

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
SPECIAL MEETING

DATE OF MEETING: Tuesday, March 26, 2024
TIME OF MEETING: 4:00 p.m.
PLACE OF MEETING: City Hall Commission Chambers, First Floor, Muskegon City Hall

AGENDA

- I. Roll Call
- II. Approval of Minutes of the Regular Meeting of February 13, 2024.
- III. Public Hearings
 - A. Hearing, Case 2024-03: Request for a variance from Section 404 of the zoning ordinance to allow a new house to be constructed that will deviate from the height limit requirements of two (2) stories and 35 feet at 3534 Wilcox Ave.
- IV. New Business
- V. Old Business
- VI. Other
- VII. Adjourn

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OF THE CITY OF MUSKEGON AND ANY OF ITS COMMITTEES OR SUBCOMMITTEES

To give comment on a live-streamed meeting the city will provide a call-in telephone number to the public to be able to call and give comment. For a public meeting that is not live-streamed, and which a citizen would like to watch and give comment, they must contact the City Clerk's Office with at least a two-business day notice. The participant will then receive a zoom link which will allow them to watch live and give comment. Contact information is below. For more details, please visit: www.shorelinecity.com

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 with twenty-four (24) hours' notice to the City of Muskegon. Individuals with disabilities requiring auxiliary aids or services should contact the City of Muskegon by writing or by calling the following:

Ann Marie Meisch, MMC
City Clerk
933 Terrace Street
Muskegon, MI 49440
231-724-6705
clerk@shorelinecity.com

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
STAFF REPORT

Tuesday, March 26, 2024

Hearing, Case 2024-03: Request for a variance from Section 404 of the zoning ordinance to allow a new house to be constructed that will deviate from the height limit requirements of two (2) stories and 35 feet at 3534 Wilcox Ave.

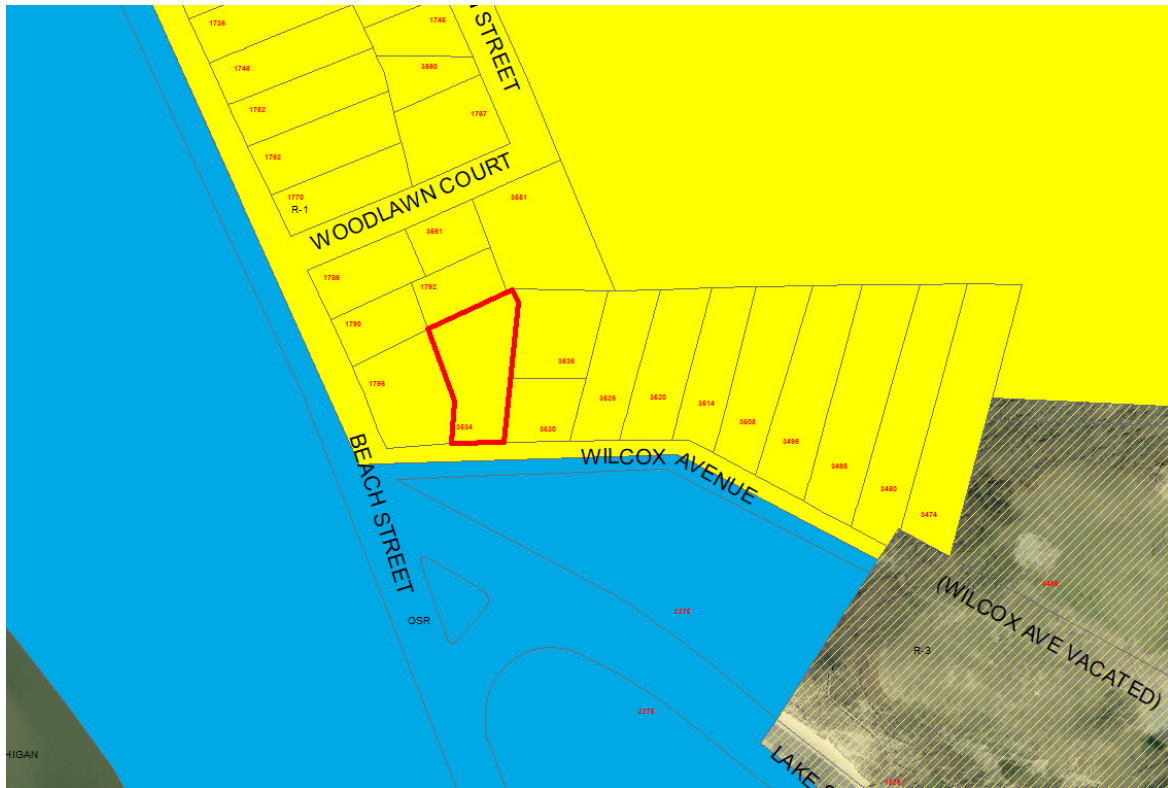
SUMMARY

1. The property was issued a variance for a smaller rear setback at the February 13 Zoning Board of Appeals meeting. At the time, it was not known that the height of the building would need a variance.
2. A new house is proposed on the parcel. The house would be located at the top of the dune. The slope of the dune is preventing most of the property from being utilized, causing the need to build more vertically.
3. The zoning ordinance states that the house may only be up to two stories and 35 feet tall. The proposed house only measures 36'3" tall, even though it is technically three stories. Please see the enclosed copy of the building elevations depicting the height of the house.
4. Easement will be created to allow for a new driveway that will be located on several adjacent properties (all under the same ownership as of now).
5. Notice was sent to everyone within 300 feet of the property. At the time of this writing, staff had not received any comments from the public.

**View of the Steep Hill at 3534 Wilcox Ave
(Wooded lot to the right of the house on the corner)**



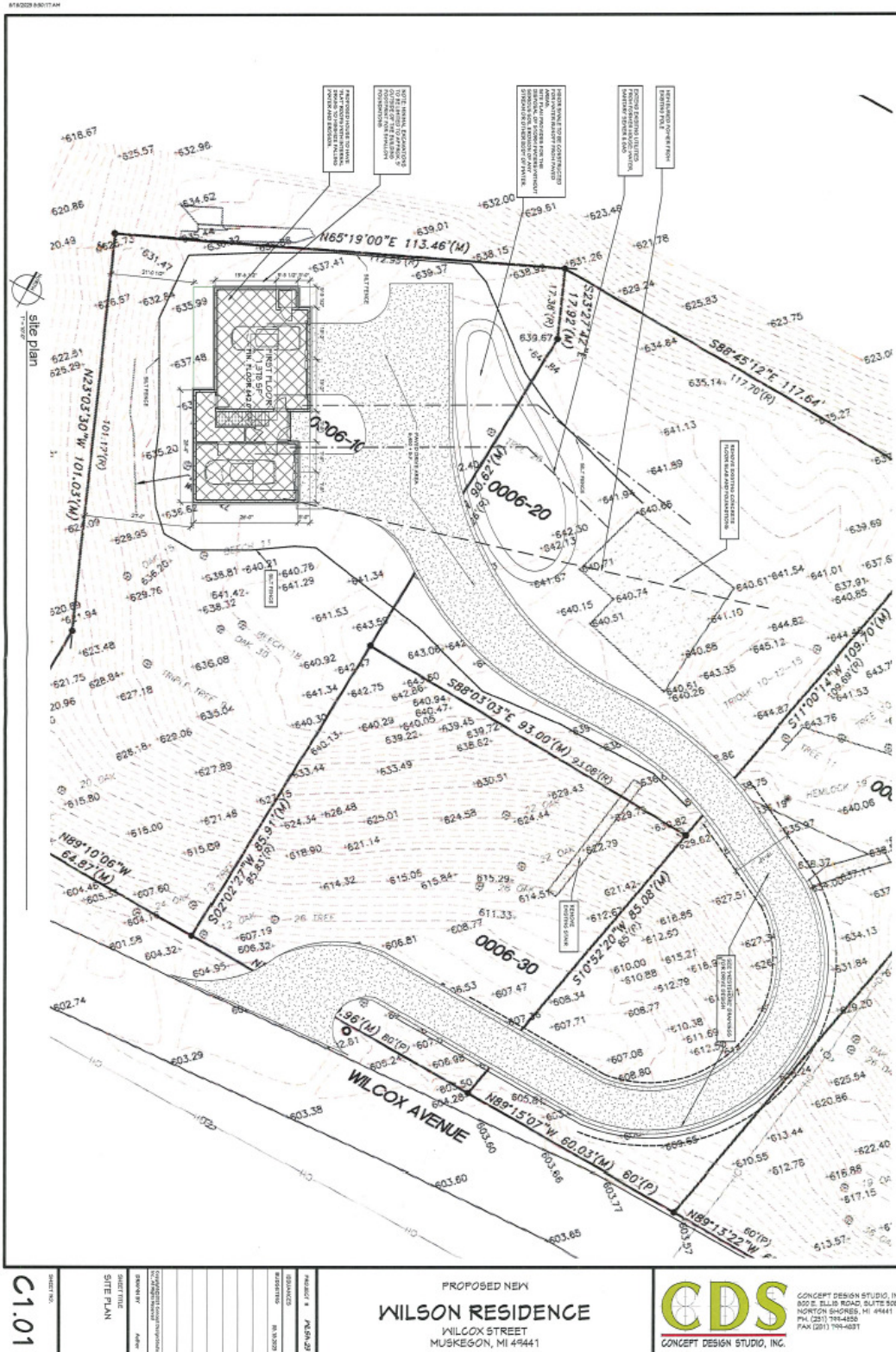
3534 WilcoxAve



Zoning Map



Site Plan



Answers Provided to Variance Questionnaire

City of Muskegon Planning & Zoning Application These questions are ONLY for Zoning Board of Appeals requests

1. Why should your property be unique compared to others in the neighborhood?
The property is located on a critical sand dune and we have to maintain a minimal foot print to satisfy EGLE requirements.

2. What property rights do your neighbors enjoy that you can't because of the nature of your property?
Some of our neighbors were able to build into the dune to get 3 levels. EGLE approved only a very small specific location on the property to build a home, so we cannot spread out & utilize much of the property to build.

3. Will granting a variance to you negatively affect your neighbors or the public?
No, we will not impact any of our neighbors' views or the views of the lots to the East of the property. We purchased the properties to the East because they were need to create a driveway to get to the top of the dune per EGLE specifications.

4. Who or what is the cause of the difficulty with the current ordinance?
We will still be under the 35 foot maximum height, but will have additional levels to minimize the footprint on the dune. Current city ordinance only allows 2 levels.

5. Do you have reasons, other than financial gain, for asking for the variance?
To meet all of the EGLE requirements and build a home that meets square footage and bedroom requirements from the city ordinance, we stacked the floors. If not approved, there would be a considerable financial loss to us.

6. Could you get by with less of a variance from the ordinance requirement(s)?
We could attempt to build as a 2 & 1/2 story; however, the requirements to add fill to meet the 50% Rule would negatively impact our neighbors to the north & west with water run off directed towards their houses. This could also potentially effect our home too.

7. Will this variance alter the essential character of the area?
No.

8. Is your preferred property use specifically mentioned in the ordinance as not being allowed in your zoning district?
No.

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?

DELIBERATION:

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 new house to be constructed with three stories up to 36'3" high at 3534 Wilcox Ave be (approved/denied) based on the review standards in Section 2502 of the Zoning Ordinance.