

**CITY OF
HILLSDALE**



Zoning Board of Appeals
97 North Broad Street
Hillsdale, Michigan 49242-1695
(517) 437-6449 Fax: (517) 437-6450

**ZONING BOARD of APPEALS
SPECIAL MEETING**

CITY HALL, 97 N. BROAD ST. 3rd FLOOR, COUNCIL CHAMBERS
September 13, 2017 at 5:30 PM

I. Call to Order 5:30 pm

- A. Pledge of Allegiance
- B. Members present: Richard Smith, Eric Swisher (Chair), Richard Curtis, Adam Stockford, Kerry Laycock
John DeBacker
- C. Others present: Alan Beeker (Zoning Administrator), Tom Knighton, Jack McLain, Scott Sessions, J.J.
Hodshire, Scott Brown, Rhonda Rowley, Gary Vincent
- D. Members absent:

II. Consent Items/Communications

- A. Richard Curtis moved to accept agenda as proposed, John DeBacker seconded. Motion passed
- B. John DeBacker moved to accept minutes from January 11, 2017 meeting, Richard Curtis seconded.
Motion passed.

III. Public Comment

Ben Cuthbert – new residents since June. Thanked the ZBA for allowing him to appeal.

IV. New Business

A. 115 Cold Springs Circle

- a. **The owner is requesting a variance to allow a circle drive within the front yard setback. Sec. 36-593 Parking – Single Family, Two Family and Multiple Family Dwellings.**

B. Public Discussion

- a. Eric Swisher read the appeal request. Mr. Swisher also read the ordinance that is being appealed. The discussion surrounded the existing setback requirements and the existing issues with maintenance of the existing gravel street.
- b. Mr. DeBacker asked the owner if his intent was to allow parking and drop offs of guests during gatherings at the residence. It was also asked
- c. Richard Smith asked for clarification of the ROW permit project extents.
- d. Mr. Cuthbert explained that there were multiple existing limestone drives on the property that the contractor was going to eliminate and install a new concrete drive to access the lower level garage

and install a new patio in the rear of the house. All of the work is complete except for the front yard.

- e. Currently the sod in the area of the proposed drive has been removed and is waiting the decision of the Board.
- f. Mr. Laycock suggests that the existing drive be grandfathered in and consider this an alteration to the existing drive.
- g. Mr. Swisher agrees that the existing drive should be allowed to remain but cannot recommend the new circle drive because it goes against the ordinance.
- h. Mr. Beeker commented that DPS feels that to allow the drive would aggravate the washout issue.
- i. Mr. Cuthbert feels that he is being penalized for following the permitting process.
- j. Mr. DeBacker asked about the number of houses on the street and then went through the questions asked when considering a variance.
- k. Mr. Smith feels that installing a sidewalk along the frontage would be a better alternative and would not be against the ordinance.
- l. Mr. Laycock feels there are two questions, is there a special need and does it create a hardship to the neighbor, in this case the City DPS.
- m. John Loveless, who lives at the end of Cold Springs Circle. He built in 1989. The studio was originally built 2 years prior to the construction of the house. He had informed Mr. Hammel of the existing culvert. He commends the DPS for their continued maintenance. It is a neighborhood of green lawns and wooded lots. His fear was that the drive was going to be concrete and he was pleased to know that it is limestone. His biggest concern is with the amount of water shedding. His other concern is a safety issue in the winter when it is covered with ice and snow.

C. Facts and Findings: Chair Swisher read through the Facts and Findings questions with the Board. (See Attached).

D. Motion – John DeBacker made a motion to approve the variance to allow the installation of the circle drive in the front yard setback of the property and that the drive must be crushed limestone, Richard Smith seconded. Roll call vote;

- a. Richard Smith – aye
- b. Richard Curtis – nay
- c. Eric Swisher – nay
- d. Adam Stockford – aye
- e. Kerry Laycock – nay
- f. John DeBacker – aye

Motion passed 3 ayes, 3 nays, tied vote, the variance was denied.

V. Public Comment

Mr. Cuthbert is disappointed with the outcome but thanked the ZBA for their service and the time and devotion that they put into coming to their conclusion.

VI. Adjournment at 6:30 pm Mr. Curtis moved to adjourn, Mr. DeBacker seconded, motion passed.

Zoning Board of Appeals Findings

Case # ZBA-2017-02

Address 115 Cold Springs Circle

Parcel # 227-177-07

Parcel Owner Benjamin & Rachel Cuthbert



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A. The Zoning Board of Appeals for the City of Hillsdale hereby makes the following findings as to whether each of the following factors are or are not present based on the facts presented by the appellant seeking the variance.

1. Will the proposed variance impair an adequate supply of light and air to adjacent property?

No

2. Will the proposed variance unreasonably increase congestion in public streets?

No

3. Will the proposed variance request increase the danger of fire?

No

4. Will the proposed variance endanger the public safety?

No

5. Will the proposed variance unreasonably diminish or impair established property values within the surrounding area?

No

6. Will the proposed variance in any other respect impair the public health, safety, comfort, morals or welfare?

No

B. If each of the above determinations is answered in the negative and supported, the ZBA must then determine whether each of the following facts and conditions exist beyond a reasonable doubt.

1. That there are exceptional or extraordinary circumstance or conditions applicable to the property or to its intended use that do not apply generally to other properties or uses in the same district or zone.

No

2. That the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity.

No

3. That the granting of the variance will not be materially detrimental to the public welfare.

Yes

4. That the granting of the variance will not be materially injurious to the property or improvements in the zone or district in which the property is located.

Yes

5. That granting of the variance will not adversely affect the purposes or objectives of the City's future land use plan.

Yes

BASED ON THE FACTS PRESENTED IN THE RECORD BEFORE THE ZBA AND ON THE FOREGOING DETERMINATION AND FINDINGS, THE ZBA HEREBY:

1. Grants the variance as requested:
2. Denies the variance as requested:
3. Grants the variance subject to the following conditions and safeguards: _____
 - a) Conditions:

b) Safeguards:

Note:

All of the Zoning Board of Appeal's discussions, determinations and findings must be based on the record before it and undertaken and made in open session.