

Village of Bellaire

Zoning Board of Appeals

Leslie Meyers, Chairperson

Board Members: Dan Bennett, Lori Smalley, Colette Stanish and Scott Udell

ZBA Alternate, Robert Massey

MEETING MINUTES

June 24, 2020

7:00 PM

I. Call to Order: The meeting was called to order at 7:00 PM.

II. Roll Call Attendance:

Present: Dan Bennett, Robert Massey, Lori Smalley, Scott Udell, Leslie Meyers

Absent: Colette Stanish

Staff Present: Nicole E. Essad, Zoning Administrator

Also Present: Mike Walsh, Richard Skendzel, and Bill Drollinger

III. Approval of Agenda: The agenda was approved as presented.

Motion by Smalley, seconded by Udell to approve the agenda as presented. Roll Call: Smalley-yes, Udell-yes, Bennett-yes, Massey-yes, Meyers-yes. Motion Passed.

IV. Approval of Minutes: The minutes of the April 17, 2019 meeting were approved as presented.

Motion by Smalley, seconded by Meyers to approve the minutes of the April 17, 2019 meeting as presented. Roll Call: Smalley-yes, Meyers-yes, Bennett-yes, Massey-yes, Udell-yes. Motion Passed.

V. Conflict of Interest: Member Bennett stated he had a conflict of interest for the variance as he is the Village President.

VI. Public Comment: None.

VII. Old Business:

a. Election of Officers: Chairperson Meyers stated that she was currently the Chairperson, and the Vice Chair was currently Member Bennett. Zoning Administrator Essad stated that Member Smalley was currently the Secretary. Chairperson Meyers opened up nominations for officers. She stated she was willing to continue as Chairperson.

Motion by Udell, seconded by Smalley for Meyers to stay the Chairperson. Roll Call: Udell-yes, Smalley-yes, Bennett-Abstain, Massey-yes, Meyers-yes. Motion Passed.

Chairperson Meyers asked for a nomination for Vice Chair. Member Smalley asked if Member Stanish could be Vice Chair.

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Motion by Smalley, seconded by Meyers to have Stanish be Vice Chair. Roll Call: Smalley-yes, Meyers-yes, Bennett-Abstain, Massey-yes, Udell-yes. Motion Passed.

Chairperson Meyers asked Member Smalley if she was willing to stay as Secretary.

Motion by Meyers, seconded by Udell to have Smalley continue as Secretary. Roll Call: Meyers-yes, Udell-yes, Bennett-Abstain, Massey-yes, Smalley-yes. Motion Passed.

- b. Meeting Dates:** The meeting dates for the “as needed” 2020-2021 meetings and for the 2021 annual meeting were accepted as presented.

Motion by Meyers, seconded Smalley, to accept the meetings dates as presented. Roll Call: Meyers-yes, Smalley-yes, Bennett-yes, Massey-yes, Udell-yes. Motion Passed.

- c. Public Hearing – Variance Request 401 E. Cayuga St (Parcel # 05-41-010-047-00):** Chairperson Meyers opened the Public Hearing at 7:17 PM. Chairperson Meyers then asked the applicant to present the request. Richard Skendzel, the architect for Mike Walsh (owner of the property), stated that Mr. Walsh would like to use this property as a small hotel, which he believes is a use by right in the Zoning District. He further stated that in order to do that a variance needs to be granted for a barrier free ramp on the Maple Street side of the existing building. He stated that the existing building will not be any larger. He further stated that the building code states that all ground level hotel rooms must be Type-B Sleeping Units. Mr. Skendzel stated that a Type-B Sleeping Unit is handicap accessible but is not completely barrier free. He also stated that one ground level room must be completely barrier free. He went on to explain that two ground level rooms would be accessed off the proposed barrier free ramp, one of which was a completely barrier free unit, and the other was a Type-B Sleeping Unit. The third ground level room would be accessed at grade. The fourth hotel room is on the second level and accessed via a staircase. Mr. Skendzel stated that the barrier free ramp would be in the setback, and actually a portion of the building is in the setback. He stated that the request is to allow the barrier free ramp to be built to be within two feet of the Western property line. Member Udell asked why the applicant was calling the use a hotel and not an Airbnb. Zoning Administrator Essad stated that is because the Zoning Ordinance defines a hotel and a hotel is a permitted use (use by right) in that district. Mr. Skendzel also stated that this is a commercial building and not a residence, and keeping it as a commercial structure is appropriate.

Chairperson Meyers asked for any public comments. There were no oral public comments. Zoning Administrator Essad stated that there were three written public comments included in the members’ packets. Chairperson Meyers then read the written public comments. – **Copies of each letter are attached and incorporated herein to these minutes.** – All written comments were in support of the variance.

Zoning Administrator Essad then explained that the property subject to the variance request is a 50-foot lot of record, which means that it is smaller than what the Zoning Ordinance requires. She also stated that the Americans with Disabilities Act (hereinafter the “ADA”) applies to this request. Zoning Administrator Essad stated that the Village Attorney Bryan Graham gave the ZBA a memorandum explaining the ADA and how it applies. She then summarized the memorandum. Zoning Administrator Essad stated that she drafted Proposed Findings of Fact for the standards under Section 9.04.1.C.1 of the

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Zoning Ordinance. Zoning Administrator Essad then went on to explain that there are eight (8) proposed exhibits that the ZBA could consider. She then went on to explain that each finding of fact needs to rely on an exhibit or on something that the applicant or the public has stated or provided. She then stated that the ZBA must go through all the findings for all of the standards. Zoning Administrator Essad then explained and summarized her written report for the ZBA.

Chairperson Meyers asked if the current ramp on the property was not useable or did not meet standards. Mr. Skendzel stated that the current ramp would only provide to one of the rooms, and all ground level rooms need to have barrier free access according to the Michigan Building Code. Member Udell asked if it was necessary to keep the current ramp if the new barrier free ramp was built. Mr. Skendzel stated that no it is not necessary, from a code perspective, to keep the current ramp if the new barrier free ramp was granted a variance. Member Udell stated that he was all for fixing up the area and making it beautiful but he thinks that it is pretty busy with a ramp that is not necessary to be there, and it would clean up the corner. Chairperson Meyers asked if there were any other questions for the applicant or comments from the members of the ZBA. Member Smalley asked about the parking spaces included on the drawing. Mr. Skendzel explained where the parking would be. Member Smalley then asked about where people would check in. Mr. Walsh explained that it would be off site. Member Smalley then stated that no one would be there on site when someone needs towels or if something breaks. She then asked if people would just call a number. Mr. Walsh stated that was correct. Zoning Administrator Essad reminded the ZBA that the reason for this meeting was for a variance request only, not a site plan review. Member Smalley then stated she thinks that the parking spaces would be shortened because of the ramp. Mr. Skendzel stated that the barrier free ramp would be in front of the parking space, but there is still 18 feet of space in depth to the pavement of Maple Street. Chairperson Meyers stated that she understands that the ZBA is not here for a site plan and she is sure that the Planning Commission will take those things into consideration. She then asked if there were any other questions for the applicant. There were none.

Chairperson Meyers closed the public hearing at 7:39 PM.

Attached and incorporated herein to these minutes is the signed Decision and Order dated 6-24-2020

Deliberations began. Zoning Administrator Essad explained that the ZBA had the exhibits and the Proposed Findings of Fact in front of it. She then directed the ZBA to the Proposed Findings of Fact. Zoning Administrator Essad went through all of the General Findings of Fact and it was the consensus of the ZBA that all four (4) of those findings applied. **(See Attached Decision and Order, pg. 2).** Zoning Administrator Essad then moved on to the Specific Findings of Fact Under Section 9.04.C.1. The first standard under that section was read. **(See Attached Decision and Order, pg. 2).** It was the consensus of the ZBA that there were five (5) findings that were found to support that standard. **(See Attached Decision and Order, pg. 2-3).** There were no findings that did not support the standard. It was the consensus of the ZBA that this standard was met.

Zoning Administrator Essad then read the second standard under section 9.04.C.1. **(See Attached Decision and Order, pg. 3).** She went on to explain that the ADA reasonable accommodations would apply to this standard. There were four (4) findings that were found to support the standard. **(See Attached Decision and Order, pg. 4).** It was the consensus of the ZBA that three (3) of the proposed findings would be removed, because the ZBA did not agree with them. Zoning Administrator Essad

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cautioned the ZBA about using outside knowledge of the building and for it to rely on the exhibits and statements in front of them. Zoning Administrator Essad stated there could be a proposed finding that would not support the standard; however, the ADA applies to this standard and therefore reasonable accommodations must be made. Discussion was held about whether this standard had been met. This standard was tabled for further consideration at the end of the deliberations.

Zoning Administrator Essad then went on read the third standard under Section 9.04.C.1. **(See Attached Decision and Order, pg. 5)**. It was the consensus of the ZBA that there were four (4) findings that supported this standard. **(See Attached Decision and Order, pg. 5)**. Zoning Administrator Essad stated that there could be one (1) proposed finding that did not support the standard; however, the ADA applies to this standard as well. There was discussion about whether this standard has been met. It was the consensus of the ZBA that this standard was met.

Zoning Administrator Essad then read the fourth standard. **(See Attached Decision and Order, pg. 5)**. It was the consensus of the ZBA that there were two (2) findings that supported this standard. **(See Attached Decision and Order, pg. 5)**. It was the consensus of the ZBA that this standard was met.

Zoning Administrator Essad then read the last standard. **(See Attached Decision and Order, pg. 5)**. It was the consensus of the ZBA that there were two (2) findings that support this standard. **(See Attached Decision and Order, pg. 5)**. It was the consensus of the ZBA that this standard was met.

The ZBA then went back to the second standard for further discussion. **(See Attached Decision and Order, pg. 3)**. Chairperson Meyers stated she wanted to make a motion taking into consideration the findings of fact that supported the standards. **(See Attached Decision and Order)**. She then asked if any of the members would make a motion to support all of those findings of fact. Member Udell made a motion, and Member Smalley seconded. Zoning Administrator Essad clarified that the motion made by Member Udell and seconded by Member Smalley was: that the application for a dimensional variance to reduce the side setback to allow development within two (2) feet of the lot line for the property located at 401 E Cayuga Street, Bellaire, Michigan be granted based upon the findings of fact and pursuant to the following conditions, if any. Member Udell stated yes that was the motion made. Member Smalley agreed. Chairperson Meyers asked if there was any further discussion. Member Smalley stated that now the ZBA was voting on whether it was granting or denying the request, solely based upon the findings of fact that were kept. Zoning Administrator Essad stated yes, because the ZBA took out the proposed findings of fact that it did not agree with and that did not support the standards based upon the discussion of Chairperson Meyers. Member Smalley asked for clarification about whether the proposed findings of fact that did not support the standards were to be included. Zoning Administrator Essad stated that based upon Chairperson Meyers' discussion and the motion made pursuant to that discussion, the ZBA was including the proposed findings of fact that supported the standards. **(See Attached Decision and Order)**.

Motion by Udell, seconded by Smalley, that the application for a dimensional variance to reduce the side setback (West side/Street side) to allow development within 2 feet of the lot line for property located at 401 E. Cayuga Street, Bellaire, Michigan (Parcel ID 05-41-010-047-00) be granted based upon findings of fact and pursuant to the following conditions, if any. Roll Call: Udell -yes, Smalley -yes, Bennett -Abstain, Massey -No, and Meyers -yes. Motion Carried.

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Attached and incorporated herein to these minutes is the signed Decision and Order dated 6-24-2020

VIII. New Business: None.

IX. Correspondence/Reports:

a. Zoning Administrator's Report: Zoning Administrator Essad stated that there are four hours of training required during the members terms. She stated she would like to hold a joint training with the Planning Commission. She also asked for members to let her know if they have read the Zoning and Planning Magazines. Zoning Administrator Essad also discussed the need for another alternate member for the ZBA. She asked if any member had anyone in mind. Chairperson Meyers stated that it is very hard to find volunteers, and that maybe the Zoning Administrator should look into changing the requirement of two (2) alternates in the bylaws. Chairperson Meyers thought it was a good idea to get the Planning Commission and the ZBA together for training. Zoning Administrator Essad stated that she would like the ZBA to meet more frequently in order for the ZBA to know what is going on with the Zoning Ordinance and with the Village. Chairperson Meyers stated that she does not want to meet more frequently, because she does not have the time to do so, other than on an as needed basis. Member Udell also stated that he does not want to meet any more frequently. Member Smalley stated that she does not want to meet any more frequently. She also stated that she does not want to do this anymore. Member Udell agreed. Zoning Administrator Essad stated that the members are able to step down if they want to. Member Smalley stated that if the Zoning Administrator could find someone else to let her know. Zoning Administrator Essad stated that under MZEA the Village Council can act as the ZBA, if the members no longer want to do this. Chairperson Meyers stated that she is still willing to do this but is not willing to meet more than they have to. Member Smalley agreed. Chairperson Meyers asked to have the Planning Commission minutes be sent to the ZBA. Zoning Administrator Essad stated that she would try update the ZBA with the Planning Commission minutes. She also stated that if anyone does not feel like they want to be on the ZBA to let her know. Chairperson Meyers stated that the members are wearing a lot of hats and work two or three jobs, so they are trying the best they can with the time they have.

X. Member/Public Comment: Chairperson Meyers opened up member and public comment. She stated that she felt the ZBA was bullied tonight. She wished she had known more about the ADA. She also respectfully requested that the next time Planning Commission meets and has some time, that it decides whether a property is a Class A or a Class B non-conforming, prior to the variance request. She felt uncomfortable because the property was Class B non-conforming, but she felt the ZBA had to grant it because of the letter from the attorney. She felt that there was a finding of fact that did not support the standard that could have been made, but then the meeting would have lasted longer, trying to come up with all the right words and ways to do it. Chairperson Meyers stated that was all she had to say. She further stated that no one had to agree with her, but that was what she felt.

Member Udell agreed that it could have been a little better organized. Member Massey asked about meeting face to face. He stated that he thought things worked better when the ZBA is able to meet face to face and discuss things. Zoning Administrator Essad stated that the next time the ZBA met it could be held in person, and that the only reason that it was not held in person for this meeting was because a notice for a public hearing must be done 15 days prior to the meeting. She went on to explain why the meeting location

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could not be changed due to notice requirements, and that future meetings could be held in person if there is enough room to be socially distant.

Member Massey stated that one of the problems he had tonight was that each division of government, each different entity has its own language and he was confusing his old construction code language and the zoning language.

Chairperson Meyers stated that technology went bad for her and if she had to do a meeting virtually again, she would have to do so in her office. Chairperson Meyers also stated that she is not ready to meet in person because of her job. She suggested blended meetings. Zoning Administrator Essad stated that currently the Village does not have the technology to hold blended meetings, unless someone called in on speaker phone.

Member Udell stated that River Street, which is a dirt road, has a huge problem with dust on the road. He stated that the street is not maintained properly even in the winter. He stated that whoever plowed last year, he thought they were plowing I-75, they plowed so wide. He further stated that the plowing tore up his lawn and the Village's lawn. He stated that there needs to be more care on the street, especially because it is advertised as Paddle Antrim. He also stated that there are not porta potties out there this year. Zoning Administrator Essad stated that the porta potties were not put out yet because of the COVID-19 situation, and they may be going up soon. Member Udell stated that because of Paddle Antrim, he thinks it should be a priority that it looks nice down there, and the street be properly maintained, if not even paved. He also stated that there is a lot of traffic on that street.

Chairperson Meyers asked if there were any other comments from the ZBA members. She then opened up public comments. P.C. Member Drollinger stated he thought the ZBA did a good job tonight, and to have quality people sitting on the board is important. He stated that the decisions are tough to make. He hopes that the ZBA can listen in on some of the Planning Commission meetings. He then informed the ZBA that the setbacks were reduced by 10 feet in most areas. He went on to explain about the sign ordinance work group the Planning Commission has started.

XI. Adjourn: The meeting was adjourned at 8:54 PM to the call of the Chair.

Minutes compiled by:
Nicole E. Essad, Zoning Administrator & Recording Secretary

Approved: _____
Leslie Meyers, Chairperson

Date: _____

Lori Luckett

From: Catherine Peterson <cwpete0441@gmail.com>
Sent: Friday, March 27, 2020 5:16 PM
To: Lori Luckett
Subject: zoning board of appeals public hearing

Lori, hope all is well with you. This is regarding the hearing for Mike Walsh to reduce the corner setback to allow development within 2 feet of the lot line at parcel number 05-41-010-47-00, 401 E. Cayuga

Neither I, Catherine Peterson or William Peterson have any problem with variance change.

Thanks, Cathy and Bill Peterson

Haggard's

PLUMBING and HEATING

"Business of Quality and Service"

"Charlevoix-the-Beautiful"

haggardsinc@hotmail.com

June 8th, 2020

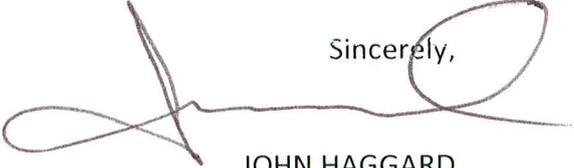
Village of Bellaire Zoning Board of Appeals
P.O. Clerk 557
Bellaire, MI 49615

RE: Parcel#05-41-010-047-00 located at 401 E. Cayuga Variance Request by Mike Walsh to reduce the corner setback to allow development within 2 feet of the lot.

To Whom it May Concern,

Upon reviewing the above Article, I would like to express my view on the above plan request. Haggard's Plumbing & Heating is not opposed to the changed of the property and/or the request to the Zoning Board. If a property owner is fortunate enough to have the ability and the resources in this time to either build and/or improve their existing property, it would only help the economy continue to grow. It would prove positive for the local, county and state to do all we can to improve and promote growth in anyways possible.

Sincerely,



JOHN HAGGARD