

**REGULAR MEETING OF THE MIDLAND ZONING BOARD OF APPEALS,
TO TAKE PLACE ON TUESDAY, FEBRUARY 15, 2022 6:30 P.M.,
COUNCIL CHAMBERS, CITY HALL, MIDLAND, MICHIGAN**

1. Roll Call

PRESENT: Board Members – Mead, Green, Siemer, and Danielsen

ABSENT: Board Member – Keil (arrived late)

OTHERS PRESENT: Grant Murschel, Director of Planning & Community Development; Ryan Smith, Community Development Planner and one (1) other.

2. Approval of the Minutes

It was moved by Mead and supported by Siemer to approve the minutes of the regular meeting dated August 17, 2021.

Vote on the motion:

Yeas: Danielsen, Green, Mead, and Siemer

Nays: None

Absent: Keil

Motion carries 4-0.

3. Public Hearings

- a. **Petition No. 22-01** – Michael Rapanos: for an area/dimensional variance to permit a fence of 6 feet in height at property located at 1610 Colorado. The fence is requested to have the finished side facing toward the interior. Section 7.01D requires that the more finished side face the exterior of the lot.

Murschel gave the staff presentation for Petition No. 22-01.

Danielsen asked about the ordinance at the time of the original construction. Murschel indicated that at the time the fence was constructed, the ordinance did not require the fence to be finished side out.

Danielsen asked if the commercial property to the south would be required to put up a fence. Murschel answered that no, unless there was a site plan modification which would trigger a compliance to the existing zoning ordinance. Danielsen asked if the property to the west was putting up a fence, would they be required to put the finished side as it currently is. Murschel said they would need to comply with the zoning ordinance.

Mead asked if the fence is a requirement as of the zoning ordinance today and he wondered how this issue was brought to the attention of the city. Murschel stated that a fence is not required. The violation was discovered during routine Code Enforcement observation by City staff.

Danielsen asked if a permit is required to repair a fence. A fence permit is required if the repair of the fence is valued at 50% of the total value of the fence.

Petitioner:

Michael Rapanos, 3736 East Juliane Dr. Midland, MI

Mr. Rapanos spoke about the severe damage to the fence caused by downed powerlines during the storms of December 23rd. He stated that the fence was put up the same way that was existing before the damage. He acted fast to keep the city beautiful.

Mr. Rapanos feels this installation of this fences uniformity is kept by replacing the fence on rental unit to the west. He did this to help benefit the community/neighborhood.

Mr. Rapanos states that the neighbors are very happy with the new fence that is uniform. He also feels that he made the fence the same/better, and he was not trying to skirt any rules. Mr. Rapanos feels the ordinance does not offer fairness for the transitional space between residential and

commercial uses.

Comments in Support: None

Comments in Opposition: None

Murschel explains that City staff does work with permit applicants on solutions to any issues that may arise when planning a project. The City offices were only closed on December 24 and December 27. If the petitioner applied for the necessary permit, City staff would have worked with them to their benefit.

Green closed the public hearing

Danielsen asked if the owners of Cork and Ale were to pull a permit, would the fence be acceptable. Murschel indicated that the fence would have to be located on their property. The question is if the fence is built on the property line than both properties would need to consent for a permit to be pulled.

Findings of Fact:

1. The property is located at 1610 Colorado
2. The property is zoned RB Residential B
3. Zoning of surrounding property RB Multiple Family Residential, LCMR Limited Commercial Manufacturing and Research and NC Neighborhood Commercial
4. Speed limit on Colorado Street is 25 MPH
5. One (1) comment in support was received ahead of the meeting
6. Property size is .085 acres
7. The property is currently used as an apartment complex.
8. Storm caused severe damage
9. The fence was replaced in the same manner.
10. The fence is conforming with the other residential unit to the west.
11. The owner to the south is in support of the variance

Board Member Keil joined the meeting.

Mead points out that there is no opposition from the neighbors. Danielsen points out that everyone has an advantage to the fence being there. Keil acknowledges that the existing neighbors are in agreement. However, if a new business moves into the commercial space to the south and doesn't like the fence the way it is, they would be at a disadvantage.

Danielsen made a motion to approve Petition No. 22-01 based on the findings of fact, Mead seconded the motion.

Vote on the motion:

Yeas: Danielsen and Keil

Nays: Mead, Siemer, and Green.

Motion defeated 2-3

- b. **Petition No. 22-02** – Michael Rapanos: for an area/dimensional variance to permit a fence of 6 feet in height at property located at 2509 Waldo Ave. The fence is requested to have the finished side facing toward the interior. Section 7.01D requires that the more finished side face the exterior of the lot.

Murschel gave the staff presentation for Petition No. 22-02.

Petitioner:

Michael Rapanos, 3736 East Juliane Dr Midland, MI

Mr. Rapanos states that he does not believe the fence ordinance is a benefit to anyone and is unfair.

Comments in Support: None

Comments in Opposition: None

Green closed the public hearing.

Findings of Fact:

1. The property is located at 2509 Waldo Ave.
2. The property is zoned RA-4 – Single Family and Two Family Residential
3. Zoning of surrounding property RA-2 Single Family Residential, NC Neighborhood Commercial, LCMR Limited Commercial Manufacturing and Research and OS Office Service
4. Speed limit on Waldo Avenue is 35 MPH
5. One (1) comment in support was received ahead of the meeting
6. Property size is 3.13 acres
7. The property is currently used as a residential apartment complex.
8. Property was in compliance with zoning rules when built 22 years ago.
9. The variance is requesting the fence as built
10. Existing properties have the fences finished side towards the interior of the petitioner's property.

Danielsen made a motion to approve Petition No. 22-02 based on the findings of fact, Siemer seconded the motion.

Vote on the motion:

Yeas: Danielsen, Keil, and Mead

Nays: Siemer and Green

Motion approved 3-2

4. **Old Business:** None
5. **Public Comments (not related to items on the agenda):** None
6. **New Business:** None
7. **Decision Sheet Signatures**
 - a. 21-10
8. **Adjournment**

Green adjourned the meeting at 7:49 p.m.

Respectfully submitted,



Grant Murschel
Director of Planning & Community Development

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