

ZONING BOARD OF APPEALS  
Regular Meeting  
May 24, 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, Robert De Vries and Elliott Church. Also present were Community Development Director Corey Broersma and Recording Secretary Laurie Slater.

Absent: None

Public Comment: None

\*\* It was moved by Vander Meulen and supported by Church to approve the minutes of April 26, 2022 as written. 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 Kory Gier of the Holland Bowl Mill on behalf of Myra Keuning for property located at 120 James Street, known more specifically as 70-16-20-126-014. Petitioner is requesting permission to eliminate the vegetation required within a Type A Landscape Buffer. The subject property is zoned I-2 General Industrial.

Present to speak to this request was Kory Gier of Holland Bowl Mill. Also present was John Tenpas of Driesenga and Associates.

Holland Bowl Mill has been operating out of this site since 2001. They added a show room on the front. When they went to do the remodel, it involved a full site review. The result of that review was that several improvements needed to be done to the property to comply with the current ordinance. There was landscaping, dumpster enclosure, parking lot improvements to name a few. All the improvements have been completed except for the landscaping along the south property line. Since they already have the canopy trees, and have put in a fence, they would like to eliminate the required 49 shrubs and the 21 evergreen trees. The applicant explained that whatever gets planted within the buffer in front of the 6-foot stockade fence will not get much sunlight. The canopy trees and the fence create much shade. Since this buffer is in the rear yard, it would not be visible. There have been no complaints from the neighbors since 2001.

Mr. Vander Meulen asked if an evergreen tree could survive under the canopy trees. Mr. Gier replied that the landscape design company that gave him the quote said that anything you put there unless you have irrigation, won't stay alive in that location.

Community Development Director Corey Broersma, stated that there are shade tolerant evergreens and those tolerant of different types of soils. Not all evergreens die in the shade.

Mr. Gier presented pictures of the recently installed fence. Because the fence would be more opaque than originally discussed, staff was agreeable to a lesser relaxation.

The Board discussed the purpose of the buffer for separation and protection for the neighbors. The consensus was that the shrubs would serve no purpose, no one would see them behind the fence. The evergreens could be less but they are necessary as the canopy trees only have leaves on them for 6 to 7 months. There is residential use on the lots behind the Holland Bowl Mill.

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

\*\* It was moved by Bob DeVries and supported Ross DeVries by 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.**

A practical difficulty would be keeping the vegetation alive in the shade of the fence and the canopy trees.

- 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.**

There is already a great deal of landscape screening with the canopy trees.

- 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.**

It is an added burden to keep the vegetation alive in the shade.

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

The lots to the rear of the property are residential uses. There is a forest of canopy trees between the houses and the business. Evergreens are necessary, but at a lesser amount.

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

Knew going in it was a requirement. With the existing fence and existing canopy trees can see why they are here.

**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 some screening is within the spirit of the ordinance being observed. The front and side yards, which are visible, are in compliance and look nice.

There was further discussion among the Board Members as to what the lesser relaxation should be in regards to the evergreen trees.

\*\* It was moved by Church and supported by Vander Meulen to allow the applicant to eliminate the shrubs, but maintain 16 evergreen trees. The site plan is to be reviewed and approved by Staff. Motion carried with a unanimous roll call vote.

**Hearing declared open to consider** a petition for a Nonuse Variance submitted by Lloyd and Melva Schout for property located at 10488 Felch Street, known more specifically as 70-16-14-426-011. Petitioner is requesting permission to utilize an existing 10-12-foot-wide driveway for access to a proposed lot of record instead of constructing a private street. The subject property is zoned R-2 Moderate Density Residential.

Present to speak to this request was Lloyd Schout.

Mr. Schout explained that the owners of parcel 2781 and the East Parcel would like to continue to use the existing 10-12-foot driveway. These would be the only two single family homes using the driveway. Mr. Schout's driveway now goes out onto Felch Street instead of 104<sup>th</sup>.

Mr. Schout proceeded to explain how the request meets the standards. He stated that the property is an irregular shape. The driveway is 300 feet in length. Because of limited frontage he was only able to develop a few lots, not several. There are only two property owners, the

Veenstra's - #2781 and the Langejan's – East Parcel. Mr. Schout referenced letters sent to the Township from Langejans, Veenstra's and DeBoers supporting the request to be allowed to continue to use the 10-12-foot driveway off of 104<sup>th</sup>, the required width is 22 feet. Mr. Schout continued that the driveway looks great now, it is better to keep it as is, rather than tear it up to widen it to 22 feet. It is currently 5 years old and in good condition. It has been this way since he purchased the property. It presents no harm to the general public as the general public will not be using it. There is enough room for a turn around for the emergency vehicles. Several fire trucks were there to service a fire and they had no problems getting in and out. The driveway traffic is light. There is a shoulder width for passing cars. It would be an injustice to them as other home owners do not have to pay \$40,000 for the expense of a driveway. Mr. Schout referenced an 11-foot driveway off of 104<sup>th</sup> that is used by more than three parcel.

The Board asked Mr. Broersma to comment on the possibility of another lot being developed and emergency vehicle access. Mr. Broersma commented that within the State Land Division Act a fourth lot is a possibility at this time. They only need potential access for a lot to be a split under the Act. The referenced driveway down the street serving 3 lots is within a PUD and the rules for a PUD are different.

There was further discussion by the Board about other properties with easements to access lots, specifically the Potter's on Aniline Avenue and Nash's on James Street.

Mr. Broersma explained that the width of the private street surface within an easement must be 22 feet in order to be compliant with the ordinance. When Mr. Schout first came before the Board in 2004 for relief from the 66-foot easement width requirement the pavement width requirement was 15 feet wide per ordinance. The Board further discussed the turn-around and the number of parcels using the access.

Present in the audience to speak to this request was Mr. Kenneth Veenstra of 2781 104<sup>th</sup> Avenue, one of the owners using the driveway. He was in full support of leaving the driveway as is. It is atheistically better this way than to widen it to 22 feet. The DeBoer property is along the blacktop and the snow is pushed to the other side of the driveway.

\*\* It was moved by Bob DeVries and supported by Ross DeVires 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.*

Staff believes the uniqueness of the land was accounted for in the easement width reduction granted in 2004. There was and is no justification for the road not being improved and the hammerhead turn-a-around being installed upon a second lot being served.

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.***

The unusual circumstances related to easement width were accounted for in 2004 to allow additional lots to be created when proper access was established.

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.***

It is necessary to let others move in and to expand. At the same time, can still enjoy the property at 22'.

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

Granting this variance could result in more people coming in and asking for a similar variance. The adjacent properties are on board with leaving the driveway as is.

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

In 2004 when they came in for the initial variance it was for two houses, that hasn't changed it still services only two houses. The ordinance at that time required a 15' paved driveway, 10-12 feet is what it is currently.

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.***

Leaving the driveway as is does not affect anybody else. It would be different if there was a higher number of residences. If current circumstances change, yes it will affect others. There are still only two houses using this driveway.

\*\* It was moved by Vander Meulen and supported by Bob DeVries to allow the applicant to continue to use the driveway as is only to service two parcels #2781 and the East Parcel with one residence on each. Applicant is to create and maintain a turn around space for emergency vehicles to be approved by the fire chief. Any additional splits, they are to come back for approval of adding volume to the driveway. Motion carried with a roll call vote of 4 in support and one in opposition.

**Hearing declared open to consider** a petition for a Nonuse Variance submitted by David Howat of IMDC Acquisitions LLC on behalf of William T. Mast and West Shore Pines LLC for vacant property located at 0 Riley Street (adjacent to and east of 31740 West Shore Drive), known more specifically as 70-16-16-100-130. Petitioner is requesting a variance of 24 feet from the 90 feet of frontage required along a public street for a proposed hotel; resulting in a frontage of 66 feet. The subject property is zoned C-2 Community Commercial.

Present to speak to this request was David Howat. Also present was Rick Lippert and Patrick Gannon. Also, Mike Baker, Civil Engineer for Nederveld.

Mr. Howat explained to the Board that they would like to put a hotel on the property behind Home 2 Suites. It would be a Hilton TRU Hotel. The available frontage for this property 66 feet, 90 feet is required by ordinance. They are asking for a 24' variance.

They have explored all their options and came to the conclusion that the easiest way to resolve the frontage issue with this parcel is to get a variance for the frontage of this parcel. That way the private road does not create legal nonconforming buildings on corner lots because they are on a new private street. They would put a monument sign on Riley Street that would be compliant with the current ordinance for signage. This would clean up the configuration of the lot and use the property in the way that the Planning Commission recommended.

Mr. Howat further stated this use would not negatively affect the surrounding properties nor would it set a precedent. They have an updated site plan and the Fire Chief has reviewed it.

The Board indicated this solution would work with the other properties. Easements from Home 2 Suites to West Shore Drive combined with access to Riley Street would lessen the traffic to West Shore. It's not perfect, but this use is a better use than previously proposed. And no other variances would be needed according to the applicant.

Mr. Howat continued by stating they disagree with the Staff Report for standards #3, #5 & #6.

Vander Meulen explained that there has been a number of proposals for developing that property that included apartments and multiple family housing. It is hard to develop. There is someone who wants to develop it now and the Planning Commission sees it as a good fit to go back there.

There was discussion of the traffic on Riley Street and getting in and out of the property that way. Home 2 Suites is a sister property and an easement onto West Shore Drive is a possibility. The property needs frontage onto a major road and Riley is what they have.

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

\*\* It was moved by Ross DeVries and supported by Bob DeVries 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.**

Establishing a private road within the 66 foot “pole” of this lot could result in practical difficulties for the existing adjacent properties. Those adjacent properties would likely become legal non-conforming corner lots from a building setback perspective as their current side yards would become a front yard if a private road was established.

- 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.**

The unusual circumstance is a flag lot in a commercial area.

- 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 necessary without it the property can't be used. There is no possibility of adding frontage. Others have tried to develop this property and it did not happen.

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

It is by another hotel. The only detriment would be if corner lots were created by putting in a private road.

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

The developer of the property created the problem not the applicant.

**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 as proposed will not be contrary to the spirit of the ordinance provided the Fire Chief accepts the circulation routes to and through the subject site.

\*\* It was moved by Bob DeVries and supported by Vander Meulen to approve the request with the stipulation that the Fire Chief accepts the circulation route to and through the subject site. Motion carried with a unanimous roll call vote.

**Hearing declared open to consider** a petition for a Nonuse Variance submitted by Joseph Waldner of Waldner Investments for property located at 129 Reed Avenue, known more specifically as 70-16-28-199-010. Petitioner is requesting permission to extend the life of the non-conforming dwelling failing to meet the required minimum floor area, front building setback, or side building setback. The subject property is zoned R-2 Moderate Density Residential.

Present to speak to this request was Joe Waldner.

Mr. Waldner stated that when he applied for a building permit for the house he had purchased, he could not get the permit because the existing house was nonconforming with the front and side yard setbacks and the square footage. Mr. Waldner pointed out that there are houses with front yard setbacks that are closer to the road right-of-way than his house is (124 and 128 Reed). He further stated that he spoke with Township Staff and he could increase the fire rating on the south side of the house to increase the safety of the nonconforming side yard



setback.

In regards to the square footage of the house, Mr. Waldner indicated that at approximately 600 square feet, 864 square feet is required, there are a lot of small houses.

Mr. Waldner explained to the Board that he purchased a small house in Holland Charter Township that was in need of repair. The previous owners had started making repairs prior to selling the unoccupied house without obtaining a building permit. The work that was preformed included the siding, windows and gutting the building.

The electrician and the plumber applied for their own permits. All that Mr. Waldner did to the structure was shore up the wobbly walls and put in a subfloor that was needed before the electrician and plumber could safely do their work without falling through it.

Mr. Waldner is asking that he be allowed to fix up the house that has been sitting vacant for a very long time. There are similar houses with similar setbacks in the neighborhood.

There was a \$10,000 budget originally stated on the building permit. Mr. Waldner plans on doing most of the work himself, framing, drywall, floors and a new kitchen. Mr. Waldner did not include the electrical and the plumbing in the cost estimate, which he indicated would make the estimate approximately \$35,000.

The only alternative is to tear down the house.

The Board asked for input from Community Development Director, Corey Broersma. He stated that 35' from the right-of-way is what is required, Mr. Waldner is 23'. The side yard setbacks are 4.1 feet rather than the standard 7 feet. Mr. Lopez, the previous owner, is believed to have installed the siding and the windows.

If he is not granted the permit, the house stays vacant and he has to maintain it in a matter that is not an eyesore. The existing house has a crawl space.

The Board continued to discuss the option of a tear down and could a house be built on the lot that would be in compliance. Mr. Broersma stated that yes, they could. Zoning for this property is not going to change. Looking at a map of the neighborhood, it was noted that there is a substantial number of lots of the same size as the applicants. It appears some of the property owners bought the property next door to create a larger lot.

They continued discussion with the question of whether the existing house was structurally sound. Mr. Waldner stated that he would get an engineer to look at it. The window sizes were also suspected to be too small at 24"x36" and 24" x 32".

Mr. Waldner said that originally, he didn't think he needed a permit for what he was doing. The walls shook so he reinforced them. The sub flooring had holes in it so he made it safe for the contractors to come in and do the plumbing and put in a new furnace, which they each got their own permits. He was not trying to deceive or defraud anyone.

Discussion continued with the question "Does the Township want all these nonconforming houses torn down?" Vander Meulen stated that the neighborhood looks better now than it did 10-15 years ago. Mr. Broersma replied that is thanks to code enforcement and rental inspections. This neighborhood is a mixture of larger lots with smaller lots. Mr. Waldner's choices if this request is denied is to maintain the unoccupied property or tear it down and start over.

Present in the audience to speak to this request was Hing Ung of 137 Reed Avenue. Mr. Ung stated that he would consider selling Mr. Waldner 3 feet of property.

\*\* It was moved by Bob DeVries and supported by Vander Meulen to close the hearing. Motion carried.

The Board went over the standards to review when considering the extension of a nonconforming use.

- 1. Whether the extension, enlargement, alteration, remodeling or modernization will substantially extend the probable duration of the nonconforming structure, building or use.**

Yes, remodeling this structure will substantially extend the probable duration of the nonconforming structure.

- 2. Whether the extension, enlargement, alteration, remodeling or modernization of the nonconforming structure, building or use will interfere with the use of adjoining lands or other properties in the surrounding neighborhood for the uses for which they have been zoned pursuant to the provisions of this ordinance.**

There are other properties with setback that close. Other properties in the surrounding neighborhood are nonconforming too. It won't interfere with the use of adjoining lands or properties in the surrounding neighborhood.

- 3. The effect of the nonconforming structure, building or use and such extension, enlargement, alteration, remodeling or modernization thereof on adjoining lands in the surrounding neighborhood.**

Prolonging non-conformities is not encouraged or in the interest of a neighborhood's minimum expectations. This neighborhood (referred to as the Federal District by the Township's Master Plan) has opportunities for redevelopment and this lot is a prime

candidate where a new dwelling meeting setbacks and floor area requirements is possible.

There was further discussion about the wishes of the Township to do away with nonconforming properties. The cost to fix the property up and what has already been spent on fixing up the property and how much more it might take to finish renovations to the property.

\*\* It was moved by Bob De Vries and supported by Church to deny the request for an Extension of a Nonconforming Use as presented; resulting in a dwelling:

- Located on a legal non-conforming lot of record;
- Located 4.1 feet from the south property line;
- Located 23.2 feet from the Reed Avenue public right-of-way;
- With a floor area of no less than 589 square feet.

Motion carried with a roll call vote of 3 in favor and 2 in opposition.

Meeting adjourned at 8:35 pm.

Respectfully Submitted,

Laurie Slater  
Recording Secretary