

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES

September 12, 2017

Chairman R. Hilt called the meeting to order at 4:02 p.m. and roll was taken.

MEMBERS PRESENT: R. Hilt, E. Fordham, S. Warmington, W. German, B. Larson

MEMBERS ABSENT: T. Halterman, excused

STAFF PRESENT: M. Franzak, D. Renkenberger

OTHERS PRESENT: R. Norden, 1545 Edgewater; M. Johnson, 2258 Worden; L. Lindstrom, 1535 Edgewater; R. Knop, 3212 Windward; N. Bodman, 1603 Nelson

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of March 14, 2017 be approved was made by S. Warmington, supported by B. Larson and unanimously approved.

PUBLIC HEARING

The first two cases were heard out of order, with Case 2017-04 being heard first.

Hearing; Case 2017-04: Request for a variance from Section 404 of the zoning ordinance to allow an addition to the home with a rear lot setback of 19 feet at 1545 Edgewater St, by Randall S Norden. M. Franzak presented the staff report. The property owner would like to build a two-story addition to the rear of the principal structure. The proposed addition would leave a 19-foot rear setback instead of the required 30-foot minimum rear setback. The current home is set back about 50 feet from the front property line, where only a 15-foot front setback is required. It appears that there are other options to place an addition to the home. A copy of the applicant's answers to the variance review standards was provided to board members. Notification letters were sent out to properties within 300 feet of this property. Staff received a comment from the neighbors at 3205 Brighton Ave who were in favor of the request. R. Schmidt of 3205 Brighton wrote in support of the project, as did L. Johnson of 3204 Windward Dr. D. Schirrmann of 3213 Windward Dr. wrote a letter opposing the request to due drainage and air flow issues, as well as the negative effect on her parents' house which was directly adjacent to the subject property.

R. Norden provided background on the property. He had met with a designer and builder, and believed that this is the best way to add the addition. The house was set back from the road a ways, but putting an addition on the front would obstruct the neighbors' views. E. Fordham asked if the proposed addition would be 12 feet. R. Norden affirmed, stating it would go 12 feet straight back, with the same roof line as the current building. If the addition was approved, they would get rid of the shed on the property and use the lower floor for storage and put a bedroom above it. There was a steel retaining wall behind the house, and that would remain in place and unaffected by the addition. R. Hilt asked for additional information on how the addition would

be a detriment to the neighboring properties. M. Franzak stated that the large hill rising behind the properties in this area limited the air flow in the back yards. It would also reduce the privacy of the neighbor's back yard, as the 2nd floor of the addition would look directly over their back yard. R. Hilt stated that this was a unique area due to the dunes, terrain, and lakefront. W. German asked if M. Franzak recalled any similar cases from this area, and if he agreed with the objections regarding air flow and privacy. M. Franzak stated that he could not recall any similar cases offhand, and after visiting the property, he did agree with the airflow and privacy issues. E. Fordham asked if the lot was buildable by today's standards. M. Franzak stated that it was; it was currently a legal, conforming lot. S. Warmington asked if M. Franzak had gone into the back yards of any of the properties. M. Franzak stated that he had.

M. Johnson was the builder hired by the homeowner. He stated that the proposed addition would have the least amount of impact on the neighboring properties. L. Lindstrom lived next door to the subject property and objected to the request. She stated that the houses were very close together and the proposed addition would take away any privacy they had in their fenced back yard, since it would be in full view from the 2nd story of the neighboring house, and it would also further limit air flow, which had already caused mold problems. She also believed it would cause environmental issues by further limiting drainage on the lot, which was already extensively covered with concrete. M. Franzak stated that he had observed damage to a fence caused by water runoff. L. Lindstrom also believed that their property value would be negatively affected, as the addition would further box in her property, making it appear smaller and confined. She stated that the property owners could put an addition on the front of the house and still meet the ordinance requirements. S. Warmington asked her if an addition on the front would block her view. L. Lindstrom stated that it would not, due to the angle of the street, and she did not object to a front addition. R. Knop stated that he objected to the request due to air flow and density issues in the area.

A motion to close the public hearing was made by S. Warmington, supported by W. German and unanimously approved.

M. Franzak stated that the applicant must show a hardship caused by the ordinance in order for a variance to be approved. S. Warmington stated that he originally did not see any problem with the request, but had not been aware of the other issues mentioned by the neighbors.

Board members discussed the review standards. A motion that the variance request to allow an addition to the home with a rear lot setback of 19 feet at 1545 Edgewater St be denied, based on fact that the request does not meet the following review standards: a) That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district (many properties in the area are similar); b) That such dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity (they are able to build an addition elsewhere on the property and still conform to the Zoning Ordinance); c) That the authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest (granting the request could be detrimental to neighboring properties as discussed); d) That the alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner; e) That the alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner (there are other options to add on to the house, although they may be more expensive); and f) That the

requested variance is the minimum action required to eliminate the difficulty (it is not; there are other options available), was made by S. Warmington, supported by B. Larson and approved, with R. Hilt, E. Fordham, S. Warmington, and W. German voting aye, and B. Larson voting nay.

Hearing; Case 2017-03: Request for a variance from Section 404 of the zoning ordinance to allow an addition to the home with a rear lot setback less than 30 feet at 1603 Nelson St, by Nils E Bodman. M. Franzak presented the staff report. This is an L-shaped parcel on a corner lot. The property owner would like to build a new garage addition between the house and detached garage on the property, which would connect the two structures, making the detached garage into an attached garage. The current detached garage sits 3'6" from the rear lot line, which meets the setback requirements for accessory structure setbacks. However, connecting it to the house would make it part of the principal structure, which would then require a 30-foot rear setback. The odd shape of the lot prevents this addition from meeting the zoning ordinance requirements for a 30-foot rear yard setback. A site plan showing the proposed garage placement was provided. Notification letters were sent to properties within 300 feet of this property. K. Felske, 1688 Beach St, submitted written concerns about this being a rental property; enlarging it would allow for larger groups of renters and more disruption to the neighbors. She was opposed to the request if it added additional living space.

M. Franzak explained that the current structures would remain in place and the rear setback itself would not change. However, the rear setback *requirement* would change, as the currently detached garage would become an attached garage. N. Bodman stated that he purchased the property 4 years ago and had been renting it out while living in and fixing up another house. He now planned to live in this house and rent out the other. He stated that during winter months, there was a lot of wind and blowing snow by the lake. The reasons for this request to attach the garage to the house were to minimize exposure to the weather and add more storage space. He stated that the proposed location was the only place to add on where no demolition would be required. S. Warmington asked Mr. Bodman if he intended the property to be owner-occupied and no longer a rental. N. Bodman stated that was correct. R. Hilt asked why such a large addition to the garage was needed. N. Bodman stated that he had several vehicles as well as woodworking tools that he wished to store. W. German asked Mr. Bodman if he had spoken to any neighbors about his plans. N. Bodman stated that he had spoken to the two adjacent neighbors and they had not expressed an objection.

A motion to close the public hearing was made by S. Warmington, supported by B. Larson and unanimously approved.

Board members discussed the review standards. The following findings of fact were offered: a) That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district; b) That such dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity, c) That the authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest (a garage addition should not be a detriment to neighboring properties); d) That the alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner, e) That the alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner (a garage addition does not make the property more profitable for the owner), and f) That the requested variance is the minimum

action required to eliminate the difficulty.

A motion that the variance request to allow a building addition with a 3'6" rear setback (only applying to the portion of the property extending 30 feet north from Ohio St) at 1603 Nelson St be approved, based on the review standards found in Section 2502 of the Zoning Ordinance, was made by S. Warmington, supported by B. Larson and unanimously approved, with R. Hilt, E. Fordham, S. Warmington, W. German, and B. Larson voting aye:

OLD BUSINESS

None

OTHER

None.

There being no further business, the meeting was adjourned at 4:44 p.m.