



Rochester Hills

Minutes - Draft

Zoning Board of Appeals

1000 Rochester Hills Dr
Rochester Hills, MI
48309
(248) 656-4600
Home Page:
www.rochesterhills.org

Chairperson (currently vacant); Vice Chairperson Kenneth Koluch
Members: Deborah Brnabic, Bill Chalmers, Jayson Graves, Dale A. Hetrick, Jason Sakis and
Charles Tischer

Wednesday, September 9, 2020

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

Vice Chairperson Kenneth Koluch explained the procedure for the virtual meeting, as allowed under the Governor's Executive Order 2020-154 and called the Regular Meeting of the Zoning Board of Appeals to order at 7:00 p.m. via zoom video conferencing.

ROLL CALL

Present 7 - Deborah Brnabic, Bill Chalmers, Jayson Graves, Dale Hetrick, Kenneth Koluch, Charles Tischer and Jason Sakis

Quorum present.

Also present: Kristen Kapelanski, Manager of Planning
Maureen Gentry, Recording Secretary

APPROVAL OF MINUTES

[2020-0345](#) February 5, 2020 Regular Meeting

A motion was made by Hetrick, seconded by Chalmers, that this matter be Approved as Presented. The motion carried by the following vote:

Aye 7 - Brnabic, Chalmers, Graves, Hetrick, Koluch, Tischer and Sakis

COMMUNICATIONS

Community Planning Update - Giffels Webster, 2020 Summer

[2020-0350](#) Community Planning Update - Giffels Webster

PUBLIC COMMENT

Vice Chairperson Koluch opened Public Comment at 7:03 p.m. Seeing no one wishing to speak and no communications received, he closed

Public Comment.

NEW BUSINESS

[2020-0347](#)

City File No. 20-021

Location: 493 John R Rd., located on the east side of John R, north of Avon Rd., Parcel No. 15-13-301-012, zoned R-3 One Family Residential with an MR Mixed Residential Overlay.

Request: A Variance from Section 138-10.102 A. (Detached Accessory Structures) to allow a detached garage to be located parallel to the existing home, where the home is placed on an angle and the line from the front portion of the garage is measured on an angle. The Ordinance states that "detached accessory structures may be located in the side or rear yard and not in the front yard, and the line from the front portion of the garage shall be measured parallel with the width of the property in a straight line and not on an angle."

Applicant: Cheryl Green
493 John R Rd.
Rochester Hills, MI 48307

(Reference: Staff Report prepared by Ms. Kapelanski dated September 2, 2020 and application documents had been placed on file and became part of the record thereof).

Present for the applicant were Cheryl Green, 493 John R, Rochester Hills, MI 48307 and Jeff Pederson, Architect, 5759 Glasgow Dr., Troy, MI.

Ms. Kapelanski stated that the applicant was requesting a variance to allow an accessory structure garage to be parallel with the house. She noted that the site was heavily wooded. The garage had been denied by Building because the garage would be in front of the house, as the house was built on an angle. She also noted that the proposed structure would not be seen from the street. She pointed out the motions in the packet for the ZBA's consideration.

Mr. Pederson explained that the structure would not be a typical garage, and that it would be clad in stone. He showed a view from John R, confirming that the home could not be seen from the road. He agreed that it was a very wooded lot, but there was a clearing area, which was in front of the parallel line, where they would just remove brush. He noted that the structure would be further back than the neighbors' accessory structures. He showed the site plan with property and setback lines and adjacent homes, and he maintained that the site had a unique character.

Vice Chairperson Koluch said that at the past ZBA meetings, the Chair

spent some time introducing the issues. He said that he would do it a little differently and go down the line, and he asked if anyone had questions for the applicant.

Ms. Brnabic said that when the clearing was shown, Mr. Pederson mentioned that just brush would be removed. She asked if the other trees would remain. Ms. Green stated that she would not remove any trees. Ms. Brnabic noted that it was a large parcel, 4.5 acres, the front yard was covered with trees, and the house was barely visible from John R. The normal front yard setback was 30 feet, but the home was 400 feet from the front property line, which was 13 times farther. She pointed out that the house was built on an angle, and even though the proposed garage appeared to be in the side yard, the requirement to measure parallel and in a straight line created an encroachment in the front yard. She felt that the intent of the Ordinance was to avoid the unsightly look of having an accessory structure in the front yard. She felt that the proposed location did meet the intention of what the Ordinance was trying to accomplish, and she supported the variance request.

Mr. Chalmers thanked the applicants for bringing the matter before the board. He indicated that with all due respect, he did not know how the applicants could get around self-created or how it was not self-imposed.

Ms. Green responded that the back yard was basically a wetland, and there was a pool in back. They would have to take down a bunch of trees if they moved the garage back.

Mr. Chalmers asked if there had not been a woodland study done when the original home was built, noting that the staff report stated that a substantial amount of trees did not need to stay. Mr. Pederson advised that they tagged 100 mature trees for the original build, but he said that he would have to look at the survey.

Ms. Kapelanski responded that a homeowner was allowed to remove up to three trees each year. A survey was not required for the subject application. Ms. Green added that she had a lot of beautiful trees.

Mr. Chalmers said that he was struggling with the item not being self-created, because there were other places the structure could go. He stated that he would not support the request.

Mr. Hetrick noted that wetlands were mentioned. Ms. Green said that she was not sure that they were actual wetlands, but it was very soggy in the

back and super wet. She claimed that it would not be easy to get back there with cars, and a lot of trees would have to be removed.

Mr. Hetrick clarified that to put the garage back so that it met the rear yard setback would mean encroaching on the wet part. He appreciated that Ms. Green did not want to remove trees. He asked if she would have to remove any trees to place the garage as planned, and Ms. Green stated that she would not.

Mr. Hetrick noted that he had asked Ms. Kapelanski about other 4.5-acre sites in the City as it related to setting precedent. He was told that there were less than 2% in Rochester Hills that were that large and zoned for single-family. For the same configuration as the proposed lot, there were probably less where someone would want to place a structure in the front yard. It was narrowed down to 200 or fewer subject to precedent. The proposed location made sense because if the garage were placed somewhere else in the back, there would be trees and no easy access. He could not see the home or most of the property at all when he visited. He stated that he could support the variance given any precedent set with granting a variance would affect less than 200 properties and the configuration of the accessory structure would limit the number of properties further.

Ms. Brnabic added that in determining whether the ZBA was setting a precedent, it was not only the amount of similar sized parcels, but the circumstances would have to be comparable with a large setback and many trees. She asked if that was correct, and Ms. Kapelanski said that she would agree.

Mr. Graves stated that he was conflicted. He agreed that it was an odd situation, but he also agreed with Mr. Chalmers. He had a hard time getting past self-created. He asked what the impact would be, how many trees would have to be cut down and what type. He asked what kind of comfort they would have that trees would not be cut down anyway.

Ms. Green said that she would try not to damage any trees. She felt that it made sense for the structure to go in the clearing.

Mr. Pederson said that when they originally built the house, there was minimum tree removal. If they were to comply and move the structure back in the same location, they would have to remove 10-20 15" caliper trees. Mr. Graves asked what type of species, and Mr. Pederson replied that there were multiple types. Mr. Tischer had also wondered how many

trees would be removed if it were moved back.

Mr. Sakis asked if the additional structure was contemplated when the original home was contemplated. Ms. Green said that it was not, and that she had made a mistake.

Vice Chairperson Koluch stated that he was a bit torn. The main issue was self-created and setting a precedent of wants versus needs. He understood about the need. Before the meeting, he had recalled that about a year-and-a-half ago, the ZBA had a situation where an applicant was seeking a variance for a setback. There was a huge tree, and extending the structure back would disrupt the root system. The ZBA approved it because of the tree in the back, so he felt that there was some precedent for not having to take down huge trees. He felt that was something to hang onto, and that it was enough to get past self-created, because of the large trees. He felt that the structure looked better the way it was proposed because of the angle of the house. It lined up and looked more aesthetic. He noted the wetland issue as well, and he stated that he would support the motion.

Ms. Brnabic asked Ms. Kapelanski if the ZBA could add a condition that no trees shall be removed as part of the variance or if the ZBA was a different format, noting that the Planning Commission was used to placing conditions.

Ms. Kapelanski said that the ZBA could add a condition related to the variance request. She suggested stating that no trees six inches or greater shall be removed for the construction of the accessory garage. Ms. Brnabic asked the applicants if they would agree to that, which they did.

Mr. Chalmers asked if a civil engineer had performed a wetland determination. He considered that the wetlands might be low, and he asked if they had looked at different options.

Mr. Pederson said that they had a wetland survey done when the house was constructed. He indicated that the challenge in the back yard was trying to get around the house, landscaping and pool without taking out the pool. Ms. Green added that it was tight. They would have to make a driveway to go all the way around to the back.

Mr. Chalmers asked if a Tree Removal Permit had been applied if anything would be different. Ms. Green stated that they were concerned

about trees and wanted to preserve them. Mr. Chalmers advised that with the way the Zoning Ordinance was written, the ZBA had to look at the strict letter of the law and not set precedence for setback variances.

Ms. Green said that she had all kinds of animals also. Mr. Chalmers remarked that he was being persuaded, and that he did like the proposed façade; they just did not want buildings close to the road. He applauded them for putting the building set as far back as they could.

Mr. Graves asked if the variance was approved how it would affect a proposed lot split. At some point, he stated that the property would change hands. He was less concerned about the specific issue, but he questioned what would happen with a lot split.

Ms. Green said that when she bought the property, she was asked about splitting it. She stated that the board had no problem with her - the property would be in their family for a long time.

Vice Chairperson Koluch thought that it would be tough to split, but at any rate, he did not know if they could restrict something because of that.

Ms. Kapelanski did not think that there would be a way to do that. She had looked at the aerial, and a split would have to go through the middle of the garage. Any accessory structure would have to meet side and rear yard setbacks.

Mr. Hetrick said that he remembered the tree issue at a previous meeting, which was about one-and-a-half years ago. It had been very important to grant the variance because of the trees. He felt that the tree situation with the proposed request was a very similar situation. If the structure was moved, it would require the removal of trees. To place it anywhere else to get to the garage would require adding gravel. Those two items gave the ZBA room to see that it was not self-created - saving trees and accessibility to the structure. He suggested that the brick façade should be added as a condition.

MOTION by Koluch, seconded by Tischer, in the matter of File No. 20-021, that the request for a variance from Section 138-10.102 of the Rochester Hills Code of Ordinances to allow a detached accessory garage to be located in the front yard for 493 John R Rd., Parcel Identification Number 15-13-301-012 be **APPROVED** because a practical difficulty does exist on the property as demonstrated in the record of proceedings and based on the following findings. With this

variance, the property shall be considered by the City to be in conformity with the Zoning Ordinance with respect to the placement of the garage in the front yard.

- 1. Compliance with the strict letter of the Zoning Ordinance requires the line from the front portion of the garage to be measured parallel with the width of the property in a straight line and not an angle; however, the house was built on an angle. This requirement appears unnecessarily burdensome as the disposition of the home makes the garage appear to be in the side yard, which would be permitted.*
- 2. Granting the variance will preserve a substantial property right for the applicant and thus substantial justice shall be done. The property is 4.5 acres of wooded property, and allowing the accessory structure in a clearing area far from the road and other homes will not require removal of mature trees and not look aesthetically unpleasing. No trees six inches or greater in caliper shall be removed to construct the accessory structure.*
- 3. A lesser variance will not provide substantial relief, and would not be more consistent with justice to other property owners in the area. The proposed garage would be at least 250 feet from the nearest structure on adjacent parcels and at least 350 from the road.*
- 4. There is a unique circumstance of the property due to the placement of the home that necessitates granting the variance and distinguishes the subject property from other properties elsewhere in the City with respect to compliance with the ordinance regulations as demonstrated in the records and proceedings.*
- 5. The granting of this variance would not be materially detrimental to the public welfare or existing or future neighboring uses.*
- 6. Approval of the requested variance will not impair the supply of light and air to adjacent properties, increase congestion, increase the danger of fire, or impair established property values in the surrounding area.*

Conditions:

- 1. No trees six-inches in caliper or greater shall be removed to construct the accessory structure.*

2. *The building materials of the façade of the accessory structure shall be similar to the house.*

A motion was made by Koluch, seconded by Tischer, that this matter be Approved. The motion carried by the following vote:

Aye 7 - Brnabic, Chalmers, Graves, Hetrick, Koluch, Tischer and Sakis

ANY OTHER BUSINESS

2020-0346

Request for Election of Officers - Chairperson, Vice Chairperson and Secretary for a term to expire the first meeting in April 2021.

*Upon nomination/motion by Mr. Hetrick, seconded by Vice Chairperson Koluch, **Bill Chalmers was unanimously elected as Chairperson** for a term to expire the first meeting in April 2021.*

*Upon nomination/motion by Mr. Hetrick, seconded by Mr. Chalmers, **Kenneth Koluch was unanimously re-elected as Vice Chairperson** for a term to expire the first meeting in April 2021.*

*Upon nomination/motion by Vice Chairperson Koluch, seconded by Mr. Hetrick, **Maureen Gentry and the Planning Department were unanimously elected to serve as Secretary** for a term to expire the first meeting in April 2021.*

ANY FURTHER BUSINESS

Ms. Brnabic thanked former Chairperson Ernie Colling for his service to the community on the ZBA for over 20 years, and said that she would miss working with him. She asked Ms. Gentry about giving him a certificate of appreciation, which had been prepared for the members' signatures. Ms. Gentry asked the members to stop by City Hall, if they could, to sign it.

NEXT MEETING DATE

Vice Chairperson Koluch reminded the members that the next Regular Meeting was scheduled for October 14, 2020.

ADJOURNMENT

Hearing no further business to come before the Zoning Board of Appeals

and upon motion by Mr. Graves, seconded by Mr. Hetrick, Vice Chairperson Koluch adjourned the Regular Meeting at 7:52 p.m.

Roll Call Vote:

All Ayes

Kenneth Koluch, Vice Chairperson
Rochester Hills
Zoning Board of Appeals

Maureen Gentry, Secretary