

**CITY OF LINDEN
SPECIAL ZONING BOARD OF APPEALS MEETING MINUTES**

Wednesday, July 10, 2019

7:00 p.m.

CALL TO ORDER

The special meeting of the Linden Zoning Board of Appeals was called to order at 7:00 p.m. by Chairperson Scott Ward. The meeting was held in the Council Chambers on the lower level of the Mill Building at 201 N. Main Street, Linden, Michigan.

ROLL CALL

PRESENT: Dick, Kinyon, McDaniel, Ciesielski, Ward

ABSENT: McComb

OTHERS

PRESENT: Adam Young: City Planner, Zoning Administrator, Scott Sutter: Interim City Manager

MINUTES APPROVAL

Motion by Kinyon, seconded by Ciesielski to approve the minutes of the November 13, 2018. Motion carried 5-0.

PUBLIC HEARING

222 E Silver Lake- Setback variance

Ward opened the public hearing at 7:01 PM.

Young gave brief review of the proposed variance.

Sara Senter gave brief introduction of the proposed variance being presented.

David Franz commented there is no issue with the variance, the Senters are great neighbors.

Ward commented that South Street was given to the city.

Ward closed the public hearing at 7:09 PM.

CITIZEN'S COMMENTS

None.

COMMUNICATIONS

None.

UNFINISHED BUSINESS

None.

NEW BUSINESS

(A) Election of new officers

Ciesielski nominated Scott Ward, seconded by Kinyon for Chairperson. Ward accepted.

Ciesielski nominated McComb, seconded by Ward for Vice Chairperson.

Ward nominated Kinyon, seconded by Ciesielski for Secretary. Kinyon accepted.

(B) ZBA 01-19 222 E Silver Lake- Setback variance

The ZBA board is in receipt of an application submitted by property owners Phil and Sarah Senter requesting a variance from Section 154.049 of the City of Linden Zoning Ordinance to allow for a new deck attached to the rear of their dwelling. The proposed deck would encroach into two required yard setbacks, as follows:

- 6 feet encroachment into the required 35-foot rear yard setback – the deck will be 29 feet from the west property line.
- 7 feet encroachment into the required 25-foot front yard setback – the deck will be 18 feet from the north property line, which is also the right-of-way line of South Street (although South Street deadends west of the subject site).

The subject site is 0.69 acres in size (0.49 acres when the adjacent rights-of-way are excluded) and fronts Silver Lake Road to the east. The subject site is technically a corner lot, as it is adjacent to the South Street right-of-way to the north, although South Street dead-ends to the west of the subject site. Because it is a corner lot, the subject site has two front yards. The existing dwelling faces Silver Lake Road and is set back 46 feet from the front (east) property line (right-of-way line) along Silver Lake Road. The existing dwelling is currently set back 23 feet from the front (north) property line (right-of-way line) of South Street and 37 feet from the rear (west) property line.

The subject site, property ID# 61-20-400-047, is presently zoned R-2, Single-Family Residential District. The required yard setbacks for the R-2 District are: 25 feet front yard; 35 feet rear yard; and, 8 feet (least)/18 feet (total) side yard. Although not related to this proposed deck variance request, the existing dwelling is nonconforming in that it encroaches 2 feet into the required front (north) yard. Presently, a small existing deck is attached to the northwest corner of the dwelling. The property owner is proposing to remove this deck and construct a new, larger deck attached to the northwest corner of the dwelling. As noted above, the outermost edge of the proposed deck would be located 18 feet from the front (north) property line and 29 feet from the rear (west) property line. Per the Zoning Ordinance, accessory structures (including decks) that are attached to the principal structure (in this case, the existing dwelling) are subject to the same setback requirements of the principal structure. Therefore, the proposed attached deck must would require setback variances for both the front (north) and rear (west) property lines. Related to this variance request, we believe there are unique circumstances related to the site, as follows:

- The subject site is a corner lot; however, it does not function practically as a corner lot, given that South Street dead-ends to the west of the subject site.
- If South Street did extend into the site and the dwelling was oriented to face South Street, the west yard of the subject site would be a side yard, not a rear yard. The house on the property immediately adjacent to the west does face South Street, and their east yard is a side yard.

There is a modest topographical change in this vicinity, as the lands immediately adjacent to Silver Lake Road (including the existing dwelling on the subject site) are higher than the lands to the west (including the dwellings fronting South Street to the west). This topographical change, where the lands to the west are approximately 8 to 12 feet lower than the lands to the east, is likely the reason that South Street was not extended to connect all the way to Silver Lake Road.

- The north line of the existing dwelling on the subject site is already non-conforming, in that it is located 23 feet from the South Street right-of-way line.

Members who determines that addresses; the definition of an attached structure and deck; vacant property of South St. Members commented that this property has a unique property.

Motion by Kinyon, seconded by Ward to ZBA approve a variance from Section 154.049 of the City of Linden Zoning Ordinance to allow for a 6 foot encroachment into the required 35-foot rear (west) yard setback and a 7 foot encroachment into the required 25-foot front (north) yard setback, based on the demonstrated presence of a hardship and all standards have been met.

Discussion between members regarding the detail in the motion on the table.

Motion by Dick, seconded by Ciesielski to amend the current motion; that the ZBA approve a variance from Section 154.049 of the City of Linden Zoning Ordinance to allow for a 6 foot encroachment into the required 35-foot rear (west) yard setback and a 7 foot encroachment into the required 25-foot front (north) yard setback, based on the demonstrated presence of a hardship in consideration of the factors of Section 154.218,(E),(2) and further that: if the house was oriented to the north facing South Street, the rear (west) yard would actually be a side yard; and, because South Street is undeveloped, the front (north) yard functions as a side yard. Motion carried 5-0.

AYES: Kinyon, Ward, McDaniel, Ciesielski, Dick

NAYS: None

ABSENT: McComb

COMMISSIONER/COMMITTEE REPORTS

Members and Young discussed the meeting schedule; Dr. Wax building; Pine Valley addition and the Planning Commission will be presented the preliminary site plan for Beacon and Bridge project.

ADJOURNMENT

The meeting was adjourned by the Chairperson at 7:40 PM.

Respectfully Submitted,

Tessa Wightman, City Clerk

Approved: _____