**Zoning Board of Appeals**

**Virtual Meeting Minutes**

**Tuesday, February 23, 2021 at 7:00 pm**

1. **Call to Order -**7:15 pm
2. **Roll Call -** Collison, Martin-Halm, Lasher present. Motion to excuse Strehlow by Lasher, second by Collison. Roll call vote, all ayes.
3. **Approval of Minutes from May 21, 2020** – Motion by Martin-Halm, second by Lasher. Roll call vote, all ayes.
4. **Citizen Comments –** none
5. **Old Business –** none
6. **New Business**
7. Variance request from Mayra Melchor-Solano

* Collison stated that a similar request was made the first time on April 9, 2020, a variance for the setback to allow for a walk-in cooler. He noted that the building was lawfully non-conforming. The former request was for the 8 foot setback was granted. Final inspection, to check for compliance, found that the cooler was located less than 3 foot from the property line instead of the approved 8 feet that was granted. This new variance application was submitted to the ZBA as they are the only ones that may grant additional relief from 8 feet to 3 feet. He reminded the Board that even though the cooler has been established, the ZBA still needs to determine if this 2nd variance may be granted.
* Lasher asked if it was known, why the cooler was placed wrong.
* Mary Whittaker Duncan, architect and representative for Melchor-Solano, stated that Melchor-Solano had a hard time finding someone to install the cooler. It appears to them that it was built from the wrong corner.
* Collison stated that sometimes applicants feel it is easier to ask for forgiveness than to ask for permission. Someone should have known what was acceptable. If no one was informed, it would be understandable.
* ZA Harvey asked who prepared the building plan. Duncan stated that it was her office that prepared it.
* ZA Harvey said that she spoke with Kalamazoo Area Building Authority (KABA) and they stated that they were surprised by it. KABA stated that it was built according to the building plan. ZA Harvey stated that this was not an intentional act by the applicant.
* Collison asked if KABA was involved.
* ZA Harvey stated yes. The standard operating procedure after a permit is issued is that KABA inspects the project. This project had no footings, just a slab. KABA felt that it was not done with the intent to reduce footage.
* Lasher stated that the site plan should have matched the building plan. There should have been a setback number in the site plan.
* ZA Harvey said that the site plan had the variance.
* Lasher stated that it was not an intentional act but wasn’t caught until after construction.
* Collison said that he is not suggesting that it be done over.
* ZA Harvey stated that if the building wasn’t already less than 1 foot from the property line, the Board may have felt differently.
* Collison stated that they would have had them mover the cooler if that was the only thing encroaching on the setback.
* Lasher stated that he had no issue with the variance as he does not believe it was an intentional act.
* Collison asked if Martin-Halm was comfortable enough with what she knew from the conversation to make a decision. She stated that she was comfortable with making a decision.
* Lasher asked if there were any concerns from the neighbors. The City Manager stated that know concerns were expressed by the neighbors.
* Motion was by Lasher to approve the 2nd variance allowing for the placement of the walk-in cooler to remain within 3 feet of the property line, second by Collison. Roll call vote: All ayes.

1. **Board Member Comments**

* Lasher stated that when the Board makes a decision that those decisions are to be followed by the applicant.

1. **Adjournment** – Motion by Lasher to adjourn at 7:37 pm, second by Collison. All ayes.