

## ZONING BOARD OF APPEALS

Regular Meeting

October 24, 2023

The meeting was called to order by Chairman Russ Boersma at 5:30 p.m.

Present: Chairman Russ Boersma, Members Elliott Church, Ross De Vries, Jack Vander Meulen and Steve Haberkorn. Also present were Community Development Director Corey Broersma, Assistant Planner and Zoning Administrator Kate White, and Recording Secretary Laurie Slater.

Absent: Robert De Vries

There were no public comments.

\*\* It was moved by Haberkorn and supported by Ross De Vries to approve the minutes from the September 26, 2023, meeting as printed. Motion carried.

Chairman Boersma explained the Public Hearing process to the audience.

**Hearing declared open to consider** a petition for a Nonuse Variance submitted by Alex Fink of Double Dog Properties, LLC for property located at 235 N River Avenue, known more specifically as Parcel number 70-16-20-326-001. Petitioner is requesting variances consisting of: 1) 19 feet from the required 50-foot minimum front yard setback, resulting in a northern front yard setback of 31 feet; 2) the reduction of 3 stacking spaces from the required 10 stacking spaces, resulting in 7 stacking spaces; 3) the reduction of 1.5 feet from the required 10-foot minimum width for the Lakewood Blvd Front Yard Landscape, resulting in Front Yard Landscape width of 8.5 feet; 4) the reduction of 2 canopy trees from the required 5 canopy trees in the Lakewood Blvd Front Yard Landscape, resulting in 3 canopy trees; 5) the reduction of 2 canopy trees from the required 3 canopy trees in the N River Ave Front Yard Landscape, resulting in 1 canopy tree; 6) the elimination of 1 tree from the required eastern Type D Buffer, resulting in 0 trees; and 7) the elimination of 3 trees from the required southern Type D Buffer, resulting in 0 trees. The variances are being requested for a new drive-through facility. The subject property is zoned C-2 Community Commercial.

Present for this request was Bruce Zeinstra of Holland Engineering and Alex Fink, owner of Simpatico Coffee.

Mr. Zeinstra explained to the Board that the applicant would like to demolish the existing 2000 square foot building at 235 N River Avenue and redevelop the property. The lot of record at 235 N River is legal nonconforming because it lacks the minimum lot area requirement for the C-2 Community Commercial zoning district. Properties at 235 and 223 N River share a property line that the applicant is proposing to adjust so that 235 will meet the minimum lot size for the C-2 zoning district. The property has an irregular triangular shape on a corner, giving its two front yard setbacks resulting in a small buildable area. The applicant is proposing an approximately 640 square foot building with a drive-thru and seating for less than 12 people inside. The proposed building would be 31' off Lakewood and 52' off River Avenue. The existing building is currently 6' off Lakewood and 37' off River. Mr. Zeinstra noted that this would make the property more in compliance with the current ordinance. The sight lines would be improved, there would be more green space, and traffic flow on the property would be improved. The building next door at 223 N River Avenue, which is also owned by Mr. Fink, would be renovated in the future.

Mr. Fink is asking for a reduction in stacking spaces. He referenced the Simpatico Coffee on Butternut Drive, stating that on average they have 69 customers go through the drive-through daily. That is approximately 6 per hour, they have the capacity to do 24 in an hour. On average it takes two and a half minutes for each vehicle to be serviced. Mr. Fink noted that in Michigan, if there is a line of five vehicles, people tend to come into the store to get their coffee.

Mr. Fink further stated that this is an older neighborhood with nonconforming properties. The proposed improvements to 235 and 223 N River Ave would help to revitalize the area.

The Board questioned Mr. Fink about other options for the properties - has he considered combining the two parcels? Mr. Fink replied that there are no gains for either property. The Board believes the combination would need less variances.

Mr. Fink noted that this is a challenging property and it is difficult to use it as is, based on all the setbacks. By rebuilding 235, they are creating more green space, a community-oriented space with tables outside. A place to meet people. They want to be a vibrant member of the community.

There was discussion of available parking. Mr. Fink commented that there would be two staff parking spaces on the north side of the property. To the west, along River Avenue would be angled parking for customers. There would be no semis making deliveries to this location. It would be serviced from the commissary kitchen of Simpatico Coffee.

Board member Vander Meulen asked for clarification about the proposed width of the sidewalk. Mr. Zeinstra noted the plan is for a 5-foot-wide sidewalk, set back 4.1 feet from the right-of-way.

Board member Church wanted clarification on why a lot combination and establishment of a condominium for both 235 and 223 N River Ave is difficult to do? He said that legally it is more complicated to put together a Master Deed of 20 pages plus rules and regulations than joint maintenance agreements and easements for parking and access.

Staff noted that they had pointed out in the Staff Report that the site plan indicates a proposed sidewalk and possible easement and they wanted to know whether the comment indicated that the new sidewalk and associated are going to happen? If the sidewalks were to go in with this project, it would improve the safety of the sidewalk by pulling it off of the road further and create a landscape buffer between pedestrians and vehicles. Staff noted that they will work with the applicant with regards to sidewalks for 223 N River once that project is ready for redevelopment. Board member Church asked Staff if they felt it would be sensible as a condition of approval, if there were approval, that the sidewalk and easement be required as part of the plan? Staff noted it would be sufficient just to get verification from the applicant that they are offering to install the sidewalk and associated easement. The Board then asked Mr. Zeinstra about the proposed sidewalk and associated easement. The plan presented to the Board notes "proposed 5' concrete sidewalk – easement?", so the Board wanted clarification on the intent of this statement. Mr. Zeinstra noted that his client, Mr. Fink, is committed to granting an easement and installing the new sidewalk along both Lakewood Boulevard and N River Avenue. Mr. Zeinstra stated that their title work for the property revealed that no easement had been granted to the Township previously.

Next the variances for the landscaping were discussed. It was the consensus of the Board that Mr. Fink's proposed landscaping plan would meet the zoning ordinance requirements to the extent possible because of the size and shape of the property and that there would be a drive-thru on the property. Mr. Zeinstra

noted they worked through several options for site layout, circulation, parking locations, landscaping, etc., and that the plan presented before the Board was the best option for them and the best plan to maximize compliance with zoning requirements, given the difficulties of the site. Board member Church asked Staff if they felt like the plan presented before the Board optimized the property; Staff stated that for the drive-through use, the plan has been optimized for the use.

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

\*\* It was moved by Vander Meulen and supported by Ross De Vries to close the hearing. Motion carried.

Chairman Boersma asked fellow Board members if they had any concerns with addressing the seven variance requests for this property together. Staff indicated that in the event a member had concerns with a particular variance it would be possible to table the hearing, listen to the next presentation for 223 N River, and then untable the matter since the two requests are closely intertwined. The Board came to the consensus that they wanted to address and review the seven variances together.

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

1. ***That compliance with the Zoning Ordinance would result in practical difficulties due to exceptional, extraordinary, or unique characteristics or conditions of the land or lot of record, including but not limited to:***
  - a. ***Exceptional narrowness of the width or depth of a lot of record, or irregular shape.***
  - b. ***Exceptional natural or topographic features located on the lot of record, such as steep slopes, water, existing significant trees, or other unique or extreme physical conditions of the land.***
  - c. ***Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.***
  - d. ***Other exceptional or extraordinary dimensional conditions or characteristics of land or lot of record.***

The property is on a corner, giving it two front yard setbacks, and the unique angle at which N River Ave and Lakewood Blvd intersect creates an irregular shaped parcel with a small, irregular shaped buildable area.

2. ***That the unusual circumstances do not apply to most other lots of record in the same manner to the same extent to other lots of record in the same zoning district.***

The acute triangular corner lot is an unusual circumstance, especially when considering the 15,002 square foot size of the proposed lot. When this property was created, N River Ave was a two-lane road. As the road was widened over time, the right-of-way expansion impacted the buildability of the lot. The proposed plan would improve the lot and maximize the use of the lot.

3. ***That the variance is necessary for the preservation and enjoyment of a substantial property right. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.***

The unique triangular shape of the lot impacts and complicates the ability of a developer to design the site to appropriately account for driveway access, drive aisle widths, vehicular maneuverability around the site, parking lot accommodations, building location, and landscaping allocations for new

construction. Additionally, it is a small lot and almost impossible to do anything with given the small building envelope shown on the plans.

**4. *That the granting of the variance will not be of substantial detriment to adjacent and nearby land uses and properties.***

The requested front yard setback would improve the building setback over the existing building, improve the visual impact to adjoining properties, and provide safer pedestrian access in the area. The sidewalk would increase use of the property for the public and customers.

**5. *That the applicant shall not have created the problem for which the variance is being sought.***

The applicant did not create the problem. N River Ave was a two-lane road when the lot was created; it is now a four-lane road. The road has encroached upon the property.

**6. *That the granting of the variance will not be contrary to the public interest and that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done for both the applicant and other property owners in the district.***

The applicant has kept the landscaping within the spirit of the ordinance. It is hard to get everything on a lot of this size and shape and location. They did put landscaping around the building when they would not have to. The irregular shape of the lot does not leave room for all the landscaping required by ordinance.

Overall, the applicant has presented a plan that does its best to meet the spirit of the ordinance, given the unique conditions of the lot as previously discussed.

\*\* It was moved by Vander Meulen and supported by Haberkorn to approve the following variance requests with the 5-foot-wide concrete sidewalks and associated easements being established as shown on the proposed plan and per the commitment offered by the applicant:

- 19 feet from the required 50-foot minimum front yard setback, resulting in a northern front yard setback of 31 feet.
- 3 stacking spaces from the required 10 stacking spaces, resulting in 7 stacking spaces.
- 1.5 feet from the required 10-foot minimum width for the Lakewood Blvd Front Yard Landscape, resulting in Front Yard Landscape width of 8.5 feet.
- 2 canopy trees from the required 5 canopy trees in the Lakewood Blvd Front Yard Landscape, resulting in 3 canopy trees.
- 2 canopy trees from the required 3 canopy trees in the N River Ave Front Yard Landscape, resulting in 1 canopy tree.
- 1 tree from the required eastern Type D Buffer, resulting in 0 trees.
- 3 trees from the required southern Type D Buffer, resulting in 0 trees.

Motion carried with a unanimous roll call vote.

**Hearing declared open to consider** a petition for a Nonuse Variance submitted by Alex Fink of Double Dog Properties, LLC for property located at 223 N River Avenue, known more specifically as Parcel number 70-16-20-326-002. Petitioner is requesting variances consisting of: 1) 10 feet from the required 15-foot minimum side yard, resulting in a northern side yard setback of 5 feet; 2) the elimination of 3 trees from the required northern Type D buffer; resulting in 0 trees; 3) 5.3% from the 25% maximum building coverage, resulting in a 30.3% lot coverage by building; and 4) the reduction of 7.2 feet from the required 10-foot minimum width for a portion of the eastern Type D buffer, resulting in an eastern Type D buffer width of 2.8 feet. The variances are being requested for a proposed lot line adjustment and parking lot improvement. The subject property is zoned C-2 Community Commercial.

Present for this request was Bruce Zeinstra of Holland Engineering and Alex Fink, owner of Simpatico Coffee.

Because of the adjusted property line to make 235 N River Avenue a more buildable lot, the applicant did the best he could to make 223 N River Avenue compliant with the ordinance. Improvements to 223 N River Avenue are for parking, a dumpster enclosure and landscaping. A complete renovation will take place sometime after 235 N River Avenue is complete. The building on the subject lot is a solid concrete, 1960's building. The exterior will have the western overhang/canopy removed and new insulation, siding, glass, and roofing. Inside will have new electrical and plumbing. The building is chopped up inside. Possibly, it will be made into one unit. It will have a re-envisioned front.

The Board asked about the timeframe for improving 235 and 223 N River Avenue. Mr. Fink answered that they would pull the demolition permit for the building on 235 N River and work with lawyers to get the lot line adjustment underway immediately. Mr. Fink noted that he already has an architect he is working with and, hopefully, he will pull the building permit for 235 N River Ave by the first quarter of 2024. Then, he will start the renovations on this property, 223 N River Ave.

Present in the audience to speak to this request was John Simmons of 112 Vander Veen Avenue. His concerns were to do with the overhead utilities and if they were being moved underground.

Township Staff noted that they encourage new utilities to be put service underground; however, it is really up to the developer and supplier of the utilities to make that decision about the relocation of other overhead utilities.

**\*\*** It was moved by Church and supported by Ross De Vries to close the hearing. Motion carried.

Chairman Boersma asked fellow Board members if they had any concerns with addressing the four variance requests for this property together. The Board came to the consensus that they wanted to address and review the four variances together.

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

***1. That compliance with the Zoning Ordinance would result in practical difficulties due to exceptional, extraordinary, or unique characteristics or conditions of the land or lot of record, including but not limited to:***

- a. ***Exceptional narrowness of the width or depth of a lot of record, or irregular shape.***
- b. ***Exceptional natural or topographic features located on the lot of record, such as steep slopes, water, existing significant trees, or other unique or extreme physical conditions of the land.***
- c. ***Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.***

- d. ***Other exceptional or extraordinary dimensional conditions or characteristics of land or lot of record.***

The property is an irregular shape butting against another irregular shaped lot. With the proposed lot line adjustment, the applicant's adjacent lot of record at 235 N River Avenue will be made compliant in terms of meeting the minimum lot area requirements.

2. ***That the unusual circumstances do not apply to most other lots of record in the same manner to the same extent to other lots of record in the same zoning district.***

The unusual circumstances involve a unique adjacent lot and that lot's ability to continue to provide the subject lot with access.

3. ***That the variance is necessary for the preservation and enjoyment of a substantial property right. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.***

The request is not necessary for the subject site, however, the ability to relocate the property line will provide a benefit to the adjacent property and will provide community benefits in terms of redevelopment, improved pedestrian safety, and improved vehicular access points along N River Avenue and Lakewood Boulevard.

4. ***That the granting of the variance will not be of substantial detriment to adjacent and nearby land uses and properties.***

Granting this variance would be good for this older part of the Township. It would improve the visual impact of both 235 and 223 N River Ave and help the sites to be revitalized and redeveloped; the redevelopment will hopefully bring some life and vibrancy to this area.

5. ***That the applicant shall not have created the problem for which the variance is being sought.***

The applicant did not create the problem for which the variance is being sought. 235 N River Avenue was already nonconforming and the improvements to that offset the variances being requested for this parcel.

6. ***That the granting of the variance will not be contrary to the public interest and that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done for both the applicant and other property owners in the district.***

Granting the variances will not be contrary to the public interest and the spirit of this ordinance. Cleaning up the parking lot and landscaping on this parcel plus revitalizing the building is not contrary to public interest. These improvements make this parcel safer. Substantial justice is done for both the applicant and other property owners in the district. It will look better when all is done.

Mr. Vander Meulen asked if the sidewalk would continue in front of the subject building. The applicant indicated that it would.

\*\* It was moved by Church and supported by De Vries to approve the following variances with the stipulations that the adjacent lot (235 N River Avenue) is improved as planned; the shared access and

parking easements required for both parcels is executed; sidewalks are installed per the commitment offered by the applicant; and existing utilities be installed underground to the extent possible.

- 10 feet from the required 15-foot minimum side yard, resulting in a northern side yard setback of 5 feet.
- 3 trees from the required northern Type D buffer; resulting in 0 trees.
- 5.3% from the 25% maximum building coverage, resulting in a 30.3% lot coverage by building.
- 7.2 feet from the required 10-foot minimum width for a portion of the eastern Type D buffer, resulting in an eastern Type D buffer width of 2.8 feet.

Motion carried with a unanimous roll call vote.

**Hearing declared open to consider** a petition for a Nonuse Variance submitted by Caroline Kimmel of Kittle Property Group on behalf of K & J Legacy LLC for property located at 3717 Beeline Road, known more specifically as Parcel Number 70-16-09-200-037. Petitioner is requesting variances consisting of: 1) 39 square feet from the minimum 120 square feet of storage area required for a 1-bedroom multi-family dwelling unit, resulting in a storage area of 81 square feet; 2) 17 square feet from the minimum 120 square feet of storage area required for a 2-bedroom multi-family dwelling unit, resulting in a storage area of 103 square feet; and 3) 12 square feet from the minimum 120 square feet of storage area required for a 3-bedroom multi-family dwelling unit, resulting in a storage area of 108 square feet. The variances are being requested for a new multi-family apartment complex. The subject property is zoned R-3 High Density Residential and FP Floodplain.

Present for this request was Caroline Kimmel of Kittle Property Group.

Ms. Kimmel noted the Kittle Property Group is a national developer with over a hundred properties in 17 states. They have repeatedly tested apartments with this amount of storage which, in her opinion, accommodates the needs of the residents. If they make the closets larger, it would be detrimental to the size of the apartment by impacting the usable floor area. The storage they provide is adequate. Kittle Properties would be the property manager and long-time owner of the development for at least 10 years. If this amount of storage is not adequate, they would be the ones getting the complaints.

The Board asked Community Development Director, Corey Broersma, why storage was put at 120 square feet for an apartment. Mr. Broersma noted it has been a requirement for years and is consistent with single-family dwellings being required to have storage, such as a garage of 10' x 22'. The storage is for things like strollers, kayaks, bikes, etc.

Ms. Kimmel stated that they do offer outside bike racks for bike storage. They will have 71 garages available for rent. Residents are allowed to store their bikes on their balconies.

There was further discussion about storage on balconies. Ms. Kimmel stated that their balconies are as small as they are allowed to be by State regulations. They cannot change the size. The only things allowed on balconies are patio furniture and bikes. Kittle Property Group cannot afford to increase the size of the units.

It was the consensus of the Board that the laundry room shown as storage is not accurate. Floor space under the washer and dryer is not available storage space. Neither is the area that is needed for the door to swing open, so the amount of storage space provided for the units is not correct.

Ms. Kimmel stated that they put shelving on the walls above the washer and dryer.

There was discussion among the Board Members of what was discussed at the Planning Commission meeting. The Planning Commission has had tentative discussions around a possible a text amendment to this section of the ordinance, along with looking at other areas of the ordinance. Currently, 120 square feet is the minimum storage area requirement across all apartments, regardless of the number of bedrooms.

Ms. Kimmel was asked if they have a backup floor plan if this request is denied. She stated that she does not, but that the denial of these variances would not be the factor that would stop this development from moving forward. She noted that in the different municipalities that she has personally worked in, Holland Charter Township has the highest amount of storage required. Refiguring the apartment to meet the ordinance will be at the expense of floor area that is for furniture.

Mr. Church questioned Ms. Kimmel that in 17 states, have they ever had to change the design to accommodate local jurisdiction's requirements? She stated that they are less descriptive about the inside of the apartments and more concerned about the exterior. They have had to make more exterior changes than interior.

Mr. Church asked Staff if we anticipate changing the ordinance and how long would it take to be effective. Mr. Church noted that he wouldn't want to make the applicant comply with something that we know is going to be changed in the near future. There was further discussion on this topic. Staff replied that it could take four to six months to make a change to the ordinance.

The Board asked why the washers and dryers could not be stacked. Ms. Kimmel replied that they must use Energy Star appliances at this time, and they cannot get stackable currently. Also, they don't meet ADA needs.

The Board stated that residents need storage for quality of life. They need somewhere to store stuff.

The Board asked Staff if other apartment developers in the Township had changes to their plans to accommodate the storage requirements.

Mr. Broersma stated that the apartments on Felch Street added a maintenance building with a bike room and the proposed apartments along East Lakewood had considered lower-level storage lockers/cages. There were no previous variances granted for storage in apartments under the variance process, however, there are smaller units with smaller amounts of storage under a PUD.

When asked why they did not do this development under a PUD, Ms. Kimmel stated that this fit the future land use and did not seem necessary at the time.

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

**\*\* It was moved by Haberkorn and supported by Church to close the hearing. Motion carried.**

**\*\* It was moved by Church and supported by Ross De Vries to table this request pending review of the ordinance. Motion carried.**

**Hearing declared open to consider** a petition for a Nonuse Variance submitted by John Harder on behalf of Abhishek and Madhuri Gupta for property located at 388 Howard Avenue, known more specifically as



Parcel Number 70-16-30-203-006. Petitioner is requesting variances consisting of: 1) 8.9 feet from the required 35-foot minimum front yard setback, resulting in a front yard setback of 26.1 feet; and 2) 1.7 feet from the required 7-foot minimum side yard setback, resulting in a western side yard setback of 5.3 feet. The variances are being requested for new additions to the home. The subject property is zoned R-2 Moderate Density Residential, FP Floodplain, and Macatawa Residential Setback Overlay.

Present for this request was John Harder on behalf of Abhishek and Madhuri Gupta for property located at 388 Howard Avenue.

Mr. Harder explained that the applicant would like to add a 20' x 20' garage on the front of the house. The existing garage does not meet modern standards with the amount of square footage required by ordinance. The applicant would be adding on to the front of the existing garage, building into the front yard setback by 8.9 feet. The goal is to get the vehicles out of everyday sight. There would still be enough driveway for visitors to pull in far enough so they are off the sidewalk. The circular driveway would be taken out.

The house was built in the 1930's. They have made significant improvements to the house in the two years that they have owned it. The addition would match the existing house. There are several houses in the neighborhood that are closer to the road than the 35-foot front yard setback: 394, 382, and 370 Howard Avenue.

The Board asked Staff if any neighboring properties had received a variance. Mr. Broersma replied that the house directly to the east (382) had received a 4-foot front yard setback variance and an 18-inch side yard setback in 1994 for a garage.

The applicant is also asking for a 1.7-foot side yard setback for an 11' x 30' addition to the west rear corner, which includes a screened in porch.

The Board asked why the proposed addition could not be moved over 1.7 feet to be compliant with the ordinance. Mr. Harder responded that it was for aesthetics and there is an existing multi-tier deck off the back of the house. Moving the addition over would create an awkward offset in the flow of the basement. There are walkout French doors on the lower level. It is their overall goal to make the lower-level living space. There is approximately 1.5 feet between the deck and the proposed structure. Also, the existing building is 8 feet higher than walk out grade. Foundation work will need to be done prior to building the addition – frost wall.

There will also need to be a fire-rated assembly along the western wall for the new rear addition given its proximity to the westerly neighbor's detached accessory building. That will be in the plans submitted upon requesting the building permit.

Other upgrades to the property will include utilities that will be converted to underground, and repairing the sidewalk that ponds 4–5 inches of water after it rains and freezes. The applicant is working with the Township engineer to ensure repairs to the sidewalk are done to their specifications.

Rick Obbink of 394 Howard Avenue (house directly to the west) was present in the audience to speak to this request. He was in favor of granting the request. Granting this variance would be fixing a big problem of an existing crumbling wall and retaining wall that would be replaced with poured concrete walls. He further stated that since the Guptas moved in two years ago, they have improved the complexion of the neighborhood with all the upgrades they have done to this property. Upgrading the ugly little garage too small to use will be another upgrade for the whole neighborhood.

Staff received emails from Gaylord and Lynne Nelson of 382 Howard Avenue, Joey Obbink of 394 Howar Avenue and Rick Wiersma of 376 Howard Avenue all in support of the variance requests.

**\*\*** It was moved by Church and supported by Ross De Vries to close the hearing. Motion carried.

Chairman Boersma asked fellow Board members if they had any concerns with addressing the two variance requests for this property together. The Board came to the consensus that they wanted to address and review the two variances together.

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

- 1. *That compliance with the Zoning Ordinance would result in practical difficulties due to exceptional, extraordinary, or unique characteristics or conditions of the land or lot of record, including but not limited to:***
  - a. *Exceptional narrowness of the width or depth of a lot of record, or irregular shape.*
  - b. *Exceptional natural or topographic features located on the lot of record, such as steep slopes, water, existing significant trees, or other unique or extreme physical conditions of the land.*
  - c. *Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.*
  - d. *Other exceptional or extraordinary dimensional conditions or characteristics of land or lot of record.*

Granting this request would improve the neighbors' view of the land with the unsightly crumbling walls being replaced with poured concrete walls. The character of the neighborhood is that of several lots with buildings closer to lot lines and garages closer to the road.

- 2. *That the unusual circumstances do not apply to most other lots of record in the same manner to the same extent to other lots of record in the same zoning district.***

The neighborhood has several lots with buildings closer to the lot lines and garages closer to the road.

- 3. *That the variance is necessary for the preservation and enjoyment of a substantial property right. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.***

As a property right, most homeowners can have a garage they can park a car in – that is a reasonable request.

- 4. *That the granting of the variance will not be of substantial detriment to adjacent and nearby land uses and properties.***

Granting this variance will improve the property and they have the support of the neighbors around it. Fixing drainage problem with sidewalk is a neighborhood improvement.

- 5. *That the applicant shall not have created the problem for which the variance is being sought.***

They are modernizing an old house trying to keep with the same lines as the house they bought.

- 6. *That the granting of the variance will not be contrary to the public interest and that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done for both the applicant and other property owners in the district.***

Granting this variance would not be contrary to the public interest and the spirit of the ordinance if the sidewalks are improved and the firewall is installed for the proposed rear addition.

\*\* It was moved by Vander Meulen and supported by Haberkorn to grant the request as presented with the sidewalk improvements per the commitment offered by the applicant. Motion carried with a unanimous roll call vote.

**Hearing declared open to consider** a petition for a Nonuse Variance submitted by Eric Rasmussen for property located at 469 Pinecrest Drive, known more specifically as Parcel Number 70-16-30-150-018. Petitioner is requesting variances consisting of: 1) 6.4 feet from the required 35-foot minimum front yard setback, resulting in a front yard setback of 28.6 feet for a proposed porch addition; and 2) 10 feet from the required 35-foot minimum front yard setback, resulting in a front yard setback of 25 feet for a proposed garage addition. The subject property is zoned R-1 Low Density Residential.

Present for this request was Eric Rasmussen, property owner.

Mr. Rasmussen explained to the Board that he would like to put a new covered porch on the front of his house and add a garage for storage of personal vehicles. They currently have no garage, only a gravel driveway. There would also be an addition of a mudroom and living room area behind the garage. The existing concrete steps going into the house from the front steps are leaking into the basement because they extend past the foundation walls. They would like to extend the front porch and add a roof over the new steps, creating a safe entry for visitors and updating the house to fit with the rest of the neighborhood. This is one of the first houses built in this subdivision and it has had no updates.

The Board asked if there was a reason for the garage to be so far forward, could it be moved back further? Mr. Rasmussen replied that the garage being forward balances the house visually. There is also a tree line on the southeastern side where the garage is proposed to be. He would rather not lose all the trees. The trees are old and the roots are large. Building in this area may affect the trees on the southeastern property line. Also, moving the addition back also moves the living room and mudroom area further back from the rest of the existing house.

There was further discussion of the garage only being 7 feet in front of the house like the proposed porch or being even with the house. The applicant discussed the pitch of the roof and the aesthetics of the different positioning of the proposed addition.

Mr. Rasmussen stated that he was trying to meet in the middle of the two houses to the west that are closer to the road so it wouldn't look too far out. The whole neighborhood in general has structures that are closer to the road than allowed by ordinance.

Present in the audience to speak to this request was Joshua Novak of 468 Pinecrest, across the street. He stated that this is the only house south of Howard Avenue that is not remodeled. This layout would look balanced and fit with the neighborhood vibes and feel. There are other houses that are closer to the right-of-way in the neighborhood.

\*\* It was moved by Haberkorn and supported by Church to close the hearing. Motion carried.

Chairman Boersma asked fellow Board members if they had any concerns with addressing the two variance requests for this property together. The Board came to the consensus that they wanted to address and review the two variances together.

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

- 1. *That compliance with the Zoning Ordinance would result in practical difficulties due to exceptional, extraordinary, or unique characteristics or conditions of the land or lot of record, including but not limited to:***
  - a. Exceptional narrowness of the width or depth of a lot of record, or irregular shape.***
  - b. Exceptional natural or topographic features located on the lot of record, such as steep slopes, water, existing significant trees, or other unique or extreme physical conditions of the land.***
  - c. Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.***
  - d. Other exceptional or extraordinary dimensional conditions or characteristics of land or lot of record.***

The practical difficulty of the lot is the angle the lot is to the road. It is a condition of the neighborhood.

- 2. *That the unusual circumstances do not apply to most other lots of record in the same manner to the same extent to other lots of record in the same zoning district.***

Other garages and structures in the neighborhood are closer to the road and property lines than what the applicant is asking for.

- 3. *That the variance is necessary for the preservation and enjoyment of a substantial property right. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.***

Updating the house would be beneficial to the neighbors. It would enhance the owner's house as well as the neighborhood.

- 4. *That the granting of the variance will not be of substantial detriment to adjacent and nearby land uses and properties.***

There were no objections from surrounding property owners. This would give the applicant a functional garage and they are trying to make it fit in with the neighborhood.

- 5. *That the applicant shall not have created the problem for which the variance is being sought.***

They are doing the best they can to update an old house with the improvements of the addition of a garage and living space and updated front porch.

- 6. *That the granting of the variance will not be contrary to the public interest and that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done for both the applicant and other property owners in the district.***

Public safety would not be impacted. Substantial justice would be done for both the applicant and the other property owners in the district.

\*\* It was moved by Haberkorn and supported by Church to grant a 6.4-foot variance from the 35-foot front yard setback resulting in a 28.6-foot front yard setback for the front porch. Motion carried with a unanimous roll call vote.

\*\* It was moved by Boersma and supported by Ross De Vries to grant a lesser relaxation of 6.4 feet resulting in a front yard setback of 28.6 for the addition of a garage, mudroom and living room. Motion carried with a unanimous roll call vote.

The item for 4467 96<sup>th</sup> Ave is to remain tabled as no new information had been received in time for the Zoning Board to review the item at this meeting.

The meeting adjourned at 8:19 p.m.

Respectfully submitted,

Laurie Slater  
Recording Secretary