

**CITY OF LAPEER
MINUTES OF A REGULAR
ZONING BOARD OF APPEALS MEETING
OCTOBER 26, 2020**

A regular meeting of the City of Lapeer Zoning Board of Appeals was held electronically via GoToMeeting and at Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan on Monday, October 26, 2020 at 7:00 p.m.

Members Present: Chairman Bernard Jocuns, Vice Chairman Jeff Hogan, Mr. Joe Black, Ms. Bailey RaCosta, Mr. Paul Parsch and Mr. Eric Cattane.

Members Absent: None.

Also Present: Ms. Caitlyn Habben, Rowe Professional Services Company Planning Consultant.

Chairman Jocuns called the meeting to order at 7:00 p.m.

MINUTES

After a correction was noted it was moved by Mr. Hogan and supported by Mr. Black to approve the minutes of the meeting held on August 24, 2020 as corrected.

ON A ROLL CALL VOTE:

Yeas: Mr. Cattane, Mr. Black, Ms. RaCosta, Mr. Hogan, Mr. Jocuns and Mr. Parsch.

Nays: None.

Absent: None.

Abstain: None.

MOTION CARRIED.

PUBLIC COMMENTS

There were no public comments at this time.

PUBLIC HEARING SCHEDULED

Ivy Terrace – Vacant Woodbridge Park Ave. Parcel – Public Street Frontage Variance

Ms. Habben reviewed the request from DeShano Development Corporation for a variance to Section 7-14.06 of the Zoning Ordinance which requires a parcel to have frontage along a public street in order to allow a parcel split of vacant property along Woodbridge Park Avenue known as Parcel #L20-98-031-032-20 for the construction of the Ivy Terrace assisted living facility. Ms. Habben reviewed the site location, the frontage requirement for a land division and the site plan showing the parcel does not have actual frontage on Woodbridge Park Avenue due to a sliver of property on the north side of the development along the south side of Woodbridge Park Avenue which is located in Mayfield Township.

Ms. Habben provided a brief history of the development area and stated both parcels are owned by the same entity. Ms. Habben reviewed the standards to be met in order to approve the variance request, the applicant's response to each standards and staff findings in support and opposition of each standard and stated the parent parcel has frontage on Lincoln Street on the east side. Ms. Habben reported the applicant's request

to Mayfield Township to amend the existing 425 Land Transfer Agreement to transfer the sliver of property on the north side of parcel into the City of Lapeer was denied and that if the Ivy Terrace parcel is not split from the larger parent parcel the site plan will be required to be reviewed again by the Planning Commission.

Discussion was held on the intent of the street frontage requirement and the correspondence from the City Assessor recommending denial of the variance based on several findings of fact.

Chairman Jocuns opened the public hearing at 7:16 p.m.

Ms. Habben summarized the following letter received October 23rd regarding the request:

ZBA for City of Lapeer

To whom it may concern:

I am sending this letter to voice my concerns with the zoning variance request to allow a new parcel to be created without ANY public road access. I think the zoning ordinance is pretty darn clear when it states that a parcel shall have frontage along a public road. I think this is a complete farce if the ZBA grants this request. I cannot think of any reason why someone should be allowed to create a new parcel without access to a road. I am in the real estate business and have never seen a landlocked parcel to be allowed to be created. Usually they like to eliminate those land locked parcels for obvious reasons. I know big rich developers like Gary DeShano feel like the rules don't really apply to them. They think that cities will bend over backwards to accommodate a big developer like them. Cities lean towards the idea that any development is good since it increases the tax base. I think that is a short sighted view. I know when the little guy wants a little leniency from big government Lapeer City officials are often more than happy to press the boot upon our necks even harder. But they often give right in to big rich developers like DeShano. I was personally told by city officials that if I even replace one sheet of drywall in my house or even just a few shingles that I would have to obtain a permit from the city building department which is the most egregious authoritarian city department you have. This is also the one most dealt with by the little homeowner. It is having to deal with the city building department that I have pulled out of the City of Lapeer and would never start a business in the city limits again. So the little guy gets the heavy hand of government while the rich developers just ask for a variance so the rules don't apply to them and unfortunately they usually get it. I hope you are all smarter than that.

I know if I requested to split some property I owned into parcels without road frontage I would be denied as the ordinances are clear. They likely would tell me that I would be required to build a private road if I wanted to develop property. Access from a public road is essential or how would anyone including emergency services get to this parcel? They would have to trespass over someone else's property to get to Gary DeShano's? That seems utterly ridiculous.

I think the ZBA should deny this request and require Gary DeShano to follow the same exact rules the rest of us have to. If the zoning laws are too strict then the City commission can always change them so that they apply equally to both the little guy and the big rich developers too. If this variance is granted then how can the ZBA deny someone else the next time they want a new parcel without any road frontage? We don't need more landlocked parcels...we need less. Let DeShano purchase additional nearby properties so he can get the road frontage necessary or take his development somewhere else.

Sincerely,
Alex Lengemann

Mr. Dan LeClair, the project engineer with Greentech Engineering, provided a brief history of his involvement with the overall Woodbridge development and stated the property has sat vacant for years since the 425 Agreement between the City and Mayfield Township and that the site is planned for a 40 bed, 3 story assisted living facility with utility taps from the City which will provide an increase to the City's tax base. Mr. LeClair summarized DeShano Development Corporation's operation, other areas they have developments and stated the two properties are considered one tract of land that does have frontage on Woodbridge Park Avenue with the entrance and sidewalk located in the township and the building and parking located in the City. Mr. LeClair stated it does not make sense to go through the annexation process for the sliver of property, that the zoning ordinance cannot address every situation, that the developer prefers the variance route and that the ZBA should allow the variance which will be a benefit to the City of Lapeer.

Discussion was held on jobs to be created by the project, the Mayfield Township board's 3 to 2 vote on denial of the request to amend the 425 Agreement with the City for the sliver of land, the Lapeer County Road Commission's jurisdiction of Woodbridge Park Avenue north of the site and the larger parent parcel's frontage/access to Lincoln Street. Discussion was also held on the need for the site plan to be reviewed again by the Planning Commission if the parcel split is not completed, the recommendations from the Fire & Police departments to address the project off of Woodbridge Park Avenue, potential ingress/egress issues in the future, and the recommendation from the City Assessor to require an easement for the access drive from Woodbridge Park Avenue across the township parcel.

Mr. LeClair stated the issuance of an easement does not make sense since the both parcels are under the same ownership and stated the he and the applicants would suggest requiring a deed restriction be placed and recorded for both parcels to marry and not allow the separation of the parcels permanently.

There being no further comments, the public hearing was closed at 7:41 p.m.

Discussion was held on requiring a recorded deed restriction to marry the parcels in perpetuity prior to issuance of a Certificate of Occupancy, the future phase 2 building to be constructed east of phase 1 and the fact the lack of frontage is a self created issue.

After discussion, it was moved by Mr. Cattane and supported by Mr. Black to approve the request from DeShano Development Corporation which is developing the Ivy Terrace project on a vacant parcel along Woodbridge Park Avenue for a variance from Section 7-14.06 to allow the subject property as shown in the approved site plan to not have frontage on a public street because it meets all 5 standards in Section 7.22.04(e) contingent upon the owner placing and recording a deed restriction on both parcels to marry both parcels for access in perpetuity.

ON A ROLL CALL VOTE:

Yeas: Mr. Black, Mr. Cattane, Mr. Hogan, Ms. RaCosta and Mr. Jocuns.

Nays: Mr. Parsch.

Absent: None.

Abstain: None.

MOTION CARRIED.

OTHER BUSINESS

Meeting Start Time

Discussion was held regarding the 7:00 p.m. start time of ZBA meetings and the possibility of changing the start time to 6:30 p.m. Ms. RaCosta informed the board she will be resigning from the board. After discussion, it was moved by Mr. Jocuns and supported by Mr. Cattane to change the regular start time of Zoning Board of Appeals meetings to 6:30 p.m.

ON A ROLL CALL VOTE:

Yeas: Mr. Black, Mr. Cattane, Mr. Hogan, Mr. Parsch and Mr. Jocuns.

Nays: None.

Absent: None.

Abstain: Ms. RaCosta.

MOTION CARRIED.

TRAINING REPORT

Ms. Habben reminded the board of the virtual training session scheduled for Thursday, October 29th being presented by Rowe Professional Services Company on the topics of pandemic planning and primary caregivers.

ADJOURNMENT

There being no further business, it was the consensus of the board to adjourn the meeting at 8:03 p.m. **MEETING ADJOURNED.**

Mr. Paul Parsch, Secretary