



Rochester Hills

Minutes

Zoning Board of Appeals

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

Chairperson Ernest Colling, Jr., Vice Chairperson Gerard Verschueren
Members: Deborah Brnabic, Jim Duistermars, Adam Kochenderfer,
Kenneth Koluch, Michael McGunn

Wednesday, February 13, 2013

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

Chairperson Colling called the Regular Meeting to order at 7:05 p.m. in the Auditorium.

ROLL CALL

Present 7 - Deborah Brnabic, Ernest Colling, Jim Duistermars, Adam Kochenderfer, Kenneth Koluch, Michael McGunn and Gerard Verschueren

Also Present: James Breuckman, Manager of Planning
Bob White, Supervisor, Ordinance Enforcement
Sandi DiSipio, Recording Secretary

APPROVAL OF MINUTES

2013-0068 December 12, 2012 Regular Meeting Minutes

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

Aye 7 - Brnabic, Colling, Duistermars, Kochenderfer, Koluch, McGunn and Verschueren

2013-0069 January 9, 2013 Regular Meeting Minutes

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

Aye 7 - Brnabic, Colling, Duistermars, Kochenderfer, Koluch, McGunn and Verschueren

COMMUNICATIONS

Planning & Zoning News, November 2012 issue

PUBLIC COMMENT

No members of the public came forward to speak on any non-agenda items.

UNFINISHED BUSINESS

2013-0020 PUBLIC HEARING - FILE NO. 12-014 (POSTPONED FROM JANUARY 9, 2013)

Location: 116 Old Perch Road, located in the Stratford Knolls Subdivision, on the west side of Old Perch between Walton Blvd. and Avon Road, Parcel Identification Number 15-17-229-018, zoned R-3, One Family Residential.

Request: A variance of 10 feet from Section 138-10.101A. (Attached Accessory Structures) of the Code of Ordinances, which states that a detached accessory structure located within 10 feet of a principle structure is considered attached as it relates to setback requirements. The required side yard setback of the main structure is 10 feet. The existing shed was cited by Ordinance Enforcement as being less than a foot from the side property line.

Applicant: Traian and Lidia Mindru
116 Old Perch Rd.
Rochester Hills, MI 48309

(Reference: Staff Report dated January 4, 2013, prepared by Jim Breuckman, Manager of Planning, and associated documentation were placed on file in the Planning and Economic Development Department and by reference became part of the record thereof.)

Chairperson Colling explained this case was postponed at the January 9, 2013 meeting to allow time for staff to complete a site visit. He noted the start of this meeting was delayed five minutes to allow time for the applicants to arrive, but they are still not present. They were also late to last month's meeting. The Chair is not inclined to wait and asked staff for their report.

Mr. Breuckman noted there are photographs in the packet from staff's site visit and meeting with the applicant. It is a bit challenging to find a good location where a shed would make sense. There are a lot of constraints when the setbacks are factored in. You can see where the pool used to be in picture #7, in the middle of the yard. There are two very large trees on the north property line, but the power lines running through yard are not much of a consideration. If the shed was located further back in the yard and set back properly from the property lines, it would end up in those two trees. There is a large play structure anchored into the ground occupying space in a corner of the south property line. That area would be the most likely place to locate the shed but would require the play structure to be moved somewhere else on the lot. This leaves an open area in the middle of the rear yard, which is not a common location for sheds. Picture #1 also shows the height of the new shed over the existing fence; it is definitely visible when you are looking for it.

In reviewing an aerial photograph of the yard, Chairperson Colling feels that the shed could almost fit between the two large trees in the northern area of the

yard. It might take some clearing of branches, but thinks the shed would fit as it does not require a foundation other than gravel or landscaping stone. Mr. Colling asked if a foundation was required by ordinance, to which Mr. White responded no. Mr. Colling then referred to an area behind the house almost where the "2" is superimposed on the photo and said it appeared the shed could be located there and be 10 feet away from the house as well as 10 feet away from the property line. Mr. Breuckman pointed out there is a patio at that location with a trellis structure. Mr. Colling commented the applicant can't expect to keep their entire landscaping intact when there is an available building envelope, and then consider it a hardship. That suggests the applicant wants to keep everything they have as is and are not willing to compromise. Chair Colling commented he wished the applicants were present.

Mr. Verschueren commented his subdivision is not allowed to have sheds, so snow blowers and tools are kept in the garage. He asked why the applicants can't do the same. Chairperson Colling stated there is nothing stopping the applicant from storing his tools in the garage. It's just that the old shed no one complained about fell apart and the homeowner constructed an illegal new one on the same spot without a permit.

Mr. Koluch commented the shed shouldn't be there in the first place. The homeowners should never have put a shed back up. There are plenty of places in the yard where the shed could be located.

With regard to the power line, Chairperson Colling can see a problem if the play structure was under it, but the play area could be moved out of the corner to the center of the yard, and the shed could be located in that corner. There are plenty of options.

Mr. Duistermars suggested the play structure could be located between the two trees on the north side of the yard, and the shed could be placed where the play yard used to be.

Mr. Verschueren added that the homeowner could erect a tarpaulin to protect the tools. There are alternatives without being in violation of the ordinance.

Mr. McGunn agrees with the Board's comments.

The Chair commented he hates to make a decision without the applicants present, but it does not appear they are going to show up. The Board has postponed this issue once to their benefit and had staff complete a site visit. If they don't want to show up for their own hearing, there is nothing else the Board can do for them. Mr. Colling does not want to postpone this case again.

MOTION by Verschueren, seconded by Duistermars, in the matter of File No. 12-014, that the request for a variance from Section 138-10.101 (Attached Accessory Structures) of the Rochester Hills Code of Ordinances to allow a detached accessory structure with a less than one foot side yard setback, Parcel Identification No. 15-17-229-018, zoned R-3 (One Family Residential), be **DENIED** because a practical difficulty does not 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 location for detached accessory buildings will not prevent the owner from using the property for a permitted purpose in a reasonable manner, and will not be unnecessarily burdensome.*
2. *Granting the variance will not do substantial justice to nearby property owners as it will allow a detached accessory structure with less than a one foot side yard setback, and accessory structures on nearby properties comply with ordinance requirements. Thus, the variance would confer a special benefit on the applicant that is not enjoyed by the neighboring property owners.*
3. *There are no unique circumstances of the property that necessitate granting the variance.*
4. *The circumstances are self-created by the applicant in the form of their desire to place an accessory structure within the side yard setback.*
5. *Alternatives exist that would allow the intended and/or reasonable use of the property that would allow the requirements of the Ordinance to be met. Specifically, an accessory structure could be located elsewhere in the rear yard.*
6. *The granting of the variance would be materially detrimental to the public welfare by establishing a precedent that could be cited to support similarly unwarranted variances in the future.*
7. *The granting of this variance could encourage further incursions upon the Zoning Ordinance which would result in further variances being considered by the Zoning Board of Appeals and could be construed as removing the responsibility of meeting the Zoning Ordinance from applicants and those wishing to build similar structures within the City.*
8. *The granting of this variance would be materially detrimental to the public welfare or existing or future neighboring uses.*
9. *Approval of the requested variance will impair the supply of light and air to adjacent properties, increase congestion, increase the danger of fire, and/or impair established property values in the surrounding area.*

A motion was made by Verschueren, seconded by Duistermars, that this matter be Denied. The motion carried by the following vote:

Aye 7 - Brnabic, Colling, Duistermars, Kochenderfer, Koluch, McGunn and Verschueren

ANY OTHER BUSINESS

No other business was brought before the Board.

NEXT MEETING DATE

Chairperson Colling reminded the members the next Regular Meeting is scheduled for March 13, 2013.

ADJOURNMENT

Hearing no further business, and upon motion by Duistermars, 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