

**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.

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Sarah Dvoracek/fgm    City Clerk

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Richard Hodgson    Chair