THE REGULAR MEETING OF THE BERKLEY CITY ZONING BOARD OF APPEALS WAS CALLED TO ORDER AT 7:00 PM, MONDAY, APRIL 12, 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: Gloria and Sander Dijkers, 2928 Robina,
Joe Novitsky, JSN Architecture
Matthew Penney, 2983 Robina
Lorrena Black, 2344 royal
Andrew Danaher
Erin Schlutow, Community Development Director
Dennis Hennen, City Council Liaison
Matthew Baumgarten, City Manager

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APPROVAL OF AGENDA
It was moved by Ms. Allen to approve the agenda. 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. Gesund to approve the minutes of March 8, 2021, as presented. Motion supported
by Ms. Ward.

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

MOTION CARRIED

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OLD BUSINESS

None.

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NEW BUSINESS

1. APPLICATION PBA-04-21; 2928 Robina – Variance Request to Construct Second Story Addition That Encroaches into the Front Yard Setback

Joseph Novitsky, JSN Architecture, on behalf of Gloria and Sander Dijkers, 2928 Robina, Parcel ID #25-18-210-018, east side of Robina north of Wiltshire, is requesting a variance to construct a second story addition that encroaches into the front yard setback.

Community Development Director Schlutow summarized the April 5, 2021 review letter, and read the five standards of review by which the ZBA would discuss the request.

Mr. Gesund asked if the update to the Master Plan will include any language related to houses that are on small lots that do not conform to the existing setbacks. Ms. Schlutow noted that the Master Plan will not modify setback requirements.

Chair Evans went over the process steps that will be followed related to the variance request.

Joseph Novitsky noted that the homeowners are looking to expand the second story of the existing house and are not proposed to extend over the existing porch. He noted that the front porch would be open that is proposed to be given back to the City, with approval of the variance request.

Sander Dijkers addressed the Board and explained the desire to expand the second story addition to give more space in the home and make it more uniform with the neighborhood. The proposed addition is the only option for more space in the home.

Chair Evans noted that it is appreciated that the height of the house is maintained. He also noted that the open front porch is a benefit to the community. Chair Evans asked why a second story addition could not be done over the rear sunroom.
Sander Dijkers noted that the rear sunroom does not have a foundation and a rear addition would not maintain the required 10 ft. separation from the existing garage.

Gloria Dijkers also noted that a rear second story addition would require cutting into the existing upstairs bedrooms to create a hallway, and that would not work for their purposes.

Chair Evans also asked the potential to add the second story addition that would conform to the existing 25 ft. setback requirement.

Gloria Dijkers stated that an addition in that area would require another load bearing wall inside the structure.

Joseph Novitsky also stated that changing the addition to conform would require the construction of the crawl space under the home.

Chair Evans read the instructions for participating in the Public Hearing. Chair Evans opened the Public Hearing at 7:17pm.

Director Schlutow noted that emails and communications received prior to the meeting that were provided in the ZBA packets.

Matthew Penney, 2983 Robina, noted he had sent an email of support and attended the meeting so as to answer any questions posed by the Board.

Director Schlutow read the emails received by members of the public:

   Matthew Penney, 2983 Robina, wrote in support of the proposed addition.
   Rebecca Riggs, wrote in support of the proposed addition.
   The homeowners also provided signatures of support from many of the surrounding property owners.

Chair Evans closed the Public Hearing at 7:24pm.

Mr. Allen noted that the house does not conform to 25 ft. setback like the other houses on the block and does not see an issue with it.

Mr. Krug agreed with Mr. Allen and it was a perfect plan with the home. The homeowners are giving back the front porch and that is outstanding.

Ms. Ward noted that the project checks all five boxes of the standards of review and can support the request.

Ms. McAlpine stated it is a good project and would blend well with the neighborhood.

Mr. Allen stated he would rather see an older home revitalized, rather than demolished.

Chair Evans stated that the request meets the standards and the proposed addition will fit with the neighborhood.
Motion by Ms. Ward – In the matter of PBA-04-21, 2928 Robina, a variance request to construct a second story addition that encroaches into the front yard setback, Ms. Ward motioned to Approve the variance based upon the fact that the variance meets the five standards of review.

1. It is a unique circumstance with unique physical conditions of the property
2. The variance is not the result of actions of the property owner or previous owner
3. Strict compliance with the ordinance will unreasonably prevent the homeowner from using the property for permitted purpose
4. The requested variance is the minimum variance
5. The requested variance will not adversely impact the surrounding properties.

Motion supported by Mr. Allen.

Chair Evans added that there is a practical difficulty, and are burdened by the existing non-conformity.

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

2. APPLICATION PBA-05-21; 2344 Royal – Variance Requests to Construct an Addition into the Front Yard Setback, Area of Accessory Structure, and Lot Coverage

Lorreana Black, 2344 Royal Ave, Parcel #25-18-329-018, east side of Royal Ave north of Oxford Rd, is requesting three (3) dimensional variances: 1) to construct an addition that encroaches into the front yard setback, 2) the combined area of all proposed accessory structure exceeds 800 sq. ft. or one-half of the ground floor of the main building, and 3) total lot coverage exceeds maximum 35% permitted lot coverage.

Community Development Director Schlutow summarized the April 5, 2021 review letter, and read the five standards of review by which the ZBA would discuss the request. Due to the scale and scope of the project, with three variance requests, it is suggested to separate the variances and review each one separately.

Ms. McAlpine disclosed that she is a member of the same Boot Camp and knows Ms. Black through that organization.

Mr. Allen noted that he did not feel that that would be a problem. Chair Evans agreed.

Chair Evans asked Director Schlutow questions regarding the second story accessory structure and the area of the swimming pool.

Chair Evans went over the process steps that will be followed related to the variance request.

Lorreana Black summarized her requests and the need for each variance. Ms. Black noted the desire to stay in the home in Berkley and the need to modify and expand the home in order to accommodate the needs of her family.
Andrew Danaher, D2 Architecture, noted that he has worked with the Black family to accommodate their needs; specifically, the need for the swimming pool.

Chair Evans asked if the pool was not part of the plan, how would that impact the need for the variances. Mr. Danaher answered that if the pool and the rear portion of the garage were not part of the plan, variances #2 and #3 would not be needed.

Mr. Allen asked about the area of the swimming pool. Ms. Black stated that she worked with the pool contractor and modified the area of the space to fit the needs of the family.

Ms. McAlpine asked about drainage issues on the existing property and if the inclusive of a pool would help with that in the future. Ms. Black noted that there is drainage issues on the property and the swimming pool will help alleviate that.

Chair Evans read the instructions for participating in the Public Hearing.
Chair Evans opened the Public Hearing at 7:17pm.

Chair Evans asked Director Schlutow to read any emails or letters received into the record:

Richard Borer, 2328 Royal, emailed in support of the project.

Natalie Arguello, 2360 Royal, emailed to express support of the project and variances requested.

Connie Smith, 2399 Royal, stated she has been in the City for 16 years and is excited for the proposed home improvements. She noted the Black family takes care of their property and is generous with helping out their neighbors. She would hope that the variances are granted and the Black family can continue to live in the community. She spoke in support of all variances requested.

Chair Evans closed the Public Hearing at 7:55pm.

Ms. McAlpine noted that this is a case that illustrates the need for a variety of housing stock for residents, or ability to make what we have work better.

Mr. Allen stated that he is a strong proponent of green space but also stated that this is one of the best put-together plans for maximizing use of a lot.

Mr. Gesund reminded the Board that it was suggested to separate the variances.

Mr. Gesund noted commented on the front addition and understanding for the need for the pool and is curious if something can be done – to reduce the size of the pool that would still prove functional for needs of the family and Mrs. Black.

The Board agreed it would be beneficial to discuss the items separately.

The Board discussed the proposed addition to the front of the house that would encroach into the front yard setback.

Ms. Ward noted that it was unclear if the five standards have been met with regard to the proposed front yard addition.
Mr. Uhlar commented that in the previous case, the owner was “giving back” the front porch. In this case, the addition will increase the non-conforming footprint. Mr. Uhlar noted that it was not appropriate to quote the existing housing market, as it will continue to change.

Chair Evans stated the Board should be careful in using personal needs for giving approvals.

Mr. Uhlar stated that the property is not right for the size of the proposed pool. He asked if the pool is being considered a necessity rather than a luxury.

Mr. Allena asked for clarification about the need for a variance if the swimming pool was not included. Mr. Danaher explained without the inclusion of the swimming pool, an area variance would not be needed.

Chair Evans noted that there may be considered a difference between in ground and above ground structures and the impact on the surrounding properties.

Ms. McAlpine questioned the swimming pool being considered an accessory structure.

Ms. Ward found no issue with the variance related to the garage, but was concerned with the addition of the swimming pool.

Chair Evans went over and summarized the requests for each variance.

Mr. Uhlar asked how it would be possible to hold the ordinance standard.

Ms. McAlpine asked the applicant if it would be possible to reduce the size of the pool to meet the standards of the ordinance.

Ms. Black noted it may be possible. Mr. Danaher noted that any additional accessory structure would require a variance from the lot coverage requirement.

Chair Evans summarized the comments from the Board related to the accessory structures and the requested variances. Director Schlutow stated that there was discussion with the architect about reducing the size and the architect stated that the pool had already been reduced from its original design and was at the minimum size to fulfill the needs of the family.

The Board discussed the standards and the size of the pool and garage.

Mr. Gesund noted that it might be best to table or postpone the discussion for the architect to discuss with the homeowner if the size of the pool can be reduced and if it would fulfill their family needs.

Ms. Ward supported the suggestion.

Motion by Mr. Allen to postpone the decision until the May meeting on PBA-05-21 on the three variances requested at 2344 Royal, and ask that the architect and homeowners discuss and try to minimize the amount of variances needed. Motion supported by Mr. Gesund.

Mr. Uhlar suggested providing documentation related to the need for such therapy.

Chair Evans stated that improvements to the property could be achieved without a variance.
AYES: Uhlar, Ward, Allen, Gesund, Krug, McAlpine
NAYS: Evans
ABSENT: None

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OTHER BUSINESS
None

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STAFF / BOARD MEMBER REPORT
Community Development Director Schlutow noted that the virtual Open House was held on March 25. The recorded opening presentation and break out room summaries is available on the City website.

Director Schlutow also noted that she had provided updates to each Board member on their attendance and the status of their continued education requirement. A Resiliency in Planning webinar series is occurring each Wednesday for 6-weeks and each session covers an interesting topic.

Ms. McAlpine stated she was unable to attend the Master Plan Virtual Open House as she and her family had come down with COVID.

Mr. Allen stated that there is a lot of excellent planning going on in Berkley right now.

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LIAISON REPORT
Councilmember Hennen stated at last month’s meeting there was some connection difficulties related to WOW and was able to speak to a representative at the company. There was scheduled network maintenance that took longer than expected and then the new hardware had some outages. Councilmember Hennen inquired if there were plans to prevent such problems in the future, but it is unknown at this time.

Ms. Ward asked if it would possible to not do such updates in the evenings, and do any updates between midnight and 5am. Councilmember Hennen spoke his own experience and noted that they probably did plan for a late night update and it went longer than expected.
PUBLIC COMMENTS

None.

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With no further business, the meeting was adjourned at 8:39pm.