

City of Charlevoix
Zoning Board of Appeals Regular Meeting Minutes
Wednesday, August 16, 2023 - 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 Chair Hodgson.

2. Roll Call/Pledge of Allegiance

Chair: Richard Hodgson
Members Present: Shirley Gibson, Ann Gorney, Tim Kish, Patricia Miller, Dan Reed,
Alternate Member
Members Absent: None
Staff Present: Jonathan Scheel, Zoning Administrator

3. Inquiry Regarding Conflicts of Interest

None.

4. Approval of Agenda

Chair Hodgson stated that he would like to add an item to elect officers since this was their first meeting of 2023 and Members concurred to add the item right after approval of the agenda.

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

Motion passed by unanimous voice vote.

A. Election of Officers for 2023

Chair Hodgson stated he would volunteer again to be Chair and Tim Kish stated that he was fine with serving as Vice Chair.

Motion by Member Gorney, seconded by Member Gibson to nominate Richard Hodgson as Chair and Tim Kish as Vice Chair.

Yeas: Gibson, Gorney, Miller, Reed

Nays: None

Absent: None

Abstain: Hodgson, Kish

Motion carried.

5. Approval of Minutes

A. Minutes from June 15, 2022 and August 17, 2022

Motion by Member Miller, seconded by Member Kish to approve the minutes of June 15, 2022 and August 17, 2022 as presented.

Motion passed by unanimous voice vote.

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

Staff Presentation:

Zoning Administrator Scheel presented the staff report for Applicant ZBA 23-01 for 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 variance of 5 feet. Mr. Scheel proceeded to review the specifics of the staff report and findings of fact.

Applicant presentation:

Mr. Hodge stated there is a parking issue there now because there are cars parked in front of the house everyday and he and his wife will have two cars and one could be parked in the garage during the winter. Mr. Hodge stated there was no place to put any of their summer and winter recreational items on the property without a garage. Mr. Hodge stated the garage would improve the property and make it more presentable and attaching it to the house would allow them to access it in the winter.

Member Miller questioned why the garage could not be built on the east side of the home instead of the back of the lot and Mr. Hodge stated that would block access to the back yard.

Member Gibson stated that if the garage was built in the backyard they would not have a backyard, and she questioned what the hardship was of such a huge structure. Mr. Hodge stated that the garage was 600 sq. ft., which is not that large and it gives them a place to park the car in the winter time and a place to put their motorcycles and make them their home.

Member Gorney questioned where he kept the equipment now and Mr. Hodge stated he lives in Florida and he has a 3-year plan to move back to Michigan and the equipment is now stored in Florida.

Member Kish questioned if staff knew the reason for the dramatic difference between a setback for a detached vs. attached structure and Zoning Administrator Scheel stated that provision has been in the Zoning Ordinance for many years and to his knowledge, because of the overall structure it becomes much larger as one unit and the ordinance would permit the structure to be further away from a property line than a smaller accessory structure. Discussion followed regarding placing the garage on the east-west side of the house vs. the rear of the home. Mr. Hodge stated that there are several homes and accessory structures near his home that are close to or on the property line.

Zoning Administrator Scheel stated there was a memo he provided that talks about the

variances requested between 2013 and 2023 showing approvals and denials and reasons for the same. Discussion followed regarding a variance request on a non-conforming lot vs. one for a conforming lot.

Call for public comment:

Zoning Administrator Scheel stated that they did have four (4) letters from residents regarding the request which were included in the agenda packet.

ZBA determination of findings of fact:

Member Kish stated they have in the past allowed variances for setbacks for garages to be added to properties. Member Gibson stated the property in question was 10' wider than a normal R-2 piece of property, it's 60' wide. Chair Hodgson stated the parcel is 10' more than the minimum width. Member Gibson questioned if Mr. Hodge could build a garage on this property without a variance. Chair Hodgson stated he could build a smaller detached garage.

Member Gorney questioned if there was a technical difference between a garage and a storage unit and Zoning Administrator Scheel responded that they are called accessory structures (anything that is not a livable space).

Chair Hodgson proceeded to review the Findings of Fact regarding the request for an 18' rear yard variance:

- Extraordinary circumstances - Finding of Denial - The ZBA finds that the 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.

Motion:

Motion by Member Gibson, seconded by Member Kish to deny Applicant ZBA 23-01 requesting an 18' rear yard set back variance based on specific findings of fact that prove the project does not meet the review standards in 153.058 (F)(1) of the Zoning Ordinance.

Motion passed by roll call vote:

- **Member Kish - Aye**
- **Member Gibson - Aye**
- **Member Gorney - Aye**
- **Member Miller - Aye**
- **Chair Hodgson - Aye**

Chair Hodgson proceeded to review the Findings of Fact regarding the request for a 5' interior side setback variance:

- Extraordinary circumstances - Findings of Denial - The ZBA finds that the 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.

Motion:

Motion by Member Gibson, seconded by Member Kish to deny Applicant ZBA 23-01 requesting a 5' interior side setback variance based on specific findings of fact that prove the project does not meet the review standards in 153.058 (F)(2A) of the Zoning Ordinance.

Motion passed by roll call vote:

- **Member Kish - Aye**
- **Member Gibson - Aye**
- **Member Gorney - Aye**
- **Member Miller - Aye**
- **Chair Hodgson - Aye**

7. Public Comment

None.

8. Adjourn

Motion by Member Gibson, seconded by Member Gorney to adjourn the meeting at 7:08 p.m.

Motion passed by unanimous voice vote.

Sarah J. Dvoracek/fgm Clerk

Richard Hodgson Chair