

**CHARTER TOWNSHIP OF VAN BUREN
BOARD OF ZONING APPEALS MINUTES
Tuesday, March 12, 2024 – 7:00 PM
Van Buren Township Hall Board
Room 46425 Tyler Road**

Per guidance provided by the Wayne County Local Public Health Department for meetings of governmental bodies held under public act 228 of 2020, effective January 1, 2022, the following Zoom link is provided to enable remote participation in a meeting of the public body by the general public:

CALL TO ORDER

This meeting was called to order at 7:00 pm by Chairperson Herman.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: John Herman (Chair), Trustee Kevin Martin, Jeff Jahr (Planning Commission Rep.), Charles Larocque (BZA Alternate)

Late Arrival: Arron Sellers

Absent Excused: John Haase

Staff: Dan Power (Director of Planning & Economic Development), Kendyl Zantop (Recording Secretary)

Planning Representative: Vidya Krishnan (Senior Principal Planner, McKenna)

Trustee Martin apologized to the BZA board and to the applicants for being absent at the last meeting.

ACCEPTANCE OF AGENDA

Jahr motioned; Martin seconded to accept the Agenda as presented. **Motion Carried**

Commissioner Arron Sellers arrived.

APPROVAL OF MINUTES:

Martin motioned; Sellers seconded to approve the minutes from February 13, 2024 as presented.

Motion Carried

Jahr motioned; Sellers seconded to approve the minutes from January 9, 2024 as presented.

Motion Carried

CORRESPONDENCE

None.

PUBLIC HEARING (new business items)

1. Case Number: 23-074 – Arbor Farms Development / Hickory Woods Phase II

Location: The subject 13.1-acre property will encompass current parcels 83 043 01 0207-0212 000 and 83 043 01 0219-0232 000, located north of the Hickory Woods Condominiums on the north side of Tyler Road between Morton Taylor Road and Parkwood Street. The property is zoned RM - Multiple Dwelling Residential District.

Request: Request for a dimensional variance by Arbor Farms Development to construct fifty-seven (57) detached single family residential dwellings which will be set back greater than or equal to 30.0 feet from the back of curb of an existing private road, and greater than or equal to 12.0 feet from the front lot line. The request is contrary to the requirements of Section 3.107(E) of the Zoning Ordinance as described below:

Section 3.107 (E) – RM - Multiple Dwelling Residential District– Dimension Regulations:

- Minimum required front yard setback for detached single family residential dwellings in the RM District: 30.0 feet
- Proposed front yard setback: 12.0 feet
- Variance requested: 18.0 feet (60.0%).

Jahr motioned; Sellers seconded to open public hearing. **Motion Carried**

Public Comment

Director Power displayed a spatial view of the request mentioned. This is to consider a variance for one specific zoning regulation regarding the project. The project is being proposed as a set of detached single-family homes in the RM zoning district using the existing road network. The applicant would have to have a 60ft wide easement or right of way over the road. This includes not only the 24ft wide road but also an area on each side of that road. The extent of the easement area defines the front lot line. In the zoning ordinance, the setback requirement for the front lot line is 30ft. The applicant is proposing to set the building back from the road itself. To have a 30ft setback distance from the road to the front of the building rather than from the easement to the front of the building. The request is for a front yard setback variance. The proposed buildings will be set back farther from the road than the attached units in Phase 1.

- Sanjay Singh, 42874 Bradley, HOA President of Robinson River Park. This proposal says from the edge of the road to the house is going to be 30 ft. For reference, Mr. Singh displayed a hand-drawn image to show the neighboring sub (Robinson River Park). The distance from the road to the house is 47ft this would be a loss of 17ft, which is equivalent to one family-parked sedan.
- Andrea Jurk, HOA President of Hickory Woods. Questioned why when asked last month for another view of the presentation it was not brought tonight. Could not find information on the Township website for the entire month. Director Power stated he can scale up the site plan provided to show the scale of each individual site. The question of why weren't those requests handled prior to this meeting was reiterated. Senior Principal Planner Vidya Krishnan responded last time it was not an official public hearing, under law the BZA is not allowed to do that. When the Board received comments, it was for information purposes only. All of the comments that were collected were conveyed to the rest of the Board members. Without an official direction from the Board, staff cannot put together information on behalf of an applicant. The Board is aware of all the questions that were asked.

No comments via zoom.

Jahr motioned; Sellers seconded to close the public hearing. **Motion Carried**

UNFINISHED BUSINESS

None.

NEW BUSINESS

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Presentation by Township Staff.

Director Power displayed images for additional context. The applicant put together a setback line of what a typical 60ft setback from the street right of way would look like. It shows that the line would be halfway through the site relevant to the start of the road. Typical subdivisions have lot lines that would draw back from that point and extend to lots deeper than what is being proposed. This would leave additional room where you typically would have a conventional building footprint of a single-family home site in a different subdivision. In this case, there is an existing road network and the applicant is seeking to build a more condensed pattern of single-family residential housing. Detached single-family homes are permitted in the RM zoning district at a slightly higher density than you would see in a typical residential subdivision. The reason for the request is because they are working with an existing road network that has some additional constraints on the overall lot configurations. Staff will make sure that there are very detailed individualized plot plan views of the units as part of the Planning Commission review of the project. The Planning Commission made comments at a preliminary level at the November 28th, 2023 meeting. Planning Commission comments included items in regards to architectural quality particularly related to the proposed garages, the need to have connectivity between the attached unit phase and detached unit phase, concerns with open space, making sure there is adequate capacity for stormwater, and ensuring that it is ruled out that it is essentially impossible to relocate the roads. Additional comments from Hickory Woods resident, Anthony Horning, were shared with the packet.

Senior Principal Planner Vidya Krishnan summarized her letter dated January 28, 2024.

Addressed questions from the last meeting:

Q: Explain what is a right of way width.

A: Right of way pavement is located within a right of way. The right of way is where you not only have the drivable surface it is where you have the grass, sidewalks, and in general utility leads are located within a public right of way. In this case, the utilities are located in rear yard. The front has a 24 ft wide curb to curb established pavement.

Q: Will cars be able to park in the driveways?

A: Yes, they will. The distance from the curb to the front of the garage will still be 30ft. A driveway

length is typically 20ft. Cars or trucks will fit within the driveway without sticking out in the roadways.

Q: Will there be access through to Jeremy within Robinson River to the north? Will there be a wood wall or privacy fence?

A: At this point the Board is not approving any design along the north property line, any connections, or any new roadway establishment. It is strictly setbacks only. Based on the concept plan no such connection is being proposed by the applicant at this time. All of this will be reviewed by the Planning Commission and the Board of Trustees when the applicant reappears before them.

Q: Construction Traffic.

A: Will be reviewed and discussed by the Planning Commission.

Q: Is the site adequately designed to handle stormwater runoff?

A: The applicant will be required to design all storm water detention to comply with the Township's and Wayne County's standards. The Township's engineering standards are stricter than Wayne County storm water detention standards. The Township is flat and water does not have much place to go. The Township's standards are higher to make sure water is held within properties and slowly discharged in order to avoid flooding.

Q: Truck traffic and limits on hours of construction.

A: This is an administrative function. Once the applicant goes through engineering and construction provided, they go through all of the development phase there will be restrictions. The Township has rules on when, how, and why the applicant can do that.

Q: Are the roads still going to be private?

A: Yes, the Township does not own any of the roadways. All of the roadways within the Township are owned by Wayne County or private by the homeowner's association. The roadways are part of the Hickory Woods Condominium complex and will remain private.

McKenna and Associates recommends Subject to any additional information presented and discussed by the applicant, Board, and/or the public during the public hearing and incorporated into the record prior to any findings being made, we recommend that the Board of Zoning Appeals approve the requested variance for Phase II of Hickory Woods Condominium development, as described above. The above recommendation is based on the following findings of fact:

1. The road infrastructure and utilities are already established limiting the location and sizes of proposed lots.
2. Strict compliance with the required front yard in combination with compliance with the required rear yard setbacks would create unviable building envelopes on most lots.
3. The variance would provide substantial justice to the applicant and is not averse to the interests of other property owners in the district.
4. The condominium development road network was established over two decades ago and limits what can be done on the parcel.
5. The need for the variance is not self-created since the applicant was not the original developer or owner of the property at the time the original development was approved.
6. The proposed variance is related to the valid exercise of police power.
7. The variance is not likely to impair light and air to adjacent property or increase the congestion in the public streets.
8. The variance is not likely to increase the hazard of fire or flood or endanger public safety.
9. The variance is not likely to diminish or impair established property values within the surrounding areas.
10. The variance is not likely to impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

11. The variance is likely to alter the essential character of the neighborhood.
12. The variance does not violate the intent of the zoning ordinance to provide for orderly and planned use of land.

The recommendation is also subject to the following condition:

The standard driveway length adequate to accommodate a parked vehicle is 20 feet. Reduction in the required front yard setback essentially creates a 12-foot-long driveway located on the lot and the remaining 8 feet located within the right-of-way area. In order to ensure that the proposed development does not appear like a series of garages located close to the street, the applicant must incorporate garage doors that are at a minimum flush with the front door of the dwelling i.e., recessed from any porch, and must also incorporate some architecturally enhanced garage doors, to the satisfaction of the Planning Commission at the time of site plan approval.

Presentation by the Applicant.

Jeff Katzen with Arbor Farms Development stated they heard all of the suggestions and requirements from the Planning Commission. Those items will be taken into consideration as the next step for preliminary site plan approval goes forward.

Board Comments:

Herman: Stated in front of the BZA is only a request for a variance on the setback. The Board has nothing to do with the site plan, infrastructure, ponds, or existing roads. Those items are a part of the Planning Commission. There are 7 guidelines that need to be met for items to pass. There is a standard the BZA has to follow in order to approve. There are 12 findings of fact that are in favor. It is up to the Board and any action taken is final.

Director Power addressed concerns on the presentation's plan view. There are no detailed plans at this time, this will go through a complete detailed site plan review. Director Power displayed a more refined view to give spatial context for the proposed site, a typical home site, and the attached units. Showed the proposed 30ft distance from the edge of the road to the front of the unit. In a single-family site typically, the lots are larger and designed with the setback built in. If the setback was met there would be 48ft distance from the road to the garage. The attached units are roughly 20-24ft setback from the road edge. The previously approved plan for this portion of the site was the same as the attached units on the south end.

Jahr: This plan has not been formally presented to the Planning Commission. The applicant believes there is an issue unique to the site given the recent change in the ordinance that allows single-family houses in this zoning area. The placement of the lots, utilities, roads, and change in the ordinance would make it difficult for any applicant to build a single-family home in this part of the subdivision without the ability to change the front lot setback. Many questions were about planning details and if this moves forward there will be formal architectural plans with exact lot lines. The applicant is of the opinion that they do not want to undertake that load without knowing if the front yard setback issue can be addressed. This raised concerns that will be addressed at the Planning Commission which will take comments from the BZA if it moves to that phase. Clarified the applicant is asking for a variance to the front lot setback only. The act of granting this variance is to move the house closer to cement. It is not making any changes on how close they can be to adjacent homes. This is only for the front yard placement of the house relative to the center line of the pavement. Asked that any action taken tonight would have to be a vote of 4. That is correct.

Sellers: At this point is ready to make a motion.

Martin: In the photo displayed there are no sidewalks in the existing development. Asked if there will be sidewalks in the new development and how will they affect the driveway as far as a car parked and blocking the sidewalk. This would be an issue for the Planning Commission. An audience member stated there are sidewalks on the outer loop in Hickory Woods. Understands the unique circumstances of the property. This was a problem that was inherited the infrastructure and roads were already there.

Larocque: Wanted to confirm as this goes through the process that a 12ft set back variance is adequate. Doesn't want to see the developer here again asking for a new set back since there is not a full set of plans submitted/approved.

Jahr: Discussed the self-created problem. If a developer had come to build the first part of the sub last year after the single-family rule was in place and laid out the roads and utilities. That would be self-created at that point because it was laid out with full knowledge that it would require a variance. This situation is unique because the law has changed. You can't build a development with improper laid-out utilities and come ask for a variance. The infrastructure was put in prior to the ordinance change.

Herman: This property was finished developing except for this parcel 20 years ago. New developers bought the property and with the zoning amendment, they are allowed to build single-family homes. Pending the 7 guidelines needed positive to move forward and other comments found in favor of the project. Other issues will be a part of the Planning Commission process.

Sellers motioned; Jahr seconded to approve the request for Case Number 23-074 by Arbor Farms Development for a dimensional variance by Arbor Farms Development to construct fifty-seven (57) detached single family residential dwellings which will be set back greater than or equal to 30.0 feet from the back of curb of an existing private road, and greater than or equal to 12.0 feet from the front lot line, at the subject site located on a 13.1-acre property which will encompass current parcels 83 043 01 0207-0212 000 and 83 043 01 0219-0232 000, located north of the Hickory Woods Condominiums on the north side of Tyler Road between Morton Taylor Road and Parkwood Street, zoned RM - Multiple Dwelling Residential District, based upon the following findings:

Based on the article of findings discussed, it is not believed this will diminish or impair any property values, the new construction property will be set back further than the current development, and is not a self-caused issue, noting conditions based on January 28th, 2024 McKenna Letter in regard to driveway length.

ROLL CALL:

Yeas (5): Herman, Martin, Sellers Jahr, Larocque

Nays (0): None

Absent (1): Haase

Motion Carried

Senior Principal Planner Vidya Krishnan clarified this is a site condominium so at the time the Planning Commission reviews it sidewalks will be required along both sides of all streets. This is a mandated requirement in the ordinance. The Planning Commission will make sure the sidewalks are not in conflict with any vehicle parked in a driveway.

Martin stated he looked at the google map and saw that in Hickory Woods the sidewalk is on one side of

the street. Director Power displayed the view of the sidewalk.

2. Rules of Procedure / Bylaws Discussion

Presentation by Township Staff.

Director Power overviewed changes proposed to the BZA Rules Of Procedure. Director Power summarized the potential changes including Article 2 Section 1. A Planning Commission Liaison, Article 4 Section 1 B. Minutes, Article 5 Section 7 voting, Article 5 Section 12 appeals, Article 7 Section 1 A. Appeal of Planning Commission Decision, and Article 7 Section 2 Prohibited Variances.

Board of Zoning Appeals Discussion.

Jahr: Jahr along with Planning Commission Chair Brian Cullin reviewed the changes and is glad the Planning Commission Liaison section is clarified. Other items such as minutes have come up in recent trainings.

Herman: Took a seminar that required them to pull up their own bylaws and make recommendations.

Sellers motioned; Jahr seconded to recommend the amendments of the Rules of Procedure / Bylaws to the Board of Trustee for approval.

Yeas (5): Herman, Martin, Sellers Jahr, Larocque

Nays (0): None

Absent (1): Haase

Motion Carried

ANNOUNCEMENTS, COMMENTS, AND OPEN DISCUSSION

Director Power announced he will continue to send out the training option link. Herman stated the procedures require 4 hours of training per year for each board member.

ADJOURNMENT

Martin motioned; Jahr seconded to adjourn the meeting at 8:12 pm.