

## **ZONING BOARD OF APPEALS MINUTES**

A regular meeting of the Farmington Zoning Board of Appeals was held on Wednesday, May 4, 2016 in Council Chambers, 23600 Liberty Farmington, Michigan. Notice of the meeting was posted in compliance with Public Act 1976.

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

### **ROLL CALL**

**PRESENT:** Aren, Bertin, Craft, Crutcher, Gallagher

**ABSENT:** None

A quorum of Commissioners were present.

**CITY OFFICIALS PRESENT:** Building Inspector Koncsol,  
Director Christiansen

### **APPROVAL OF AGENDA**

MOTION by Crutcher, supported by Bertin, to approve the agenda as presented  
Motion carried, all ayes.

### **MINUTES OF PREVIOUS MEETING OF DECEMBER 2, 2015**

MOTION by Crutcher, supported by Bertin, to approve the minutes of December 2, 2015.  
Motion carried, all ayes.

### **MINUTES OF PREVIOUS PLANNING COMMISSION MEETINGS**

The minutes of the December 14, 2015, January 11, 2016 and March 14, 2016 Planning Commission Meetings were received and filed.

### **ELECTION OF OFFICERS**

Inspector Koncsol indicated that due to the fact that this is the first meeting in 2016 that election of officers must be held at this meeting. He opened the floor for nominations for Chair, Vice Chair and Secretary.

MOTION by Aren, supported by Bertin, to nominate Ken Crutcher for Chair of the Zoning Board of Appeals.

Crutcher indicated that he is Chair of the Planning Commission and thought there may be a conflict in his accepting the nomination for Chair of the Zoning Board.

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Christiansen stated historically someone who is chair of one Commission usually does not serve as chair on another Commission or Board, so that there is distribution of leadership amongst the volunteers in the community.

MOTION by Crutcher, supported by Aren, to nominate Paul Bertin as Chair of the Zoning Board of Appeals.  
Motion carried, all ayes.

MOTION by Bertin, supported by Crutcher, to nominate Karla Aren as Vice Chair of the Zoning Board of Appeals.  
Motion carried, all ayes.

MOTION by Aren, supported by Bertin, to nominate James Gallagher as Secretary of the Zoning Board of Appeals.  
Motion carried, all ayes.

### **2016 SLATE OF OFFICERS - ZONING BOARD OF APPEALS**

Chairperson – Paul Bertin  
Vice-Chair – Karla Aren  
Secretary – James Gallagher

Aren relinquished the gavel and presented it to Bertin to chair the remainder of the meeting.

**APPEAL OF:**                    **Alice Freshour/Todd Brown**  
                                         **22651 Brookdale**  
                                         **Farmington, MI 48336**

1. Request for variance to Sec. 35-43 (K), Accessory Buildings and Structures, to remove existing detached garage to rebuild new 24' x 36' detached garage that would measure 18'4" tall. Ordinance allows for 15' tall detached structures, which requires a 3'4" height variance.

Inspector Koncsol provided background to the Commissioners stating that he had met with the homeowners to discuss opportunities to improve their garage situation and take down an older garage and rebuild it with something more to their liking. He stated the design they came up with has a slight conflict with the intent of the ordinance basically and the submitted drawings do reflect that. He indicated the issue more or less revolved around the bump out to the back side of the roof structure as a conventional gable that causes the height issue with regards to how you would measure how high a garage is, measuring to the midpoint of the roof as outlined in the letter to the Board. He indicated the foundation work has begun and the only issue left to resolve was the height which is why they are before the Zoning Board of Appeals tonight. Koncsol stated he and the Petitioners were open for discussion or questions from the Board.

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Bertin opened the floor to questions from the Board and the Petitioners were invited up to the podium.

Gallagher inquired of the Petitioners what their special circumstance or unique condition was that required the variance and Freshour stated there was none. He then asked about the garage wall height being 10 feet at the main floor and stated that standard garages are about 7 feet and if they dropped it to 7 they would be within the height requirements and asked if they entertained that thought or saw it as an option.

Freshour responded that they would someday like to accommodate a lift in the garage, thereby requiring the 10 feet.

Aren inquired what the intention of the upper work area was and Freshour indicated primarily storage.

Bertin asked if there was a need for that much storage space across the whole length of the garage or was it as a result of the length of the garage and Freshour stated she didn't know the exact answer because the consolidation of the two homes had not taken place since they were married ten years ago and she is unclear of everything that has to be stored in there.

Bertin offered an alternative to the Petitioners' plans by reversing the location of the doors and lower the height and asked if that was a consideration and Freshour responded the foundation had already been poured and she did not think that could be accomplished. Petitioner Brown stated that the location of the garage was premised upon the location of the large Oak tree in the backyard that they are trying to maintain.

Joe Dompierre, builder for the project, came to the podium and went through the steps undertaken in the design of the garage with the intention of saving the Oak tree and positioned the garage accordingly.

Gallagher asked if the 10 foot height is the height of the interior wall and Dompierre responded that they started with 8 feet and went to 10 feet, He stated the garage will be architecturally esthetic, that they are going to tie the siding in together and presented pictures to the Commissioners. He indicated that this project will be an improvement to the neighborhood and good for the community. He also presented pictures of the old garage. He detailed the building materials that will be utilized in the project.

Crutcher stated if the garage ceiling height was lowered three feet then the building would be in compliance and no variance would be required. Dompierre indicated he understood that but that would alter the garage door to 6 feet.

Freshour stated she was unable to park her truck in her garage that had 6 feet doors.

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Further discussion was held regarding the need for the larger garage for storage of cars and other things.

Bertin inquired why the stairway was oriented to the back of the garage and Freshour responded she did not care to look at the stairs from the house.

Dompierre stated he had been working with the Petitioners since October and that they were an asset to the community by making improvements to their property.

Bertin indicated he noticed another garage going up in the neighborhood.

Gallagher asked if there were any plans at all possible to get the lift in the garage and bring the building into compliance with the height variance and Dompierre responded in the negative. Gallagher then confirmed that the lift is a future endeavor and Dompierre indicated yes, as well as potential insulation and drywall.

Aren addressed the fact that the Petitioner was not able to fit her truck into the garage and that the larger garages are part of modernizing and keeping with the needs of the community and further discussion was held.

Crutcher stated that with the configuration of the plans because of the second floor space that they are trying to utilize that is causing the need for a variance.

Dompierre indicated that the back was bumped up on the roof to a lower pitch than the front was to get the 7 foot ceiling height and discussion was held.

Freshour stated she wanted the garage to look nice and did not really care for the barn type structures that are seen in and around Farmington.

Aren inquired if there had been any input from neighbors behind on Power Street.

Discussion was held about alternative ways to build the garage and still be within the ordinance.

Dompierre stated that most of the variance is an interior variance and that the height of the overall structure is not going to be any different and the only neighbor that would notice would be the one seeing the west elevation.

Bertin indicated that he hasn't heard an actual demonstration of actually needing this amount of square footage for storage, only that the Petitioners want to maximize their storage.

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Crutcher stated he appreciates the need for storage but that this structure is a 3 ½ car garage with a 10-foot ceiling which in itself would have ample storage plus the attic space above and if the angle on the back on the roof was cut off, all that space would be available and fall within ordinance requirements without a variance.

Freshour stated that convenience is a factor in the request for her to be able to access the storage area without the help of others. She also stated that ease and safety are concerns in her request and that with the level of investment they are putting into the garage, she would like it to be workable for her on a daily basis.

Crutcher commented that the space that was talked about being eliminated is space up in the roof up in the eave on the second floor that probably would not be utilized anyway.

Discussion was held on the height of the attic space and its intended use.

Gallagher stated the litmus test for Zoning Board of Appeals rules is that generally there has to be some kind of practical difficulty or necessary hardship or some kind of uniqueness to the property that basically makes it impossible to build. He stated that the changes discussed and outlined by Bertin are entirely reasonable and without much change and brings the building into Code and allows it to be constructed, looks nice, meets Code, looks the same in the front and adds storage, so that he is not convinced to approve the variance.

Gallagher reiterated that there is no display of unique circumstances.

Freshour stated her unique circumstance is her esthetic desire, she cares what it looks like.

Gallagher stated that is not peculiar to the property.

Dompierre stated the practical difficulty is coming from the standpoint that the garage could be built with a flat roof and get the height and look like a box and that would meet Code, but he indicated they are trying to tie this into a residential area and achieve what they want to achieve esthetically.

Crutcher stated the changes suggested by Bertin of changing the pitch on the back side of the garage where it can't be seen allows the project to come in compliance, and that there hasn't been in their explanation of the need for space, defined the need for 864.5 square feet as opposed to 864, thereby not providing a hardship. He stated the alternative proposed by the Commissioners does not reduce the footprint and allows it to be in compliance with the ordinance.

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Dompierre stated the idea of the attic space and maximizing the storage was because the garage itself is going to house three cars and have limited additional storage beyond automobiles and that's the reason it was designed for that.

Further discussion was held on the additional space in the garage and opportunities to be in compliance.

The following letters were received in support of the proposed variance:

Norman & Paula Boegner, 22755 Brookdale  
Karen & Tom Vandever, 22655 Brookdale  
Lee & Larkyn Cerrantes Milbern, 22627 Brookdale  
Peggy & John Costine, 22658 Brookdale  
Jason & Melissa Lynch, 22635 Brookdale  
Phil & Elizabeth Ramberg, 22804 Brookdale

Bertin opened the floor for Public Comment.

The following people spoke in favor of the variance:

Christian Clark, 22641 Brookdale  
Karen Vandever, 22655 Brookdale

Dompierre stated that this is basically a math issue, nothing is going to change on the front, the height of the building is not going to change, it's basically what's in the back and they shouldn't be punished for that.

Bertin asked Koncsol if there was any information on other garages in the area that are over height requirement. Koncsol replied there was one recently addressed on Farmington Road, an old carriage house. He indicated there were some valid points about the math and design because that is where the problem lies because the numbers don't always correlate with the best design. He stated it is a slight dilemma but not the hard and fast black and white practical difficulty, so design is a part of it and it is an attractive design all the way around but a nuance to the way buildings are measured in height relative to their roofs.

Bertin stated if the ordinance somehow prevented them from having storage, that would be a hardship but in this regard they want to maximize as much as they can get and that they should try to do that within the limits that you have and if you can't get storage then you come back and say we can't get storage unless we get this variance, then there would be a need but what is being talked about here is a slight difference in the amount of storage and that does not form a hardship.

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Aren commented that perhaps it's not a hardship but they're looking to the future to make their area better. The Petitioners definitely prefer this look to the barn style which is more common. She cited a barn style garage in the community that had living space in it and recently sold for quite a bit more than others without that living space. She stated there could be a home office or an artist studio or various ways to market it later, so the extra space isn't just important for storage but it has long term possibilities and it is also a stylistic issue with the Petitioner.

Bertin stated the style wouldn't be changed, it would still look the same and Aren responded that the Petitioner stated she is going with the barn if she can't get this.

Gallagher stated the barn offers both meeting the ordinance and more space and the alternative was chosen and to him that's the definition of a self-imposed limitation.

Dompierre stated first and foremost the goal is to match the esthetics of the existing architecture of the house and that's how the design started, then came into play storage, then cars, a potential lift.

Christiansen made some points of clarification on the responsibilities of the Zoning Board of Appeals that are defined by State statute and the test that must be made, the basis for granting variances are very specific, spelled out in State statute and justified in case law. He stated when it comes to spatial variances, dimensional variances, the tests are practical difficulty, meeting the ordinance requirements, are there alternatives available that would allow this to meet ordinance requirements. The other one is a unique circumstance and hardship is really associated with a use variance. He indicated one of the things the ZBA has to take into consideration is not just what the ordinance may or may not allow but if there is impact, impact to the neighborhood, and if you look at the case law, esthetics have come into it. The basis for granting variances, spatial variance, practical difficulty, unique circumstance, also include the action then and that the result is not being injurious to the neighborhood, not resulting in a negative impact, not being out of character with the neighborhood.. So there is some basis through case law with respect to granting variances based upon a unique circumstance and one in particular is to keep consistency with the existing esthetics, the architecture, construction. He stated there have been situations where variances have been granted by the ZBA in the past where there's been a unique circumstance determined or justified based upon trying to maintain a character or consistency of character or an architectural appeal, something that isn't injurious to the neighborhood but would complement the neighborhood. He stated there is some latitude allowed in their decisions.

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MOTION by Gallagher, supported by Crutcher, to deny the variance requested by Alice Freshour/Todd Brown, 22651 Brookdale, Farmington, based on the following reasons and finding of fact:

1. That it is a self-imposed limitation.
2. That there are other designs that could be used to meet their needs that do meet the ordinance.
3. A unique circumstance has not been established.

A roll call vote was taken with the following result:

AYES: Bertin, Crutcher, Gallagher

NAYS: Aren, Craft

Motion to deny carried 3-2.

### **PUBLIC COMMENT**

None heard.

### **ADJOURNMENT**

MOTION by Crutcher, supported by Aren, to adjourn the meeting.  
Motion carried, all ayes.

The meeting adjourned at 8:02 p.m.

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John D. Koncsol , Building Inspector