



Rochester Hills

Minutes

Zoning Board of Appeals

1000 Rochester Hills Dr
Rochester Hills, MI
48309
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Home Page:
www.rochesterhills.org

Chairperson Ernest Colling, Jr.; Vice Chairperson Kenneth Koluch
Members: Deborah Brnabic, Bill Chalmers, Dane Fons, Dale A. Hetrick, Michael McGunn

Wednesday, September 13, 2017

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

Chairperson Colling called the Regular Meeting to order at 7:00 p.m. in the Auditorium.

ROLL CALL

Present 5 - Deborah Brnabic, Ernest Colling, Dane Fons, Kenneth Koluch and Michael McGunn

Absent 2 - Bill Chalmers and Dale Hetrick

*Also Present: Kristen Kapelanski, Manager of Planning
Bob White, Supervisor, Building Services
Sandi DiSipio, Recording Secretary*

APPROVAL OF MINUTES

[2017-0410](#) July 12, 2017 Regular Meeting Minutes

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

Aye 5 - Brnabic, Colling, Fons, Koluch and McGunn

Absent 2 - Chalmers and Hetrick

COMMUNICATIONS

Planning & Zoning News - June & July 2017 editions

PUBLIC COMMENT for Items Not on the Agenda

No public comment was heard on non-agenda items.

NEW BUSINESS

[2017-0409](#) **PUBLIC HEARING - FILE NO. 17-032**

Location: 1497 Walton Blvd., a vacant lot, located on the southeast corner of

Walton Blvd. and Orcharddale Dr., Parcel Identification Number 15-16-202-001, and zoned R-1 (One Family Residential).

Request: A request for a variance of 12.6 feet from Section 138-5.101.B. (Established Building Line) of the Code of Ordinances, which states in the event there is an established building line along a street (as determined by the reviewing official), the front yard and/or side street yard setback requirement shall be the established building line, which is the average front yard setback minus 10 feet of adjacent dwellings within 200 feet on each side of the lot on the same side of the street of the subject parcel, or 60 feet whichever is less. The proposed house faces Walton Blvd. and has a proper front yard setback. Being a corner lot, the structure must also comply with the established building line on the east side of Orcharddale Dr. The Building Department identified the established building line for Orcharddale Dr. at 37.6 feet. Submitted plot plan proposes a front (side street) yard setback along Orcharddale Dr. of 25 feet, a violation of 12.6 feet.

Applicant: Logu Bukurije
523 Rochdale Dr.
Rochester Hills, MI 48309

(Reference: Staff Report dated September 7, 2017, prepared by Sara Roediger, Director of Planning, and associated documentation were placed on file in the Planning Department and by reference becomes part of the record hereof.)

Chairperson Colling read the request for the record, and asked the applicant to come forward and provide a summary of the request.

Ms. Logu Bukurije, 8193 Ansbury Dr., Shelby Twp., MI, the property owner and applicant, came forward, introduced herself and gave a summary of the request. She is asking if she can build the house she was planning because if she doesn't reach the 25 foot setback, she can't build the ranch house she would like. All the other houses on the street are 25 feet or closer, and she wants to be the same.

The Chair then called for a summary of the staff report.

Ms. Kapelanski noted this is a variance from the established building line on Orcharddale Dr. This issue has come before the Board recently and it is an ordinance change that staff is working on and will be addressed in the near future. She also pointed out the applicant did include a practical difficulty in that in order to meet the required setback along Orcharddale it would essentially render the lot unbuildable.

Mr. White summarized the specifics of the dimensional request. This is an application for a new construction build of the home. Other than the side yard issue on Orcharddale, the zoning would be approved. According to the ordinance in the R-1 district, a normal side yard setback would be 25 feet. When he did the calculations, he included the proposed house on the vacant lot with the proposed 25 foot setback, and the two lots to the south. He calculated the setback of 51 Orcharddale at 67 feet, 85 Orcharddale at 51 feet, and when added

to the proposed 25 foot setback on the subject parcel, he came up with 143 feet, divided by 3 is 47.6 feet, minus the 10 feet, for an established building line of 37.6 feet. The house is proposed at a 25 foot setback, therefore requiring a variance of 12.6 feet. He noted that the house directly across the street from the subject parcel (at 30 Orchardale and facing Orchardale) has a 23 foot front yard setback, the house south of that at 50 Orchardale is at 58 feet, and 70 Orchardale has a setback of 66.5 feet. If calculating an established building line on this side of the street, it would have been 39 feet, and the house at 30 Orchardale would have required a 16 foot variance. The Building Department is supportive of this variance request.

The Chair opened the public hearing at 7:08 p.m.

Mr. Tom Nelson, 3453 Alpine, Troy, Michigan, explained he is a broker at Century 21 Sakman, which has served Rochester and Rochester Hills for 40 years. He supports the variance. Even though he is not a resident, he is a businessman that sells real estate and represents people that build and sell in this area. Rochester Hills does an excellent job in trying to make sure that what is built and the neighborhoods are kept to higher standards. He feels granting a 12 foot variance to someone building a ranch home which will be a new addition to the neighborhood, is in the best interest of the applicant and the City.

Mr. Nelson then commented he is representing Bill and Kathy McHarg, owners of three parcels of property with frontage on Walton and Rochdale Roads. They are hoping to get the property rezoned. About 15 years ago, it was in the Master Plan to be rezoned as medical office. The subdivision association opposed the rezoning back then. Mr. Nelson would like to know what the spirit is if they were to apply for a rezoning. The other three corners at this intersection are either office or commercial; this is the only corner still zoned residential. He feels it's a perfect site for office.

Chairperson Colling explained the procedure for a rezoning request starts in the Planning Department and proceeds to the Planning Commission and ultimately to City Council for a determination. The Planning Department will explain the procedure.

Mr. Nelson said he know what the procedure is, but wants to know what the Board's attitude is.

Mr. Colling explained the Zoning Board of Appeals has nothing to do with rezonings and would not have an attitude one way or the other.

There being no one else wishing to speak, the Chairperson closed the public hearing at 7:13 p.m., and the floor was opened for Board discussion.

Mr. Colling commented there is a letter from the Rochdale Homeowners Association in the file approving the new house construction at 1497 Walton Blvd. There is no objection from the Homeowners Association to the plans.

The Chair asked staff if the proposed construction was not affected by the average setback, would it meet zoning requirements.

Mr. White replied yes. The 25 foot setback is the normal R-1 district side yard setback - it's 40 feet in the front along Walton and 25 feet along Orcharddale if it wasn't for the average front yard setback. Staff does not have any opposition to granting this variance. He talked to his Director and if the Building Department had the authority, they would have approved the plans.

Ms. Brnabic asked what the current setbacks are for 1481 and 1489 Walton.

Mr. White checked the setbacks before the meeting, but didn't write them down. The front setback at 1481 Walton is about 80 feet, and the setback for 1489 Walton is at 69 feet. The new construction plan for 1497 Walton is proposing a setback of 75 feet. The minimum setback is 60 feet, so there is not an average front yard setback conflict in the front.

Mr. Koluch referred to the house at 30 Orcharddale - directly across the street from the subject parcel and asked how far the house sits back from Orcharddale.

Mr. White indicated 23 feet.

Mr. Colling asked if there is any record of a variance associated with this setback.

Mr. White replied no, the house has been there since the 1960's.

Mr. Fons commented the proposed house meets all the setback requirements except for the established building line, and he agrees with approving the variance.

Mr. McGunn also agrees with granting the variance. He doesn't think there's an issue of precedence in this case.

Chairperson Colling commented per the last discussion relative to the established building line, that the Board pretty well decided because of the sparsity of building lots in Rochester Hills, that the average setback is hindering the City rather than helping it. He stated that staff is looking to remove the established building line from the zoning ordinance.

Ms. Kapelanski confirmed staff is looking to amend/delete this section of the ordinance.

Because of this, Mr. Colling does not see any reason to penalize this property owner and impede their right to build, especially since the house across the street has a 23 foot setback, and the proposed home is at 25 feet, which meets the setback ordinance. The proposed home is at least conforming, where the house at 80 Orcharddale is not. Mr. Colling is personally in support of the variance.

MOTION by Koluch, seconded by Brnabic, in the matter of File No. 17-032, that the request for a variance from Section 138-5.101.B (Established Building Line) of the Rochester Hills Code of Ordinances to grant a front (street side) yard

setback variance of 12.6 feet on the Orchardale Dr. side, to allow new construction with a 25 foot front yard setback at 1497 Walton Blvd., Parcel Identification Number 15-16- 202-001, zoned R-1 (One Family Residential), be **APPROVED** because a practical difficulty does exist on the property as demonstrated in the record of proceedings and based on the following findings:

1. Compliance with the strict letter of the restrictions governing the minimum setback for the established building line will unreasonably prevent the owner from using the property for a permitted purpose, or will be unnecessarily burdensome.
2. Granting the variance will do substantial justice to the applicant as well as nearby property owners by permitting the construction of a residential home that is consistent with prevailing patterns in the nearby area.
3. A lesser variance will not provide substantial relief, and would not be more consistent with justice to other property owners in the area.
4. There are unique circumstances of the property that necessitate granting the variance, and that distinguish the subject property from other properties with respect to compliance with the ordinance regulations. Specifically, developed lots along Orchardale have greater depth than the subject property allowing for greater setbacks. The subject property is a corner lot without the same depth along Orchardale and the application of the established building setback results in an unreasonable building envelope due to the shallow depth of the site, which is unique when compared to other parcels along Orchardale.
5. This variance is necessary for the preservation and enjoyment of a substantial property right possessed by any other property owner in the same zone or vicinity.
6. The granting of this variance would not be materially detrimental to the public welfare or existing or future neighboring uses.
7. 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.

Condition

Approval of the variance is subject to the following:

That the house be built substantially in accordance with the plans submitted by the applicant to the Building Department.

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

Aye 5 - Brnabic, Colling, Fons, Koluch and McGunn

Absent 2 - Chalmers and Hetrick

ANY OTHER BUSINESS

No other business was brought forward for discussion.

NEXT MEETING DATE

The next Regular Meeting is scheduled for October 11, 2017.

ADJOURNMENT

Chairperson Colling adjourned the meeting at 7:20 p.m.

*Ernest W. Colling, Jr., Chairperson
Zoning Board of Appeals
City of Rochester Hills*

Sandi DiSipio, Recording Secretary