REGULAR MEETING - ZONING BOARD OF APPEALS

CITY OF NOVI

June 9, 2015

Proceedings taken in the matter of the ZONING BOARD OF APPEALS, at City of Novi, 45175 West Ten Mile Road, Novi, Michigan, on Tuesday, June 9, 2015.

BOARD MEMBERS

Cindy Gronachan, Chairperson
Linda Krieger, Secretary
Rickie Ibe
Brent Ferrell
David Byrwa
Jonathan Montville

ALSO PRESENT: Thomas Walsh, Building Official
Beth Saarela, City Attorney
Coordinator: Stephanie Ramsay, Recording Secretary

REPORTED BY: Jennifer L. Wall, Certified Shorthand Reporter
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Novi, Michigan.

Tuesday, June 9, 2015

7:00 p.m.

** ** **

CHAIRPERSON GRONACHAN: I'd like to call the June 9, 2015 Zoning Board of Appeals meeting to order.

Would you please all rise as Mr. Ibe leads us in the Pledge of Allegiance.

(Pledge recited.)

CHAIRPERSON GRONACHAN:

Stephanie, would you please call the roll.

MS. RAMSAY: Member Ferrell?

MR. FERRELL: Here.

MS. RAMSAY: Member Ibe?

MR. IBE: Present.

MS. RAMSAY: Member Krieger?

MS. KRIEGER: Present.

MS. RAMSAY: Member Sanghvi is absent, excused.

Member Byrwa?

MR. BYRWA: Here.

MS. RAMSAY: Member Reichert is also absent, excused.
Member Montville?

MR. MONTVILLE: Here.

MS. RAMSAY: And Chairperson Gronachan?

CHAIRPERSON GRONACHAN: Here.

Thank you. This evening for our meeting there are a set of rules in back, which I hope that the participants and the attendants will pay attention to.

I ask everyone to please turn off your cellphones at this time. Despite the fact that we have a few board members missing, Member Montville will be voting this evening as our alternate.

The next thing is do we have an approval of the agenda? Are there any changes to the agenda?

MR. WALSH: Excuse me. Case No. 2 has to be tabled to the next agenda to readvertise the case.

CHAIRPERSON GRONACHAN: Case No. P15-0015, is being tabled until July? I don't know what the date is.

MS. RAMSAY: July 14th.

CHAIRPERSON GRONACHAN: July 14
for readvertisement.

Any other changes?

(No audible responses.)

CHAIRPERSON GRONACHAN: Seeing none, does the change in agenda meet everyone's approval, everyone say aye.

THE BOARD: Aye.

CHAIRPERSON GRONACHAN: Any opposed?

(No audible responses.)

CHAIRPERSON GRONACHAN: Seeing none, the agenda has been approved.

We have the minutes from May 12, 2015 for review.

Are there any changes or comments on the minutes?

(No audible responses.)

CHAIRPERSON GRONACHAN: Seeing none, all those in favor?

THE BOARD: Aye.

CHAIRPERSON GRONACHAN: The minutes for May 15, 2015 are approved.

At this time, we would like to reach out to the audience.

If there is anyone out there
that wishes to make comments or have remarks on matters other than what's before us this evening, you can come forward now.

(No audible responses.)

CHAIRPERSON GRONACHAN: Seeing none, we will call our first case. Case No. P15-0014, Chris and Anemarie McDonald. Would you like to come down.

The applicant is requesting variances to allow construction of a new square foot attached garage to their home.

Would you please -- if both of you are giving testimony, I'd like to ask that you both give your names to our secretary, spell them and then raise your right hand and be sworn in.

MR. MCDONALD: Chris McDonald, M-c-D-o-n-a-l-d.

MS. MCDONALD: Anemarie McDonald, A-n-e-m-a-r-i-e, M-c-D-o-n-a-l-d.

MR. FERRELL: Both you raise your right hands. Do you affirm the testimony you are about to give is the truth?

MR. MCDONALD: Yes.

MS. MCDONALD: Yes.
MR. FERRELL: You may proceed.

MS. MCDONALD: We are requesting -- we originally came and we're going to add on a second story, which we are planning on doing, and we were also going to attach -- take the house and extend it back to the garage.

In change of life events and different things we decided that it would best serve us to actually extend the garage to the house. We have a houseful of seven of us, with many -- we got new drivers coming, we are going to have many different cars and with seven people and five children, we have lots of toys and different things that we want to keep in that garage.

In doing so, when we came to the city, we talked to the different people and they said that that would -- we will have to come back for another variance because the garage is larger than what you allowed.

So we had our architect draw it up and leaving the egress window where it was supposed to be and we are asking that you would allow us to add onto that garage.
We have several neighbors, out of four houses, there is about 50 percent of them that have a larger garage, than, you know, Novi allows. And we were hoping that we could also have that -- you know, a variance for that garage size.

CHAIRPERSON GRONACHAN:

Anything else?

MR. MCDONALD: Yes, if I could add, just the beautification of the area that we are continuing to do as we came to you folks last year, we still are going forward in that direction to do everything that's right, and we try to do what's right to do in the area there to beautify and make -- you know, within the rules. Only thing we are looking for is that what my said wife said about the garage situation.

CHAIRPERSON GRONACHAN: Thank you.

Is there anyone in the audience that has a comment in the matter of this case?

(NO audible responses.)

CHAIRPERSON GRONACHAN: Seeing
none, are there any correspondence?

MR. FERRELL: Thirteen notices were mailed, one notice return, zero approvals, zero objections.

CHAIRPERSON GRONACHAN: Thank you. Building department?

MR. WALSH: Just to talk a little bit about the lot coverage. It wasn't talked about.

The reason why for the 2.7 additional variance of the lot coverage, is that the original proposal, the breezeway, the walkway was attached to the existing garage.

It wasn't as wide as the proposed garage. The garage addition is going to line up, so it had the additional 2.7 percent. Thank you.

CHAIRPERSON GRONACHAN: Thank you. Board members?

MS. KRIEGER: Correspondence?

CHAIRPERSON GRONACHAN: We just did it.

Board members? Member Montville?
MR. MONTVILLE: Is it to add a carport? Just elaborate with the garage space for storage or anything particular that you're trying to do with that room, square footage?

MS. MCDONALD: It's a garage -- for garage space. That's literally what it's for.

MR. MONTVILLE: For garage space.

CHAIRPERSON GRONACHAN: Okay.

Members?

MS. KRIEGER: Like to make a motion.

CHAIRPERSON GRONACHAN: Not yet.

Anyone else before I have something to say?

So you have had a long history of working on this house. I remember when you came before us last year, and I'm going to fill in the blanks for everyone. That your original addition, if memory serves me correct, is that the foundation wouldn't uphold what you wanted to do?
1                         MS. MCDONALD:  Right.
2                         CHAIRPERSON GRONACHAN:  Then
3           you had to go back to the drawing board.
4                         And when you came to us last
5           June, I believe it was, we granted those
6           variances.  So what -- and the variances were
7           minimal at the time, again, but now, this lot
8           coverage of the 27 percent, what is different
9           is that -- because that wasn't part of the
10          original request back in June, correct?
11                         MS. MCDONALD:  It was not the
12           original request back in June, no.  We are --
13           being a lake lot, you don't have the -- you
14           know, if you were in a subdivision where you
15           might have the bigger lot space, our lots are
16           long and narrow.  So you kind of have to work
17           within that space.  So that's kind of where
18           we went -- you know, I didn't want to make
19           the house skinnier because I have a
20           father-in-law who is in a wheelchair and
21           all -- if you look at our drawings, all of
22           our main floor has three to four foot wide
23           hallways.  So that when he comes to visit, he
24           can get in, he can use our main floor
25           bathroom, so in narrowing that, I was going
to lose all that, you know, those accommodations for him.

So we wanted to add this garage space where we can also ramp it so he can come through the back area there.

CHAIRPERSON GRONACHAN: So this is for handicap access as well then?

MS. MCDONALD: Absolutely.

CHAIRPERSON GRONACHAN: Thank you. I don't have any further questions. Anyone else?

Is that a motion?

MR. IBE: No, I'm just agreeing with you.

MS. KRIEGER: In Case No. PZ15-0014, sought by petitioner. I move to grant the request because the petitioner has established that the house and structure with the ramp needed for the visitors, that it would -- by narrowing that the entrance for a wheelchair would be more difficult, and this would enhance also the neighboring area that the petitioner established.

The property is unique because it's around Walled Lake, every single
property is unique.
The shape, narrowness, topography, water area, and that this is not personally economic hardship, it's not self-created, because the housing is as-is from previous to modernizing and that strict compliance with the dimensional regulation of the zoning ordinance would not allow them to create their -- for their family, a reasonable amount of space. And that it will unnecessarily be burdensome to comply with the regulations, and petitioner has established that the variance is a minimum variance necessary, and this would also enhance property values and enjoyment of property and beautification in the neighborhood and zoning district.

MR. FERRELL: Second.

CHAIRPERSON GRONACHAN: It's been moved and seconded. Any further discussion?

(No audible responses.)

CHAIRPERSON GRONACHAN: Ms. Ramsay, will you please call the roll.
MS. RAMSAY: Member Ferrell?

MR. FERRELL: Yes.

MS. RAMSAY: Member Ibe?

MR. IBE: Yes.

MS. RAMSAY: Member Krieger?

MS. KRIEGER: Yes.

MS. RAMSAY: Member Byrwa?

MR. BYRWA: No.

MS. RAMSAY: Member Montville?

MR. MONTVILLE: Yes.

MS. RAMSAY: Chairperson Gronachan?

CHAIRPERSON GRONACHAN: Yes.

MS. RAMSAY: Motion passes five to one.

CHAIRPERSON GRONACHAN: Your variances have been granted, so I'm sure you will be back working with the building department.

MS. MCDONALD: Yes.

MR. MCDONALD: Looking forward to that.

CHAIRPERSON GRONACHAN: I don't want to see you back here real soon.

MS. MCDONALD: Trust me, we
CHAIRPERSON GRONACHAN: Thank you.

Case No. 2, as mentioned, has withdrawn or postponed until next month.

So now we have Case No. 3, ATI headquarters, PZ15-0016, Jason Salazar and Oliver Hatcher Construction Company on behalf of ATI Headquarters, vacant parcel on the west side of Meadowbrook between Twelve Mile and Eleven Mile.

Would you like to come on down.

The applicant is requesting a variance to allow construction of a 107,400 square foot research office building with associate parking and landscaping on the west side of Meadowbrook between Twelve and Thirteen Mile -- Twelve and Eleven Mile, excuse me.

Would you please state your name for our secretary, spell it and then be sworn in.

MR. HATCHER: My name is Paul Hatcher, P-a-u-l, H-a-t-c-h-e-r. I'm with Oliver Hatcher Construction.
MR. FERRELL: Are you an attorney?

MR. HATCHER: I am.

MR. FERRELL: Just know that you are under oath. You may proceed.

MR. HATCHER: We are requesting a variance to the zoning ordinance for -- well, I guess, the situation is that we've gone through this site plan process, on the parcel of land and discovered that the parcel -- or actually there is four parcels, parcels were split right in two by school district line between Walled Lake school district and Novi school district. And the building sits smack dab across that line. So in order to build the building, we need a variance to the setback. That's what we are requesting.

CHAIRPERSON GRONACHAN: Thank you.

Is there anyone in the audience that wishes to make comments pertaining to this case?

(No audible responses.)

CHAIRPERSON GRONACHAN: Seeing
none, is there any correspondence?

MR. FERRELL: Eighteen notices mailed, six notices returned, zero approval letters, one objection letter.

This is by Singh Management company. "Per our conversation, please let this letter serve as Singh Management Company's, LLC's notice that we are not in favor of the above-referenced proposed variance. Please have this letter read at tonight's meeting so it will become part of the record. As always, if you have questions feel free to contact me directly at (248)865-1610. Sincerely, Josh Jacobs, directly of commercial real estate."

CHAIRPERSON GRONACHAN: Thank you. Building department?

MR. WALSH: No comments at this time. Thank you.

CHAIRPERSON GRONACHAN: Board members?

MS. SAARELA: Let me just add that you will see in your packet that there is a draft declaration of convenance relating to this property in there that we would
request that any variance granted in this matter be conditioned on the recording of this declaration. It's not in its final format.

At this point we are still working with the applicant's attorney to finalize some language in it, which we plan on doing tomorrow in the event that the variances are granted.

The declaration basically would say that the variances would be for this project only, if this building ever ceases to be used in accordance with the approved site plan, any proposed changes would be required for the further site plan amendment and required additional variances.

CHAIRPERSON GRONACHAN: Thank you. So you're looking for in our -- in our motion this evening?

MS. SAARELA: Just after the -- basically that the variances would be conditioned on recording them and a declaration acceptable to the city.

MR. BYRWA: That's recorded on the deed?
MS. SAARELA: That would be recorded on the deed because what would happen is if the building was ever torn down, we wouldn't want the variance to apply to any future development there on the property. It would have to come back for the same type of consideration.

CHAIRPERSON GRONACHAN: Thank you for that help.

Board members? While you are pining your questions, I have some questions.

Good evening, how are you?

MR. HATCHER: Good.

CHAIRPERSON GRONACHAN: So in studying this case and passing that piece of property several times, this is pretty weak -- to build a building on -- let me see if I can get all these letters right.

So there is basically AB, CD and AB and C are now E? No, A, B and C and D are now E, right?

MR. HATCHER: A, B and C are going to be combined into E. D is going to remain as parcel D.

CHAIRPERSON GRONACHAN: And the
only reason that you're here this evening is because of the school district issue you that Walled Lake is on one side and Novi is on the other?

MR. HATCHER: Correct.

CHAIRPERSON GRONACHAN: And if you build this building on A, B and C, it basically would not fit?

MR. HATCHER: Correct.

CHAIRPERSON GRONACHAN: Where I was confused, and perhaps you can help me out is in the Planning Commission notes it said -- it talked about two phases, phase one and phase two.

Can you elaborate on that?

MR. HATCHER: Phase one is roughly 107,000 square feet, that's the phase that straddles the school district line.

Phase two is to the north of that building, it would be an expansion to the north.

CHAIRPERSON GRONACHAN: Would that be on lot D then?

MR. HATCHER: That would be on lot D, correct.
CHAIRPERSON GRONACHAN: When would phase two be completed?

MR. HATCHER: It's just future. There is no time line associated with that.

CHAIRPERSON GRONACHAN: How much of the property on D would phase two even use or they don't even know that question or do they know that answer to that question?

MR. HATCHER: I don't know the answer to that question. Not off the top of my head.

Tom, do you know the percentage might help her --

MR. WALSH: I guess the actual percentage, what I'm looking at, or what I was trying to predict in the future, is that the big issue is that because this building is running north to south, as opposed to east to west, that's where it comes into that lot D.

And the variance that you're requesting is because it's crossing that property line, there is no need for parking setback because it's treated as two separate
properties, am I understanding this correct?

MR. HATCHER: I'm not sure I understand the question. Can you ask that again.

CHAIRPERSON GRONACHAN: Sure.

So because the building is running north to south, and not east to west, it crosses over into lot D, which is still, in essence, a separate lot.

MR. HATCHER: Currently a separate lot. Again, this all came about because the city wanted us to combine all four lots into --

MS. SAARELA: I think I can add some clarification. The second building isn't approved. There isn't a site plan approved for that yet. We don't even know where that would fall as far as, you know lot lines yet. This declaration should address that, but if they are coming back for the second phase, and the parking or something does impact that lot line, they would have to come back for more variances, and that's clear in that declaration.

So that issue really hasn't
even come to fruition yet. It may be something in the future, but that declaration should take care of it.

CHAIRPERSON GRONACHAN: Thank you for clarifying that. Those are the only questions.

I can support this. I think that given the information that was in the packet, which was extensive, and understanding the configuration that you have to deal with, Twelve Mile is at a standstill with those buildings. And I would like to see the development on Twelve Mile as much as anybody else.

So I think that this is a minimum request, and I think that it's an unusual request, given the school districts, and that's the only thing that's really causing all of this.

So I have no problem with supporting your request.

MR. IBE: Madam Chair, I have no questions really.

I also do support this. I'm just curious as the objection that we have
from Singh.

Is there any connection -- what
does that got to do with this development
really?

MR. HATCHER: I wasn't aware
that there was an objection.

MR. IBE: There was one that
was read. Singh Management?

MR. FERRELL: Singh Management.

MR. HATCHER: I don't know when
that came in. I wasn't aware.

MR. WALSH: We received it
today about 3:30 today.

MR. FERRELL: It's dated for
today.

MR. IBE: Is there any
connection with the developer and Singh?

MR. HATCHER: Not that I'm
aware of. I own the property immediately
north. We own the 30,000 square two story
building to the north. We bought our
property off of Singh. It's about a three
acre parcel.

At that time, I know that Singh
owned the land to the west, but I was under
the understanding that they don't own that any longer.

MR. IBE: All right. Very well. Thank you. That's all I really have. I will also be in support of this. I think it's -- that will be welcome to that particular area, and unfortunately, the variance is the only -- is the only way to get it done due to the way the configuration of the land as previously stated, as well stated in the parking area. So I will also be in support of this.

CHAIRPERSON GRONACHAN: Anyone else?

MR. BYRWA: Question for the building official. We still have an open perimeter and a fire lane?

MR. WALSH: That is correct, yes.

CHAIRPERSON GRONACHAN: Anyone else? Quiet group tonight.

Is anyone prepared to make a motion?

MR. IBE: I guess everyone is looking at me. I guess I will make a motion.
CHAIRPERSON GRONACHAN: I think the rules say I'm not supposed to.

MR. IBE: Madam Chair, in Case No. PZ15-0016, ATI Headquarters, I move that we grant the variances requested by the applicant because the applicant has established that practical difficulty to this property does exist, warranting the granting of the variance, and I move for the following reasons that we grant it.

One, petitioner has established that the property itself is unique, in the package that was provided to us, as well as statements of the -- the representative of the developer. This tells us that this property, the way it's configured crossing into Novi community school district as well as the Walled Lake consolidated school district. Really they can't build on the three lots without (unintelligible) and only more appropriate that a variance is granted in order to allow this construction development to actually occur.

Without the variance, it obviously will make it more difficult to
accomplish what has been set.

The condition is not a personal or economic hardship. It is simply based on the unique configuration of the land itself.

Two, the need for the variance is not self-created. As was stated earlier and was talked about, the dynamics of this particular parcel involved here, there really is nothing that the applicant did to create the problem that now exists. This is a problem that obviously exists with the land, and as a result it is not self-created and requires a variance to correct that problem.

Three, strict compliance with the dimensional regulations will unreasonably prevent the petitioner from using the property for the permitted purpose, and will unnecessarily be burdensome, the petitioner by trying to comply with all the regulations that are required.

Four, petitioner has established that the variance is the minimum variance necessary because a lesser variance will not be permissive for them to do what they intend to do with this property. The
requested variance will not cause adverse impact on surrounding properties, and we see that this particular corridor where these parcels are located, is still in the developments.

Obviously the development of this particular property here will be beneficial to that particular corridor and will benefit surrounding properties and those who will intend to build in the future.

Finally, the variance is going to be conditioned on the recording of the declaration of convenance and restrictions that is acceptable to the City of Novi.

Based on the aforementioned, as well as the statements made by the applicant, the documents submitted, I move that we grant the variance as requested.

MR. FERRELL: Second.

CHAIRPERSON GRONACHAN: It's been moved and seconded. Is there anything that anyone feels that needs to be added to the motion?

(No audible responses.)

(No audible responses.)

CHAIRPERSON GRONACHAN: Seeing
nothing further, Ms. Ramsay, would you please
call the roll.

MS. RAMSAY: Member Ferrell?
MR. FERRELL: Yes.
MS. RAMSAY: Member Ibe?
MR. IBE: Yes.
MS. RAMSAY: Member Krieger?
MS. KRIEGER: Yes.
MS. RAMSAY: Member Byrwa?
MR. BYRWA: Yes.
MS. RAMSAY: Member Montville?
MR. MONTVILLE: Yes.
MS. RAMSAY: Chairperson Gronachan?
CHAIRPERSON GRONACHAN: Yes.
MR. BYRWA: Motion passes six
to zero.
CHAIRPERSON GRONACHAN: Your
variance has been granted.
MR. HATCHER: Thank you.
CHAIRPERSON GRONACHAN: So that
concludes our heavy caseload for this
evening. And are there any other matters to
be discussed?
I did have one thing that I
would like to add to the board members unless Member Walsh has something?

    MR. WALSH: No.

    CHAIRPERSON GRONACHAN: You will notice that you got your identification tags this evening. Everybody wears them proudly. So when we are entering onto the properties that we are going to be viewing for previous -- for future cases, we can wear that and it will help with any confusion who we are and why we are there.

    So if there is nothing else, all those in favor of -- do I hear a motion to adjourn the meeting?

    MR. FERRELL: So moved.

    MR. IBE: Second.

    CHAIRPERSON GRONACHAN: All those in favor?

    THE BOARD: Aye.

    CHAIRPERSON GRONACHAN: The meeting has been adjourned.

    (The meeting was adjourned at 7:28 p.m.)

    ** ** **
STATE OF MICHIGAN )
 ) ss.
COUNTY OF OAKLAND )

I, Jennifer L. Wall, Notary Public within and for the County of Oakland, State of Michigan, do hereby certify that the witness whose attached deposition was taken before me in the above entitled matter was by me duly sworn at the aforementioned time and place; that the testimony given by said witness was stenographically recorded in the presence of said witness and afterward transcribed by computer under my personal supervision, and that the said deposition is a full, true and correct transcript of the testimony given by the witness.

I further certify that I am not connected by blood or marriage with any of the parties or their attorneys, and that I am not an employee of either of them, nor financially interested in the action.

IN WITNESS THEREOF, I have hereunto set my hand at the City of Walled Lake, County of Oakland, State of Michigan, this 7th day of July 2015.

[Signature]

Jennifer L. Wall CSR-4183
Oakland County, Michigan
My Commission Expires 11/12/15