

A MEETING OF THE ZONING BOARD OF APPEALS WAS CALLED TO ORDER AT 7:30 PM, TUESDAY, SEPTEMBER 9, 2014 AT CITY HALL BY CHAIRPERSON BAILEY.

PRESENT: Linda Bailey Paul Evans
Mike Kerby Barbara Morris

ABSENT: Greg Butts

ALSO PRESENT: Ben Aardema, 2011 Oakshire
Mark Adler, 5640 West Maple, West Bloomfield
Alan Kideckel, Council liaison
Amy Vansen, City Planner

APPROVAL OF AGENDA

It was moved by Ms. Morris to approve the agenda.

Supported by Mr. Evans.

AYES: Kerby, Morris, Evans, Bailey

NAYS: None

ABSENT: Butts

Motion Carried.

APPROVAL OF MINUTES

It was moved by Mr. Evans to approve the minutes of July 14, 2014.

Supported by Mr. Kerby.

AYES: Kerby, Morris, Evans, Bailey

NAYS: None

ABSENT: Butts

Motion Carried.

1. **Application Number BA-04-14** Benjamin and Dennise Aardema, 2011 Oakshire, northwest corner of Oakshire and Cambridge, is seeking a variance of *Berkley City Code*, Chapter 138 *Zoning*, Article IV *Off-Street Parking and Loading*, Division One *Off-Street Parking Requirements*, Section 138-222, *Parking location, design and construction*, (a) *Single and two family residential uses*, (3) *Residential driveways*, (a) *Number of driveways*, (1) *For parcels less than 100 feet wide*. No more than one driveway and approach per dwelling shall be permitted; and *Berkley City Code*, Chapter 138 *Zoning*, Article III *General Provisions*, Division One *Accessory Buildings and Structures*, Section 138-60 *Corner Lots*, When a rear yard abuts a rear yard, the exterior side yard setback shall not be less than 10 feet. The applicant is seeking this variance in order to have two driveways when one is allowed and to build a detached garage 5 feet from the side lot line when 10 feet is required.

Mr. Aardema was present. He stated that his house has a single car garage and extra storage at his house is necessary.

Chairperson Bailey clarified that the applicant was requesting two variances: one for the extra driveway and one for the garage setback.

The applicant stated that he wanted a shallow driveway so that parking on the driveway would not be an option.

Mr. Kerby clarified that the garage would be short and have a flat roof. The garage would be within the currently fenced yard. It would hold one car and some extra storage.

The Board asked if the applicant had considered alternatives such as removing the driveway in front of the house and converting that garage somehow; or simply building a shed in the back yard for additional storage.

The applicant advised that he had considered building a driveway extension that would wrap around the house into the back yard.

Chairperson Bailey advised the applicant that the single car garage was there when he bought the house and that the driveway is large enough to park several cars.

The Board expressed concern about the safety of the setback especially given the proximity to Merchant's Park. The applicant offered to move the garage to a conforming location and altering the fence to address safety concerns.

Chairperson Bailey opened the public hearing at 7:56 PM. Hearing no comments, she closed the public hearing at 7:56 PM. It was noted that several written comments had been received.

Mr. Evans observed that the house design at this location in Berkley was a poor design. He could certainly understand the need for storage, but the second driveway is not consistent with the neighborhood.

Chairperson Bailey reviewed the tests needed to prove a practical difficulty.

It was moved by Mr. Evans to deny BA-04-14 citing that the property is not unique, the need for storage and parking is due to the house design, and there are legal alternatives available to allow the construction of a shed.

Supported by Mr. Kerby.

AYES: Kerby, Morris, Evans, Bailey

NAYS: None

ABSENT: Butts

Motion Carried.

2. **Application Number BA-05-14** Mark Adler Homes LLC, regarding 4081 Oakshire, west side of Oakshire, between Morrison and Webster, is seeking a variance of *Berkley City Code, Chapter 138 Zoning, Division 17 Schedule of Regulations, Section 138-527 Notes to schedule of regulations.* (d) There shall be a distance of at least 15 feet between dwellings. The applicant is seeking this variance in order to construct a new house that will be 8.1 feet from 4071 Oakshire when 15 feet is required.

Mr. Adler was present. He stated that the house next door to the property he owns is nonconforming. It is 3 feet from the side lot line when 5 feet is required. On a 40 x 110 foot lot, the house can't be very narrow because the lot does not have enough depth.

The applicant explained that modern stairs are a factor as to how the house will be shaped. Typically in a 25 foot wide house, he builds a U-shaped stair. If the house is narrower than that (23 or 24 feet wide) the stair must be a straight stair and the house needs to get longer.

Ms. Morris asked why two houses need to be built instead of just one larger house. The applicant advised that the City of Berkley's housing market tops out at \$300,000. A new house on a double lot would price around \$500,000 and it wouldn't sell at that location. The Board noted that financial matters cannot be considered.

The applicant stated that his lots taken by themselves are conforming. The house next door that he doesn't have control over is 2 feet too close to the property line. The City's requirement that houses be built 15 feet apart is creating a hardship.

Ms. Morris wondered how this case was different from BA-02-14 that involved similar circumstances on Bacon. Ms. Morris advised that if they both have the same circumstances then they are no longer unique situations and not eligible for a variance.

Chairperson Bailey opened the public hearing at 8:30 PM. The owner of 4071 Oakshire, Josif Ribusovski, spoke against granting the variance. Chairperson Bailey closed the public hearing at 8:32 PM. It was noted that written comments had been received by the Board.

It was moved by Mr. Evans to approve BA-05-14 citing that a practical difficulty has been proven due to the neighboring house at 4071 Oakshire being nonconforming; this variance is the minimum variance necessary in order to build reasonable, modern houses; and the 10 foot separation will not have a negative effect. This variance would be granted with the following stipulations:

- **The new house shall be built no closer than 14.1 feet to the house at 4071 Oakshire.**
- **There shall be no less than 10 feet between the new house on the north ½ of Lot 327 and the new house on the south ½ of Lot 327.**
- **The house on the south ½ of Lot 327 shall be no wider than 24 feet.**

Supported by Mr. Kerby.

AYES: Kerby, Evans, Bailey

NAYS: Morris

ABSENT: Butts

Motion Failed.

Following the failed motion, Ms. Morris inquired about moving this item to another meeting. No

further motions were made.

- 3. **DISCUSSION:** Discussion regarding Rules of Procedure.

The Board reviewed the adopted Rules of Procedure and found that no changes were necessary at this time.

- 4. **ELECTIONS:** Matter of electing a chairperson and vice chairperson to the Zoning Board of Appeals.

It was established that Bailey was interested in serving as Chairperson again. Evans was interested in serving as vice-chairperson. It was established that there were no other nominees.

It was moved by Mr. Kerby to elect Linda Bailey Chairperson and Paul Evans as Vice-Chairperson.

Supported by Ms. Morris.

AYES: Morris, Evans, Kerby, Bailey

NAYS: None

ABSENT: Butts

Motion Carried.

OTHER BUSINESS

Ms. Vansen advised the Board that Stephanie Ramsay, Building Clerk, had taken job in Novi. The Building Department has been very busy. A new clerk was due to start on Thursday, September 11, 2014.

Mr. Evans complimented the City's handling of the flood event relative to garbage pick-up and communication.

There being no further business, Chairperson Bailey adjourned the meeting at 9:05 PM.