



**ZONING BOARD OF APPEALS**

June 6, 2017

A regular meeting of the City of Petoskey Zoning Board of Appeals was conducted in the City Hall Community Room on Tuesday, June 6, 2017. Roll was called at 7:00 P.M.

Present: Noah Marshall-Rashid, Chairman  
Ben Crockett  
Michael Karr  
Scott Morrison  
Lori Pall

Absent: Mary Clinton  
Jim Knibbs

Staff: Amy Tweeten

Also Present: Greg Potter, McLaren Northern Michigan  
Bill Culhane, Kramer Management Group  
Kristina Glusac, Smith Group JJR  
Deb Axelrood, Smith Group JJR  
Mike Tarwater, McLaren Northern Michigan  
Cliff and Jane Denay, 566 West Lake  
Patty Powers, 542 West Lake  
Cynthia Linn Robson, 606 Grove Street

Upon motion and support, the minutes of the May 2, 2017 meeting were approved. Motion passed 5-0.

**Case #820 Rear Yard Setback at 416 Connable Avenue**

Staff summarized the request for a 54 foot rear-yard variance for a hospital expansion.

Greg Potter, McLaren Northern Michigan, explained that the hospital has been investigating options for facilities expansion for many years including the consideration to change location. However, it was decided that the current location on the bay was beneficial to patient care. Mr. Potter stated that the proposed south tower addition would improve the level of patient room privacy while providing McLaren the space required to maintain a high level of local healthcare.

Bill Culhane, Kramer Management Group, identified that he works with McLaren Corporate offices and his role is to work with the local facilities. He thanked the board for considering their request.

Kristina Glusac, project manager from SmithGroup JJR then presented additional details of the proposed design. She summarized that this is a five year expansion master plan for the facilities. The new patient tower will include 92 private rooms (the total number of beds will remain 202) and six operating rooms. Their goal is to integrate the addition into the campus, not to overwhelm the site, and have included a relief in the building mass at the southwest corner. At the beginning of the design phase, they looked at placing the patient tower on the north side of the ring road, adjacent to the Lake Street parking structure but decided on the proposed location because it limits exposure from the street view and the neighboring properties to the north. She explained the three phases of the project and noted the pull-ahead/infrastructure enabling projects that need to be completed before the tower can be constructed are currently being considered by the Petoskey Planning Commission. Slides of the elevations were then shown to indicate how they are trying to keep height to a minimum, and the cooling towers are being relocated to the roof of the building. It was noted that the new combined entrance with the Burns Building will be for inpatient services while the outpatient services will remain at the existing entrance.

Deb Axelrood, site planner for the project went through the statement of practical difficulty that was submitted with the application. Ms. Axelrood's points included:

- She noted that per the current zoning ordinance, the hospital addition could be built without a height limit, but they were staying under the current height to have less of a visual impact;
- She noted the area where the variance is granted is adjacent to parkland;
- She noted the site has a steep change in grade;
- She noted the variance is needed due to the lot configuration and topography;
- She noted the request is fair to neighboring properties because it has the least amount of impact to neighboring properties while providing the quality services to the community.

Mr. Potter added that the hospital provides a unique level of service for a small community hospital and that the patient tower is needed to meet industry standards. The single rooms provide more privacy and allow the patients family to stay with the patient more comfortably. He relayed that survey results indicated the community wanted the hospital to stay at its current location, and the addition is designed to provide the highest quality and safety.

At this time, Chairman Marshall-Rashid opened the meeting up for public comment.

Cliff Denay, 566 West Lake Street, asked how many beds would be lost if the variance were not granted. He said they had been trying for a long time to find out what the hospital plans were but could not get any information and this was the first they knew of the location of the patient tower. As a neighbor, he had concerns about the view from W. Lake Street and how much of the sky the building would block to the houses below.

Jane Denay, 566 West Lake Street, stated that she had worked at the hospital and was glad the hospital was staying in the City, and she understood the benefits of the new tower for patient privacy and infection control. But she was concerned with the 54' setback on the residences along W. Lake Street as were their neighbors the Knowles at 560 and 562 W. Lake who were unable to attend the meeting but thought the 100 foot setback should be maintained. She believes the Magnus Park campground is unique, that the new tower could be a detriment to it. She also stated that there needs to be sound protection from the cooling towers.

Patty Powers, 542 West Lake Street, asked what the addition would be looking over.

Seeing no one else wishing to make comment, Chairman Marshall-Rashid brought the discussion back to the board. Board member Pall disclosed that her husband works at the hospital but felt that she could remain objective in the case. The board members discussed and determined that Ms. Pall did not have a conflict of interest and could therefore participate in the deliberations.

Board Member Morrison noted the amount of parking lot and other currently undeveloped land area and asked whether consideration had been made to keep the building within the setback allowance.

Ms. Glusac explained that the tower was designed to maximize efficiency as an addition to the existing structure, and shortening the building would eliminate windows for patient rooms.

Mr. Potter explained that the need to relocate the differing care levels (ICU, CVU) to each floor and matching the medical-surgical rooms on the existing second and third floors and maximize staffing efficiency, which was how the new tower was designed. Increasing building height would cause loss of ability to have specialty care beds on each floor, which impacts staff efficiency and travel time. The design is also trying to improve the privacy and safety of patient with new operating room locations to eliminate patient transport through public hallways and shortening the travel distance.

Mr. Culhane noted the topography of the site and that portions of the building as proposed are 40 feet below street grade to allow for the coordination of existing facilities.

Board Member Marshall-Rashid asked if cost considerations drove the design of the building.

Mr. Potter responded that it was cost and efficiency of operations.

Board Member Pall said that patients see the sky more than the view of the bay because they are lying in their beds and that it was visitors that had the view, so wasn't sure about the benefit to the patient care of a design focused on patient views.

Mr. Potter responded that ambulatory patients do benefit from the view.

Board member Karr noted that as an architect he is aware of research on the healing aspect of nature. He appreciated the effort to use the topography of the site, but thinks that sight-line studies should have been provided to demonstrate the applicant's argument that a five-story building that encroaches into the setback is less of a visual impact than a six story building that stays 100 feet from the property line.

Board Member Pall agreed that sightline information requested by Board Member Karr would have been helpful.

Mr. Potter did not believe the addition would be visible from Lake Street due to the existing trees and asked if the board thought an addition of one or two more stories rather than keeping within the existing building height was preferable.

Board Chairman Marshall-Rashid responded that the ordinance does not have a height restriction but does have a setback limit.

Board Member Crockett questioned whether the option of the tower on W. Lake Street should have even been considered a viable alternative given the required 100' setback and that per zoning, the entire addition would have been located outside the allowable building area. Other Board members

agreed that if the applicant intended to comply with the spirit of the zoning ordinance then the Lake Street tower option should not have been given serious consideration.

Board Member Pall asked about the status of the ordinance amendment to the RM-1 District pertaining to hospital height limits to which staff responded that Council had not acted on the ordinance Monday night due to changes requested on the boarding house language. She did not know when action would be taken.

Board Member Karr questioned whether there are internal hallway or programmatic relationships that make a five story addition preferable to a six story addition and questioned what impact staying within the 100 foot setback would mean to the interior layout of the proposed design.

Board Member Pall asked whether the surgical suites would stay in the same area.

Mr. Potter responded that all surgical services will be on the same level with the current layout and will have connectivity to existing suites, however, the location of the lab has been a challenge.

Board Member Crockett noted his concern with the dichotomy of the height and setback requirements and is only hearing a cost rationale for the variance request.

Board Member Marshall-Rashid also noted that the arguments for the variance seemed to relate to the applicant's preferred operational efficiency rather than a practical difficulty with the property. Stating that the interior layout of a building is not a factor which the Zoning Boards is to take into consideration he felt discussions regarding the interior layout were irrelevant and beyond the authority of the Zoning Board of Appeals. He stated that if the City wants to consider the benefits of the hospital to the City, that there is a legislative answer to the setback issue which would be better addressed by the City Council and Planning Commission.

Mr. Culhane explained that the existing building does not conform to the ordinance setbacks and that previous boards had considered the site and benefit of the hospital. The addition would be 250' away from the nearest residence and 65 feet above. They are asking for an additional consideration for a non-conforming property that has topographic and parcel shape issues.

Board Member Crockett acknowledged the proposed addition was well designed into the site and was a fairly elegant solution, but was concerned about the visibility from the residential structures along W. Lake Street. The requested variance may minimize the visual impact from the south by increasing the visual exposure to the north. He acknowledged the existing structure may be non-conforming to the required setbacks but did not feel this was a valid argument to further increase the level of non conformity.

Board Member Karr asked staff whether the setback variance could include language which would make the approval contingent upon other criteria such as limiting the height to five stories or making the perimeter setback variance applicable only to an isolated portion of the property. He could appreciate the difficulty of the site and project and believed that the efficiency arguments benefitted more than the applicant, as it was a hospital with patient care considerations.

Board member Crockett asked what would be impacted in the building beyond the 106 foot setback.

Mr. Culhane said that seven patient rooms per floor and the surgical suites would be impacted due to the necessity of sterile components.

Chairman Marshall-Rashid stated that the board should not wade into the weeds of the interior building layout.

Ms. Glusac repeated that the driver of the building design is co-location of services for healthcare that need specific functionality.

Board Chairman Marshall-Rashid asked about construction timing (2018) and repeated that if the City wants to consider the benefits of the hospital to the City, that there is a legislative answer to the setback issue. At this time, he felt the board should review the variance checklist.

1. Will strict compliance with the dimensional requirements of the zoning ordinance prevent the applicant from using the property for the permitted purpose? A variance is granted for circumstances unique to the property, not those unique to the owner.

Board Member Morrison believed the situation is unique to the hospital as owner. Board Member Crocket added that the property is currently being used for its permitted hospital use so the standard does not support a variance.

2. Is there a way to accomplish the same purpose without a variance or with a lesser variance regardless of convenience or expense? The ZBA considers the property, not issues with the interior of the structure.

Board Member Pall believed that there are ways to accomplish the addition without a variance. Board Member Karr acknowledged the point previously made by Board Member Marshall Rashid that noted that the arguments related to the interior layout of the building are not applicable and are beyond the purview of the ZBA.

3. Is the need for the variance due to a situation that is unique to the property and would not generally be found elsewhere in the same zoning district?

Board Member Crockett stated there are unique situations with the property in terms of shape, use and topography. Marshall-Rashid said the setback for the hospital use is the ordinance and law of the land.

4. If granted, will the variance uphold the spirit and intent of the ordinance and be fair to neighboring properties?

Crockett asked for the ordinance language to be read and felt the drafters of the ordinance were considering the specific hospital use with the requirements. Board Member Karr thought the standard was whether the applicant had tried to meet the intent of the ordinance and can appreciate they were trying to minimize impacts but was not convinced that what was before the board was the only solution. Board Chairman Marshall-Rashid believed that the ordinance required the setbacks for hospitals to be fair to neighboring properties.

5. Has the need for the variance been created through previous action of the applicant?

Marshall-Rashid did not believe the request was a bailout and asked whether there were any other properties with hospitals when the language was drafted. Staff responded the Lockwood-McDonald Hospital would have existed at the time. Karr noted that presentation indicates the applicant is trying to keep within the ordinance.

Comments and questions were again open to the applicant and public.

Mr. Culhane noted the non-conforming status of existing structures on the campus such as the parking structure on W. Lake Street and that the spirit of the ordinance had been found to be met when that variance was granted.

Ms. Axelrood stated that the request met the spirit and intent of the ordinance by doing the best for the neighboring properties by keeping the north setback over 100 feet. That the setback variance would be adjacent to City-owned parkland that would remain open spaces, while keeping the impact from the street views to a minimum.

Mr. Denay believed that the presentation came across as a take it or leave it without any real public opinion taken into consideration. The neighbors were not notified of this meeting, plans were not shared earlier in the process, and he felt that the cards were stacked against citizens.

At this time, public comment was closed and the board continued its deliberation.

Board member Crockett asked staff about public notification given that it appears some neighbors in the adjacent West Lake Street neighborhood may not have received official notification. At the time of the meeting, staff did not have the case specific mailing list available but stated that in practice all neighbors within a 300' radius of the project site are notified. Given that the hospital owns multiple parcels/properties the question was then raised as to whether the 300' notification radius was based upon the overall perimeter of the hospital property or a more limited 300' radius from the proposed building site. The Board agreed that in this instance all neighboring properties with 300' of the overall perimeter of the hospital property should be notified and have the opportunity to voice their concerns or support.

The Board discussed the need for proper notification and did not want to take action if that notification was insufficient.

Board Member Pall then made a motion to table action until all properties within 300 feet of all hospital owned parcels could be notified. Support for the motion was by Board member Karr and the motion carried 5-0.

### Updates

Staff noted that the July meeting date had tentatively been established as Wednesday, July 5<sup>th</sup> due to the holiday, but wanted to confirm whether that was the preferred date or whether Tuesday, July 11 was preferable. She anticipated an application and wanted to be sure a quorum could be reached for the scheduled meeting. Board members discussed the need for new hearing for Case #820 and staff explained that the 15 day notification would mean that the soonest a meeting could be scheduled would be the week of June 26. Discussion was that Thursday, June 29 would be a preferred date and wondered if it could be combined with any applicants received for July meeting; staff will check with all board members and confirm the next meeting date.

Staff also alerted the board to changes at 1117 Standish that may be a violation of the variance granted in 2015.

Seeing no further business, the meeting was adjourned at 9:01 P.M.

Minutes reviewed by Michael Karr, Vice Chairperson/Secretary