

**A MEETING OF THE ZONING BOARD OF APPEALS WAS CALLED TO ORDER AT 7:30 PM,
MONDAY, MAY 11, 2015 AT CITY HALL BY CHAIRPERSON BAILEY.**

PRESENT: Linda Bailey Barbara Morris Greg Butts
 Susan McAlpine Andrew Assenmacher Mike Kerby
 Paul Evans

ABSENT: None

ALSO PRESENT: Matt Burry, ZBA Alternate
 John DuLong, 959 Oxford
 Deborah Reese, 2225 Oxford
 Kyle Farnam, 2225 Oxford
 Bruce Burt, 2200 Berkley
 Donna Briggs, 2251 Oxford
 Jennifer Dreyon, 2251 Oxford
 Amy Vansen, City Planner

APPROVAL OF AGENDA

**It was moved by Mr. Evans to approve the agenda.
Supported by Ms. McAlpine
AYES: Kerby, Morris, Assenmacher, Evans, Butts, McAlpine, Bailey
NAYS: None
Motion Carried.**

APPROVAL OF MINUTES

**It was moved by Ms. Morris to approve the minutes of November 10, 2014.
Supported by Mr. Kerby.
AYES: Kerby, Morris, Assenmacher, McAlpine, Evans, Butts, Bailey
NAYS: None
Motion Carried.**

**It was moved by Mr. Kerby to approve the minutes of January 15, 2015.
Supported by Ms. Morris
AYES: Kerby, Morris, Assenmacher, McAlpine, Evans, Butts, Bailey
NAYS: None
Motion Carried.**

1. **APPLICATION NUMBER BA-01-15** Gavin Waldman, for Harvard House Apartments, 2200 Berkley, east side of Berkley, between Oxford and Harvard, is requesting a variance of *Berkley City Code*, Chapter 138 *Zoning*, Article V *District Regulations*, Division 4 *RM Multiple Family Residential Districts*, Section 138-336 *Principal uses permitted*, (5) Where the R-M district is contiguous to a residentially zoned district, a masonry wall 6 feet in height shall be required on, or adjacent to, the property line between the multiple and residentially zoned property. The applicant is requesting this variance in order to permit a fence on the north side of the property when a wall is required.

Bruce Burt, field supervisor for Harvard House Apartments, was present. He stated that the apartment was cited for the wall repair. Without removing the tree which has damaged the wall, he plans to remove the section of wall and replace it with a span of chain link fence. The chain link would have slats inserted for privacy.

Mr. Assenmacher observed that a 6 inch thick wall has been pushed and cracked by the tree. The chainlink fence would also get pushed.

Mr. Burt acknowledged this, but said it would take decades to damage the chainlink fence.

Mr. Assenmacher stated that snow being shoveled against the chainlink would cause further damage.

Ms. McAlpine asked if the owner had looked at other types of fences and if the tree's owner had been contacted. Mr. Burt replied that no other fences had been considered and that the abutting property owner had not been contacted.

Mr. Evans inquired into the possibility of moving the wall, but encroaching into the existing parking lot. He acknowledged this would decrease the amount of parking.

The applicant advised that all of the parking was necessary.

Ms. Morris stated that the wall was not in great shape throughout the site. The applicant stated that the wall is about 35 years old.

The Board determined that the tree damaging the wall was a civil matter. Mr. Butts suggested that the matter could be postponed until the civil matter had been resolved.

Chairperson Bailey opened the public hearing at 7:48 PM

The owner of 2225 Oxford advised that she has three dogs and two grandchildren. She wanted the wall rather than a fence. She was concerned about the narrow driveway and fast moving cars in the apartment building.

Ms. Vansen clarified that the applicant was not seeking to replace the entire wall with a fence, only that portion that is damaged by the tree.

A representative for the owner of 2251 Oxford stated that the land where the apartment building

is at was sold off in 1969. The owner of 2251 Oxford also favored the wall.

When asked if the neighbors present understood that reconstructing the wall would mean a loss of trees, the neighbors were in favor of the trees being removed.

Hearing no further comments, the public hearing was closed at 8:00 PM.

Mr. Evans summarized that the fence was not a good, long-term solution. The fence would negatively impact the sense of privacy and safety and noise transfer. Reconstructing the wall around the trees would negatively impact necessary parking.

It was moved by Ms. Morris to deny BA-01-15 citing that it does not meet the standards for a variance.

Supported by Mr. Kerby.

AYES: Kerby, Morris, Assenmacher, McAlpine, Evans, Butts, Bailey

NAYS: None

Motion Carried.

2. **DISCUSSION** Discussion regarding January presentation by LSL Planning's Brian Borden and City Attorney John Staran

Chairperson Bailey was very pleased with the presentation and the handouts that could be used for future ZBA members. The Board agreed that it was a great presentation and would like to see more training done in-house more regularly. Chairperson Bailey suggested working with Huntington Woods and Royal Oak to share costs.

There was discussion about having a checklist as part of the packet to help determine if a variance is warranted. Mr. Evans volunteered to develop such a checklist.

Ms. Morris asked that staff's report include a permit and variance history of the property seeking the variance as well as the surrounding properties. Ms. Vansen advised that for some cases that would be quite an undertaking, but she would work on something for the next case.

OTHER BUSINESS

Chairperson Bailey reminded the Board that at the annual July meeting the Rules of Procedure are supposed to be reviewed. The City Attorney has already advised that some changes are necessary. Chairperson Bailey asked that the Rules of Procedure be included in the June packet so Board members had additional time to review.

There being no further business, Chairperson Bailey adjourned the meeting at 8:38 PM.