

BOARD OF ZONING APPEALS MINUTES

A regular meeting of the Farmington Board of Zoning Appeals was held on Wednesday, September 4, 2013 in Council Chambers, 23600 Liberty Street, Farmington, Michigan. Notice of the meeting was posted in compliance with Public Act 1976.

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

ROLL CALL

PRESENT: Bennett, Dompierre, Kmetzo, Majoros, Scott.

ABSENT: None.

A quorum of commissioners were present.

CITY OFFICIALS PRESENT: Director Christiansen, Building Inspector Koncsol.

a. Approval of Agenda

Scott stated that the election of officers was left off as an agenda item and it should be included as one.

MOTION by Majoros, supported by Bennett, to approve the Agenda with the additional item added.

Motion carried, all ayes.

MINUTES OF PREVIOUS MEETINGS

MOTION by Majoros, supported by Bennett, to approve the minutes of the previous ZBA meeting of August 1, 2012.

Motion carried, all ayes.

MOTION by Majoros, supported by Dompierre, to approve the minutes of the previous Planning Commission Meetings from September 10, 2012 through June 10, 2013.

Motion carried, all ayes.

APPEAL OF:

**Mr. & Mrs. Jerry Lambert
22730 Mayfield
Farmington, MI 48336**

Owners are requesting a variance to Sec 35-49(B)(4) to allow for a second fence, 6 feet high, on approximately 32 feet of the south side lot line. This is due to an existing chain link fence that the adjoining owner would rather see remain than have a wooden fence installed.

BOARD OF ZONING APPEALS MINUTES -2-

Building Inspector Koncsol indicated that he spotted that there was a double fence at the Lambert residence when driving through the neighborhood. Shortly after he received a phone call from a resident reporting same. He stated in speaking with the parties, the Lamberts indicated that because of a change of ownership on the property to the south of them, they lost privacy due to the removal of vegetation from the back of the property line, and therefore put up the fence. He further indicated the two current owners don't see eye to eye on what type of fence, therefore creating a dual fence situation.

Kmetzo asked for clarification on the variance sought for in the case and whether there should be one or two.

Bennett indicated that the wire fence is on the inside and the wooden fence is towards the neighbor.

Scott stated in looking at the picture of the fence there were no posts per se but a bracing rail along the outside.

Majoros questioned if the 6-foot section of fence was done without a permit and Koncsol responded in the affirmative.

Scott inquired if the Public Notice was correct and it was determined it did contain the proper information.

The Petitioner then went over the details of his request for variance stating he is a 20-year resident of the City of Farmington and the previous owner to the south and his wife were both gardeners and they shared shrubs along fence line which blocked the traffic and trucks going back and forth on Cloverdale. When everything was torn out of the backyard on the house to the south of him, he lost his privacy. He hired a contractor to put up a wood fence who indicated he didn't think a permit was needed for only 32 feet of fence.

Bennett reiterated that the Petitioner's issue in seeking a variance is for privacy.

Majoros stated he visited the Petitioner's home on Labor Day weekend and inquired about the fence and it ending at the tree and the Petitioner responded that that was all the fence needed to maintain his privacy.

Scott inquired as to the maintenance of the one foot section between the two fences and the Petitioner responded it is covered with ground cover.

Majoros stated that maintenance of that section would require the Petitioner to go on his neighbor's property. He also inquired about the discrepancy in the materials used for construction of the fence.

BOARD OF ZONING APPEALS MINUTES -3-

The Petitioner responded the fence would be made out of cedar wood and he would stain both sides and maintain it. He also stated he would be open to finish his neighbor's side as well as his upon questioning from Dompierre.

Further discussion was held concerning the length of the chain link fence and the ordinance requirements.

Bennett stated he feels there is two solutions to this without granting a variance, i.e., plant shrubbery, take wooden fence down and gain privacy back if privacy is the issue. He stated Petitioner indicated that when there were plantings they had privacy. The second solution without granting a variance would be to take down the 32 feet of the chain link fence and put up 32 feet of wooden fence, therefore stating the variance request is not in order at this time.

Kmetzo inquired if Petitioner had discussed the second option with his neighbor and he responded that neighbor was not cooperative about having discussion.

Koncsol stated that relative to the two fences sharing one common lot line, if the fence is on the lot line, there is an implied 50/50 ownership by both parties. If it happens to be an inch or two either side of that line, then that would give either one of the owners complete ownership of it with no regard to that other owner. And the only way to make that determination is to have it surveyed and that is costly.

Majoros stated there is a simple solution to this by addressing it with landscaping.

Koncsol indicated he discussed landscaping with Petitioner but they decided to go ahead with the variance request.

Majoros expressed concern with the landscaping option in the Petitioner's yard.

The floor was opened for public comments or questions and no comments from audience members were heard.

Letters of correspondence were received from the following:

In support of:

Dino and Shirley Smith, 22483 Maple
Dick and Nancy Cook, 22783 Mayfield

In objection to:

Gordon Hillman (two letters), property owner of 22712 Mayfield, 32615 Cloverdale, and 32633 Cloverdale
Michael Sable, 32616 Cloverdale

Upon motion by Bennett, supported by Dompierre, it was resolved:

BOARD OF ZONING APPEALS MINUTES -4-

Mr. & Mrs. Jerry Lambert 22730 Mayfield, seeking to allow for a second fence, 6-feet in height, on approximately 32 feet of the south side lot line, **be denied because Petitioner has not established that the need for the variance is not self-created because he has not exhausted his options at finding a solution to the problem that would not require a variance such as planting shrubbery or removal of the chain link fence.**

FURTHER, This variance is denied with the following conditions:

1. That the Petitioner could return if he encounters problems in achieving the appropriate results with the solutions suggested by the Board.

ROLL CALL:

AYES: Bennett, Dompierre, Majoros, Scott

NAYS: Kmetzo

Motion carried, four to one.

Dompierre complimented Petitioner on the upkeep of his property.

Scott questioned Koncsol on the viability of a screened fence pulled up off ground on posts and Koncsol responded that according to the way the ordinance reads, only one fence is allowed unless separated by at least 10-feet.

Bennett indicated that these two options were discussed with Petitioner.

APPEAL OF:

**Mr. Donald Holly
34515 Oakland St.
Farmington, MI 48335**

Owner is requesting a variance to Sec 35-49(B)(1) to allow for a 4-foot fence to be installed seven feet into the required front yard facing Wesley, as this is a corner lot facing two streets. City ordinance does not allow fencing in a required front yard.

Building Inspector Koncsol clarified that a corner lot is treated because it fronts on two streets, as having two front yards. So the side street is a street but it is also a front yard, because as you go behind this house down the street it is the front yard of other houses and that's why it's deemed to be two front yards. And the ordinance speaks to required front yards, and it was determined that owners along the street there had the opportunity to come a little further forward than what they currently do by utilizing front yard averaging and further discussion was held.

Petitioner Holly provided pictures of the fence he is proposing, that it is very low key, matches the trim on his home, spoke to all of his neighbors, believes he has their support. stated he has the support of adjoining neighbors, and indicated that the fence will only 4-feet high which would match up with the height of current split rail fence that is currently in place between him and his neighbors. He stated the issue of the variance is

BOARD OF ZONING APPEALS MINUTES -5-

on the other side of the fence, the whole area is professionally landscaped, so it's blocked off, there's no visibility issue, can't see it from Wesley. The material will be top of the line aluminum, bronze in color, very low maintenance and natural looking. He stated it will fit in better with the additional 7-feet because of the berm so it will go right alongside of that berm and look more natural. The fence will go all the way back, the neighbor behind has no problems with it. It is 150 feet on the back line.

Scott welcomed questions and/or comments from the Board.

Majoros inquired on the west side of the property where the split rail fence is, if there is a situation being created that there are now two fences.

Petitioner responded that in talking with his neighbors, they are proposing taking down 85 feet of that fence so this fence will adjoin part of the existing fence up near the front of the house, but there would not be two fences.

Majoros stated there would be one kind of fence that stops and the split rail would continue from there.

Petitioner stated the existing split rail will remain, with a big chunk of it to the front and that the proposed fence will match up at the same height as the existing and very similar in color so it will have a natural look to it.

Audience comments were heard from:

Jack Parks, 23663 Wesley, questioned Petitioner about whether the fence would be on the inside of the berm and the Petitioner responded in the affirmative. After hearing that answer, he expressed approval for the variance request.

Letters of correspondence were heard from the following:

In approval:

Brian Crawford, 34458 Oakland

In objection:

Ray & Karen, 23687 Gill Road.

The public portion of the case was closed and the Board had the following comments:

Kmetzo inquired about the theory behind what drove the ordinance of not being allowed in the front yard and Christiansen explained the history of same saying that most municipal zoning ordinances in the State of Michigan do not allow structures beyond the front building line of the house, including fences.

BOARD OF ZONING APPEALS MINUTES -6-

Christiansen explained further on this case, it being a corner lot, and as defined by ordinance as a double frontage lot, one that has frontage on two streets, thereby creating two front yards.

Bennett stated that having visited the property, it was clear that there are two front yards on Petitioner's property. He said the front of the house is clearly defined as well as the front yard by the plantings, etc. He indicated there are tree structures that create a monster of a problem and short of taking the trees down which would completely change the nature and character of the street, he is asking for a variance.

Scott inquired if conditions can be put in variance regarding height and material and Christiansen responded in the affirmative.

Upon motion by Majoros, supported by Bennet, it was resolved:

Donald Holly, 24515 Oakland Street, seeking to allow for a 4-foot fence to be installed in the required front yard, facing Wesley, as this is a corner lot facing two streets, **be granted for the following reasons and findings of fact:**

1. That the Petitioner has established unique circumstances regarding the subject property because the unique landscaping significantly reduces the front yard effect, but still is a front yard regardless of that.
2. The Petitioner has established a need and the variance is not self-created because the corner lot is indeed defined by City ordinance and not by Petitioner himself.

FURTHER, This variance is granted with the following conditions:

1. That it be built as presented to the Board, with the material and height as described.

ROLL CALL:

AYES: Majoros, Bennett, Dompierre, Kmetzo, Scott

NAYS: None.

Motion carried unanimously

PUBLIC COMMENT

Petitioner Lambert queried the Board about utilizing a different approach in achieving the results he requested and discussion was held.

BOARD OF ZONING APPEALS MINUTES -7-

COMMISSION COMMENTS AND ANNOUNCEMENTS

Director Christiansen thanked the Board for their service to the community. He stated that there is a quite a bit of energy currently in Farmington, the City weathered the economical storm and quite a bit of redevelopment effort is currently being made to increase the momentum. He stated with the creation of his position as economical and community development director he has been focused on promoting and marketing and encouraging redevelopment in the City.

Karla Aren, newly appointed alternate to the Zoning Board, was present and introduced to the Board.

Scott reported on the Grand River Corridor Authority findings and visions.

ELECTION OF OFFICERS

Chairman – Steve Majoros
Vice-chair – Joe Dompierre
Secretary – Miriam Kmetzo

ADJOURNMENT

MOTION by Bennett, seconded by Dompierre, to adjourn the meeting.
Motion carried, all ayes.

The meeting adjourned at 8:08 p.m.

John D. Koncsol , Building Inspector