

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
REGULAR MEETING

DATE OF MEETING: Tuesday, March 10, 2020
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 January 14, 2020.
- III. Public Hearings
 - A. **Hearing; Case 2020-02:** Request for a variance from Section 2310, Part 12.b of the zoning ordinance to allow work within a critical dune area on a slope greater than 1-foot vertical rise in a 3-foot horizontal plane. The proposed are is located west of Beach St from the water filtration plant (1900 Beach St) south to a point approximately 2,200 ft south of the water filtration plant where Beach St turns inland.
 - B. **Hearing; Case 2020-03:** Request for a height variance from Section 2321 of the zoning ordinance to allow for a 300-foot-tall Wireless Communication Support Facility (as opposed to the 200 ft tall maximum requirement) at 1900 Beach St.
- 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

January 14, 2020

Vice Chairman S. Warmington called the meeting to order at 4:00 p.m. and roll was taken.

MEMBERS PRESENT: S. Warmington, W. German, J. Witmer, W. Bouwman

MEMBERS ABSENT: Excused: E. Fordham, B. Mazade, T. Frens

STAFF PRESENT: M. Franzak, D. Renkenberger

OTHERS PRESENT: A. Drouare, 1632 Coolidge, E Lansing

ELECTION OF OFFICERS

A motion to retain E. Fordham as Chairperson and S. Warmington as Vice Chair was made by J. Witmer, supported by W. Bouwman and unanimously approved.

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of April 9, 2019 be approved was made by J. Witmer, supported by W. German and unanimously approved.

PUBLIC HEARING

Hearing; Case 2020-01: Request for a variance from Section 404 of the zoning ordinance to allow a reduced side setback of 5.5 feet for a second story addition to the house at 1542 Beach Street by Allen Drouare. M. Franzak presented the staff report. The property is zoned R-1, Low Density Single Family Residential. It does not meet the minimum lot size of 6,000 sf; however, it is buildable because it is considered a legal lot of record. Side setbacks in this district are six feet for a one-story home and eight feet for a two-story home. The current side setback on the southern side is 5.5 feet and it is a single-story home. The applicant would like to add a second story to the home, which means the side setback would continue to be 5.5 feet, even though it is required to be 8 feet. Notice was sent to all property owners within 300 feet of the property. At the time of this writing, staff had received three comments from the public: Don Boorman at 1562 Beach St is in favor of the request; Janet Steiner at 3691 Simpson Ave has no objection to the request; the owners of the house at 1548 Beach St, directly adjacent to the subject property, contacted staff to say that they are in favor of the request.

A. Drouare stated that he purchased the property about 6 years ago as a cottage for his family. He distributed updated pictures, showing the improvements that they had made during that time. He stated that they planned to use this home as a retirement/summer home and would like to be able to add on to the house to make it more accommodating for their family. They would like to raise the house by adding more cement blocks to the foundation and strengthen it, and possibly build up, adding a second floor. They'd like the house to fit in with the neighboring homes. Due to setback requirements, they would not be allowed to make many improvements to the home

without a variance to allow the smaller side setback. W. Bouwman asked if they planned to retain the house for their family's use or if he planned to rent it out. A. Drouare stated that their long-term plan was for their family's private use, but they did currently rent it out about 7 weeks of the year, to help offset the costs of having a second home. S. Warmington stated that he would not be in favor of the variance request if the house was to be used as a rental property. A. Drouare stated that their future plans did not include renting the property out, as he kept personal belongings there. W. Bouwman asked how granting the variance would benefit Mr. Drouare. A. Drouare stated that his family would benefit by having more space, but there would not be a financial benefit. He clarified that expansion plans for the house could include the addition of another floor or a deck, but they would not expand laterally. The current setback would not be infringed upon. W. Bouwman asked when the zoning ordinance in this area was put into effect. M. Franzak stated that it was likely back in the 1920's but there didn't used to be setback requirements, so the applicant had a decent case for a hardship. S. Warmington asked if the board could set parameters for its approval. M. Franzak stated that the board could only approve or deny the request as submitted, and it would remain with the property for life. A. Drouare pointed out that that their planned improvements would improve the housing stock in the area, as there were still several cottage-type structures on Beach St. S. Warmington stated that he was concerned that the house would become another short-term rental in the area. He asked what the timeline was, for renovations. A. Drouare stated that he didn't have a firm timeline yet. Since he was still working, he would do it as time permitted.

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

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 the 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 properties; d) That the alleged difficulty is caused by the ordinance and not 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; and f) That the requested variance is the minimum action required to eliminate the difficulty.

A motion that the variance request to allow a reduced side setback of 5.5 feet for a two-story home at 1542 Beach Street be approved based on the review standards in Section 2502 of the Zoning Ordinance, was made by J. Witmer, supported by W. German and unanimously approved, with S. Warmington, W. German, J. Witmer, and W. Bouwman voting aye.

OLD BUSINESS

None

OTHER

None.

There being no further business, the meeting was adjourned at 4:30 p.m.

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
STAFF REPORT

March 10, 2020

Hearing; Case 2020-02: Request for a variance from Section 2310, Part 12.b of the zoning ordinance to allow work within a critical dune area on a slope greater than 1-foot vertical rise in a 3-foot horizontal plane. The proposed are is located west of Beach St from the water filtration plant (1900 Beach St) south to a point approximately 2,200 ft south of the water filtration plant where Beach St turns inland.

BACKGROUND

1. The City needs to perform emergency roadwork to protect Beach St and the water mains underneath it.
2. The project location can be seen on the map on the following page. This location is within the Critical Dune area.
3. Please see the enclosed copy of the critical dune ordinance, specifically part 12.b.
4. The variance is needed because some of the areas in this location have a slope steeper than a 1-foot vertical rise in a 3-foot horizontal plane.

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 2310, Part 12.b of the zoning ordinance to allow work within a critical dune area on a slope greater than 1-foot vertical rise in a 3-foot horizontal plane be (approved/denied) based on the review standards in Section 2502 of the Zoning Ordinance.



Hearing, Case 2020-03: Request for a height variance from Section 2321 of the zoning ordinance to allow for a 300 foot tall Wireless Communication Support Facility (as opposed to the 200 ft tall maximum requirement) at 1900 Beach St.

BACKGROUND

1. The Water Filtration Plant was recently approved as a location where Wireless Communication Support Facilities (WCSF) can be located as long as they receive a Special Use Permit.
2. Please see the enclosed zoning ordinance excerpt on Wireless Towers (Section 2321).
3. Part 10 of this ordinance restricts WCSFs to a maximum height of 200 feet.
4. The variance is being requested because the topography of the property causes a hardship for the intended use. The slope of the dune causes interference with equipment at City Hall, which needs to be in communication with this new WCSF. It is anticipated that the tower will need to be a minimum of 250 feet for 360 degrees of communication. An engineering study is being performed now and the results will be shared at the meeting.
5. Please see the enclosed site plan and elevation drawing for the proposed WCSF.

VARIANCE REVIEW STANDARDS

Questions to consider when reviewing a variance request:

- a. Are there any 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 2321 of the zoning ordinance to allow for a 300 foot tall Wireless Communication Support Facility at 1900 Beach St be (approved/denied) based on the review standards in Section 2502 of the Zoning Ordinance.