



ZONING BOARD OF APPEALS

Quality Services for a Quality Community

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MINUTES

September 6, 2017 – 7:00 p.m.
54-B District Court, Courtroom 1
101 Linden Street

Present: Ditschman, Grunwald, Hittner, Laxton, Muska, Robison, and Ruddell

Absent: None

Staff Present: Haywood

1) OPENING

A) Roll Call

Laxton called the meeting to order at 7:06 p.m.

At the calling of the roll, all members were present.

B) Approval of Agenda

Motion: Grunwald moved to approve the agenda. Muska seconded the motion. **Vote:** All yeas. Motion passed unanimously by a vote of 7 to 0.

C) Approval of the Minutes

Motion: Hittner moved to approve of the August 2, 2017 minutes as presented. Grunwald seconded the motion. **Vote:** All yeas. Motion passed unanimously by a vote of 7 to 0.

2) COMMUNICATIONS

A) Written

- Jim Liesman email dated 09-06-17 in opposition to 444 Division.

B) Oral – None

3) NEW BUSINESS

- A) **A variance request from Michael, Kimberley, and Kayla Zydeck for the property located at 444 Division Street, in the R-2, Medium Density Residential District from the following requirement of Chapter 50 – Zoning Code of the City of East Lansing:**
- a. *Section 50-816(3). – Yard Paving Restriction – no more than 30 percent of the rear yard may be used for parking and access facilities, to allow a driveway that covers 45.2 percent of the rear yard.*
 - b. *Section 50-816(4). – Parking and Driveway Setback minimum of eight feet rear yard setback for residential driveways, to allow a driveway with a 1.5 foot rear yard setback.*

Haywood described the property, noting the location and zoning of the property and the proposal as indicated in the Staff Report.

Hittner asked what part of the driveway to the north requires the variance. Haywood replied the additional three feet or so that they are proposing to extend requires one of the variances.

Laxton asked if the property is a rental property. Haywood replied affirmatively. He further asked if it is licensed for two unrelated persons. Haywood replied two unrelated persons or a family.

Laxton asked for a brief explanation of the paving permit that was issued in June of 2017. Haywood replied there was a permit issued and after some inquiries from a neighbor it was reexamined and noticed there were some errors in the application of the code. The owner was notified of the correct application of the code before concrete was poured.

Michael Zydeck, the owner, addressed the Board and stated the parking should allow two vehicles to be parked side-by-side; however the vehicle to the right cannot open the passenger's side door unless the car is parked illegally with the tires partially or completely on the grass in which they receive tickets. He further stated they cannot visit their daughter and park behind the vehicles because then they are blocking the sidewalk by approximately six inches.

He continued he contacted a contractor who prepared for a land survey, designed a plan, was given approval for the original plan and issued a permit. It was after the forms were installed he received a call saying the forms were in violation of the city code.

Laxton asked the applicant which Special Findings he felt applies to the variance request for increased rear yard driveway coverage.

Zydeck stated Special Finding 1, there are practical difficulties or unnecessary hardships resulting from the physical characteristics of the property in question which make it unfeasible to carry out the strict letter of the Zoning Code; given the narrow width of the driveway makes it impossible

for two vehicles to park side-by-side legally without limiting access in and out of one side of a vehicle.

Zydeck continued he does not see where one of Special Findings would apply to the request for a decreased rear yard setback; therefore, he would be fine with allowing the paving to be replaced at the length it was originally – 34 feet.

Muska stated he's sympathetic with the width issues and asked Zydeck if he is willing to compromise. Zydeck replied affirmatively.

Ditschman asked if they can replace what was removed without a variance or are they required to follow the requirements of the code. Haywood replied they can replace what was removed without a variance.

Laxton asked the applicant if they would be willing to use permeable concrete. Zydeck replied affirmatively.

Laxton opened the public hearing.

Daniel Bollman, 511 Bailey Street, addressed the Board and talked about:

- Permeable paving
- 3' setback
- Flexible parking on-street
- Strips v pads

Jane Zender-Merrill, 509 Elizabeth Street, addressed the Board and stated paving half of a back yard is not a good reason to grant a variance as the neighborhood is older and not designed for an excessive amount of cars. She said many households in the neighborhood park in tandem and from the street it looks like the whole yard is paved.

Jim Liesman, 436 Division Street, addressed the Board and talked about:

- Over-occupancy in the neighborhood
- Many people in Bailey only have one car
- Walkable neighborhood
- House built by two maiden ladies

John Pumplin, 509 Elizabeth Street, addressed the Board and stated parking for visitors is on street, when a house is licensed for two there is no reason to have parking for more than two vehicles, and current forms are less than one foot from property stake. He further stated he owns the house at 528 Elizabeth Street that is currently for sale and he would like it to be purchased by a family.

Laxton closed the public hearing.

Motion: It was moved by Ruddell and seconded by Grunwald to grant variance approval for the request from Michael, Kimberley, and Kayla Zydeck for the property located at 444 Division

Street, in the R-2, Medium Density Residential District from the following requirement of Chapter 50 – Zoning Code of the City of East Lansing:

- a. *Section 50-816(3). – Yard Paving Restriction – no more than 30 percent of the rear yard may be used for parking and access facilities, to allow a driveway that covers 45.2 percent of the rear yard.*
- b. *Section 50-816(4). – Parking and Driveway Setback minimum of eight feet rear yard setback for residential driveways, to allow a driveway with a 1.5 foot rear yard setback*

The Board finds that under the Special Finding (1), that there are practical difficulties or unnecessary hardships resulting from the physical characteristics of the property in question which make it unfeasible to carry out the strict letter of the Zoning Code; subject to the following condition:

1. The new paving shall be pervious or permeable concrete.

Amend Motion: It was moved by Muska and seconded by Laxton to amend the percentage for Section 50-816(3). – Yard Paving Restriction to allow a driveway that covers no more than **33.5 percent** of the rear yard; an extra four feet to the width of the drive toward the house to the length of the original drive of not more than 34 feet.

The Board discussed various amended motion language regarding the original size.

Vote: *Yea:* Ditschman, Grunwald, Laxton, Muska, and Robison. *Nay:* Hittner and Ruddell. Motion passed by a vote of 5 to 2.

Laxton stated he would be voting in favor of the amended motion for Section 50-816(3). – Yard Paving Restriction as he feels it is fair and the fact the property is licensed for two people. He continued there were numerous cars on the driveway and just about every other driveway in the area were wide enough to have two vehicles parked without having an issue.

Laxton further stated he would be voting against the motion for Section 50-816(4). – Parking and Driveway Setback given the size of the house the length of the driveway would be excessive and the does not meet one of the Special Findings.

Hittner stated he would be voting no as the house has a standard size driveway that had a standard size garage and parking for two vehicles in tandem which is not atypical for the neighborhood. He further stated he feels granting the variance facilitates over occupancy of a small rental property, maybe not by the current owner buy future owners.

Grunwald stated she will be voting in favor of the motion for Section 50-816(3). – Yard Paving Restriction as she feels they are limiting the egregiousness of how large the original application was but she also agrees with the functionality of it too. She continued she would not be voting in

favor of Section 50-816(4). – Parking and Driveway Setback as it is unnecessary given the amendment.

Vote on amended motion:

- a. Section 50-816(3). – Yard Paving Restriction: to allow a driveway that covers 33.5 percent of the rear yard.*

Vote: *Yea:* Ditschman, Grunwald, Laxton, Muska, and Robison. *Nay:* Hittner and Ruddell. Motion passed by a vote of 5 to 2.

- b. Section 50-816(4). – Parking and Driveway Setback: minimum of eight feet rear yard setback for residential driveways, to allow a driveway with a 1.5 foot rear yard setback.*

Vote: All nays. Motion failed unanimously by a vote of 0 to 7.

- 4) **OLD BUSINESS** – None
- 5) **STAFF REPORTS** – None
- 6) **BOARD MEMBER CONCERNS**

Grunwald asked if anything had been written and forwarded to Council regarding the Boards issue with 22’ sidewalk requirement in the downtown. Haywood replied nothing has been sent. Laxton stated when he receives something he will forward for the Boards input.

The Board discussed the error in issuing the permit, the owner removing the concrete then having to come to the ZBA, the request, and compromise of the applicant.

- 7) **ANNOUNCEMENTS** – None
- 8) **ADJOURNMENT**

There being no further business, the meeting was adjourned at 8:36 p.m.



Brian Laxton
Chair



David E. Haywood
Secretary