

CITY OF CHARLEVOIX
ZONING BOARD OF APPEALS MINUTES
Wednesday, July 15, 2020 – 6:00 p.m.
City Hall Council Chambers
210 State Street, Charlevoix, MI

A) CALL TO ORDER

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

B) ROLL CALL/PLEDGE OF ALLEGIANCE

Chair: Richard Hodgson
Members Present: Shirley Gibson, Ann Gorney, Patricia Miller, Timothy Kish
Members Absent: None
Staff Present: Jonathan Scheel, Zoning Administrator

C) APPROVAL OF AGENDA

D) APPROVAL OF MINUTES

1. Motion to Approve or Amend the Meeting Minutes
No minutes for approval.

E) INQUIRY INTO POTENTIAL CONFLICTS OF INTEREST

Member Kish stated that he had a conflict of interest on New Business, Case 2020-2, as he was the property owner.

F) CALL FOR GENERAL PUBLIC COMMENT

G) OLD BUSINESS

H) NEW BUSINESS

1. Case 2020-1, Side Yard and Front Yard Variances – 214 Antrim Street, Gordon and Emily Selph

a. Staff Presentation

Zoning Administrator Scheel stated that the applicant was proposing to construct a garage 6.3' from the front property line at Newman Street. The applicant is requesting a dimensional variance of the side yard and front yard requirements as defined in 153.072(b) of the Zoning Ordinance. The property is zoned residential R-2 with a 15' setback from the front and 8' setback for the side yard. The property would be 4.3' from the east property line, where the adjacent property is also owned by the applicant. He stated the variances requested are: (1) a 3.6' side yard variance for the structure, and (2) an 8.7' front yard variance. The ZBA should look at each variance request separately with the side yard setback request first.

b. Applicant Presentation

Mr. and Mrs. Selph explained the purpose of their request and responded to questions from the Board members regarding the history of the property and the need for the variances. The applicant would be removing an existing non-conforming structure and replacing it with the proposed new attached garage which would be less non-conforming. Discussion followed regarding the accessory structures on the property, aesthetics, driveway access, possibility that the accessory dwelling unit could be rented long-term if certain requirements were met, stairs to the upper level, a 20' garage door, and overall width of the garage.

c. Call for Public Comments

d. ZBA Determination of Findings of Fact

3.7' side yard variance request

(1) Extraordinary circumstances: the lot is 6,600 sq. ft., 600' larger than the current required area in the Zoning Ordinance. The lot is a through lot which doesn't allow the owners to use the unattached structure regulation that would allow the structure to be within 6' of the property line if they had a rear yard and not two front yards. The Board agreed that this standard is not met since the lot is similar in size compared to other lots in the immediate vicinity and the through lot is not a hardship with this site design.

(2) Substantial justice: Board concurred that this standard is not met as others in the neighborhood do not have the right for this type of variance.

(3) Impact on the surrounding neighborhood: Member Gibson expressed concern that the house is probably too large for the size lot to also have a large garage.

(4) Public safety and welfare: the applicant's request will not negatively affect public safety and welfare.

(5) Not self-created: the applicant's request could be considered self-created. Past owners built additions to the house which could be interpreted to be self-created.

e. Motion

Motion by Member Gibson, second by Member Kish to deny Project 20-01 ZBA for the 3.6' side yard setback variance based on specific findings of fact that prove the project does not meet the review standards in Section 153.038(F).

Yeas: Gibson, Gorney, Hodgson, Kish, Miller
Nays: None
Absent: None

Zoning Administrator Scheel responded to questions from the applicants regarding the denial of the side yard setback.

8.7' front yard variance request (Newman Street)

(1) Extraordinary circumstances: The Board agreed that this standard is not met since the lot is similar in size compared to other lots in the immediate vicinity and the through lot is not a hardship with this site design.

(2) Substantial justice: Board concurred that this standard is not met as others in the neighborhood do not have the right for this type of variance.

(3) Impact on the surrounding neighborhood: No consensus on any impact to the surrounding neighborhood.

(4) Public safety and welfare: the applicant's request will not negatively affect public safety and welfare.

(5) Not self-created: determined to be debatable.

Motion by Member Gibson, second by Member Kish to deny Project 20-01 ZBA for the 8.7' front yard setback variance (Newman Street side) based on specific findings of fact that prove the project does not meet the review standards in Section 153.038(F).

Yeas: Gibson, Gorney, Hodgson, Kish, Miller
Nays: None
Absent: None

Member Miller left the meeting at 7:15 p.m.

2. Case 2020-2, Side Yard Variance – 116 Palmer Street, Tim Kish

Member Kish recused himself.

a. Staff Presentation

Zoning Administrator Scheel stated that the applicant was proposing to construct a 43 sq. ft. shed 6'8" from the side property line therefore asking for a 1'4" variance. The applicant is requesting a dimensional variance of the side yard as defined in 153.072(b) of the Zoning Ordinance. The property is zoned residential R-2 District. The standards in the R-2 District are front yard setback: 15', side yard setback: 8', and rear yard setback: 8'.

Zoning Administrator Scheel stated the property is a uniquely shaped lot bordered by a City parking lot on one side, a large hill behind the lot and a residential home on the third side. The lot rises sharply in the rear and side of the existing home. He felt that the lot shape and the elevation change allows only a minimum size accessory building and even then there is no place on the lot that really would meet the setback. He stated that the building was partially built, and he allowed Mr. Kish to finish the structure under the condition that if the variance was not granted, he would need to remove the structure.

Member Gorney questioned if moving the shed 16" would put it too close to the house and Zoning Administrator Scheel agreed that could potentially become an issue. Member Gorney stated the home even though was recently rebuilt, that it had been an existing structure on essentially the same footprint

b. Applicant Presentation

None.

c. Call for Public Comments

The Zoning Administrator received two letters and one phone call on this case. The letters were included in the packet and public record.

d. ZBA Determination of Findings of Fact

1'4" side yard variance request

(1) Extraordinary circumstances: Chair Hodgson stated that the lot was extraordinary with its shape and rise in elevation. He stated there was one point of correction as Mr. Kish was not requesting a use variance. The Board concurred that this standard is met.

(2) Substantial justice: Board concurred that this standard is met. Most property owners have a storage shed or other type of structure for storage. This request is for a small structure which seems a minimum request.

(3) Impact on the surrounding neighborhood: Board agreed that there was no impact.

(4) Public safety and welfare: the applicant's request will not negatively affect public safety and welfare.

(5) Not self-created: Board agreed that this standard is met.

Chair Hodgson felt a condition was needed to identify that the Board was approving something that was in conflict with Section 153.166 of the zoning ordinance regarding accessory buildings and uses which required a minimum of 20' separation between this and adjacent single family buildings or other accessory structures.

The Zoning Administrator will notice a variance request for the 20' separation for an August hearing date.

Motion by Member Gorney, second by Member Gibson to approve Project 20-02 ZBA for the 1'4" side yard setback variance based on specific findings of fact that prove the project does meet the review standards in Section 153.038(F) with the condition that the applicant return with a variance request for relief from section 153.116 (A) 6. of the Zoning Ordinance.

Yeas: Gibson, Gorney, Hodgson
Nays: None
Absent: Miller
Abstained: Kish

Zoning Administrator Scheel updated the Board on code enforcement actions on Upright Street, other issues in the City, and a situation with a property on Lincoln that was supposed to be an accessory building (garage) which is being used as a short-term rental. He reported that the new hotel has had some contractor issues and the new 14-unit development on Pine River Lane has not started construction yet but there would be some utility work beginning soon on the site.

I) ADJOURNMENT

Motion by Member Gorney, second by Member Gibson to adjourn the meeting at 7:48 p.m. Motion passed by unanimous voice vote.

Joyce M. Golding/fgm

City Clerk

Richard Hodgson

Chair