

**CITY OF BRIGHTON
ZONING BOARD OF APPEALS
MINUTES
August 10, 2017**

1. Call to Order

Chairman Angst called the meeting to order at 7:32 p.m. and the following members were present:

2. Roll Call

David Chaundy - Absent
Russ Gottschalk – Absent
Doug Angst – Present
Dave Senak – Absent
David McLane – Present
Alicia Urbain – Present
Renee Pettengill – Present

Michael Caruso, Zoning Administrator

Audience – 8

Moved by Board Member Urbain, seconded by Board Member Pettengill, to excuse the absence of Board Members Gottschalk, Senak, and Chaundy. The motion passed unanimously.

3. Approval of the July 13, 2017 Meeting Minutes

Moved by Board Member Pettengill, seconded by Board Member McLane, to approve the meeting minutes of July 13, 2017 as presented. The motion passed 3-1 with Board Member Urbain abstaining.

4. Approval of the August 10, 2017 Agenda

Moved by Board Member Urbain, seconded by Board Member Pettengill, to approve the agenda as presented. The motion passed unanimously.

Old Business

New Business

5. (ZBA 17-009)Advance Craft Home Builders Inc. 942 Lincoln Dr. is requesting a variance from the required rear setback of 35 feet. The applicant is proposing a 19 foot rear setback. Chapter 98, Article VIII, Sec. 98-204 (C), states “Rear yard. Each lot in R-1 districts shall have a rear yard of a depth of not less than 35 feet.” A variance 16 feet is being requested.

Steve Davis, Advance Craft Home Builders, presented his request. He stated that when Brighton Village was developed, this lot was left undeveloped due to economic reasons. The house he is proposing is designed to fit the needs of the prospective buyers and will have a square footage of 1,756 with the deck being set back 19 feet. He stated the house to the north has a setback of 28 feet from the rear property line and the house to the south has a setback of 20 feet from the rear property line, encroaching onto the 35 foot setback requirement. He stated that the hardship results from the subdivision having been developed in the 1940's with lot sizes of 60 feet by 115 feet and the City later passing an ordinance requiring a 35 foot setback. Mr. Davis added that the houses in the neighborhood average 2,000 square feet, therefore, reducing the size of the house proposed would make it significantly smaller than the surrounding homes.

Mr. Caruso informed the Board that the last 10 lots in the subdivision had been platted as part of the Howell-Brighton Beach subdivision and all are legal nonconforming lots. He also stated there were variances granted for two of the lots on that street in the 1990's and 2000's to build the decks closer to the rear setback.

Charles Rickard, 8886 McCull Rd, who is the prospective homeowner, stated the house is designed to meet his handicap needs since he is not able to climb stairs. Both he and his wife are in their seventies and are looking for a house to meet their future needs.

Chairman Angst asked if the proposed house meets the required side yard setbacks.

Mr. Caruso stated the house met the required side yard setbacks.

Board Member Pettengill asked if any trees in the back of the property would be taken out.

Mr. Davis stated they will be keeping the existing large white oaks but may remove smaller trees on the lot.

Board Member McLane asked what the setbacks of the adjacent homes were.

Mr. Davis stated the lot to the north had 28 feet from the property line to the deck and the lot to the south had 20 feet from the property line to the deck.

Board Member Pettengill asked if the other setbacks meet the ordinance.

Mr. Caruso stated that all the other setbacks met the ordinance.

Board Chairman Angst opened the Call to the Public for this variance request at 7:48 p.m.

Harry Hawkins, 1325 Brighton Lake Road, stated his next door neighbor and himself have issues with stormwater and are concerned about runoff onto his property due to the elevation change from the houses on Lincoln Drive to Brighton Lake Road.

Mr. Caruso stated the Livingston County Drain Commission has to approve a soil erosion permit before a building permit is issued to ensure that runoff is not directed toward another property.

Tom Singer, 936 Lincoln Dr., stated he lives on the lot to north of the proposed house. He is concerned that the proposed house will extend past his deck, causing him to feel closed in. He stated the proposed house will extend 12 feet past his house and would prefer if it were set equal to where his house is. Mr. Singer added that he has maintained the lot for the past 9 years. He was also concerned about the distance between the houses and would prefer 20 feet between the two. He stated he spent a long time looking for a house and would not like to have to move again.

Mr. Caruso stated the total side yard setback required is 16 feet and the lots are not wide enough to do 20 feet on each side.

Board Member Pettengill thanked Mr. Singer for taking care of the property.

Daniylo Szekera, 948 Lincoln Dr., stated he lives on the lot to the south and has been maintaining the property with Mr. Singer due to the owner never mowing it. He stated they both have spent time trimming the trees and mowing the grass. Mr. Szekera does not believe granting a variance for that property would be fair to the neighbors. He also opposes the variance because there will be trees cut down and the proposed house will block the view that he and his wife have enjoyed for many years, which he stated was one of the reasons they bought their house. Mr. Szekera was also concerned the house will be set back too far and would like to see the vegetation preserved.

Shari Szekera, 948 Lincoln Dr, stated she loves the neighborhood, there is plenty of space between the houses, and the existing variation between the homes is not noticeable. She stated she did not know how small her yard was and did not look at her survey when she bought the house. She asked the Board to take their concerns into consideration and suggested the owners consider a two story home with a master downstairs. Mrs. Szekera added this is a very personal issue which will affect both of the neighbors and did not feel the Board was being objective in the matter.

Mr. Singer stated he was also concerned about the proposed house having a walkout basement and the drainage on the lot due to the house being set higher than his. He also stated the home will be the only ranch house, which will not conform to the style of the surrounding houses.

Maria Kahra, 945 Lincoln Dr., asked why the lot was never built on. She stated she moved into the neighborhood three years ago and preferred the homes on Lincoln Street because there was more privacy, compared to the homes on the other side of that neighborhood which were closer together.

She also asked how long the construction would last because the neighborhood is already developed. She stated homeowners bought their home in that neighborhood for that reason and was concerned about having to look at the mess of a construction site in front of her house for five months.

Mr. Singer added that the homes were built in 2002 when the economy was doing well and the economic downturn did not happen until around 2007.

Mr. Hawkins asked how far over the hill the deck will be built.

Mr. Davis stated the deck would be a standard 8 feet above the ground for the house to have a walkout basement.

Board Chairman Angst closed the Call to the Public at 8:13 p.m.

Board Member Pettengill asked if putting the deck behind the master bedroom instead of on the back of the house had been considered.

Mr. Rickard stated he wants the deck to face the back of the house so he can look out to Brighton Lake and plans to put a garden in that area.

Board Chairman Angst asked if the applicants had thought of any other solution in order to accommodate their neighbors' concerns since the variance they are asking for is quite large and asked if they would consider making the house smaller.

Mr. Singer stated the variance for the house, which is 6 feet, will block his view.

Board Member McLane explained the reason for the differentiation in Mr. Singer's house and the proposed house is because Mr. Singer's home was not built all the way to the building envelope in the back of the lot and could have been. He also asked if there was an ordinance that prohibited clear cutting on a property.

Mr. Caruso stated there was no ordinance that prevented owners from cutting down trees on their property. He explained there was a tree easement that was put on the site plan by the developer, but the City does not honor it. That easement is a 10-foot easement from the back property line, but Mr. Davis' proposal does not include cutting down trees in that area.

Board Member McLane asked if the applicants planned to cut down any of those trees in the future.

Mr. Rickard stated there was a dead tree he planned to remove, but plans to keep the others for the shade they provide.

Board Member McLane suggested shrinking the garage and kitchen to move the house forward from the rear setback.

Mr. Rickard stated he would move somewhere else rather than reducing the size of the house.

Board Member McLane stated although there is hardship with the lot size and the fact it is legally nonconforming, he wanted to find a way to address the concerns of the public.

Board Member Urbain stated even though the other homes are nonconforming to the setbacks, she felt 16 feet was too high of a variance.

Board Member Pettengill stated there could be some changes made to the design and could not find hardship for the deck.

Mr. Rickard stated he was open to a 6 foot variance on the house and eliminating the deck.

Board Member Urbain asked what the average setback was for the other homes since they all encroach on the setback.

Mr. Caruso stated they all encroached on the setback; however, some did not have record of receiving a variance. He reminded the Board that they could table the motion.

Mr. Davis stated they would like a decision to be made tonight because of the building season. Waiting until next month would affect their construction schedule which would be impacted by the weather.

Mr. Caruso stated the Board did not have to make a motion for the 16 foot variance requested, but could make a different recommendation.

Motion by McLane, to grant a 5 foot variance for the house due to the hardship of the lot constraints. Motion did not receive a 2nd and was withdrawn.

Board Member Urbain stated she did not feel that one foot would make a difference to the neighbors, who were opposed to any variance being granted. She would be more inclined to grant the 6 foot variance.

Motion by Urbain, seconded by Pettengill, to grant a variance for 6 feet for the house due to the hardship of the lot constraints.

Board Member Pettengill asked if the applicant would be eliminating the deck.

Mr. Caruso stated the variance allows them to build a deck as long as it is within the allowed setback.

Motion passes 3-1 with a roll call vote.

6. Staff Updates

Mr. Caruso announced there were two submittals for next month's meeting. The voting for Board positions will also be held at the next meeting.

9. Call to the Public

Chairperson Angst opened the call to the public at 8:44 pm. No comment was made and the call to the public was closed at 8:44 pm

10. Adjournment

Moved by Board member Pettengill, seconded by McLane, to adjourn the meeting. The motion passed unanimously. Board Chairman closed the meeting at 8:45 pm.

Respectfully submitted,

Wendy Ayala
Recording Secretary