

**ADA TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF THE TUESDAY, JANUARY 7, 2020, REGULAR MEETING**

A regular meeting of the Ada Township Zoning Board of Appeals was held on Tuesday, January 7, 2020, 4:30 p.m., at the Ada Township Office, 7330 Thornapple River Drive, Ada, Michigan.

CALL TO ORDER

The meeting was called to order by Chair Dixon at 4:30 p.m.

ROLL CALL

Members present: Dixon, Burton, McNamara, Nuttall and Smith

Members absent: None

Staff Present: Bajdek, Winczewski

Public: 10 Community members

APPROVAL OF AGENDA

Moved by Smith, supported by Nuttall, to approve the agenda as presented. Motion carried unanimously.

APPROVAL OF MINUTES

Moved by Burton, supported by Nuttall, to approve the December 3, 2019, minutes as presented. Motion carried unanimously.

OLD BUSINESS

None.

NEW BUSINESS

- 1. Request for variance from the maximum building height standard, to allow the construction of a new single-family dwelling with a height of 45.15 feet rather than the maximum allowable height of 35 feet in the RP-1 zoning district, Parcel No. 41-15-15-400-034, 1551 Honey Creek Ave. NE, Erhardt Construction Company, on behalf of the Stephen A. Van Andel Trust**

Planner/Zoning Administrator, Bajdek, noted that an error in the stated building height was discovered shortly before tonight's meeting. The public notice and staff memo stated the variance is for a building height of 45.15 ft. but it should state 54.25 ft. Building height is measured from grade (the lowest point at the walk-out level) and 5 ft. from the building to the deck line of a mansard roof. Because a greater variance is needed, a new public notice must be sent and the ZBA can not act on the request tonight.

Dixon invited the applicant to present but stated the ZBA will not be able to take action at this time.

Ryan Formsma of Erhardt Construction presented on behalf of Steve and Amy Van Anandel. Mr. Formsma stated this will be an estate type of home on a large piece of property. The walkout level represents between 25% - 30% of the elevation of the home. Mr. Formsma noted that a home like this typically has 10 ft. between each floor. When the flooring mass of 2-3 ft. is added in as well as a couple ft. for mechanical systems, the height of the building increases substantially.

Mr. Formsma stated this home will have a mansard roof. According to the Ada Township Ordinance, the height on a mansard roof is measured to the ridgeboard of the roof and not the centerline of the roof. If this was a gable-styled roof, the variance wouldn't be as substantial.

Chair Dixon opened the floor for public comments. There were no public comments.

Bajdek noted that a previously existing home which was demolished 3 years ago had a height variance granted for 50 ft. Bajdek also noted that there is a guest house on this parcel. Because there can not be two dwellings on one parcel, a boundary line adjustment will be required or the guest house will need to be removed prior to the construction of the new main residence. Mr. Formsma stated the boundry line adjustment will be submitted next week.

Smith asked if this house could be built on another parcel within the estate where it wouldn't need a variance. Mr. Formsma stated this parcel was chosen because of the topography and the fact that only 6-7 trees will need to be removed. Smith stated this is a 50% increase from what the ordinance allows and she feels like that is a lot.

Moved by Smith, supported by McNamara, to table the variance request.

Motion carried unanimously.

- 2. Request for variance from the maximum building height standard, to allow the construction of a new building with a height of 35 feet rather than the maximum allowable height of 30 feet in the PO zoning district, Parcel No. 41-15-31-326-045 & 039, 1035 & 1037 Spaulding Ave. SE, Chip Clark on behalf of 1035 Spaulding, LLC**

Chairperson Dixon recused himself due to conflict of interest. Vice Chair McNamara invited the applicant to speak.

Chip Clark presented on behalf of 1035 Spaulding, LLC. Mr. Clark stated a height variance is being requested in order to allow a roof monitor in a portion of the building which permits daylight to come into the center of the building. 6% of the overall building would be higher than what is allowed in the zoning ordinance. However, none of it would be seen from the perimeter of the building or the street.

Bajdek summarized the request as stated in his staff memo. Construction of a 18,950 sq. ft. 2-story flat-roofed building is planned for the subject 1.64-acre site (*zoned PO Professional Office*). The building will replace the former Crown Jewel Spa and Salon building that will be demolished.

The proposed project conforms to all of the dimensional standards of the PO Professional Office zoning district, *except for the maximum building height of 30 feet*. The building is planned to be constructed with a 20' x 30' clerestory roof monitor at the center of the roof which causes it to exceed the maximum permitted building height of 30 feet.

Bajdek noted that the Planning Commission granted site plan approval for the proposed building subject to four conditions and one of those included a building height variance granted by the ZBA or the plans being modified to eliminate the clerestory roof monitor to satisfy the maximum building height regulation of 30 feet for the PO Professional Office zoning district.

Bajdek reviewed the standards which need to be met to grant a variance:

1. Whether unique physical circumstances exist which cause a “practical difficulty” in complying with the Zoning Ordinance standards.

Although the applicant has expressed that the 20’ x 30’ clerestory roof monitor at the center of the roof will enhance the ‘green design’ of the building to reflect the owner’s commitment to environmental stewardship, no unique physical circumstances exist which cause a “practical difficulty” in complying with the Zoning Ordinance standards.

2. Whether granting the variance would alter the essential character of the area.

The granting of the variance would not alter the essential character of the area.

3. Whether the circumstances leading to the variance are self-created.

Circumstances leading to the variance are self-created.

4. Whether amending the Zoning Ordinance standards is a more appropriate remedy to the situation.

An amendment of the Zoning Ordinance is not deemed as an appropriate remedy to the situation.

Bajdek stated that staff is recommending denial of the variance request.

McNamara opened the floor for public comments. No comments were received.

Nuttall inquired what a clerestory roof monitor is. Mr. Clark explained and also provided handouts of other similar rooftops.

McNamara inquired how high the mechanicals will sit on the roof. Mr. Clark stated it is premature to answer as it depends on what the contractor determines is needed, but the mechanicals will likely be no higher than 4 feet. It is also anticipated that the mechanicals and screening for the mechanicals will be lower than the clerestory roof monitor.

Burton asked if mechanicals count towards the overall height calculations of a building. Bajdek stated the mechanicals do not count towards the overall height calculations of a building screening for mechanicals would be allowable.

Smith asked if any of the four examples Mr. Clark handed out were granted height variances. Mr. Clark stated two of the examples are in excess of the current height ordinance and explained the factors of why buildings are getting taller, i.e. building requirements, energy requirements, etc.

Bajdek noted that the zoning district for the proposed building is in the PO Professional Office district which is a transitional district, between residential and commercial. Commercial zoning district height maximums are 35 ft.

McNamara inquired how old the height ordinance is for the PO district. Bajdek stated it is from 1982.

Nuttall suggested it might be time to amend the ordinance. He would not like to stand in the way of building an environmentally-friendly building.

Bajdek read the purpose and intent for the Professional Office district.

Mr. Clark provided a rebuttal to points made in the staff memo. In regards to whether unique physical circumstances exist which cause a “practical difficulty”, Mr. Clark stated that the nature of the property’s shape and size, after the required offsets and parking are accounted for, leaves a unique shaped lot which requires an almost perfectly square building. This is not ideal as it leaves issues with getting natural light into the center of the building. In regards to whether the circumstances leading to the variance are self-created, Mr. Clark stated the application of a roof monitor is purely in response to the nuance requirements for modern buildings and a critical obligation to the community to demonstrate environmental building strategies which better the human condition. About 35% of a commercial building’s operating costs go towards electric lighting. Efforts to reduce these costs impact building owners and reduce stress on utility grids. Numerous studies suggest that access to natural light in buildings is critical for the health and wellbeing of the occupants. Studies also suggest that the long-term viability of buildings increases with more exposure to natural light.

Smith asked if any inquiries or correspondence in favor of or against this variance request have been received. Bajdek stated nothing has been received.

Smith stated that based on what Mr. Clark just stated, she moves to grant the variance based on the fact that there is a practical difficulty which is not self-created, it would not alter the essential character of the area and an amendment is not a more important remedy of the situation. Nuttall supported. Motion passed unanimously.

Dixon returned to Chair.

- 3. Request for variance from the minimum rear yard setback, to allow the construction of a building addition with a rear setback varying from 29 feet 3 inches to 39 feet 11 inches rather than the minimum allowable 40 feet in the PO zoning district, Parcel No. 41-15-31-305-021, 4828 Cascade Rd. SE, Thomas M. Amon of CD Holdings, LLC, on behalf of Dale Shoemaker**

Tom Amon of CD Holdings, LLC presented on behalf of Dale Shoemaker who was in the audience. Mr. Amon also introduced Lawrence Duthler of CD Holdings, LLC, and Richard Craig of Craig Architects Inc.

Mr. Amon presented a photo of the subject property noting that the building was constructed as a residential building before the area was zoned PO, Professional Office. It currently sits next to larger, more substantial office buildings. The proposal is to utilize the existing building but to add on to bring it more in-line with the PO district. It will be used as an office for Sun Title Company.

Mr. Amon stated he believes they have met all the requirements necessary for granting a variance.

Bajdek summarized the applicant’s request, stating that a 1,385 sq. ft. addition to the east side of an existing onsite building is planned along with associated site improvements.

The approximately one-half acre site is zoned PO Professional Office. It is situated along the south side of Cascade Road, between Patterson and Argo Avenues, and is fairly close in shape to a parallelogram.

Until recently, a dentistry office operated from the property out of the existing main building, which was originally constructed as a single-family dwelling; a detached garage is also located on the site. The existing buildings were constructed prior to the PO Professional Office designation of the property and subsequent use of it for office purposes. Due to the historic residential use of the site, not all dimensional regulations of the PO Professional Office zoning district have been satisfied. The existing main building does not meet the required rear yard and side yard setbacks currently, and the existing garage is located entirely within the required 40-foot rear yard setback. Even though the proposed addition will more than double the size of the current building, it will not be closer to the rear yard property line than what currently exists due to the shape of the property. The proposed rear yard setback varies from 29 feet 3 inches to 39 feet 11 inches. The southeast corner of the addition will meet the required 40-foot rear yard setback.

Bajdek noted that the required Planning Commission site plan approval has not yet been granted for the proposed project.

Bajdek reviewed the standards that need to be met to grant a variance:

1. Whether unique physical circumstances exist which cause a “practical difficulty” in complying with the Zoning Ordinance standards.

Unique physical circumstances exist which cause a “practical difficulty” in complying with the Zoning Ordinance standards due to the shape of the property and its relationship to the established onsite location of the subject building. Although the building addition will be primarily constructed in-line with the existing building, it will actually allow for a greater setback from the rear boundary line than what is currently present, with the southeast corner of the addition meeting the required rear yard setback.

2. Whether granting the variance would alter the essential character of the area.

The granting of the variance would not alter the essential character of the area.

3. Whether the circumstances leading to the variance are self-created.

Circumstances leading to the variance are not self-created.

4. Whether amending the Zoning Ordinance standards is a more appropriate remedy to the situation.

An amendment of the Zoning Ordinance is not deemed as an appropriate remedy to the situation. The conditions leading to this variance request are not so common or recurring, which would indicate that amending the zoning regulations would be a more appropriate solution.

Dixon opened the floor for public comments.

Heidi Beard, 4825 Aylesworth St., stated she lives directly behind the subject property. She is concerned that additional office or signage lights will be shining into her yard. She also noted that the corner of the applicant's garage is on her property which concerns her for when it's time to sell her home.

Being that there were no additional public comments, Dixon invited the applicant to speak.

Lawrence Duthler stated he is one of the owners of CD Holdings who will be owning the building. Sun Title will be the tenant. Mr. Duthler stated he has converted a home into an office building before. To Ms. Beard's concerns regarding the lights, Sun Title is a 9 to 5 business so there will not be traffic outside those hours. Any lighting on the property will be shining towards the front of the building and no lighting will be in the back yard. They plan to make the back yard aesthetically pleasing. They have not decided if they will be keeping or removing the garage.

Dr. Shoemaker gave a brief history of the property.

Bajdek stated that lighting will be addressed in the site plan review and will need to have full cut-off fixtures with the lighting directed downward. Any issues with garages on neighbor's property will need to be handled between neighbors as that is a civil matter.

Moved by Burton, supported by McNamara, to approve the variance based on the findings that the required standards to grant a variance have been met, subject to site plan approval by the Planning Commission for the proposed building addition and associated site improvements.

Motion carried unanimously.

CORRESPONDENCE

No correspondence was received.

BOARD MEMBER/STAFF REPORTS

Board reviewed the proposed meeting calendar for FY 2020/21. Several regular meeting dates were changed due to elections. Board also decided to change the April meeting date as it conflicts with local spring break.

Moved by McNamara, supported by Nuttall, to approve the FY 2020/21 ZBA meeting calendar with the change of moving April's meeting to the 2nd Tuesday of that month. Motion carried unanimously.

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

Meeting adjourned at 5:49 p.m.

Respectfully submitted,

Jacqueline Smith, Ada Township Clerk

rs:aw