

## ZONING BOARD OF APPEALS

Regular Meeting

October 22, 2024

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

Present: Chairman Russ Boersma, Members Ross DeVries, Bob DeVries, Jack VanderMeulen and Steve Haberkorn. Also present were Community Development Director Corey Broersma

Absent: Elliott Church, Assistant Planner/Zoning Administrator Kate White, and Recording Secretary Laurie Slater

There were no public comments.

\*\* It was moved by Haberkorn and supported by Ross DeVries to approve the minutes from the September 24, 2024 meeting as presented. Roll call vote was taken – 3 Yes, 0 No, and 2 Abstain. Motion carried.

Chairman Boersma explained the Public Hearing process to the audience.

**Hearing declared open** for the Consideration of a petition to Appeal a Decision of the Zoning Administrator submitted by Vincent L. Duckworth of Cunningham Dalman PC on behalf of 128 Ave Storage LLC for property located at 4095 128<sup>th</sup> Avenue, known specifically as Parcel Number 70-16-05-400-012. Petitioner is appealing the decision that the existing building on the subject property is a nonconforming structure due to the property being considered a “Through Lot”. The subject property is zoned C-2 Community Commercial.

Present for this request were Vince Duckworth of Cunningham Dalman PC and Jake Elenbaas of 128 Ave Storage LLC.

Mr. Duckworth passed out supplemental documents for their petition request to the Board Members. Mr. Duckworth noted that his client is asking that the Board reverse the determination of the Zoning Administrator that the structure is a nonconforming structure within the C-2 Zoning District. He believes that the Administrator made an error in their determination regarding the property having two front yards and two front setbacks. Mr. Duckworth noted the property cannot directly access the US-31 limited access highway and it would in fact be illegal for his client to try and do so; driving onto or from a limited access highway is limited to entrances and exits established by a public authority.

Mr. Duckworth noted this is an interpretation issue regarding “through lots” and “streets”; he further notes the definitions of these two terms in the Township Zoning Ordinance. Given “street” definition denotes “principal means of access to abutting property”, Mr. Duckworth argued this means that the street must serve as “chief” or “most important means of access to the property. There is only one street that provides principal access to his client’s property, 128<sup>th</sup> Avenue, and that therefore means there is only one requirement for a front yard setback from this 128<sup>th</sup> Avenue.

Mr. Duckworth noted front yard setbacks serve a purpose – to provide good visibility for traffic leaving the property. Mr. Duckworth argued that a front setback along US-31 does not seem logical given the property cannot access US-31.

Mr. Duckworth stated there is case law that when interpreting ordinances, the interpretation should be in favor of the intent of the ordinance. If the intent is at all unclear then any benefit of doubt must be ruled in favor of the property owners.

Mr. Duckworth noted that the decision is also arbitrary and capricious. When information regarding the property was FOIA'ed, there is a site plan on-file with the Township which shows a 25-foot setback from US-31. He asked why would there be a site plan showing a 25-foot setback if it didn't matter? The building was built in this location and taxed since 1978.

Mr. Duckworth mentioned a MDOT, US-31 Holland to Grand Haven Corridor Study that defines US-31 as a principle arterial roadway on the national highway system supporting the concept that access is not provided via US-31.

Member VanderMeulen asked if the owner will even be able to rebuild if this appeal were approved by the Board? Mr. VanderMeulen noted he suspects the most likely reason that the roof collapsed is that there was too much snow on it. Will the owner be required to build it to current standards? Mr. Duckworth noted that the owner would build it to the best possible standards and to the satisfaction of the building official. He noted they are not asking for relief from building code standards; they are asking for relief from having this building subject to nonconforming review standards. He noted the owners wants to get this building secured before winter hits.

Member Bob DeVries noted that this petition is getting down to definitions. He asked Director Broersma what his thought was when he determined that US-31 acts as a second front yard. Director Broersma noted that US-31 is a public street right-of-way and is consistent with the understanding from the 2018 restated ordinance.

Member DeVries asked about fire department access – would they be able to fight a fire from US-31 if it provided quicker access to the property in case of emergency? Director Broersma noted that the Fire Department has accessed fires from US-31 before, most recently in relation to a barn fire at Dutch Village. Mr. Duckworth noted this ability to fight fires from public right-of-way is coded in State law.

Mr. Duckworth referenced Chapter 30 of the Township Code of Ordinances regarding Plats and the provisions for “back-up-lots”. He noted that this section which notes that lots backing up to highway and arterial roads must contain a landscape easement to restrict access to the arterial street which he believes reiterates the intent of lots abutting limited access highways to have rear yards.

Member Bob DeVries asks about the spirit of the ordinance. What did Staff see in the intent of the ordinance to differentiate the yard along US-31 to be a front yard rather than a rear yard? Director Broersma noted that the 2020 Township Comprehensive Plan has a subarea plan for the US-31 Corridor; the plan for this corridor to be a welcoming and beautified corridor for the general public and those travelling through the Township. Director Broersma noted that this may be the most visible portion of the Township and there is a desire to treat the lot frontage along US-31 as a traditional front yard with landscaping. Member VanderMeulen asked about I-196 and whether the lots along Black River Drive are subject to a front yard setback along I-196. Director Broersma said yes.

Chair Boersma brought up that Dutch Village had come in not long ago for a front yard variance along US-31 for their windmill structure. He noted that Dutch Village had been held to the same standard for the US-31 front yard.

Member Bob DeVries noted that there is a property just north of the subject property that does not appear to conform to the front setback along US-31 – does that make it nonconforming? Director Broersma said

yes. Director Broersma indicated that roads may widen over time or ordinances changes and the structures that were once conforming become nonconforming. They are legally allowed to stay and exist, but as things age, fail, and fall apart, the owners will need to repair the structures and depending on the extent of repairs, they may need to bring the structure into compliance or seek relief through the Zoning Board to extend its life.

Chair Boersma noted he did not see anything in the 1977 record for the property that identifies the street or how far away the building is from the street, which street it is, or relief granted. Director Broersma agreed that the referenced plan does not identify the angled line and questioned the accuracy of the 25-foot dimension. Chair Boersma also asked Staff about areas more north along US-31. Director Broersma noted that once you get farther north from Holland, there are some properties along US-31 with driveway access to the highway.

Mr. Duckworth indicated there would be no reason for a plan to show the number of 25 on the west side of the building other than to be referencing a rear yard setback.

Member VanderMeulen asked whether the owner could rebuild to shorten the lean-to section that was damaged to comply with the 50-foot front setback along US-31? Director Broersma indicated that he had offered that to the owner when the building permit application has submitted – to rebuild the damaged portion in a conforming location.

Member Haberkorn asked why the owner has not sought a variance to rebuild the structure its in current configuration? Mr. Duckworth indicated he does not see anything in the ordinance that indicates his client would need to, and he is not sure how he could formulate a petition for nonuse variance and address the standards when he believes the ordinance has been interpreted erroneously. Member Haberkorn noted he understands that but he is wondering if the avenue to seek relief via the extension of a nonconforming structure petition an option. Mr. Duckworth noted that they hoping the Board will understand their position with this appeal, but if they need to work out through the Court system, they can do that; they will keep appealing until they either get a decision that concurs with their position or they get the decision that it is nonconforming.

Member Bob DeVries noted that the plan is not a professional survey; the Board does not know whether it was built this way. Mr. Duckworth agreed that they do not have a survey showing where exactly the building was constructed in relation to lot lines. Member DeVries noted that it could turn out that the building was built in a nonconforming location, whether the setback is determined to be 25 or 50 feet. Mr. Duckworth noted they are appealing the 50-foot front setback determination; that is the legal issue presented in front of the Board today.

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

\*\* It was moved by Bob DeVries and supported by Ross DeVries to close the public hearing. Motion carried unanimously by voice vote.

Chair Boersma noted that Staff had asked the Township Attorney Ron Bultje to weigh in on the appeal petition. Director Broersma noted he had a copy of the communication received from Mr. Bultje and if the Board was interested, he could read it aloud or put it on the screen. Director Broersma noted Mr. Bultje presented a sample motion for denial if the ZBA found that they agreed with Staff's interpretation that US-31 is public street, which Director Broersma read into the record:

“A motion was made by \_\_\_\_\_, seconded by \_\_\_\_\_, to deny the application by 128<sup>th</sup> Avenue Storage, and to uphold the decision of the Zoning Administrator. In denying the

application by the applicant, the ZBA upholds the decision by the Zoning Administrator that US 31 is a public street and that the applicant's lot is a through lot. Thus, the ZBA finds that the Zoning Administrator, in making these decisions regarding US 31 and the applicant's lot, has not acted in an arbitrary or capricious manner; did not make a decision based on an erroneous finding of a material fact; did not engage in an abuse of discretion; and did not make a decision based on an erroneous interpretation of the Zoning Ordinance or the Michigan Zoning Enabling Act.”

Chair Boersma noted Mr. Bultje had additional comments in the email communication regarding the arguments for denial.

The Board went over the standards to review when considering an Administrative Appeal. In exercising this power, the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify an order, requirements, decision or a determination being appealed and may make an order, requirement, decision or determination as it should be made. The Zoning Board of Appeals may reverse an order of an administrative official or the Planning Commission only if it finds that the action or decision appealed meets one (1) or more of the following requirements:

**1. *Was arbitrary or capricious.***

The Board found that the decision made was not arbitrary or capricious. Chair Boersma noted that the Board has previously reviewed petitions for front yard setback variances from the US-31 right-of-way.

General discussion occurred about front yard setbacks, principal access, and whether 50 feet is necessary to observe the spirit of the ordinance. The discussion did not alter the findings that the decision was not malicious or a misinterpretation; the Zoning Administrator did his job.

**2. *Was based on an erroneous finding of a material fact.***

The Board found that decision was not based on erroneous finding of material fact. Staff had presented legitimate reasons for coming up with their determination and it has been applied throughout the Township consistently.

**3. *Constituted an abuse of discretion.***

The Board found that the determination did not constitute an abuse of discretion; the decision was based on the tools and information available.

**4. *Was based on erroneous interpretation of this ordinance or the Michigan Zoning Enabling Act.***

The Board found that the determination was not based on an erroneous interpretation of the ordinance or the Michigan Zoning Enabling Act.

General discussion occurred about whether continuing to apply the front yard standard is appropriate in this case or for similar residential lots along Quincy Street. Should an extension of a nonconforming use variance have been sought? Was the yard adjacent to a US-31 considered a front yard in 1977? The discussion did not alter the findings that the Zoning Administrator did not make a mistake in his interpretation.

\*\* It was moved by Bob DeVries and supported by Boersma to deny the appeal and uphold the decision of the Zoning Administrator. Motion carried unanimously by roll call vote.

**Hearing declared open** for the consideration of a petition for a nonuse variance submitted by Jeff Brinks of Venture Engineering, PLLC on behalf of North Wellness Dr LLC for property located at 3100 N Wellness Drive, known specifically as Parcel Number 70-16-16-200-064. Petitioner is requesting variance to remove the existing Type C Buffer along the 258 feet of a proposed lot line adjustment, resulting in 0 canopy trees and 0 shrubs along the eastern lot line. The variance is being requested for the purposes of adjusting a lot line and installing shared parking facilities with the easterly adjacent property. The subject property is zoned O-S Office and Service District.

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

Chair Boersma noted that in the past meeting, the Board had opened a public hearing for a nonuse variance at 3112 N Wellness Dr; however, in the review of that petition, it was found that the adjacent property, 3100 N Wellness Dr would also need to seek a variance for relief from their buffer requirement. The petition was tabled to give the applicant the ability to submit the petition request for the subject property. Chair Boersma noted to Mr. Brinks that there were some Board members present tonight that were not at the last meeting.

Mr. Brinks noted that they are looking for a waiver for the requirement to install a 10-foot-wide buffer between the two properties, 3100 N Wellness Dr and 3112 N Wellness Dr, for the purpose of creating a shared drive aisle and parking lot between the properties. Mr. Brinks noted that because of the medical nature of these businesses, the parking situation is a little more unique. Patients may be finishing up appointments while the next appointment arrives early and wait for their appointment time; this requires more parking for the patient turnover between appointments.

Mr. Brinks noted both owners desire this shared parking situation and they have put together an agreement to share and maintain the parking facilities, which they would be willing to execute and provide to the Township.

Chair Boersma asked that both owners are willing to record agreements for shared parking and associated easements? Mr. Brinks noted yes and he believed that some draft documentation has already been provided to Staff. Staff noted they will need the attorney to look it over if the Board approves the variances.

Member DeVries asked for clarification on the area of landscaping relief requested tonight. Mr. Brinks noted this is the area that runs north to south between the two buildings.

Chair Boersma asked if a lot line adjustment is also proposed with the shared parking facilities? Mr. Brinks noted that is the case and they already have the application for a lot line adjustment completed and are waiting to submit it to the Township for review. Staff highlighted where the lot line shift is.

Chair Boersma opened the floor for the public to speak.

**Tim Onema from T2 Construction** approached the podium. He noted that the medical facility at the subject property gives allergy shots and as part of the process, patients need to wait at the facility after receiving shots. This causes a little more parking need than a traditional medical facility.

**\*\*** It was moved by Bob DeVries and supported by Haberkorn to close the public hearing. Motion carried unanimously by voice vote.

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 Board noted that there are no exceptional conditions of the land itself; however, they recognize the practical difficulties created from a parking shortage based on the business operations.

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 Board found that there were no unusual circumstances for the lot of record alone; however, they noted having two lots, with the same zoning and same use that want to share parking facilities may be rare.

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 Board found that the variance may be necessarily not for the enjoyment of the owner but for the benefit of the customers to be able have access to parking.

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

The variance will not be of substantial detriment to adjacent properties and it will serve as a benefit to both properties (3100 and 3112 N Wellness Dr).

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

The problem is not self-created if there is a need for more parking facilities.

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 found that the variance request is not contrary to the spirit of the ordinance and provides a benefit to their customers for parking.

\*\* It was moved by VanderMeulen and supported by Bob DeVries to approve a variance to remove and not install the required Type D Buffer along the 258 feet of the eastern lot line, resulting in 0 canopy or evergreen trees installed along the eastern lot line. Motion carried unanimously by roll call vote.

**Other Business (Tabled Items):**

**3112 N Wellness Drive (70-16-16-200-065) – Nonuse Variance (Tabled Sept. 24, 2024)**

Petition for a Nonuse Variance by Jeff Brinks of Venture Engineering, PLLC on behalf of Tallwood Properties, LLC. 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.

\*\* It was moved by Bob DeVries and Ross DeVries. Motion carried unanimously with voice vote.

Chair Boersma noted the public hearing had been left open from when it was tabled.

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

\*\* It was moved by Ross DeVries and supported by Haberkorn to close the public hearing. Motion carried unanimously with voice vote.

The Board went over the standards to review when considering a nonuse variance request and also considered the decision made for the adjacent property at 3100 N Wellness Drive.

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 Board noted that there are no exceptional conditions of the land itself; however, they recognize the practical difficulties created from a parking shortage based on the business operations. The landscape requirement is creating a difficulty to meet parking demand.

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 Board found that there were no unusual circumstances for the lot of record alone; however, they noted having two lots, with the same zoning and same use that want to share parking facilities may be rare.

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 Board found that the variance may be necessarily not for the enjoyment of the owner but for the

benefit of the customers to be able have access to parking.

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

The variance will not be of substantial detriment to adjacent properties and it will serve as a benefit to both properties (3100 and 3112 N Wellness Dr).

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

The problem is not self-created if there is a need for more parking facilities.

**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 found that the variance request is not contrary to the spirit of the ordinance and provides a benefit to their customers for parking.

\*\* It was moved by Boersma and supported by Haberkorn to approve 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, with the contingency that the property owners at 3112 and 3100 N Wellness provide Staff with written agreement providing for the shared parking use and cross access easement. Motion carried unanimously by roll call vote.

**506 Orchard Hill (70-16-30-176-041) – Nonuse Variance (Tabled Aug. 27, 2024)**

Petition for a Nonuse Variance by Jon Andersh of Rhoades McKee PC on behalf of Andrew and Jennifer Foley. Petitioner is requesting the following variances in order to divide the subject property into 2 lots:

- 1) 55 feet from the minimum required 70-foot lot width and frontage on a public right-of-way, resulting in a lot width and frontage of 15 feet for each of the proposed 2 lots;
- 2) relief from the 4:1 lot depth-to-width ratio for a lot of record with a depth of 149.07 feet and a width of 15 feet, resulting in a ratio of 9.93:1 for each of the proposed lots; and
- 3) 28 feet from the minimum required 35-foot rear yard building setback, resulting in a rear yard setback of 7 feet for the northern proposed lot.

The subject property is zoned R-1 Low Density Residential, FP Floodplain, and Macatawa Residential Setback Overlay.

Member VanderMeulen recused himself from the petition due to conflict of interest and removed himself from the dais.

\*\* It was moved by Haberkorn and supported by Bob DeVries to remove the item from the table. Motion carried unanimously by voice vote.

Present for this request was Jon Andersh of Rhoades McKee PC.

Chair Boersma noted the last time this item was at the Board, they need to figure out whether or not they would be able to serve the property with water. He noted that it looks like a letter from the neighbors has

been received indicating they would be willing to grant such an easement for water service to the proposed new lot.

Mr. Andersh stated that he and his clients talked to the Public Works Director regarding water service availability and the need for a separate water service easement. The Public Works Director had informed them that with Orchard Hill abandoned, they need would service through a new water tap on Pinecrest Dr. The water tap could not be in the same private driveway easement but must be separate. Mr. Andersh noted the Township Fire Chief did not have any concerns over existing access.

Chair Boersma asked Mr. Andersh to recap the requested variances in front of the Board tonight. Mr. Andersh is asking for relief from the lot frontage and width requirement, the lot depth-to-width ratio, and from the rear yard setback.

Member Haberkorn asked for clarification on where the setback relief is being requested. Staff brought up on the site plan provided by the applicant and indicated which line. Member Haberkorn noted that there appears to be an accessory building located on the adjacent property close to the property line where the Foleys are seeking setback relief – have they heard from the property owners on whether they are okay with the setback variance.

Chair Boersma asked Staff about a previous request from an adjacent property for a setback variance. Staff noted that would have been the property currently owned by the Novaks.

There was discussion on whether, before Orchard Hill was abandoned, there was one lot or two lots. Staff noted that from the zoning perspective, the previous right-of-way bisect the north and south portion and was two lots. There was more discussion on what the motive was for abandoning the Orchard Hill right-of-way. Member Bob DeVries recalled from the August meeting that there may have been desire to place an accessory building on the property which motivated the Orchard Hill abandonment. Mr. Andersh noted that the owners had indicated previously that there were several issues with maintenance and plowing of Orchard Hill and that abandoning the road and making it their driveway allowed them to better maintained the drive access.

Mr. Foley added that upon purchasing the property they only received one tax bill under one tax parcel even though there was public right-of-way.

Chair Boersma asked if the owners would need to go to the Board of Trustees in order to authorize the land division. Staff noted yes given it is within a State recorded plat. Mr. Andersh noted they are aware of this and will do that as a next step but need ZBA approval before doing so.

Mr. Andersh noted that they could have sought a variance for relief from the private street easement requirements rather than lot frontage and width but felt this request made more sense with the existing access easement that is already in place.

Mr. Foley added that the neighbors want to see this area built on rather than be open grass.

Staff notes that the public hearing was closed at the August ZBA meeting.

The Board went over the standards to review when considering each of the 3 nonuse variance requests.

***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 Board found that the lot of record is a unique and odd shape in its “t” configuration. This would apply to all 3 requests.

- 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 Board found that there are other long lots in the general area along Lake Macatawa.

- 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 Board found that the variances are not necessary for the preservation of the property right, but it is being asked for the expansion of the property right. This would apply to all 3 requests.

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

The Board found that the variance requests #1 and #2 are not of substantial detriment to adjacent property; however, variance request #3 may create concerns with fire separation between adjacent property.

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

With the abandonment of Orchard Hill the applicant may have created the issue by consolidating the land, however, the Board acknowledges the applicant’s statements about there being only 1 tax parcel number prior to the abandonment and that the applicant thought there was only 1 lot of record. This would apply to all 3 requests.

- 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 found that the long lots are a characteristic of the area and not out-of-norm. The Board noted they have not received letters of opposition for the variances, with letters of support received in August. The Board did their due diligence to check with the Fire Chief to ensure there is no access concerns. This would apply to all 3 requests.

Staff noted that the Board should consider conditions pertaining to requiring appropriate easements for water tap and access for the new lot.

\*\* It was moved by Boersma and supported by Ross DeVries to approve the variance of 55 feet from the minimum required 70-foot lot width and frontage on a public right-of-way, resulting in a lot width and frontage of 15 feet for each of the proposed 2 lots, with the stipulation that they get an easement for the benefit of access for all three lots abutting the former Orchard Hill right-of-way and for the water line easement for the proposed new lot. Motion carried unanimously by roll call vote.

\*\* It was moved by Ross DeVries and supported by Haberkorn to grant relief from the 4:1 lot depth-to-width ratio for a lot of record with a depth of 149.07 feet and a width of 15 feet, resulting in a ratio of 9.93:1 for each of the proposed lots. Motion carried unanimously by roll call vote.

\*\* It was moved by Bob DeVries to deny the variance of 28 feet from the minimum required 35-foot rear yard building setback, resulting in a rear yard setback of 7 feet for the northern proposed lot. Motion died due to lack of support.

\*\* It was moved by Bob DeVries and supported by Ross DeVries to approve a lessor relaxation of 20 feet from the minimum required 35-foot rear yard building setback, resulting in a rear yard setback of 15 feet for the northern proposed lot. Motion carried unanimously by roll call vote.

Meeting adjourned at 7:26 pm.

Respectfully submitted,

Corey J. Broersma  
Community Development Director