

BOARD OF ZONING APPEALS MINUTES

A regular meeting of the Farmington Board of Zoning Appeals was held on Wednesday, July 2, 2014 in Council Chambers, 23600 Liberty Street, Farmington, Michigan. Notice of the meeting was posted in compliance with Public Act 1976.

Chairperson Kmetzo called the meeting to order at 7:00 p.m.

ROLL CALL

PRESENT: Aren, Bertin, Bennett, Crutcher, Kmetzo,

ABSENT: Dompierre.

A quorum of Commissioners were present.

CITY OFFICIALS PRESENT: Director Christiansen, Building Inspector Koncsol

Director Christiansen clarified the changes that had occurred to the composition of the Zoning Board since they last met. He indicated that Jeff Scott, who was the liaison from the Planning Commission, had moved to City Council and that Ken Crutcher would now serve in that role. He stated that Karla Aren, who was an alternate, is now on the Board as a full member and that Paul Bertin, who was appointed as an alternate, is sitting in place of Dompierre for this meeting.

MINUTES OF PREVIOUS MEETINGS

MOTION by Bennett, supported by Crutcher, to approve the minutes of the previous ZBA meeting of September 4, 2013.
Motion carried, all ayes.

MOTION by Bennett, supported by Aren, to receive and file the minutes of the Planning Commission Meetings of January 13, 2014, February 10, 2014, March 10, 2014, April 14, 2014, May 12, 2014 and June 9, 2014.
Motion carried, all ayes.

ELECTION OF OFFICERS:

CHAIRMAN -

MOTION by Bennett, supported by Kmetzo, to nominate Dompierre as Chairman.
Motion carried, all ayes.

VICE CHAIRPERSON -

MOTION by Bennett, supported by Bertin, to nominate Kmetzo as Vice-Chairperson.
Motion carried, all ayes.

SECRETARY -

MOTION by Bennett, supported by Bertin, to nominate Aren as Secretary.

BOARD OF ZONING APPEALS MINUTES -2-

Motion carried, all ayes.

APPEAL OF: **23025 Maple, LLC - Jerome McGill, Resident Agent**
P.O. Box 2122
Farmington Hills, MI 48333

Petitioner is requesting variances to Sec 35-205(c), Sec 35-73 minimum lot area, total side yard to allow for an already platted 50' by 140' lot, (Lot 67) to be considered a buildable lot. Further, the house at 23025 Maple, (Lot 68), becomes deficient in total side yards. With the lot division the existing home would have a total of 12.4' in side yard (6.8' north + 4.6' south = 12.4'). Sec 35-73 requires a total of 16', therefore a 3.6'(16'-12.4' = 3.6') total side yard variance is needed.

Jerome McGill, Petitioner, came to the podium. He indicated he is the owner of the house and property as well as the lot next door. He stated he is missing 2 plus feet on Lot 67 and needs a variance for that amount of space in order for it to be a buildable lot. He stated he will have a survey done and put in the deed on both properties a copy of it so there are no questions as to where the property lines are as to ownership and will provide copies to City.

He indicated the exact house is not determined yet but he is planning on putting an 1,800 to 1,900 Craftsman type bungalow on the property and that he currently owns two houses on the street and this will make three.

Bennett asked if he is the original owner and the Petitioner responded yes.

An audience member made a comment and Kmetzo cautioned the audience to not speak out until Public Comment.

Bertin asked if it was one large parcel when he bought it and the Petitioner responded it has always been two parcels on one Tax I.D. number.

Bertin further questioned the Petitioner as to the location of the driveway, if it would be shared, and stated there is not enough space on the new site for a driveway and further discussion was held concerning the potential location for a garage.

Bennett asked if this plan and desire to a build a house on the lot had been presented to the Building Department and the Petitioner responded in the negative stating he was waiting for a decision from the Zoning Board before he expended more money on the project.

Bennett asked the Petitioner if he had the intention of going for a future variance on the property and Petitioner responded in the negative.

BOARD OF ZONING APPEALS MINUTES -3-

Director Christiansen stated that the request for variance is not for a new house, but to take two common lots under a single owner and make them two separate lots, one with a house and one vacant and have them established as their own legal nonconforming site. He then went over the history of the Fred M. Warner subdivision as platted in 1913, showing that 50 foot lots were acceptable. He stated the Zoning Ordinance now requires 70 foot lots and that the 50 foot lots that are existing are grandfathered as legal nonconforming lots. He provided an aerial photograph of the area and showed the character of it and the lot sizes.

Bennett stated that in 1913 they wasn't a need for driveways because everyone had horses.

Kmetzo asked for clarification on the parcel and Christiansen responded that Lot 68 with the house and Lot 67, were individually platted lots under common ownership which was consistent throughout neighborhood and not unique to this property.

Bennett indicated that the 50 foot lot size changed through general ordinance throughout the entire city.

Koncsol stated as a point of information that a couple other issues that cropped up were that the existing driveway would encroach over onto this other lot and that an easement will be recorded to provide for and keep driveway access to Lot 68. He also stated that the Petitioner agreed to pick up the garage and move it further away to comply with Zoning.

Aren questioned the Petitioner with regard to the possibility of a shared driveway and further discussion was held as to the alternatives available for the Petitioner.

Kmetzo reminded the Board not to discuss details of what he is going to build but only that it will become a buildable lot.

Bennett questioned the Petitioner on the ramifications on his present garage being affected by the building of a house on the adjacent lot and further discussion was held.

Christiansen stated that any action taken by the Board can certainly be made with conditions.

Letters of correspondence were heard from the following:

In objection:

Jay & Marilyn King – 23014 Maple

Pat Igelsrud - 23026 Maple

Robert & Tove Baessler – 23001 Maple

Angela Zrull - 23015 Maple

Carmela & Terry Eastin – 23010 Maple

Brian Menzlle – 23031 Maple

BOARD OF ZONING APPEALS MINUTES -4-

Kmetzo invited audience members who wished to speak to come to the podium.

The following people spoke in opposition of the variance:

Angela Zrull - 23015 Maple; Tola Baessler 23001 Maple; Pat Igelsrud - 23026 Maple;
Brian Menzlle – 23031 Maple; Ilene Krolikowski - 23054 Mayfield;
Jay King - 23014 Maple

Chairperson Kmetzo closed the public portion of the case and opened the floor up for the Board's comments and questions.

Commissioner Bennett told the audience members that he heard their concerns but that the City Council, Planning Commission and other boards are responsible for the items they were discussing. He said unfortunately these comments are made before the Zoning Board of Appeals who have to operate according to law and ordinances and the decision will be made along those lines. He stated most of what he had heard is not within the jurisdiction of the Zoning Board of Appeals.

Crutcher clarified the request for variance stating if granted that Lot 68 where the existing house is when the lot is split with the easement, that would make it deficient in sideyard setback and Lot 67 will be a buildable lot, deficient in current Zoning Ordinance, but in character with adjacent lots in terms of size.

Koncsol responded that the easement is to protect future owners by having a legally described easement in place as far as egress and ingress to the property and stated there is no Homeowner's Association in place to impose control over the type of home that will be built.

Berting inquired about shifting the footprint of the lot and stated there is flexibility in how to develop the site, the character of neighborhood is very historic and any architect that does attack this project, and he hoped the Petitioner would take that approach, that something very nice could be achieved without destroying quality of neighborhood

Kmetzo inquired on possible conditions being placed on the granting of the variance with regard to the character of that building that is to go on the lot, that it must be similar to or conform to that of the existing neighborhood, and Koncsol responded that could be a part of the conditions.

Christiansen stated one of the challenges with a general condition is that there are no architectural or construction plans in place, no subdivision design requirements, and not being in the Historical District, that the Board is very limited legally on what can be done. He further indicated one of the conditions could be to build with the consistency of character existing in the neighborhood but it could be a challenge as they are tied by ordinance as to what is allowed.

BOARD OF ZONING APPEALS MINUTES -5-

MOTION by Bennett to move to approve the request as written with the following conditions and stipulations:

1. That this is a subdivision that was platted in 1913.
2. That any building that would be constructed would not change the character of the street/neighborhood.
3. That if a house is built, that it not require exceptions.
4. That should a house be built that the garage on Lot 68 would be moved to comply and that the encroachment of the driveway would be addressed via easement between the two properties.
5. That the Board received six letters of objection and all of the comments made expressed deep concern concerning the appearance of street as an Historic District.
6. That the tape of this meeting be available to anybody interested in the rulings of this body and staff.
7. That no variances be approved other than those in this motion.

Find that this is not in violation of any City Code or Ordinance.

MOTION restated by Bennett, supported by Crutcher, it was resolved:

Jerome MCGill, 23025 Maple, requesting variances to Sec 35-205(c), Sec 35-73 minimum lot area, total side yard to allow for an already platted 50' by 140' lot, (Lot 67) to be considered a buildable lot. Further, the house at 23025 Maple, (Lot 68), becomes deficient in total side yards. With the lot division the existing home would have a total of 12.4' in side yard (6.8' north + 4.6' south = 12.4'). Sec 35-73 requires a total of 16', therefore a 3.6' (16'-12.4' = 3.6') total side yard variance is needed, **be granted for the following reasons and Findings of Fact:**

1. That the granting of this variance is not in violation of any City Code or Ordinance.

FURTHER, This variance is granted with the following conditions:

1. That this is a subdivision that was platted in 1913.
2. That any building that would be constructed would not change the character of the street/neighborhood.
3. That if a house is built, that it would not require exceptions.
4. That should a house be built that the garage on Lot 68 would be moved to comply and that the encroachment of the driveway would be addressed via easement between the two properties.
5. That the Board received six letters of objection and heard all of the comments made that expressed deep concern concerning the appearance of street as an Historical District.
6. That the tape of this meeting be available to anybody interested in the rulings of this body and staff.

BOARD OF ZONING APPEALS MINUTES -6-

7. That no variances be approved other than those in this motion.

ROLL CALL:

Ayes: Bennett, Crutcher, Bertin,

Nays: Aren, Kmetzo.

Motion carried, (3 – 2)

PUBLIC COMMENT

An audience member brought up the subject of how the Commission monitors compliance of its variances and further discussion was held.

COMMISSION COMMENTS AND ANNOUNCEMENTS

None heard.

ADJOURNMENT

MOTION by Crutcher, seconded by Bertin, to adjourn the meeting.

Motion carried, all ayes.

The meeting adjourned at 8:30 p.m.

John D. Koncsol , Building Inspector