

CITY OF NORTHVILLE
Board of Zoning Appeals
February 7, 2018 – 7:00 PM
City of Northville – Council Chambers
215 W. Main Street

I. CALL TO ORDER:

Chair Silvestri called the meeting to order at 7:00 p.m.

II. ROLL CALL:

Commissioners: Present: Michelle Aniol
John Callahan
Ryan McKindles
Dominic Silvestri
Jay Wendt

Absent: David Marold (excused)
Patti Mullen (excused)
Douglas Bingham (alternate – excused)
Lou Ronayne (alternate – excused)

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

III. APPROVAL OF THE AGENDA:

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

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

IV. MINUTES OF PREVIOUS MEETING: January 3, 2018

Members Aniol, McKindles, and Silvestri said they would abstain from voting on minutes approval, as they were not present at the January 3, 2018 meeting.

Motion Wendt, support by Callahan, to approve the January 3, 2018 meeting minutes as published.

Voice vote: Ayes: 2. Nays: None. Abstentions: 3 (Aniol, McKindles, Silvestri). Motion carried 2-0.

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 #18-03

**CHRISTOPHER & KATARINA SCHUTT
627 NATALIE**

To consider a dimensional variance request on premises zoned R-1B, First Density Residential District, at 627 Natalie Lane, Northville, Michigan, 48167, parcel number 48-002-02-0441-307. As illustrated on the property survey submitted with the application form, the applicant is seeking a variance from Section 18.09 to construct a four-foot tall aluminum fence in the front yard of Randolph Street as follows:

- a. For a length of 20 feet, 10 feet behind the front face of the house;**
- b. For a length of 48 feet parallel to Randolph Street, five (5) feet from the north property line (or six feet from the sidewalk); and**
- c. For a length of 16 feet, on the eastern property line.**

Member McKindles read Case #18-03 and reviewed materials in the application packet. Three variances were being requested, and would be heard as one case He also noted that the Board had received a letter from Patricia Thull, who opposed this variance request.

Applicants Katarina and Christopher Schutt, 627 Natalie, were present on behalf of this application. Ms. Schutt explained that they had moved to 627 Natalie about 1-1/2 months ago. They had a young child and a dog. As their home was on the corner of Randolph Street and Natalie Lane, and as Randolph was a busy street, they were asking to fence part of their property on Randolph Street so that they could have a yard for their daughter to play in.

Chair Silvestri explained that under the ordinance, a corner lot had 2 front yards. The ordinance prohibited a fence from exceeding the rear line of the home. What was the practical difficulty in this case?

Ms. Schutt said their lot was small. In order to maximize the use of the property, and to make sure their daughter and dog didn't interfere with pedestrian and car traffic on Randolph, they wanted to make sure the yard was safely fenced. There was a hill along Randolph, and the proposed location of the fence was behind the bushes already planted there. The fence would not be visible to anyone walking or driving by.

In response to a question from Chair Silvestri, Ms. Schutt said the bushes were set back 5 feet, and the fence would set back one foot beyond that. The fence would be 4 feet high and would not exceed the height of the bushes.

Chair Silvestri asked why the fence was proposed to be 10 feet from the front of the house. Ms. Schutt said they wanted an L-shaped back yard for aesthetic purposes.

Chair Silvestri pointed out that if the fence were moved back to the rear line of the house they would not need as many variances, or the need for a variance wouldn't be as great.

Ms. Schutt said they had explored that option. However, the lot was so small that moving the fence to the rear line of the house would reduce the useable backyard space by almost 50%. They were requesting the portion along the side of the house to allow extra space for their daughter and dog to feel safe from pedestrians and cars.

Chair Silvestri asked the width of the space from the rear corner to the proposed fence line along Randolph. For the space gained was it even worth applying for a variance? Planning Consultant Elmiger said that the area in the front yard along Randolph Street would add 930 square feet to the fenced in area. The rear yard was about 1,000 square feet.

Ms. Schutt emphasized that the fencing along Randolph would not be visible to pedestrians or cars, but would make the yard safer.

Regarding practical difficulty and requesting the minimum variance necessary, Chair Silvestri asked if the applicants would consider a lesser variance, especially for the fence line parallel to Natalie Lane. Ms. Schutt replied that they were concerned with securing the side of the house along Randolph, which had heavy pedestrian and traffic use.

Member Callahan said that Ms. Schutt had indicated that a primary reason for requesting the variance was to maximize use of the property. What prevented the applicants from maximizing the property if only the rear yard was fenced? It seemed to him that the yard along Randolph could be used even if it wasn't fenced.

Ms. Schutt explained that the house took up a significant portion of the property. Although the side along Randolph Street was legally considered a front yard, it was in reality the side of the home that was the majority of their rear yard. If that portion wasn't fenced, they wouldn't feel safe having their child or dog play there.

Member Callahan asked if the applicants understood the size of the home and the size of the lot when they purchased it. Ms. Schutt said they did understand those things, but they hadn't understood that the portion along Randolph was considered a front yard.

Member Aniol asked what type of fence was being proposed. Ms. Schutt said they would install a 4-foot tall black aluminum fence with a wrought-iron appearance.

Member Aniol asked why the applicants weren't considering fencing the other side of the property along the interior side lot line. Ms. Schutt explained that their home was very close to their neighbor's home, and there was a path there; there really wasn't useable yard space on that side of the home.

Regarding substantial justice, Member Aniol said that there were no other fences along Randolph that were in the front yard.

Ms. Schutt pointed out that there was a chain link fence across the street that ran along Randolph Street. Planning Consultant Elmiger explained that that property had over 2 acres, and a fence in the front yard was therefore permitted.

Brief discussion was held regarding the fence ordinance generally, which was in process of being

revised.

Member Callahan commented that there was already a dense hedge on the top of the berm along Randolph Street. Ms. Schutt said they would like to make the hedge even denser. They just needed the fence for safety reasons; it would not be visible from the road.

Member Callahan said that for him, the question was whether there was a practical difficulty in this case.

Member McKindles was concerned as to whether this request was for the minimum variance necessary. Without a variance, the applicants could have a smaller back yard that was fenced. Why was a larger back yard necessary?

Ms. Schutt said they could use the smaller back yard. The problem was having a child play in the yard along Randolph, which had heavy traffic and pedestrian use. The fencing along Randolph would be minimal and visually pleasing. They were already asking for a reduced amount of fencing along Randolph – just enough to extend from the rear of the home an extra amount to allow an L-shaped yard.

In response to questions from Members McKindles and Callahan, Ms. Schutt said the berm and hedge/trees extended all the way to the asphalt.

Chair Silvestri opened the public hearing.

Pete Ewasek, 571 Randolph Street, said they lived next door to the subject property. He was concerned about a fence along his northern front property line, running along the edge of their driveway. They had lived there for 10 years and never had an issue with safety.

Ms. Schutt said that was their rear property line. The fence would not impact a large pine tree there. Also, they were not constructing a privacy fence. Member Aniol pointed out that the fence along the rear property line could be constructed as a matter of right.

John Jamison, Natalie Lane, supported the variance request. A 4-foot high fence along Randolph would not be seen.

Jennifer Luikart, 521 W. Cady, opposed granting the variance request. She had lived on a corner lot for 22 years. Part of living on corner lots was having 2 front yards. Fences gave a subdivision look; in this case the homeowners could have a fence in their rear yard.

Chair Silvestri noted that the decision tonight would not set a precedent for future cases; each zoning application was decided on its own merits.

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

In response to a question from Member Aniol, Ms. Schutt said the front door of their home was on Natalie Lane and there was a back door that faced the rear yard.

Hearing no more discussion, Chair Silvestri indicated he was ready for a motion.

Motion McKindles, support by Aniol, in the matter of Case #18-03, 627 Natalie Lane, to grant the requested variance from Section 18.09 in order to construct a four-foot tall aluminum fence in the front yard of Randolph Street as follows:

- a. For a length of 20 feet, 10 feet behind the front face of the house;
- b. For a length of 48 feet parallel to Randolph Street, five (5) feet from the north property line (or six feet from the sidewalk); and
- c. For a length of 16 feet, on the eastern property line.

Based on the following findings of fact:

1. The presence of 2 front yards presents a practical difficulty on this lot,
2. Regarding substantial justice, the presence of the berm and the dense growth on the berm hides the proposed fence.
3. The problem and resulting need for the variance did not result from the actions of the applicant and/or the applicant's predecessor. The difficulty of the 2 front yards is not self-created.
4. The proposed fence represents the minimum variance necessary for the applicants,
5. The variance granted will not impact public safety or create a public nuisance.

And with the following conditions:

1. The fence be no higher than 48", and be constructed as a decorative transparent fence, not a privacy fence.
2. The landscaping be maintained in a thriving condition; with trees and bushes replaced when they are dead or damaged.

Chair Silvestri asked for a roll call vote:

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| Aniol | yes |
| Callahan | no |
| McKindles | yes |
| Wendt | no |
| Silvestri | yes |

Motion carried 3-2 (Callahan, Wendt opposed).

CASE #18-04
NORTHVILLE HISTORICAL SOCIETY
315 GRISWOLD

To consider a request for a use variance on premises zoned R-1B, First Density Residential District, so that the building may be leased for meeting, counseling, and office space to a non-profit organization called the Living and Learning Enrichment Center. Use variances are determined by considering the standards of Section 25.04(c) of the ordinance. The property in question is part of the Mill Race Village campus, and is located at 315 Griswold, Northville, Michigan, 48167, parcel number 48-001-03-0720-301.

Member McKindles called Case #18-04 and reviewed materials in the application packet, including the minutes from the January 2, 2008 meeting wherein a variance was granted for a different use than that proposed this evening. There were 9 letters submitted in support of the application, specifically in support of the use in question.

Mark Chester, Board of Directors, Northville Historic Society, was present on behalf of this application. They were asking for this use variance in order to lease the facility at 315 Griswold to a different non-profit organization than was approved in 2008. In this case the use in question served autistic youth.

Mr. Chester broached the idea of obtaining a permanent variance so that they didn't have to come before the ZBA every time the lessee changed for this property. City Council already had to approve the final lease, and also had to approve the lease every 2 years, even when the same tenant stayed in the building.

Mr. Chester said the house had not been a residence for 20 years.

Chair Silvestri asked if the new tenant was similar to the one approved in 2008. Mr. Chester said the previous tenant had offered grief counseling. The new tenant would counsel and help autistic youth to develop life skills. He noted that in the Carlisle/Wortman review letter there had been an assumption that the autistic youth would always be inside; however, they would definitely utilize the outdoors when weather permitted.

Discussion followed regarding the request for a permanent use variance for this property. Several commissioners hesitated to consider this, as they could not foresee what types of uses might want to locate there in the future. Planning Consultant Elmiger advised that if the BZA granted a permanent non-specific office use variance, City Council would not have the ability to limit the type of use beyond that.

In response to a question from Member Aniol, Planning Consultant Elmiger said the Master Plan designation for the area was *park*. The zoning was First Density Residential R-1B, and parks were a special land use under that classification. Accessory offices to the permitted use were also allowed. However, the use in question was not accessory to the use.

Member Aniol asked for more information regarding the original special land use that permitted Mill Race Village, a publicly owned historical village, to operate in the zoning district. Depending on the terms of the original special land use, this request for a variance might not be necessary.

Discussion followed.

Planning Commission Elmiger explained that Mill Race Village was permitted as a special land use, and accessory buildings, structures and uses customarily incidental to the special land use were also permitted. In tonight's case, the use was not accessory to the permitted use.

Member Aniol pointed out that the Historic Society had fund raising as its responsibility; renting the building in question was to raise funds for the Society and the Village. Planning Consultant Elmiger said this did not give the Historical Society license to use the building for any use – the use had to be consistent with the Zoning Ordinance.

Referencing the minutes of the January 2, 2008 meeting when the previous special use was approved, and specifically referring to Planning Consultant Wortman's comments in that case, Member Aniol reiterated that she would like to see the original terms of the special land use granted Mill Race Village, especially regarding whether office uses in general were granted under the special land use.

Planning Consultant Elmiger reiterated that Mill Race Village could have an office for its own use. In this case the use was a separate entity and must receive a use variance as the first use had in 2008.

Member Aniol was concerned that the Master Plan designated this area as a park, and approving an office space for a separate entity was a difficult stretch.

After further discussion, Planning Consultant Elmiger said she would research the records to see if she could discover the terms of the original special land use. In the meantime, she did feel that the process followed in 2008 educated the Board in how to move forward in this case.

Chair Wendt wondered if the Society would ever entertain renting the space to a for-profit enterprise. Mr. Chester said they were not inclined to do that. In any event, tonight's request was for a non-profit center, as described.

Chair Silvestri opened the public hearing.

Robert Sochacki, 223 Linden, spoke to property tax implication should the Village rent to a for-profit enterprise. Since the City actually owned the property in question, he wondered why a representative of the City was not here asking for the variance. The Historical Society maintained the buildings, raised funds for programming, etc., including renting facilities for weddings and other events. Part of their fund raising involved renting out 315 Griswold. Would the City have to come to the BZA if they wanted to construct a building on other public property, such as at Wing and Cady?

Planning Consultant Elmiger said the City was not exempt from the Zoning Ordinance.

A discussion of process followed. If the application were denied tonight, what recourse would the Historic Society have? While the matter could be re-opened at the next meeting should there be cause to do so, the better course would be to table the discussion until further information could be gathered.

Member Aniol said she could not support this request without that further information. However, there might be more BZA Members present at the next meeting, allowing for a vote to pass with one or two nay votes. Also, it was possible a special use approval should go to the Planning Commission.

Gary Paver, 505 Griswold, said that he wanted to correct the record of past meeting minutes, which claimed that the subject property – 315 Griswold – was the only house on the south side of Mill Pond. He also lived on the south side of Mill Pond. He gave some history of the area, and was concerned regarding the proposed use, specifically the dangers of having autistic children so close to the hill that led to the water.

Seeing that discussion had ended, Chair Silvestri closed the public hearing.

Mr. Chester requested that the matter be tabled until the next meeting, in order to give the Planning Consultant time to gather more information.

Member Aniol wanted it to be a matter of record that she would like to have the Planning Commission look at Mill Race Village in terms of the Master Plan and perhaps address the rental use of 315 Griswold.

MOTION Callahan, support by Aniol, to table Case #18-04, Northville Historical Society, 315 Griswold, to the March 2018 BZA meeting, in order to gather more information.

Chair Silvestri called a voice vote:

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| Aniol | yes |
| Callahan | yes |
| McKindles | yes |
| Wendt | yes |
| Silvestri | yes |

Motion carried unanimously.

VII. ELECTION OF OFFICERS

Motion Aniol, support by McKindles, that the current slate of officers be re-elected: Chair Silvestri, Vice Chair McKindles, Secretary Callahan.

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

VII. DISCUSSION:

None.

VII. ADJOURNMENT

MOTION by McKindles, support by Aniol, to adjourn the meeting at 8:38 p.m.

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

Respectfully submitted,
Cheryl McGuire, Recording Secretary

Approved as published 03/07/2018