



**MEETING MINUTES
Cadillac Zoning Board of Appeals
5:30 P.M.**

October 15, 2020 Virtual Meeting on GoToMeeting.com

CONVENE MEETING

Chairperson Nichols called to order a meeting of the Cadillac Zoning Board of Appeals at 5:30 p.m. on October 15, 2020.

ROLL CALL

MEMBERS PRESENT: Nichols, Ault, Knight, Paveglio, and Bontrager

MEMBER ABSENT: Genzink & Walkley

STAFF PRESENT: Coy, Zoning Administrator

Applicant's Judith and David Porter participated remotely as did their neighbor John Saari.

APPROVAL OF MEETING AGENDA

Motion by Knight to approve the October 15, 2020 agenda. Support by Paveglio. The motion was unanimously approved on a roll call vote.

APPROVE THE AUGUST 20, 2020 MEETING MINUTES

Motion by Knight to approve the August 20, 2020 meeting minutes as presented. Support by Ault. The motion was unanimously approved on a roll call vote.

Nichols turned the meeting over to Coy. Coy used a power point presentation while describing the Variance Application.

PUBLIC HEARINGS

A variance application from David and Judith Porter who live at 211 Iroquois Place asking that the administrative decision by Mr. Coy to not allow them to construct an accessory structure on the lot they own at 208 Iroquois Place be overturned by the Zoning Board of Appeals.

Coy mentioned the letters dated June 16th, June 30th, and July 16th that Mr. Porter sent to his office. These letters were included in the meeting packets the Zoning Board of Appeals received. He said that there is now a fourth letter he received via email at 5:07 pm today (23 minutes before this meeting started) from Mr. Porter. Mr. Porter left a voice message on Coy's office phone at 4:47 pm telling him he would like this fourth letter given to the ZBA to read.

Coy said that the request from the Porter's to construct a 1,280 square foot structure on a vacant lot in a residential zoned district is not unique in that our office often receive inquiries from people who ask about vacant lots. A common question is can we build a pole barn or accessory building on the vacant lot if we purchase it? We first check the zoning and if the lot is in a residential zoned district the answer is no. If the lot is in a commercial district such as light-industrial, then the

answer is yes. The Porter's home at 211 Iroquois Place and the vacant lot at 208 Iroquois Place are both in a R-3 one-family residential zoned district. My decision to deny their request to build the accessory structure on the vacant lot was based on Sections 46-656(2) and Section 46-69(2) from the zoning ordinance. I do not feel there is an exceptional practical difficulty or hardship for the Porter's because they can right now build up to an 855 square foot accessory structure in the rear yard of their home and not need a variance. Coy added he believes a wood shop may also be disruptive to neighbors because of noise. Coy then read the first sentence from the Zoning Ordinance in Section 46-162(a) which reads, "The R-1 through R-4 one-family residential districts are designed to be the most protective of the residential districts."

The standard in Section 46-656(2) from the City Code of Ordinances reads, "Buildings accessory to a residential building shall not be erected in any required yard, except a rear yard."

The standard in Section 46-69(2) from the City Code of Ordinances 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."

PUBLIC NOTICES

Coy said that notification of the public hearing on this application was published in the local newspaper and sent via first-class mail to all property owners and residents within 300 feet of the subject site not less than 15 prior to the meeting. One neighbor contacted his office with a general question and did not express an opinion either for or against the project.

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.

Knight asked who owned the shaded portion (vacated ROW) on the aerial GIS. Coy answered the Porters. Knight also asked who owned the property east of the vacant lot. Coy answered it is not the Porters and the lot east of the Porters is for sale.

Mr Saari spoke and talked about the definition of a Zoning Lot. He feels that the vacant lot across from the Porter's home is a part of their front yard. He added that a Zoning Lot can be an odd shape and feels the Porter's should be able to build on the lot as long as the 18 foot front yard setback is met. Coy mentioned that the Porter's have adequate room to build an accessory structure behind their home in the rear yard. Saari added that an accessory structure can be in any required yard. Coy said he feels its common sense that a person's rear yard is in the area behind their home. Coy added that the R-1 through R-4 residential districts are the most protective of all the districts.

Mr. Porter spoke and asked for his letter sent to the ZBA (at 5:07 pm today) be brought up on the screen. He specifically wanted to talk about the definition of “*Zoning/Lot*”. Coy said he looks at lots at the end of Iroquois as he would a cul-de-sac. Porter asked Coy to read the definition of a Zoning Lot. Coy did and said he doesn’t see what it has to do with an accessory structure in a residential district. Coy again mentioned that the residential districts are to be the most protected.

Mrs. Porter spoke and said there are six to seven properties in their area that have accessory structures not in the rear yard. She added that she believes their neighbors could build a structure on the lot at 208 Iroquois Place if they purchased it and feels this makes it an exceptional condition.

Saari spoke and said he feels Coy’s interpretation is wrong. He added a structure can be built in any required yard and the Porter’s property should be treated as one lot.

There being no other public comments or questions from this Board of Appeals.

A motion was made by Knight to deny the Porter’s application requesting they overturn the Zoning Administrators decision. Knight added that he does not want this board to set a precedent that could negatively affect the future this neighborhood. Support from Ault. On roll call vote all five attending members of the Zoning Board of Appeals voted unanimously to up-hold the Zoning Administrator’s ruling.

Nichols spoke and let the Porter’s know that appeals to a Zoning Board of Appeals decision are to be taken to Circuit Court.

BOARD MEMBER COMMENTS –None

ADJOURN

Chairperson Nichols adjourned the meeting at 6:09 pm.