



**ZONING BOARD OF APPEALS**

November 7, 2017

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

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

Absent: Mary Clinton

Staff: Amy Tweeten

Also Present: Gary Barfknecht, 514 Waukazoo Avenue  
Dennis Kotrba, 812 Spruce Street  
Melissa Paterson, 614 Waukazoo Avenue

Upon motion and support, the minutes of the June 6, 2017 meeting were approved 6-0 with corrections.

**Case #821 Rear Yard Setback at 614 Waukazoo Avenue**

Staff summarized the request for a 5-foot rear-yard variance for the construction of an attached garage, noting access to the rear of the property was from an alley on the north side of the property.

Board Chairman Marshall-Rashid then asked the applicant to explain her request.

Melissa Paterson, 614 Waukazoo Avenue, stated that she has been a resident of Petoskey for eleven years and that currently she does not have any off-street parking, which is something they want to gain with the garage addition. A new foundation would be constructed and 12-feet would be added for the second garage bay. When asked about her practical difficulty, Ms. Paterson stated that her property is landlocked by the school to the west and the school storage building to the south and an alley on the north side therefore creating a hardship.

Board Member Karr asked if there would be a living area above the garage addition which Ms. Paterson confirmed. He also asked if the applicant had considered an accessory building or freestanding garage as allowed per the ordinance. Ms. Paterson stated the proposed design

includes one garage stall within the footprint of the existing home thereby limiting the projection into the rear yard to one garage stall. Ms. Paterson stated that a freestanding two car garage was not desirable given that it would greatly reduce the usable rear yard space.

Board Member Knibbs asked questions regarding the alley.

Board Member Crockett asked whether the fence line was the school boundary and the applicant confirmed that it was.

Board Member Pall asked if the garage could go further under the house, to which Ms. Paterson responded that she didn't want to lose storage space.

At this time, Board Chairman Marshall-Rashid then asked for other public comment.

Gary Barfknecht, 514 Waukazoo Avenue, asked if the City maintained the alley, to which staff responded it did not.

Dennis Kotrba, 812 Spruce Street, and owner of the property to the north was concerned that if the garages were placed completely under a house the access could negatively impact the corner of his house given the required turning radius when entering and exiting the proposed garage.

Board Chair Marshall-Rashid then took the discussion back to the Board and read the factors that need to be considered in reviewing the request. He stated that he had made a visit to the site and considered whether a garage could be built without a variance. He thought it would be possible to construct a single car garage to the rear of the property to accomplish the goal of off-street parking.

Board Member Pall had also visited the site and felt that perhaps a one-bay garage could be put under the house with another one-car freestanding accessory building to the rear. Thereby providing parking for two vehicles without requiring a variance.

Board Member Karr commented that when working within the constraints of the ordinance it is a balancing act between maintaining a large usable yard or having a one or two car garage. He agreed with Board Member Pall that possibly one stall could be under the house and a small-detached garage could be constructed in the rear yard to create off street parking.

When considering lot coverage, Board Member Knibbs commented that it is worth considering approving a five-foot variance to the primary structure than introducing a new second structure on the property.

Marshall-Rashid noted that the role of the board is to uphold the ordinance and if there is a way for the applicant to accomplish what is wanted without a variance then a practical difficulty does not exist.

Board Member Morrison asked staff about how the different factors should be weighed and thought the information he was provided indicated that the owner not creating the practical difficulty should be weighed at 51%. Staff believed the checklist was used to determine a preponderance of factors as to whether a practical difficulty exists.

Discussion among the members on the question occurred, with consensus that there is no percent assigned to each factor, but that in most cases if the applicant created the need for a variance – for example by asking for a variance after the fact- that factor would likely weigh more heavily.

Board Member Crockett asked if a one-car garage could be built, or if it is truly a viable alternative.

Calculations were performed by Board Members Karr and Knibbs that resulted in current lot coverage at 26%, allowing for an additional 387 square feet of structure while remaining compliant with the maximum 35% lot coverage. It was agreed that a single car garage could be built within the allowable lot coverage whereas a two car garage would most likely slightly exceed the allowable coverage.

The board chairman then suggested a review of the dimensional variance checklist.

On whether strict compliance with the dimensional requirements of the zoning ordinance would prevent the applicant from using the property for the permitted purpose, the board did not feel the standard was met.

On whether there was a way to accomplish the purpose of off-street parking, the board felt there were a number of ways parking could be provided – under the structure and a smaller addition with a single door, double bay garage were both explored by the board; standard was not met.

The board did not feel the location of the lot next to the school, the adjacent alley or the lot size were unique situations in the City requiring a variance.

Board members discussed whether granting a variance in the case would uphold the spirit and intent of the ordinance and be fair to neighboring properties. Board Member Morrison felt that because the lot is next to the school and the lesser setback would not impact another residence that the variance would be fair to neighboring properties. Board Member Crockett felt that the attached garage was an elegant solution that kept use of the rear yard, and questioned whether the intent of the ordinance writers was more to have strict compliance to dimensional standards or to keep structures away from lot lines.

The Board discussed whether the variance need had been created by previous action of the applicant, and decided there wasn't a previous action, but that the desire for a garage could be accomplished without a variance.

The public was then asked for additional comment.

Ms. Paterson commented that she understands that she could build a detached garage but she believed it was better for the playground from an aesthetic standpoint to not have a wall of garages along the property line.

Mr. Barfknecht relayed that he had previously been a ZBA member downstate and gave an example of a case with a garage that needed a variance that was more aesthetically pleasing than what could have been built without a variance. He understood that sometimes appeals boards have to look at cases in the community context and that in this case, they probably were violating the letter of the ordinance but they believed it was a better overall outcome.

Referencing a suggestion from Board Member Knibbs, Board Member Karr asked the applicant if she had considered entering the garage from the rear of the property to which she replied that she would lose yard space and it would be worse aesthetically.

Board Chair Marshall-Rashid commented that it is not the board's job to solve problems or for taking latitude with the intent of the ordinance.

Board Member Pall commented that there are a number of ways to address the need for parking that may not please the property owner, including a parking pad.

Board Member Crockett then made a motion to deny the request based on finding that there are alternative ways to accomplish off street parking without a variance and that the board was unable to find unique conditions with the property that are not found elsewhere in the City. Support for the motion was by Board Member Karr and the motion carried 6-1, with Morrison voting against the motion.

### **Review/Approval of 2018 Meeting Dates**

After discussion of the July date, Board Chairman Marshall-Rashid recommended that the board approve the proposed 2018 meeting dates.

Board Member Pall made a motion to approve the proposed 2018 meeting dates. Support for the motion was by Board Member Crockett and the motion carried 6-0.

### **Updates**

Staff updated the board on the hospital zoning district.

Seeing no further business, the meeting was adjourned at 8:15 P.M.

Minutes reviewed by Michael Karr, Vice Chairperson/Secretary