

PROCEEDINGS OF THE ZONING BOARD OF APPEALS
CITY OF EAST GRAND RAPIDS

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March 26, 2025

East Grand Rapids Community Center – Commission Chambers

1. CALL TO ORDER

Andrew Howard called the meeting to order at 5:30 PM.

2. ROLL CALL

Roll call was taken by Deputy City Manager Doug LaFave.

Present: George Davis, Matt Feyen, Andrew Howard, David Jackson, Jonathan Paasch, Scott Dienes and Brad Hunter

Absent: Robert Zylstra and Joe Rizqallah

Also Present: Deputy City Manager Doug LaFave, Zoning Administrator Jay Gianotti and City Attorney John Huff

3. APPROVAL OF MINUTES

A motion was made by Mr. Howard to approve the minutes as written.

Yeas: Davis, Feyen, Howard, Jackson, Paasch, Dienes and Hunter - 7

Nays: -0-

4. WELCOME NEW ZBA MEMBER

Welcome Scott Dienes. Wife Amy and son Simon have lived in East Grand Rapids for seven years. He is a lawyer at Varnum, specializing in municipal law for almost 30 years.

5. PUBLIC COMMENT ON NON-AGENDA ITEMS

No public comment was given.

6. PUBLIC HEARING – CASE #202504

- Applicant: Grace Episcopal Church
- Location: 1815 Hall St
- Request: A rain garden is proposed funded by a grant from the Michigan Department of Environment Great Lakes and Energy

Zoning Administrator Jay Gianotti opened the public hearing. The proposed modification involves the removal of 64,00 square feet of the northern parking lot area and resulting in the loss of 10 parking spaces. This would keep the church under current parking compliance standards. Deputy city manager Doug Lafave explained how the site was previously the East Grand Rapids sewage facility, and the wastewater treatment facility was abandoned in 1930 when the city connected to Grand Rapids via a trunk sewer. The ZBA members' questions are listed below with Jay Gianotti responding to all unless otherwise stated following.

- Howard: What does a rain garden do, what is the intention behind it?

- To capture storm water runoff. Rather than having it be directed into a storm sewer or facility it is allowed to naturally enter into a garden and naturally infiltrate into the ground or in this case directly into an existing water stream.
- Davis: In terms of the current parking spaces do they meet the current requirements for the physical size of parking space size, are they bigger or smaller than they should be?
 - The number of spaces is compliant and would be compliant if they removed ten.
 - The size of the spaces may not match our current standards but when the site plan for social approval was approved the dimensions for parking areas were different and to the best of our knowledge the way spaces were designed then and remain today would have complied with the old regulations. The city has decided that because nothing else about the parking lot is being adjusted with this plan, we have not identified any requirement that they would need to correct the size of the spaces with this request.
- Hunter: Did the church consult the city first to go to a certain size of a rain garden and if they wanted to increase the size of the rain garden and go below the minimum parking for that lot size would we be in a different conversation?
 - The city was not involved with the request or the grant money. There are certain scenarios where the planning commission could approve a parking lot that is less than is required. However, considering the difference between what they have and what is required, I don't believe there would be that much difference in this case.
- Feyen: In 2002 when they last redid this, they were in compliance, and then we added the lot coverage impervious requirements. We're looking at reducing that. Why does that trigger a variance?
 - This is a question that was addressed last time. We had a lot of coverage on variance requests a few years ago. We did have an attorney come look into this. I'll give you the short version. If the attorney wants to, I can give you a print of it. I mean it seems like we're moving in the right direction. The general conclusion that was received was that the intent, if the non-conformity exists, is to remove the non-conformity. So even though you're reducing something, if the result is still over what the limit is, that's still considered to be not enough.
 - I would clarify that by saying there are certain things in the zoning ordinance where some non conformities can be continued or can be utilized. For example, a non-conforming lot can still be developed on. With some additional restrictions; a non-conforming setback can still be continued with certain restrictions, there is no similar type of provision for a lot coverage not conforming. So in that case that's why our understanding is that either you go back to where you're supposed to be or you need to seek a variance.
 - Jon Huff: I would add to that if you thought of this not as parking lot but if you think of this as a building that was going to be going in. The rule was developed because the thought was if we allow you to rebuild on the site in excess of what's permitted the chances are we've just extended that non conformity because that building is going to last longer than the one that was there and the thought was if you didn't do that original building is going to deteriorate, get blown down get lost in a fire, fall down, whatever, and you'd be able to bring the site into conformity and so they would make you get a variance even though you're having smaller buildings than what was there. If it's still larger than what's permitted they think that that's likely an extension of the time period and that's how the rule came about. When we looked into this several years ago, I don't remember which variance it was, I don't know if you did Jay it was that type of a situation where they were proposing a new structure that was smaller, but it was still new, and so the question was, well , do we even need to do this because, you said we're moving in the direction, and the answer when we looked into it was yes, you do, because of that theory, while it is smaller, it's going to perhaps delay the eventual conformity of the parcel by allowing something that's going to last longer.
- Jackson: If permeable surfaces count for only 50% is there a consideration here that a rain garden should earn credits?
 - Under normal circumstances, it would not. It's just green space, so we don't give any special credits for lot coverage for a rain garden.

- Davis: Given the fact that this is a parking lot as opposed to a building is this what you would consider a normal circumstance? I was looking at this as being maybe a not normal circumstance.
 - At this point in time, there isn't really any distinction between a special use versus a normally permitted use in terms of the lot coverage requirement. You do bring up an interesting point, though, that there's also the parking that the church is required to have. There is a balance, there is a lot coverage requirement, there is also a parking requirement, how do you rectify or manage multiple requirements.
- Davis: But they're still going to be meeting the parking requirements and they're going to be increasing the area of permeable surface, which is positive.
 - Jon Huff: I think the answer may be that the ordinance didn't really anticipate the situation. I think I see where you're going with this question and I think it's legitimate but I don't think that we could find anything that allowed us to not put it through this process.
- Davis: No, no, I'm not saying it doesn't need a variance. The legal theory that you outlined before about extinguishing completely non-conforming uses. Is that something that would compel us to deny this variance?
 - Jon Huff: No, I mean if it would then obviously the rule that I told you wouldn't make any sense because you couldn't get any variance at all. So, I think you can view this for what it is, which is a step in the correct direction.
- Dienes: When you analyzed this did you look at the non-conforming building and structure language that at 5.113? I think it's just more evidence of going in this direction, it's not a building but a parking lot could be a structure under that section I believe, reducing the size of the non-conformities.
 - Jon Huff: I would concur with that.

At this point Chairman Howard invited anyone from the church to come up and talk about the project. They are listed below with a summary following.

Tony Heath is an engineer with Fishback hired by Plaster Creek Stewards. He explained how the rain garden is sized to capture and infiltrate all of the runoff from that parking area that would result from a 2-year, 24-hour storm. That's about 2.2 inches of rainfall in the parking area that we capture and then anything beyond that still gets slowed down before flowing out into Silver Creek. He also mentioned a portion of the Silver Creek Drain that comes through the project footprint and that they have coordinated with the Drain office and that he has their support going forward.

- Davis asked: In the absence of the rain garden, is the slope of the parking lot such that it would be a sheet runoff into the creek from the parking lot without any filtration?
 - Heath: That's correct. Currently the parking lot sheet flows. There is a concentrated discharge point that's just a little flume at the northeast corner and at the northwest corner. Those are directly into Silver Creek. There is no treatment. Nothing to slow it down. This would be a significant decrease in the rate and the volume of water.
- Davis: So, it's like we're putting a big filter on that runoff?
 - Heath: Exactly
- Howard: With the rain garden is there a maintenance schedule to periodically clean the bottom of it to remove contaminants from the parking lot?
 - Heath: Yes, in the basis of design documents there is a maintenance plan that's part of that. That's reviewed by EGLE as part of the 319 processes. The majority of that is there are some pre-treatment areas that capture that first flush that contains it and are easier to clean and can be scraped out with sediment and grit from the parking lot and the majority of the rain garden area. It's mostly just landscaping maintenance. So, in the spring cleaning up overgrown vegetation and occasionally coming and cleaning out, but it's less maintenance than a mechanical filter device or conventional stormwater typically would be or at least it's different maintenance.

- Dienes: What will this look like if I'm driving by on Hall Street? Will it have any cattails?
 - Heath: No. A great example if you're interested in seeing what this would look like is at Calvin University Lot 16. They did a very similar project, you can see what it would look like once it matures.

7. PUBLIC COMMENT ON AGENDA ITEMS

- Steve Bernie 2223 Godwin Avenue Southeast Grand Rapids. Grace Church parishioner in charge of naturalization program. Thank you for your support. He said if you would go down there sometime in a rainstorm you would see on the east and northeast side it's like a river, the stormwater pours off that parking lot. The reason it doesn't erode the stream bank completely is because it's encased in concrete. This is going to really increase the natural beauty and the nature part of the area. The whole area is the side that is a residential area and people walk their dogs along there. This has the potential to be an art like area if this sort of approach is adopted.
- Mark Sullivan 933 Pinecrest in East Grand Rapids. Has statement from Kent County Drain Commission that he could submit into record. Reads: This is from Joel Morgan who is a senior engineer, Tony thank you for the project updating plans. We take no issue with the project pending more specific review on impacts. Lowering watershed and previous area with a bioswale will help reduce stream flashness and potential for erosion or other drainage issues. Please let the zoning board know that we are aware of the project and support these types of projects. "I just wanted to state for the record also my support as a neighbor and also a parishioner at Grace. I'm very excited about the project. I have a couple of other statements from neighbors who are also supportive. I'm happy to read them or admit them." Kelly Stopples and Sean Hughes who live at 1140 San Jose Dr wanted to express support for the bioswale project at Grace church. Reducing polluted runoff into Silver Creek would be a positive change for our community. We support the church's request for a zoning ordinance variance in order to proceed with this. Dan Aument who lives with his wife at 1047 Orchard Ave since 1980 says I think Grace bioswale project is a wonderful project and I'm eager to see it get underway. I strongly support the request for a zoning ordinance variance.
- Andrea Lubberts 6786 Ashbury Ct Jenison. I work with Plaster Creek at Calvin University. I want to express my gratitude for looking at this project, and also let you know that this project, as mentioned, is on Whiskey Creek, which basically goes underground for about 5 miles after it leaves Grace church, it is fed by storm drains and empties into Plaster Creek down at Roosevelt Park. The entire area is just being fed by storm drains so this is a pretty special opportunity for the creek to receive some cool clean water before it heads underground. If you get a chance to see that garden at Calvin it's at the Prince conference center parking lot. There are signs there that explain the engineering behind it and the native plant concept.
- Rob Barrett 2518 Elmwood in East Grand Rapids. I'm simply a resident and very much in support of this project. I'm simply a resident of the city and very much supportive of this project. I've been working with Plaster Creek Stewards myself in trying to address East Grand Rapids sustainability commitment to increase the native population in the city of East Grand Rapids and so likewise encouraging other residents as I've been doing in my own yard for the past 3 years of replacing nonnative species with native species. I have many of the same goals as the rain garden so thank you and I was asked to bring support for my wife.
- Crystal Barrett at the same address as Ingrid and James Nelson at 2207 Boston Street thank you for considering it.

Chairman Howard asked for board member discussion.

Mr. Hunter expressed his excitement and support for the project. He didn't see any downside from either a zoning perspective or aligning with city master planning and overall city goals, as he does also sit on the city commission. He would like the city commission to find more projects like this especially at a local level and churches being good stewards of their land and resources. He is all in favor of the variance request.

Mr. Feyen is also Enthusiastic about this project. He thinks it would be entirely consistent with the spirit and purpose of our ordinance. He would have a problem if we denied it. He said the wastewater treatment plant is something that might justify looking at this a little differently and we are not sure what is down there. It is zoned R2. Given the circumstances he thinks a variance is appropriate.

Mr. Jackson supports the ordinance and said we have to meet all five criteria. The first one is there are practical difficulties, and this is a church in a residential zone trying to comply with residential zoning. It's also sitting on top of a wastewater treatment facility. So those are unique items to this particular lot and property, which he find helps it to comply with number one. Number two, the parking lot size pre-exists the current requirement for lot coverage. Number three, a variance would be in the spirit of this chapter. It's a betterment to number four. There's nothing that the current church did to make it non-compliant. Number five, this is as minimum possible a change that allows it to still stay in compliance with the parking.

Mr. Paasch said All five I'm in complete agreement with what my colleague just said. The only thin I did add was the necessity of having a wastewater treatment facility, so I stole that from you and added that as well. I would like to add that this is amazing to our community and anybody that has a hand in this should be commended. Please keep doing this. We have a great community, whether it is Grand Rapids, East Grand Rapids, or Calvin University. I just think we're all the better for all the work we do so thanks.

Mr. Davis said we do have to meet all five of the standards and he believes we are in agreement with those and in particular even though there's some possible issues about the non-conforming matters, this is a step in the right direction. It reduces the non-conformity and in that respect he's going to say it's consistent.

Mr. Dienes said the incremental reduction of the non-conformity, not elimination but reduction of the non-conformity is a big step. He also noted that just because this is a great project doesn't meat that it meets the standards, but he thinks that this one does. So he didn't want to set a precedent that just because they really like this project doesn't mean that they will grant a variance unless they find that it meets the standards.

Mr. Paasch made a motion to adopt the variance and enumerate it. He requested case number 2504 be approved because it meets all the standards of review.

Yeas: Hunter, Feyen, Jackson, Howard, Paasch, Davis, Dienes - 7
Nays: -0-

9. OTHER ZBA BUSINESS: No other business to discuss.

10. NEXT REGULAR ZBA MEETING: May 28, 2025 (pending agenda items)

11. ADJOURNMENT

Chairman Howard adjourned the meeting at 6:15 PM.

Respectfully submitted,

Alicia Besemer
Office Administrator DPW

Video of meeting also available at: [March 26, 2025 Zoning Board of Appeals Meeting](#)