



MEETING MINUTES
Cadillac Zoning Board of Appeals
5:30 P.M.
May 16, 2019

CONVENE MEETING

Chairperson Nichols called to order a meeting of the Cadillac Zoning Board of Appeals at 5:30 p.m. on May 16, 2019.

ROLL CALL

MEMBERS PRESENT: Nichols, Genzink, Paveglio, Bontrager, and Knight
MEMBER ABSENT: Ault & Walkley
STAFF PRESENT: Coy

APPROVAL OF MEETING AGENDA

Motion by Knight to approve the May 16, 2019 agenda. Supported by Genzink. The motion was unanimously approved on a roll call vote.

APPROVE THE MARCH 21, 2019 MEETING MINUTES

Motion by Genzink to approve the March 21, 2019 meeting minutes as presented. Support by Knight. The motion was unanimously approved on a roll call vote.

Nichols turned the meeting over to Coy. Using a power-point presentation Coy went through the staff report prepared for this public hearing.

PUBLIC HEARINGS

A Variance Application from Joyce and John Taylor, 726 Washington Street, Cadillac for a side yard setback variance of six feet on the east side of their home for the construction of an attached two car garage. The home currently sits 24 feet from the east property line and 51 feet from the curb on Higgins Street.

The Taylors attended this meeting and was available to answer questions and explain the project.

Using a power point Coy showed a picture of the southeast corner of the home where the garage is to be built. The picture showed the location of two sliding glass doors on the south side of the home. The lower level door exits to a patio and the upper level has a deck. Coy added that the property has a significant slope that runs downhill from the west to east. Coy also showed a GIS aerial of this corner lot at Washington and Higgins Streets. The property line is off the curb line quite a bit and the paved portion of the road appears narrow in relation to the city right-of-way which is 66 feet. The property line is approximately 27 feet west of the Higgins Street curb.

Coy read the standard in Section 46.69(2) from the City Code of Ordinances that reads “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.”

Finding -

Next Coy went over the standards in Section 46-69(4) of the Cadillac City Code. He added that the findings are in the opinion of staff. The standards state 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 – The requested variance is not anticipated to impair an adequate supply of light and air to adjacent properties.

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

Finding – The requested variance will have no impact on traffic volumes. Higgens Street dead ends just north of Washington Street and the additional paving for a new garage will increase off street parking by a couple spots.

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

Finding – The requested variance will not increase the danger of fire or endanger the public safety. Both the building inspector and Fire Marshall will need to sign off on an occupancy permit.

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

Finding – Staff feels this will have no impact on 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 – The requested variance is not anticipated to impair the public health, safety, comfort, morals, or welfare of the inhabitants of the city.

PUBLIC NOTICES

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 15 days prior to this meeting as was a notice placed in the Cadillac News. It was also posted on the City Website.

Coy concluded his presentation 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.

Nichols opened the meeting to public comments.

Mr. Taylor spoke and asked that the variance be granted. They want to have an attached garage and the location where they want to have it built is a logical one. Pavigleo asked if the two slider doors on the rear of the home were there when they moved in. The answer is yes. Mrs. Taylor spoke and said they did not realize when they purchased the home that their lot was not wider.

There being no other public comments or questions from this Board of Appeals, Nichols asked for a motion.

Genzink made a motion to approve the request from the applicant for a side yard variance of six feet to construct an attached two car garage on the east side of the Taylor’s home. Support by Bontrager. The motion passed with a unanimous vote.

PUBLIC HEARINGS

A variance application from John and Josh Wright the owners of Wright’s Custom Body Shop located at 1216 Leeson Avenue, Cadillac to put up their 50 square foot pole sign that they used at their business when it was in Haring Township.

John Wright was present at the meeting as was the Office Manager Alexandria Sian to answer questions.

Coy spoke and explained that the 50 square foot sign was used previously by Wright’s Custom Body Shop when they were located on Plett Road in Haring Township. The City of Cadillac sign ordinance allows for pole signs up to 32 square feet in our I-1 Light Industrial districts. The applicant is asking for an 18 square foot variance to be able to have the pole sign installed. Coy also handed out section 46-667(j) from the sign ordinance which specifically addresses standards for a sign variance.

Coy read the standard in Section 46.69(2) from the City Code of Ordinances that reads “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.”

Finding – Coy referenced Section 46-664(j)(3)(f) from the sign ordinance which was in the handout. It specifically reads; “The term “hardship” shall not be deemed financial hardship relating to the cost of the sign or the size of the sign or to the fact that the sign has already been constructed, or the fact that the sign is only available in standardized sizes and/or materials.”

Next Coy went over the standards in Section 46-69(4) of the Cadillac City Code. The standards state 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 – The requested variance is not anticipated to impair an adequate supply of light and air to adjacent properties.

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

Finding – The requested variance should not have an impact on traffic volumes.

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

Finding – The requested variance will not increase the danger of fire or endanger the public safety. The installation will need to meet all setback requirements and need an electrical permit.

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

Finding – Staff feels this will have no impact on 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 – The requested variance is not anticipated to impair the public health, safety, comfort, morals, or welfare of the inhabitants of the city.

Coy also spoke about a section of our ordinance that is unique to signs which Paveglio brought to Coy’s attention. In Chapter 46, Division II under Section 46-667(j)(3)(f) & (g). The two read as follows “(f) The term “hardship” shall not be deemed financial hardship relating to the cost of the sign or the size of the sign or to the fact that the sign has already been constructed,”. (g) reads “The alleged hardships and practical difficulties, or both, which will result from a failure to grant the variance must include substantially more than mere inconvenience, or mere inability to attain a higher financial return.”

Coy showed pictures of the neighboring Group Beneteau Boat Manufacturing site's outdoor storage immediately north of the Wright Custom Body Shop location. He added that if the variance were to be granted the applicant would need to meet the height and setback standards for pole signs in an I-1 Light Industrial District.

Coy also said that Wright's Custom Body Shop after purchasing the property needed to go before the Planning Commission (PC) for a Special Land Use (SLU) to have a body and paint shop at the site. The SLU was granted by the PC and the Wright's had to spend a great deal of money to meet all the building, electrical, and Michigan Fire Codes before operating at the site.

Nichols opened the floor for discussion. John Wright spoke and said they are here because they want to do this right and have worked with our Fire Marshal on other code issues.

Office Manager, Alexandria Sian for Wright's Custom Body Shop spoke and said the eye sore of the neighboring boat manufacturing outdoor storage area is a problem and that people often drive past their business without seeing the building as it's set back from the road. They've spent over \$130,000 to meet all the building and fire codes and need for people to better see their business from the road. She added that ingress, egress is also a problem and they plan to add a proper curb cut and entry off the street.

Knight spoke and said he feels this is less of a sign size issue but maybe more of a marketing need. Alexandria said they do advertise on the radio, Facebook, and Google. Nichols added that he has a similar issue with people driving past his business and not noticing his building or sign. Knight added the question "would a 32 foot sign do the job"? He believes it would.

Paveglio spoke and reminded everyone that the Planning Commission and City Council made the sign ordinance. The ZBA's role is to follow the ordinance not make changes. He brought up the rejection of the Temple Hill Baptist Church variance application for the pole sign they wished to have constructed. "It's not our role" to make changes to the ordinance.

Knight told the applicants not to take his opinion personal but that the ZBA's role is to interpret the ordinance. We should not be setting a precedent by allowing changes. Genzink asked if as a condition for approval could include landscaping. Coy said yes. Paveglio asked the question what is the "practical difficulty?" Sian spoke and said they wish for people to notice their business.

Bontrager spoke and brought up that the City of Cadillac sign ordinance is outdated. He wishes it was more current. Coy added that the sign ordinance we have is dated to the early 1980's and there have only been a couple amendments to it in the past 30 years.

Nichols closed the public comments and asked for a motion.

Genzink made a motion to grant the variance of 18 square feet for the 50 square foot sized pole sign to be used at Wright's Custom Body Shop with a condition that a landscaping plan be submitted to the Zoning Administrator (Coy) for the area in front of the business. Support from Bontrager.

The vote was split 3 to 2 in favor with Bontrager, Nichols, and Genzink voting yes. Paveglio and Knight voted no.

STAFF COMMENT

After the vote Coy spoke to the representatives from Wright's Custom Body Shop and the ZBA Board Members. He said that while the 3 to 2 vote is in favor of approval there are votes for approval in the ZBA Charter that require a minimum of four votes for passage. This may be one of them. He will verify with the City of Cadillac's legal council then will be in contact with both the applicants and the ZBA.

BOARD MEMBER COMMENTS –

Nichols spoke briefly about etiquette at our meetings and asked that we all be aware when others are speaking. He asked that we try not to interrupt when we're having our open discussions.

ADJOURN

Chairperson Nichols adjourned the meeting at 6:31.

Attached to these minutes will be a copy of the letter mailed to Wright's Custom Body Shop explaining the reason for the denial of their application. The letter was drafted by Coy and edited by legal council at Foster, Swift.