

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
REGULAR MEETING

DATE OF MEETING: Tuesday, January 11, 2022
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 September 14, 2021.
- III. Public Hearings
 - A. Hearing; Case 2022-01: Request for a variance from Section 2305 of the zoning ordinance to allow a lot to be split that will create a parcel substandard in size at 3384 Millard Ave, by Medendorp Real Estate.
- IV. New Business
- V. Old Business
- VI. Other
- VII. Adjourn

AMERICAN DISABILITY ACT POLICY FOR ACCESS TO OPEN MEETING OF THE
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

September 14, 2021

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

MEMBERS PRESENT: J. Witmer, W. Bowman, T. Puffer, J. Montgomery-Keast, V. Taylor, W. German (arrived at 4:09pm)

MEMBERS ABSENT: M. Ribesky

STAFF PRESENT: M. Franzak, C. Cashin

OTHERS PRESENT: C. Mattson (1812 Lakeshore Dr), B. Meyer (3561 Woodlawn Ct)

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of August 19, 2021, be approved was made by J. Montgomery-Keast, supported by J. Witmer and unanimously approved.

PUBLIC HEARINGS

Hearing Case 2021-04

Request for a variance from Section 2334 of the zoning ordinance to allow for off-premise signage at 1812 Lakeshore Drive, by Christine Mattson.

Summary

1. Section 2334.4 of the zoning ordinance prohibits off-premise signage. Businesses may not have signage on other properties, other than billboards.
2. The applicant is seeking a variance to allow the names of other businesses in Lakeside to be able to be painted on the new mural on the building at 1812 Lakeshore Dr.
3. This mural will be visible to tourists exiting the Cross Lake Ferry property.
4. Please see the responses below to page two of the application.
5. Notice was sent to properties within 300 feet of the property. At the time of this writing, staff had not received any comments.

ZBA had a short discussion. C. Mattson stated that the property owner would like to place the mural/sign on the rear of the building, facing the bike path and ferry driveway.

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

A motion that the request for a variance from Section 2334 of the zoning ordinance to allow for off-premise signage at 1812 Lakeshore Drive be approved based on the review standards in Section 2502 of the Zoning Ordinance was made by J. Montgomery-Keast, supported by W. Bowman and approved with W. Bowman, T. Puffer, J. Montgomery-Keast, W. German, V. Taylor voting aye, and J. Witmer voting nay.

Hearing Case 2021-05

Request for a variance from Section 2310 of the zoning ordinance to allow electrical lines to be buried on a steep slope at 3561 Woodlawn Court, by Bruce Meyer.

Summary

1. This property is located in a critical dune and must follow the regulations in section 2310 (critical dunes) of the zoning ordinance.
2. The critical dune ordinance prohibits (unless a variance is granted) a use on a slope within a critical dune area that has a slope steeper than a 1-foot vertical rise in a 3-foot horizontal plane.
3. The slope of the dune in this area is greater than a 1-foot vertical rise in a 3-foot horizontal plane.
4. Please see the responses below to page two of the application.
5. Notice was sent to properties within 300 feet of the property. At the time of this writing, staff had not received any comments.

ZBA had a short discussion. B. Meyer discussed the location of the buried lines and confirmed the old wires would be removed from the pole and buried.

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

A motion that the request for a variance from Section 2310 of the zoning ordinance to allow electrical lines to be buried on a steep slope at 3561 Woodlawn Court be approved based on the review standards in Section 2502 of the Zoning Ordinance was made by V. Taylor, supported by J. Montgomery-Keast and unanimously approved.

OLD BUSINESS

None

OTHER

None

ADJOURN

There being no further business, the meeting was adjourned at 4:23 p.m.

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
STAFF REPORT

Tuesday, January 11, 2021

Hearing; Case 2022-01: Request for a variance from Section 2305 of the zoning ordinance to allow a lot to be split that will create a parcel substandard in size at 3384 Millard Ave, by Medendorp Real Estate.

SUMMARY

6. Section 2305 of the zoning ordinance prohibits splitting parcels that would make either of them substandard in size. See excerpt on the following pages.
7. The property is zoned R-1, Low Density Single Family. Parcels are required to have at least 50 feet of street frontage and be at least 6,000 sf in size.
8. The lot at 3384 Millard Ave measures 11,247 sf in size. The proposed split would make the lot with the principal structure 5,610 sf and the lot with the garage 5,637 sf. This would make both lots non-conforming in size.
9. In 2006, this property was granted two variances. One was to allow a garage to be placed in a front yard (the property has two front yards since it faces two streets) and the other was to allow a garage that exceeds 14 feet in height. The garage is 23.5 feet in height.
10. If approved, this would create a non-conforming structure on the lot with the garage. Garages are not allowed on properties without a principal structure. If the owner wanted to turn the garage into a home, there would also be issues in the conversion. A one bedroom home must have at least 850 sf. The floor plan of the garage shows 400 sf of garage and only 800 sf of living space. Also, it is unknown what the side setbacks are for the garage, but it appears to be only five feet on the east side. Detached garages are only required to have a three foot side setback, but houses must be at least six feet.
11. Please see the enclosed responses to page two of the application.
12. Notice was sent to properties within 300 feet of the property. At the time of this writing, staff had received notification from the following names/addresses that are against the request: Bonnie Hendrick at 3377 Lakeshore Dr, Candy Workman at 3369 Lakeshore Dr, Nancy Hulka at 3020 Country Club Dr, Margarette Hulka at 3389 Lakeshore Dr, Mary Ullmer at 2135 Bluffton Ave and Laura/Kirk Kolberg at 314 Whiskey Hollow.

Principal Housing Structure at 3383 Millard. Access off of Millard.



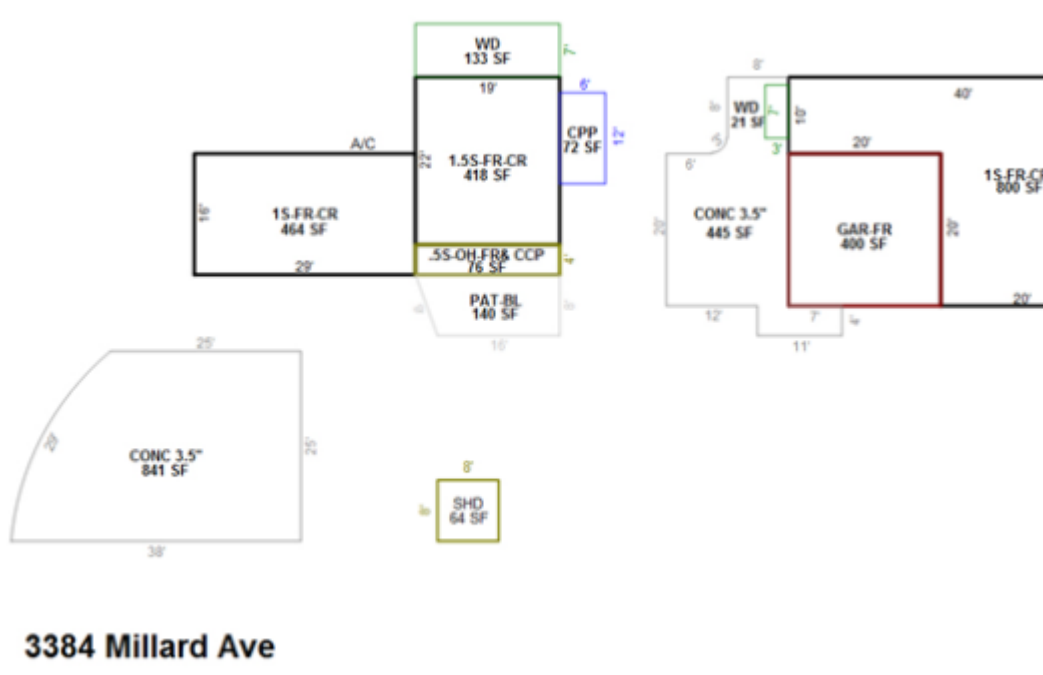
Garage Structure facing Lakeshore Dr



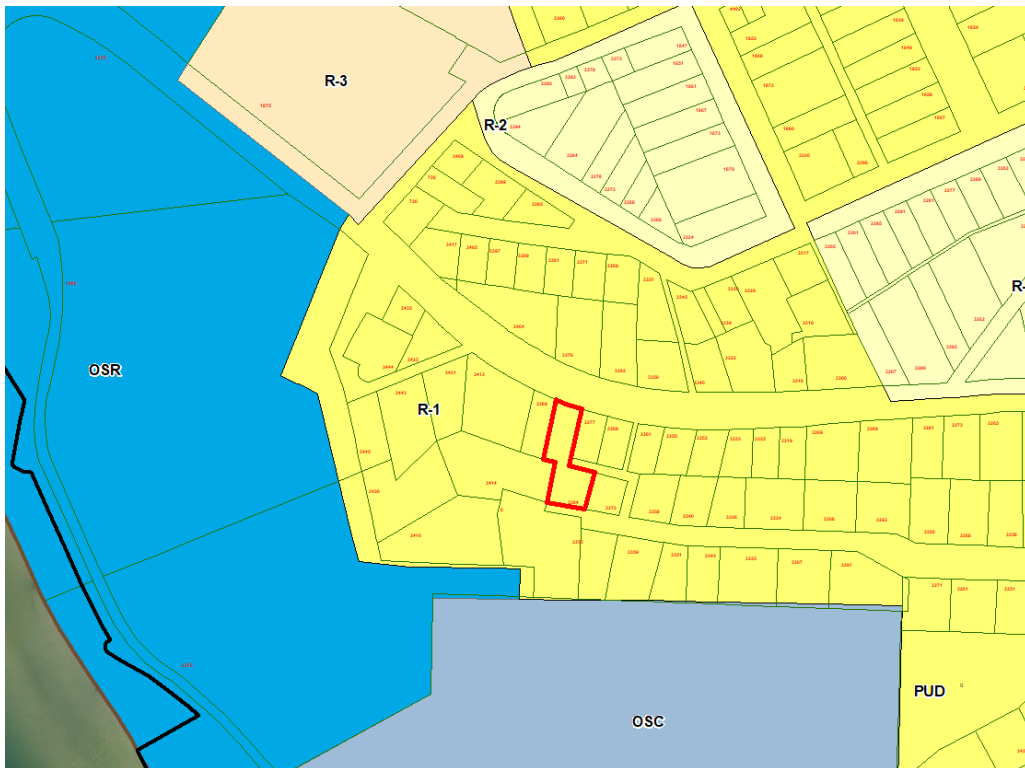
Garage Structure with Access off of Alley



Sketches from the Assessor's Office



Zoning Map



Aerial Map



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 LOT IS THE SAME SIZE OR LARGER THAN OTHER
HOUSES BUILT IN THE AREA TO THE WEST 5237 TO
THE EAST 4794

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

THERE WOULD NOT LIKELY BE A CHANGE. THE
STRUCTURE IS ALREADY THERE. THE CONSTRUCTIONS
WOULD BE INSIDE.

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

NOT REALLY. THE CURRENT ALDG ON LOT 13 IS NOW BUILT 2006 AND MEETS
ALL OF SEC. 404 AREA BULK REQ. LISTED IN THE CITY OF MUSKEGON Zoning Ordinance.
NO ALTERATIONS WILL BE MADE TO THE EXTERIOR OF THE BLDG AND THEREFORE
THE REQUESTED PARCEL SPLIT WILL NEITHER ALTER THE ESSENTIAL CHARACTER
OF THE AREA OR MATERIALLY IMPAIR THE PUBLIC INTEREST.

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

THE ORDINANCE WAS PUT IN PLACE AFTER THE LOT
WAS ESTABLISHED.

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

IT SEEMS TO BE AN IMPROVEMENT FOR THE USE OF
THE PROPERTY.

6. Could you get by with less of a variance from the ordinance requirement(s)? REQUESTING THE 2 PARCELS
BE SPLIT ACCORDING TO THEIR ORIGINAL DIMENSIONS AS delineated & approved on
the original Lake Michigan Park subdivision No. 1 plat map. The
severed parcel will be the exact dimensions as delineated on the map
adopted by the City of Muskegon Lake Michigan Park Sub No. 1 Lot 13 Bldg 2
Parcel. Lot 13 is also known as 3383 Lakeshore Dr. Lot 13 is a buildable
lot and meets all of the Section 404 & 405 Family Area & Bulk Req. listed

7. Will this variance alter the essential character of the area? in the current City of Muskegon
Zoning Ordinance.

NO

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

NO A SINGLE FAMILY HOME IS A GREAT USE.

A complete description of zoning variances can be found in Article XXV of the City of Muskegon Zoning Ordinance

Visit www.shorelinecity.com for more information

Information contained in this application, as well as supporting documentation, may be subject to review by the public if a Freedom of Information Act Request is filed

ORDINANCE EXCERPT

SECTION 2305: REDUCTION OF PARCELS BELOW MINIMUM REQUIRED SIZE, WIDTH, OR DEPTH

No parcel, whether or not platted as a lot, shall be split or reduced in size, width, or depth by any conveyance, survey, leasing, occupancy, or other means which creates a parcel substandard in size, width, or depth according to the requirements of this zoning ordinance. The splitting of a lot or parcel to add to another shall not be allowed unless the remaining portion is of legal size, width, and depth for the zone where the split parcel is located, or it is simultaneously combined by conveyance with a contiguous parcel which will thereafter be of legal size, width, and depth. Further, if contiguous nonconforming lots or parcels whether or not of record, are under common ownership or control, they shall be combined to meet the provisions of this Ordinance prior to permitting future site development or the issuance of a building permit.

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 that the request from Section 2305 of the zoning ordinance to allow a lot to be split that will create a parcel substandard in size at 3384 Millard Ave be (approved/denied) based on the review standards in Section 2502 of the Zoning Ordinance.