

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
REGULAR MEETING

DATE OF MEETING: Tuesday, July 13, 2021
TIME OF MEETING: 4:00 p.m.
PLACE OF MEETING: Commission Chambers, First Floor, Muskegon City Hall

AGENDA

- I. Roll Call
- II. Approval of Minutes of the Regular Meeting of March 9, 2021.
- III. Public Hearings
 - A. Hearing; Case 2021-03: Request for a variance from Section 404 of the zoning ordinance to allow a reduced side setback for a second story addition above garage at 2217 Harding by Christine Baker.
- IV. New Business
- V. Old Business
- VI. Adjourn

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CITY COMMISSION AND ANY OF ITS COMMITTEES OR SUBCOMMITTEES

The City of Muskegon will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities who want to attend the meeting, upon twenty-four hour notice to the City of Muskegon. Individuals with disabilities requiring auxiliary aids or services should contact the City of Muskegon by writing or calling the following:

Ann Marie Cummings, City Clerk
933 Terrace Street
Muskegon, MI 49440
(231) 724-6705

TTY/TDD: Dial 7-1-1 and request that a representative dial 231-724-6705

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES

March 9, 2021

Chairman E. Fordham called the meeting to order at 4:06 p.m. and roll was taken.

MEMBERS PRESENT: E. Fordham (Muskegon, MI), W. German (Muskegon, MI), J. Witmer (Muskegon, MI), M. Ribesky (Muskegon, MI), J. Montgomery-Keast (Muskegon, MI), T. Puffer (Muskegon, MI).

MEMBERS ABSENT: T. Puffer, Excused: W. Bouwman

STAFF PRESENT: M. Franzak (Muskegon, MI), H. Griffith (Muskegon, MI)

OTHERS PRESENT: D. Bowen, 1042 Terrace (Muskegon, MI); J. Hoffman, 2259 Harrison (Muskegon, MI); L. Vanderson, 2259 Harrison (Muskegon, MI); L. Wong, 1812 Edgewater (Muskegon, MI); A. Kohley, 2484 Winchester (Muskegon, MI).

ELECTION OF OFFICERS

A motion to retain E. Fordham as Chairperson was made by J. Montgomery-Keast, supported by W. German and unanimously approved.

A motion to have J. Witmer as Vice Chairperson was made by J. Montgomery-Keast, supported by W. German and unanimously approved.

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of March 10, 2020, be approved was made by J. Witmer, supported by W. German and unanimously approved.

PUBLIC HEARINGS:

Hearing; Case 2021-01: Request for a variance from Section 404 of the zoning ordinance to put a second story addition on the home with only a one-foot side setback on the east south side of the lot at 1804 Edgewater St, by David Bowen. M. Franzak presented the staff report. The property is zoned R-1, Low Density Single Family Residential. The lot is the appropriate size for development and is considered a buildable lot. The existing house on the lot is considered legally non-conforming because it does not meet the minimum side setback requirement of six feet for a one-story house. The side setback on the southeastern side of the lot is only one foot. The applicant is requesting to add a second story to the house. The side setback requirement for a two-story house is eight feet. The house would continue to have a one-foot setback, but now be two-stories instead of one-story. The application, site plan and answers to the questionnaire were provided to the commission members. Notice was sent to everyone within 300 feet of the property. At the time of this writing, staff had not received any replies. M. Franzak shared that

there were four comments with one person being in favor and three others being in heavy opposition to the request.

D. Bowen gave the history of the ownership and the plan for the deck & bedroom on the upper story. He described the flooding that had happened and what was proposed. The goal of his family was to maintain the property and to maintain what has always been there. The 1st story is basically the foundation and the rest is to add a deck and bedroom. E. Fordham asked what it was currently being used for. D. Bowen stated that they currently call it the boat house and they own the cottage across the street. The boathouse is used to get access to the water. There was a living area in there before. They would have cookouts there. Pretty much if someone were to stay there; the sleeping arrangement would have been a pullout sofa. The idea is to build a bedroom on the second floor. J. Montgomery-Keast asked what the function of the piece of property in question. D. Bowen stated that it is not rented out. When family and friends come in, they go to the boathouse to access the water and to have get togethers. J. Montgomery-Keast stated that the people that had written in seemed to be under the impression this was a rental. D. Bowen stated that some friends of his family had rented the home until they purchased a home in the neighborhood. E. Fordham asked about the need for the 2nd story. D. Bowen stated that it would be for family use for family gatherings, and they would stay there when there was an overflow. J. Montgomery-Keast asked if the 2nd story was needed to repair the foundation. D. Bowen stated it was just to preserve the foundation and wasn't a way to repair it. W. German stated that the photos it looks like it was preserved. One of the questions that is needed to approve is in regard to the hardship. It appears it isn't a hardship as more of a way to add to the structure. W. German asked about the criteria that would need to be met to approve the variance. M. Franzak when over the different criteria and the fact that, in staff's opinion, the criteria hadn't really been met. The comments were shared through the zoom meeting that were discussed during the staff report. M. Franzak read the different emails.

D. Bowen asked if he could respond to the public comments that were submitted to staff. E. Fordham agreed due to the opinions that were given and that the applicant stated he would be sensitive to their opinions. D. Bowen stated that the only view that would be altered would be that of the new neighbor. He stated that this was not to make a profit as he could build two single family homes there instead and that would obstruct the view of more and sell them. He went over the different ways that would cause more of an obstruction to the view, such as vegetation. E. Fordham didn't see how this was the minimum needed to correct the difficulty. He lives near this and doesn't have any viewing issues himself. He is concerned about the looks of the neighborhood. L. Wong reiterated what was in her email to staff showing her opposition to the request. She stated that no hardship had been shown nor any of the other factors were satisfied. This was self-created as there wasn't a need for a second story in order to preserve the history. This would be preserved by keeping the structure as it was constructed. He would be able to add onto the property itself to achieve what his goal. She felt if he wanted to be a good neighbor; he didn't even try to communicate with them as they are directly adjacent to the property. W. German asked if the second story were on the property; would it directly affect their view of the lake. L. Wong stated it would. She had sent pictures with her email to reflect their view. She added that not only with the issue of the view; a second story caused concerns about their privacy as it would look right into their house and yard because of the current one-foot setback that it has.

A motion to close the public hearing was made by J. Montgomery-Keast, supported by J. Witmer and unanimously approved.

T. Bowen asked what the height restrictions were for a single-story structure. M. Franzak suggested it was 10 or 12 feet. T. Bowen stated that other places have it at 12 feet. T. Bowen stated that he could build a structure of 12 feet and have a deck on the roof as well as planting tall trees.

A motion that the request for a variance from Section 404 of the zoning ordinance to allow a two-story house with a one-foot side yard setback on the southeastern side of the property be denied based on the review standards in Section 2502 of the Zoning Ordinance was made by J. Montgomery-Keast, supported by W. German and unanimously approved.

Hearing, Case 2021-02: Request for a variance from Section 2311 of the zoning ordinance to allow a 20-foot-tall pole-style detached garage and a variance from section 2326 of the zoning ordinance to allow an unpaved driveway at 2431 Barclay St, by Jeff Hoffman. M. Franzak presented the staff report. The property is zoned R-1, Low Density Single Family Residential and measured 5.8 acres. The property is accessed off Barclay St through an easement across the adjacent property. The applicant is proposing to build a new single-family house on the property. Please see the enclosed application, site plan and answers to the questionnaire. The applicant is requesting a variance to not have to pave the driveway as required in section 2326 of the zoning ordinance. The applicant is also requesting a variance from section 2311 of the zoning ordinance that limits accessory structures to a maximum height of 14 feet and restricts pole-style barns. The applicant is seeking a 20-foot-tall pole-style barn. Notice was sent to everyone within 300 feet of the property. At the time of this writing, staff had not received any replies. A copy of the zoning ordinance excerpts was provided to the commission members.

J. Montgomery-Keast asked about the 300 ft. boundary in Glenside to see if they were included in the notification. M. Franzak reviewed the map and the lot dimensions of the adjacent properties to determine which ones would have been notified. W. German asked if there were any comments from the neighbors. M. Franzak stated that there weren't any. J. Witmer asked about the requirement of paved parking. M. Franzak explained the ordinance requirement to help keep people from parking in the front yard or dirt. This is just a different way of getting to the property and that it will support the fire apparatus and that there will be room for them to turn around. E. Fordham stated that he had spoken with someone at the Fire Department, and it wasn't a concern. His concern is the distance from the hydrant and the structure with the fire hose being about 600 ft. M. Franzak stated that if the Fire Marshall requires another fire hydrant to be installed; then it will need to be installed as there isn't a variance around it. J. Hoffman gave an overview of the application and the history. The property is 5 acres, heavily wooded and would not be seen easily, most of their neighbors are commercial businesses. This was a former hazardous property and the City of Muskegon paid for the assessments. There is a need and potential to develop this property. He has a 300-foot easement through Barclay Self Storage so it make this property unique for many reasons. They would like to get relief from the paved driveway as well as their garage. He needs to have the height of the pole barn because it would be storing some larger equipment and the third variance is for the material to be used. A. Kohley stated that he is a neighbor to be affected most and doesn't see a problem with the request. He and spoken with the neighbors on each side of him and the applicant has their support.

A motion to close the public hearing was made by J. Montgomery-Keast, supported by W. German and unanimously approved.

A motion that request for a variance from Section 2311 of the zoning ordinance to allow a 20-foot tall pole-style detached garage and a variance from section 2326 of the zoning ordinance to

allow an unpaved driveway at 2431 Barclay be approved based on the review standards in Section 2502 of the Zoning Ordinance was made by J. Montgomery-Keast, supported by M. Ribeski and unanimously approved.

OLD BUSINESS

None

OTHER

None.

There being no further business, the meeting was adjourned at 5:24 p.m.

HG

NO QUORUM

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
STAFF REPORT

July 13, 2021

Hearing; Case 2021-03: Request for a variance from Section 404 of the zoning ordinance to allow a reduced side setback for a second story addition above garage at 2217 Harding by Christine Baker.

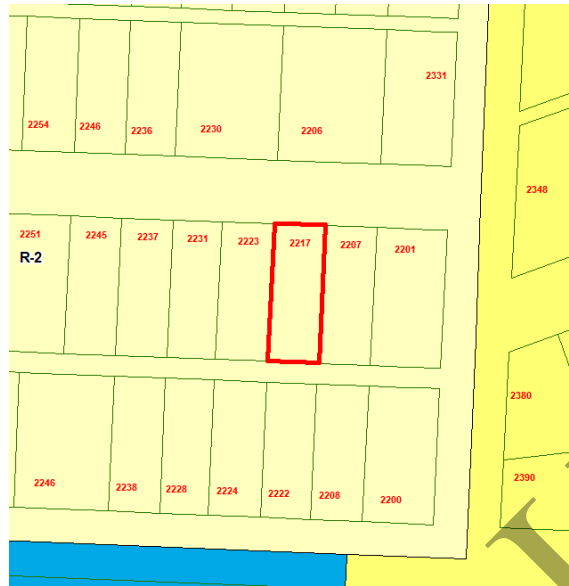
SUMMARY

1. The property is zoned R-2, Medium Density Single Family Residential. The lot is the appropriate size for development and is considered a buildable lot.
2. The existing house on the lot is considered legally non-conforming because it does not meet the minimum side setback requirement of six feet for a one-story house. Although it was requested, a site plan was not provided. It appears that the setback on the west side of the home is about 1 foot.
3. The applicant is requesting to add a second story to the west side of the home. The minimum side setback for a single story home is 6 feet. The minimum side setback for a two-story home is 7 feet. A variance to add a second story while keeping the existing 1 foot side setback is needed for the project to move forward.
4. Please see the enclosed application, site plan and answers to the questionnaire.
5. Notice was sent to everyone within 300 feet of the property. At the time of this writing, staff had received one letter from Justin Malek at 2173 Harding, who is in favor of the request.

1804 Edgewater St



Zoning Map



Aerial Map



Rendering of Proposed Addition



VARIANCE REVIEW STANDARDS

Questions to consider when reviewing a variance request:

- a. Are 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. Is the dimensional variance 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. Will the authorizing of such dimensional variance be of substantial detriment to adjacent properties?
- d. Is the alleged difficulty caused by the ordinance and not by any person presently having an interest in the property, or by any previous owner?
- e. Is the alleged difficulty founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner?
- f. Is the requested variance the minimum action required to eliminate the difficulty?

DETERMINATION:

The following motion is offered for consideration:

I move that the request for a variance from Section 404 of the zoning ordinance to allow a reduced side setback for a second story addition above garage at 2217 Harding be (approved/denied) based on the review standards in Section 2502 of the Zoning Ordinance.

NO QUORUM

City of Muskegon Planning & Zoning Application

Planning Commission*	Zoning Board of Appeals* (2-page application)
☐ Amendment to Ordinance (\$500)	☒ Variance (\$200 Residential/ \$400 Commercial/Industrial)
☐ Rezoning (\$500)	☐ Ordinance Interpretation (\$200 Res./ \$400 Com./Ind.)
☐ Special Use Permit (\$500)	☐ Zoning Appeal (\$200 Residential or \$400 Com./Ind.)
☐ PUD - Preliminary (\$500)	☐ Special Meeting (\$400 additional)
☐ PUD - Final (\$500)	
☐ PUD - Amendment (\$500)	Site Plan Review*†
☐ Vacation - Alley or Street (\$500)**	☐ Staff Review - Minor (\$200)
☐ Special Meeting (\$500 additional)	☐ Staff Review - Major (\$400)
	☐ Planning Comm. Review (\$500)
☐ Mobile Food Vendor Permit: ___89 days or less (no fee) OR ___90 days-1 yr (\$100 / \$500 w/public hrg)	

*Application fees are non-refundable

**Alley/Street vacations require 90 days advance notice

† Staff will provide free conceptual plan reviews upon request.

Address/Location of Subject Property: 2217 Harding Ave, Muskegon MI 49441Current Zoning & Use of Subject Property: HomeSteAD 100% personal residence**Applicant Information:**

Name: Christine Baker Organization: _____

Address: 2217 Harding Ave City/State/Zip: Muskegon MI, 49441

Phone: 231-903-3568 Alt. Phone: 231-683-6056 Fax: _____

E-mail: chris54starr12@gmail.com

I hereby attest that all information on this application is, to the best of my knowledge, true and accurate.

Signature: Christine Baker Date: 6/02/2021

I hereby grant permission for members of the City of Muskegon (Planning Commission / Zoning Board of Appeals / City Commission / Staff) to enter the property described below (or as described in the attached) for the purpose of gathering information related to this application. (Note to applicant: This is optional and will not affect any decision on your application)

Signature of Owner: Christine Baker Date: 6/02/2021Applicant is the: ☒ Owner ☐ Lessee ☐ Contractor/Architect ☐ Other: _____**If the applicant is not the owner of the property, complete the following:**

Owner's Name: _____

Address: _____ City/State/Zip: _____

Phone: _____ Signature: _____

Proposed Use: Bedroom for daughter Proposed Zoning: Variance - 2 storyExplanation of Request: add bedroom over garage for children of growing family

NOTE: ALL REQUIRED SITE PLANS MUST BE SUBMITTED DIGITALLY.

TO BE COMPLETED BY CITY:

Date Received: 6/7/21 Received by: CC

Paid by: Cash ☐ Credit ☐ Check ☒ check number/amount: 1052 \$200

Meeting date (if applicable): 7/13/21 ZBA ☒ PC ☐

City of Muskegon Planning & Zoning Application

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Please provide an answer to the following questions:

1. Why are there "exceptional or extraordinary circumstances 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"? (i.e., Why is your property unique compared to others in the neighborhood?)

The Structure of my garage is already breaking the ordinance, and my neighbors house is only 2 feet away from the property line and is 2 stories

2. Why is a variance "necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity"? (i.e., What property rights do your neighbors enjoy that you can't because of the nature of your property?)

My house and neighbors house are exactly identical, however where they have living space we have a garage, they also have a basement where as we have a crawl space, so we significantly have less square feet in terms of living area.

3. How will the authorizing of a variance "not be of substantial detriment to adjacent property and not materially impair the purposes of the City's zoning ordinance or the public interest"? (i.e., Will granting a variance to you negatively affect your neighbors or the public in general?)

No, because our houses are already close, so there wouldn't be much of a difference than there already is

4. Explain why 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": (i.e., Who/what is the cause of the difficulty?)

I am currently pregnant, my husband and I plan on having more kids in near future. The previous home owners were an elderly couple that didn't need the extra square feet

5. The alleged difficulty is "not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner" because: (i.e., Do you have reasons, other than financial gain, for asking for the variance?)

Yes, my husband and I want to stay at the property, but want to have kids and have enough room to raise a family in this location

6. Is the requested variance "the minimum action required to eliminate the difficulty"? (i.e., Could you get by with less of a variance from the ordinance requirement(s)?)

No, because the whole span (width + length) of the garage is just enough room to create a bedroom, big enough to suit our needs.