

CITY OF CHARLEVOIX
ZONING BOARD OF APPEALS MINUTES
Wednesday, August 21, 2019 - 6:00 p.m.
210 State Street, Charlevoix, MI

A) CALL TO ORDER

The meeting was called to order by Zoning Administrator Scheel at 6:00 p.m.

B) ROLL CALL/PLEDGE OF ALLEGIANCE

Vice Chair: Richard Hodgson
Members Present: Ann Gorney, Timothy Kish, Dennis Kusina
Members Absent: Patricia Miller (late)
Staff Present: Jonathan Scheel, Zoning Administrator

C) INQUIRY INTO POTENTIAL CONFLICTS OF INTEREST

D) APPROVAL OF AGENDA

E) APPROVAL OF MINUTES

Minutes were approved by the Chairman as per policy.

F) OLD BUSINESS

G) NEW BUSINESS

1. Election of Officers

Vice Chair Hodgson stated that Chair Greg Withrow was no longer a City resident, therefore he resigned from the Board. Member Hodgson volunteered to be Chair and Member Kish volunteered to be Vice Chair.

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

2. Public Hearing for Applicant 2019-03 ZBA: Dimensional variance request from Jodi Alger Home Planning and Design – 207 E. Lincoln Street

a. Staff Presentation

Zoning Administrator Scheel stated that there was an existing garage at this address in a dilapidated condition and the applicant wanted to build a new garage. The existing garage actually sits on the neighboring property in the rear and within approximately a foot of the side property line. Therefore, this was a variance request for rear and side lot lines. The property consists of two lots. The house itself sits on both lots.

b. Applicant Presentation

Jodi Alger-Bergmann representing Darren and Kelly Romano (all present) stated that the Romanos purchased the property a year ago and are hoping to retire there. She stated that the garage was dilapidated, and they wanted to replace the garage close to where it is to use it as more of a craft room/storage area (15.5' x 20.3'), as it was barely large enough for a vehicle. Discussion followed as to whether the building could be oriented in a different direction.

c. Call for Public Comments

None.

d. ZBA Determination of Findings of Fact

Chair Hodgson stated that a dimensional variance may be allowed by the ZBA only in cases where the applicant has shown a practical difficulty in the official record of the hearing. The Board proceeded to review each of the conditions as explained in the Staff Report related to the side yard variance:

- a. Extraordinary Circumstances. The Board concurred that the request satisfies extraordinary circumstances. Zoning Administrator Scheel stated that he would change the last sentence of this section to read: "The ZBA finds that the

standard is met because the existing orientation of the house and driveway would create a hardship by moving a new garage to the other side of the property.”

- b. Substantial Justice. Chair Hodgson recalled that the Board granted variances for similar circumstances in the past. Member Kish felt that “it wouldn’t meet this condition because there are already extra buildings (two other sheds)”. Zoning Administrator Scheel stated that one of the sheds will need to be removed before he could issue the building permit for the garage. Member Kish stated that he felt substantial justice could not be met with the existing conditions. Zoning Administrator Scheel stated that they could do a conditional approval even though the Board would be issuing permission for the placement, but the property owners would still need to come to him for a zoning permit.
- c. Impact on the Surrounding Neighborhood. No changes to the condition as written in the Staff Report.
- d. Public Safety and Welfare. No changes to the condition as written in the Staff Report.
- e. Not Self-Created. The existing structure pre-dates the zoning requirements. No changes to the condition as written in the Staff Report.

The Board proceeded to review each of the conditions as explained in the Staff Report related to the rear yard variance:

- a. Extraordinary Circumstances. The last sentence would be changed to read: “The ZBA finds that the standard is met because the existing orientation of the house and driveway would create a hardship by moving a new garage to the other side of the property.”
- b. Substantial Justice. Chair Hodgson stated that it was good that this would be fixing the encroachment into the adjoining property. He proposed that there be no residual claim on the encroached area. Zoning Administrator Scheel stated he would add a condition “that there will be no claim of adverse possession on neighbor’s property”.
- c. Impact on the Surrounding Neighborhood. Same as the side yard variance.
- d. Public Safety and Welfare. Same as the side yard variance.
- e. Not Self-Created. Same as the side yard variance.

e. Motion

Motion by Member Gorney, second by Member Kish to approve Project 2019-03 ZBA with conditions that the number of accessory buildings be in compliance with current zoning standards and that there be no claim of adverse possession on the neighboring property and based on the findings of fact to prove that the project does meet the review standards.

Motion passed by roll call vote as follows:

Yeas: Gorney, Hodgson, Kish, Kusina
Nays: None
Absent: Patricia Miller

H) CALL FOR GENERAL PUBLIC COMMENT

Zoning Administrator Scheel introduced Shirley Gibson who was appointed as a new member of this Board. He stated that they will have a case next month.

I) ADJOURNMENT

Motion by Member Kish, second by Member Kusina to adjourn the meeting. Motion passed by unanimous voice vote. Patricia Miller arrived at the meeting at this time. The meeting adjourned at 6:34 p.m.