

**CITY OF FRASER
ZONING BOARD OF APPEALS
THURSDAY, JUNE 5TH, 2014 ~ 7:00 PM
MINUTES**

Present: Chairman Stimac, Members: Calabrese, Chimenti, Farina, Fiore, Hinkle and Logan

Excused Absence:

Also Present: Jack Dolan City Attorney
 Randy Warunek Building Official
 Kelly Dolland Recording Secretary

1. Call Meeting to Order

Chairman Stimac called the meeting to order at 7:03 pm

2. Roll Call

Chairman	Stimac	Present
Members:	Calabrese	Present
	Chimenti	Present
	Farina	Present
	Fiore	Present
	Hinkle	Present
	Logan	Present

3. Approval of Agenda ~ Regular Meeting, June 5th, 2014

Motion by Member **FARINA**, Support by Member **CALABRESE**

TO: APPROVE the agenda of the June 5th, 2014 as Submitted

AYES **7** NAYS **0** MOTION CARRIED

4. Approval of Minutes ~ Regular Meeting May 22nd, 2014

Motion by Member **FARINA**, Support by Member **CALABRESE**

TO: APPROVE the Minutes of May 22nd, 2014 as Submitted

AYES **7** NAYS **0** MOTION CARRIED

5. Formal Statement

6. Public Hearing:

a. #03-14ZBA / GARY PLACIDO / 15338 RAMBLING DRIVE / TO ALLOW A 7-FOOT BY 7-FOOT ACCESSORY STRUCTURE TO ENCROACH 5-FOOT 6-INCHES INTO THE REQUIRED 6-FOOT REAR YARD SETBACK AND TO ENCROACH 7-FOOT 6-INCHES INTO A 25-FOOT WIDE PRIVATE EASEMENT FOR PUBLIC UTILITIES. THE PROPERTY IS LOCATED IN THE "RM-RESIDENTIAL MEDIUM – ONE FAMILY" ZONING DISTRICT.

**CITY OF FRASER
ZONING BOARD OF APPEALS
THURSDAY, JUNE 5TH, 2014 ~ 7:00 PM
MINUTES**

ADMINISTRATIVE STATEMENT OF FACTS:

The petitioner is proposing to erect a 7-foot by 7-foot, high-density polyethylene plastic storage shed in his rear yard in a 25-foot private easement area designated for public utilities in the "RM – Residential Medium-One Family" zoning district. In addition he wishes to place it 6-inches from the rear lot line. City Ordinance prohibits both of these requests. Only fences, walks and parking lots may be placed in an easement area, stated simply by Sections 32-47 and 32-121 (e), and, a minimum 6-foot distance from the rear is required by Section 32-121 (a)(3).

The Building Department rejected his requests and suggested placement in an area the petitioner has available in his rear yard that would meet the requirements of the Ordinance. Of major concern of the Fraser Building and Code Enforcement Department is the drainage in this area. We are still investigating numerous issues in the yards along this easement area where the engineered drainage has been impacted. For these reasons, we don't recommend any changes other than corrections to the existing problems.

The petitioner, however, feels he can substantiate his proposal and is now present and asking for variances to Fraser Zoning Ordinance Sections 32-47 and 32-121 (a)(3) and (e).

Chairman Stimac asked Mr. Dolan if the Zoning Board of Appeals has the authority to grant a variance on a public easement. ~ The ZBA has the authority to grant a variance on the setback. The easement area approval would be approved by city council. City council can approve a Revocable License, a recorded document that allows the encroachment to remain there and stipulates conditions in the event work has to be done in the easement area that would affect the encroachment. It is a private easement for public utilities. The easement is controlled by the city.

Member Calabrese asked about the long term responsibility of the city for removal or damage of personal property. ~ Mr. Dolan stated first a ZBA variance must be granted. Second, must seek a conditional approval of easement encroachment by city council. And thirdly, must ask city council to grant a temporary revocable license. If their property was removed by the city for any reason, the city is not liable for damage.

Member Farina asked Mr. Warunek if there were drainage problems in the area. ~ Yes, but, before occupancy of a newly built home, a final grade inspection is required.

Chairman Stimac asked if there are building code concerns with a building of this type six inches from the property line? ~ The Michigan Residential code would require a one hour fire wall for any building located closer than five feet to property line.

Mr. Placido stated the property has a 25ft easement, one of the smallest lots in the subdivision. Believes he has met all the criteria of granting the variance. He stated he is encroaching on a storm drain.

Public Hearing open 7:57pm.

Susan Hardy spoke of drainage problems of the area. About four years ago Mr. Placido had loads of top soil, new sod and a berm added to his property, changing the grade of his property.

Mr. Bennett stated when they built the subdivision; the purpose for the drain was to create a swale so water would run down into the swale and into the drain, drawing water away from their properties. To build something on top of the swale would impinge on the purpose of the swale. Secondly, to put a structure that close the boundary is a potential fire hazard.

Mrs. Bennett referenced letter she provided to the Zoning Board of Appeals requesting to deny variance request.

Two written correspondence received.

**CITY OF FRASER
ZONING BOARD OF APPEALS
THURSDAY, JUNE 5TH, 2014 ~ 7:00 PM
MINUTES**

Mrs. Arnold commented on neighbors concerns.

Member Hinkle asked for clarification, does the ZBA have the authority to grant a variance?

Public Hearing closed 8:20pm

Member Calabrese asked the Chair if there is a location on the property for a structure to be erected, should we still entertain a variance approval. ~ Chairman Stimac quoted portions of the ordinance.

Member Farina if we allow a six inch variance on lot line, is it feasible to maintain the other side of the building? You would most likely be trespassing if you were to maintain the other side of the structure.

Chairman Stimac asked Mr. Placido if he had an objection if his shed was required to be six feet from the rear property. ~ Mr. Placido stated no.

Chairman Stimac made a motion to deny variance request for rear yard setback because petitioner indicated that there is no hardship in meeting the ordinance.

Motion by Chairman **STIMAC**, Support by Member **FIORE**

AYES **7** NAYS **0** MOTION CARRIED

TO: / DENY / #03-14ZBA / GARY PLACIDO / 15338 RAMBLING DRIVE

With the following stipulations:

1. Deny variance request for rear yard setback because petitioner indicated there is no hardship in meeting the ordinance.

b. #04-14ZBA / RAYMOND WEIDMAN / 15738 MARCIE DRIVE / TO ALLOW A 240 SQUARE-FOOT ACCESSORY STRUCTURE THAT EXCEEDS THE ALLOWABLE LOT DENSITY COVERAGE IN THE "RM-RESIDENTIAL MEDIUM – ONE FAMILY" ZONING DISTRICT BY 3.27 PERCENT.

ADMINISTRATIVE STATEMENT OF FACTS:

The petitioner is proposing to build a 20-foot by 12-foot accessory structure in the rear yard of the parcel located at 15738 Marcie, in the RM "Residential Medium – One Family" zoning district.

The proposed accessory structure covers 240 square feet of the property. The property totals 7320 square feet and, with a maximum allowable lot coverage of 30 percent in this district, only 2196 square feet of coverage is allowable. The existing house, front porch and garage already total 2195 square feet. The petitioner's request would require a lot coverage of 33.27 percent, 3.27 percent more than allowed.

The petitioner feels that there is a practical difficulty due to his property size of 7320 square feet existing in a zoning district that requires a minimum 7800 square foot parcel. With the current restrictions and requirements, this property owner cannot have a shed of any size, a deck, or any type of first floor addition, in their open rear yard, without Zoning Board of Appeals action. It is for this practical difficulty that this board has granted similar requests in the past. As an additional note, there was a 117 square-foot shed that was removed by the property owner just prior to submitting a building permit application for a concrete pad with a ratwall for the proposed 240 square-foot structure. Also, the 2/3 accessory rule would allow him to build another 652 square feet of accessory structures if the proper amount of property was available.

The petitioner is now present and asking for a variance to Fraser Zoning Ordinance section 32-122 (4) to exceed the maximum allowable lot coverage in the RM Zoning District by 3.27 % for a total of 33.27% coverage where a maximum of 30% is allowed.

**CITY OF FRASER
ZONING BOARD OF APPEALS
THURSDAY, JUNE 5TH, 2014 ~ 7:00 PM
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Member Farina asked if administration had any comparable properties, ~ one neighboring property exceeds 2.68% and another by 7.43%. No variances were granted, this was in the 1970's.

Mr. Weidman added to Administrations presentation. He would like to move the shed to side of property and make his yard more ecstastically appealing. Mr. Weidman stated he and his neighbor help the city with the grass cutting of McKinley Park, neighboring properties adjacent to McKinley Park. He also stated he has two utilities in either corner of his property.

Public Hearing open 8:43pm

Mr. Keil stated the structure would not be problem, does not have an issue with it.

No written correspondence received.

Public hearing closed 8:46pm

Member Farina stated seeing the neighbors already have the right that he is asking for, move to allow the variance with the stipulation all concrete from the old building and pool be removed prior to new construction.

Motion by Member **FARINA**, Support by Member **CALABRESE**

AYES **7** NAYS **0** MOTION CARRIED

TO: APPROVE / #04-14ZBA / RAYMOND WEIDMAN / 15738 MARCIE DRIVE

With the following stipulations:

1. Must remove all concrete prior building shed.

7. New Business of the Board: NONE

8. Old Business of the Board:

Member asked what the availability of the new master plan is, the deadline is June 2014.

9. Public to be heard: NONE

10. Adjournment:

TO: Adjourn the meeting of the **June 5th, 2014** at 8:48pm.

Motion by Member **CHIMENTI**, Support by Member **FARINA**

AYES **7** NAYS **0** MOTION CARRIED

THE MOTION WAS CARRIED UNANIMOUSLY.

CHRIS HINKLE, ZBA Secretary

RANDY WARUNEK, Building Department Director

Audience members:

Ken Bennett
Mr. Placido
Resident of Rambling

Karen Bennett
Susan Hardy
John Keil

Ray Weidman
Mrs. Arnold
Greg Carver