

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
REGULAR MEETING

DATE OF MEETING: **March 14, 2017**
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 February 14, 2017.
- III. **PUBLIC HEARINGS**
 - A. **Hearing; Case 2017-02:** Request for a variance from Section 2311 of the zoning ordinance to allow construction of a garage on a lot without a principal structure in an R-1, Single-Family Residential District at 221 Irwin Ave.
- 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
STAFF REPORT
March 14, 2017

Hearing; Case 2017-02: Request for a variance from Section 2311 of the zoning ordinance to allow for the construction of a garage on a lot without a principal structure in an R-1, Single-Family Residential District at 221 Irwin Ave.

BACKGROUND

1. The homeowner at 233 Irwin Ave would like to build a garage on his property, but is unable to because of the sloped terrain in the back yard. There is also a large tree limiting development. The owner would also like a garage larger than what would be allowed on this property.
2. The homeowner also owns the vacant, buildable lot next door, across the alley, at 221 Irwin Ave. However, the zoning ordinance does not allow accessory structures (garages) to be built on lots without a primary structure (house). Usually the lots would just be combined to make it buildable. However, these lots are not allowed to be combined because of the alley that separates them. In order to legally combine them, the alley would have to be vacated and the block would have to be replatted. That could potentially limit the alley use to the other homes that rely on it and it would not be practical.
3. The applicant is seeking a variance to construct the garage at 221 Irwin Ave because that is the simplest way to remedy the problem.
4. The vacant lot at 221 Irwin Ave measures 61' x 130' and is zoned R-1, Single Family Residential. This area has a mix of business and residential uses. In fact, the home at 233 Irwin Ave is actually zoned B-2, Convenience and Comparison Business District. The home on the corner at 211 Irwin Ave is zoned B-1, Limited Business District.
5. Notification letters were sent out to properties within 300 feet of this property. At the time of this writing, staff has not received any comments from the public.
6. Please see the enclosed answers to the variance request questionnaire.

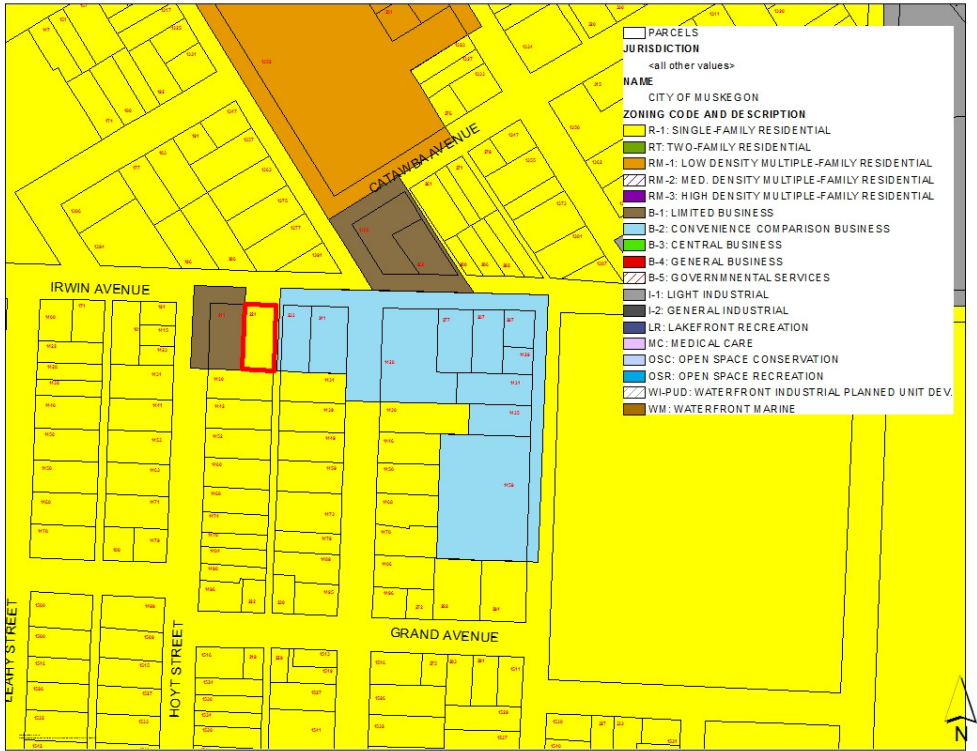
Vacant lot at 221 Irwin Ave (233 Irwin Ave to the left. 211 Irwin Ave to the right)



Back yard at 233 Irwin Ave



Zoning Map



Aerial Map



STAFF RECOMMENDATION

Staff agrees that this is the best way to construct a garage for this property. Vacating the alley would be detrimental to the rest of the block.

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 variance requests to allow the construction of a garage at 221 Irwin Ave be (approved/denied), based on the following review standards listed below (found in Section 2502 of the Zoning Ordinance) and subject to the following conditions (if any):

- a. The garage be setback at least as far back from the road as the home at 233 Irwin Ave
- b. The garage meets the other development standards for accessory structures in Section 2311 of the zoning ordinance.

City of Muskegon Planning & Zoning Application
Page 2a – Non-Use Variances

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?)

WE WOULD LIKE TO BUILD A GARAGE ON THE LOT. WE HAVE ALREADY PURSUED VACATING THE DIRT ALLEY BETWEEN THE PROPERTIES BUT THAT WAS NOT POSSIBLE

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?)

THERE IS NOT ENOUGH ROOM ON OUR PROPERTY AT 233 IRWIN TO PUT UP A GARAGE FOR OUR VEHICLES, BIKES, LAWN EQUIPMENT, ETC. WE CURRENTLY PARK NEXT TO OUR HOUSE WHICH IS DESTROYING OUR LAWN

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?)

WE SEE NO REASON WHY A NEW, WELL BUILT, VISUALLY APPEALING GARAGE WOULD BE DETRIMENTAL TO ANYONE IN OUR NEIGHBORHOOD

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?)

THE 2 PROPERTIES (221 & 233 IRWIN) CANNOT BE JOINED DUE TO THE DIRT ALLEY BETWEEN THEM. CITY ORDINANCE DOES NOT ALLOW FOR A GARAGE TO BE BUILT ON AN EMPTY LOT

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?)

WE PLAN ON LIVING HERE FOR A LONG WHILE. WE ONLY WANT TO IMPROVE THE PROPERTY BY ADDING A GARAGE TO PARK OUR VEHICLES IN AND STORE LAWN FURNITURE, ETC IN.

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)?)

WE HAVE ALREADY TRIED OTHER ROUTES. WE HAVE BEEN TRYING TO MAKE THIS HAPPEN SINCE AUGUST OF 2016.