

WARREN ZONING BOARD OF APPEALS
REGULAR MEETING
AUGUST 10, 2022

A Regular Meeting of the Warren Zoning Board of Appeals was called on Wednesday, August 10, 2022 at 7:30 p.m. at the Warren Community Center Auditorium, 5460 Arden Avenue, Warren, Michigan 48092.

Members of the Board present:

Roman Nestorowicz, Chairman
Judy Furgal, Vice-Chairwoman
Paul Jerzy, Secretary
Charles Anglin, Assistant Secretary
William Clift
Charles Perry
Anthony Sieracki, Jr.
Michael Sylvester
David Sophiea

Members of the Board absent:

None

Also present:

Cecil St. Pierre, City Attorney
Everett Murphy, Chief Zoning Inspector
Nicole Jones, Council Office

1. CALL TO ORDER

Chairman Nestorowicz called the meeting to order at 7:30 p.m.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

A roll call was taken and all board members were present.

4. ADOPTION OF THE AGENDA

Motion:

Secretary Jerzy made a motion to approve the August 10, 2022 agenda with the following changes: Item 7 tabled to September 14, 2022 and remove item 8; Supported by Board Member Anglin.

Voice Vote:

A voice vote was taken. The motion carried (9 – 0).

5. APPROVAL OF THE MINUTES of the Regular Meeting July 27, 2022.

Motion:

Secretary Jerzy made a motion to approve the minutes of July 27, 2022 minutes;
Supported by Board Member Clift.

Voice Vote:

A voice vote was taken. The motion carried (9 – 0).

6. PUBLIC HEARING:	APPLICANT: Lavita & Eric Modest
REPRESENTATIVE:	Same as above.
COMMON DESCRIPTION:	30957 Lorraine
LEGAL DESCRIPTION:	13-10-129-018
ZONE:	R-1-B

VARIANCES REQUESTED: Permission to

- 1) Retain a 24 ft. x 8 ft. 3 in. = 198 square ft. lean to on the side of the dwelling no less than 12 in. from the north property line.
- 2) Allow 765 square ft. of accessory structures (567 square ft. attached garage and a 198 square ft. lean to).
- 3) Retain a 23 ft. x 9 ft. = 207 square ft. driveway expansion.

ORDINANCES and REQUIREMENTS:

Section 6.06 – Side Yards: All lots in R-1-B districts shall have two (2) side yards, each having a width of not less than six (6) feet and the combined width of both side yards shall not be less than twenty (20) feet; provided, that principal buildings on adjoining lots shall be located not less than twenty (20) feet apart, provided the overhang shall not exceed twenty-four (24) inches, not including gutter. In such cases, said measurements shall be taken from the outer edge of the overhang.

Section 4.20 – Detached Accessory Buildings: (a) All detached accessory buildings shall not exceed one (1) story or ten (10) feet in height measured to the eaves and shall not occupy more than thirty (30) percent of the rear yard. Such buildings shall conform to, and shall not project beyond, the existing side building lines of the principal building on the lot and shall be one (1) foot from the edge of any easement. The construction of all such accessory structures shall be subject to the following conditions:

Section 6.01 – Uses Permitted: (l) Accessory buildings or uses customarily incident to any of the above permitted uses, when located on the same or an adjoining lot and which do not involve any business, profession, trade or occupation. One (1) private garage for each residential lot in which there is housed not more than three (3) vehicles, not more than one (1) of which may be commercial vehicle, shall be considered a legal accessory use, provided, however, any such commercial vehicle shall not exceed one (1) ton capacity, and shall be kept houses within a garage when not in use; and provided, further, that no moving vans shall be houses in private garages. All garages and/or accessory buildings shall not contain more than seven hundred (700) square feet of floor area.

Section 4.06 – Yard Use: No part of any required yard, except a rear or side yard shall be used for any detached garage or any accessory building other than a garage or use, or for the storage of vehicles. Any portion of a lot in front of the front building line shall be used for ornamental purposes only and nothing shall be placed thereon except trees, shrubs, or items of similar nature.

Chairman Nestorowicz asked the petitioner to approach the podium. Once you reach the podium, start with name and address for the record. Then explain to the board what their request is.

Eric Modest, 30957 Lorraine, appeared before the board.

Lavita Modest, 30957 Lorraine, appeared before the board.

Chairman Nestorowicz asked for them to explain their request.

Eric Modest explained they request to have the lean to and driveway expansion to stay where it is. The lean to was there when they purchased the home. It was one of the items that were there that attracted them to the home. The driveway, they want that to stay there. When they come around the turn around, they always have to back up because they have six (6) vehicles without children. The city vehicles always have to make that U-turn on the grass, the cars in front of the house. So, it's convenient for them to have that there. Also, when winter comes, they have no where to put the cars. Everybody gets in their cars on the driveway, some on the grass, some wherever they can find. Down the street somewhere, the dentist office. When the city comes through with the plows and everything. So, it's a convenience.

Lavita Modest stated additionally, recently, about a couple weeks ago. Whenever there is a heavy rain, right in front of their house typically floods. Just recently they had to come out of their homes to move vehicles so the city trucks, the water people, could by and do whatever they needed to do because there was a big, huge flood in front of their home. So, had their cars been off the street and out of the way it would have been more convenient. As her husband stated, with the lean to, for her it provides a sense of security as she is coming in and out of the home, in and out of the gate. She just feels a sense of security having that there. It's also a space where her family goes and have, even when it's raining, she likes to be outside when its raining. With this covered area, it's just a place she enjoys being. Again, it was one of the main attractions that attracted her to the home when they purchased it.

Chairman Nestorowicz thanked her very much for those comments. This is a public hearing, if there is anyone in the audience wishing to speak on this item.

No response.

Chairman Nestorowicz closed the public portion of the meeting and turned it over to the board for discussion and questions. He does have one (1) question, because he knows from the street it's hard to see the lean to that's there with the fencing and stuff. Underneath the lean to is paved and such.

Eric Modest replied yeah.

Chairman Nestorowicz asked if that was all in place when they purchased the property, correct.

Eric Modest replied yes, sir.

Board Member Sylvester said he's not very bright. What the heck is a lean to?

Lavita Modest explained it's a covered structure.

Eric Modest explained it's an addition on the home that leans over the side and it's kind of like the newer models where you can push the button for the awning.

Lavita Modest stated a stationary awning.

Board Member Sylvester asked if right now they have a permanent awning on it, right?

Lavita Modest stated it's similar to an awning. It's a covered structure.

Board Member Sylvester said right.

Lavita Modest said they have sidewalks that link to the backyard. This structure covers the sidewalk, and it covers the side door.

Board Member Sylvester said when they're bringing things in and out of the house, or they're having a picnic or whatever, they have a covered area.

Lavita and Eric Modest both replied yes.

Board Member Sylvester asked if their water problem is all taken care of.

Lavita Modest said whenever it rains, whenever there is a heavy rain in front of their home. There's a sewer there. That area typically floods. There is a couple times that the water company had to come out and, you know. The traffic comes by the lower cars can barely get through where the flood is.

Eric Modest said it's probably down the street on the other side of Thirteen. They did something down there and then it drains. Anytime he's cutting grass or doing anything out there, he always makes sure all the leaves, and everything is cleaned out there, because he doesn't want that issue when it rains. That's another story.

Board Member Sylvester asked as far as right now, that's taken care of, right?

Secretary Jerzy mentioned it says they have six (6) vehicles registered to the home. Are they all personal vehicles or commercial vehicles?

Eric and Lavita Modest replied personal.

Secretary Jerzy asked all six (6) are personal.

Eric Modest replied again yes.

Secretary Jerzy asked if they are running a business out of this property.

Eric Modest replied no.

Secretary Jerzy asked if there is any reason why the garage is not an accessible place to put them.

Eric Modest said they have one (1) car that's in the garage. Then they have the lawn mower. How this all started is the shed was too close to the home.

Secretary Jerzy said the lean they're talking about?

Eric Modest said this is a different structure. This was a shed. This is how all this started.

Secretary Jerzy asked if the shed is still there.

Eric Modest said no, he took it down. They had to take that down, brand new shed, take that down because it was too close to the home. It's been removed and he complies no problem.

Secretary Jerzy said the addition says they put that in themselves based off of seeing other ideas in the neighborhood.

Eric Modest replied yes. That was during the beginning of covid. It was just a convenient time where with the cars and the mud.

Secretary Jerzy asked if they tried checking with the city at all.

Eric Modest said everything was closed at the time of doing it. Everything was closed.

Secretary Jerzy yielded the floor.

Board Member Sophiea said he just had a couple brief comments. He drove by the property today. Number one, the house was in very good shape, it was well maintained, it was very... he admired the front of the home.

Eric and Lavita Modest thanked him.

Board Member Sophiea said secondly, the driveway on the side. Although, they didn't ask for permission putting it in, it is very similar to other neighbors on this street. It's not overly large, it goes out a little bit further than the garage when standing in front of the home on the right side. But overall, it didn't bother him. Lastly, the lean to, he couldn't really see much of it. He just noticed the roof of it. He couldn't tell if it was shingled or if there was a metal roof. Do you know what type of material is on the roof?

Eric Modest replied it's like the metal except it's the plastic one they can see through. Sunlight comes through it, it's very nice sitting under it.

Board Member Sophiea said from the road, he didn't know notice, it wasn't very noticeable. Like he said, you think it's been there.

Lavita Modest explained the previous owners, it was put there by the previous owners who had been there for years.

Board Member Sophiea sked when they purchased the property.

Lavita Modest replied July 29, 2019.

Board Member Sophiea said the driveway went in a year later?

Eric Modest said the beginning of covid.

Board Member Sophiea yielded the floor.

Chairman Nestorowicz asked for any other questions, comments or motions.

Board Member Perry said he would like to make a motion.

Chairman Nestorowicz said go ahead.

Motion:

Board Member Perry made a motion to:

- 1) Retain a 24 ft. x 8 ft. 3 in. = 198 square ft. lean to on the side of the dwelling no less than 12 in. from the north property line.
- 2) Allow 765 square ft. of accessory structures (567 square ft. attached garage and a 198 square ft. lean to).
- 3) Retain a 23 ft. x 9 ft. = 207 square ft. driveway expansion.

Reasons being: Not a detriment to the area; Everything looks good.

Board Member Sieracki supported the motion.

Chairman Nestorowicz said they have a motion by Mr. Perry, support by Mr. Sieracki for the reasons stated in the motion. Roll call.

Roll Call:

A roll call was taken on the motion. The motion carried (9 – 0).

Board Member Perry	Yes, for the reasons stated in the motion.
Board Member Sieracki	Yes, for the reasons stated in the motion.
Board Member Sylvester	Yes, for the reasons stated in the motion.
Board Member Clift	Yes, for the reasons stated in the motion.
Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Sophiea	Yes, for the reasons stated in the motion. Also, the lean to was not self-imposed.
Board Member Furgal	Yes, for the reasons stated in the motion.
Secretary Jerzy	Yes, for the reasons stated in the motion.
Chairman Nestorowicz	Yes, for the reasons stated in the motion.

The petitioner's request was **APPROVED** as written.

Board Member Sylvester said he had a question on this. Not to change anything, just for information. The 567 square foot attached garage, why was that required to have a variance?

Chairman Nestorowicz explained that's for the total amount of square footage.

Board Member Sylvester said just the total amount. He said he's never seen that before where the attached garage was part of the variance.

(Inaudible)

Chairman Nestorowicz said that takes them to item 9, new business.

7. PUBLIC HEARING: **APPLICANT: NP Mound Road Industrial, LLC**
REPRESENTATIVE: Mound Road LLC – Marc Werner
COMMON DESCRIPTION: 23500 Mound
LEGAL DESCRIPTION: 13-28-300-018
ZONE: MZ, M-4, M-2

VARIANCES REQUESTED: Permission to

- 1) Allow a structure to be erected no less than 84 ft. from the south property line (Bld. #3).
- 2) Allow a structure to be erected no less than 114 ft. from the south property line (Bld. #4).
- 3) Allow parking no less than 39 ft. from the south property line.

ORDINANCES and REQUIREMENTS:

Section 17.02 – Industrial Standards: (A) Front yards, M-4 200 ft. 3. In M-3 and M-4 zones, front yards may be utilized for parking or vehicles provided that the front fifty (50) feet of a lot or tract in an M-3 District and the front seventy-five (75) feet of a lot or tract in an M-4 district shall be landscaped and the balance shall be depressed at least two (2) feet so as to have all parked vehicles therein, completely out of sight or view of the roadway.

This item was tabled to September 14, 2022 during the adoption of the agenda.

8. ADMINISTRATIVE HEARING: **APPLICANT: Ragheed Akrawi, East Ten Mile Associate, LLC**
(Rescheduled from 3/9/2022, 4/13/2022, 4/27/2022, 5/25/2022, 6/22/2022, 7/13/2022)
REPRESENTATIVE: Christine Jaber
COMMON DESCRIPTION: 3839 Ten Mile
LEGAL DESCRIPTION: 13-19-479-010
ZONE: M-2

VARIANCES REQUESTED: Permission to

Appeal of the Chief Zoning Inspector's determination that the above noted property does not qualify for a medical marijuana facility.

ORDINANCES and REQUIREMENTS:

Section 20.05 Jurisdiction: The Board of Appeals, in conformity with the provisions of this article and the Michigan Zoning Enabling Act, MCL 125.3601 et seq., is hereby authorized 1) to hear and decide appeals from and review any administrative order, requirement, decision or determination made by an administrative official or body charged with enforcement of a zoning ordinance adopted under this article; and 2) to hear and decide questions related to the interpretation of the zoning ordinance; and 3) to hear and decide questions related to interpretation of the zoning maps; and 4) shall have the authority to grant land use and non-use variances according to the provisions of

this article; and 5) to hear and decide matters which the zoning board of appeals is required to pass under this article.

Section 20.06 Appeals from an Administrative Order, Requirement, Decision or Determination: An appeal may be taken to the zoning board of appeals from an administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcement of a zoning ordinance. The appeal may be filed by a person with a legal interest in the property that is the subject of the order, requirement, decision or determination; or by an officer, department board or bureau of the state or local unit of government; or by a person aggrieved by an order, requirement, decision or determination made by a person aggrieved by an order, requirement, decision or determination made by an administrative official or body charged with enforcement of a zoning ordinance.

This item was removed during the adoption of the agenda, due to Council hearing it on August 9, 2022.

9. NEW BUSINESS

Secretary Jerzy said he does have one item. He would like to make a motion to the administration to include in their packets any code enforcement items on properties that come before the ZBA.

Motion:

Secretary Jerzy made a motion to have included in their packets any code enforcement items on the properties that come before the ZBA.

(Inaudible)

Secretary Jerzy said to turn on his mic.

Board Member Clift said he would like to see the motion modified to state current and closed enforcements on the property, but only pertaining to the current property owner.

Secretary Jerzy said that's why he said items, because it would go back. It would probably incorporate a year or two. You'll probably be able to see a change of ownership. That's why he just put items.

Board Member Clift said thinking ahead. You can push a button that happens previously doesn't appear on the report if it's been closed.

Secretary Jerzy said he would like to make an amendment to include in their packets any code enforcements items that are open and closed on the properties that come before ZBA.

Board Member Clift supported the motion.

Chairman Nestorowicz asked if anybody has any questions or discussion before they take a vote on it. Just want to make sure.

No response.

Chairman Nestorowicz said not seeing any. Do we do a roll call for this one?

Roll Call:

A roll call was taken on the motion. The motion carried (9 – 0).

Secretary Jerzy	Yes, on the new business item.
Board Member Clift	Yes, for the reasons stated in the motion.
Board Member Sophiea	Yes, for the reasons stated in the motion.
Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons stated in the motion.
Board Member Sylvester	Yes, for the reasons stated in the motion.
Board Member Perry	Yes, for the reasons stated in the motion.
Board Member Sieracki	Yes, for the reasons stated in the motion.
Chairman Nestorowicz	Yes, for the reasons stated in the motion.

The petitioner's request was **APPROVED** as written.

Chairman Nestorowicz said that will be up to the Building Department to follow through on this then? Everett?

Everett Murphy said he will have to check the zoning ordinance, because it does give all the requirements on documents and whatnot, they have to send to them. He'll see if this is something that's administrative or if they actually need an ordinance amendment, but that recommendation coming from the board is going to hold a lot of weight if they need to amend the zoning ordinance to allow it.

Cecil St. Pierre stated city attorney's office will draft any ordinance that they need.

Everett Murphy said if it's an ordinance amendment, yeah. He just has to check on that.

10. ADJOURNMENT

Motion:

Secretary Jerzy made the motion to adjourn the meeting, Supported by Board Member Anglin.

Voice Vote:

A voice vote was taken. The motion carried (9 – 0).

The meeting adjourned at 7:46 p.m.

Paul Jerzy
Secretary of the Board