is narrow in the front, wider in the back, but fairly shallow in depth.

4. The situation is not self-created. The properties odd shape leaves no room within the building footprint for a deck of useable size.

** It was moved by Mr. Nykamp and supported by Mr. Johnson to grant the request as presented. Motion carried.

2) Hearing declared open to consider a petition to Extend a Non-conforming Use and a Nonuse Variance submitted by Germit Somal for property located at 690 136th Avenue to add an addition to the west side of a non-conforming structure and have the parking requirement reduced. The non-conformity exists because the adjacent residential use requires a 50 foot side yard rather than the 15 foot side yard normally required which the property meets. The addition will have the same side yard deficiency as the existing building. The requested variance is 35 feet from the required 50 foot side yard. In addition the applicant is asking for a variance from the required parking of 15 spaces to allow the currently provided 10 spaces. The property is zoned C-2 Commercial (70-16-18-400-088).

Present for this request was Mark Keeley, builder.

Mr. Keeley explained to the Board that Mr. Somal would like to build an addition to the back of the store to house a cooler. If they place the cooler on the inside of the store they will lose 15 feet of space plus the space for the office, which would leave little room for actual store space.

Mr. Keeley explained that they have reconfigured the driveways and the parking now meets the requirement. They will actually have 21 parking spaces. Mr. Keeley turned in a new site plan to the Board showing the proposed driveways and parking. The driveways are subject to the approval of the Ottawa County Road Commission. The two driveways would be eliminated and there would be one central driveway with a 10 foot island around the telephone pole in the middle of the driveway. This will also allow for easier entering and exiting. There will be adequate room for delivery trucks. They do not have tractor trailer deliveries.

The cooler will not be sitting outside, so noise should not be an issue. The enclosed building around the cooler will be constructed of concrete. If not concrete it will be sided to match the existing structure.

There will be two coolers for the store. They will both use the same evaporator. The proposed cooler is a pre-fab cooler and will be assembled inside the structure.

The property is zoned commercial and the party store is an allowed use in the commercial zone.

There were several people in the audience to speak to this request.

Herman Kimber of 701 – 136th Avenue had concerns about whether a party store in the neighborhood would affect the value of their property. The Board replied that the building is already there, it's not a newly proposed commercial use, and it has been used by businesses before. They really had no idea about how it might affect their property value.

Other concerns Mr. Kimber had were of early morning truck deliveries, increase in traffic, gangs that congregate on the property at night and the party store being a breeding ground for trouble.

Judith Storey of 714 – 136th Avenue had concerns about property values as well. She was also concerned about noise late at night, bike path traffic with more cars in and out of a party store than the carwash, and the fact that the children that live next door currently play in the parking lot of the proposed party store. She concluding by saying that they are trying to hold on to their neighborhood, but feel it is slipping away.

Rick Storey had concerns about the party store degrading the neighborhood. He had concerns about having alcohol close to the West Ottawa Schools. They have had issues with teens cutting through their property and the gangs congregating at the proposed site of the party store. He also had concerns about increased traffic.

Mr. Keeley addressed some of the residence concerns. Mr. Somal will have lighting and cameras at the store in an effort to keep the gangs from congregating. The new driveway should make it easier to enter and exit the property. Visibility will be good from both directions. There will not be a lot of deliveries. The store hours would be from 10:00 a.m. until midnight. The store would be closed on Sunday. There should not be any early morning deliveries. Also, it would not be large tractor trailer type trucks making the deliveries. The only alcohol being sold for now would be beer and wine.

The Board explained to the audience that although they understand the concerns of the neighbors, it is not the duty of the Zoning Board of Appeals to make a decision about the proposed party store's affect on the neighborhood. It is about the extension of a non

conforming use and whether the request presented meets the standards to grant the request.

Board Member, Mr. Church, has some questions for Zoning Administrator, Jon Mersman about the zoning of the properties, and exactly why Mr. Somal needed a variance.

Mr. Mersman explained that there are two parcels in this neighborhood still zoned Commercial. The property to the north is commercial, but used as residential. There have not been any zoning changes to these properties in 30-40 years. With a residential use next door the side yard setback is required to be 50 feet instead of the 15 foot setback normally required, which this property meets. The property will have the same side yard setback as it has now. The reason this property is non-conforming is because of the property to the north being used as residential.

** It was moved by Mr. Nykamp and supported by Mr. Johnson to close the hearing. Motion carried.

The Board went over the three standards to review when considering a petition to extend a non-conforming use.

1. The addition to the proposed party store will not substantially extend the probable duration of the non-conforming building. The existing building is not being changed.
2. The extension of the non-conforming structure will not interfere with the use of the adjoining land or properties in the surrounding neighborhood for uses for which they have been zoned pursuant to the provisions of this ordinance.
3. There would be no adverse effect of the addition to the non-conforming structure on adjoining land in the surrounding neighborhood.

** It was moved by Mr. Church and supported by Mr. Nykamp to approve the request as

presented on the site plan submitted to the Zoning Board of Appeals at this meeting, contingent on the approval of the Ottawa County Road Commission for the change in the driveway. Also, with approved lighting per Holland Township Ordinance. The extension is to match the existing building. The extension is to be no more than 13 feet and be constructed as described at the March 22, 2011 Zoning Board of Appeals Meeting. Motion carried.

The minutes of December 14, 2010 were approved as printed.

The meeting adjourned at 6:26 p.m.

Respectfully Submitted,

Laurie Slater
Recording Secretary