



Agenda
City of Charlevoix Zoning Board of Appeals Regular Meeting
Wednesday, August 16, 2023 - 6:00 PM
Council Chambers, 210 State Street, Charlevoix, MI

- 1. Call to Order**
- 2. Roll Call/Pledge of Allegiance**
- 3. Inquiry Regarding Conflicts of Interest**
- 4. Approval of Agenda**
- 5. Approval of Minutes**
 - A. Minutes from June 15, 2022 and August 17, 2022
- 6. New Business**
 - A. Public Hearing for Applicant Jim and Mary Lou Hodge
 - i. Staff Presentation
 - Exhibit 1. Variance Application
 - Exhibit 2. Site pictures and map
 - Exhibit 3. Site Plan (proposed)
 - Exhibit 4. Misc documents
 - ii. Applicant presentation (if requested)
 - iii. Call for public comment
 - iv. ZBA determination of findings of fact
 - v. Motion
- 7. Public Comment**
- 8. Adjourn**

Persons with disabilities who need an accommodation to fully participate in these meetings should contact the City Clerk's Office at 231-547-3250 or by email clerk@charlevoixmi.gov. A 24-hour notice may be needed for certain accommodations. An attempt will be made to grant all reasonable accommodations requests.

Charlevoix Zoning Board of Appeals

Approval of Minutes

Title: Minutes from June 15, 2022 and August 17, 2022

Date: August 16, 2023

Presented By:

Background:

Recommendation:

Motion to approve the minutes as presented.

Attachments:

1. ZBA Draft Meeting Minutes 06/15/2022
2. ZBA Draft Meeting Minutes 08/17/2022

City of Charlevoix
Zoning Board of Appeals Regular Meeting minutes
Wednesday, June 15, 2022 - 6:00 PM
Council Chambers, 210 State Street, Charlevoix, MI

1. Call to Order

The meeting was called to order at 6:00 p.m. by Vice Chair Timothy Kish.

2. Roll Call/Pledge of Allegiance

Vice Chair: Timothy Kish
Members Present: Shirley Gibson, Ann Gorney, Patricia Miller
Members Absent: Richard Hodgson
Staff Present: Janet Koch, Zoning Administrator

3. Inquiry Into Potential Conflicts of Interest

None.

4. Approval of Agenda

Motion by Member Gibson, seconded by Member Miller to approve the agenda as presented.

Motion carried by unanimous voice vote.

5. Approval of Minutes

A. Minutes from the April 20, 2022 ZBA meeting

Motion by Member Gibson, seconded by Member Gorney to approve the minutes of the April 20, 2022 ZBA meeting as presented.

Motion passed by unanimous voice vote.

B. Minutes from the May 18, 2022 ZBA meeting

Motion by Member Miller, seconded by Member Gorney to approve the minutes of the May 18, 2022 ZBA meeting as presented.

Motion passed by unanimous voice vote.

6. Old Business

A. Public Hearing for Applicant **2022-05 ZBA**. Dimensional variance request from William and Beverly Barton - 401 Antrim Street

1. Staff presentation

Zoning Administrator Koch stated that the variance involves the existing garage on the south side of the property and it was a request to use it as an accessory dwelling unit (ADU). The applicant is requesting a variance from §153.117(D)9(b) of the Zoning Ordinance which defines the dimensional requirements for ADUs. The variance requested is a 4'4" side yard variance and a 6' front/side yard variance to allow a change of use for an existing structure.

On May 9, 2022, the Planning Commission approved a Special Use for the property of a bed and breakfast establishment with the condition that the applicant provide topographic information regarding stormwater runoff to the Zoning Administrator.

Zoning Administrator Koch stated that there were letters of public comment included in the packet and that she had received several phone calls and a number of people did stop by the office to review the application and plans. Zoning Administrator Koch stated the residents directly across the street were in favor of it, the other residents expressed they had no concerns with the project, and one was not in favor.

Zoning Administrator Koch stated that she did want the ZBA to note that this is a non-conforming structure because it's inside of the setbacks under §153.290, however an ADU is in fact a use by right in the current zoning district, so there is essentially a conflict between those two different things. The possibilities for an ADU without the variance do exist, it would be possible for the applicant, instead of getting a variance, to remove the existing structure and to build a new one outside of the setbacks and be in full compliance. She stated that the ZBA should focus on the standards and not have short-term rentals be a part of the discussion.

2. Applicant presentation (if requested)

Beverly Barton stated that they bought the property from the Staley family last year and did their due diligence and received a special use permit from the Planning Commission. She stated that she was of the understanding after reading the Zoning Ordinance that they cannot rent out the garage and it was not their intention to rent the garage space. Their intent was to have a bed and breakfast in the main building and that they would live in the accessory dwelling unit (garage). She stated they have started to install the plumbing and they have put in the bedroom, bath and utility sink and they are coming before the ZBA for a variance because the Staleys owned both properties and that's probably why the garage was built 6" off the property line. She stated that they needed the kitchen to be able to live there and serve the bed and breakfast.

Discussion followed regarding the need for the kitchen to be outside of the main structure, not blocking the driveway with space for one vehicle inside the garage, and the possibility of two (2) current existing parking spaces which would cover the sidewalk,

3. Call for public comments

RJ Waddell, Planning Commission Chair, stated that he was glad to hear about the garage, there was no sidewalk along Sherman Street, and there were two driveways, one to the house and one to the garage. He stated that as an accessory dwelling unit it would be rentable, long-term or as a short-term rental. The way the bed and breakfast rules are written, it cannot be a rental as part of the bed and breakfast. Mr. Waddell stated that the Planning Commission approved the special use permit with the condition that they wanted a drainage map of the property. He stated the plan submitted by the Barton's architect showed that half of the garage that's being proposed as the ADU has an overhang over the neighbor's yard. Discussion followed regarding the issue of half of the building drains onto the adjoining property and the conditions placed on the special use approval.

Public comments were closed.

4. ZBA determination of findings of fact

Vice Chair Kish read each of the Findings of Fact and the Commission reviewed the staff recommendations included in the staff report as well.

Extraordinary Circumstances: No change.

Substantial Justice: Member Gibson felt that the owner can reasonably use the property without a variance.

Impact on the Surrounding Neighborhood: No change.

Public Safety and Welfare: No change.

Not Self-Created: Vice Chair Kish stated the property itself was purchased with the intent of using it as a bed and breakfast and it was known when the building was purchased that it was a non-compliant building. He stated it was clear that it did not meet the standards for an ADU when the property was purchased. Member Gorney agreed the garage had been in existence for many years, was built on the lot line and was not self-created.

Member Gibson read an excerpt from the ZBA Manual which stated, "our authority to allow people to break the law by granting variances should be used wisely, sparingly, and appropriately within the context of the community's planning and zoning framework. When the rules are consistently applied and enforced, all parties can know what to expect. When the ZBA is asked to change the rules as applied to a given site, this consistency is jeopardized. Our decisions can and will impact people and property throughout the community." Member Gibson stated the applicant should have gotten everything in place before the purchase so that no variances were necessary.

Zoning Administrator Koch stated that it is a use by right in R-2, but it is also a non-compliant structure.

Beverly Barton summarized the reasoning behind their choice to request the variance and what they could do if the variance was not granted. She stated that they did their research before the purchase and had spoken to the former Zoning Administrator in depth about their project.

RJ Waddell, Planning Commission Chair, stated five years ago when the Planning Commission established ADU's and when they created specifications for ADU's, it was for new construction, and he remembered someone asking about someone who already has a building that is out of compliance could that become an ADU, and the response at the time was to let the ZBA take care of that as it would be on a case by case situation.

Member Gorney questioned if the corner lot issue with two front yards would meet the substantial justice standard. Member Gibson stated that they weren't preventing the use of the property, but the owners wanted to do more than what's allowed. Zoning Administrator Koch stated that if the applicants built the ADU within the setbacks and inside the current building envelope, then there would be no need for the variance. The ADU itself would meet the setbacks inside of a non-conforming building in that scenario.

5. Motion

Motion by Member Gibson, seconded by Vice Chair Kish to deny Project 22-05 ZBA based on specific findings of fact that prove that the project does not meet the review standards in 153.038(F).

Motion failed by a 2 to 2 vote with Member Gibson and Vice Chair Kish voting in favor of the motion, and Members Gorney and Miller voting against the motion.

Motion by Member Gorney, seconded by Member Miller to approve Project 22-05 ZBA with the condition that there be no drainage onto neighboring properties and that there would not be a rental of the ADU based on specific findings of fact that prove that the project does meet the review standards in 153.038(F).

Motion failed by a 2 to 2 vote with Member Gorney and Member Miller voting in favor of the motion, and Member Gibson and Vice Chair Kish voting against the motion.

7. New Business

None.

8. Call for General Public Comment

None.

9. Adjournment

Vice Chair Kish adjourned the meeting at 7:35 p.m.

Sarah Dvoracek/fgm Clerk

Timothy Kish Vice Chair

City of Charlevoix
Zoning Board of Appeals Regular Meeting minutes
Wednesday, August 17, 2022 - 6:00 PM
Council Chambers, 210 State Street, Charlevoix, MI

1. Call to Order

The meeting was called to order by Chair Hodgson at 6:00 p.m.

2. Roll Call/Pledge of Allegiance

Chair: Richard Hodgson
Members Present: Shirley Gibson, Ann Gorney, Tim Kish, Patricia Miller
Members Absent: None
Staff Present: Janet Koch, Zoning Administrator

3. Inquiry Into Potential Conflicts of Interest

Member Gibson stated that she did receive a notice of public hearing because she is within 300' of the applicant, but she had no conflict of interest.

4. Approval of Agenda

Chair Hodgson stated at the last meeting he attended he volunteered to write a letter to the Planning Commission about the height issue. Zoning Administrator Koch stated that the letter was provided to the Planning Commission and they are still working through the building height question that was addressed by the ZBA. Chair Hodgson asked to add an item regarding the height issue to Old Business.

Motion by Member Gorney, seconded by Member Miller to approve the agenda with the height issue added to Old Business.

Motion carried by unanimous voice vote.

5. Approval of Minutes

A. Minutes from the June 15, 2022 ZBA meeting

Member Gibson indicated that she had read an excerpt from the Zoning Manual that she requested be part of the minutes and it was not included and it was near the end of the meeting. Motion by Member Kish, seconded by Member Gibson to table (postpone) approval of the minutes from June 15, 2022 pending review by staff.

Motion passed by unanimous voice vote.

6. Old Business

A. Height Issue

Chair Hodgson read the letter he provided to the Planning Commission which stated, "the ZBA met last week (May 18th) where it was resolved that I should write you about an apparent error in the City Ordinance, Chapter 153, Planning & Zoning, the first business item on the agenda was interpretation of the building height definition in Section 153.005 (d), the interpretation was pretty straight forward but reveals what appears to be an error in the latest amendment affecting that definition. I refer to reference Ordinance 821 & 823. The

issue is the factor that impacts plans to build a rooftop deck onto 205 Bridge Street. The suggested correction to the building height definition is pretty simple, change the first instance of mechanical and elevator equipment to mechanical equipment and life safety features. Life safety features were added by Ordinance 821 in 2020, but not included in Ordinance 823 in 2021 which re-stated the definition with added treatment for large dormers. I suspect this omission was inadvertent and the suggested correction would simply restore the applicable verbiage from Ordinance 821."

7. New Business

A. Public Hearing for Applicant 22-08 ZBA - Dimensional variance request for 218 Belvedere

Staff presentation: Zoning Administrator Koch stated this request was for a front porch addition across the front of an existing house and a kitchen addition on the back. As proposed, it would require a 1.9' front/street side yard variance and a 3.6' interior side setback variance. She stated that it was an unusual shaped lot at 50' wide x 200' sloping down to Belvedere Avenue. She stated she had received a total of public comments and all were in favor of granting the variances.

Applicant presentation: Jodi Alger-Bergman representing the owners, Scott and Christine Galbreath, stated the house currently encroaches on both sides and they want to extend the Round Lake side so they can enjoy the property more. She stated the present kitchen at the back of the house is 7.8' wide and they would be removing the large deck that sits in the back. The home has been a rental in the past and was not in good shape and the current owners want to live in the home year-round.

Call for public comments: Stephen Lasky, 214 Belvedere Avenue, stated he reviewed the plans and he fully supports the variance request.

Christine Galbreath stated their intent was not to create a monstrosity, but they wanted to make the house a little more comfortable for their family of four and guests. They need the home to be a livable year-round home and they want it to look in a similar style like the other homes on the hill.

Member Kish stated he did not recall a similar situation during the time he was on the ZBA. Member Gorney stated they did something similar with a property on the corner of Garfield and May St.

ZBA determination of facts: Zoning Administrator Koch stated she had asked Jodi Alger-Germann about how she wanted the requests laid out and she had wanted them as two separate requests - #1 - Kitchen and #2 - Porch.

Chair Hodgson proceeded to read through the Findings of Fact:

Extraordinary Circumstances:

#1 Kitchen and #2 Porch - The ZBA finds that the need for the requested variance is due to unique circumstances regarding the property. The ZBA finds that this standard is met as a

result of the combination of the property's unusual feature of three street sides with the non-conforming placement of the existing house. Zoning Administrator Koch stated this was a through lot with two front setbacks and not a rear setback, so it's actually 15' on three sides.

Substantial Justice: Member Gibson questioned if the owner could reasonably use the property without a variance and if the porch had to be the whole length of the house. Chair Hodgson stated the idea that they are staying within the plane of the existing building is consistent with what is described in the Code and it would be compliant. Chair Hodgson read Section 153.293 of the Zoning Code which read: "No building or non-conforming structure may be enlarged or altered in a way that increases its non-conformity except in cases in which the setback of a building or structure is non-conforming by 50% or less of the distance required by this Chapter. Only in these cases may the non-conforming setback be extended along the same plane as the existing non-conforming setback provided that in doing so the setback itself is not further reduced." Chair Hodgson stated the Board would still need to grant the variance, but they should approve because of this language. Chair Hodgson wanted to cite the subject language as part of substantial justice.

Discussion followed regarding the self-created issue, right of use, and the legal non-conforming issue.

Chair Hodgson suggested the following change to the Finding of Approval - #1 Kitchen: The ZBA finds that this request for an expansion of an allowed use is a long-standing tradition in the community. The ZBA finds that the variance meets the standard as, due to current setback requirements, the residence does not have space to expand while maintaining the home's architectural integrity. The ZBA also finds that maintaining quality exterior architecture is a community value. The changes remain within the same plane as the existing structure in accordance with Section 153.293 (A)(1) of the Zoning Code as previously read.

Under Findings of Approval - #2 Porch: the sentence that stated, "the ZBA also finds that the removal of the deck at the home's southwest corner is equivalent to the square footage of the porch addition on the northwest and thus does not increase the side of the non-conformity on the west side" was removed.

Impact on the Surrounding Neighborhood: No changes.

Public Safety and Welfare: No changes.

Not Self-Created: No changes.

Motion by Member Gorney, seconded by Member Kish to approve project ZBA-22-08 without conditions, based on specific findings of fact that prove that the project does meet the review standards in 153.038 (F), and we approve due to Section 153.293 (A)(1) of the Zoning Ordinance.

Motion passed by unanimous roll call vote.

8. Call for General Public Comment

9. Adjournment

Chair Hodgson adjourned the meeting at 7:07 p.m.

Sarah Dvoracek/fgm City Clerk

Richard Hodgson Chair

Charlevoix Zoning Board of Appeals

New Business

Title: Public Hearing for Applicant Jim and Mary Lou Hodge

Date: August 16, 2023

Presented By: Jonathan Scheel, Zoning Administrator

Background:

The Zoning Board of Appeals will evaluate a variance application to construct an attached garage at 110 W. Upright Avenue. The applicant is requesting two setback variances from the requirements defined in 153.072(b) of the City of Charlevoix Zoning Ordinance; a rear setback variance of 18 feet and an interior side setback of 5 feet.

Recommendation:

Attachments:

1. notification list
2. application
3. pictures 1
4. letter and fee
5. 23-1 Staff Report110 W Upright

BIS Rental LLC	X	4589 Greenwood Rd	Potosky	MI	49720	703	BRIDGE
Kaczmarek Properties LLCs		4613 Hillsdale Dr	Auburn Hills	MI	48326-4305	102	HURLBUT W
Michael Ochs		104 Hurlobut W	Charlevoix	MI	49720	104	HURLBUT W
Michael Hedges		106 Hurlobut W	Charlevoix	MI	49720	106	HURLBUT W
Property owners		108 Hurlobut W	Charlevoix	MI	49720	108	HURLBUT W
Mathew Shindorf		1212 Upright St W	Char	MI	49720	110	HURLBUT W
GILLESPIE MARILYN	0	507 STATE ST	CHARLEVOIX	MI	49720	507	STATE ST
FLYNN DANIEL J	0	805 BRIDGE ST	CHARLEVOIX	MI	49720	805	BRIDGE ST
FERRY JOHN & SARAH	0	1505 FORT CLARK BLV	GAINESVILLE	FL	32606	705	BRIDGE ST
DARNELL CHERYL K	0	603 STATE ST	CHARLEVOIX	MI	49720-1318	603	STATE ST
CLOSSON CHAD WILLI/O		103 GARFIELD AVE W	CHARLEVOIX	MI	49720-1755	103	GARFIELD AVE W
CHARLEVOIX HOME TCO		305 W HURLBUT #23	CHARLEVOIX	MI	49720	807	BRIDGE ST
CALDWELL MELINDA A/O		112 UPRIGHT AVE W	CHARLEVOIX	MI	49720	112	UPRIGHT AVE W
BEATTIE JANET R DECIO		114 LINCOLN AVE W	CHARLEVOIX	MI	49720	114	LINCOLN AVE W
BALASZ JAY DDS & KRIO		419 MICHIGAN AVE	CHARLEVOIX	MI	49720	707	BRIDGE ST
2000 BAUM FAMILY TRIO		08345 RASPBERRY LN	CHARLEVOIX	MI	49720	103	LINCOLN AVE W
William Simpson		104 Lincoln Ave W	Char	MI	49720	104	LINCOLN AVE W
Shirley Gillespie		102 Lincoln Ave W	Char	MI	49720	102	LINCOLN AVE W
Timothy Turner & Christine		701 State St	Char	MI	49720	701	State St
Nancy Staky		203 State St	Char	MI	49720	203	STATE ST
Diana Hikey		503 State St	Char	MI	49720	503	STATE ST

46 properties
45 letters

WILSON CAROLE LISA	2203 COVENTRY AVE	LAKELAND	FL	33803	108	UPRIGHT AVE W
WIEDMAIER ROBERT J	47255 S CHIGWIDDEN	NORTHVILLE	MI	48167	106	LINCOLN AVE W
WHITLEY JASON G & LIP	08220 SUSAN SHORE	CHARLEVOIX	MI	49720	107	GARFIELD AVE W
WHITEHEAD JOSEPH G	211 AUDUBON BLVD	NAPLES	FL	34110	111	LINCOLN AVE W
WHITEHEAD JOSEPH C	10405 OLD PLANTATIO	EVANSVILLE	IN	47725	113	LINCOLN AVE W
STRZYZERSKI JOSHUA	412 BURNS	CHARLEVOIX	MI	49720	107	UPRIGHT AVE W
STOUT RICHARD P & LIP	514 FARINE DR	IRVING	TX	75062	505	STATE ST
SLATER JOHN B	106 W UPRIGHT AVE	CHARLEVOIX	MI	49720	106	UPRIGHT AVE W
SILVA ARNOLD R JR & LIP	303 MASON ST	CHARLEVOIX	MI	49720-1226	704	STATE ST
SCHNELZ KURT E & MAD	5971 BLANDFORD RD	BLOOMFIELD HILLS	MI	48302	801	BRIDGE ST
ROBERTS MERLIN DWAD	10 SUNBEAM PLACE	SPRING	TX	77381	607	STATE ST
RAJAN GEORGE E & MIP	66 BUNNY TR	SAGINAW	MI	48638	112	LINCOLN AVE W
PLUMB CRAZIER LLC	103 UPRIGHT AVE W	CHARLEVOIX	MI	49720	103	UPRIGHT AVE W
OOSTMEYER MARK & JO	894 WESTHILLS DR	SOUTH LYON	MI	48178	102	UPRIGHT AVE W
OOSTMEYER MARK & JO	804 WESTHILLS DR	SOUTH LYON	MI	48178	104	UPRIGHT AVE W
MORROW LINDY	MORROW CHARLES D, 1101	LINCOLN AVE W	MI	49720	101	LINCOLN AVE W
MILLER MICHAEL A & SP	109 W UPRIGHT AVE	CHARLEVOIX	MI	49720	109	UPRIGHT AVE W
MC CARTHY JUSTIN & JIP	1103 ADAMS ST	HOLLYWOOD	FL	33019	107	LINCOLN AVE W
MARTIN JAMES T & BEJ	105 W GARFIELD AVE	CHARLEVOIX	MI	49720-1617	105	GARFIELD AVE W
MALETTE STEPHEN R JIP	2698 LOWELL RD	ANN ARBOR	MI	48103-2244	108	LINCOLN ST W
KRUGER FREDERICK E JIP	601 STATE ST	CHARLEVOIX	MI	49720-1318	601	STATE ST
KATKOWSKY JEFFREY JIP	8660 HENDRIE BLVD	HUNTINGTON WOODS	MI	48070	605	STATE ST
HOWARD DEREK J	2173 RANDALL LN	BLOOMFIELD HILLS	MI	48304	105	UPRIGHT AVE W
HODGE MARY LOU	401 W 10TH ST	SANFORD	FL	32771	110	UPRIGHT AVE W
HENNINGER MATTHEW JIP	212 W HURLBUT	CHARLEVOIX	MI	49720	506	STATE ST



OFFICE USE ONLY	
Case #	<u>ZBA 23-1</u>
Date Rec'd	<u>6/27/23</u>
Fee Rec'd	<u>6/27/23</u>
Receipt #	<u>1660514</u>

Office of Planning and Zoning
210 State Street Charlevoix, MI. 49720
planner@charlevoixmi.gov
www.charlevoixmi.gov
(231)547-3265

VARIANCE APPLICATION

Jim: Mary Lou Hodge 110 W Upright
Applicant Address of subject property

110 W Upright Charlevoix 49720
Address (City/State/Zip)

Mary Lou Hodge
Property Owner Name (If different than applicant)

401 W 10th St Sanford FL 32771
Property Owner Address (City/State/Zip) (If different than address of subject property)

Property Owner Phone (407) 314-3036 Email haruynana17@gmail.com

Agent Phone () - - - - - Email _____

Current Zoning of subject property: _____

Current Use of Property: (Example: Single Family, Duplex, Apartments, Commercial)
Single family

Date of original construction (If known): 1914

Please describe the type of construction or proposed use for a use variance:

Pop Barn garage

Dimensions of proposed construction excluding eaves: 20' x 30'

Total square footage of proposed construction: 600

Height of proposed construction to the top of the roof: _____

Height of proposed construction to the midpoint of the roof for gabled roof: _____

Roof Type: (Examples: Gable, Hip, Gambrel, Mansard, Flat) Gable

Variance Requested: Front Yard Setback _____ feet from front property line.

Rear Yard Setback 7' feet from front property line.

Side Yard Setback 3' feet from front property line.

Lot Coverage: Request _____% coverage.

Use Variance Requested: Yes No If yes please describe the proposed

use: garage

What hardship or practical difficulties exist that prevents the property owner from being able to meet the requirements of the Zoning Ordinance?

size: location of house on property: a shared driveway

Attach a scale drawing of the proposed construction. Please be as detailed as possible, as this will be used to determine if a variance can be approved in accordance with the Zoning Ordinance. Corrections or additions may be required by the Zoning Administrator to determine compliance with the Zoning Ordinance.

Include all of the following:

- Lot or parcel dimensions. 6,000 sq ft +/- 102' x 60'
- Existing building and dimensions, excluding eaves. 957
- Proposed building and dimension, excluding eaves. 600
- Front, site, and rear yard dimensions.
- Dimensions between existing and/or proposed buildings.
- Location and dimensions of all impervious surfaces including structures, sidewalks, driveways, patios, etc.

- Name of nearest road, easement, or dedicated right-of-way.
- Scale, North arrow.

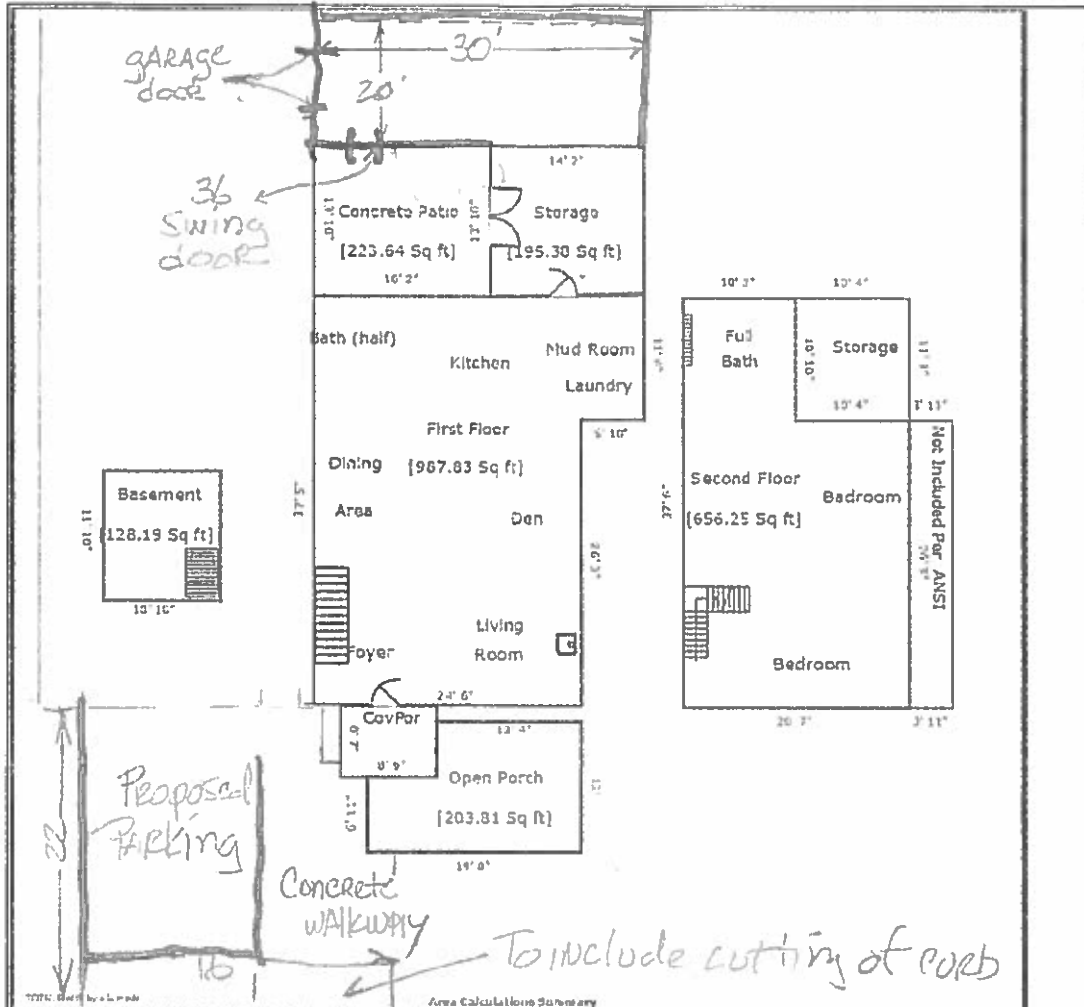
AFFIDAVIT: I agree the statements made above are true, and if found not to be true, any Zoning Board of Appeals ruling that may be issued may be void. Further, I agree that any Zoning Board of Appeals ruling and subsequent permit that may be issued is issued with the understanding that the individual(s) in receipt of that ruling/permit will comply with all applicable sections of the City of Charlevoix Zoning Ordinance. Also, I agree to notify the City of Charlevoix Zoning Administrator before the start of construction and when locations of proposed uses are marked on the ground so that the Administrator may perform a site inspection. Further, I agree to give permission for officials of the City of Charlevoix, the County, and the State of Michigan to enter the property subject to this permit application for purposes of inspection. Also, I understand any zoning action by the Zoning Board of Appeals conveys only land use rights, and does not include any representation or conveyance of rights in any other statute, building code, deed restriction, or other property rights. I understand that the ZBA may impose conditions of approval and I agree to meet those conditions as outlined in the Decision and Order.

Signed: Mary Lou Hodge
Date: 6-7-2023

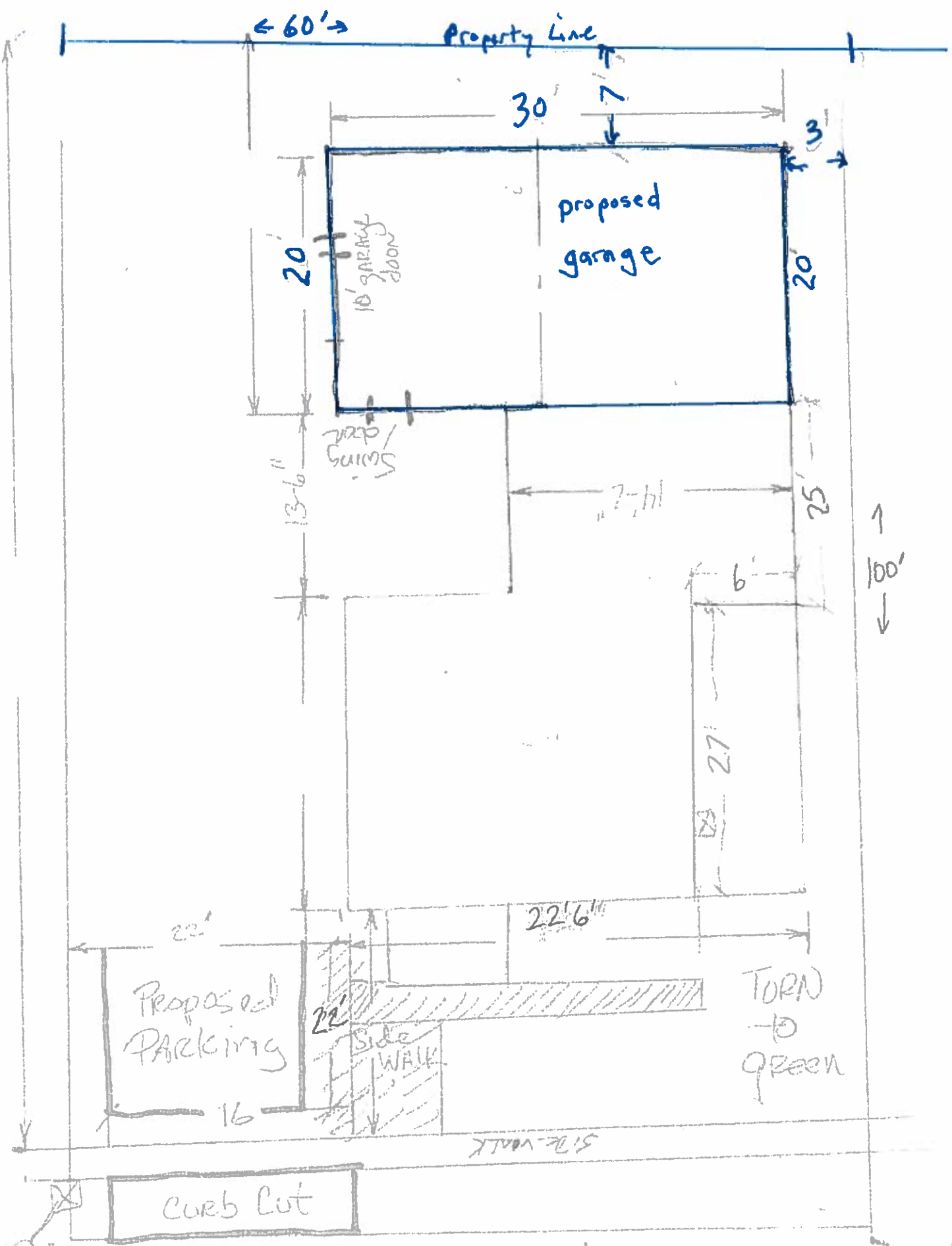
SKETCH ADDENDUM

File # 01531001

Borrower/Client MARY HODGE
 Property Address 110 W Upright St
 City Charlevoix County Charlevoix State MI Zip Code 49720-1323
 Lender The Huntington National Bank



Area Calculations Summary		Calculation Details	
Living Area	967.83 Sq ft	0.5 x 24.5 x 0.00	= 1.02
First Floor		24.5 x 26.15	= 640.67
		30.25 x 11.33	= 343.78
		0.5 x 24.17 x 0.33	= 2.36
Second Floor	656.25 Sq ft	10.37 x 11.25	= 115.5
		25.25 x 20.0	= 505.0
Total Living Area (Rounded):	1644 Sq ft		
Non-living Area			
Open Porch	203.81 Sq ft	6.92 x 6.23	= 43.01
		12 x 13.23	= 158.76
Cov Por	57.6 Sq ft	0.75 x 6.20	= 4.65
Storage	195.30 Sq ft	13.75 x 14.17	= 194.79
		0.5 x 11.12 x 14.17	= 78.47
Concrete Patio	223.64 Sq ft	16.17 x 13.83	= 222.61
Basement	128.19 Sq ft	10.63 x 11.80	= 125.19



↑ 100' ↓

GAS

110 APRIL ST 497-314-3036

Dim Mod

N ↓

6000 sqft







Letter of Intent
In Support of Request for Variance to Build Garage

James & Mary Lou Hodge
401 W 10th St, Sanford, FL 32771
7-21-2023

City of Charlevoix
Office of Planning and Zoning
210 State St, Charlevoix, MI 49721

Dear Planning & Zoning Members,

I am writing to request a variance to add a building to my property at 110 W Upright, my childhood home. These circumstances are causing significant hardship, which I believe could be alleviated by this addition.

The need for an additional building arises from lack of space for motorcycles, tools, and storage. Due to the shape and narrowness of the lot and house placement it leaves little to no options. With retirement near and moving back to Charlevoix full-time attaching would be more accessible during winter months.

Adding a building to the back of the house (see drawing and pictures) would mitigate these issues by giving a place to store summer and wintertime recreational gear. I believe this addition would not only benefit me, but also add value to the property and be aesthetically pleasing.

The granting of the variance will not have any effect on any adjoining properties. The variance would be consistent with the adjoining properties and their additions.

I understand that changes such as these require careful consideration. I am more than willing to provide any additional information necessary.

Thank you for your time and consideration.

Sincerely,
Jim & Mary Lou (Hooker) Hodge

210 State Street
Charlevoix MI 49720 (231) 547-3261

Receipt No: 1.660514 Jun 27, 2023

110 W URIGHT

Zoning
Sign Variance 300.00
101-000-476.000
LICENSES & PERMITS

Total: 300.00

Credit Cards - Zoning 300.00
Payor:

110 W URIGHT
Total Applied: 300.00

Change tendered: .00

06/27/2023 12:45 PM



OFFICE OF PLANNING AND ZONING
Jonathan Scheel, Zoning Administrator
210 State Street Charlevoix, MI. 49720
planner@charlevoixmi.gov
Phone: (231)547-3265

**ZONING BOARD OF APPEALS
STAFF REPORT**

AGENDA ITEM:	<u>ZBA 23-01 Variance Request for 110 W. Hurlbut Ave.</u>
PUBLIC MEETING DATE:	August 16, 2023, 6:00 PM
PRESENTED BY:	Jonathan Scheel, Zoning Administrator

EXHIBITS:	<ol style="list-style-type: none">1. Notifications2. Variance application dated 6-07-20233. Site plans4. City of Charlevoix Zoning Ordinance, adopted 1-17-2022.
------------------	---

1. PROPOSAL

The applicant is requesting a variance for parcel ID 052-363-002-00 from §153.072(B) of the City of Charlevoix Zoning Ordinance which defines the dimensional requirements in single-family and two-family zoning districts. The variance requested is an 18’ rear yard variance and a 5’ interior side setback variance. The setback standards in the R-2 District are:

Front yard setback.....	15 feet	Interior Side yard setback.....	8 feet
Rear yard setback.....	25 feet	Street side setback.....	15 feet

The purpose of this Staff Report is to evaluate this proposal against the procedures and criteria outlined in Chapter 153 of the City of Charlevoix Zoning Ordinance, adopted January 17, 2022.

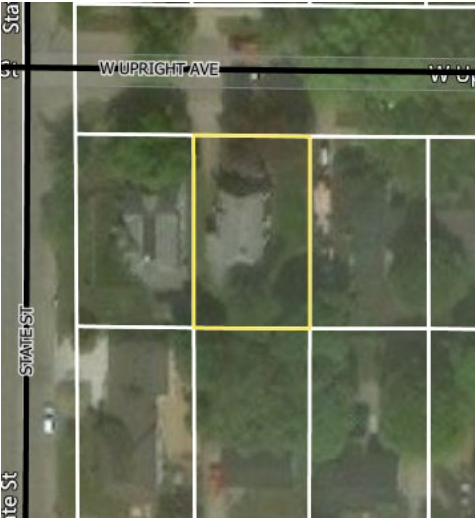
2. BACKGROUND

The variance application was submitted on June 27, 2023; the applicant was amenable to the ZBA considering the application at their meeting of August 16. The notice of public hearing was published in the Charlevoix *Courier* on July 28, 2023, and mailed to property owners within 300 feet of this parcel on July 26, 2023.

The Zoning Administrator reviewed this proposal. No other City staff was asked for input for this project.

3. SITE

The subject property is located at 110 W. Hurlbut Ave. The tax description is: “Lot 2 of Block 3 of Masons Addition to Charlevoix.” The parcel has dimensions of 60’ x 100’, with an area of 6,000 square feet.



*Aerial imagery obtained from
Charlevoix County website 7-26-2023*



*Aerial imagery obtained from
Google Earth 7-26-2023*



*Photos of
110 W. Upright Ave.
taken
7-27-2023*

4. STAFF ANALYSIS

Staff opinion concerning this variance request is that the ZBA will have to evaluate the findings of fact below. At this time, staff does not have any recommended conditions of approval.

5. REVIEW STANDARDS - FINDINGS OF FACT - CONDITIONS OF APPROVAL

Regarding dimensional variances, § 153.038 (F)(1) of the Zoning Ordinance states that:

The ZBA, after holding a public hearing in accordance with the requirements of the Zoning Act, shall have the power to grant requests for dimensional variances from the provisions of this chapter where it is proved by the applicant that there are practical difficulties in the way of carrying out the strict letter of this chapter relating to the construction, equipment or alteration of buildings or structures, or of storm water management requirements so that the spirit of this chapter shall be observed, public safety secured and substantial justice done. §153.038(F)(1)

Section 604(7) of Public Act 110 of 2006, the Zoning Enabling Act as amended, states in part that: “If there are practical difficulties for nonuse variances...in the way of carrying out the strict letter of the zoning ordinance, **the zoning board of appeals may grant a variance in accordance with this section, so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done.**”

During the public hearing on August 16, 2023, the role of the ZBA is to make findings of fact to determine if the variance request meets the following standards. The ZBA must find that the variance proposal meets all the following standards based on findings of fact before considering a motion to approve. **Staff has drafted findings of fact of approval and of denial as a starting point for discussion.** The ZBA may add, modify, or delete any of the following findings on the hearing date.

General findings of fact for:	
#1) Garage addition request	18’ rear setback variance
#2)	5’ interior side setback variance

§ 153.038(F)(2) states that a dimensional variance may be allowed by the ZBA only in cases where the applicant has shown a practical difficulty in the official record of the hearing. **The applicant must prove that all of the following conditions have been met.**

- (a) Extraordinary Circumstances. Exceptional or extraordinary circumstances or conditions may include: 1) Exceptional narrowness, shallowness, small size or shape of a specific property on the effective date of this chapter; (2) Exceptional topographic conditions or other extraordinary situation on the land, building or structure; and (3) The use or development of the property immediately adjoining the property in question, whereby the literal enforcement of the requirements of this chapter would involve practical difficulties. § 153.038(F)(2)(a)

Finding of Approval - #1
The ZBA finds that the need for the requested variance is due to unique circumstances regarding the property. The ZBA finds that this standard is met as a result of the existing legal nonconforming

homes length leaves very little room in the rear yard which substantially reduces the property’s buildable area.

Finding of Denial - #1

The ZBA finds that extraordinary circumstances standard has not been met as the property is not

exceptionally narrow or shallow and that it is similar to most other lots in the neighborhood.

Finding of Approval - #2

The ZBA finds that the need for the requested variance is due to unique circumstances regarding the property. The ZBA finds that this standard is met as a result of the existing legal nonconforming home is built 3' from the west property line which substantially reduces the property's buildable area.

The ZBA finds that extraordinary circumstances standard has not been met as the property is not exceptionally narrow and there is potential to build a garage without a side yard variance in the easterly side yard

Finding of Denial - #2

- (b) Substantial Justice. Compliance with the strict letter of the restriction's governing area, setbacks, frontage, height, bulk, density or other dimensional provisions would unreasonably prevent the use of the property. Granting of a requested variance or appeal would do substantial justice to the applicant as well as to other property owners in the district and such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. Any variance granted shall be the minimum necessary to allow the preservation of these substantial property rights. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance. § 153.038(F)(2)(b)

Finding of Approval - #1

The ZBA finds that a request for a garage is a long-standing tradition in the community. The ZBA finds that the variance meets the standard as, due to current setback requirements, the residence does not have space to build a garage within the current setbacks of the Zoning Ordinance.

The ZBA finds that denying the request for an allowed use of a garage into current setbacks is reasonable as there are other avenues for property owner to pursue that would provide the same expansion without the need for a variance.

Finding of Denial - #1

Finding of Approval - #2

The ZBA finds that a request for a garage is a long-standing tradition in the community. The ZBA finds that the variance meets the standard as, due to current setback requirements, the residence does not have space to build a garage within the current setbacks of the Zoning Ordinance.

The ZBA finds that denying the request for an allowed use of a garage into current setbacks is reasonable as there are other avenues for property owner to pursue that would provide the same expansion without the need for a variance.

Finding of Denial - #2

- (c) Impact on the Surrounding Neighborhood. The variance will not be detrimental to adjacent property and the surrounding neighborhood or interfere with or discourage the appropriate development, continued use or value of adjacent properties and the surrounding neighborhood as compared to other uses in the neighborhood. §153.038(F)(2)(c)

Finding of Approval - #1

The ZBA finds that the request will be of minimal impact and similar to existing homes in the neighborhood. The ZBA finds that the request meets

this standard as it will not have a negative impact on the adjacent property owner or the neighborhood.

Finding of Denial - #1

None.

Finding of Approval - #2

The ZBA finds that the request will be of minimal impact and similar to existing homes in the neighborhood. The ZBA finds that the request meets this standard as it will not have a negative impact on the adjacent property owner or the neighborhood.

Finding of Denial - #2

The ZBA finds that the applicant's request does not meet the standard as it would be detrimental to the adjacent property due to the request for a 5' interior side setback variance.

- (d) Public Safety and Welfare. The granting of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or endanger the public safety, comfort, morals or welfare of the inhabitants of the city. §153.038(F)(2)(d)

Finding of Approval - #1

The ZBA finds that the standard is met as the applicant's request will not negatively affect public safety and welfare.

Finding of Denial - #1

None.

Finding of Approval - #2

The ZBA finds that the standard is met as the applicant's request will not negatively affect public safety and welfare.

Finding of Denial - #2

None.

- (e) Not Self-Created. The immediate practical difficulty causing the need for the variance request was not self-created by the applicant or previous owners of the subject property. §153.038(F)(2)(e)

Finding of Approval - #1

The ZBA finds that the standard is met as the applicant's request is not self-created due to the home being constructed inside current setback requirements long before current regulations were put in place.

Finding of Denial - #1

The ZBA finds that the standard is not met as the applicants could build in other areas of the parcel.

Finding of Approval - #2

The ZBA finds that the standard is met as the applicant's request is not self-created due to the home being constructed inside current setback requirements long before current regulations were put in place.

Finding of Denial - #2

The ZBA finds that the standard is not met as the applicants could build in other areas of the parcel.

Section 504 of Public Act 110 of 2006, the Zoning Enabling Act as amended, states the following:

- (4) Reasonable conditions may be required with the approval of a special land use, planned unit development, or other land uses or activities permitted by discretionary decision. The conditions may include conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:

- (a) Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being, of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

- (b) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- (c) Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in the zoning ordinance for the land use or activity under consideration and be necessary to ensure compliance with those standards.

6. ZBA ROLE AND OPTIONS

The City of Charlevoix Zoning Board of Appeals has the following options for the variance application, project ZBA 23-01 for 110 W. Upright Ave:

1. Deny project ZBA 23-01 based on specific findings of fact that prove the project does not meet the review standards in 153.038 (F).
2. Approve project ZBA 23-01 without conditions, based on specific findings of fact that prove the project does meet the review standards in 153.038 (F).
3. Approve project ZBA 23-01 with conditions, based on specific findings of fact that prove the project does meet the review standards in 153.038 (F).
4. Postpone the decision on project ZBA 23-01.