

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
REGULAR MEETING

DATE OF MEETING: Tuesday, March 9, 2021
TIME OF MEETING: 4:00 p.m.
PLACE OF MEETING: Zoom/City of Muskegon Government Facebook Page

AGENDA

- I. Roll Call
- II. Approval of Minutes of the Regular Meeting of March 10, 2020.
- III. Public Hearings
 - A. 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.
 - B. 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.
- 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 10, 2020

Chairman E. Fordham called the meeting to order at 4:00 p.m. and roll was taken.

MEMBERS PRESENT: S. Warmington, W. German, J. Witmer, W. Bouwman, E. Fordham, B. Mazade, T. Puffer

MEMBERS ABSENT: None

STAFF PRESENT: M. Franzak, D. Renkenberger

OTHERS PRESENT: L. Evans, City of Muskegon DPW; T. Romanoski, cell tower consultant; T. Newton, 3444 Keeton Ct.

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of January 14, 2020 be approved was made by S. Warmington, supported by B. Mazade and unanimously approved.

PUBLIC HEARING

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. M. Franzak presented the staff report. The proposed area 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. The City needs to perform emergency roadwork to protect Beach St and the water mains underneath it. A map was provided to board members showing the project location. This location is within the Critical Dune area, which is now administered by the City. 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, which is addressed in the Critical Dune ordinance.

L. Evans was the City Engineer and Director of Public Works. He stated that concrete rip-rap had been placed on the beach area between the street and the water's edge to help minimize the damage from high water and erosion. The concrete caused a steeper slope which now requires a variance before any work could be done there, due to critical dune requirements. E. Fordham asked how much of a slope was there now. L. Evans stated that it was near vertical, and consisted only of broken concrete pieces. The City had commissioned an Engineering study for long-term fixes but work needed to be done now, before more damage occurred. He stated that he would like to open Beach St. in that area, but only for driving, not parking. The parking area would be blocked off so people did not park there and get out of their vehicles. The concrete rip-rap would be maintained.

There were no public comments. A motion to close the public hearing was made by S. Warmington, 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 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 would 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) the requested variance is the minimum action required to eliminate the difficulty.

A motion 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 based on the review standards in Section 2502 of the Zoning Ordinance, was made by S. Warmington, supported by J. Witmer and unanimously approved, with S. Warmington, W. German, J. Witmer, W. Bouwman, E. Fordham, B. Mazade, and T. Puffer voting aye.

Hearing, Case 2020-03: Request for a height variance from Section 2321 of the Zoning Ordinance to allow a 300-foot tall Wireless Communication Support Facility (as opposed to the 200 ft tall maximum requirement) at 1900 Beach St. M. Franzak presented the staff report. The City's 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 from the Planning Commission. The zoning ordinance excerpt on Wireless Towers (Section 2321) was provided for reference. Part 10 of the ordinance restricts WCSFs to a maximum height of 200 feet. 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, whose staff needs to be in communication with this new WCSF. It is anticipated that the tower will need to be a minimum of 250 feet high for 360 degrees of communication. An engineering study was ordered by staff. A site plan was reviewed by board members, along with an elevation drawing for the proposed WCSF, which is appended to these minutes.

W. Bouwman asked if the proposed tower would be a cell tower or communications tower, and who was paying for it. M. Franzak stated that the city was paying for it, and it would be a communications tower for city facilities. He stated that it could also be a cell tower if the city rented out space to cell phone companies. S. Warmington what the estimated cost would be. L. Evans stated that it would be around \$300,000. He explained the city's communications needs between its 3 separate main facilities. T. Romanoski had worked in the cellular communications industry for years, and was now doing consulting work in that field. He stated that he expected great interest in this tower from cell phone carriers, as there was currently a lack of reliable cell phone coverage in the beach area. He stated that the tower would need to be at least 225 feet high to clear the dunes and tree canopy. Signals would then shoot down from the tower to the City Hall building. Cell phone carriers would need about 20 feet of space on a tower for their equipment, and the target market was 3 to 4 carriers on this tower. B. Mazade asked what type of tower it would be, and asked if it would be a monopole. T. Romanoski stated that it would be a self-supporting lattice tower with 4 legs. The proposed height was too tall for a monopole. J.

Witmer asked how wide the tower would be. T. Romanoski stated that it would be about 27 feet wide. W. Bouwman asked if the city antennas would be above or below. T. Romanoski stated that they would be below, at approximately 225 feet. E. Fordham asked what would be struck if the tower fell. T. Romanoski stated that they had not done fall calculations, but the foundation was extremely well built. W. Bouwman asked if there would have to be lights on the tower, approved by the FAA. T. Romanoski stated that was correct. W. Bouwman asked staff to include the information on the possibility of accommodating cell carriers when the request was presented to the City Commission. J. Witmer asked if the height calculations left room for tree growth. T. Romanoski stated that was correct; a 10% buffer was included in the calculations.

T. Newton lived in the area and had concerns about the tower. He felt that the 300-foot height would interfere with the beach area's skyline view, and asked if the tower height could be any lower. T. Romanoski stated that the tree canopy was a major issue. With city equipment required to be at 225 feet, there was no room for other antennas below. In order to attract cell carriers, they needed to be able obtain adequate signal. T. Newton asked where the generator would be located. T. Romanoski stated that it would be located at the base of the tower within the water filtration plant property.

A motion to close the public hearing was made by B. Mazade, supported by S. Warmington 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 request for a variance from Section 2321 of the Zoning Ordinance to allow a 300-foot-tall Wireless Communication Support Facility at 1900 Beach St be approved based on the review standards in Section 2502 of the Zoning Ordinance, was made by S. Warmington, supported by B. Mazade and approved, with S. Warmington, W. German, W. Bouwman, E. Fordham, B. Mazade, and T. Puffer voting aye. J. Witmer abstained from voting, as he was a work associate of T. Newton. M. Franzak stated that the next step in the process was to request a Special Use Permit from the Planning Commission.

OLD BUSINESS

None

OTHER

None

There being no further business, the meeting was adjourned at 4:45 p.m.

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
STAFF REPORT

March 9, 2021

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 southeast south side of the lot at 1804 Edgewater St, by David Bowen.

SUMMARY

1. 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.
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. The side setback on the southeastern side of the lot is only one foot.
3. 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.
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 not received any replies.

1804 Edgewater St



Zoning Map



Aerial Map



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 two story house with a one-foot side yard setback on the southeastern side of the property be (approved/denied) based on the review standards in Section 2502 of the Zoning Ordinance.

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.

SUMMARY

1. The property is zoned R-1, Low Density Single Family Residential and measured 5.8 acres. The property is accessed off of Barclay St through an easement across the adjacent property.
2. 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.
3. The applicant is requesting a variance to not have to pave the driveway as required in section 2326 of the zoning ordinance.
4. 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.
5. Notice was sent to everyone within 300 feet of the property. At the time of this writing, staff had not received any replies.

ZONING ORDINANCE EXCERPTS

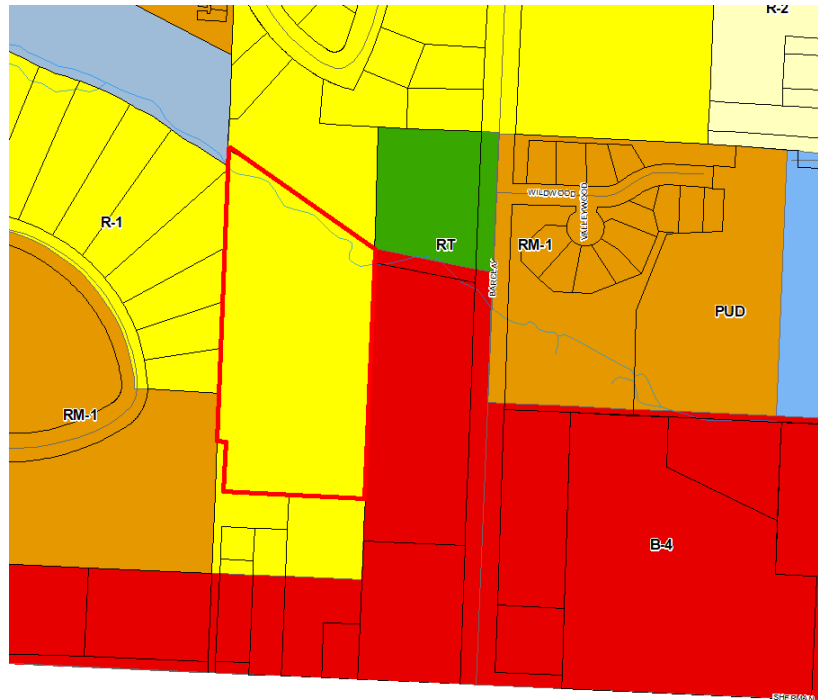
SECTION 2326: OFF-STREET PARKING AND LOADING

7. Maintenance Standards: Parking and loading areas in all districts shall be paved, marked and defined by curbing or curb stops.

SECTION 2311: ACCESSORY STRUCTURES & BUILDINGS

2. Height restrictions: Buildings accessory to residential buildings shall not be more than one (1) story or fourteen (14) feet in height.
3. Detached: Detached accessory buildings shall:
 - a. Be at least six (6) feet from any principal building
 - b. Be at least three (3) feet from any side or rear lot line.
 - c. Not be located within a dedicated easement or right-of-way.
 - d. Any accessory structure placed in a residential property or zone in the city shall be of residential construction properly painted or sided. Pole style storage buildings and sheet metal accessory structures are prohibited in all residential zones or developments.

Zoning Map



Aerial Map



VARIANCE REVIEW STANDARDS

Questions to consider when reviewing a variance request:

- g. 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?
- h. 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?
- i. Will the authorizing of such dimensional variance be of substantial detriment to adjacent properties?
- j. 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?
- k. Is the alleged difficulty founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner?
- l. Is the requested variance the minimum action required to eliminate the difficulty?

DETERMINATION:

The following motion is offered for consideration:

I move 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/denied) based on the review standards in Section 2502 of the Zoning Ordinance.