

CITY OF NORTHVILLE
Board of Zoning Appeals
January 3, 2018 – 7:00 PM
City of Northville – Lower Level Meeting Room
215 W. Main Street

I. CALL TO ORDER:

Secretary Callahan called the meeting to order at 7:00 p.m.

II. ROLL CALL:

Commissioners: Present: John Callahan
David Marold
Patti Mullen
Lou Ronayne (alternate)
Jay Wendt

Absent: Michelle Aniol (excused)
Ryan McKindles (excused)
Dominic Silvestri (excused)
Douglas Bingham (alternate – excused)

Also present: Sally Elmiger, Planning Consultant
Ken Roth, Mayor
Patrick Giesa, City Council liaison

III. APPROVAL OF THE AGENDA:

Motion Mullen, support by Marold, to approve the agenda as published.

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

IV. MINUTES OF PREVIOUS MEETING: December 6, 2017

It was noted that Alternate Bingham's first name should be corrected from David to Douglas in the Roll Call section.

Motion Ronayne, support by Mullen, to approve the December 6, 2017 meeting minutes as corrected.

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

Secretary Callahan explained that the meeting had inadvertently been advertised to begin at 7:30 pm. Therefore he asked for a motion to recess until 7:30 p.m.

MOTION Marold, support by Ronayne, to recess the meeting until 7:30 p.m.

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

Secretary Callahan recessed the meeting at 7:05 p.m.

Secretary Callahan reconvened the meeting at 7:30 p.m.

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 #18-01

**THOMAS OVERGAARD &
SUSAN KRUEGER
101 HILL STREET**

To consider a variance request on premises zoned R-1B, First Density Residential District, at 101 Hill Street, Northville, Michigan, 48167, parcel number 48-22-34-404-006. As illustrated on the property survey submitted with the application form, the applicant is seeking a variance from Section 18.09 to:

- A. Construct a six-foot tall privacy fence as follows:**
 - i. For a length of 47.5 feet in the front yard along the north property line;**
 - ii. For a length of 63.75 feet in the front yard along N. Center Street, ten (10) feet from the west property line; and**
 - iii. For a length of 47.5 feet in the front yard along Hill Street, 16.25 feet from the south property line, and**
- B. To construct a 4-foot tall metal fence for a length of 27.5 feet in the front yard on Hill Street.**

Secretary Callahan explained that he was in the 300-foot legal notice area for this case, and therefore should be recused from participation.

MOTION Mullen, support by Marold, to recuse Secretary Callahan from participation in this agenda item.

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

Secretary Callahan joined the audience.

Member Mullen assumed the responsibilities of Chair.

Member Marold read case #18-01. He noted that the applicants were seeking dimensional variances as outlined in their application. The applicants had submitted a statement supporting

their request, along with an aerial of the property, photographs of the 2 front yards (Center and Hill Streets), a warranty deed, and a plan view of the proposed fence line.

Acting Chair Mullen invited the applicants to speak.

Sarah Krueger and Thomas Overgaard, 101 Hill Street, were present on behalf of this application for four variances to enclose the yard at the west side of the house. Ms. Krueger explained that the portion of the property east of the house was much smaller than the portion west of the house. They would like to take advantage of the larger portion of yard by enclosing with it a fence.

Acting Chair Mullen asked if the property was useable without a fence. Ms. Krueger said it was useable, but the intersection was busy and she would not allow her dogs and children to play in that portion of the yard without a fence.

Acting Chair Mullen asked if the applicants had recently purchased the property. Ms. Krueger said they had purchased the house in August and moved in October.

Member Marold asked about the existing chain link fence on the north side of the property. Ms. Krueger said that fence ran between their property and the property to the north, and belonged to the northern property. Those neighbors had indicated that that fence would remain.

In response to a question from Member Wendt, Ms. Krueger said they had installed a wood fence where the ordinance permitted, in order to protect their children and dogs, and to give some privacy from the garage to the north that was very close to their property line. They had also installed aluminum fencing on the east and south, to the front elevation of the house.

Acting Chair Mullen asked if the applicants had been aware of the prohibition of fences in front yards when they purchased the home. Ms. Krueger said they were aware of this, and had submitted for the variance before they moved in.

Acting Chair Mullen asked Ms. Krueger to address the 5 criteria for determining whether a variance could be granted.

Ms. Krueger and Planning Consultant Elmiger referred to the comments in the December 14, 2017 review letter regarding the 5 criteria.

Planning Consultant Elmiger made the following comments:

- In her opinion the presence of the two front yards did constitute a practical difficulty, but the variance request could be minimized if the fence were located on the east side of the house, thus eliminating the need for a fence in the North Center Street front yard. Also a fenced-in area to the east of the house would be smaller than if the west side were fenced in (2,006 square feet vs. 3,026 square feet).
- Regarding substantial justice to the neighbors, fencing the east side of the property provided relief to the applicant while being consistent with justice to other property owners who had the same conditions, but had not located fencing in two front yards. Also, the fence could be lowered to 4 feet instead of the requested 6 feet.
- By eliminating the need for the fence along Center Street and lowering the fence to 4 feet, and if, in order to be consistent, a 4-foot aluminum fencing were used along Hill Street, the request

- would be considered the minimum variance necessary.
- Since the fence was not in the clear-corner zone, granting the variance should not impact public safety or create a public nuisance.

Ms. Krueger agreed to the suggested changes.

Acting Chair Mullen opened the public hearing.

Member Marold noted that a letter had been received from Mary Culik and Robert Sharrar, 902 Grace Street, Northville MI. Ms. Culik and Mr. Sharrar opposed the variance, noting especially the impact on visibility on Center Street at Hill and South Ely. They were also concerned that the proposed fence would change the open appearance of the neighborhood.

Elizabeth Borzym, 950 N. Center Street, said she lived 2 houses to the north, and was also concerned about visibility. In order to see the corner she had to look through standing trees and bushes, and the proposed fence would impede her main path of visibility. She asked that an open fence be installed.

Ms. Krueger said the proposed fence would be well behind all of the existing trees and foliage on their property. The fence would not go all the way to Center Street.

Building Official Strong commented that the City would look at the visibility issues at that corner and arrange to have the landscaping trimmed if it was causing a dangerous situation.

Seeing that no one else came forward to speak, Acting Chair Mullen closed the public hearing.

In response to a question from Member Marold, Ms. Krueger said that a 4-foot fence would be sufficient for her dogs and children. Ms. Krueger noted that she could not speak to the visibility issues Ms. Borzym was experiencing.

After brief further discussion regarding modifications to the variance request, Acting Chair Mullen indicated she was ready for a motion.

MOTION Marold, support by Ronayne, in the matter of ZBA Case #18-01, 101 Hill Street, Northville, MI, to grant the following variances from Section 18.09, as modified from the original request this evening:

- 1) To allow installation of a 4-foot high, 47.5-foot long privacy fence along the north property line.
- 2) To allow installation of a 4-foot high, 36.25-foot long privacy fence along the western boundary.
- 3) To allow installation of a 4-foot high, 47.5-foot long decorative aluminum fence along the southern boundary.

Based on the following findings of fact:

1. **Regarding practical difficulty, the applicant has demonstrated that there are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same Zoning District, and because of these circumstances, compliance with the strict letter of the restrictions would create practical**

- difficulties.
2. **Regarding substantial justice, granting the lesser variances than requested and as modified would give substantial relief to the owner of the property and be consistent with justice to the other properties.**
 3. **The problem and resulting need for the variance did not result from the actions of the applicant and/or the applicant's predecessor, and therefore the problem was not self-created.**
 4. **The Board is approving the minimum variance necessary, by working with the applicant to revise the variances requested in both length and height of the fence, and number of variances granted.**
 5. **The variances granted would not impact public safety or create a public nuisance, especially as the fence would not be located in the clear corner zone.**

Acting Chair Mullen called the vote.

Wendt:	No
Marold:	Yes
Ronayne:	Yes
Mullen:	Yes

Motion carried 3-1 (Wendt opposed).

Secretary Callahan rejoined the Board.

Member Mullen asked to be recused from the next agenda item as she was the applicant for that case.

MOTION by Marold, support by Ronayne, to recuse Member Mullen from discussion regarding Case #18-02.

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

CASE #18-02

**PATTI MULLEN
FARMERS MARKET
7 MILE & SHELDON**

To request an interpretation of Section 21.b.13 of the ordinance to determine if a name painted on the exterior of a building is considered a sign. The property in question is located in the Racetrack District (RTD) at the northwest corner of Seven Mile and Center Street, Northville, Michigan, 48167, parcel number 48-003-03-0226-001.

Member Ronayne read Case #18-02. Supporting materials included a letter from applicant Mullen, dated December 4, 2017, asking for an interpretation that her name on the three murals at the Farmers Market building at Seven Mile and Sheldon did not constitute a sign. The murals were put up without any reference to her business name or contact number or any other commercial message.

Member Ronayne also read a letter of support from Jody Humphries, Executive Director, Northville Chamber of Commerce, dated December 3, 2017. The letter emphasized the benefit to the community

represented by the murals on the Farmers Market building, and the importance of being able to recognize donors when they became part of a creative work such as the murals.

Supporting documentation also included photographs of the murals in question, along with photographs of the flag mural behind the Marquis Theatre, and the mural on the Old Village Workshop building.

Secretary Callahan invited the applicant to speak.

Patti Mullen, 409 Covington Court, Northville, MI, said that she had sponsored the Northville Farmers' Market murals, and was now asking the BZA for an interpretation that the inclusion of her name on the murals not be considered a sign. She pointed out other murals in Northville, including the Old Village Workshop mural which featured lettering from the Stinson Aircraft Company, and the flag mural behind the Marquis Theatre, which included the name of the artist at the bottom: Von Buskirk. While the Stinson Aircraft Company was no longer in business, the mural did feature words as well as artwork, and was not considered a sign.

In response to comments from Members Wendt and Ronayne, Ms. Mullen said no company name or phone number was included with the murals – just her name.

In response to a request from Member Wendt, Planning Consultant Elmiger read the definition of sign in Article 21 of the Zoning Ordinance. The Ordinance did not define mural, but Section 26.01(9) stated that terms not defined in the ordinance should have the meaning customarily assigned to them. Therefore an Oxford Dictionary definition of mural was included in the review letter: “a painting or other work of art executed directly on a wall.”

Member Marold felt there was a significant difference between a sign and a mural. In his experience teaching marketing at Eastern Michigan University, he felt that the definition of a sign implied a commercial or business-oriented purpose.

Member Ronayne asked how this matter came to the City.

Building Official Strong said that Ms. Mullen contacted him as they were applying the murals and asked if it was appropriate to put *Sponsored by Patti Mullen* on the murals. His reading of the ordinance was that the murals' artwork did not constitute a sign, but the lettering with Ms. Mullen's name did constitute a sign, as it was painted on the three walls, and was visible from public streets. He felt it was also directing people to a service, as Ms. Mullen used her name in her real estate business. At the time of that conversation, there was discussion about how big the lettering could be, etc. For instance, Von Buskirk's name below the mural behind the Marquis Theatre was sized so that it could be read by someone walking reasonably close to the building, but could not be read from Dunlap Street. However, in spite of that conversation, the applicant did go ahead with having her name painted on the three sides, large enough to be read from the public sidewalk and from the street.

Secretary Callahan opened the public hearing.

Susan Haifleigh, 308 S. Wing Street, spoke in support of the murals as they were currently constituted. She had no problem with Ms. Mullen's name being displayed. The building had been an eyesore for over 20 years, and the murals were a huge improvement. Ms. Haifleigh referred to the six intended purposes of a sign as listed in the zoning ordinance (Section 21.01.a.Intent), and pointed out

that in her opinion Ms. Mullen's name did not meet any of those purposes for a sign. She felt it was important to encourage people to sponsor public artwork including murals, including giving them recognition for that sponsorship.

Laurie Flower, 201 Fairbrook St, Northville, MI spoke in favor of including Ms. Mullen's name on the murals. She lived close to this building, which had been distressingly ugly for a long time. As a professional artist, she supported including the donor's name on the murals. She did not see Ms. Mullen's name as a business advertisement.

Elizabeth Borzym, 950 N. Center Street, Northville, MI supported including Ms. Mullen's name on the murals. She agreed that including the donor's name did not signify intent to advertise a business.

Jody Humphries, Executive Director, Northville Chamber of Commerce, reiterated her support for including Ms. Mullen's name with the murals, as outlined in the letter from the Chamber. If Northville was going to move forward, they needed to allow private fundraising initiatives, including recognizing donors of public art.

Dan Ferrara, Chairman of the Northville Chamber of Commerce Board of Directors, owner of the Northville Gallery, 123 E. Main Street, and the Director of Development for the Tipping Point Theatre, spoke in favor of allowing Ms. Mullen's name to remain on the murals. Her name was incorporated into the murals as part of the artwork, and did not appear as a sign separate from the art. Also, from a fundraising standpoint, it was important to provide an incentive for people to contribute to the arts. He did not think incorporating a donor's name constituted a sign.

Seeing that no one else came forward to speak, Secretary Callahan closed the public hearing.

Member Wendt said he felt the Planning Commission should look at this issue and perhaps provide language in the Ordinance as to what constituted a mural vs. what constituted a sign.

Planning Consultant Elmiger reminded the Board that tonight's question was whether the words *Patti Mullen* constituted a sign under the Zoning Ordinance.

Member Ronayne said he was a realtor and thus shared Ms. Mullen's profession. He did not think adding Ms. Mullen's name to the murals constituted a sign. He noted that originally Remerica Associates Hometown had also been a part of the murals, but that had been removed. He supported leaving Ms. Mullen's name on the murals.

Secretary Callahan said that his thoughts on reading the ordinance were that in order for the words *Patti Mullen* to be defined as a sign, there would have to be a clear commercial purpose, and he did not see that in this case.

Member Marold said he also thought the words *Patti Mullen* incorporated into the murals were not a sign. The words had no clear commercial purpose, and were blended into the artwork of the murals. He also expressed appreciation to the members of the public that had spoken this evening.

Member Ronayne agreed that the Planning Commission needed to look at this issue.

Member Wendt commented that the way the ordinance currently read, the words *Patti Mullen* did constitute a sign. Member Marold disagreed, and said that the intent of the words was not for commercial marketing or advertising.

Secretary Callahan said he felt a motion giving the interpretation that the words *Patti Mullen* did not constitute a sign should clearly state that there was a difference between a person's name as opposed to an organization or business name that would be intended as a commercial purpose.

Motion Ronayne, support by Marold, that the Board of Zoning Appeals renders an interpretation that the three murals on the Farmers' Market building located at Seven Mile and Sheldon Roads that include the name Patti Mullen, as represented this evening, are not a sign. This interpretation is specific for these murals and this building only, and its based on the fact that only a person's name is being shown with no apparent commercial or business purposes, and is not advertising a commercial or business entity.

Secretary Callahan called the vote.

Wendt	yes
Marold	yes
Ronayne	yes
Callahan	yes

Therefore the motion passed unanimously.

VII. PUBLIC COMMENTS:

None.

IX. DISCUSSION:

None.

X. ADJOURNMENT:

Motion Marold, support by Wendt, to adjourn the meeting at 8:50 p.m.

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

Respectfully submitted,

Cheryl McGuire, Recording Secretary

Approved as amended 03/07/2018