

APPROVED
AUGUST 14, 2023

**CITY OF WIXOM
ZONING BOARD OF APPEALS MEETING
49045 PONTIAC TRAIL
MONDAY, APRIL 10, 2023**

The meeting was called to order by Chairman Caplan of the Zoning Board of Appeals at 7:30 p.m. at which time allegiance was pledged to the American flag.

BOARD: Jeff Caplan (Chairman); Roy Thorsell (7:31 p.m.); Michael Schira; Steven Winters; Ray Cousineau; Jim Hutchens

ABSENT: Ray Cousineau, Mark Helsom

OTHERS: Doug Lewan (Carlisle Wortman & Associates), Planner; Drew Benson, Assistant City Manager, and Director of Economic Development; and Mona Freiburger (Recording Secretary)

Determination of a Quorum:

A quorum of the Zoning Board of Appeals was present for this meeting.

Agenda:

No additions or changes were made to the agenda.

Approval of the Zoning Board of Appeals Meeting Minutes:

MOTION and seconded by Board Members Winters and Hutchens to approve the November 14, 2022, Zoning Board of Appeals Meeting Minutes.

VOTE: MOTION CARRIED

CORRESPONDENCE/INFORMATION

March 24, 2023 City Manager Update
March 28, 2023 City Manager Update

CALL TO THE PUBLIC

There were no comments made by the public.

OLD BUSINESS:

None

NEW BUSINESS:

1. **PUBLIC HEARING FOR VARIANCE REQUEST #ZBA 23-001: 2958 LOON DRIVE, WIXOM, MI. 48393:** The applicant is seeking a total of one (1) non-use variance: Section 18.13.050, Height and Placement, to permit an addition to an existing home with a proposed 10.6-foot rear yard setback rather than the required 35-foot rear yard setback pursuant to Section 18.13.050, Table 3.05 Schedule of Residential Regulations.

Section 18.16.180, Appeals and Variances, Section 18.22.030(F) Powers and Duties, gives the Zoning Board of Appeals authority to grant variances when it can be shown that ordinance standards cannot be met and a practical difficulty exists. The property is zoned R-3, One Family Residential. The parcel number is 17-29-327-005.

Discussion:

The applicant proposes to construct a 42'10" by 8'6" building addition (approximately 365.5 square feet) along the west building elevation requiring a reduction in the required 35-foot rear setback. A 10.6-foot rear yard setback is proposed.

Carlisle Wortman Associates notes the property has been granted variances for reduced front yard setback; reduced rear yard setback; lot size minimum; maximum lot coverage; and enlarging a non-conforming structure in May 2000 and July 2006 for past additions and renovations to the existing structure.

The Considerations for the proposed variance; and finding of facts are all noted in the Variance Analysis for City of Wixom, Michigan dated March 28, 2023 by Carlisle Wortman Associates submitted in the packet for tonight's meeting.

Mr. John Newmyer, Newmyer Remodeling, 38081 Haggerty Road, Commerce Township, MI. Mr. Newmyer indicated the applicant's lot is an unusual shape as shown in the drawings submitted. Other lots in the subdivision have the same situation; unusual shapes. The engineers that have reviewed the application agree the shape of the lot is unusual.

Board Member Winters asked Mr. Newmyer if the property is located on the lakeside. Mr. Newmyer answered the applicant's lot is not hitting the front of the lake; there is a public easement next to the property.

Board Member Winters commented the applicant doesn't have a backyard, he has two front yards; the address side and the lakeside, so it gives the applicant two front yards. Board Member Thorsell indicated there is the streetside which would be facing east;

then the north side is facing the lake. The side that is opposite the street, this is the side in which the applicant would like to install the addition.

Mr. Lewan, Carlisle Wortman Associates, stated the applicant's lot doesn't actually have frontage on the lake. There is a property between his property and the lake. The front, side, rear setbacks is determined by the address side which is the front yard. In this particular case, it is the east side. Then what's opposite the front is the west side, which is the rear yard. It is, technically, a rear yard setback. The north side and the south side would be, technically, according to the way the ordinance is written, two side yard setbacks. Since the street address is Loon Drive, and the applicant does not have frontage on the lake, the narrow part is the front and rear, and the long part is the two sides. Mr. Lewan stated this is a very odd situation. The applicant meets the side yard setbacks, which would be towards the lake and towards the south. The applicant is looking at what would affect the rear yard setback, which faces the house to the west.

Board Member Hutchens inquired if there was a house directly to the west of the applicant's property. Mr. Newmyer stated yes. Board Member Hutchens asked if the house next door is also encroaching on the setback. Mr. Newmyer indicated he did not know if the house next door is in the setbacks. There will be at least 15.5 feet between the two structures with the applicant's addition to the house. Mr. Newmyer stated he met with the city engineers and reviewed the site plan with them and then they went forward.

Public comments.

Mr. William Day, 2950 Loon Drive, Wixom, Michigan, commented he was present to express his support of the applicant's project, although he indicated he disagreed with Mr. Lewan's interpretation to which yards are the side yard and the front yard. Mr. Day stated the original plat of this subdivision, Loon Drive was a road that went between the houses and the lake. That was vacated to the adjoining property owners in exchange for an easement along the south side of those properties. Loon Drive as it exists now is actually Mr. Day's property with an easement granted. The applicant's house, the north side is, as far as he was concerned, the front yard; the south side is the backyard. For the east side to be considered the front yard as Mr. Lewan is suggesting, that would mean that the lot faced Flamingo which on the original plat was Wickerwell; it doesn't, that's the side of the house. Mr. May stated because of the way the houses were situated when that came through for the easement, the easement only went from Flamingo east and not the other way. On the original plat, Loon Drive went across the beach, across the front of all of the houses along Loon Drive. It was never developed as a road, never was used as a road but that's the way it was platted. The north side would be a front yard or backyard. It is not lakefront because there is a community beach in front but there are no lots on the north side of the applicant's house. Mr. May stated this is neither here nor there, but either way, the applicant's project would not negatively impact anyone in the neighborhood; it would only enhance the neighborhood.

Chairman Caplan indicated he appreciated Mr. Day's comments. The ZBA follows the planner's interpretation. Mr. Day indicated if they follow the planner's interpretation, it is not accurate as far as he was concerned, and according to the original plat. Mr. Day stated if the ZBA granted a variance to allow the applicant to install an addition to their home, it would not matter whether it is an accurate variance because it would get built and it would look fine; everybody will be happy.

Mrs. Genevieve McCoy, 2958 Loon Drive, introduced herself and her husband, Jim, the applicants, and owners of the property. Mrs. McCoy presented two pictures to the Board showing their property; one picture from 30 years ago and the house as it exists today. Mrs. McCoy indicated the bedrooms are small, but they would like to continue staying at their home. Her husband is 90 years old, and she is 80 years old, and if either one ever needed a wheelchair, there is no room in the bedrooms to turn around. The addition would not interfere with any home in the development. They are requesting a variance to build an addition to have a little larger bedroom.

Public comments closed.

Chairman Caplan stated it was his personal opinion that the addition would enhance the neighborhood; and there are no neighbors that are against the addition. Mr. Day is a neighbor, and he is in favor of the addition. Chairman Caplan stated he thought the planner would be accurate and, at this point, they are going to go by the fact that the applicant is requesting a rear yard setback variance.

Chairman Caplan indicated he was in favor of the variance. Board members Schira and Thorsell were also in favor of the variance.

Recommendation by Carlisle Wortman Associates:

Based upon the information provided and the finding of facts, Carlisle Wortman Associates are supportive of the subject variance request for the following findings of fact:

1. The subject parcel has an unusual shape, and configuration. Further, both the lot and the existing structure are non-conforming, and variances have been granted in the past for building renovations/additions.
2. Without the subject variance, the addition would not be considered.
3. The use and relatively small size of the addition would have no significant impact on surrounding properties or the neighborhood.
4. The proposed variance, if granted, would have no impact on light and air to adjacent properties or create other negative impacts to the City at large.

5. The shape and configuration of the lot was not created by actions of the applicant.

MOTION and seconded by Board Members Schira and Winters to approve **VARIANCE REQUEST #ZBA 23-001: 2958 LOON DRIVE, WIXOM, MI. 48393**: The applicant is seeking a total of one (1) non-use variance: Section 18.13.050, Height and Placement, to permit an addition to an existing home with a proposed 10.6 foot rear yard setback rather than the required 35 foot rear yard setback pursuant to Section 18.13.050, Table 3.05 Schedule of Residential Regulations.

Section 18.16.180, Appeals and Variances, Section 18.22.030(F) Powers and Duties, gives the Zoning Board of Appeals authority to grant variances when it can be shown that ordinance standards cannot be met, and a practical difficulty exists. The property is zoned R-3, One Family Residential. The parcel number is 17-29-327-005; based on the finding of facts and recommendation of the Variance Analysis for City of Wixom dated March 28, 2023 from Carlisle Wortman Associates, Inc.

VOTE: MOTION CARRIED

2. **PUBLIC HEARING FOR VARIANCE REQUEST #ZBA 23-002: 38500 ASSEMBLY PARK, WIXOM, MI. 48393**: The applicant is seeking a total of one (1) non-use variance: Section 18.16.100, Specific Sign Standards, to permit a new logo sign of 24.5 square feet added to the existing 216.15 square foot building sign for a total of 240.65 square foot of signage rather than the maximum building signage 150 square feet pursuant to Section 18.16.100, Sign Dimensional Standards and Regulations.

Section 18.16.180, Appeals and Variances, and Section 18.22.030(F) Powers and Duties, gives the Zoning Board of Appeals authority to grant variances when it can be shown that ordinance standards cannot be met and a practical difficulty exists. The property is zoned GPUD, Gateway Planned Unit Development. The parcel number is 22-07-200-013.

Discussion:

The applicant is requesting a variance to install a new logo sign containing 24.5 square feet of additional wall signage to the existing 216.15 square foot building sign for a total of 240.65 square feet of signage rather than the maximum building signage of 150 square feet pursuant to Section 18.16.100, Sign Dimensional Standards and Regulations.

A variance for the current signage was approved by the ZBA on June 14, 2021, allowing a 216 SF wall sign (16 SF variance). It is noted the variance was based on the interpretation that 200 square feet of wall signage was allowed due to the building have

more than 400 linear feet of building frontage facing a public street (CIB Review dated June 10, 2021). However, the dimensions provided by the applicant indicate the façade has a building length of 130 linear feet allowing a maximum of 150 square feet of signage area.

In granting the previous sign variance, the following findings of fact were noted:

1. The building is located on the far west side of the mixed-use development off an interior roadway where visibility is limited.
2. The location of the office building is behind another building and only a small portion of the front façade is visible.
3. The larger wall sign will be in scale with the portion of the office building that is visible.
4. The signage on the south elevation of the second building will not create clutter nor negatively impact the surrounding neighborhood.
5. The proposed signage is in scale with the front façade of the building.
6. The practical difficulty is not self-created.

The Signage Arrangement, Considerations for the Proposed Variance, Additional Signage Variance Considerations, Findings of Fact are all included in the Variance Analysis for City of Wixom, Michigan submitted by Carlisle Wortman Associates dated March 28, 2023.

Recommendation by Carlisle Wortman Associates:

Based upon the information provided and the finding of facts, Carlisle Wortman Associates is not supportive of the subject variance request.

Mr. Bill Malecki, Director of America's Choice Insurance partners, subsidiary of General RV, Wixom, MI, indicated they are looking for the variance to brand themselves. The distance from the freeway is approximately 800 feet. America's Choice is trying to keep in line with the way that General RV does their marketing and their signage. As American's Choice Insurance continues to grow, Mr. Malecki thought branding the business is important.

Chairman Caplan stated the ZBA granted a variance on the existing sign. Mr. Malecki stated yes.

Mr. Malecki indicated the sign is going to be the same size as the America's Choice sign now with the logo to continue to brand themselves along with General RV, as mentioned. It is a lantern which leads into the outdoor lifestyle that General RV supports.

Board Member Winters indicated he did not, personally, see the hardship.

No public comments.

Board Member Thorsell commented the sign would be larger, and the ZBA already approved a variance to make the sign larger. The original hardship was the distance from the freeway, so that was reasonable. Board Member Thorsell asked Mr. Malecki if adding the icon as part of the branding wasn't part of their branding strategy a couple of years ago. Mr. Malecki answered that was their old logo. They have rebranded the business over the past eighteen months. There is a new logo which they would like to be included on the sign.

Board Member Thorsell stated he drove around the industrial park. The home store has a decent size sign; but then in addition to the sign, they have repurposed their lighting to be a bunch of home icons; he did not know if that's included in their sign frontage or not, but it is a way to get around meeting the specifications, being designed with lights. Board Member Thorsell indicated he did understand it is a variance on top of a variance, and maybe that's the difficult precedent the ZBA is struggling with. Board Member Thorsell stated he did not think the signage would be a detriment.

Chairman Caplan stated the ZBA never sets a precedent, so we can keep that in mind. He thought the existing sign could be reworked to make it all fit on the sign.

Board Member Winters inquired how many signs are on the building, currently. Mr. Malecki stated one, America's Choice. They are not the only business in the building. General RV takes over the other three floors of the building. Board Member Winters inquired if they could put the logo beneath the lettering, and if that would be considered a second sign or the same building sign. Mr. Lewan answered it is only about 25 square feet, it is not huge. It would be an additional sign regardless of where the sign is installed and additional square footage. The signage is based on the amount of square footage; total size.

Board Member Winters indicated he did not see the hardship; hardship would be advertising and is self-inflicted. Mr. Malecki stated the hardship is part of their business strategy, customer acquisition and growing the business. They count on the freeway traffic in order to gain customers. General RV can be seen off of the freeway with a lot of signage. Recognition through their logo is important.

Chairman Caplan stated they could redo the existing sign but keep everything within the square footage. The ZBA has to understand that the additional variance is not self-created, and that the applicant shows a hardship.

Mr. Lewan indicated the existing wall sign is a little over 216 square feet; the ordinance allows 150 square feet. There was some misunderstanding. The documentation said they were allowed 200 square feet but that was based on the frontage of the building. If the building is more than 400 feet in length that faces a public street, having a public entrance, you could have up to 200 square feet. Based on the calculations, the building is less than 400 feet in length; they would only be permitted up to 150 square feet. The applicant already got a 50-foot bump because of the length of the building; then they have a variance for up to 216 square feet. It is even greater than if the building was 400 feet in length.

Board Member Thorsell inquired if the applicant could put the lantern on the east facing wall, would it be another allowable amount of signage? Mr. Malecki stated he was not sure if the sign would be visible from the freeway. Mr. Lewan indicated there is only one wall sign permitted for a business, unless you are on a corner lot. The applicant would not be able to install a sign on the other side of the building; they would need a variance.

Board Member Hutchens indicated you have to draw the line somewhere; the ZBA approved a variance earlier and increased the square footage approximately 66 square feet, which is significant. The applicant is requesting more square footage. Board Member Hutchens commented he did not have an issue with the sign design except the applicant should try to make a sign work within the variance they currently have.

Chairman Caplan indicated he didn't think any board members has come to the conclusion of a hardship or see that it is not self-created.

MOTION and second by Board members Winters and Hutchens to deny **VARIANCE REQUEST #ZBA 23-002: 38500 ASSEMBLY PARK, WIXOM, MI. 48393**: The applicant is seeking a total of one (1) non-use variance: Section 18.16.100, Specific Sign Standards, to permit a new logo sign of 24.5 square feet added to the existing 216.15 square foot building sign for a total of 240.65 square foot of signage rather than the maximum building signage 150 square feet pursuant to Section 18.16.100, Sign Dimensional Standards and Regulations.

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VOTE: MOTION CARRIED

CALL TO THE PUBLIC:

None

STAFF COMMENTS:

Assistant City Manager Benson commented they are talking about, from a staff perspective, on scheduling another joint meeting of boards and commissions, probably late May or early June. There are a couple of projects coming through, a couple of larger topics that are worthy of all of the groups getting together. He will be reaching out with additional information coming forward.

Assistant City Manager Benson indicated over the last few months, the City has been working on acquiring property along North Wixom Road, just north of Pontiac Trail where Bemick Insurance and AFP Sound are located. The City Council did approve purchase agreement to purchase those two buildings and the City already owned the rest of the property. Assuming those two purchases go through, they have the intention to put that all together and working on concept plan for them to try to market that property.

Mr. Lewan introduced himself to the Board; he indicated he works for Carlisle Wortman Associates. He indicated if the Board would like to see a different kind of report, different interaction with the ZBA, to let him know and he would be happy to arrangement things, however he can help the Board the most.

Assistant City Manager Benson also indicated if there are any training opportunities, any specific topics that the Board may be interested in, to let him or Mr. Lewan know.

BOARD MEMBER COMMENTS:

Chairman Caplan thanked everyone for attending the meeting. He indicated he always like the input, the Board discusses things well, and we are a fair board. Chairman Caplan inquired if he has to read the rules for the call to the public. Assistant City Manager Benson indicated this is a City Council rule; he doesn't have to do it, it is not in practice, but he would probably still do it.

Board Member Winter commented regarding a case with a disabled girl and the fencing. He inquired what is supposed to be done when the Board issues a variance to make sure that it is enforced and done properly. Assistant City Manager Benson indicated if you see things that are blight to please feel free to send them to him. Code enforcement is based on the complaint system.

Board Member Winters commented the Board approved the request with stipulations and the stipulations have not been met. The issue is the exit out of Culvers. The sign is

not adequate. Someone suggested to simply install orange cones in front of the exit, so they are not able to pull out and make a left-hand turn. Assistant City Manager Benson indicated he was familiar with this issue. They have done some legwork but have not made the progress he would like. Board Member Winters indicated the exits out of Burger King and McDonalds is the same with no left turn.

ADJOURNMENT:

The meeting of the Zoning Board of Appeals was motioned and adjourned at 8:25 p.m.

Mona Freiburger
Recording Secretary