

City of Charlevoix
Zoning Board of Appeals Regular Meeting Minutes
Wednesday, August 27, 2025 - 6:00 PM
Council Chambers, 210 State Street, Charlevoix, MI

1. Call to Order

Chair Hodgson called the meeting to order at 6:00 p.m.

2. Roll Call/Pledge of Allegiance

Chair: Richard Hodgson

Members Present: Shirley Gibson, Ann Gorney, Tim Kish (alternate), Dan Reed

Members Absent: Patricia Miller

Staff Present: Jonathan Scheel, Director of Planning & Zoning

3. Inquiry Regarding Conflicts of Interest

None

4. Approval of Agenda

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

Motion passed by unanimous voice vote.

5. Approval of Minutes from

A. Minutes from August 21, 2024

Chair Hodgson questioned Member Reed's comments as reflected on page 6 of the minutes under Substantial Justice, which read: "Member Reed stated there would not be the same utilization of the property in the sense that real estate is going to be reduced with a solution that reduces or eliminates the variance." Member Reed stated that his comment was regarding the use of the front portion of the property for parking with a support structure for the deck and that from his perspective it didn't appear to be viable, and his statement should be removed and the Board concurred.

Motion by Member Reed, seconded by Member Gibson to approve the minutes of August 21, 2024, as amended.

Motion passed by unanimous voice vote.

6. Election of Officers

Member Gibson nominated Richard Hodgson as Chair.

Motion by Member Gibson, seconded by Member Gorney to elect Richard Hodgson as Chair and Dan Reed as Vice Chair.

Motion passed by unanimous voice vote.

7. New Business

A. Public Hearing for Case 25-01 115 W Hurlbut

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. Director Scheel stated the applicant is proposing constructing a two-story addition on an existing single-story legal, non-conforming structure. The structure has had many uses over the years, most recently as a school. The front of the building is not currently being used; the rear of the building is constructed differently and is being used as an indoor sports complex. The existing structure is built on two property lines, the front and the side, any additions, footprint or height changes would need a variance. The existing parking area is also legal non-conforming as it is in the setbacks, which is not allowed in the Commercial Mixed Use District.

Director Scheel stated the applicant is requesting seven (7) different variance requests for this property. The two-story addition is being proposed to be used as residential units. Mr. Scheel reviewed the seven (7) variances, which included:

- 1) a 10' interior west side setback variance
- 2) a 15' front yard setback variance
- 3) a 4'4" rear setback variance
- 4) an expansion of a non-conforming structure
- 5) a 4' maximum height variance
- 6) an off-street parking side yard variance
- 7) an off-street parking rear setback variance

Director Scheel stated the setbacks in that district are 15' front and 20' rear, an interior side yard setback of 10', and a maximum height of 35'. Mr. Scheel stated the parcel is 128' x 214.5', which is approximately 27,456 sq. ft.

Applicant presentation. Paul Silva, Property Owner, stated he has had a couple of other projects in Charlevoix and that he and his wife have approached their other projects ~~have been~~ **recognizing** where there is a need, they provide a solution. Mr. Silva stated when they built the Earl, ~~he stated that~~ it was a way to help the community and bring guests to town with a different level of hotel experience. ~~and~~ With the Irene space at the Methodist Church, there were a couple of needs identified when that building came up for sale — workforce housing (14 units) and an event space. Mr. Silva stated that the other need in town is housing and with this project he was proposing year-round, affordable housing with 25 units. The units would include 7 studios (\$900 a month range), 8 one-bedrooms (\$1,200 a month range) and 10 two-bedroom units (\$1,400 per month).

Mr. Silva stated that they were not looking to expand the footprint of the building, but they wanted to add two stories to the existing structure with a pitched roof vs. a flat roof. The other part of the project is the former gymnasium, which is part of the former school and the concept was to create a family fun center (arcade games, bowling, and golf simulators, etc.).

Member Gorney questioned if the footings of the existing structure would hold the addition of two stories to the building and Mr. Silva responded that his architect believes it can, but if needed, beams could be added to take care of the load. Member Gibson questioned the appearance of the outside of the building and Mr. Silva stated it would be re-sided and landscaped. Mr. Silva stated his goal was to turn an empty, under-utilized building into a beautiful property for people to live in. Mr. Silva responded to additional questions.

Call for public comment.

Kirk Ikens, 108 W. Hurlbut, stated he was very appreciative of what Mr. Silva was trying to do with his projects. Mr. Ikens stated that his concerns were with allowing the building to go straight up into a transition zone from the downtown and walling off the street. Mr. Ikens stated he was also concerned about parking issues on the public street with so many units.

Sherm Chamberlain, 210 E. Lincoln, stated he used to own a building at 103 W. Upright and that building was only a couple of feet from the lot line, and didn't meet other zoning requirements. Mr. Chamberlain stated the Planning Commission revised the lot size of the Commercial Mixed Use District because it was determined that 86% of the lots in the District did not comply with the 9,000 sq. ft. minimum requirement. Unfortunately, the Planning Commission did not look at building setback lines, and he believed that staff should take an inventory of the buildings that were constructed in the Commercial Mixed Use District and see how many actually comply with the Zoning Ordinance and see if any changes were warranted.

John Kurtz, 712 E. Dixon, referenced the need for housing in town and the need for housing for permanent residents and people who are employed in this area is extremely important, and he would ask the Board to please consider this application very seriously and approve it with adjustments as needed. Mr. Kurtz stated he would like to see some type of restriction to require year-round residency in at least some of the units.

Mr. Silva responded that it was his intention that the units be used by local residents. Mr. Silva stated he has another property with 24 units in East Jordan and not one of those units is rented to anyone downstate and that the lease agreements would be a minimum of 12 months.

ZBA determination of findings of fact. Director Scheel advised that he drafted findings of fact of approval and of denial as a starting point for the Board's discussion. Mr. Scheel stated the first four (4) variance requests potentially had similar findings. Chair Hodgson stated the first three (3) variance requests were the way the property exists today as legal non-conforming, so it's ok to keep it like it is; but any change is an expansion to the non-conforming structure.

4. request, 153.293 A (1), expansion of a non-conforming structure. Director Scheel stated that Section 153.293 A (1) of the Zoning Ordinance is in the non-conforming section states that you cannot expand a non-conforming structure and that ties into the first three (3) variance requests. The Board has denied requests based on that section of the Ordinance in the past.

Director Scheel referenced the General Findings of Fact included in the staff report for variances (1-4).

1. Extraordinary Circumstances. Director Scheel read the description of extraordinary circumstances and proposed language for a finding of approval or denial for the Board's consideration. Chair Hodgson stated that he was inclined to think that the property did have extraordinary circumstances. A brief discussion occurred regarding parking requirements. Chair Hodgson stated the Board should probably not yet have the discussion on parking as this is more about the practical difficulties that have been identified in expanding the building on the existing footprint. Member Gibson stated the applicant can and is using the property without a variance.

Chair Hodgson questioned if they had agreement on whether extraordinary circumstances existed; Member Gibson stated that she did not believe so. Member Gorney stated she did think the lot was a sufficient size, but asked, does that terminology include the existing structure?

Director Scheel stated that that was the argument and that the Board would have to review it as a whole. Member Kish asked for help understanding where this situation would meet #1 and #2 under extraordinary circumstances and Member Reed stated the only way he could look at that was if the Board considered a non-conforming structure extraordinary, and it depends on what extraordinary means in that context. Member Kish stated that the property itself was not a small, non-conforming property. Member Gibson stated in the 1950's the building was used as a Kroger store and then Bartlett Furniture was there for quite a few years. Member Kish stated that he did not see how it would meet this criteria. Chair Hodgson stated that they were spending more time on this finding when it appeared that they were going to fail the next criteria under Substantial Justice. Chair Hodgson stated that the way the building was on the property is kind of exceptional and hard to work with, and it's going to be a challenge to engineer and make what's proposed work. Member Gorney stated that she believed there was an extraordinary circumstance in where and when the building was placed on the property, Member Reed agreed.

Finding of Fact: The ZBA finds that the need for the requested variance is due to unique circumstances regarding the property. The structure is a legal non-conforming building built prior to the zoning ordinance. The ZBA finds that this standard is met as a result of the existing legal non-conforming structure with the remaining lot being needed for parking, which substantially reduces the property's buildable area. Consensus was 4 to 1 with Member Gibson disagreeing.

2. Substantial Justice. Director Scheel read the description of substantial justice and proposed language for a finding of approval or denial for the Board's consideration.

Finding of Fact: All members agreed with a Finding of Denial and that the property is currently being used for commercial purposes and can be used for residential purposes without the need for variances.

5. Request: 4' maximum height variance. Director Scheel read the description of extraordinary circumstances and proposed language for a finding of approval or denial for the Board's consideration.

a) Extraordinary Circumstances. Member Gorney stated that she did not see the exceptional circumstance related to the height of the building. Member Reed said that a second story could be added, but not a third floor, and be within the height variance.

Finding of Fact: Members agreed that there are not any exceptional conditions of the property to allow a height variance.

6. Request, off-street parking side yard variance.

7. Request, rear setback variance.

Director Scheel stated the existing parking is fully to the property line on the side, and well into the setback in the rear of the property by 8'-9'.

a) Extraordinary Circumstances.

Director Scheel read the description of extraordinary circumstances and proposed language for the finding of approval or denial for the Board's consideration. Chair Hodgson stated that the parking variances would not be needed if the applicant kept the same footprint. Director Scheel stated that the Commercial Mixed Use District allows for commercial, and it allows for residential and or both. This property has been used in some commercial context since the 1950's including public use as a school. He stated that if and when the applicant comes forward with a residential proposal, that will be a change of use so that will trigger a site plan approval process that has to meet today's standards.

Chair Hodgson stated he did not know why they would pass an extraordinary circumstance in this case either, the remaining Members concurred.

Finding of fact - Members agreed that there are not any exceptional circumstances to support granting variances for the parking lot side and rear yard setbacks.

Motion by Member Gibson, second by Member Reed to deny project ZBA-25-01 requesting expansion of a non-conforming lot variance based on specific findings of fact that prove the project does not meet the review standards in 153.038 (F)(2)(b) and 153.293(F)(A)(1) of the Zoning Ordinance.

Motion carried by unanimous voice vote.

After discussion, Member Gibson amended her motion to deny Project ZBA-25-01 based on specific findings of fact that prove the project does not meet the review standards in 153.03(F)(2)(a) and 153.038(F)(2)(b) of the Zoning Ordinance. Amended motion seconded by Member Reed.

Motion carried by unanimous voice vote.

B. Public Hearing for Case 25-02 403 Antrim Street

- 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. Director Scheel stated that this case involved two adjacent property owners at 403 and 405 Antrim Street with limited building area on each parcel who would like to build a "shared" garage on their mutual property line in their rear and side yards. There are other garages on the block and on the street that are similar in nature, with one shared garage at 604 Park and 419 Antrim Street, with their entrances on Antrim Street, and also numerous garages on side property lines at 316, 303, 217, and 213 Antrim Street. The rear yard of the applicant's property slopes upward, making it more difficult to construct the driveway and garage in their individual backyards. He further described the exhibits included with the variance application. He stated that the legal buildable area on the lot was 19' x 44', and the other lot is 26' x 44'. The applicant was requesting an 8' variance to the lot line for the shared garage.

Both applications, 25-02 for 403 Antrim and 25-03 for 405 Antrim St. were discussed as one case.

Applicant presentation. Ginny Schulz, 403 Antrim, stated that she was there on behalf of herself and her neighbor, the Hoffmans, because the driveways were so tight and they have both been wanting garages. She stated that they proposed a shared wall garage on the property line. The Hoffmans had enough space for one stall, and she would like to have 1.5 stalls on her side. They would also have a shared legal maintenance agreement for a shared wall/garage.

Discussion followed regarding the legalities of having a shared structure, maintenance needs, and what would happen if either property was sold and Chair Hodgson felt that they might want to get a legal opinion on this matter.

Member Kish questioned if there was something that pushed them away from a shared driveway with two garages vs. one shared structure. Ms. Schulz stated that Hoffman's driveway is on the property line already and part of their goal was not to lose 8' of property with two driveways. Director Scheel suggested that the Board go through the Findings of Fact and, if they get through those, and have that discussion about whether approval should be conditioned on the City Attorney's opinion.

Call for public comment. John Hughes, 404 Antrim, stated that he wrote a letter of support for the project, but based on what they were talking about and some other things that have come up, he applauded the Board for wanting to get legal counsel's opinion. Extraordinary circumstances. Director Scheel read the description of extraordinary circumstances and

proposed language for the finding of approval or denial for the Board's consideration. He read the suggested Finding of Approval: *The ZBA finds that the need for the requested variance is due to unique circumstances regarding the property. The depth of the lot is 98' while most lots to the north of Mason and south of Newman are 30' to 60' longer in length. The ZBA finds that this standard is met as a result of the existing modest legal conforming home, driveway and sidewalk substantially reduce the property's buildable area. The rear 20' of the property slopes uphill, making it much more difficult to have an individual side-facing garage with minimal area for a vehicle turn radius. Also, constructing in the side yard could limit access to the rear yard.* **The Board agreed that Extraordinary Circumstances were met.**

Substantial Justice. *The ZBA finds that this standard is met as a result as the buildable footprint is minimal as a result of the depth of the lot, the existing legal conforming home placement on the lot and the placement of the existing concrete driveway and sidewalk.* **After discussion regarding similar garages existing within the neighborhood, the Board agreed that Substantial Justice is met.**

Impact on the Surrounding Neighborhood. *The ZBA finds that the request meets this standard as the proposed garage will not have a negative impact on adjacent property owners or the neighborhood. There are other existing similar garages in the neighborhood that have not shown negative impacts.* ~~The Board agreed that the request meets this standard.~~

Public Safety and Welfare. *The ZBA finds that the standard is met as the applicant's request will not negatively affect public safety and welfare.* **The Board agreed that the request meets this standard.**

Not Self-Created. *The ZBA finds that the standard is met as the applicant's request is not self-created due to the existing home and driveway being constructed long before current regulations were put in place.* **The Board agreed that the request meets this standard.**

Discussion followed regarding whether the project could be two separate garages with a minimum 5' separation between the two structures.

Alan Sibinic, 313 of Antrim, stated that what they were proposing is a condominium garage on the lot line and the ZBA's job is to approve the placement of this structure. ~~and their condominium agreement and~~ How it's built depends on building codes, and they should have some kind of condominium agreement, but that was not part of the ZBA's responsibility.

Motion by Member Gorney, second by Member Gibson to table the discussion of Projects ZBA-25-02 and ZBA 25-03 upon hearing from the City Attorney specifically regarding the impact on the surrounding neighborhood as stated in 153.058 ~~(C)-(F)(2)(C).~~

Motion carried by unanimous voice vote.

C. Public Hearing for Case 25-03 405 Antrim Street

Case NO. ZBA 25-03 was tabled ~~as part of the previous agenda item upon hearing from the City Attorney specifically regarding the impact on the surrounding neighborhood as stated in~~ 153.058 (F)(2)(C).

8. Old Business

9. Meeting Dates 2025

A. Proposed meeting dates 2025

The next ZBA meeting will be September 17th and the Board concurred with the proposed meeting dates for 2025 as needed.

10. Public Comment on items not related to the Agenda

11. Adjourn

The meeting was adjourned at 8:36 p.m.

Sarah J. Dvoracek/fgm City Clerk

Richard Hodgson Chair