THE REGULAR MEETING OF THE BERKLEY CITY ZONING BOARD OF APPEALS WAS CALLED TO ORDER AT 7:00 PM, MONDAY, MARCH 8, 2021 VIA ZOOM ELECTRONIC MEETING BY CHAIR PAUL EVANS.

The minutes from this meeting are in summary form capturing the actions taken on each agenda item. To view the meeting discussions in their entirety, this meeting is broadcasted on the city’s government access channel, WBRK, every day at 9AM and 9PM. The video can also be seen on-demand on the city’s YouTube channel: https://www.youtube.com/user/cityofberkley.

PRESENT: Steve Allen, Berkley, Michigan
Ryan Gesund, Berkley Michigan
Joe Krug, Berkley Michigan
Sue McAlpine, Berkley Michigan
Miles Uhlar, Berkley Michigan
Maria Ward, Berkley Michigan
Paul Evans, Berkley Michigan

ABSENT: None

ALSO PRESENT: Troy Faik, 1919 Robina
Tim McLaughlin, Flame Furnace Co.
John & Sara Giarmarco, 2650 Ellwood
Robert Williams, 1920 Robina
Erin Schlutow, Community Development Director
Dennis Hennen (joined at 7:46pm), City Council Liaison
Matthew Baumgarten, City Manager

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APPROVAL OF AGENDA
It was moved by Ms. Ward to approve the agenda, with the modification to move Old Business after New Business. Motion supported by Ms. McAlpine

AYES: Gesund, Krug, McAlpine, Uhlar, Ward, Allen, Evans
NAYS: None
ABSENT: None

MOTION CARRIED

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APPROVAL OF MINUTES
It was moved by Mr. Allen to approve the minutes of February 8, 2021, as presented. Motion supported
MOTION CARRIED

NEW BUSINESS

1. APPLICATION PBA-02-21; 2650 Ellwood – Variance Request to Install Generator in Side Yard

Flame Furnace Co, on behalf of John and Sara Giarmarco, 2650 Ellwood, Parcel ID #25-18-152-036, east side of Ellwood Ave, north of Catalpa Dr., is requesting a variance to install a generator in the side yard of the residential property.

Community Development Director Schlutow summarized the February 28, 2021 review letter, and read the five standards of review by which the ZBA would discuss the request.

Tim McLaughlin, Flame Furnace Co, spoke on behalf of the property owners and summarized their request and need to place the generator in the side yard.

Ms. Ward asked about the day and time for testing the generator. Mr. McLaughlin noted that the test date and time could be scheduled.

Mr. Allen asked about a vacated alley along the south property line.

Mr. Krug noted that the side yard of the subject property abuts a rear yard of the adjacent property.

Ms. McAlpine asked about screening of the generator.

Mr. Allen asked if there was an alternate location on the property that the generator could be located. Mr. McLaughlin noted that alternate locations were reviewed, but clearance requirements, proximity to driveway prevented rear yard location.

Chair Evans opened the Public Hearing at 7:20pm.

Sara Giarmarco, 2650 Ellwood, noted that they had written permission from neighbor on Catalpa. Ms. Giarmarco also noted that they plan to remove the rear deck and replace in the future and don’t want the generator location to be in the middle of the yard. Ms. Giarmarco also noted that the backyard does get wet and the side yard is flatter and dryer.

Chair Evans closed the Public Hearing at 7:25pm.

Mr. Allen went through the standards of review and noted that the request is self-created. He also noted that there are other places in the rear yard the generator could be placed.
Ms. Ward noted that the house is large on a small property. The previous property owner created the problem of the small back yard area. She noted that there are some extenuating circumstances, but the house is overbuilt on a small piece of property.

Mr. Krug noted that the configuration of the properties is a good set up. The side yard abutting a rear yard, and the generator will be separated from the house on Catalpa.

Mr. Gesund stated concerns related to the removal of the deck and future plans to build something else that could encompass a pedestal arrangement for the generator.

Mr. Allen noted that it would be a good fit on the side yard; however, there is concern that the issue is self-created and does not meet the standard.

Ms. McAlpine stated concerns for approving the request when the layout of the rear yard may change in the future.

Tim McLaughlin inquired about standards for air conditioning units. Director Schlutow noted that air conditioning units are permitted in the side yard.

Motion by Mr. Allen to deny PBA-02-21, variance request at 2650 Ellwood to install a generator in the side yard, given that the standards of review have not been met. Motion supported by Ms. Ward.

AYES: McAlpine, Uhlar, Ward, Allen, Gesund, Evans
NAYS: Krug
ABSENT: None

2. PBA-03-21; 1919 Robina – Variance Request for Minimum Lot Size

Troy Faik, 1919 Robina Ave, Parcel ID #25-18-454-028, west side of Robina Ave, north of Eleven Mile Rd, is requesting a variance for minimum lot size in order to split the existing property into two separate parcels. New Parcel 1 is proposed to be 4,377.45 sq. ft. The applicant is requesting a lot size variance of 22.55 sq. ft.

Community Development Director Schlutow summarized the February 28, 2021 review letter, and read the five standards of review by which the ZBA would discuss the request.

Mr. Uhlar asked about the minimum lot size requirement and when that went into effect. He also inquired if there was a possibility that when the parcels were previously split, if there was an error in the survey.

Mr. Faik summarized his request and noted his interest in splitting the existing parcel in order to sell the split parcel for future development.

Chair Evans opened the Public Hearing at 7:45pm.

Robert Williams, 1920 Robina, stated that he does not have an objection to the approval of the request.
Chair Evans closed the Public Hearing at 7:47pm.

Mr. Allen noted that he had reviewed the materials and felt that the standards of review have been met.

Chair Evans noted that there is a practical difficulty and it does not appear that there would be a negative impact on adjacent properties.

Mr. Uhlar notes that it doesn’t seem like it would impact the neighbors, but doesn’t see that the request meets standard #3. The property owner can continue to live on the property, as is.

Mr. Gesund asked about the future development and if it is possible for a developer to return to the ZBA for additional variances.

Ms. Ward noted that she had internet connection issues and did not hear Mr. Uhlar’s comment and asked him to repeat.

Mr. Uhlar repeated his statement.

Ms. Ward agreed with Mr. Uhlar that Standard #3 has not been met.

Ms. McAlpine agreed with Mr. Uhlar and Ms. Ward.

Mr. Allen noted it is within rights to sell property, as long as it meets requirements. He stated that the property owner is requesting relief in order to do that.

Mr. Krug agreed with Mr. Allen.

Mr. Uhlar noted that it is easy to sell a big lot.

Chair Evans noted it is possible to have a home and not worry about density concerns.

Ms. McAlpine agreed with Mr. Uhlar that the property can still be sold.

Ms. Ward requested to ask Mr. Williams the size of his property across the street.

Mr. Williams noted his property is 80 ft. wide, but is also two lots. He noted that the intent when the area was platted to have two lots. He also noted that this was placing a burden on the current property owner in prohibiting the land to be used as intended.

Ms. Ward noted concern for the neighborhood and the possibility that a new home would not be in the character of the neighborhood.

Ms. McAlpine noted that the ZBA must review the case based on the five standards of review and stated that the third standard had not been met. The homeowner may consider tabling the request to explore other options.

Board members reviewed the standards of review and the layout of the subject property.

Mr. Williams noted that there is a second driveway on the property, demonstrating that the second driveway was planned for a house.

Councilmember Hennen spoke on the accuracy of property surveys.
Motion by Ms. Ward to deny PBA-03-21, variance request at 1919 Robina for minimum lot size, given that standard #3 has not been met, and the property owner can continue to use the property for a permitted purpose. Motion supported by Ms. Gesund.

AYES: Uhlar, Ward, Gesund, McAlpine, Evans
NAYS: Allen, Krug
ABSENT: None

Board agreed to take a brief recess.
Recess began at 8:16pm.
Meeting resumed at 8:24pm.

OLD BUSINESS

3. RULES OF PROCEDURE
   Chair Evans noted that it was beneficial for staff to read the Standards of Review as part of the staff report. Board members agreed.
   Board discussed other updates to the Rules of Procedure.
   Motion by Mr. Allen to approve the updated 2021 Rules of Procedure. Motion supported by Mr. Gesund.
   AYES: Ward, Allen, Gesund, Krug, McAlpine, Uhlar, Evans
   NAYS: None
   ABSENT: None

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OTHER BUSINESS

None

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STAFF / BOARD MEMBER REPORT

Community Development Director Schlutow highlighted the Housing and Corridor videos that have been loaded on the City website. The videos and accompanying surveys are part of the community engagement for the Master Plan. She also invited the Board and public to attend the virtual Open House on March 25, 2021.
Mr. Gesund asked if it would be possible to ask WOW to attend the next City Council meeting to discuss and address the recent service interruptions. Councilmember Hennen stated that he has already made such a note.

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LIAISON REPORT

Councilmember Hennen noted it is good to review the monthly report sent by the Community Development Director, which covers the progress of on-going projects in the City.

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PUBLIC COMMENTS

None.

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Motion by Mr. Allen to adjourn the meeting. Motion supported by Mr. Gesund.

    AYES:        Allen, Gesund, Krug, McAlpine, Uhlar
    NAYS:        None
    ABSENT:      Ward, Evans (service interruptions)

With no further business, Vice-Chair adjourned the meeting at 8:40pm.