

**A MEETING OF THE ZONING BOARD OF APPEALS WAS CALLED TO ORDER AT 7:30 PM, MONDAY, JANUARY 11, 2016 AT CITY HALL BY CHAIRPERSON EVANS.**

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**PRESENT:** Barbara Morris      Greg Butts      Andrew Assenmacher  
Mike Kerby      Susan McAlpine      Paul Evans  
Dean Smith

**ABSENT:** None

**ALSO PRESENT:** Dan Bean, 4512 Rochester, Royal Oak  
Maybelle Fraser, 1317 Oxford  
Alan Kideckel, Council Liaison  
Amy Vansen, City Planner

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**APPROVAL OF AGENDA**

It was moved by Mr. Kerby to approve the agenda.

Supported by Ms. McAlpine.

**AYES:** Morris, Butts, McAlpine, Assenmacher, Smith, Kerby, Evans

**NAYS:** None

**Motion Carried.**

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**APPROVAL OF MINUTES**

It was moved by Ms. McAlpine to approve the minutes of October 12, 2015 with the following amendment:

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Mr. Smith recalled that former Board member, Linda Rogers who was an excellent motion maker, and always had her findings well thought out. He thought the checklist would make it easier to make good motions easier.

Supported by Mr. Kerby.

**AYES:** Morris, McAlpine, Butts, Smith, Assenmacher, Kerby, Evans

**NAYS:** None

**Motion Carried.**

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1. **Application Number BA-01-16** Dan Bean, regarding 1338 Larkmoor, north side of Larkmoor, between Cass and Stanford, is seeking a variance of the *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 requesting this variance in order to construct a new house that will be 12.8 feet from 1326 Larkmoor and 14.1 feet from 1348 Larkmoor when 15 feet is required.

Ms. Vansen reviewed the case.

Mr. Smith disclosed that he lives near the subject property. He also owns a vacant lot on Larkmoor. He lives outside the 300 foot radius and stated that he believed he could be impartial. None of the other board members found that there was a conflict of interest.

Dan Bean, the applicant, was present. He stated that the house to the east is close to the lot line. A new marketable house must be at least 1800 square feet. He had a survey of the demolished house from 1949. It showed that the original house was 24 feet wide by 22 feet deep.

Ms. McAlpine asked the applicant if he had spoken with the neighbors. Mr. Bean stated that he had not. Ms. Vansen replied that she had spoken to the western neighbor about the variance.

The Board confirmed that the house as proposed would be 1884 square feet.

Chairperson Evans opened the public hearing at 7:44 PM.

Maybelle Fraser, 1317 Oxford, lives kitty corner behind the property. She stated that she is opposed to the variance.

Hearing no further comments, Chairperson Evans closed the public hearing at 7:45 PM.

Ms. Morris stated that she struggles with how this property is unique since there are so many instances of this in the City.

Mr. Smith stated the encroachments from the neighbors make it unique. Not granting a variance would essentially be punishing a new property owner for the sins of the past.

Mr. Kerby stated that without a variance, the house would only be 21.25 feet wide.

There was discussion about setbacks. Ms. Vansen stated that the Planning Commission is in the midst of reviewing these regulations. They are considering rescinding the 15 foot separation requirement. Ms. Morris asked when the 15 foot separation went into effect. Ms. Vansen didn't recall but replied that a report of the history of the Schedule of Regulations was researched some time ago. Ms. Vansen

stated she would include the report in the next packet.

Mr. Kerby countered that he liked having the 15 foot separation. Over time the houses will comply, but for now he liked the idea of everyone being notified and coming together to reach a good solution.

Chairperson Evans summarized his findings.

Ms. Morris thought that a 24 foot wide house would be reasonable.

Mr. Smith commented that the house was a design that would fit the neighborhood. In addition, the 9 foot wide driveway will help make the house fit in.

**It was moved by Ms. McAlpine to approve BA-01-16 citing that a practical difficulty has been proven to build a 24 foot wide house, 11 feet from the east lot line (13.8 feet from 1326 Larkmoor) and 5 feet from the west lot line (14.3 feet from 1348 Larkmoor). The findings being that a 24 foot wide house will be contextual; the applicant did not cause the 2.8 foot setback on the neighboring property; and the house design will mitigate any noise carried between houses. Supported by Mr. Assenmacher.**

**AYES: Morris, McAlpine, Butts, Smith, Assenmacher, Kerby, Evans**

**NAYS: None**

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2. **DISCUSSION:** Discussion regarding Rules of Procedure

The Board reviewed the draft Rules of Procedure, along with the City Attorney's comments, and Ms. Morris' suggestions.

**It was moved by Ms. McAlpine to accept the draft Rules of Procedure and ask that they be forwarded to the City Attorney for final comment. The final clean copy should be distributed to the Board at the next meeting.**

**Supported by Mr. Butts.**

**AYES: Morris, McAlpine, Butts, Smith, Assenmacher, Kerby, Evans**

**NAYS: None**

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**OTHER BUSINESS**

It was noted that that Mr. Matt Burry had resigned from the ZBA in December 2015.

Ms. Vansen's report from the Michigan Planning Conference was also noted.

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## **PUBLIC COMMENTS**

Councilmember Kideckel thanked the Board for its service. He advised that Richard Eshman is currently serving as the Interim City Manager. Darchelle Strickland Love has been named the Assistant City Manager. Winterfest is scheduled for February 6. The City Council recently passed an ordinance on bird feeders and has asked the Planning Commission to draft an ordinance on tourist homes. He reviewed recent state legislation. He has announced the need for ZBA alternates at the last City Council meeting.

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There being no further business, Chairperson Evans adjourned the meeting at 9:33 PM.