

APPROVED
DECEMBER 11, 2023

**CITY OF WIXOM
ZONING BOARD OF APPEALS MEETING
49045 PONTIAC TRAIL
MONDAY, SEPTEMBER 11, 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; Michael Schira; Steven Winters; Jim Hutchens; M. Helsom

ABSENT: Ray Cousineau

OTHERS: Ben Carlisle (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 August 14, 2023 Zoning Board of Appeals Meeting Minutes:

MOTION and seconded by Board Members Winters and Thorsell to approve the August 14, 2023, Zoning Board of Appeals Meeting Minutes.

VOTE: MOTION CARRIED

CORRESPONDENCE/INFORMATION

August 8, 2023 City Manager Update
August 22, 2023 City Manager Update

CALL TO THE PUBLIC

There were no comments made by the public.

NEW BUSINESS:

- 1. PUBLIC HEARING FOR VARIANCE REQUEST #PZBA23-004: 4072 CAMERON COURT, WIXOM, MI. 48393:** The applicant is seeking a total of

one (1) non-use variance: Section 18.03.050, Height and Placement Requirements, to permit a rear yard setback of 25 feet rather than the required 35 feet.

Section 18.22.03.E Dimensional and Other Non-use Variances, 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 17-31-151-035.

Discussion:

This case was heard simultaneously with Unfinished Business #PZBA23-003.

Variance Analysis for City of Wixom, Michigan submitted by Carlisle Wortman Associates dated August 9, 2023 and revised September 7, 2023 is included in the packet.

Variance Request: Since Carlisle Wortman Associates' last review, the applicant's request has been revised and re-published for public hearing to include a variance of the rear yard to allow the home to be placed further back on the property. Previously, a front yard setback of 15 feet was requested rather than the required 35-foot front setback. Based on the comments from the public at the last ZBA meeting, the applicant is proposing the following variances in an effort to give the proposed home a larger front yard as requested. The following variances are not requested.

1. A front yard setback of 25 feet rather than the required 35 feet, and
2. A rear yard setback of 25 feet rather than the required 35 feet.

Building Location and Site Arrangement; and Findings of Fact are included in the packet referred to above in the Variance Analysis.

The findings of fact are summarized below:

1. The subject parcel has an unusual shape, and configuration. The property is bisected by overhead power lines and maintains an irregular frontage along Cameron Court.
2. Without the subject variance, the buildable area of the lot would be reduced and would not provide for a similar size or style home than the surrounding neighborhood. It is also noted that the applicant has proposed an alternative layout that would reduce the original front yard setback as requested.
3. It is noted that the changed variance request will reduce aesthetic concerns of the neighboring properties.
4. As noted in Carlisle Wortman Associates previous review, 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 the actions of the applicant and is not self-created.

Assistant City Manager Benson indicated he was going to start the discussion with New Business. The new case does lead into the old case. The original variance was tabled in anticipation of the application for this new variance.

Assistant City Manager Benson stated the original request was for a 20-foot variance to allow a 15-foot front yard setback. After the last meeting, there was a discussion in reference to adding a rear yard variance and splitting the 20 feet of total variance between the front and the back. This is a new request for a ten-foot rear yard variance to allow a 25-foot rear yard setback; it would be 10 feet in the front; 10 feet in the back as opposed to 20 feet in the front.

Mr. Alan Stephens, 439 Wixom Road, stated they have adjusted the frontage, reduced it to 10 feet in the front; 10 feet in the back and hoping that would be a medium where they can get the house that was proposed to be built.

Assistant City Manager Benson stated the variance request can be reduced.

Mr. Stephens commented the zoning for this lot is R3. The side yard setbacks are eight feet. Cameron Woods has a 10-foot side yard setback. Mr. Stephens wanted clarification on the garage, a detached garage because the power lines go down the middle of the property. The buyer/purchaser would prefer the house on the east side, and the accessory building to be on the west side. This would fit the neighborhood appearance better. Mr. Stephens indicated some of the neighbors have requested that the house go on the east side. Mr. Stephens stated it is a difficult piece of land to build on because of the power lines, setbacks, the shape of the property and the road frontage. The buyer/purchaser wants to build what's best for everybody, not just one party or the other. The customer/buyer is very interested in building a nice house. As of right now, the applicant is proposing to build on the east side.

Assistant City Manager Benson indicated the side yard setback in the R3 zoning district is a minimum of 6 feet but a total of 16 between the two sides. It could be 6 and 10 or it can be 8 and 8; 7 and 9. The minimum floor area per unit in the R3 zoning district is 1,150 square feet and the ground floor area can be no less than 600 square feet. There is no requirement to build a garage; you can have an accessory structure.

Open public comments.

Mr. Mark Greenwald, 4064 Cameron Court, also representing his wife. Mr. Greenwald indicated they live in the property directly next door. He stated when they built the house, they did not anticipate a house, potentially, going in quite that close. Mr. Greenwald wanted an explanation the proposed public which is in one of the

documents. Assistant City Manager Benson stated it is his understanding that the arrow or line that points to the street is in reference to Cameron Court.

Mr. Greenwald commented the homes on Cameron Court are approximately 29 feet apart. All of the homes in the area are much larger than 8 feet apart, easily. Mr. Greenwald asked if the applicant would consider the proposed home to be moved five feet, so the side yards look similar to the other side yards; instead of the proposed eight feet, they could move to approximately thirteen feet, which would allow for the look and feel of the neighborhood and help with privacy. This would not negatively impact the overall design or lot, if it is moved five feet over. Assistant City Manager Benson stated the rear property line along the fence would be 25 feet from the fence and then 25 feet to the front property line. There is a surveying error but should benefit on the front side.

Mr. Greenwald stated there are some drainage issues when they were building their home which were fixed prior to moving into their home. Mr. Greenwald is concerned because this project is not part of Cameron Woods subdivision, and how the drainage would work. Mr. Greenwald indicated he wanted to know if they could make sure that it starts 25 feet from the back fence, move the property line; instead of 8 feet from the property line, maybe 13, to be safe on drainage. Chair Caplan stated the 8 feet that Mr. Greenwald is speaking of on the side lot is actually within the ordinance. The applicant is not asking for a variance for this. Mr. Greenwald stated they were looking for their privacy and view of the west would be less infringed upon, as well.

Board Member Thorsell asked Mr. Greenwald if he had pictures or an illustration. Mr. Greenwald presented some pictures to the Board Members.

Board Member Hutchens indicated during the last meeting, there were concerns expressed about the intrusion on the view to the west. With the new variance request, he asked if there was still a concern, as long as they can do the other five-foot adjustment. Mr. Greenwald stated the new request would still be 10 feet further out, but if the house was moved over five feet, it would be acceptable given the whole situation and how buildable the lot really is; it is a nice house.

Chair Caplan read Mark and Kelly Greenwald's letter dated September 6, 2023 into the record; also, John and Susan Bizon, 4037 Cameron Court, received 28, 2023 by the City of Wixom letter into the record.

Ms. Carissa Mayer, 4067 Cameron Court, across the street from the property, wanted clarification, if the proposed house and the garage were flipped; switch the house close to the east side. Chair Caplan stated from what was explained, the applicant does have the option. It will be a variance to the whole property. Ms. Mayer asked for clarification on the easement. Assistant City Manager Benson commented the eastern front is kind of triangular. The easement was granted at the time of the original subdivision was platted which makes it difficult to move the easement. It is a private property agreement between those two parties at that time. Moving the easement is a challenge at this

point. It could be done, and it is the applicant's decision, but that is the easement in place which provides access to this property.

Mr. Stephens stated when the client/purchaser designed the house, they did step the house back. The drawing shows the house proposed on the lot, the corner closest to the Greenwalds, which is Unit 1, the house is almost in the original setback. It is a couple of feet out and then it slowly steps up to where the garage is actually out further. Mr. Stephens indicated the purchaser would also consider moving that over a little bit, as close as they can to the power lines which is reasonable. They are doing their due diligence. The height of the power lines would have to be measured. There are a few issues involved with that.

Chair Caplan stated according to the drawing, the house would be on the right side and the garage would be on the left. Chair Caplan asked if the homeowner would rather have the house on the right and the garage on the left of the power lines. The drawings are showing the house on the right of the power lines. Assistant City Manager Benson commented the drawing that is included in the application with the agenda packet, the house is on the left half of the property, closest to the Greenwalds. This is what was submitted. The house is on the east side of the property.

Assistant City Manager Benson indicated the ZBA is considering tonight is whether to grant variances for the rear and front yard setbacks; he has seen scenarios where conditions are attached but usually those are agreed to or submitted by the applicant. These are not approved construction drawings. Mr. Carlisle stated the Board can put conditions on their approval; for example, if the condition is that they agree to shift the house five feet over to the west, based on the fact that doing so meets the standards of a variance. The condition has to be tied to a specific standard.

Mr. Stephens stated because of the power lines and the drainage, these two issues are still in play with engineering. Everything will shift a little bit. This is one reason why the applicant asked for the ten feet and ten feet. Mr. Stephens again stated this is a difficult lot to build on. As of right now, Mr. Stephens indicated the house is proposed the way it is on paper. This is what the customer wants, and this is what they proposed. To push the house ten more feet, it would give a smaller back yard to accommodate that. A lot of time and effort into this house, this drawing and this layout. The engineers will design the drainage, all of your water is supposed to stay on your own property, etc.

Mr. Carlisle stated when the Zoning Board of Appeals considers a variance, they consider it based on the plans in front of them. There is an expectation to the public when they come to a meeting such as this, and look at a plan, that if a variance is granted, it is based on the plans that they review. The law doesn't really allow to flip flop back and forth. It is not a blanket variance for the entire length of the rear yard and front yard setback. If they do want to switch it, they would need to come back before the Zoning Board of Appeals for review because the impact may be different. Mr. Carlisle stated it is his opinion, tonight, there is a variance request with the house on the

east side. If that changes, they want to switch it, they would need to come back to this Board and get approval for the other side. The Zoning Board of Appeals is not viewing hypothetical plans where a potential house may go; - understanding that there may be some engineering challenges that may shift things over a foot or so. The public here tonight has a right to review and expect these are the plans under consideration if the variance is granted,. Variances run with the property. The variance is, basically, a box. The Zoning Board of Appeals is not granting design consideration, they are not considering the style of the house; it is a box, it runs with the property, itself. If a new owner should come in, as long as they build within the approved box that the variance is granted, they do not have to come back before the Zoning Board of Appeals.

Mr. Greenwald stated they are in support because there is a building there now; someone else could build a different house in that area and have it according to the six feet from the property line.

Mr. Carlisle indicated unless the Board puts in a condition, which they have the right to do, that this is the plan that will be in this configuration to be built and/or in agreement with the property owner, if they want to shift it over an additional five feet, then that would be locked in. The future purchaser would also be locked and bound by the conditions of the Zoning Board of Appeals. To vary that, they would have to come back before the Board and get a new variance.

Chair Caplan stated if this is approved, it is going to get approved based on this house and the way they have shown in the drawings, which would be on the east side of the lot. The Board could make an exception of five feet on each side.

Mr. Carlisle reiterated and explained when the Zoning Board of Appeals considers a variance, there are standards under which they consider. If the Board finds that the variance based on its current location does not meet those standards, however, to meet those standards, shifting five feet would allow the Board to find that it meets those standards, the Board can have that as a condition of approval. It has to be tied to the findings of the standards; not a blanket statement that they have to move five feet. Mr. Carlisle indicated he thought the adjacent property owner made a valid point that they are asking for a variance to shift it ten feet closer by moving it over five feet, which would reduce the impact of the ten-foot variance on the front yard. There is a rational relationship between the five-foot shift to the east and the impact of the ten-foot variance request on the front yard. If the applicant does not agree, they can come and state their case as to why they don't agree.

Board Member Thorsell stated his only concern would be dialing in an exact number of five feet. Mr. Carlisle indicated another way to think of this, rather than tying it to move five feet to the west, to require a 13-foot side yard setback, so they then have a little more room in terms of where they can put the building envelope. The future builder would have opportunity for flexibility with that as long as that 13-foot setback requirement is met. So rather than say shift it five feet to the west, indicate a

requirement of a 13-foot, eastside setback. Board Member Thorsell stated this makes sense. Mr. Carlisle stated the future builder can always decrease the size of the building within that envelope. This is the maximum they can build based on whatever variance the Board may grant for more flexibility.

Mr. Stephens indicated he had a couple of questions without conferring with anyone else. Mr. Stephens asked if another person comes along and they say they want to build a 1,100 square foot ranch on this property and they can fit it in this envelope, he asked if they have to appear before the Board. Chair Caplan stated he did not believe so. Mr. Carlisle stated no, as long as the future home fits in the approved envelope the Board grants tonight, assuming they do grant a variance; they are bound of the building envelope, it can be less.

Mr. Carlisle reiterated the applicant is tied to this plan that is in front of the Board; they are not getting a variance for a house on the west side of the site. It is not a blanket variance for the entire length of the rear yard setback at 25 feet and the front yard 25 feet; it is based upon the plan in front of the Board tonight because of the local impacts of that house placed now, not what may be in the future. It is based on the plans in front of the Board tonight.

Mr. Stephens inquired if he had the option to table this request. Assistant City Manager Benson stated yes; this has been previously tabled so the public hearing could be left open for both of these requests.

Mr. Stephens asked for a recess to talk to the landowner and the proposed buyers.

Chair Caplan granted a five minute recess at 8:25 p.m.

Chair Caplan called the meeting back to order at 8:33 p.m.

Mr. Stephens indicated there was a discussion with the client and the landowner and himself regarding moving the house back, making a smaller rear yard. The power lines are a big concern. The house may become smaller, and there is some other space that is troublesome. Mr. Stephens indicated they could put the 10 feet in there safely to do their due diligence. Chair Caplan clarified with Mr. Stephens, if he would like to see if it would work with a ten-foot easterly side line, rather than a 13-foot east side yard. Mr. Stephens answered yes.

Board Member Schira asked Mr. Greenwald how he would feel about 10 feet, if the other variances were considered being 25 feet to the rear and 25 feet to the front; with a 10-foot side setback to the east and the plans are consistent with the ones that are in front of us today for this very home. Mr. Greenwald stated he believed it would be fine.

Public hearing closed.

Mr. Carlisle clarified, the Board is approving the buildable box, they are not approving per se the floor plan that is front of the Board tonight. The variance granted is the variance under consideration tonight, which is where the location of the house is.

MOTION made and second by Board Members Schira and Winters to approve **VARIANCE REQUEST #PZBA23-004: 4072 CAMERON COURT, WIXOM, MI. 48393:** The applicant is seeking a total of one (1) non-use variance: Section 18.03.050, Height and Placement Requirements, to permit a rear yard setback of 25 feet rather than the required 35 feet, based upon the following condition:

1. Finding that a practical difficulty exists in approving a rear yard setback of 25 feet, a side yard setback on the east side is granted at a minimum of 10 feet, and that the house built would be per the specifications as presented.

VOTE: MOTION CARRIED

UNFINISHED BUSINESS:

1. **PUBLIC HEARING FOR VARIANCE REQUEST #PZBA23-003: 4072 CAMERON COURT, WIXOM, MI. 48393:** The applicant is seeking a total of one (1) non-use variance: Section 18.030.050, Height and Placement Requirements, to permit a front yard setback of 15 feet rather than the required 35 feet.

Section 18.22.03.E Dimensional and Other Non-Use Variances, gives the Zoning Board of Appeals authority to grant variances when it can be shown that ordinance standards cannot be met and a practical difficult exists. The property is zoned R-3, One Family Residential. The parcel number if 17-31-151-035.

Discussion:

This request was heard simultaneously with Variance Request #PZBA23-004: 4072 Cameron Court, Wixom, Michigan 48393.

The applicant proposes to construct a home on the parcel. The parcel is bisected by overhead power lines, has a shallow depth and odd frontage arrangement along Cameron Court. (Aerial photo included in the packet.

Building Location and Site Arrangement and CWA comments dated August 9, 2023 is included in the packet.

Based upon the information provided and the finding of facts, Carlisle Wortman Associates is supportive of the subject variance request.

MOTION made and second by Board Members Schira and Winters to approve **VARIANCE REQUEST #PZBA23-003: 4072 CAMERON COURT, WIXOM, MI. 48393:** The applicant is seeking a total of one (1) non-use variance: Section 18.030.050, Height and Placement Requirements, to permit a front yard setback of 15 feet rather than the required 35 feet; with the following condition:

1. Finding that a practical difficulty exists to permit a front yard setback of 15 feet, the Board approves a front yard setback of 25 feet, which is a 10-foot variance; that the side yard setback to the east be a minimum of ten feet, and that the house is built per the plans as presented.

VOTE: MOTION CARRIED

CALL TO THE PUBLIC:

No public comments.

STAFF COMMENTS:

No staff comments.

COMMISSION COMMENTS:

Board Member Thorsell indicated he liked the spirit of compromise prevailed when two parties come together that have opposite needs or wants and finding some middle ground.

ADJOURNMENT:

The meeting of the Zoning Board of Appeals was motioned and adjourned at 8:45 p.m.

Mona Freiburger
Recording Secretary