

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
REGULAR MEETING

DATE OF MEETING: Tuesday, February 13, 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 November 14, 2023.
- III. Public Hearings
 - A. Hearing; Case 2024-01: Request for a variance from Section 404 of the zoning ordinance to allow a garage to be increased in height over the 14 feet maximum height limit at 1294 Lakeshore Dr.
 - B. Hearing, Case 2024-02: Request for a variance from Section 404 of the zoning ordinance to allow a new house to be constructed within the required 30-foot rear setback 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, February 13, 2024

Hearing; Case 2024-01: Request for a variance from Section 404 of the zoning ordinance to allow a garage to be increased in height over the 14 feet maximum height limit at 1294 Lakeshore Dr.

SUMMARY

1. The property is zoned R-1, Low Density, Single Family Residential.
2. An existing detached garage is located on the west side of the property. The garage was 14' tall, which is the maximum height allowed for detached garages.
3. The garage was increased in height without the proper permits. The current height of the structure is about 17'2". The height of a garage is measured from the ground to the midway point of the peak.
4. The height was raised to make room for more storage. The property owner does not intend to turn the space into an accessory dwelling unit and would not be allowed to under the current zoning designation.
5. All properties within 300 feet of the applicant were notified. At the time of this writing, staff had received two letters of support from the applicants neighbors, including the next door neighbor to the west.

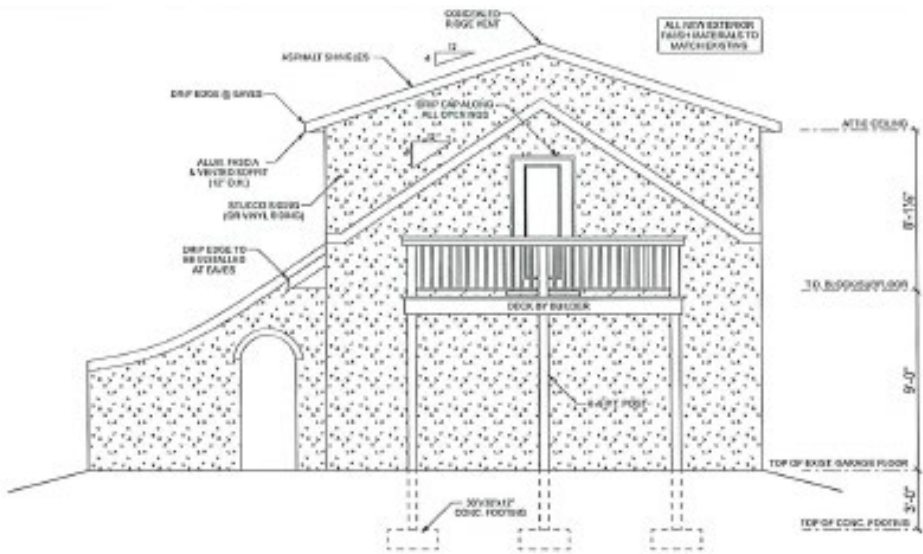
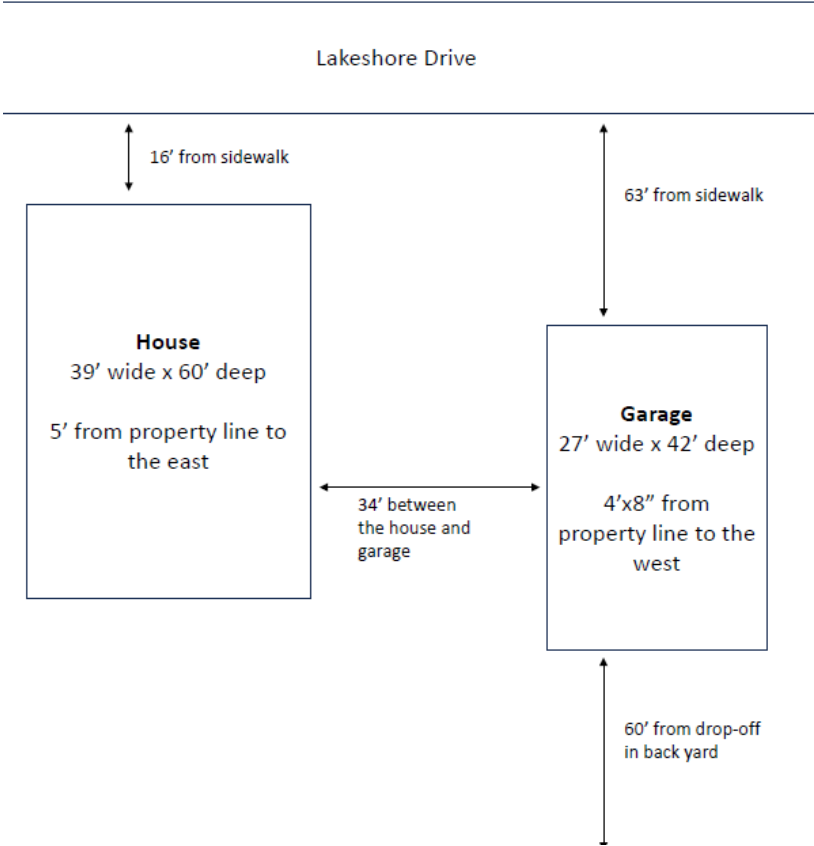
Before and After Height Increase



Site Plan

Michael Thomas
1294 Lakeshore Drive
Muskegon, MI
49441
206-209-8034
michaelanthomas@yahoo.com

Site Plan



Answers Provided to Variance Questionnaire

Please see attachment

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 garage to be increased in height up to 17'2" at 1294 Lakeshore Dr. be (approved/denied) based on the review standards in Section 2502 of the Zoning Ordinance.

Hearing, Case 2024-02: Request for a variance from Section 404 of the zoning ordinance to allow a new house to be constructed within the required 30-foot rear setback at 3534 Wilcox Ave.

SUMMARY

1. The property is zoned R-1, Low Density, Single Family Residential.
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 the house from being located at least 30 feet from the rear property line. The applicant is proposing to have a 10-foot rear setback because of the property hardship.
3. 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).
4. 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)**



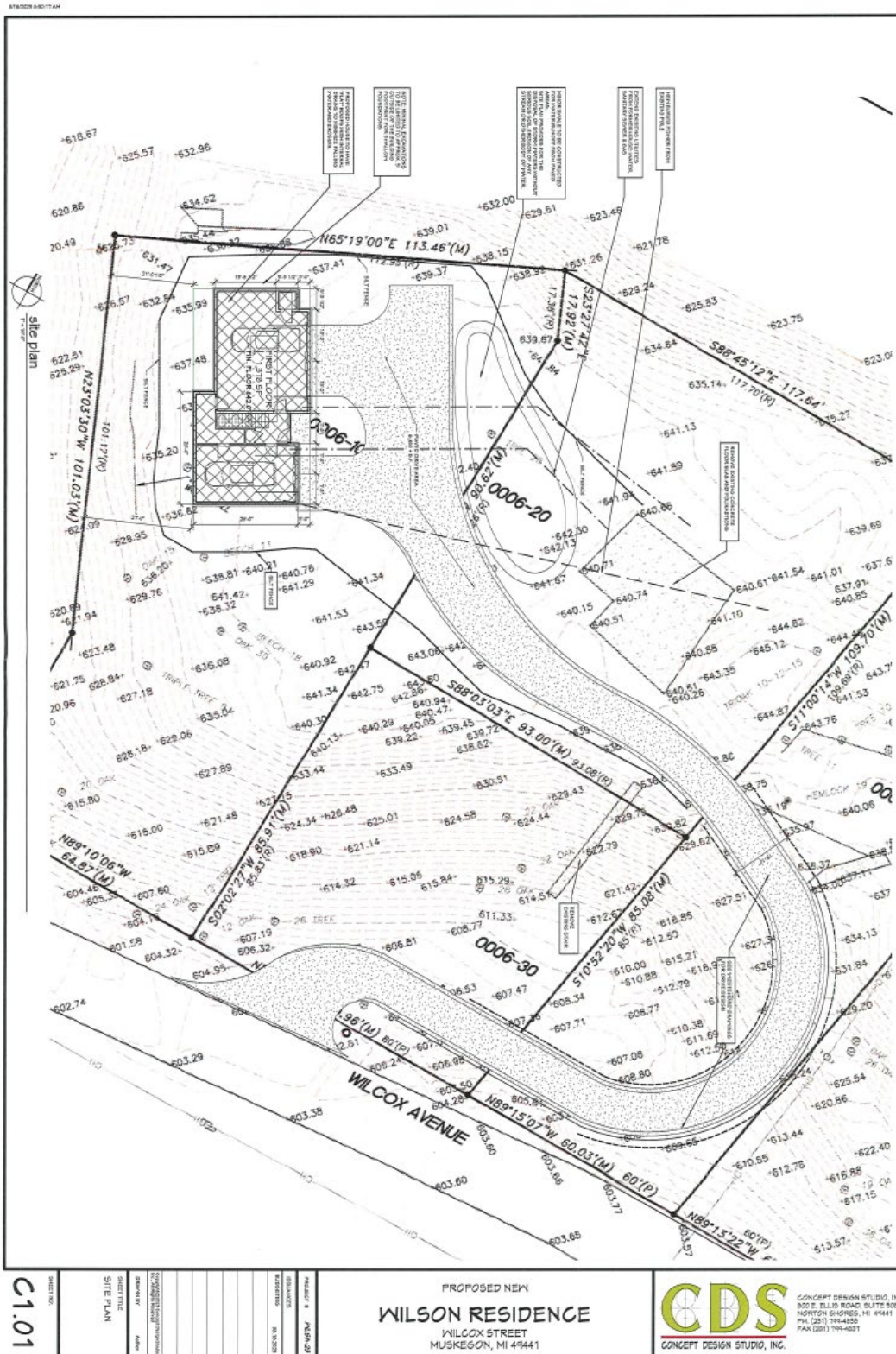
1294 Lakeshore Dr



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?
This property is on a critical sand dune and EGLE recommended the house location when we met for pre-approval meeting.

2. What property rights do your neighbors enjoy that you can't because of the nature of your property?
Our neighbors to the north and to the east, both have their homes on the property line. They clearly obtained a variance based the regulations and we would like to enjoy the same.

3. Will granting a variance to you negatively affect your neighbors or the public?
No

4. Who or what is the cause of the difficulty with the current ordinance?
Per the submitted site plans, the front door/front of house is located on the east side of the property. As proposed, it would meet the setback requirements; however, the city is considering Wilcox Ave to be the front of the house & requires a variance.

5. Do you have reasons, other than financial gain, for asking for the variance?
In order to build our home, we had to meet the EGLE requirements, which includes the very specific placement of the house not to impact the slopes of the critical dune. The city confirmed that it is a buildable lot & it is placed in the only area approved by EGLE.

6. Could you get by with less of a variance from the ordinance requirement(s)?
No, not based on the topography of the lot and EGLE's requirements

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:

- 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?

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 a 10-foot rear yard setback at 3534 Wilcox Ave. be (approved/denied) based on the review standards in Section 2502 of the Zoning Ordinance.

Michael Thomas
1294 Lakeshore Drive
Muskegon, MI
49441
206-209-8034
michaelanthomas@yahoo.com

1. Why should your property be unique compared to others in the neighborhood?

I do not believe my property should or will be unique compared to my neighbors, necessarily, as the road I live on is a mix of very old homes and new developments. There are several homes and garages that appear to be similar to what I am hoping to do with my garage dormer. The height of my existing detached garage roof is higher than the 14 feet as this home was built before the existing rules went into effect, so I'm asking for a variance to raise my roof a few feet to accommodate storage. Several of my neighbors have done the same thing including my neighbors across the street who appear to have a garage taller than the 14 feet ordinance. I believe my garage dormer/roof height will not stand out as being unique in the neighborhood. It's just that any modifications to the garage need a variance to be granted to modify any part of the garage roof height.

2. What Property rights do your neighbors enjoy that you can't because of the nature of your property?

My property gets a substantial amount of water in the basement, making storage in the basement impossible currently. The former owners and I have tried remediation to contain the basement water unsuccessfully, so I have had to store most of my items in my garage. Because of this, I can't park my car or my daughter's in the garage. The goal of the dormer was to help me be able to make that space above my garage useable and allow me to move around upstairs and store things upstairs and use that space. Given the pitch of the original roof, it is very steep, and you can only walk down the center of the upper level of the garage and must crouch down to move things and use the space. It's difficult to store anything especially holiday decorations or personal items that I want to get in and out of frequently when I must crouch down and pull things in and out of the space. Also, many items that I have don't fit well into the existing space given the pitch of the roof as my decorations and other items are too tall to really fit them into the existing space. Because this road has very old and new homes, the structures vary widely, and some people have better garage/storage space and others need to apply for variances to modify things.

3. Will granting the variance to you negatively affect your neighbors or the public?

No it won't negatively affect my neighbors. I have worked with my neighbors to cut down trees in my own yard just to help enhance their view and generally to be a good neighbor. This garage sits off the road toward the back/middle part of my property and is flanked by several trees (on the front and back of the garage). It sits next to the back of my yard and one of my neighbor's yard. They have been very supportive of the work I've done to my property, including adding the dormer to my garage. I have included a letter from both of my direct next-door neighbors – the only two neighbors who would be impacted by the dormer. The few feet that this dormer adds to the overall roof height is minimal and there are trees in front of the garage, so there was never a view for any of my neighbors that this new dormer/roof height will now block. If anything, the garage roof was old and the asbestos roof tiles were falling off and were a bit of an eye sore and nuisance. I put a new roof on my home and garage, including asbestos remediation. My neighbors have said they're pleased with the work I'm doing to the home and garage/roof, including this proposed dormer as it looks nicer and is more structurally sound than the old asbestos roof.

4. Who or what is the cause of the difficulty with the current ordinance?

The difficulty with the current ordinance is that the home is old and was built before the new ordinances were in place so any changes to the structure fall outside of the current detached garage ordinance that stipulates that the roof height can't exceed 14ft tall. My original roof is already over that height so making any modifications at all, even small ones like raising the roof a few feet to accommodate a more modern layout/storage, is automatically higher than the current roof ordinance. In order to do anything at all to the detached garage, it appears I need to apply for permission to make modifications through requesting a variance be granted to make those changes.

5. Do you have reasons, other than financial gain, for asking for the variance?

I do not intend to sell the home or benefit from the variance in any way other than to gain storage and have a space that I can stand up in to move around and store things. The variance gives me room to make this more useable space for getting items in and out of my garage when I'm not using them.

6. Could you get by with less of a variance from the ordinance requirements?

No because the variance is only raising the roof by less than 3 feet to accommodate for the proposed dormer tresses and structure. The rest of my garage roof is staying with the original structure height. The dormer itself is only a few feet higher than the original roof height so there is no way to make it any lower – raising it approximately 3 feet is what is allowing me to change the pitch of the roof so I can have more room to walk around in the garage to move things around upstairs. Anything less than what I'm proposing with the garage dormer/new roof height won't allow for me to change the roof pitch to get more room for adding the storage I'm hoping to gain with this dormer.

7. Will this variance alter the essential character of the area?

No because the dormer style matches the style of the existing garage and home, and it also matches the style and character of other homes and garages on my road/in my neighborhood. The new proposed dormer height is also lower in height than many homes and structures on my road, as there are many old homes that were built next door/on my road/in my neighborhood with the same height or that are higher than my home and garage. The dormer/height does not stand out of place next to other structures in the area.

8. Is your preferred property use specifically mentioned in the ordinance as not being allowed in your zoning district?

No. The use of the garage dormer is for storage. There is not an intended use that falls outside of what I already currently use my garage for now.

February 1, 2024

To Whom it may concern,

I am writing a letter of support for my neighbor Michael Thomas who resides at 1294 Lakeshore Drive, Muskegon, MI 49441.

She will be attending a public hearing, hosted by the City of Muskegon Zoning Board of Appeals, regarding her request for variance approvals for her garage dormer construction and the height of the construction. I am a neighbor of hers within 300 feet of the project.

Michael Thomas moved back home into our neighborhood about 4 years ago after her mother passed away in an accident to help her family through the turbulent times. She purchased 1294, which is a very old home on Lakeshore Drive, in need of extensive repairs and renovations. I don't think she had any idea the extent of the job she signed up for in buying the home and still she's tried to find reliable contractors to support her restoration efforts and has kept her head down trying to keep positive momentum in renovating her old home.

We have all watched her work through these extensive projects including re-grading her yard and installing irrigation to keep her lawn nice, which as you can imagine has helped the aesthetic of our neighborhood and community. She also made updates to her plumbing, as her ceiling and walls were rotting from leaking plumbing – requiring electrical and flooring updates as well.

She has also done asbestos abatement on her garage and home roofs, has installed a new roof, new gutters and she also had new windows installed, as many of them were broken and rotten – much of this was not disclosed by the former seller, including water she gets in her basement (which I believe she's trying to remediate now).

I do understand the height of her proposed garage roof/dormer exceeds the 14 feet height limit; however, it does not stand taller than other homes or garages in the area, including the neighbor directly across the street from her who built a new garage a few years ago. The garage sits off the road and is behind a few trees and the improvements add aesthetic value to our road. There are trees behind her garage, so the garage does not block any view. Additionally, the dormer is only a few feet higher than the original garage structure – maybe 2 to 3 feet.

I know Michael has been a great neighbor, willing to jump in and help others in the area. I know she's trying to do the right thing and is learning some things along the way. I do hope the board will vote in favor of granting her the variances she's requesting for this project.

Thank you,

Eric Stang

Mary Price
Thomas Schaub
1298 Lakeshore Drive
Muskegon, MI 49441

Re: Renovations at 1294 Lakeshore Drive

To whom it may concern:

This letter shall serve to express our support for our next-door neighbor, Michael Ann Thomas, and the tremendous renovations she has made to rehabilitate her 100+ year old home.

In particular, we are supportive of her request for an exception regarding the height of her garage construction project. This addition will enhance the ascetic of her home and of the neighborhood.

We also understand that there will be a hearing in early February which we will be unable to attend. If this letter could speak for us in that forum we would be appreciative.

Michael has made significant investments in her renovation including installing new windows that replaced broken windows which couldn't be repaired because of their aging condition. She also paid to remove asbestos roofing and installed an entire new roof. In all of her renovations, Michael has spared no expense and has invested in top notch products.

Again, please accept this expression of our support of Michael Ann's efforts and thank you for your efforts to expedite the completion of this project.

Yours truly,



Mary Price



Thomas Schaub