



ROBINSON TOWNSHIP ZONING BOARD OF APPEALS

Ottawa County, Michigan

September 20, 2023

The special meeting of the Robinson Township Zoning Board of Appeals was called to order at 7:07 P.M. at the Robinson Township Hall.

Present:

Rich Saddler
Doug Putnam
Bill Maschewske

Absent:

John Wood
Briana Fowler

Also present were Zoning Administrator Julie Lovelace, applicant Rodney Rotman, and Mr. and Mrs. Hodgson of 11131 104th Ave. (arrived at 7:20 PM.). There is no attendance sheet attached as there was no attendance sheet available for members of the public to sign.

Approval of Agenda

A motion was made by Rich Saddler and seconded by Doug Putnam to approve the agenda as amended to include a discussion of scheduling regular meetings of the Zoning Board of Appeals under Any and All Other Business.

The motion carried unanimously with two members absent.

Approval of Minutes

A motion was made by Doug Putnam and seconded by Rich Saddler to approve as written the Zoning Board of Appeals minutes from the August 30, 2023 meeting.

The motion carried unanimously with two members absent.

Public Hearing

A dimensional Variance Request was submitted by Rodney Rotman to permit parking in the required front yard of a commercial parcel. The parcel is located at 10395 Lake Michigan Drive. Refer to Background and Considerations in the attached Zoning Administrator's Memorandum for additional details.

A brief introduction was given by Chairperson Rich Saddler and the public hearing was declared open. The Chairperson requested the applicant to present his request.

Mr. Rotman stated that he has a new development approved by the Township, part of which is the re-developing of an existing building and parking located as part of the same development. Two new buildings will be added and the Site Plan has been approved by the Robinson Township Planning Commission. There currently is parking for the existing building that is non-conforming based upon a new Zoning Ordinance Amendment, Chapter 22, that was implemented by the Township earlier this year. He proposes to remove all existing paving for the parking for the existing building and replace it with more conforming parking further back from M-45 and 104th Ave. (The parcel is a corner lot with Front Yard requirements on both streets). The new parking area will be newly paved to match the parking for the new development. The existing building is non-conforming because of not meeting the Front Yard setback requirements from both M-45 and 104th Ave. The new proposed parking will be in the required 75 ft. Front Yard setback, however it will be further from M-45 and 104th Ave. and be less non-conforming than the existing parking. The new parking area will also address the large ingress/egress along M-45 that currently exists and change it to ingress only for West bound traffic and be further from the M-45 intersection with 104th Ave. An ingress and egress will be relocated considerably North of M-45 on 104th Ave. as part of the new development.

Mrs. Hodgson – They live on 104th Ave. South of M-45 and are concerned about accidents at the intersection of M-45 and 104th Ave. and the increased traffic resulting from Mr. Rotman's development at the corner. They noted there have been many accidents at this intersection and the development will only make it worse. She has no specific comments regarding the parking but feels the development will increase traffic and the potential for accidents.

The approved Site Plan with ingress and egress and parking was shown to the Hodgsons.

Chairperson Saddler explained that the Site Plan for the development has already been approved by the Planning Commission and the Township Board and is not the subject of this meeting. The only issue being addressed at this time by the Zoning Board of Appeals is the parking for the existing building.

The only members of the public present besides the applicant left the meeting at 7:35 PM.

There were no more comments or questions from the public, the Planning Commission, or the applicant.

A motion was made by Doug Putnam and seconded by Rich Saddler to close the public hearing at 7:37 PM.

The motion carried unanimously with two members absent.

At this time, the criteria for a Dimensional Variance from Section 40.6(A) of the Zoning Ordinance were reviewed. All five criteria must be met in order for the Zoning Board of Appeals to grant a Dimensional Variance. The Zoning Administrator's comments from her Memorandum dated September 13, 2023 are included in *italics* for reference. The entire Memorandum from the Zoning Administrator on this topic is attached to these minutes.

- (1) There are exceptional or extraordinary circumstances or conditions applying to the property in question, as to the intended use thereof, that do not apply generally to other properties or classes of uses in the same zone.

Doug Putnam – If the Variance Request is not approved, can the existing parking be maintained?

Zoning Administrator Lovelace – Yes

Response: The Zoning Board of Appeals unanimously agrees with the comments of the Zoning Administrator in italics below and the following comments. In addition, the applicant started with a small commercial lot with an existing building. Over several years, the applicant has acquired additional parcels and is developing the newly acquired property and re-developing the existing building and parking. The existing parking could be retained but the applicant wishes to regrade and resurface the existing parking to match the new development parking. The parking will serve the existing non-conforming building. The Zoning Board of Appeals finds the criteria is met.

The Township recently adopted new parking standards in February 2023. Prior to this, there was no prohibition of parking spaces located in the required front yard. The property owner is permitted to leave the existing parking where it is if they wish. It is because they are moving the existing parking that they must conform to the new parking ordinance. Once you remove a nonconformity, you must replace it with something conforming. Other properties in this zoning district that may have existing parking in the required front yard are not required to move it. Therefore, Staff finds this may be an exceptional or extraordinary circumstance. If the ZBA agrees, this standard may be met.

- (2) Such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties or classes of uses in the same zone. The possibility of increased financial return shall not of itself be deemed sufficient to warrant the granting of a variance.

Response: Doug Putnam expressed concern regarding the non-conforming parking remaining if the non-conforming building should be demolished. The applicant stated that if the existing non-conforming building were ever demolished, the non-conforming parking would be removed.

The Zoning Board of Appeals agrees with the findings of the Zoning Administrator below in italics and with the applicant's statement above and unanimously finds the criteria is met. *It is a property right to provide parking for a commercial use. In this instance, the building and parking already exist. As such, a variance may preserve the right to provide continued parking for the existing building. If the ZBA agrees, this standard may be met.*

- (3) Such variance, if granted, will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this Ordinance or the public interest.

Response: There was no public opposition to the granting of the variance requested at the Public Hearing or in writing. In addition, the Zoning Board of Appeals agrees with the findings of the Zoning Administrator comments found below in italics. The Zoning Board of Appeals unanimously accepts the response and finds the criteria is met.

Staff does not find any detriment to adjacent properties. In fact, adjacent properties might find this to be an improved condition since the existing entrance will be moved to a new location further away from the intersection of Lake Michigan Drive and 104th Ave. It is in the public interest to eliminate or decrease nonconformities. In this case, the Applicant proposes decreasing the nonconformity and improving the entrance location. If the ZBA agrees, this standard may be met.

- (4) The condition or situation of the property or the intended use thereof is not of so general or recurrent a nature as to make reasonably practicable a general regulation for such condition or situation.

Response: The Zoning Board of Appeals unanimously accepts the findings of the Zoning Administrator and finds the condition is met.

Staff finds that this is not a general or recurrent request. If the ZBA agrees, this standard may be met.

- (5) Any exceptional or extraordinary circumstances applying to the property in question are not self-created.

Response: The existing parking was part of the development when purchased by the applicant in 2010. Non-conformance is the result of a new Zoning Ordinance amendment, Chapter 22, adopted in 2023. The parking serves the existing building. The Zoning Board of Appeals unanimously accepts the findings of the Zoning Administrator in addition to the comments above and the criteria is met.

The Applicant took steps to ensure the proposed new parking was in conformance with the new parking regulations. However, it was not possible to bring the existing parking entirely into conformance. Again, the Applicant has decreased the nonconformity. Staff finds this circumstance is not self-created. If the ZBA agrees, this standard may be met.

Having reviewed the Criteria for a Dimensional Variance and finding that all five Criteria have been met, the Chairperson called for a motion.

A motion was made by Doug Putnam and seconded by Rich Saddler to approve the Dimensional Variance Request of Rodney Rotman for 10395 Lake Michigan Drive to reduce the Front Yard setback requirement as specified in Chapter 22 of the Zoning Ordinance for the purpose of reconstructing the existing non-conforming parking area per the approved Site Plan. The new parking will be less non-conforming on both Lake Michigan Drive and 104th Ave. and improve ingress/egress per the Site Plan dated 5/9/23 and approved by the Planning Commission and the Township Board. Approval is based upon the documentation and Site Plan from the applicant, both in the application and during the meeting, the Memorandum from the Zoning Administrator, and the findings of the Zoning Board of Appeals recorded in these minutes. If the existing building is demolished, the non-conforming parking will be removed per statement of the applicant.

A roll call vote was taken.

Doug Putnam – Yes
Bill Maschewske – Yes
Rich Saddler – Yes

The motion carried unanimously with two members absent.

Any and All Other Business That May Come Before the Board

In the past, the Zoning Board of Appeals scheduled four regular meetings per year, and if there was no business, the meetings would be individually cancelled. Zoning Administrator Lovelace will contact Treasurer Bonnie Hayward to determine if there is a Township Board policy regarding this matter.

Adjournment

A motion was made by Doug Putnam and seconded by Bill Maschewske to adjourn the Zoning Board of Appeals meeting at 8:25 PM.
The motion carried unanimously with two members absent.

Respectfully submitted,

Bill Maschewske
Secretary, Robinson Township
Zoning Board of Appeals

Attachment: Zoning Administrator Memorandum Regarding 10395 Lake Michigan Drive – Dimensional Variance Application Dated September 13, 2023