

ZONING BOARD OF APPEALS
CITY OF GRAND HAVEN
MEETING MINUTES

September 27, 2023

A regular meeting of the Grand Haven Zoning Board of Appeals was called to order by Chair Hills at 7:00 p.m. in the Grand Haven Council Chambers. On roll call, the following members were:

Present: Vice-Chair Kerry Bridges, Chair Mark Hills, Ryan Galligan, Brendan Pool

Absent: Tyler Jackson, Tyler Berg

Also present: Brian Urquhart, City Planner, and members of the public.

Approval of Minutes

Motion by Pool, seconded by Galligan, to approve the September 6, 2023 minutes as written. Passed unanimously with a voice vote.

Approval of Agenda

Urquhart recommended the October meeting date change be added to the agenda. Motion by Bridges, seconded by Galligan, to approve the item to be added to the agenda. Passed unanimously with a voice vote.

Motion by Galligan, seconded by Bridges, to approve the agenda. Passed unanimously with a voice vote.

Call to the Audience – None

Case 23-09: A request for a variance at 406 Grant Ave. (parcel #70-03-29-230-011) to allow an 8 ft. tall fence to remain where 6 ft. tall is the maximum height for a fence in the Moderate Density Residential District.

Urquhart introduced the case. He said staff was notified a fence was installed at 406 Grant Ave. without a permit. After investigation, it was discovered the fence posts and the fence were above the 6 ft. permitted height in the rear yard. Urquhart notified the property owner and said he will need to take down the fence posts and the fence to 6 ft., or he may apply for a variance. Property owner Hentemann cited the reason for installing the addition posts and wire gauges was to create a barrier from deer jumping into his backyard.

After several conversations, Urquhart said the property owner agreed complete a ZBA application and apply for a variance. Urquhart stressed the definition of fence in the ordinance strongly aided in his interpretation of what constitutes a fence. Urquhart did note that deer management has been discussed at city council and other levels of government in the city.

Tyler Jackson arrived at 7:10pm.

Urquhart said this case was a unique convergence of land use regulations, and biological conditions. He said it is well known that the deer have become overpopulated in the City of Grand Haven, but permitting a taller fence height in a common zoning district could compromise the intent and lead to many requests in the future.

Chair Hills opened the public hearing for the case at 7:14pm

Rich Hentemann, 406 Grant Ave., claimed he assumed the height of the fence was acceptable because the neighbor had a fence of similar height to keep the deer out. He pointed out in his submittal that deer have been frequently known to jump over 6 ft. tall fences, and the main reason they jump fences is out of hunger. His improvements to his backyard landscaping create an inviting meal for the deer.

Jackson agreed with the applicant that circumstances are very unique to this property because of the sloping dune behind the fence. Jackson also asked if a retaining wall could be considered. Urquhart said retaining walls are permitted, however they cannot be located beneath or would be considered part of a fence, and calculated as part of the height.

Pool asked about what material he used. Hentemann responses that he used 8 ft. tall posts, wire mesh fencing at 6 ft., and 2 stapled wire gauge wires right about the fence, creating an 8 ft. tall barrier.

Hills asked if Hentemann spoke with the United Methodist Church, located just to the south, if they would consider putting a fence on their wall. Hentemann responded he has not contacted the church.

Motion by Galligan, seconded by Bridges, to close the public hearing was carried unanimously by voice vote. Closed at 7:26pm.

Hills asked Urquhart about any written correspondence. Urquhart said the city received one anonymous letter against the variance request.

The board considered the seven basic conditions.

- A. Most members agreed that permission of 8 ft. tall fence is contrary to the spirit and intent of the ordinance. Galligan added he doesn't believe the fence meets the required materials for fencing permitted. Motion by Galligan, seconded by Pool, to approve Basic Condition A. Ayes: Jackson. Nays: Hills, Pool, Bridges, Galligan. Condition A **failed** on a 1-4 vote.
- B. Most members agreed the variance would allow a use that is not permitted within the MDR District by permitting an 8 ft. tall fence. Motion by Bridges, seconded by Galligan, to approve Basic Condition B. Ayes: Jackson. Nays: Hills, Pool, Bridges, Galligan. Condition A **failed** on a 1-4 vote.
- C. Most members agreed the fence would not cause substantial adverse impact on neighboring properties. They also said they did not like anonymous letters. Galligan did not agree. Motion by Pool, seconded by Bridges, to approve Basic Condition C. Ayes: Hills, Bridges, Pool, Jackson. Nays: Galligan. Condition C **passed** on a 4-1 vote.

- D. Most members agreed there are many locations in the MDR district that have deer problems. This location is not unique and is recurrent in nature. Jackson disagreed and said this situation is unique and is causing a hardship on the property owner. Motion by Bridges, seconded by Pool, to approve Basic Condition D. Ayes: Jackson. Nays: Bridges, Hills, Galligan, Pool. Condition D **failed** on 1-4 vote.
- E. All members agreed the variance request is not self-created. Motion by Pool, seconded by Galligan, to approve Basic Condition E. Condition E **passed** unanimously on roll call vote.
- F. All members agreed this is the most likely location for the fence to be located to prevent deer from entering into the backyard. Motion by Pool, seconded by Pool, to approve Basic Condition F. Condition F **passed** unanimously on roll call vote.
- G. Most members did not believe allowing an 8 ft. tall fence is the minimum necessary for a variance. This could establish a dangerous precedent for future requests. Motion by Pool, seconded by Bridges, to approve Basic Condition G. Ayes: Jackson. Nays: Bridges, Galligan, Hills, Pool. Condition G **failed** on a 1-4 vote.

Motion by Galligan, seconded by Bridges, to **DENY** ZBA Case 23-09, a request to allow an 8 ft. fence to remain at 406 Grant Ave (parcel #70-03-29-230-011) based on the fact conditions A, B, D, and G were not met. Yeas: Hills, Bridges, Galligan, Pool. Nays: Jackson. The variance was **DENIED** on a 4-1 vote.

Approval of October meeting date

Motion by Galligan, seconded by Pool, to change to October meeting date to October 25th at 6pm. All ayes. Motion **passed** unanimously on a roll call vote.

Staff Report

Urquhart said there would be two cases on the October agenda in addition to the attorney's review of the By-Laws and a training session on ZBA basics.

Call to the Audience – Second Opportunity

Rich Hentemann, 406 Grant Ave., asked about his neighbor's fence, which he claims is now in violation based on the ZBA's ruling.

Adjournment:

Motion by Bridges, seconded by Pool, to adjourn. Unanimously approved by voice vote. Meeting adjourned at 7:49 p.m.



Brian Urquhart, City Planner

