

CITY OF CHARLEVOIX
ZONING BOARD OF APPEALS MINUTES
Monday, May 21, 2018 – 6:00 p.m.
210 State Street, Charlevoix, MI

A) CALL TO ORDER

The meeting was called to order by Chair Withrow at 6:00 p.m.

B) ROLL CALL/PLEDGE OF ALLEGIANCE

Chair: Greg Withrow
Members Present: Ann Gorney, Richard Hodgson, Timothy Kish
Members Absent: Patricia Miller
Staff Present: Jonathan Scheel, Zoning Administrator

C) INQUIRY INTO POTENTIAL CONFLICTS OF INTEREST

Member Hodgson for Use Variance 2018-02.

D) APPROVAL OF AGENDA

No changes.

E) APPROVAL OF MINUTES

1. Motion to Approve or Amend the April 26, 2017 Meeting Minutes

Motion by Member Hodgson, second by Member Kish to approve the April 26, 2017 meeting minutes as presented. Motion passed by unanimous voice vote.

F) ELECTION OF OFFICERS

Motion by Member Hodgson, second by Member Gorney to nominate Greg Withrow as Chair. Motion passed by unanimous voice vote.

Motion by Chair Withrow, second by Member Kish to nominate Richard Hodgson as Vice Chair. Motion passed by unanimous voice vote.

G) NEW BUSINESS

Chair Withrow changed the order of the agenda to discuss the second item first.

2. Public Hearing for Applicant 2018-02 ZBA: Use Variance Request from Mike Pattullo – 228 Bridge Street

Chair Withrow noted that the zoning ordinance states that the ZBA needs five votes to pass a use variance therefore, the Board could not act on the request at this meeting. Zoning Administrator Scheel questioned if it would be appropriate to have a discussion since the applicants were present even though the Board could not vote on the matter. Chair Withrow agreed.

Member Hodgson stated that he had a conflict of interest and recused himself.

a. Staff Presentation

Zoning Administrator Scheel stated that the Board did not have a copy of the parcel map of the subject block. The parcel map showed only two properties on the first floor that did not have “the split already done, this property and one other”. He stated that there was a change of ordinance that they did not want to see storefronts changing into residential in the general downtown area.

b. Applicant Presentation (if requested)

Mike Pattullo, Shoreline Architecture of Petoskey, stated that applicant Claudia Baird was also present. He stated that the owners along with the retailer decided that they wanted to downsize the first-floor retail space, and the owners were interested in expanding the residence on the second floor down into the first floor, going from a one bedroom/1.5 bath unit to a three bedroom/3.5 bath unit. He stated this was not intended to be a separate residence. Mrs. Baird stated that she wanted to be clear that they were not going to be using the space as a rental unit.

c. Call for Public Comments

Zoning Administrator Scheel stated there were two letters of support for the variance request from John Haggard & Way Building Contractors. No other public comments.

d. ZBA Determination of Findings of Fact

Chair Withrow stated that he had not heard any comments from the Board that would be contrary to this variance request. At this point, he felt that there was no reason to go through the findings of fact. He stated that they would table the discussion so it did not have to be re-noticed.

e. Motion

None.

1. Public Hearing for Applicant 2018-01 ZBA: Dimensional Variance Request from Jeffery Novotny – 407 May Street

Member Gorney stated that she worked with Shelly Novotny and they live in her neighborhood, but she did not think there was a conflict of interest.

a. Staff Presentation

Zoning Administrator Scheel presented background of the project and stated that they received five letters of support for the variance request from Shane Cole, Luther Kurtz, Donna Russell, DeeAnn & Carl Rothenburger, Eugene Mona, and Molly & Joshua Vager. He stated that the request was to construct a 1,612 square foot residential building addition and the applicant was requesting three variances: 1) an 11' street side yard variance, 2) a 3' rear yard setback, and 3) a lot coverage variance of an additional 8%. The standards in the R-1 district are 15' front yard setback, 10' side yard setback, 15' street side setback, 25' rear yard setback, and maximum lot coverage 40%.

b. Applicant Presentation (if requested)

Jodi Alger, Home Planning & Design, representing Shelly & Jeffrey Novotny, stated that the applicants have owned the home since 1994 and the main floor had no space to add bedrooms. There were two bedrooms upstairs, and there was a 348 sq. ft. shed that would be removed. The addition would include a gathering room, kitchen, main level master bedroom, and a garage with a basement underneath. She stated that the family was planning to retire in Charlevoix. Ms. Alger responded to questions from the Board.

c. Call for Public Comments

None.

d. ZBA Determination of Findings of Fact

Chair Withrow questioned if there was any discussion regarding the lot size variance and indicated that they were looking for an 8% change in the lot coverage variance. After discussion, the Board revised the language in the second paragraph under (3) *Additional 8% lot coverage variance*, (5(b)) *Variance General Standards*, to read: "The ZBA finds that the need for the requested variance is due to unique circumstances and physical conditions of the property including exceptional narrowness, and small size. The lot is 56.5' wide, which is 3.5' narrower than the majority of lots on this block; this equates to approximately 450 additional square feet to the lot size. The ZBA finds that this standard is met since the lot is smaller in area and narrower compared to other lots in the same block and immediate vicinity."

Under (1) *Eleven-foot street side yard variance*, (5(b)) *Variance General Standards*, 2. *Extraordinary Circumstances*, Chair Withrow indicated that the language needed to reflect that: "*The building exists within the current zoning requirements and all we're doing is continuing that variance as a fill-in.*"

After discussion, the Board revised the language in the second paragraph under (1) *Eleven-foot street side yard variance*, (5(b)) *Variance General Standards*, 2. *Substantial Justice* to read: "*The ZBA finds that the applicant is requesting the minimum variance necessary and should not create an adverse impact to other properties in the neighborhood or zoning district. The impact of this variance is 1'4" from the existing non-conforming structure. Therefore, this is an infill and constitutes the minimum necessary for an acceptable structural modification.*"

Chair Withrow stated that under section - 3, *Impact on the Surrounding Neighborhood*, should be revised to state the same language in all of these sections to reflect that six of the surrounding neighbors had submitted letters of support for the

requested variances. The Board agreed to eliminate the proposed *Conditions of Approval* language, and to add a condition that the porch shall never be enclosed on the Garfield side.

The Board discussed the language in the second paragraph under (2) *Three-foot rear yard variance*, (5(b)) *Variance General Standards*, and Ms. Alger stated this variance request was not a hardship in that she could move the garage 3' to the east and the 3' she's taking away from the square footage would be added to the great room. The applicants withdrew the variance request for the rear yard variance.

e. Motion

Motion by Member Gorney, second by Member Kish to approve Project 18-01 ZBA with conditions that the porch will never be enclosed on the Garfield side and the 48% lot coverage based on specific findings of fact that prove that the project does meet the review standards in Section 5.178 (6).

Motion passed by roll call vote as follows:

Yeas: Gorney, Hodgson, Kish, Withrow

Nays: None

Absent: Miller

G) CALL FOR GENERAL PUBLIC COMMENT

None.

H) ADJOURNMENT

Motion by Member Kish, second by Member Hodgson to adjourn the meeting. Motion passed by unanimous voice vote. The meeting adjourned at 7:17 p.m.

Joyce M. Golding/fgm

City Clerk

Greg Withrow

Chair