

ZONING BOARD OF APPEALS

Regular Meeting
September 24, 2024

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

Present: Chairman Russ Boersma, Members Ross DeVries, and Steve Haberkorn. Also present were Community Development Director Corey Broersma and Assistant Planner/ Zoning Administrator Kate White and Recording Secretary Laurie Slater.

Absent: Elliott Church, Jack VanderMeulen, and Robert DeVries

There were no public comments.

** It was moved by Haberkorn and supported by Ross DeVries to approve the minutes from the August 27, 2024 meeting as presented. Motion carried unanimously with a roll call vote.

Chairman Boersma explained the Public Hearing process to the audience. He further explained that we have a quorum of 3 members, and the vote must be unanimous to pass. The applicant can also request their petition to be tabled until more members of the Board are available.

Hearing declared open for the consideration of a petition for a nonuse variance submitted by Jeff Brinks of Venture Engineering, PLLC on behalf of Tallwood Properties, LLC for property located at 3112 N Wellness Drive, known specifically as Parcel Number 70-16-16-200-065. Petitioner is requesting a variance to not install the required Type D Buffer along the 258 feet of the western lot line, resulting in 0 canopy or evergreen trees installed along the western lot line. The subject property is zoned O-S Office and Service District.

Present for this request was Jeff Brinks of Venture Engineering, PLLC.

Mr. Brinks explained that he is working with the Little Red Dental office on the construction of the new building. The property next to it is an existing ENT office; both are medical buildings. Both office buildings meet all the zoning requirements. The Little Ren Dental Office has site plan approval, and they meet the required amount of parking spaces. The two businesses would like to have shared parking and access to the businesses. How traffic turnover is at a doctor's office differs from regular parking lots. People tend to show up for their appointment 15 minutes prior, while other patients are finishing up their medical exams/appointments; this leads to the need for more parking spaces to alleviate any patient turnover issues. The shared access and parking would benefit the whole development. Patients and employees would be able to get around better. Since the two businesses are of the same nature, medical buildings, they would like to be able to forgo the buffer between the two businesses.

Board members asked Staff what the purpose of the buffer was. Corey Broersma, Community Development Director, replied landscaping can help buffer and screen between incompatible uses next to each other, while in other cases the buffer can help to add more greenspace, tree canopy and may help to improve water clarity (storm water) with less impervious surface.

Member Haberkorn asked how many parking spaces this proposal would add? Mr. Brinks stated that it would add 12 parking spaces.

The Board further asked what would happen if they approved the request. Staff noted that there would need to be an easement for shared parking. The ENT office at 3100 N Wellness Dr would need to ask for a variance to take out their existing eastern property line buffer and not replace it when the property line is moved west to go down the center of the aisle for shared parking. There would be a signed agreement between the two offices for the easement and shared parking. It was stated that the neighbors to the west see the shared parking as a benefit.

Mr. Brinks stated that the request should be tabled, and they should hear both requests regarding the buffer at the same time because the information would be the same for both.

Chairman Boersma asked the Board Members for a consensus on the request. They commented that it makes sense, they are not a different use, they don't need buffering from each other.

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

The public hearing remains open for further public comment when both applicants will be present.

** It was moved by Boersma and supported by Haberkorn to table the request and associated public hearing for the adjacent neighboring property to apply for their buffer variance. Motion carried with a unanimous roll call vote.

Hearing declared open for the consideration of a petition for a nonuse variance submitted by Mike Hnatiuk for property located at 10888 James Street, known specifically as Parcel Number 70-16-23-100-009. Petitioner is requesting a variance of 1,440 square feet from the maximum 480 square feet permitted for a detached accessory building, resulting in a 1,920-square-foot detached accessory building. The subject property is zoned AG Agriculture.

Present for this request was Mike Hnatiuk, property owner.

Mr. Hnatiuk explained to the Board that he would like to construct a pole barn measuring 40' x 48' on his property that is 100' wide by 300' deep. Directly behind him at the end of his property is a railroad tracks. The proposed structure would be 150' behind the existing house, similar to the neighbors. He would need to remove one or two trees. He would use the building for storage of a tractor and snowmobiles, as well as for hobby space. It would be for personal use. It would be constructed with white siding and a black roof to match the existing house.

Mr. Hnatiuk noted there are other oversized accessory buildings in the neighborhood. Some of which are larger than what Mr. Hnatiuk is asking for. Mr. Broersma explained that those accessory buildings were constructed under a previous ordinance or under the Right to Farm Act when they were an active farm. Mr. Hnatiuk's property is less than 2 acres at 1.85 acres. He would be allowed 480 square feet by ordinance. A two-acre parcel is allowed 720 square feet.

Mr. Hnatiuk when replied that a 480 square foot accessory building would not be large enough to accommodate the items sitting in his yard at this time. Member Haberkorn asked Mr. Hnatiuk where he stores all of his stuff now? Mr. Hnatiuk noted that he stores his stuff outside and at other people's property. He was not sure if 720 would be enough as he didn't consider it for an option. His goal is to put all the items in the building and clean up his yard.

He would have electric run to the building and a gas line for heat.

Mr. Boersma reiterated that most of the neighbors do have an oversized accessory building which was constructed under the previous ordinance or under the Right to Farm Act. We have a new ordinance, and we have to look at the precedence we are setting before approval.

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

Melvin Vander Zwaag of 10850 James Street commented that Mr. Hnatiuk is a good neighbor. The Railroad tracks are directly in the back of his property. The larger building would bring in more taxes for the township. It would get things put away on Mr. Hnatiuk's property. There are a lot of trees around it, so it would not be an eye sore to anyone.

Chris Den Bleyker of 10912 James Street, spoke on behalf of herself and her husband Craig. She commented that she was allowed to add to her barn. Mike is a good neighbor. He keeps the property neat. The proposed building would sit amongst the trees and only one would need to be taken down. It would be a great addition to keep things in the building. It would be a gift to give him the barn in his retirement.

James Welch of 10860 James Street commented that he has his toys in his barn, not out and about. Mike has extra toys too. Give him the barn to work in the winter. He is a great neighbor.

** It was moved by Haberkorn and supported by Ross DeVries to close the hearing. Motion carried.

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 train tracks are at the very back of the lot. There are no neighbors backing up to the property to be impacted. The lot is exceptionally long and narrow.

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 circumstances are the same as many other lots in the area. Other property owners in this neighborhood already have oversized accessory buildings. This proposed building would fit right in. The Board understands it is too large by the current zoning ordinance, but there are already others even larger within the neighborhood.

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 variance is not necessary for the preservation and enjoyment of a substantial property right. The owner still has the right to construct a detached accessory building to a maximum size of 480 square

feet. There would be no increased financial return.

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

Granting of the variance would not be of substantial detriment to adjacent and nearby land uses and properties. Everyone else already has an oversized accessory building. It would be 150 feet from the back of his house and the railroad tracks back up to his property line.

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

As nothing about the physical characteristics of the property pertain to the need to grant the variance, this is a self-created problem.

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 Board was conflicted. It would be larger than allowed by ordinance, however, others in the surrounding neighborhood have huge barns that were approved under a previous ordinance. Mr. Hnatiuk is not actively farming the property, so he does not fit the Right to Farm Act standards, although he is zoned Agricultural.

The Board asked Mr. Hnatiuk if there would be a driveway back to the building. He replied that there would not be.

Chairman Boersma stated that he would be in favor of a lesser relaxation of 720 square feet, which by ordinance, is allowed on two acres, since the property is almost two acres in size.

** It was moved by Boersma and supported by Ross DeVries to approve a lesser relaxation for a 720-square-foot detached accessory building, as it would fit within the neighborhood and ~~is~~ be consistent with the maximum size permitted for a detached accessory building in the zoning ordinance. Motion carried unanimously with a roll call vote.

Other Business:

- 506 Orchard Hill will remain tabled until the October meeting.

Meeting adjourned at 6:22 pm.

Respectfully submitted,

Laurie Slater
Recording Secretary