

CHARTER TOWNSHIP OF YPSILANTI
ZONING BOARD OF APPEALS
Wednesday, September 6, 2023
6:30 p.m.

COMMISSIONERS PRESENT

Marsha Kraycir (Chair)
Elizabeth El-Assadi (Vice Chair)
Stan Eldridge
Brad Hine

COMMISSIONERS ABSENT

David Marshall (Alt)
Edward Burnett
Jeff Kerner (Alt)

MANAGEMENT PRESENT

Jason Iacoangeli, Planning Director
Fletcher Reyher, Planning and Development Coordinator

i. CALL TO ORDER/ESTABLISH QUORUM

MOTION: Ms. Kraycir called the meeting to order at 6:30 p.m. Ms. Kraycir completed the roll call and confirmed a quorum was established.

ii. APPROVAL OF AGENDA

MOTION: Mr. Hine **MOVED** to approve the agenda. The **MOTION** was **SECONDED** by Ms. El-Assadi and **PASSED** by unanimous consent.

iii. APPROVAL OF JULY 12, 2023, MEETING MINUTES

MOTION: Ms. Kraycir **MOVED** to approve July 12, 2023, Regular Meeting Minutes as presented. The **MOTION** was **SECONDED** by Mr. Hine and **PASSED** by unanimous consent.

iv. OLD BUSINESS

- **Applicant:** The Lamkin Group, LLC.
Location: 1155 E. Forest Avenue, Ypsilanti, MI 48198

Parcel ID: K-11-03-400-033

Request: Article 4 – Sec. 407.3 Dimensional Requirements: Request for variance to the building setback requirements.

Mr. Iacoangeli informed the Commission that the Old Business was tabled from the July 12, 2023, meeting. The Zoning Board of Appeals would have to make a motion to take this item off the table for further discussion.

MOTION: Mr. Hine **MOVED** to approve of removing the old business item from the table. The **MOTION** was **SECONDED** by Ms. El-Assadi and **PASSED** by unanimous consent.

Mr. Iacoangeli stated that the variance requested is for an office building to be built on a parcel that's zoned as RM-LD (Multiple-family low-density residential district). The applicant is requesting a side yard setback variance to erect an office building for the apartment complex. The property currently has an existing single-family home that is proposed to be demolished to become an office building for the apartments.

The Planning Commission has reviewed the office building through the site planning process and has granted it preliminary site plan approval contingent on the Zoning Board of Appeals approving the setback variance that's being requested.

The setbacks in the low-density multiple-family district are 30 feet. The applicant can achieve that setback on the western side of the property (Rosewood Street) with 38.2 feet from the edge of the property to its closest point of the building. Meanwhile, on the property's east side, the applicant proposes a 10-foot setback at its closest point to the property line. The home that was previously there has been consistent with the other houses on Forest Avenue. The Planning Commission's view on removing the house, which is non-conforming with the zoning on the parcel, and replacing it with a newer office building, would bring the multiple-family development more into conformance.

At the July meeting, during the public hearing, the residents shared their concerns about the increment of traffic as this office will not only facilitate this apartment complex but all the Paschall apartments on Forest Avenue and for other properties at different locations. The Planning Commission has requested the applicant to reappear to the ZBA with more information on the traffic concerns and how they would mitigate it.

Mr. Iacoangeli informed the Commission that the applicant is requesting a side yard setback variance of approximately 20 feet for the eastern side of the property to erect a new office building. All other setbacks have been met.

Ms. El-Assadi requested clarification on upgrading the existing house on the property that can be utilized as an office building for payments instead of building a new one. Mr. Iacoangeli stated that the existing house is in bad condition, and one of the reasons for moving forward with the office project is that the house has been slowly deteriorating over the years. During rental housing inspections, there has been an increase in issues

that need to be addressed, along with an increase in cost. Mr. Iacoangeli stated that there is a possibility of renovating the house into an office. But there is a legal non-conforming since it is two story (problems with the building code). This option can be considered and tabled.

The applicant (Mr. Race Lamkin) stated the reason for requesting the variance is because the old office cannot be used any longer. An office on site will be convenient for the residents and tenants of Paschall apartments since all the neighborhoods are in the same block, right next to each other along East Forest.

Mr. Lamkin shared with the ZBA some numbers that would answer the concerns that the residents of Forest brought to the last Zoning Board of Appeals meeting.

- There are 251 total Units.
- Currently, 89 residents (35%) are paying bills/rent online.
- 42 (16%) residents are paying by mail or direct deposit.
- 52% of the current residents don't go to the office to pay their rent.
- Current projections indicate the numbers have been elevating to 75% by the year end of 2024 to using online or alternative payment methods versus going to the office.
- The office is open three days a week (Tuesday, Wednesday, and Thursday), and the office hours are from 9 am to 4:30 pm. Maintenance is on-call 24/7.
- For all tenants, the maintenance crew is on-site Monday through Friday (9:00 am – 5:00 pm).
- The office is not open for five days for traffic concerns and will not add traffic to the existing traffic on Forest Avenue.
- The applicant has taken steps to alleviate some of the neighbors' concerns and to have a discussion with them. The applicant has ordered and installed caution signage at all the entrances and exits on Forest Avenue.
- A mailer was sent to all residents demanding that they slow down and come to a complete stop. If not, legal action will be taken against them.
- Residents have been requested to trim bushes and hedges along East Forest to create a clear line of sight.

Mr. Lamkin stated that the complaint from the public about no playground or area for children to play in was untrue since there is a playground at the back of Browning Court of about five acres of green space for the residents to enjoy.

The 251 units exclude the Michigan property, and there would be none from the Michigan property for making payments.

Ms. Peterson inquired about the legal action mentioned in the flyers to the residents; Mr. Lamkin stated that they could request Washtenaw County Sheriff to put an extra patrol at the cross sections. If people are speeding through the parking lot there, the management can take action that could violate their lease.

Mr. Eldridge stated that the County Sheriff would not have an extra patrol for private property/citizen unless it is requested through the townships, and it is for a public roadway.

Mr. Eldridge inquired about the termination of the lease due to violation; Gary Bourgueil (property manager) stated that the lease states rules, code of conduct and speed limits within the complex.

Action Item: Mr. Eldridge requested Gary Bourgueil (property manager) to submit a copy of the lease document to Mr. Iacoangeli.

THE SESSION WAS OPENED FOR PUBLIC COMMENT: NO COMMENTS

MOTION: Mr. Eldridge made a **MOTION** to approve the variance request at 1155 E. Forest Ave. to the setback requirements of Section 407 of the township zoning ordinance for the construction of a new apartment office building within the building envelope as shown on the site plan dated 05-24-2023 with the following notes:

- The authorizing of the requested variance will not be a substantial detriment to adjacent property and will not materially impair the purposes of this ordinance or the public interest, and;
- It has been determined and agreed that the subject parcel has exceptional conditions requiring the setback variance.

This motion is further made with the following conditions:

- The applicant shall obtain Final Site Plan and Detailed Engineering Approval; and shall obtain all outside agency permits for the construction of the apartment office.

The **MOTION** was **SECONDED** by Ms. El-Assadi.

Roll Call Vote: Mr. Hine (Yes), Mr. Eldridge (Yes), Ms. El-Assadi (Yes), Ms. Peterson (Yes), Ms. Kraycir (Yes). **MOTION PASSED.**

v. **PUBLIC HEARING**

- **Applicant:** Ted Ferenczy
Location: 1319 Davis Street, Ypsilanti, MI 48198

Parcel ID: K-11-10-407-035

Request: Article 8 – Sec. 802. Accessory Buildings and Accessory Uses:

Request for Variance to the accessory building setback requirements.

Mr. Iacoangeli presented the Commission with a request from Ted Ferenczy for variance to the setback requirements of Article 8 – Sec. 802. – Accessory building and accessory uses: Request for Variance to the accessory building setback requirements.

Mr. Iacoangeli presented the major components of the staff report:

- The applicant has an accessory structure constructed on the property without the proper building permits, and the existing garage was added to it with an additional bay.
- The accessory structure portion of the township zoning ordinance requires that a garage or an accessory building have a minimum five-foot setback from the property line.
- The new garage addition that was constructed is three feet six inches, the closest point to the neighboring property.
- The property owner is trying to seek relief for the building addition and allow it to remain at three feet six inches from the property line and not five feet as required per the ordinance.

Mr. Iacoangeli stated that some of the applicable information is that a permit wasn't pulled for the addition to the setback requirements and has not been met. After a conversation with the building department, once they reviewed the building, it was constructed out of a non-combustible material that would permit it to be built on a property line. If the ordinance has approved it because the material that the addition was constructed out of is fire-rated, not as per zoning ordinance, but per the building code would permit it to be built on a property line.

The Planning Department has certain conditions if the ZBA decides to allow the garage to remain:

- The roof shingles for the garage should be replaced so that they all are consistent and match.
- The applicant paints the entire building and the garage door to match the color.

Ms. Peterson inquired about what would happen to the existing garage if the motion failed to pass; Mr. Iacoangeli stated that a denial would be an addition in violation of the ordinance. The ZBA can condition the denial with a removal time or date. The applicant is allowed to appeal the Zoning Board of Appeals decision, and they would be allowed 30 days to appeal the decision to circuit court.

Ms. Peterson clarified that the additional building is about one foot six inches close to the setback; Mr. Iacoangeli clarified it.

Ms. El-Assadi clarified that the additional building was built with no permit from the Township, and there is enough room for it to have been built on the other side; Mr. Iacoangeli stated that there would not have been an issue with the side yard setback if the addition was placed on the other side.

The Board discussed this with Mr. Iacoangeli.

Ms. Peterson inquired if this issue presented was self-created; Mr. Iacoangeli stated yes.

Walter Hamilton (Applicant: Ted Ferenczy Lawyer) informed the Board that he was legally representing the applicant since he is absent as he is embarrassed to have created the issue. Mr. Hamilton stated that the applicant had made a mistake in constructing a building without a permit and did not understand that a permit was necessary for the addition to an accessory structure. The applicant is a licensed residential builder and was careful to comply with the Construction Code. When the applicant was informed to have a building permit, he didn't hesitate to go and apply for one and submitted the appropriate papers. The applicant was not allowed to do so because it violates not the building code but the zoning ordinance.

The only option is to require the applicant to demolish the structure he built or permit him to encroach on these zoning setback requirements by 18 inches. Mr. Hamilton stated that the applicant is looking for an act of grace that would require him to make some cosmetic improvements to the building. Mr. Hamilton stated that the applicant and his neighbors would lose property value with the tearing down.

Ms. El-Assadi stated that ZBA has made people bring down fences or cut down on bushes because they did not fit the code. It is not about giving grace, but it is important to follow the rules. This would create a precedent in the future.

Ms. Peterson inquired about the neighbors losing property value; Mr. Hamilton stated that the property is visible from the street and has an overall effect of either enhancing

or creating a detriment for everyone who wants property there. Ms. Peterson stated that the applicant for different color shingles of the extension showed no consideration for enhancement of the property value.

Ms. Peterson inquired about the hardship for removing the bay on the far left and building another bay on the far right, which would follow the zoning ordinance; Mr. Hamilton had no answer.

Mr. Iacoangeli stated that the Planning Department cannot compel the applicant to build another addition on the other side. Currently, the discussion is to grant a variance for the setback or have it removed.

Public Hearing opened at 7:15 PM

Hearing No Public Comments.

Public Hearing closed at 7:15 PM

Ms. El-Assadi informed the Commission and Planning Department that it was an option for the future if the applicant plans on building a bay on the other side, and Ms. El-Assadi stated and clarified that it is not an expectation.

MOTION: Ms. El-Assadi made a **MOTION** to deny the variance request at 1319 Davis Street to the setback requirements of Section 802 of the Township Zoning Ordinance for the construction of a detached garage addition within the building envelope as shown on the plot plan dated October 10, 2022, with the following conditions:

- The applicant shall demolish the constructed detached garage addition within sixty (60) days of the conclusion of this meeting.
- The applicant shall obtain all necessary permits before the demolition of the Building.
- For all of the reasons that were cited in the building planning department's report.

The **MOTION** was **SECONDED** by Mr. Eldridge.

Roll Call Vote: Mr. Hine (Yes), Mr. Eldridge (Yes), Ms. El-Assadi (Yes), Ms. Peterson (Yes), Ms. Kraycir (Yes). **MOTION PASSED.**

vi. **OPEN DISCUSSION FOR ISSUES NOT ON THE AGENDA**

- A. **PLANNING DEPARTMENT REPORT** – Mr. Iacoangeli informed the Commission that the planning department has two applications for October. Mr. Iacoangeli requested a meeting for October 4, 2023.
- B. **CORRESPONDENCE RECEIVED** – None
- C. **ZONING BOARD OF APPEALS MEMBERS** – None
- D. **MEMBERS OF THE AUDIENCE AND PUBLIC** – None

vii. **OTHER BUSINESS THAT MAY COME BEFORE THE ZONING BOARD OF APPEALS**

None

viii. **ADJOURNMENT**

MOTION: Ms. Kraycir **MOVED** to adjourn at 7:21 p.m. The **MOTION** was **SECONDED** by Mr. Eldridge and **PASSED** by unanimous consent.

Respectfully submitted by Minutes Services.