

**CITY OF BRIGHTON
ZONING BOARD OF APPEALS
MINUTES
October 11, 2018**

1. Call to Order

Chairman Angst called the meeting to order at 7:00 p.m. and the following members were present:

2. Roll Call

David Chaundy - Present
Russ Gottschalk – Present
Doug Angst – Present
Jordan Genso– Present
David McLane – Present
Alicia Urbain – Absent
Renee Pettengill – Present
Barbara Curtis—Present

Michael Caruso, Community Development Manager

Audience – 9

Moved by Board Member Pettengill, seconded by Board Member Genso, to excuse Board Member Urbain. The motion passed unanimously.

3. Approval of the September 13, 2018 Meeting Minutes

Moved by Board Member Pettengill, seconded by Board Member Gottschalk, to approve the meeting minutes of September 13, 2018 as presented. The motion carried 5-0-3 with Board Members Chaundy and Curtis abstaining.

4. Approval of the October 11, 2018 Agenda

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

Old Business

New Business

5. **Kelly Genei, 202 N. East Street**, is proposing to construct a privacy fence 6 feet in height beyond the foremost position of the principal building on the non-addressed front yard side of the property. Chapter 98, Article II, Sec. 98-5.11 (C)(2), states “a fence located within the non-addressed side of the front yard that extends beyond the foremost portion of the principal building may not be more than 36 inches in height” A variance to allow a privacy fence 6 feet in height is being requested.

Ms. Genei presented her request. She stated the reason she needs the fence in that location is because people walk through her back yard. She would like a taller fence for personal security reasons and because of the increased traffic on her street. She also stated garbage from the liquor store across the street gets into her yard.

Chairman Angst opened the call to the public for this variance at 7:07 p.m.

Poul Burr, 213 Leith, stated he has no issues with the proposed fence and that he also gets garbage from the liquor store into his yard. He stated he supports the variance.

The call to the public was closed at 7:09 p.m.

Mr. Caruso stated numerous variances had been approved recently for this same issue. He stated the main reason for allowing the variances was for privacy and increased traffic, including foot traffic.

Moved by Board Member McLane, seconded by Board Member Chaundy, to approve a variance of three feet in height for a fence of up to six feet due to the uniqueness of the property as a corner lot. The motion passed unanimously.

6. **David and Sarah Neal, 1029 Welles Ct.** are proposing to extend the existing rear deck on their property and are requesting a variance from the required rear setback. Chapter 98, Article Sec. 98-3.4 R-1 Single Family Residential, requires a minimum rear yard setback of 35 feet.” A variance of 11 feet is being requested.

Chairman Angst asked if the existing deck was nonconforming.

Mr. Caruso stated the existing deck encroaches into the rear yard setback and there is no record of a variance. He stated the lot had unique dimensions and the proposed deck would need an 11-foot variance to allow for a 24-foot setback.

Mr. and Mrs. Neal presented their request. They described the topography of the lot and stated their back yard slopes down significantly. Mr. Neal stated there are trees between his property and the neighboring condominiums. He also stated the existing deck is too small for them to use.

Mr. Caruso stated the photographs included with the application show the existing tree line.

Board Member Genso asked if there was visibility to the neighbors during the winter when the vegetation thins out.

Mr. Neal stated there was some slight visibility during winter. He stated he would like to add more trees for privacy and to keep kids from cutting through their yard.

Mr. Caruso stated there was a deeded 20-foot tree preservation easement between the condominiums and their house.

Chairman Angst opened the call to the public for this variance at 7:22 p.m.

Hearing and seeing none, the call to the public was closed.

Chairman Angst stated he would be abstaining from voting due to being within a 300-foot radius of the property and receiving a notice.

Moved by Board Member McLane, seconded by Board Member Pettengill, to approve a variance of 11 feet for a rear yard setback of 23 feet due to the uniqueness of the property. The motion carried 6-0-2 with Board Member Angst abstaining.

7. **Arrow Group LLC, 8650 W. Grand River**, is proposing to construct a commercial day care center in the C-1 Community Shopping Center zoning district. Chapter 98, Sec. 98-3.10 C-1 Community Shopping Center does not allow for a day care center as a permitted use. A variance to allow a commercial day care center as a permitted use is being requested.

Bret Johnson, Arrow Group LLC, presented a request to allow the proposed day care center at that location due to the hardship of that use not being permitted in any commercial zoning district. He stated Arrow Group is a real estate developer that works with single tenant uses. He stated they were working with The Learning Experience to develop the property.

Board Member Genso asked if there was a day care center on Murphy Drive.

Mr. Caruso stated the existing day care center was an allowed use in the O-S zoning district, which allows for human care facilities. He stated the zoning ordinance does not list them as a permitted use in any of the commercial districts and residential districts only allow day cares as home occupations.

Chairman Angst asked why this use was omitted from the zoning ordinance.

Board Member Curtis asked if there were any plans to include the use in the zoning ordinance.

Mr. Caruso stated the ordinance was recently updated, but that the language has stayed the same. He stated the use was never included in the old language. He also stated amendments are currently being made to the ordinance to address issues with the current language.

Chairman Angst asked if The Learning Experience owns the lot.

Mr. Johnson stated the property is owned by Meijer, but Arrow Group LLC has it under contract. He stated Arrow Group LLC would lease it to The Learning Experience. He also stated they would be combining two lots and adjusting the current lot lines. He stated they are proposing a 10,000 square foot facility with a 5,000 square foot fenced-in playground. He stated the building would face Cross Street.

Board Member Pettengill stated there was an adult use adjacent to the proposed day care and asked if there would be any type of fence along the property.

Chairman Angst asked where the drop-off area would be located.

Mr. Johnson stated the drop-area would be off of Cross Street. He stated the typical hours would be from 6:30 a.m. to 6:30 p.m. He discussed the facilities they have in other communities and stated they were all located next to retail.

Chairman Angst asked for the highest number of children the Learning Experience has.

Mr. Johnson stated the highest number they have is 110. He discussed the licensing requirements for the day care.

Board Member Pettengill asked what the parking requirements were.

Mr. Johnson stated The Learning Experience requires a minimum of 40 parking stalls. He also stated the most employees they would have is 16. He stated the lot has room for 41 parking stalls.

Chairman Angst asked if this was the only lot in the city that they had considered.

Mr. Johnson stated The Learning Experience had specifically chosen this lot.

Chairman Angst opened the call to the public for this variance at 7:42 p.m.

Susan Backhaus, 907 Brighton Lake Rd., discussed the state laws on day care centers regarding how many employees they will have. She also discussed safety and traffic concerns. She asked that the discussion be tabled until state laws have been researched.

Mr. Johnson stated The Learning Experience understands state laws and is licensed by the state.

Martin Genei, 202 N. East, stated he owns property on Advance Street and discussed the congestion problem in that area. He suggested having the driveway entrance on the side of the Meijer parking lot.

Chairman Angst closed the call to the public at 7:48 p.m.

Board Member Gottschalk discussed the traffic from the current bus drop off location in the Meijer parking lot.

Board Member Curtis asked if approving this variance would open the door for more day care centers to be allowed in the C-1 district.

Mr. Caruso stated they would also have to get a variance. He also stated the Board's decision is strictly on the proposed use for this parcel

Board Member McLane asked if the variance was for a permitted use or special land use.

Mr. Caruso stated it was not a special land use, but a permitted use for this parcel only.

Moved by Board Member Pettengill, to deny the variance for Arrow Group located at 8650 W. Grand River. Motion failed due to no support.

Moved by Board Member Genso, seconded by Board Member McLane to allow a day care center as a permitted use within the C-1 Community Shopping Center zoning district due to the hardship of the City ordinances not being in line with similar cities, and that in his personal opinion, day care centers should not be excluded from commercial zoning. The motion carried 4-3-1. Angst-No, Chaundy-Yes, Pettengill-No, Genso-Yes, Curtis-Yes, McLane-Yes, Gottschalk-No

Board Member Pettengill stated she would support child care in a commercial zone, but not at this specific location.

Chairman Angst stated he does not like the idea of a day care on this parcel mainly due to the busy intersection and that other places would be better suited for it.

Board Member Genso stated the Planning Commission would review the concerns about traffic when it goes through site plan review.

8. Election of Officers

Moved by Board Member Curtis, seconded by Board Member Gottschalk, that officers remain the same. The motion carried unanimously.

Other Business

9. Staff Updates

Board Member Pettengill requested that items under new business are introduced by City Staff at meetings.

9. Call to the Public

Chairman Angst opened the call to the public at 8:14 p.m.

Susan Backhaus, 907 Brighton Lake Rd, stated the meeting was illegal and had started prior to the posted time.

The call to the public was closed at 8:16 p.m.

Mr. Caruso stated there were no submittals for the November meeting.

Board Member McLane stated he would be resigning from his position due to a busy schedule.

11. Adjournment

Moved by Board Member Pettengill, seconded by Board Member Chaundy, to adjourn the meeting. The motion passed unanimously. Chairman Angst closed the meeting at 8:16 p.m.

Respectfully submitted,

Wendy Ayala
Recording Secretary