



MEETING MINUTES
Cadillac Zoning Board of Appeals
5:30 P.M.
July 21, 2016

CONVENE MEETING

Chairperson Nichols called to order a meeting of the Cadillac Zoning Board of Appeals at 5:30 p.m. on July 21, 2016.

ROLL CALL

MEMBERS PRESENT: Allen, Bontrager, Engels, Nichols, and Ault
MEMBER ABSENT: Paveglio and Walkley
STAFF PRESENT: Coy

APPROVAL OF MEETING AGENDA

Motion by Bontrager, supported by Allen, to approve the July 21, 2016 meeting agenda. The motion was unanimously approved on a roll call vote.

APPROVAL OF MEETING MINUTES

Motion by Bontrager, supported by Ault, to approve the May 22, 2016 meeting minutes as presented to the board. The motion was unanimously approved on a roll call vote.

PUBLIC COMMENTS FOR NON-HEARING ITEMS

None

PUBLIC HEARINGS

Zoning Variance Application from Daniel Minor owner of property at 604 Lake Shore Drive to allow construction of a new home on the foot print of the current home after demolition, allow for increasing the ground level square footage of the new home up to 3,774 square feet, and allow for a rear yard variance of 11 feet 4 inches which would then create a rear yard setback of 16 feet 8 inches. The current home on the site is 2,715 square feet.

APPLICANT

Daniel Minor
4949 Timberlawn Court
Cadillac, MI 49601

The property site is described as; A PARCEL COM. 2045 FT S OF NW COR. SEC. 4-21-9; S 100 FT; E 116.92 FT; N 9DEG 15 MIN 15 SEC W 101.32 FT; W 100.63 FT TO BEG. CUMMER & HAYNES ADDITION, CITY OF CADILLAC, (Tax Identification Number 10-056-00-065-00). As noted, the common address is 604 Lake Shore Drive Cadillac, MI 49601.

Daniel Minor, Dawn Casey, and Dean DeKryger, Architect and President of DK Design in Cadillac attended.

Chairman Nichols opened the case stating a variance application has been filed by the applicant. He referred the matter to staff for comment.

Mike Coy, Community Development Analyst, presented a **summary of the ZBA staff report**. In the report Coy noted the following information had been included in the report: variance application, main floor site plan, GIS aerial photos, and site photographs. He said Mr. Minor wishes to have the current home on the site torn down and then build a new home using the existing foundation and basement.

The property is located in an R-1 One-Family Residential zoned district. Surrounding properties to the west, east, south, and north are all also zoned R-1. Coy said he felt the application should be reviewed in three parts.

- Allow for the home to be rebuilt on the same footprint after demolition.
- Allow for an increase of the footprint to 3,774 square feet.
- Allow for the west side of the home to have a setback of 16 feet, 8 inches from the rear lot line.

The applicant is asking for a 534 square foot variance from the maximum size currently allowed at this site which is 3,240 square feet in size. R-1 One-family residential districts allow for all buildings on the property to take up 30 percent of the lot. The lot is 10,800 square feet in size (.248) acres. The applicant is also asking to reduce the rear yard setback by 11 feet, 4 inches which would put the new home 16 feet, 8 inches from the west lot line.

Coy displayed an aerial GIS photograph of the site depicting the applicant's property. Coy explained that the four closest neighboring properties all have lots with square footage exceeding the 12,500 square feet that is the minimum lot size called for in an R-1 district.

Coy said that the variance application would need to be reviewed using multiple standards. One being from Section 46-69 of the City Code of Ordinances and the second being from Section 46-655 from the variance review standards. Coy then read from the power point slides the staff findings in the following areas.

Section 46-69(4) of the Cadillac City Code states that in consideration of a variance, the Zoning Board of Appeals shall first determine that the proposed variance will not result in conditions which:

Standard – *The variance will not impair an adequate supply of light and air to adjacent property.*

Finding – There should be no impact on light and air to adjacent properties.

Standard - *The requested variance will not unreasonably increase congestion in public streets.*

Finding – The proposed request and site plan should not impact traffic congestion on public streets.

Standard – *The requested variance will not increase the danger of fire or endanger the public safety.*

Finding – Public safety should not be affected. Better maintenance of the tall vegetation may improve site lines for neighborhood safety.

Standard – *The requested variance will not unreasonably diminish or impair established property values within the surrounding area.*

Finding – A new home on the site may improve neighboring property values.

Standard – *The requested variance will not impair the public health, safety, comfort, morals, or welfare of the inhabitants of the city.*

Finding – Construction of a new home should not impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City of Cadillac.

Coy next brought up for discussion the review standards relating to reconstructing a structure on a nonconforming lot or with nonconforming setbacks after demolition. It is in the Code of Ordinances under Section 46-655(d) parts (1) and (9). Part nine reads as follows.

- (9) *Structures which are nonconforming due to their having an insufficient setback may not be reestablished in their nonconforming condition in any zoning district after damage or destruction , if the estimated expense of reconstruction exceed 50 percent of the value, except with approval of the board of zoning appeal.*

Part (1) reads as follows.

- (1) *No such nonconforming use of structure or land shall be enlarged, increased, extended or altered to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the ordinance from which this chapter is derived. An exception to this restriction can be made where an otherwise lawful structure exists that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure of its location on the lot, the zoning board of appeals may approve the reestablishment, expansion, alteration, or extension upon evidence of demonstrable hardship or practical difficulty resulting from conditions which do not exist generally throughout the zone.*

Coy said that in his opinion there may be a condition that does not exist throughout the immediate neighborhood. The four closest properties to 604 Lake Shore have lots that exceed the 12,500 square foot minimum within the R-1 zoned district. Each of the four neighbors would

be able to build a home the size Mr. Minor wishes to build without a variance because 3,774 square feet is less than 30 percent of their lot sizes.

Coy also showed a GIS photo where he hi-lighted nonconforming properties or properties with nonconforming setbacks in this R-1 zoned neighborhood. Over 50 percent of the neighborhood properties have some form of nonconformity.

Coy said that notification of the public hearing on this application was given via first-class mail to all property owners and residents within 300 feet of the subject site and a notice of the hearing was placed in the Cadillac News. These notices were provided not less than 15 days prior to the hearing date.

Coy met with two neighbors at the site. The neighbors live at 605 and 606 Lake Shore Drive. After walking the property and looking at the proposed site plan neither had any problems. Having a survey prior to the beginning of construction was discussed. Also a third neighbor who lives at 609 Lake Shore Drive came to City Hall and read the staff report. He mentioned that when he built his garage which has a nonconforming rear yard setback the city allowed it but required it to be 20 feet off the street curb line so that a vehicle could park behind the garage and not stick out into the street.

Coy concluded with “based on a finding of compliance or non-compliance with the standards of the ordinance, the Board shall approve, approve with conditions, or deny the variance application.” Reasonable conditions may be attached to an approval in order to achieve compliance with the standards of the ordinance. Coy feels that if the variance is granted there should be two conditions included.

1. Prior to construction a survey of the property needs to be done by a licensed surveyor.
2. The setback from the rear yard (west) lot line which abuts Lake Shore Drive needs to be at least 20 feet.

Discussion began and neighbor William Potvin who lives at 610 Lake Shore Drive spoke. Mr. Potvin said he is in favor of the project, said it will be nice to have a neighbor living there and feels it will increase property values in their immediate neighborhood.

Dean Dekryger, Architect with DK Design spoke. Mr. DeKryger said the only additions to the current square footage of the home will be a sunroom on the east lake shore side and extending the garage on the west to accommodate longer personal vehicles which is becoming the construction industry standard for new homes. Nichols asked for more specifics on the size of the garage area and the need to have adequate room between the garage and street. He added that he measured his extended pickup truck and with the trailer hitch it measured 25 feet. He doesn't think a 20 foot setback is enough. DeKryger explained that part of the larger size will be to accommodate a number of items that people would normally put in a shed. Engels asked if an extension of eleven feet, four inches was needed to accommodate the vehicles?

Bontrager asked about the condition of the current foundation. DeKryger said the foundation is sound and there are no signs of leakage in the basement.

Mr. Minor spoke and said he wants the construction done right and understands the need for a larger rear yard setback.

There being no additional public comments, Chairman Nichols closed the public speaking portion of the hearing and asked board members for a motion.

After discussion Bontrager made a motion to approve the applicants request for a variance and allow for Mr. Minor to construct a new home after demolition of the old home and use the footprint of the current home and its nonconformities with the following condition. 1. A professional survey must be done prior to any new construction. Support by Engels. On a roll call vote, the motion passed unanimously

Engels made a second motion to approve the applicants request for a variance and allow for all buildings on the property to take up to 35percent of the lot square footage with the following conditions. 1. A survey is required before new construction. 2. None of the current nonconforming rear yard and side yard setbacks can be expanded. He felt the demonstrated hardship or practical difficulty is the unusual lot size. Neighboring properties are larger and they would be able to build the size home that Mr. Minor wishes to build without needing a variance. Support by Bontrager. On a roll call vote the motion passed unanimously

Coy was asked a question and he explained that the ordinance does allow for nonconforming setbacks to be extended just not expanded without ZBA approval.

Additional discussion brought up the need in the motion to establish a minimum setback between Lake Shore Drive and the garage of 20 feet. DeKryger asked for a clarification on the extended setback of the northeast corner of the home in case it is closer than 20 feet to the west lot line.

Engels made a third motion asking for an attachment to his previous motion. There must be at least a 20 foot setback between the new garage and Lake Shore Drive to the west. The current setback of the northwest corner is unknown at this time without a survey. Support by Ault. On a roll call vote the motion passed unanimously.

PUBLIC HEARING

A Zoning Variance application has been filed by Sharon Cronkhite 937 Wheeler Street, Cadillac, MI 49601 to permit a reduction in a required side yard setback for the construction of a 480 square foot detached accessory building/garage. The purpose is to allow for the construction of a garage which would be located one foot from the north property line at 937 Wheeler Street requiring a variance of two feet.

APPLICANT

Sharon Cronkhite
937 Wheeler Street
Cadillac, MI 49601

The property site is described as N 1/2 LOT 10 & S 37 1/2 FT LOT 11 BLK 252 SMITH & ERNST ADD, CITY OF CADILLAC (Tax Identification Number 10-091-00-114-00). As noted, the common address is 937 Wheeler Street, Cadillac, MI 49601

Sharon Cronkhite and her husband attended.

Chairman Nichols referred the matter to staff for comment.

Mike Coy, Community Development Analyst, presented a **summary of the ZBA staff report**. In the report Coy noted the following information had been included in the report: variance application, site plan, GIS aerial photos, and site photographs.

The property is located in an R-3 One-Family Residential zoned district. Surrounding properties to the east, south, and north are all also zoned R-3. Immediately west of the Cronkhite property is the Clam River and Clam River Greenway pathway.

Coy using a power point presentation showed multiple pictures of the site and explained that Ms. Cronkhite chose this location near the property line to the north as being the site in the rear yard that would require the least fill dirt and preparation for the foundation of the 480 square foot garage she would like to have built. He added that there are nine items in the Accessory Building regulations under Section 46-656(1-9) that apply before a site plan is approved. The Cronkhite's site plan meets all but one it is item (4) which stipulates that accessory buildings can be no closer than three feet from any side or rear lot line.

He added that two sets of standards apply for reviewing the variance request. One is from Section 46-69(b)(4) in the City Code of Ordinances. The second standard is from Section 46-69(b)(2) which reads as follows.

Standard - *To authorize, upon an appeal, a variance from the strict application of the provisions of this chapter where by reason of exceptional narrowness, shallowness, shape or area of a specific piece of property at the time of enactment of this chapter or by reason of exceptional conditions of such property, the strict application of the regulations enacted would result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon the owner of such property, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this chapter. In granting a variance, the board may attach thereto such conditions regarding the location, character, and other features of the proposed development as it may deem reasonable in furtherance of the purpose of this chapter. In granting a variance, the board shall state the grounds upon which it justifies the granting of a variance.*

Finding – A possible practical difficulty may be one that is caused by the topography of the back yard with its slope to the west.

Section 46-69(4) of the Cadillac City Code states that in consideration of a variance, the Zoning Board of Appeals shall first determine that the proposed variance will not result in conditions which:

Standard – *The variance will not impair an adequate supply of light and air to adjacent property.*

Finding – There should be no impact on light and air to adjacent properties.

Standard - *The requested variance will not unreasonably increase congestion in public streets.*

Finding – The proposed request will not impact traffic congestion on Wheeler Street.

Standard – *The requested variance will not increase the danger of fire or endanger the public safety.*

Finding – Public safety should not be affected.

Standard – *The requested variance will not unreasonably diminish or impair established property values within the surrounding area.*

Finding – A new garage at 937 Wheeler will increase the property value here and possibly the immediate surrounding homes.

Standard – *The requested variance will not impair the public health, safety, comfort, morals, or welfare of the inhabitants of the city.*

Finding – Construction of a detached garage should not impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City of Cadillac.

Coy concluded by saying that one condition staff would recommend if the variance request is approved is that a survey of the property is needed before construction. Nichols opened the meeting for discussion.

Ms. Cronkhite spoke and said they have had a professional survey done within the past year. She also said that they met with the neighbor to the north and they are fine with the proposed location.

Engels spoke and questioned why a two foot variance is needed when there is ample room in the back yard for the garage to be built. Allen added that he sees no reason to move the garage closer than the required three foot setback. With no more discussion Nichols closed the public comment.

Engels made a motion to deny the side yard variance request of two feet for a detached garage. Stating that he does not see a practical difficulty or hardship in locating the garage three feet

from the property line. Support by Allen. The motion to deny the variance request passed by a three to two vote. Allen, Bontrager, and Engels voted yes. Ault and Nichols voted no.

NEW BUSINESS

Election of officers to the Zoning Board of Appeals for 2016.

Ault said Nichols has done a good job as their chairperson and asked if would be willing to continue. He said yes and Ault made a motion to keep the officers of this board the same for 2016 leaving Nichols as Chairperson and Ault as Vice Chair. Supported by Bontrager. The motion passed unanimously.

Public Comments, other business, board member comments - None

ADJOURN

Chairperson Nichols adjourned the meeting at 6:40p.m.