

CITY OF NORTHVILLE
Board of Zoning Appeals
July 6, 2016 – 7:30 PM
City of Northville – Council Chambers
215 W. Main Street

I. CALL TO ORDER:

As there were no officers present, Member McKindles asked the Recording Secretary to call roll.

II. ROLL CALL:

Commissioners: Present: Michelle Aniol – Alternate
David Marold
Ryan McKindles
Patti Mullen
Jay Wendt

Absent: John Callahan – Alternate – excused
Dominic Silvestri - excused

Also present: Sally Elmiger, Planning Consultant
Ken Roth, Mayor
4 residents

MOTION by Mullen, support by Marold, to elect Member McKindles as pro tem chairman for tonight’s meeting only.

Voice vote: Ayes: All. Nays: None. Motion unanimously carried.

III. APPROVAL OF THE AGENDA:

Motion Wendt, support by Aniol, to approve the agenda as published.

Voice vote: Ayes: All. Nays: None. Motion unanimously carried.

IV. MINUTES OF PREVIOUS MEETING: June 1, 2016

MOTION Aniol, support by Mullen, to approve the June 1, 2016 meeting minutes as published.

Voice vote: Ayes: All. Nays: None. Motion unanimously carried.

V. CASES TO BE HEARD – BY CASE:

- A. Case is called.
- B. Appellant presents case.
- C. Board questions & comments.
- D. Public comments on the case.

- E. A motion (usually to grant the variance) is made and seconded; discussed then voted upon; the results are announced by the Chair.

VI. CASE #16-04

**LAWRENCE J. GRIFFIN
523 W. DUNLAP STREET**

The applicant is seeking a variance to erect a new eight (8) foot tall fence along the rear property line on premises zoned R-1B, First Density Residential District, parcel number 48-002-02-0406-000. The City's Building Official has determined that a height variance of 1.5 feet is needed from Section 18.09 of the Zoning Ordinance to allow construction of an eight (8) foot tall fence along the rear property line.

Chairman Pro Tem McKindles invited the applicant to speak.

Lawrence and Pamela Griffin, 523 W. Dunlap Street, were present on behalf of this variance request. Mr. Griffin explained that they wanted the 8-foot fence in order to hide the generator, trash can, and shed that belonged to Star Manor, a senior residential facility that abutted their rear yard. Earlier in the year someone had actually hopped the fence and tried to get into the Griffin's doors. A police call was made. The view from their back yard was unsightly.

Additionally noise was an issue, including the employees' car music during nighttime shift changes, and alarm sound when employees left the Star Manor door open to take the trash out. Employees' conversations could get loud. The Griffins were hoping to reduce the amount of sound traveling to their property.

Last, Star Manor employees sometimes threw their personal trash over the fence, such as cigarette butts, lunch trash, etc. A higher fence would help deter this activity.

Chair Pro Tem McKindles read the case.

In response to a question from Chair Pro Tem McKindles, Mr. Griffin said they would be removing all existing fences along the rear property line in order to install the requested fence.

Alternate Aniol asked how long the Griffins had lived in this home. Mr. Griffin said they had moved in last September.

In response to a question from Member Marold, Ms. Griffin said their neighbors had previously installed a 10-foot wide fence in order to hide the dumpster from that property.

Chair Pro Tem McKindles confirmed that Star Manor had not filed a response to this variance request. He wondered if the Griffins had spoken with the owner of Star Manor regarding the constant nuisance factors. Mr. Griffin said he had spoken to the owner and the owner had agreed to resolve the issues. Ms. Griffin noted that they had called the police more than once. Also, they seemed to be having a rodent issue including mice and raccoons, originating from the Star Manor dumpster area.

Alternate Aniol asked if the Griffins had involved Code Enforcement staff to help with some of the issues. Mr. Griffin said they had not. They felt the fence would improve the view and help mitigate other nuisance factors. The fence would reach to the top of the generator, thus blocking their view of that equipment.

Chair Pro Tem McKindles encouraged the Griffins to reach out to Code Enforcement staff for nuisance issues that would not be resolved by the fence, should the variance be granted this evening.

Planning Consultant Elmiger noted that a variance request would require 4 affirmative votes in order to be granted.

Member Marold asked why an 8-foot high fence was being requested specifically. Mr. Griffin said that this height would exactly match the height of the generator.

Chair Pro Tem McKindles opened the public hearing. Seeing that no one came forward to speak, Chair Pro Tem McKindles closed the public hearing.

Chair Pro Tem McKindles asked Alternate Aniol to address findings of fact.

MOTION Aniol, support by Mullen, to approve the requested variance of 1.5 feet from Section 18.09 in order to construct an 8-foot tall fence along the rear property line, based on the following findings of fact:

1. Regarding practical difficulties, there were exceptional circumstances in this case in that the property abutted the Star Manor, a commercial/non single-family use. Nuisances generated by that facility could not be overcome by a 6-foot fence.
2. Regarding substantial justice, the requested 8-foot fence would mitigate the nuisance of the generator, the trash container, and other nuisance factors.
3. The situation was not self-created.
4. The variance requested was the minimum variance needed, as the requested height would match the height of the generator.
5. Regarding public safety, based on the applicants' explanation of trespassers over the existing fence, public safety would be enhanced by granting this variance.

A roll call vote was taken:

Aniol	yes
Marold	yes
McKindles	yes
Mullen	yes
Wendt	yes

Therefore the **motion carried unanimously.**

CASE #16-05

**PHILLIP & JENNIFER FRANCIS
896 CARPENTER**

The applicant is seeking a variance to construct a new house in the front-yard setback on Hill Street on premises zoned R-1B, First Density Residential District, parcel number 48-22-34-453-001. The City's Building Official has determined that a front-yard variance of 13 feet is needed from Section 15.01 of the Zoning Ordinance to allow construction of the house in the front yard.

Chair Pro Tem McKindles read the case.

Chair Pro Tem McKindles disclosed that he owned RAM & Associates, a real estate company, and held the real estate license for Jennifer Francis, an applicant in tonight's case. His real estate company was the selling broker on this property. Ms. Francis kept 100% of the commission and Chair Pro Tem McKindles had no pecuniary interest in the selling of the home or the outcome of tonight's request. Did the Board have any concerns with him sitting on this case?

Member Wendt expressed concern regarding Chair Pro Tem McKindles sitting on the case.

Discussion followed. If Chair Pro Tem McKindles were recused, there would be only four members left to act on this case this evening. Four affirmative votes were needed in order to grant a variance, so the decision would have to be unanimous. However, if the applicant wanted to postpone, they would have to pay fees and resubmit their application, as four members did constitute a quorum and the case could be heard this evening.

MOTION Wendt, support by Aniol, that Chair Pro Tem McKindles be recused from Case #16-05, as his personal and business relationship with the applicant constitutes a possible appearance of a conflict of interest.

Member Marold noted that Chair Pro Tem McKindles would not receive monetary gain from the granting of the requested variance, and the sale of the home was in the past.

Member Mullen thought that the personal and business relationship between Chair Pro Tem McKindles and the applicant was sufficient justification for recusal. While she had completed confidence in Chair Pro Tem McKindles' credibility, it was important to go through this process.

Ms. Francis confirmed that if they decided to postpone hearing this matter, not only would they have to resubmit, but also the case could not be heard until September.

Member Wendt asked to have a vote on the motion to recuse Chair Pro Tem McKindles. A roll call vote was taken:

Aniol	yes
Marold	yes
Mullen	yes
Wendt	yes

Therefore the **motion carried unanimously.**

At this time Member McKindles vacated the position of Chair Pro Tem and left the dais.

Discussion was held regarding whether or not to proceed with Case #16-05 with only four members of the BZA present. The applicants indicated that they wanted to proceed.

MOTION Mullen, support by Marold, to elect Member Wendt as the new Chair Pro Tem for Case #16-05.

Voice vote: Ayes: All. Nays: None. Motion unanimously carried.

Planning Consultant Elmiger gave the background for this case. The request was to construct a new home in the R-1B First Density Residential District. The minimum front yard setback in the district was

25 feet per the schedule of regulations. Footnote 16 in the schedule of regulations also applied, which was the average of surrounding properties plus 1 foot. There was only one property that sat to the east of 896 Carpenter, and its front yard setback was currently 26 feet. Therefore the required front yard setback on Hill Street was 27 feet for 896 Carpenter. The applicant was proposing a front yard setback of 14 feet. This would require a variance of 13 feet.

Mike Latimer, 986 Pontiac Trail, South Lyon, MI, said that he was the architect for this project. Applicants Phillip and Jennifer Francis, 101 South Ely, were also present. They were requesting a variance of 13 feet from the 27-foot second front yard setback on Hill Street, resulting in a home that would sit 14 feet from the lot line. Currently the existing home and detached garage sat 10.8 feet from the lot line. They had worked extensively to abide by the ordinances. However, they were presented with multiple factual difficulties, the first being the exceptional narrowness of the building envelope, due to the fact that there were 2 front yard setbacks on a lot that was just under 60 feet wide. The second difficulty was a large change in topography from front to back, which would make it very difficult and costly to keep the garage on the same level as the main living area and the master bedroom. The intent of the design was to create a home where the owners could grow old, putting all utilities on the first floor, etc. Granting the variance would provide substantial justice and would allow the Francis family to build a home that fit their needs, and would better reflect the context of the neighborhood. None of the issues were self-created and existed through the nature of the existing lot and existing home. The variance requested was the minimum necessary to achieve their goals and architectural style. The new home would not negatively impact public safety as the new home would be further from the street than the existing home was. The new home would seamlessly fit into the context of the surrounding homes and increase the value of the surrounding neighborhood. The homeowners had spoken to many of the surrounding neighbors and had received support for the requested variance.

Alternate Aniol asked if all the lots were the same width as the subject parcel, going along Hill Street from Carpenter to Grace and then to Center. Ms. Francis confirmed that no other lots along Hill Street were 60 feet wide. The same thing was true in the opposite direction. Mr. Francis said the property directly to the south was 100 feet wide. At some point that neighbor got 20 feet from the subject parcel. Every other parcel was approximately 80 feet; theirs was the only 60-foot parcel. The fact that it was a corner lot also created a further difficulty, with the 2 required front yards.

Chair Pro Tem Wendt opened the public hearing.

Kathy Mastantuono, 816 Carpenter, said she loved the proposed home and felt it would be a real improvement for their area.

Carol Tweadey, 859 Carpenter, spoke in favor of the proposed variance and the planned home, which she felt would enhance the neighborhood.

Lisa Buckland, 449 Hill Street, supported the requested variance. She appreciated the fact that the Francis's had communicated with their neighbors. She liked the proposed home. She also noted that historically there had been a swim pool where the current garage now was.

Chair Pro Tem Wendt closed the public hearing.

Member Marold noted that there were 3 supporting letters in tonight's packets, as well as the 3 people who had spoken in support of this request.

Member Aniol asked for more information regarding the topography of the property and how it affected the orientation of the proposed home.

Mr. Latimer said that that on Carpenter Street the topography was at its highest. On Hill, at the rear of the lot, the topography was at its lowest. If the garage were placed in the back, it would have to sit on the basement level of the house, which would require multiple steps. The intent for the home was to make it a place where the owners would stay for a long time so by eliminating those steps from the garage to the house, future accessible living would be much easier.

Member Mullen said that one of the difficulties was the slope of the lot. The other major difficulty was building a home on a 60-foot wide corner lot.

Chair Pro Tem Wendt noted that the property would have to maintain its own water on the lot. Mr. Latimer explained that by having an attached garage, rear yard green space was opened up. Right now there was a huge driveway between the garage and the house. Having the driveway in the front as planned would reduce the solid surface.

Member Mullen wondered if a rear yard detached garage placement could create flooding in the garage.

Brief discussion was held regarding the current structure, the general orientation of the lot, and the plans for the proposed new home.

Member Aniol said she couldn't read the topographical numbers on the site plan. Mr. Latimer directed the Members' attention to the side elevations provided, which showed an approximate 10-foot drop – or a 20% slope – over the 50-foot length of the home, which was a 20% slope. They were covering 28% of the lot.

Member Aniol indicated she was ready to make a motion.

MOTION Aniol, support by Marold, to approve the requested variance of 13 feet from Section 15.01 to allow a 14-foot front yard setback in order to construct a house at 896 Carpenter in the front yard, based on the following findings of fact:

1. Regarding practical difficulties, there were unique circumstances in the narrowness of the 60-foot corner lot, encumbered with 2 front yards and a significant slope.
2. There would be substantial justice in granting this variance
3. The situation was not self-created.
4. The variance requested was the minimum variance needed.
5. Regarding public safety, no public nuisance would be created and public safety would not be impacted.

A roll call vote was taken:

Aniol	yes
Marold	yes
Mullen	yes
Wendt	yes

Therefore the **motion carried unanimously.**

At this time Member McKindles rejoined the Board and resumed the office of Chair Pro Tem.

VII. PUBLIC COMMENTS:

None.

VIII. DISCUSSION:

None.

IX. ELECTION OF OFFICERS:

Chair Pro Tem McKindles suggested postponing election of officers, until more members were present.

X. ADJOURNMENT:

Motion Aniol, support by Mullen, to adjourn the meeting at 8:26 p.m.

Voice vote: Ayes: All. Nays: None. Motion Unanimously Carried.

Respectfully submitted,

Cheryl McGuire, Recording Secretary

Approved as published 8/3/2016