

ZONING BOARD OF APPEALS
Regular Meeting
April 26, 2022

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

Present: Chairman Russ Boersma, Vice-Chairman Ross De Vries, Members Jack Vander Meulen and Elliott Church. Also present were Community Development Director Corey Broersma and Recording Secretary Laurie Slater.

Absent : Robert De Vries

Public Comment : None

** It was moved by Vander Meulen and supported by Ross De Vries to approve the minutes of March 22, 2022 as written. Motion carried.

Chairman Russ Boersma explained the Public Hearing process to the audience.

Hearing declared open to consider a petition for a Nonuse Variance submitted by Brian Baarman on behalf of the Jerry M Baarman Trust for property located at 10972 Chicago Drive, known more specifically as 70-16-23-100-068 and -074. Petitioner is requesting permission to install multiple air conditioning units within the easterly side yard building setback. The subject property is zoned I-1 Light Industrial.

Present for this request was Rick Baarman. Also present was the applicant, Brian Baarman and Nathaniel Peerbolt of Peerbolt's Inc.

Mr. Rick Baarman explained that the proposed air conditioning units would be for an existing building. The purpose is for cooler working conditions in the summer for their employees and for climate control for the product.

Mr. Baarman read a letter from Brian Huffman of the Eye Sight Clinic directly to the east. Mr. Huffman had no objections to the request.

The placement of the existing building is the reason for the variance. The neighboring property to the east also has a storage building within a couple of feet of the lot line as well, concluding that the previous ordinance allowed for a smaller setback. Mr. Baarman purchased the building 1994.

There are already air conditioning units and process units within the setback. The additional units would be directly in line with the existing units. The units would be adjacent to the neighboring property's storage building and trash enclosure.

Staff asked for the applicant to verify the distance of the Nonuse Variance request and it was confirmed to be 14 feet 1 inch from the required 20-foot side yard setback; resulting in a mechanical equipment setback of 5 feet 11 inches.

The other existing units mentioned in the Staff Report were on the roof. The roof is a sloped metal roof, which when wet is extremely slippery. The company that services these units asked

Mr. Baarman to move the units along-side the building for the safety of the service people. Servicing the units on the roof takes two hours versus 20 minutes on the ground.

Besides the safety issue, the other issue with putting them on the roof, is whether the metal structure would need to be modified to accommodate the units which weigh 3,000 pounds each.

The Board asked about the proposed new building that was approved at the previous meeting and whether it would have air conditioning. Mr. Baarman replied that it was unlikely that it would need air conditioning. That building would be for storage of raw materials. There would be no production going on in that building. With the product moved into the new building, that allows them to expand the production area in the existing building.

The Board discussed the noise that would be generated by the air conditioning units. Mr. Peerbolt explained that the units do not generate much more noise than an air conditioning unit at your house. His guess was no more than 70 decibels. One could have a normal conversation standing near the units. There are already units there near the adjacent property and they have not voiced any concern over the noise of the units. This is not a residential area. There would be four to five 10 to 20 ton units running all year around on and off throughout the day.

The proposed units would not protrude any further than the existing units. The Board questioned Community Development Director about whether the processing units would have needed a permit to be placed in their current location. He stated that yes, they should have gotten at least a zoning permit. Mr. Peerbolt stated that he questioned the previous contractor and they said they didn't need a permit for the process units.

There was further discussion among the Board Members in regards to the pitched metal roof and safety when wet. They also discussed other businesses within the Township that have air conditioning units on the ground and that it is not unusual. They won't be terribly loud. The traffic of Chicago Drive and the highway are louder than the units are going to be. The units would not be any more invasive on the setback than the existing units.

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

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

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

It is the location of the building that creates the practical difficulty in meeting the setback.

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

It is not unusual to find more air conditioning units on the ground rather than the roof throughout the Township. Whether it encroaches on the setback depends on how old the building is. Granting this request does not set a precedence.

- 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 desire to add air conditioning is helpful to the employees. Giving them a cooler environment to work in instead of sweating all day will help keep the employees there. The cost to install the units and maintain them does not give them a financial return.

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

There is a letter of support from Eye Sight Clinic – they have no issues with the request or the existing units. It would be no more detrimental to them. The existing units already encroach on the setback. The request would not increase the encroachment. For safety issues, there is no reasonable alternative. The noise and visibility would be no greater than it currently is.

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

The property was bought as is. It was built to different standards than the current standards.

- 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 variance request is for a better work environment for the employees. No issues with justice for other property owners. Granting this variance doesn't make the current issue any greater. For the safety of the maintenance people, Peerbolt's, working on the ground versus working on the slippery roof.

** It was moved by Ross De Vries and supported by Vander Meulen to grant the request as presented for the request for a Nonuse Variance of 14 feet 1 inch from the required 20-foot side yard setback; resulting in a mechanical equipment setback of 5 feet 11 inches for the 2 new units. Motion carried with a unanimous roll call vote.

Hearing declared open to consider a petition for a Nonuse Variance submitted by Ronald Lichte for property located at 3353 Creek Court, known more specifically as 70-16-07-365-012. Petitioner is requesting permission to install a greenhouse not meeting the size, separation distance, or character requirements for a detached accessory building within the rear yard. The subject property is zoned R-2 Moderate Density Residential.

Present for this request was Ron Lichte.

Mr. Lichte explained to the Board that he received the greenhouse as a Christmas present from his wife. They had the Amish come and erect the greenhouse. Mr. Lichte stated that since it was not a permanent structure, his wife was told they did not need a permit. When asked who she spoke with that said that, they could not recall. In November he started putting landscaping around it and was just now getting back to completing it. Mr. Lichte submitted signatures of the surrounding property owners in support of the variance.

The Board asked if Mr. Lichte had any documentation on the greenhouse as far as the snow load, how it's anchored to the ground, glare off the glass, and safety features.

Mr. Lichte stated that the structure is anchored with 2-inch pipes that are 4 feet into the ground. The walls are double plastic. It has a plexiglass door.

The Board stated that they would like to see the documentation from the website where it was purchased to determine if the structure meets code.

The property has a creek to the back of it with trees, making the greenhouse visible in the winter only.

There was a letter submitted by Rex and Val Norton of 14262 Ottawa Creek Lane. They have no objections to the greenhouse.

There was further discussion about whether the structure is a temporary structure or a permanent structure and how to make that determination. Community Development director, Mr. Broersma, stated that temporary structures are typically tents used with special events. They go up one day and come down the next day.

The Board asked what would allow a greenhouse. Mr. Broersma stated it would have to meet the same requirements as an accessory building. It could be up to 240 square feet for a maximum size on this lot, meet the setbacks, meet the separation distance, have glass or plexiglass, gable roof and still has to be built to code.

The Board commented that the size of the greenhouse for the size of the lot is very large. A greenhouse is not constructed as normal construction. It is typically found on agricultural or commercial property.

Mr. Broersma stated that this request was received and advertised as a nonuse variance request, when an appeal to the determination that a greenhouse is not a building due to its soft-sided nature should also be considered. He apologized for the oversight.

The property does not function as a commercial farm, so it is understood that it does not fall under the "Right to Farm Act".

Present in the audience to speak to this request was Kristi Dobbins of 3343 Creek Court. Ms. Dobbins stated that the green house is not a nuisance to them. Mr. Lichte keeps his property in good repair and clean. He is allowing the neighbors to use the greenhouse too.

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

** It was moved by Boersma and supported by Church to table for an appeal to make a determination as to whether this is considered a building or not. Applicant is to provide specification booklet on the greenhouse. If no application is received within 30 days, Code Enforcement is to move forward. Motion carried with a unanimous roll call vote.

Meeting adjourned at 6:58 pm.

Respectfully submitted,

Laurie Slater
Recording Secretary