

WEST WINDSOR TOWNSHIP ZONING BOARD MEETING
REGULAR MEETING
October 5, 2023

The Regular meeting of the Zoning Board was called to order at 7:00 pm by Chairwoman Abbey in Meeting Room A in the Municipal Building.

STATEMENT OF ADEQUATE NOTICE

Chairwoman Abbey announced that pursuant to the Sunshine Law, a notice of this meeting's date, time, location, and agenda was mailed to the news media, posted on the township bulletin board, and filed with the Municipal Clerk on September 25, 2023.

ROLL CALL AND DECLARATION OF QUORUM

Susan Abbey, Chair
Curtis Hoberman, Vice-Chair
John Church
Henry Jacobsohn
Daniel Marks
John Roeder
Michael Garzio, Alt. #1 (arrived at 7:05 pm)
Eugene Fridkin, Alt. #2

ABSENT: Carl VanDyke

TOWNSHIP CONSULTANT STAFF PRESENT

Ed Schmierer, Esq., Attorney, Mason, Griffin & Pierson
David Novak, PP, Planner, Burgis Associates
Sam Surtees, Land Use Manager and Zoning Officer

MINUTES

September 7, 2023 Minutes

In regard to Resolution ZB23-03, Vice-Chairman Hoberman was not present to hear the application so he could not make a motion to adopt it. Chairwoman Abbey asked for a re-vote on the resolution.

Chairwoman Abbey made a motion to adopt Resolution ZB23-03 that was previously voted on at the September 7, 2023 meeting, as amended to include that the applicant agreed to proceed with the hearing with only 5 members present; seconded by Mr. Jacobsohn. Voice Vote--Motion Carried.

Mr. Church made a motion to adopt the September 7, 2023, minutes, with amendments as cited; seconded by Mr. Garzio. Voice Vote--Motion Carried

RESOLUTION

ZB23-05 **Brian Young**
d-4 (FAR) Variance

969 Alexander Road, Block 63, Lot 154

Chairwoman Abbey made a motion to adopt Resolution ZB23-05; seconded by Vice-Chairman Hoberman. Voice Vote-- Motion Carried.

CHAIR'S COMMENTS & CORRESPONDENCE

There was no correspondence to review and the Chair had no comments. There were no comments from the public. Mr. Roeder said the most memorable application that came before the Zoning Board during his ten years that he had chaired was the application to build the Mosque. He remembers the service Rabbi Wisnia provided and that he had said that it paved the way for coming together. Mr. Roeder announced that he recently learned from the newspaper that Rabbi Wisnia passed away.

APPLICATION:

ZB23-07

Ayse Akincigil

d-4 (FAR) & "c" Bulk Variances (2)

4 Berrien Avenue

Block 68, Lot 7

Property Zoned: R-1A District

MLUL: 1/13/2024

Applicant seeks to construct a 480 sq. ft. detached single-story structure on a 9147.6 sq. ft. lot. Variance relief is requested to increase the Floor Area Ratio (FAR) from 14% (where 13% is permitted) to 18.7%. Also requested is a side yard variance from 20 feet to 10 feet and a Maximum Improvement Coverage (MIC) variance from 22% (where 17% is permitted) to 26.2%. The structure will be used as habitable space and will be utilized as a home office complete with a wet bar and half bathroom.

Attorney Schmierer stated that the proof of publication is in order and the Board has jurisdiction to hear the application.

Chairwoman Abbey announced that Mr. VanDyke was not present tonight. He had to recuse himself because he owns property within 200' of the applicant's property.

Attorney Schmierer swore-in the applicant, Ayse Akincigil, who presented what was being proposed. She stated that she is getting married and needs extra space for her 6-person family, and visiting extended family. She made a correction that the wet bar should be a coffee bar. It will not be a place of business where clients would go there. There is currently 4 parking spaces, which is sufficient for the 3-bedroom home.

Chairwoman Abbey said the Berrien City neighborhood is zoned for single family homes, and asked why she is not putting an addition on the back of the home. Ms. Akincigil said she is trying to avoid the high-cost, but the prefabricated detached shed is something she can afford. The Board was concerned that it will be another small home-like structure, since plumbing, hvac, and insulation will be installed.

Attorney Schmierer swore-in Planner Novak and Mr. Surtees.

Mr. Surtees attested that since the dwelling does not include a shower, it is not considered a separate structure. She is only requesting an increase in the FAR. He added that there is no definition for “shed” in the code.

Planner Novak said he is considering it an accessory structure. The Township has no size limit for them.

Chairwoman Abbey said the 10 feet side yard setback seems appropriate.

Ms. Akincigil testified that she will be installing solar, plumbing, and electric heating/air conditioning with approval from the Construction Department. She stated that adding a separate structure will fit in with the feel of the neighborhood.

David Novak, PP, Zoning Board Planner, reviewed his report dated September 25, 2023, and a supplemental report dated September 29, 2023. He said circumstances are unique to this neighborhood because of the small lot size. The number of parking spaces is sufficient.

Mr. Surtees said that years ago, zoning ordinances had been drafted for Berrien City to allow small additions for actual use, but the ordinances were never adopted by the Township Counsel. Planner Novak added that this also applies to the Dutch Neck area. Mr. Roeder asked that this be included in the year-end report.

Ms. Akincigil said if an addition was made to the main house, you would have to walk through an existing bedroom, as well as the present kitchen, to get to the addition.

The height of the accessory structure was discussed.

Chairwoman Abbey opened the meeting for public comment on the application.

KEVIN MCCARTHY: Mr. McCarthy said he was the owner of adjacent properties on 936, 938, and 940 Alexander. He said he thought the applicant’s proposal is visually consistent with the neighborhood. Almost all the houses in the neighborhood have garages, and this house does not. There is a tall hedge row of trees between their properties. Mr. McCarthy pointed out where his property was in a photo.

There were no further comments. Mr. Roeder made a motion to close the public hearing; seconded by Mr. Garzio. Voice Vote--Motion Carried.

Hoberman commented there are many accessory structures in Berrien City. He understands the applicant needs a place to work, and home work places will be needed more and more in the future.

Mr. Church expressed his concerns that the accessory structure will be used for habitable space. Ms. Akincigil said she has not consulted with an architect. She reiterated that there is no kitchen and no bathroom, but family would occasionally be sleeping there and it would primarily be used as an office for her and her fiancée who both work from home.

Vice-Chairman Hoberman stated that habitable space is not defined in the Township’s Code.

Ms. Akincigil was agreeable to have a deed restriction put into place, stating it cannot be rented or leased out and cannot be a dwelling unit. It will have similar wording as the Fox deed restriction.

Chairwoman Abbey stated the following circumstances/conditions:

- This is an accessory structure, not a dwelling unit so there is no “d-1” use variance needed.
- There will not be a home-occupation, it will only be used as a work from home office.
- All the utilities and systems will hook into the primary house.
- No cooking facilities and no shower, only a half bath.
- No rentals; it will be deed restricted.
- Board is okay with the FAR.
- The driveway can accommodate 4 cars.
- The setback of 10 feet is not inappropriate for this lot or most of the lots on Berrien Avenue.
- The Zoning Board feels that it can accommodate any problems associated.

Mr. Garzio made a motion to approve application ZB23-07; seconded by Mr. Roeder.

Roll Call:

Aye: Garzio, Roeder Marks, Jacobsohn, Church, Hoberman, Abbey

Nay: None

Abstain: None

Absent: Fridkin, VanDyke

Not Voting: None

The next meeting is scheduled for November 2, 2023.

With no further business, Chairwoman Abbey adjourned the meeting at 8:23 pm; seconded by Mr. Roeder.

Respectfully submitted,

Cynthia Dziura, RMC/CMR
Recording Secretary