

**CITY OF OAK PARK, MICHIGAN
ZONING BOARD OF APPEALS
AUGUST 22, 2017
MEETING MINUTES**

The meeting was called to order at 7:30 p.m. by Chairperson Landau in the Council Chambers of City Hall located at 14000 Oak Park Boulevard, Oak Park, MI 48237 and Roll Call was made.

PRESENT: Chairperson Landau, Vice Chairperson Huston, Commissioner Barton, and Commissioner Seligson

ABSENT: Commissioner Blumenkopf, Commissioner Peiss

OTHERS

PRESENT: City Planner Kevin Rulkowski
Deputy City Clerk Lisa Vecchio

APPROVAL OF ZONING BOARD OF APPEALS MINUTES OF JULY 25, 2017

MOTION BY Seligson, SECONDED BY Landau, to approve the meeting minutes of July 25, 2017 as submitted.

Vote: Yes: Landau, Barton, Huston, Seligson
No: None

MOTION DECLARED ADOPTED

COMMUNICATIONS: None

OLD BUSINESS: None

a) CASE 17-03:

APPLICANT:

Mr. Mustapha Hannawi, on behalf of Marathon gas station
26700 Greenfield
Oak Park, Michigan

PROPERTY:

26700 Greenfield
Property Identification Number: 25-19-101-001

ORDINANCE REQUIREMENTS AND REQUEST:

One variance is requested:

1. Article XVI requires that the rear yard setback to be twenty-five (25) feet. The applicant is requesting a waiver of twenty-five (25) feet to allow for a rear yard setback of zero (0) feet.

STAFF FINDINGS OF FACT:

1. The subject property is currently B-2, General Business District.
2. Article XVI requires that the rear yard setback be twenty-five (25) feet.

3. The applicant is requesting a waiver of twenty-five (25) feet to allow for a rear yard setback of zero (0) feet.
4. The Zoning Ordinance permits a zero (0) foot side yard setback.
5. The property is on a corner lot at the intersection of Eleven Mile Road and Greenfield.
6. The existing building has a zero (0) foot rear yard setback.
7. The proposed 413 square foot addition would fill-in a fourteen (14) by thirty (30) square foot area in the southeast corner of the property to the south of the existing building.

STAFF RECOMMENDATIONS:

The Marathon gas station at 26700 Greenfield is proposing to construct a 413 square foot addition that would fill-in a fourteen (14) by thirty (30) square foot area in the southeast corner of the property. The addition will house a walk-in cooler and is part of a complete renovation of the existing building.

Considering the proposed addition will fill-in a relatively unusable area and greatly enhance the functionality of the convenience store, a variance request seems reasonable. In light of the complete renovation of the building it is unlikely that the change will essentially negatively alter the character of the surrounding area. Although strict compliance with the rear setback provisions would not unreasonably prevent the owner from using the property for a permitted purpose, it would render conformity unnecessarily burdensome in this case.

Mustapha Hannawi addressed the board to explain his request for the variance as he wishes to construct an addition and reconstruction of the aging building. With a portion of the addition crossing the border of the City of Southfield, a letter was provided to the Board from the City of Southfield confirming their approval of the addition.

MOTION by Barton, SECONDED by Seligson, that based on the information presented in the Staff Report, and additional findings of fact discussed during the review of case #17-03, I move to **approve** the request of Mr. Mustapha Hannawi, on behalf of Marathon gas station, 26700 Greenfield,

1. for a waiver of twenty-five (25) feet, from the requirements in Article XVI, to allow for the rear yard setback to be zero (0) feet.

Vote: Yes: Barton, Huston, Seligson, Landau
No: None

NEW BUSINESS:

a) **CASE 17-05:**

APPLICANT:

Mr. Mordechai Dunst
25330 Ronald Court
Oak Park, Michigan

PROPERTY:

25330 Ronald Court
Property Identification Number: 25-30-451-011

ORDINANCE REQUIREMENTS AND REQUEST:

Two variances are requested:

1. Article XVI requires that the rear yard setback be thirty (30) feet. The applicant is requesting a waiver of six (6) feet, six (6) inches, to allow for the rear yard setback to be twenty-three (23) feet, six (6) inches.
2. Article XVI, requires the maximum lot coverage of all buildings not to exceed thirty-five (35) percent of the total lot area. The applicant is requesting a waiver of seventy (70) square feet to allow for building coverage of thirty-six (36) percent of the total lot area.

STAFF FINDINGS OF FACT:

- 1) The subject parcel is zoned R-1, One Family Dwelling District.
- 2) Article XVI requires a minimum rear yard setback of thirty (30) feet.
- 3) The applicant is requesting a waiver of six (6) feet, six (6) inches, to allow for the rear yard setback to be twenty-three (23) feet, six (6) inches.
- 4) Article XVI, requires the maximum lot coverage of all buildings not to exceed thirty-five (35) percent of the total lot area.
- 5) The applicant is requesting a waiver of seventy (70) square feet to allow for building coverage of thirty-six (36) percent of the total lot area.
- 6) The proposed addition will be 18.3 feet by 26.1 feet or 460 square feet.
- 7) The proposed addition will be in compliance with all other setback, size and height requirements of the Zoning Ordinance.
- 8) The subject parcel is part of a cul-de-sac with a slightly irregular shape with a front lot line width of 61.41 feet, a south side yard length of 100.75, a north side yard length of 119.93 feet and a rear yard of 68.6 feet.

- 9) The rear property line is adjacent to a new cul-de-sac named Curtis Court.

STAFF RECOMMENDATIONS:

The applicant is proposing to make a modification to an existing house that will result in a 460 square foot addition to the southeast corner of the rear of the house. The addition will be one story in height and increase the size of the house with garage to 2,509 square feet.

In this case there are property circumstances that can be taken into consideration regarding the case. The property is an interior cul-de-sac lot with an irregular side yard lot line.

The Board will have to determine whether an argument for a practical difficulty (would compliance unreasonably prevent the owner from using the property for a permitted purpose, would strict compliance would render conformity unnecessarily burdensome, and would the granting of a variance would provide substantial justice to applicant) can be demonstrated.

Given the fact that the proposed addition is relatively small and the property backs up to a four home cul-de-sac, it is unlikely that the change will essentially alter the character of

the surrounding area or be that visibly noticeable. Although strict compliance with the rear setback provisions would not unreasonably prevent the owner from using the property for a permitted purpose, it might render conformity unnecessarily burdensome in this case.

The Board will want to ensure that if a variance is granted, it is the minimum necessary to permit reasonable use of the land and building. Would a reduction in the size of the addition lessen the impact of the variance without significantly diminishing the use and functionality of the addition?

Mordechai Dunst addressed the Board to explain that he wishes to construct an addition to his home in order to create more space for his expanding family.

MOTION BY Huston, SECONDED BY Seligson: that based on the information presented in the Planning Division Report, and additional findings of fact discussed during the review of case # 17-05, I move to **approve** the request of Mr. Mordechai Dunst, 25330 Ronald Court,

- 1) for a waiver of six (6) feet, six (6) inches, from the provisions in Article XVI, to allow for the construction of an addition that will result in a rear yard setback of twenty-three (23) feet, six (6) inches.
- 2) for a waiver of seventy (70) square feet, from the provisions in Article XVI, to allow for building coverage of thirty-six (36) percent of the total lot area.

VOTE: Yes: Blumenkopf, Huston, Seligson, Landau, Barton
No: None

MOTION CARRIED

b) **CASE NO. 17-06:**

APPLICANT:

Mr. Benjamin Waxenberg
14510 Sherwood
Oak Park, Michigan

PROPERTY:

14510 Sherwood
Property Identification Number: 25-19-403-023

ORDINANCE REQUIREMENTS AND REQUEST:

One variance is requested:

1. Article XXI, Section 2105, allows decks to project into required rear yards for a distance not to exceed five (5) feet. The applicant is requesting a waiver of eleven (11) feet, two (2) inches to allow for the rear yard setback to be thirteen (13) feet, ten (10) inches.

STAFF FINDINGS OF FACT:

- 1) The subject parcel is zoned R-1, One Family Dwelling District.
- 2) Article XVI requires a minimum rear yard setback of thirty (30) feet.

- 3) Article XXI, Section 2105, allows decks to project into required rear yards for a distance not to exceed five (5) feet.
- 4) The applicant is requesting a waiver of eleven (11) feet, two (2) inches to allow for the rear yard setback to be thirteen (13) feet, ten (10) inches.
- 5) The proposed deck is approximately 24 inches above the ground.
- 6) The subject parcel is an irregular shaped lot with a front lot line width of 65.52 feet, a east side yard length of 101.39, an west side yard length of 99.11 feet and a rear yard of 94.51 feet.
- 7) The distance from the house to rear lot line is twenty-seven (27) feet, ten (10) inches.

STAFF RECOMMENDATIONS:

The applicant is proposing to have a new deck installed on the rear of their house. Because the deck is considered a structure it must comply with the setback requirements of the Zoning Ordinance. Unfortunately for the applicant their lot is very shallow by Oak Park standards, at only an average of 100 feet deep, and there is little opportunity to place a deck that meets the setback requirements.

Although strict compliance with the rear setback provisions would not unreasonably prevent the owner from using the property for a permitted purpose, it would render conformity unnecessarily burdensome in this case.

The Board will want to ensure that if a variance is granted, it is the minimum necessary to permit reasonable use of the land and building. Would a reduction in the size of the deck lessen the impact of the variance without significantly diminishing the use and functionality of the deck?

Taking the above findings of fact into consideration, and if the Board is satisfied with the proposed size of the deck, it is the recommendation of the Planning Division to approve the variance request.

Dennis Yashinsky, on behalf of Mr. Waxenburg, addressed the board to explain that they wish to construct a deck on the back of the home that would only be one (1) foot off of the ground, for family entertaining purposes.

MOTION BY Seligson, SECONDED BY Huston: that based on the information presented in the Planning Division Report, and additional findings of fact discussed during the review of case # 17-06, I move to **approve** the request of Mr. Benjamin Waxenberg, 14510 Sherwood,

- 1) for a waiver of eleven (11) feet, two (2) inches, from the provisions in Article XXI, Section 2105, to allow for the construction of a deck which will result in a rear yard deck setback of thirteen (13) feet, ten (10) inches.

ADJOURNMENT:

There being no objections Chairman Landau adjourned the meeting at 7:44 p.m.

Lisa Vecchio, Deputy City Clerk/Director of Elections