

**A MEETING OF THE ZONING BOARD OF APPEALS WAS CALLED TO ORDER AT 7:30 PM, MONDAY, MARCH 14, 2016 AT CITY HALL BY CHAIRPERSON EVANS.**

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**PRESENT:** Andrew Assenmacher      Ryan Gesund  
                 Paul Evans                              Dean Smith

**ABSENT:** Barbara Morris      Mike Kerby                      Greg Butts  
                 Susan McAlpine

**ALSO PRESENT:** William Moore, 3578 Tyler  
                         Alan Kideckel, Council Liaison  
                         Amy Vansen, City Planner

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**APPROVAL OF AGENDA**

**It was moved by Mr. Gesund to approve the agenda.  
Supported by Mr. Smith.  
AYES: Assenmacher, Smith, Gesund, Evans  
NAYS: None  
ABSENT: Morris, Butts, McAlpine, Kerby  
Motion Carried.**

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**APPROVAL OF MINUTES**

**It was moved by Mr. Assenmacher to approve the minutes of January 11, 2016.  
Supported by Mr. Gesund.  
AYES: Assenmacher, Smith, Gesund, Evans  
NAYS: None  
ABSENT: Morris, Butts, McAlpine, Kerby  
Motion Carried.**

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1. **Application Number BA-02-16** William Moore, regarding 3578 Tyler, east side of Tyler, between Edwards and Twelve Mile, is seeking a variance of *Berkley City Code*, Chapter 138 *Zoning*, Division 17 *Schedule of Regulations*, Section 138-527 *Notes to schedule of regulations*. (d) There shall be a distance of at least 15 feet between dwellings. The applicant is seeking this variance in order

to construct 2 new houses. The 2 new houses will be 11 feet from each other, 15.1 feet from 3572 and 3618 Tyler. A 15-foot separation is required.

The applicant was present.

Chairperson Evans advised the applicant that four votes are needed in order to receive a variance. Tonight's meeting has only four members present, so all members present would need to vote in favor of the variance. He advised the applicant that he may elect to postpone the meeting until next month.

The applicant chose to move forward with the request.

The applicant advised that the property and house were priced for land value only with no viewings of the house. The house has since been demolished.

The neighboring properties are nonconforming and both the narrow side yards about this property making the 15 foot separation difficult.

It was clarified that the encroachment into the driveway was not a fireplace. The fireplaces are on the side opposite the driveway and do not have a traditional flue. The encroachment into the driveway is a step to the side door.

The applicant advised that he had looked at reducing the width to 23 feet. However, that width would make the rooms very small and marketability an issue.

The Board was concerned about the encroachment into the driveway noting that the step would make driving onto the driveway as well as snow removal a potential problem.

The Board also established that the applicant would need to be very cognizant about stormwater runoff. Mr. Smith suggested that the water be channeled to the area between the new houses.

Chairperson Evans opened the public hearing at 7:53 PM.

Hearing no comments, Chairperson Evans closed the public hearing at 7:53 PM.

Chairperson Evans noted that the Board has received a letter in opposition from Jim Oliver.

Mr. Smith questioned the rationale of the 15 foot separation. Ms. Vansen noted that the 15 foot separation has been in the code since at least 1971. The Michigan Residential Code requires a 10 foot separation.

Mr. Smith added that the front elevation of the proposed houses with the front porches

are very pleasing and in keeping with the City's Master Plan.

Chairperson Evans stated that the property is unique due to the development pattern of the surrounding properties. The proposed houses are contextual. The proposed placement protects the neighboring properties. There would be no improvement if the new houses were narrower.

**It was moved by Mr. Assenmacher to approve BA-02-16 citing that a practical difficulty had been proven because the property owner did not cause the development pattern, strict compliance would not benefit the neighborhood, and the proposal would not adversely impact the neighborhood. The approval would be with the following conditions:**

- **The step encroachment into both driveways be eliminated.**
- **Adequate site drainage be provided and directed between the new houses.**

**Supported by Mr. Smith.**

**AYES: Assenmacher, Smith, Gesund, Evans**

**NAYS: None**

**ABSENT: Morris, Butts, McAlpine, Kerby**

**Motion Carried.**

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2. **DISCUSSION:** Discussion regarding Rules of Procedure

The Board was pleased with the information provided relative to ex parte contact.

**It was moved by Mr. Assenmacher to approve the Rules of Procedure as presented.**

**Supported by Mr. Gesund.**

**AYES: Assenmacher, Smith, Gesund, Evans**

**NAYS: None**

**ABSENT: Morris, Butts, McAlpine, Kerby**

**Motion Carried.**

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**OTHER BUSINESS**

Ms. Vansen noted that there was an ordinance amendment provided. The Board had requested a history on the setback regulations. Ms. Vansen noted the report from 2007 on this matter. She also noted that there are two cases for April 11, 2016.

Mr. Smith inquired as to the Planning Commission's progress on the Form Based Code.

Ms. Vansen advised that the Planning Commission had completed its review. The next step would be scheduling an open house for the public.

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## **PUBLIC COMMENTS**

Councilmember Kideckel welcomed new ZBA alternate member Ryan Gesund. He advised that the City Council is in the midst of negotiating with the city manager candidate, Matthew Baumgarten. He advised the Board that former councilmember Ralph Conklin passed away. The funeral is scheduled for March 17, 2016.

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There being no further business, Chairperson Evans adjourned the meeting at 8:21 PM.