

A MEETING OF THE ZONING BOARD OF APPEALS WAS CALLED TO ORDER AT 7:30 PM, MONDAY, DECEMBER 12, 2016 AT CITY HALL BY CHAIRPERSON EVANS.

PRESENT: Ryan Gesund Susan McAlpine Paul Evans
 Dean Smith Mike Kerby Greg Butts

ABSENT: Scott Emmons

ALSO PRESENT:

Rachel Piacentini, 1726 Oxford
Tom Kalas, 27799 Woodward
Barbara Morris, 1714 Wiltshire
Dennis Hennen, 2411 Earlmont
Robert Robinette, 1021 Oxford
Jason Silver, 1363 Wiltshire
Jim Phillips, 1936 Beverly
Melanie Stevens, 1083 Oxford
Elyse Ciaravino, 1036 Oxford
Scott and Tricia Losey, 3083 Thomas
Jill Doemer, 1827 Buckingham

John and Pat DuLong, 959 Oxford
Gabrielle Sweda, 1047 Eaton
Kamal and Maisoon Tato, 1060 Oxford
Brian Alimoff, 2380 Franklin
Jack Guirey, 1009 Oxford
Luann Linker, 2206 Dorothea
Joann Stenquist, 1343 Wiltshire
Alan Kideckel, Council Liaison
Miles Uhlar, ZBA Alternate
Steve Allen, ZBA Alternate
Amy Vansen, City Planner

APPROVAL OF AGENDA

**It was moved by Mr. Gesund to approve the agenda.
Supported by McAlpine.
AYES: Smith, Kerby, Gesund, McAlpine, Butts, Evans
NAYS: None
ABSENT: Emmon
Motion Carried.**

APPROVAL OF MINUTES

**It was moved by Mr. Gesund to approve the minutes of November 14, 2016.
Supported by Mr. Kerby.
AYES: Smith, Kerby, Gesund, McAlpine, Butts, Evans
NAYS: None
ABSENT: Emmons
Motion Carried.**

Chairperson Evans reviewed the procedure for hearing cases. He advised that the first case was postponed from last month and per Michigan law, the composition of the Board should be the same. He asked Mr. Butts to step down to allow Uhlar and Allen to take their places on the Board.

1. **Application Number BA-10-16** Jason Silver, 1363 Wiltshire, Parcel ID #25-17-257-005, south side of Wiltshire, between Cass and Woodward, is requesting a variance of *Berkley City Code, Chapter 138 Zoning, Article IV Off-Street Parking and Loading, Section 138-222 Parking Lot Location, Design, and Construction, (1) Single and Two Family Residential Uses, (c) Residential Driveways, (1)* For parcels less than 100 feet wide, no more than one driveway and approach per dwelling unit shall be permitted. The applicant is requesting this variance in order to construct a circular driveway on a 97 foot wide parcel.

The applicant was present. He advised that per the Board's directive last month, he had looked at options: the neighbor to the east was not interested in providing an easement; building a new garage in the southeast quadrant would be very difficult because the land is so low and wet; to move the driveway to the middle of the lot and still use the garage would involve changing the location of the garage door and some slope issues. He advised that if his lot was just 3 feet wider, then no variance would be required.

There was discussion regarding possible alternatives, the prohibition of parking on the south side of Wiltshire and the location of Brookline relative the property.

Chairperson Evans opened the public hearing at 7:55 PM.

Barbara Morris, 1714 Wiltshire, advised that she was opposed to the proposal. Joann Stenquist, 1343 Wiltshire, had questions regarding how close the proposed driveway would be to her property to the west. She was also concerned about headlights and asked if additional landscaping could be planted.

Hearing no additional comments, Chairperson Evans closed the public hearing at 8:07 PM.

It was moved by Mr. Uhlar to approve BA-10-16 citing that a practical difficulty had been proven due to the unique physical conditions of the property: there is a large change in topography, the lower area of the yard is wet, and there is no street parking near this property; he or the previous owner did not cause this situation; the applicant's property is 97 feet when a circular driveway is permitted on a 100 foot wide property; a circular driveway would be more tasteful than a parking pad; and this variance would not result in an adverse impact. There was no support for the motion.

It was moved by Mr. Kerby to deny BA-10-16.
Supported by Mr. Gesund.
AYES: Smith, Kerby, Gesund, McAlpine, Allen, Evans
NAYS: Uhlar
ABSENT: Emmons
Motion Carried.

Mr. Butts resumed his role as Board member. Mr. Allen stepped down.

2. **Application Number PBA-11-16** 27799 Woodward LLC, regarding 960, 972, 984 Oxford and the east 20 feet of 996 Oxford, Lots 306, 307, and 308, and the east 20 feet of Lot 305 of the Larkmoor Boulevard Subdivision, Parcel ID's: 25-17-431-023, 25-17-431-022, 25-17-431-021, and 20 easterly feet of 25-17-431-034, north side of Oxford, between Woodward and Stanford, is requesting a use variance of *Berkley City Code, Chapter 138 Zoning, Article IV Off-Street Parking and Loading, Division 1 Off-Street Parking, Section 138-222 Parking Lot Location, Design, and Construction, (c) Nonresidential uses, (1) Location, (c) No parking lots shall be permitted as a principal use in a zoning district other than the Parking District (P-1).* The applicant is requesting this variance in order to permit a business parking lot in a single family residential district.

Mr. Smith disclosed that he lives a couple of blocks away from Vinsetta Garage. Chairperson Evans asked if Mr. Smith thought he would be impartial. Mr. Smith stated he could be.

Tom Kalas, attorney for the applicant, was present. He reviewed the history of Vinsetta Garage relative to joint parking agreements, property purchases, and rezoning decisions. He advised that his client is before the Board in order to exhaust his administrative remedies. He submitted a rendering of the proposed parking lot and stated that a new house would be built on the fourth lot. He stated that the City's master plan does acknowledge a need for additional parking along the Woodward corridor.

The Board discussed the previous and current shared parking agreements and management of parking relative to the valet and communication to customers about alternative parking.

Chairperson Evans opened the public hearing at 8:50 PM. He noted that the Board had received several letters and a petition from the neighborhood association. He asked if

there was a representative from the group who would like to speak.

- Rob Robinette, 1020 Oxford, spoke for the neighborhood group. He advised that the group was opposed to the request.
- Rachel Piacentini, 1726 Oxford, expressed concern that Mr. Smith (who also sits on the Planning Commission) was deliberating on this case. Ms. Vansen advised that the matter had been discussed with the City Attorney. If this matter had been an appeal of a Planning Commission decision, it would be appropriate for Mr. Smith to step down. However this was not an appeal, so Mr. Smith could vote on both cases. Ms. Piacentini was in favor of the use variance.
- John DuLong, 959 Oxford, was opposed to the request.
- Melanie Stevens, 1083 Oxford, was opposed to the request.
- Steve Allen, 2660 Columbia, expressed concern that the building footprint had increased in size.
- Gabrielle Sweda, 1047 Eaton, was opposed to the request.

Hearing no further comments, Chairperson Evans closed the public hearing at 9:13 PM.

The Board discussed the criteria necessary to prove an undue hardship. Mr. Kerby reviewed the application and the reasons stated by the applicant. He opined that the presentation and the application had not proven that the properties in question could not be used for single family residences.

It was moved by Ms. McAlpine to deny PBA-11-16 citing that the argument by the petitioner does not meet the standards for an undue hardship.

Supported by Mr. Kerby.

AYES: Smith, Kerby, Gesund, McAlpine, Uhlar Butts, Evans

NAYS: None

ABSENT: Emmons

Motion Carried.

- 3. Application Number PBA-12-16** Alimoff Building and Development, regarding the parcel west of 2380 Franklin, north side of Franklin, between Berkley and Coolidge, is requesting a variance to construct two new houses on two 40 foot wide parcels. Each new house would be 24 feet wide. The houses would be at least 15 feet from the houses at 2412 and 2366 Franklin. The new houses would be 12.9 feet from each other when a minimum of 15 feet is required (*Berkley City Code, Chapter 138 Zoning, Article V District Regulations, Section 138-527 Notes to the Schedule of Regulations, (d) There shall be a distance of at least 15 feet between dwellings*).

Brian Alimoff, the applicant, was present. He advised that this property is in the middle of the block so the driveway side of the lots is no longer alternating. There will be no

bumpouts or cantilevers in the house design.

There was discussion relative to narrower houses and how the current building code requires minimum size for hallways, closets, and stairwells.

Chairperson Evans opened the public hearing at 9:32 PM.

- Rachel Piacentini, 1726 Oxford, read a statement to the Board. She asked that the written statement be made part of the record. It is included in the Case file for PBA-12-16. She was opposed to the request.
- Barbara Morris, 1714 Wiltshire, was opposed to the request.
- Dennis Hennen, 2411 Earlmont, was opposed to the request.
- Steve Allen, 2660 Columbia, had questions regarding when or if the ownership had changed.
- Chairperson Evans noted that the Board had not received any written comments regarding this request.

Hearing no further comments, Chairperson Evans closed the public hearing at 9:49 PM.

There was discussion regarding the history of ordinance changes relative to lot splits and infill housing, building code requirements relative to fire separation, current zoning requirements relative to setbacks and floor area,

The Board discussed the need for a variance and whether or not a house 23.5 feet wide was buildable or not.

It was moved by Mr. Smith to approve PBA-12-16 citing that a practical difficulty had been proven due to the existence of 2 40-foot platted lots, the location of the driveways, and the location of the neighboring houses preclude conformance; there is school district land across the street, so there would be no adverse impact; the applicant did not create the location of the neighboring houses; building houses that are overly narrow will ultimately hurt the community; building 2 24-foot wide houses is the minimum variance necessary; and the applicant has exceeded the 15 foot setback on either side of the development.

Supported by Mr. Butts.

AYES: Smith, Butts, Evans

NAYS: Kerby, Gesund, Uhlar, McAlpine

ABSENT: Emmons

Motion Failed.

It was moved by Ms. McAlpine to deny PBA-12-16 citing that a practical difficulty had not been proven.

Supported by Mr. Kerby.

AYES: Kerby, Gesund, Uhlar, McAlpine

NAYS: Smith, Butts, Evans
ABSENT: Emmons
Motion Carried.

OTHER BUSINESS

The Board extended holiday wishes.

Mr. Kerby asked that the January 2017 agenda include a discussion about lot splits, infill developments and any variances granted.

LIAISON REPORTS

Councilmember Kideckel thanked the Board and Administration for their hard work. There is a City Council meeting on December 19th and he wished everyone happy holidays.

PUBLIC COMMENTS

The following people spoke during public comments:

Rachel Piacentini, 1726 Oxford.

There being no further business, Chairperson Evans adjourned the meeting at 10:31 PM.