THE REGULAR MEETING OF THE BERKLEY CITY ZONING BOARD OF APPEALS WAS CALLED TO ORDER AT 7:00 PM, MONDAY, JULY 12, 2021 BY CHAIR 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 Ryan Gesund
Sue McAlpine Miles Uhlar
Maria Ward Paul Evans

ABSENT: Joe Krug - Excused

ALSO PRESENT: Scott Merian, 3497 Tyler
James Terbrueggen, Grand Blanc, MI
Rick Linneu, Keego Harbor, MI
Lori Drouillard, 1260 Larkmoor
Dean Smith, Berkley
Erin Schlutow, Community Development Director
Dennis Hennen, City Council Liaison

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APPROVAL OF AGENDA
It was moved by Mr. Allen to approve the agenda. Motion supported by Mr. Uhlar.

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

MOTION CARRIED

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APPROVAL OF MINUTES
It was moved by Ms. Ward to approve the minutes of May 10, 2021, as presented. Motion supported by Ms. McAlpine.

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

MOTION CARRIED
OLD BUSINESS

None.

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NEW BUSINESS

1. **APPLICATION PBA-06-21; 3497 Tyler.** Variance requests to construct a rear addition on a non-conforming dwelling that does not meet the required sideyard setbacks, does not meet the minimum separation distance between dwellings and exceeds lot coverage.

Community Development Director summarized her July 8, 2021 review letter. She also read the five standards of review by which the Zoning Board of Appeals shall hear variance requests.

Homeowner Scott Merian summarized his desire and intent to return the dwelling to a single-family use.

Engineer Jim Terbrueggen also noted that the homeowner wants to bring the use into conformity, but stated the need for additional living space in the home.

Board members asked about the use of the dwelling since 2017, the state of the garage, the square footage of the existing dwelling and the area of what is being proposed, and the lot coverage. The homeowner explained that he is trying to clean up the property and make it livable for his family.

Chair Evans opened the Public Hearing at 7:22pm.

Dean Smith, Berkley MI, spoke about the size of the garage the homeowner requested. He also noted that the homeowner is proposing the addition straight back behind the existing house. He supported the desire to improve the home and preserving the existing character of the neighborhood.

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

The Board discussed the increase in the existing non-conformity and lot coverage.

The Board discussed needing additional information on the plans in order to make a decision. The applicant noted possibility of being able to meet the 35% lot coverage.

The Board discussed the setbacks and separation distance.

Motion by Mr. Gesund in the matter of PBA-06-21 the request for variances to construct a rear addition on a non-conforming dwelling that does not meet the required sideyard setbacks, does not meet the minimum separation distance between dwellings and exceeds lot coverage, to be POSTPONED until the August 2021 meeting, so as the applicant and homeowner can make modifications to the existing plans.

Motion supported by Ms. Ward.

**AYES:** Uhlar, Ward, Allen, Gesund, McAlpine, Evans

**NAYS:** None
2. APPLICATION PBA-07-21; 1260 Larkmoor. Variance requests to construct rear addition on a non-conforming dwelling that does not meet the minimum required sideyard setbacks and is located closer than 15 ft. from adjacent dwelling.

Community Development Director summarized her July 8, 2021 review letter. She also read the five standards of review by which the Zoning Board of Appeals shall hear variance requests.

Richard Linneu, 2804 Orchard Lake Road, Keego Harbor, MI spoke on behalf of the homeowner and summarized the request and the proposed design of the addition to the dwelling.

The Board asked questions related to the trees on the property.

Chair Evans opened the Public Hearing at 7:56pm.

Dean Smith, Berkley MI, spoke in support of the requested variance, noting it is a very small addition and how the request aligns with the standards of review.

Vice Chair McAlpine read the public comments submitted to the Building Department via email.

Matt Janke, 1278 Larkmoor, emailed a letter of approval for the requested variance at 1260 Larkmoor.

Jen Ivey, 1250 Larkmoor, emailed in support of the variances requested at 1260 Larkmoor.

Chair Evans closed the Public Hearing at 8:01pm.

The Board discussed the standards of review.

Motion by Ms. Ward – In the matter of PBA-07-21; 1260 Larkmoor, variance requests to construct a rear addition on a non-conforming dwelling that does not meet the minimum require sideyard setbacks and is located closer than 15 ft. from adjacent dwelling, Ms. Ward motioned to Approve the variances based upon the fact that the variances meet the five standards of review.

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

Motion supported by Mr. Gesund.

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

None

STAFF / BOARD MEMBER REPORT

None.

LIAISON REPORT

Councilmember Hennen provided an update on Giarmarco v. Berkley and noted that he has asked city staff to discuss with the Planning Commission the possibility of generators in the side yard at future meetings.

The Board asked follow-up questions to Councilmember Hennen regarding the case.

PUBLIC COMMENTS

Chair Paul Evans read a statement and stated that it would be his last meeting as a member of the Zoning Board of Appeals. He stated he was resigning in protest due to City Council’s decision not to defend the ZBA decision related to the Giarmarco v. Berkley case in Court. He noted his appreciation for the community, City Council liaisons, fellow ZBA members and City staff.

Ms. Ward asked Chair Evans to reconsider his resignation.

Mr. Uhlar read standard #3 and noted that he would like an explanation.

Mr. Allen stated his dissatisfaction with the decision by the City Council not to defend the decision by the ZBA. He gave notice of his resignation.

Ms. Ward asked Mr. Allen to reconsider his resignation.

With no further business, the meeting was adjourned at 8:30pm.