

ZONING BOARD OF APPEALS MEETING

November 4, 2021

CALL TO ORDER: The meeting was called to order by Chairperson Bob Neis at 6:00 pm.

PLEDGE OF ALLEGIANCE:**ROLL CALL:**

MEMBERS PRESENT: Kim Arter, Craig Williamson, Suzanne Hayes, Adam Rosema & Bob Neis

MEMBERS ABSENT: None

ALSO PRESENT: Zoning Administrator Theresa Naruszkiewicz-Maner, Twp. Trustee Eric Anderson, Recording Secretary Veronica West, Petitioner Mr. Robert Connelly, two area residents.

APPROVAL OF AGENDA:

- Mrs. Arter moved to approve the agenda as presented. Mr. Williamson supported the motion. The motion carried by voice vote.

APPROVAL OF MINUTES:

- Minutes of July 28, 2020 meeting – Mrs. Arter moved to approve the minutes as presented. Mr. Williamson supported the motion. Mr. Rosema asked to have language added to the minutes in the deliberations paragraph noting: “other homes in the same block have similar porches” and “the new porch will be behind the front line of the adjacent homes”. Mrs. Arter amended her motion to approve the minutes, with language added by Mr. Rosema as discussed. Mr. Rosema supported the amended motion. The motion carried by voice vote. Ms. Hayes wanted the record to reflect she did not vote on the minutes as she was not a member of the board at that time and was not in attendance at that meeting.

Note: the agenda for this meeting had a typographical error, showing that the minutes to be approved were from January 28, 2020, when it should have read JULY 28, 2020.

PUBLIC HEARING:

PURPOSE: Act on Zoning Variance Request No. 20-01, the petition of Robert Connelly, 1300 W Giles Rd, Muskegon, MI 49445, for a variance to allow a 5 foot front yard setback, contrary to the provisions of Section 8.04 (A), minimum front yard setback requiring 25 ft, of the Laketon Township Zoning Ordinance.

Parcel# 61-09-390-000-0003-00 also known as 1300 W. Giles Rd, Laketon Township, Muskegon, MI (corner lot on W. Giles and Hansen)

Mr. Rosema moved to open the public hearing. Mrs. Arter supported the motion. The public hearing opened at approximately 6:04 pm.

Mr. Neis yielded the floor to Zoning Administrator Mrs. Maner who gave a brief report on the fence being requested and read aloud Sections 3.20.H, 3.20.I and 3.20.J of the Zoning Ordinance referring to fences, heights and placement regulations. She noted the pertinent things to consider are the following: the property is a corner lot and therefore has 2 front yards by zoning ordinance definition, only fences that are 3ft tall and solid or 4ft tall and open are permitted in the 25 foot required front yard and Mr. Connelly is asking for a 6 ft tall solid privacy fence in the required front yard, with a setback off the 33 ft road right of way of 5 ft. She also discussed the existing 4 ft tall chain link fence, no permit was found in the file.

Mr. Neis gave a brief summary of the procedures to be followed for the public hearing regarding this variance request, noting that all those wishing to speak must state their name and address for the record, a time limit of 3 (three) minutes does not appear to be necessary due to the limited number of public persons present but added that all comments and

questions should be addressed to the Chair. He also noted that after all public comment is gathered, the public portion of the meeting would be closed and discussion between the ZBA members only would take place, unless a ZBA member had a specific question for someone in attendance. Mr. Neis asked if all members of the board had been able to visit the site and all responded affirmatively.

The variance notice publication was read aloud by Mrs. Arter and was entered as Exhibit A.

- Exhibit B – Proof of Publication: Chronicle notice of ZBA Hearing published on Sunday October 17, 2021.
- Exhibit C – List of surrounding property owners within 300 feet notified of the variance request. Including a map provided by Muskegon County GIS
- Exhibit D – Copy of Notification letter sent to all property owners within 300 feet, which was mailed on Tuesday October 12, 2021.

It was noted that correspondence in the form of a phone call was received at Laketon Township with regard to this variance and Mrs. Arter read aloud a summary of the phone call from Justin Fogle of 1450 Hansen St noting he had no issues with this request. This shall be entered as Exhibit E.

The floor was then yielded to Mr. Connelly to present his case. Mr. Connelly stated he needs the fence to “corral his 3 children and 2 dogs” as well as for privacy on W. Giles Rd and to remedy the eyesore of the very old chainlink fence that was covered in greenery/vegetation. Mrs. Arter noted a 3 foot tall solid fence is allowed and chain link is allowed up to 4 ft tall to which Mr. Connelly stated his dogs can easily jump that height and the chainlink doesn’t provide privacy. Mr. Neis noted that he has been by the property several times and the existing gates are always open and asked why the need for privacy if the gates are open. Mr. Connelly explained the home is under extensive renovation and they are not currently living in the home and that is why the gates are open. Mrs. Lockwood-Hayes asked if the small shed is still in the back corner and if they are planning to install a pool in the back yard. Mr. Connelly stated the shed has been removed as it was in poor condition and he has no plans to install a pool. Mr. Neis had questions regarding the location of the fence and Mr. Connelly noted he plans to install the new privacy fence 5 feet off the road right of way line, which will bring several feet closer to the home and farther away from the road. Mrs. Arter stated she doesn’t see any hardship in this case and Mr. Connelly stated it’s because his dogs can jump the shorter fences. Ms. Hayes asked about the entire fence perimeter and ZATheresa Naruszkiewicz-Maner pointed out on the drawings that the fence is allowed to be 6 ft tall on the east side and the north side, it’s just the west side along the Hansen St road frontage that is an issue. It was discussed that he does not own the lot to the east, that has been sold to someone else, leaving him with a small lot. It was also discussed that a 6 ft tall fence could be placed inside the 25 ft required front yard setback. Mrs. Arter commented that there are other corner lots in the township that have complied and put a 3 foot tall solid fence up, noted in particular the lot at the southwest corner of Dykstra Rd and Horton Rd. Mr. Williamson asked if Mr. Connelly has young children and Mr. Connelly stated his youngest child is 9 years old.

Public comments were taken:

- Mr. John Mehne of 1420 Hansens St – Mr. Mehne stated is his the immediately adjacent property to the north on Hansen St. He stated that the old fencer has been there since he was a child, estimated to be more than 30 to 40 years. He added that removing the old chainlink fence that is covered in “greenery” and replacing it with a 6 foot solid wood privacy fence would not obstruct views and removing the “greenery” would be a visual improvement.

There were no other public comments and Chairperson Neis closed the public comment portion of the meeting.

Board deliberations and discussion began. Mr. Neis noted that the only issue is that of replacing the existing 4 foot tall chainlink fence with a 6 foot tall wood privacy fence within the 25 foot required front yard. Also noting the new fence would be a bit further from the edge of the 33 foot road right of way than the existing fence is now. Ms. Hayes expressed some concern about visual safety. Mr. Williamson noted the fence is far enough back from W. Giles Rd as to pose no more obstruction for traffic than the house itself does. He also noted he understands the need for a young family to have security on a busy main road such as W. Giles Rd. Mrs. Arter also expressed understanding the need to contain dogs and children but quoted the ordinance needing “exceptional or extraordinary circumstances”, examples of

which are listed in the ordinance, but doesn't see any of those things in this situation. She also noted other corner lots have followed the ordinance requirements. Mr. Williamson also noted that maybe there isn't a hardship, but privacy is an issued. Mrs. Arter noted that plant screening, like Arborvitae, could be planted. Mr. Neis asked Mr. Connelly if the "greenery" on the existing fence had effectively made the fence 6 foot tall and solid and he also inquired about some large trees in that area that he felt were more hazardous than the fence. Mr. Connelly responded that the yes, the "greenery" had made the fence solid and was about 2 feet above the fence. He also stated he plans to remove a few large trees that are close to the road and in the area he intends to put the fence. Ms. Hayes verbally worked through the issues, noting it is not the job of the ZBA to change the ordinances or to just "willy-nilly" grant variances without due cause. She added that following the ordinance would result in a quite small back yard area, probably smaller than most in the area as this lot is small which may be a practical difficulty. She noted that the ordinance lists exceptional narrowness, shallowness or shape of a property as being reasons to approve a variance and perhaps since the back yard would be much smaller is could be a valid reason. She asked Mr. Connelly about the size of the yard and Mr. Connelly stated the yard would be about 35% smaller if he placed it within the rules. Mrs. Arter again expressed issued with the 6 foot height of the requested fence. ZA Naruszkiewicz-Maner noted that ordinance permits the ZBA to approve the variance, deny the variance or approve the variance with conditions.

Findings of Fact:

- The property is zoned R-4 Residential
- The property size is 90' x 138' avg, per assessing records.
- The property is a corner lot with 2 front yards which reduces the backyard area
- The fence does not cause a road safety/visual hazard.
- W. Giles Road is a busy, high traffic, road with a 45 MPH speed limit

Mr. Williamson moved to approve the variance request as presented; *for a 6 (six) foot tall solid wood privacy fence within the required 25' required front yard, along the Hansen Street road frontage with a 5 foot setback from the edge of the road right of way line and meeting up with a 6 (six) foot tall solid wood privacy fence & gate extending 20 feet west from the northwest corner of the home.*

Mr. Rosema supported the motion.

A roll call vote was taken:

Voting Yes: Adam Rosema, Craig Williamson, Suzanne Hayes and Bob Neis

Voting No: Kim Arter

The motion carried by roll call vote and the request for variance was approved.

OTHER BUSINESS: NONE

PUBLIC COMMENTS: NONE

CORRESPONDENCE: Planning & Zoning News, several issues were distributed for informational purposes.

ADJOURNMENT:

Ms. Hayes moved to adjourn the meeting. Mrs. Arter supported the motion. The motion passed by voice vote. The meeting adjourned at approximately 6:55 pm.

Submitted by: Kim Arter, ZBA Secretary