



ZONING BOARD OF APPEALS

July 1, 2014

A regular meeting of the City of Petoskey Zoning Board of Appeals was conducted in the City Hall Community Room on Tuesday, July 1, 2014. Roll was called at 7:00 P.M.

Present: Michael Karr
Jim Knibbs
Gary Lemieur
Noah Marshall-Rashid
Norm Nasson
Lori Pall

Absent: Clark Smith

Staff: Amy Tweeten

Also Present: Chris and Shelly Paulson, 1101 Emmet Street
Elaine Keiser, 2076 M-119
Dana Andrews, 722 E Lake Street
Brent Cook 314 Summit Street
Judy Hills, P.O. Box 2390, Petoskey

Upon motion made and supported, the minutes of the May 6, 2014 meeting were approved with board member Knibbs abstaining.

Case #804 – A requested lot coverage variance to allow the construction of an addition at 325 Water Street

Staff gave a brief overview of the lot coverage variance request, that the request was to increase lot coverage an additional 3.8% for a total lot coverage of 37.7%. Board member Nasson wanted to know how the stairs would need to be built to not need a variance. Chairman Marshall-Rashid stated that he did not know to what extent the interior of the house had to do with the applicability of the standards for a variance, but that the applicant was present to respond.

Elaine Keyser, 2076 M-119 and architect for the project, explained that to lengthen the stairs that were not currently up to code, the house needed to be expanded to the east. To keep symmetry to the building, they are showing a bump-out to the west as well which they think is an enhancement to the neighborhood. She stated that the second-story addition would not block any neighboring views and the improvements to the house would enhance the neighborhood. She noted that the requested variance was consistent with the lot coverage of other houses in the neighborhood; that the hardship was the lot size as it was narrow and small; and that the request was to increase the lot coverage by only 3.8%. She then introduced Butch and Shelley Paulson, property owners. Mr. Paulson stated that he had been born and raised in Petoskey, that they have lived on Emmet Street for 20 years and want

to now live in this home. Ms. Paulson added that the neighbors are supportive of the addition and that they did everything they could to not have a negative impact on the neighbors.

Chairman Marshall-Rashid asked for audience comment. As there was none, he asked for Board deliberation.

Board member Karr asked Ms. Keiser the current stair measurements, to which she replied that the stairs currently vary. Mr. Karr then asked what she believed to be the uniqueness of the hardship as most old homes have narrow stairs. Ms. Keiser responded that the difficulty and uniqueness is the width of the lot at 50' and the effort to keep the addition to the second story.

Board member Pall asked whether other options had been considered to which Ms. Keiser responded they had and the options are limited. Ms. Pall noted that there are lots in the area that met the code to which Ms. Keiser replied that many of the houses are rentals.

At this time, chairman Marshall-Rashid asked for a motion.

Board member Knibbs made a motion to approve the lot coverage variance for 325 Water Street based on the practical difficulty of the extremely small lot. Support for the motion was by board member Lemieur. Upon roll call vote, the motion failed on a 2-4 vote; Karr, Marshall-Rashid, Nason and Pall voting no. The variance was denied.

Case #805 – A requested variance to allow a corner-front yard fence at 722 E Lake Street

Staff gave a brief overview of the corner-front yard request, noting that it would extend along the southern portion of the corner-front yard.

Board member Nason asked what the neighboring property on Summit Street felt about the request.

Brent Cook, 314 Summit, stated that he had been in discussions with Mr. Andrews and would like a setback from the house, but that he is within his right to build the fence to the lot line and that Mr. Andrews has been willing to work with them. He would ideally like to purchase a few feet from Mr. Andrews, but that it was not likely to happen.

Mr. Andrews then noted that there are challenges regardless of where the fence is as shown in the submittal materials. If the fence were to be placed where the code allows, the posts would block the window of the neighboring house.

Board member Pall asked staff whether a 3 foot hedge would be allowed where the fence is proposed, to which staff said it would. Ms. Pall then asked whether Mr. Andrews had installed the deck on the portion of the lot that could be fenced, to which he responded he had.

Board member Karr asked for a clarification of the lot line, to which the response was that it was the northern side of the home. He stated that while it is good that the two property owners are working cooperatively, he feels if the fence were built as proposed it could create a hardship for a future home owner who does not have easy access to the utilities, and that future home-owners may not be so cooperative.

Mr. Andrews stated that the practical difficulty is one of aesthetics as the fence that would be allowed would bisect the yard. He noted that the fence would line up with the neighbor's house, similar to what was approved across the street.

Chairman Marshall-Rashid noted that board member Karr made an important point that any decision of the board needs to be forward looking. He then commented that the Board sees frequent requests for corner property fence variances and that looking around town, many corner lots have fences either through variances or grandfathering so it becomes a very difficult issue that people who want corner-front yard fences feel they are being held to a difficult standard. He thought that maybe the legislative bodies should look at the issue of corner-front yard fences given the frequency of requests and what actually exists currently.

Board member Pall stated that when Council considered changing the fence regulations, they did look at what existed and three members who voted for the regulations were corner lot property owners, so she felt it was done with consideration of the situation of corner property owners.

Chairman Marshall-Rashid asked for a motion, possibly a motion could be to postpone and ask for further review of the ordinance by the legislative bodies, or a motion to approve or deny.

Board member Karr asked whether postponing without a set date would be appropriate, with board member Nasson asking how long such a process would take, and board member Pall stating she did not know that it was the role of this body to make such a request. Staff estimated a minimum of three months.

At this time, chairman Marshall-Rashid opened the meeting to public comment. Judy Hills, 575 Hillcrest Avenue, stated that she was glad the board was heading in the direction of asking for a review of the fence provisions. She noted that frequent variance requests should signify that a change is needed.

Board member Marshall-Rashid noted that he did not believe the ordinance was overly restrictive, but that a legislative review may be necessary.

Board member Karr had a concern with the time it would take, that he thinks pushing for a change is important, but does not think action should be postponed indefinitely.

Jason Keiswetter, 804 E Lake, stated that he had received a corner-front yard variance; that the fence meets his family needs; that it is consistent with what exists in the neighborhood; and that he believes the fence proposed by the Andrews would do the same.

Chairman Marshall-Rashid commented that he was on the board when the Keiswetter fence was approved and believe the board acted in a legislative capacity, not a judicial capacity which is the role of the board to determine true practical difficulty of the property as it relates to the ordinance.

At this time, board member Karr made a motion to deny the request for a corner-front yard variance based on the responsibility of the board to uphold the ordinance in the absence of a practical difficulty; support for the motion was from board member Pall. On a roll-call vote, the motion carried 6-0.

Officer Elections

The board elected a chair at the May meeting, but no one was willing to agree to be the vice-chair/ secretary. Staff explained the limited responsibilities. Board member Knibbs nominated Michael Karr for vice chair/ secretary, with support from Lemieur. Mr. Karr explained that as a new member he thought it was better to wait a year to accept an officer position, but if no one else was willing to do it he would accept. Upon roll-call vote, the motion passed 6-0.

Updates

Board training will occur on Tuesday, July 22 at 7:00 p.m.

Seeing no further business, the meeting was then adjourned at 7:55 p.m.