

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES
February 13, 2024

Vice-Chairman J. Witmer called the meeting to order at 4:00 p.m. and roll was taken.

MEMBERS PRESENT: J. Witmer, V. Taylor, J. Montgomery-Keast, R. King, M. Gallavin, D. Crockett
MEMBERS ABSENT: W. German
STAFF PRESENT: M. Franzak, S. Pulos
OTHERS PRESENT: None.

APPROVAL OF MINUTES

A motion that the minutes of the meeting of November 14, 2023, be approved was made by J. Montgomery-Keast, supported by R. King, and unanimously approved.

NEW BUSINESS

A motion to select Jonathan Witmer be appointed as Chair of the Zoning Board of Appeals, was made by V. Taylor, supported by J. Montgomery-Keast.

AND

A motion to select Mike Gallavin be appointed as Vice-Chair of the Zoning Board of Appeals, was made by J. Montgomery-Keast, supported by J. Witmer.

ROLL CALL VOTE

J. Witmer: Yes	V. Taylor: Yes	J. Montgomery-Keast: Yes
R. King: Yes	M. Gallavin: Yes	D. Crockett: Yes

MOTIONS PASS

PUBLIC HEARINGS

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.

PUBLIC COMMENTS

1. Mark Floermen – Stated that you can barely see the addition and they applicant has done a lot of improvements, that he is in support and that even when walking, it does not block the view.
2. Stephanie, Clifford Buck Construction – Stated that builder and architect should be the responsible parties for the fault of this build outside the ordinance standards.

MOTION TO CLOSE PUBLIC HEARING

A motion to close the public hearing was made by J. Montgomery-Keast, supported by D. Crockett, and unanimously approved.

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

A motion was made by J. Montgomery-Keast, supported by M. Gallavin, 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, based on the review standards in Section 2502 of the Zoning Ordinance.

ROLL CALL VOTE

J. Witmer: Yes

V. Taylor: Yes

J. Montgomery-Keast: Yes

R. King: Yes

M. Gallavin: Yes

D. Crockett: Yes

MOTION PASSES

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.

PUBLIC COMMENTS

1. The Applicants (homeowners) of the variance stated that they did their due-dilligence. They said that their plans are EGLE approved. They said that they are hoping to build their family retirement home. They have met with the Fire Marshal, stated that he came out to the site and walked the property. They also stated that their survey showed that adjacent properties are encroaching onto theirs.

MOTION TO CLOSE PUBLIC HEARING

A motion to close the public hearing was made by J. Montgomery-Keast, supported by M. Gallavin, and unanimously approved.

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

A motion was made by M. Gallavin, supported by J. Montgomery-Keast, 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 based on the review standards in Section 2502 of the Zoning Ordinance.

ROLL CALL VOTE

J. Witmer: Yes

V. Taylor: Yes

J. Montgomery-Keast: Yes

R. King: Yes

M. Gallavin: Yes

D. Crockett: Yes

MOTION PASS**OLD BUSINESS**

None

OTHER

None

ADJOURN

There being no further business, the meeting was adjourned at 4:39 p.m.