City Hall
208 North First Avenue
Alpena, Michigan 49707
www.alpena.mi.us

Planning & Development

AGENDA
ZONING BOARD OF APPEALS
May 30, 2018, 5:00 p.m.
Council Chambers, City Hall

1. CALL TO ORDER:

2. ROLL CALL:

3. PUBLIC HEARING:

In Case ZBA 18-03, David Smith, 321 Charlotte Street, Alpena, MI 49707, is requesting a variance in the R-2 One-Family District to allow for the construction of a 1,200 sf (30' x 40') detached garage 17.5 feet tall, for a total of 1440 SF of detached accessory structures, 598 SF more than allowed and 2.5 feet taller than allowed. Article 3.11D,E

4. NEW BUSINESS

a. Approve minutes of March 28, 2018 meeting.

5. COMMUNICATIONS:

7. PUBLIC COMMENT:

8. ADJOURNMENT

MEMORANDUM

TO: Zoning Board of Appeals

FROM: Adam Poll, Planning and Development Director

SUBJECT: ZBA 18-03, David Smith, 321 Charlotte Street, Alpena, MI 49707
Findings of fact

DATE: May 25, 2018

In Case ZBA 18-02, David Smith, 321 Charlotte Street, Alpena, MI 49707, is requesting a variance in the R-2 One-Family District to allow for the construction of a 1,200 sf (30' x 40') detached garage 17.5 feet tall, for a total of 1440 SF of detached accessory structures, 598 SF more than allowed and 2.5 feet taller than allowed. Article 3.11D,E

Property Address: 321 Charlotte Street

To authorize a variance, the Board shall find that all of the following conditions are met:

1. The need for the requested variance is due to unique circumstances or physical conditions of the property involved such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.

2. Strict compliance with the regulations governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.

3. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance that requested would give substantial relief to the property owner and be more consistent with justice to other property owners.

4. The need for the variance was not created by the property owner or previous property owners (self-created).

5. That the requested variance will not cause an adverse impact on the surrounding property, property values, or the use and enjoyment of the property in the neighborhood or zoning district and will not impair an adequate supply of light and

air to adjacent property, unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City of Alpena.

Staff evaluation of the five conditions relative to this petition is as follows:

The applicant is proposing to construct a 30' x 40' (1,200 SF) detached garage on his property at 321 Charlotte. He is also requesting a 17.5' height, 2' taller then allowed. The applicant currently has two detached accessory structures that are both 12' x 20' (240 SF). The applicant has indicated that one of these structures would be removed if the variance is granted, but indicated that the other structure is in good shape and he would request that it is kept on site, which would give him 1440 SF of accessory structures. The applicant has indicated the new building would be utilized to store his recreational vehicle and pontoon and indicated that the existing building would be utilized for the storage of lawn care equipment and other items of similar nature.

The applicants home is 842 SF with a 320 SF attached garage for a total footprint of 1162 SF. The Zoning ordinance indicates that the combined area of all accessory structures on a zoning lot shall not exceed the ground floor area of the principal building or a maximum size of 1,200 square feet.

The applicant's lot is a double lot and is 122' wide and 140' deep and if the variance request is approved as requested total coverage of the rear yard would not exceed 30%.

The applicant has also requested a height variance allowing for a 17.5 height, 2.5 feet more then allowed. The applicant has indicated that this is need as he owns an RV which would not fit in a standard height garage, and if this variance is not granted he would have to store it outside.

The applicants neighbors on Charlotte Street are zoned R-2 One-Family Residential and consist of single family homes, while the property to the abutting the rear of the property is zoned B-1 Local business District and RM-2 Multiple Family Residential and are vacant. Height restrictions for the RM-2 district allow for the construction of buildings up to 6 stories by right, where the B-1 district restricts building height to 25 feet. R-2 districts allow building heights of 35 feet.

1. The property is unique in that it is a double lot. The applicant purchased an adjoining lot and tied it to his giving the lot additional size. The property is also unique in that it boarders both B-1 and RM-2 districts to the rear. In addition, the property is near the Alpena County fairgrounds that contain a number of tall agricultural buildings.

2. Strict compliance to the regulations would allow the applicant to construct total 1162 SF of accessory buildings that do not exceed 15' in height. If the new building is

constructed at this height the applicant could not fit his RV inside the structure. If the applicant removed both 12' x 20' existing accessory buildings an 1162 SF building could be constructed, although it would be an irregular size and most buildings are designed to be 30' x 40'. If one of the 12' x 20' accessory structures is retained, the new building would be limited to 922 SF in size which the applicant indicated would not meet his needs.

3. It would appear that granting a smaller variance that limits the total to 1,200 square feet of total square footage of detached accessory structures would allow the applicant to accomplish his goals. The Zoning Ordinance sets a limit of detached accessory structure to 1,200 SF, so many other residences have similar sized buildings. If the applicant needs the additional 240 SF he is requesting he could add it on to the existing attached garage. The request for the additional height would not appear to have a negative impact in the area as there are several other taller structures in the immediate area.

4. The variance as requested is created by the owner. Building the new 1,200 SF garage and keeping the existing 240 SF garage would exceed the total square footage allowed for detached accessory structures in the City. Granting a variance to allow a 1,200 SF of accessory structures may not be self-created as 30' x 40' is a much more common building size to construct the a the unique dimensions of an 1162 SF building.

5. The variance as requested could have an adverse effect on the area. Granting a variance to allow for accessory structures beyond 1,200 SF could set a precedence to allow for similar requests in the area. The request for the additional height would not appear to have a negative impact in the area as there are several other taller structures in the immediate area

In granting a variance, the Board may attach conditions regarding the location, character and other features of the proposed structure as it may deem reasonable in furtherance of the purpose of this Ordinance. In granting a variance, the Board shall state the grounds upon which it justifies the granting of said variance.

ZBA Case No. 18-03

Existing garages and home at 321 Charlotte

Existing Garages at 321 Charlotte

ZBA Case No. 18-03

Most affected neighbor at 1016 S Eleventh

Fair grounds building visible from Charlotte

MINUTES

ZONING BOARD OF APPEALS
March 28, 2018

COUNCIL CHAMBERS, CITY HALL

CALL TO ORDER:

Chairman Elwood Anderson called the Zoning Board of Appeals to order at 5:00 p.m.

ROLL CALL:

Present: Anderson, Bray, Keller, Guest, Lamble, Lewis

Absent: Polluch

Chairman Anderson opened the public hearing and explained the procedures for the hearing.

Public Hearing of Case ZBA18-01

Adam Poll, Planning and Development Director presented the zoning use variance request as follows: Chris McCoy, 740 S. State Avenue, Alpena, MI 49707 is requesting a use variance in the Central Business District to allow for the construction of a 750 square foot (25' x 30') storage building located at a vacant lot on 111 Tawas Street. Article 5.12B

Property Address: 111 Tawas Street

Notices were sent to all adjoining property owners within 300 feet of the subject property.

To authorize a use variance, the board shall find that all of the following conditions are met:

1. The building, structure, or land cannot be reasonably used for any of the uses permitted by right or by special use permit in the zoning district in which it is located.

2. The need for the requested variance is due to unique circumstances or physical conditions of the property involved such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.

3. The proposed use will not alter the essential character of the neighborhood.

4. The immediate hardship causing the need for the use variance was not created by the property owner or previous property owners (self-created).

CONDITIONS: The Zoning Board of Appeals may impose such conditions or limitations in granting a variance as deemed necessary to protect the character of the area, as provided for in Section 9.9.

FINDING OF FACT: In granting or denying a variance, the board shall state in a written statement of findings of fact, which you can do verbally, the grounds upon which it justifies the granting of the variance.

Staff evaluation of the four conditions relative to this petition is as follows:

1. The existing lot located at 111 Tawas Street is a vacant lot at the edge of the Central Business District (CBD). The CBD does not allow for storage buildings. This district does allow for accessory structures, which require the building to be constructed on the same lot or parcel of land as a main building or buildings. In this instance the lot/parcel in question is vacant. There is a main building across the alley, on a separate lot located at 307 S. Third Avenue, which is either vacant or utilized for storage. The lot in question at 111 Tawas Street is fairly small (48' x 140") and was formally a residential lot. In the past there was a house with an accessory structure on the lot and when the house was demolished, the accessory structure was not immediately removed. The accessory structure was removed a number of years ago.

   In July of 2014 a variance was approved for an accessory use to allow for the installation of a propane tank filling facility. In that instance, the approved variance was also located across the existing alley, but it was directly tied to the principal use located at 307 S. Third Avenue.

2. The property is unique due to its narrowness. The lot is 48 feet wide at the back and 43 feet wide in the front, which is narrower than a standard residential lot. The property is also zoned CBD but borders a residential use. The property did for a number of years have a legal non-conforming accessory structure present, but this structure was demolished. Although the parcel is relatively narrow, it could easily be combined with the adjacent vacant parcels which are under the same ownership and make it much easier to develop with an appropriate CBD use.

3. The proposed request could potentially alter the character of the neighborhood. Currently, storage buildings are not allowed to be located in the CBD, and accessory structures are not allowed without a principal building. Allowing this type of building to be constructed on a vacant lot does not appear to fulfill the intent of the CBD district.

4. The hardship was caused by one of the tenants of the current owners. A former tenant demolished the existing structure on the property, not realizing that in the future the owners would not be able to rebuild it without a use variance. Under current regulations, the structure would have been required to be removed from the lot at the same time the

house was demolished as it ceased to be a legal structure when the principal use was removed.

In granting a variance, the board may attach conditions regarding the location, character and other features of the proposed structure as it may deem reasonable in furtherance of the purpose of this ordinance. In granting a variance, the board shall state the grounds upon which it justifies the granting of said variance.

Staff observations:

1. The vacant lot in question is narrow and only 43 feet wide in the front. This lot by itself would be difficult to utilize for the commercial purposes available in the CBD district. The property was originally a single family home. The lot is under common ownership with the adjoining vacant parcels, and if the remaining parcels were combined, they would create one of the larger developable commercial lots in the CBD. The applicant is requesting to construct a 25' x 30' (750 square foot) storage building.

2. The property is unique not only by the fact it is narrow (43 feet in the front), but also had a residential style garage located on the property until about 2010. The lot is also unique in it is at the edge of the CBD and is adjacent to a single family home. The request is also unique as accessory buildings are allowed within the Central Business District and would not need a variance if it were attached to a lot with a principal use. In this case, the lot in question is separated by an alley, and does not appear to serve as an accessory structure to the existing building located at 307 S. Third Avenue. The applicants have indicated that the building would be used to securely store personal items for the applicant.

   A different use variance for another part of the parking lot of the former McCoy dealership was approved in 2015. That use variance consisted of a propane distribution area for the Alpena General Store before it was relocated. The request in that case was clearly an accessory use to the building located at 307 S. Third Avenue.

3. The construction of a storage building could potentially alter the character of the neighborhood. This lot is located in the Central Business District which is designed to promote "high volumes of people activity among the businesses." The construction of a storage building would not appear to meet that intent. There is a single family home located next door at 115 Tawas Street, so a storage building that resembles a garage may not appear to have residential character, but would still not have a principal structure.

4. The hardship in this case was caused by one of the former tenants on the property that demolished the former legal non-conforming garage that was located on the property. It is unknown if that tenant had the permission of the owners to tear down that garage, but the owners did own the property when the garage was removed.

There is some uniqueness to the request in regards to the narrowness of the lot, location on the edge of the Central Business District, the presence of the former legal non-conforming garage that was previously removed, and the presence of the business across the alley at 307 S. Third Avenue. However, after reviewing the intent of the CBD, and the presence of the adjoining vacant lots, the fact that the former garage was removed by the current owners tenant and the seeming lack of connection to the existing use at 307 S. Third Avenue, staff does not believe this request meets the criteria for the granting of a use variance.

Therefore, staff would recommend **denial** of the requested use variance. It does not appear to adequately fulfill the four use variance criteria listed in the ordinance.

Member Lamble asked if the alley was vacated, then wouldn't that property theoretically be able to be attached to the property on Third Avenue and then would not even need a variance.

Adam Poll said if that alley was vacated and this was an accessory use attached to that building, they would not need a variance.

Member Lamble asked if that alley was utilized by any other people on the other side of the alley.

Don Gilmet said the car dealership obviously paved the alley. He said Skiba's Lumber utilizes the alley for their trucks, and they are unloading stuff for the lumber company. It is a used alley and probably would not be vacated.

PUBLIC COMMENT:

Chairman Anderson asked if there was anyone who desired to speak either for or against this variance.

Mr. Jack McCoy addressed the board. He said his brother is in Florida and he is representing him. He said his brother has partial ownership of the dealership. He said his brother is in need of indoor storage and he has several expensive cars. Mr. McCoy said in order to rent the building, he does need the extra space, and to get his brother's stuff out and move it into another facility. Mr. McCoy said Skiba's do not use the alley, because it is no longer a lumber company. It is a pool and spa business and they do all of their loading and unloading in front.

Member Lewis asked Mr. McCoy if they are renting out the dealership currently as storage.

Mr. McCoy said they have an ambulance that is being stored in there currently and some production packing.

Since no one else wished to speak on this case, either for or against, Chairman Anderson closed the public comment portion of the meeting to deliberate for case ZBA18-01.

DISCUSSION BY BOARD MEMBERS:

Member Lewis said it could be considered an accessory to the existing building and be allowed as such, and he would be in favor of granting the variance.

Member Lamble and Member Guest had concerns on how they are going to make it work with the four criteria.

Member Bray said he would like to see the building classified as an accessory to the existing building.

Member Guest asked if there were setback requirements that would have to be met.

Adam Poll said it would only have to meet setback requirements as an accessory structure. We're not asking for any setback variances at this point.

Member Guest said that the building the McCoy's have in mind could legally fit in the parcel as far as setbacks are concerned. Adam Poll said yes.

Member Keller said a pole barn or whatever kind of structure is going to be built, according to criteria number three, does not alter the character of the neighborhood. He does not really see a whole lot of other storage buildings around the Central Business District. Now it is a parking lot and could have no other use. He is not opposed to putting a building up there, just not a garish looking structure.

Adam Poll said the Central Business District does have design criteria. Vertical metal siding is not allowed. It would have to be more of a commercial type building, not industrial.

Member Lamble said you could put in a building that is a pole structure and then just require it to be sided with something other than metal siding.

There was no further discussion on this variance.

Member Lewis made a motion to approve the use variance to allow construction of a 25' x 30' building at 111 Tawas Street as an **accessory building.**

Member Bray seconded the motion.

ROLL:

Ayes: Anderson, Bray, Keller, Lamble, Lewis

Nays: Guest

The use variance to construct a 25' x 30' building as an **accessory building** to the dealership property at 111 Tawas Street has been approved.

Let the record show to authorize a use variance the board shall find that all of the following conditions are met:

1. The building, structure, or land cannot be reasonably used for any of the uses permitted by right or by a special use permit in the zoning district in which it is located.

2. The need for the requested variance is due to unique circumstances or physical conditions of the property involved such as narrowness, shallowness, shape, water or topography, and is not due to the applicant's personal or economic hardship.

3. The proposed use will not alter the essential character of the neighborhood.

4. The immediate hardship causing the need for the use variance was not created by the property owner or the previous property owners (self-created).

Public Hearing of Case ZBA18-02

Adam Poll, Planning and Development Director presented the zoning variance request as follows: W. G. Benjey, Inc. of 2293 Werth Road, Alpena, Michigan 49707, is requesting a variance in the I-1 Light Industrial District to allow for the construction of a new building with a zero foot side yard setback, ten feet less than required, a ten foot front yard setback, thirty feet less than required and a 8.5 foot rear yard setback, 11.5 feet less than required, which will be located at **318 Cavanaugh Street**. Article 5.19D2

Notices were sent to all adjoining property owners within 300 feet of the subject property.

Property Address: 318 Cavanaugh Street

To authorize a variance, the board shall find that all of the following conditions are met:

1. The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally to other properties in the surrounding area, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.

2. Strict compliance with the regulations governing area, setbacks, frontage, height bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.

3. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than

requested would give substantial relief to the property owner and be more consistent with justice to other property owners;

4. The need for the requested variance is not the result of action of the property owner or previous property owners. It is not a self-created problem.

5. That the requested variance will not cause an adverse impact on the surrounding property, property values, or the use and enjoyment of the property in the neighborhood or zoning district and will not impair an adequate supply of light and air to adjacent property, unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City of Alpena.

CONDITIONS: The Zoning Board of Appeals may impose such conditions or limitations in granting a variance as deemed necessary to protect the character of the area, as provided for in Section 9.9.

FINDING OF FACT: In granting or denying a variance, the board shall state in a written statement of findings of fact, which you can do verbally, the grounds upon which it justifies the granting of the variance.

Staff evaluation of the five conditions relative to this petition is as follows:

The applicants are proposing to construct an industrial building at the site in question. They have stated that the requested size (5,546 square feet) would be needed for their industrial uses. The business has an existing shop located across Cavanaugh Street at 351 Cavanaugh Street. There was an industrial building at 318 Cavanaugh Street until it was fire damaged in 2007 and needed to be demolished.

The most affected parcel would be the adjacent residential use to the southeast at 316 Cavanaugh Street. However, along this setback a variance is not required as that property is also zoned Industrial (I-1). If the house had been zoned residential, the required side yard setback would have been 20 feet.

The proposed front yard setback of ten feet, (30 feet less than required) would appear to be in line with other industrial buildings in the area including the former building at this location, the current shop across the street, and several other industrial buildings in the area.

The requested zero foot setback along the railroad tracks (ten feet less than required) would also appear to be in line with other industrial buildings in the area many of which are constructed up to the property line along the railroad. The railroad also acts as a natural buffer to the housing complex to the northwest.

The rear setback of 8.5 feet is requested, 11.5 feet less than required for a setback along a residentially zoned district. In this case, the proposed building would appear to be in the back end of a long residential lot. Any industrial development along a residentially zoned property would require appropriate screening.

In granting a variance, the board may attach conditions regarding the location, character and other features of the proposed structure as it may deem reasonable in furtherance of the purpose of this ordinance. In granting a variance, the board shall state the grounds upon which it justifies the granting of said variance.

Staff observations:

1. The property is unique due to its shape and proximity to railroad tracks. The lot is 96 feet wide in the front and narrows to 34 feet wide in the rear. The wedge shape restricts the buildable area of the lot and only would allow a relatively small industrial building to be constructed. It is also unique in that although it is zoned I-1 Light Industrial but still is adjacent to two residential homes. In addition, there was formally an industrial building on the property that was destroyed by fire in 2007 and was required to be demolished.

2. Strict compliance with the regulations would not allow the applicants to construct a reasonably sized industrial building on this lot. The largest setback request is along the railroad tracks, which would appear to limit the impact on surrounding uses. Due to the shape of the property and setbacks required, the building would be relatively small at about 2,500 square feet. Any building constructed that meets all applicable setback standards would be smaller than most useful industrial buildings.

3. Granting the variance would allow an industrial building similar in size to the building that was destroyed in 2007. A lesser variance could be approved, but the largest variance are either along the railroad tracks, or along the front yard, and there are many other industrial buildings with similar setbacks for both of these yard types. The applicant has not indicated if a smaller building would be adequate, but has indicated that meeting existing I-1 setbacks would be inadequate for their uses. The setback on the rear could be reduced, but it boarders the rear yard of a long residential lot and adding an additional 11.5 feet of setback would not appear to have a significant impact.

4. The need for the variance was not created by the owners. The variance request is due to the unique shape and size of the lot. They owned the building that was destroyed by fire in 2007, and are asking to rebuild a building that functions for their business.

5. The building itself would not appear to have a negative impact on the area as there was another industrial building at this location for years without any known incidents. The presence of other industrial buildings with similar setbacks in the area also limits any impact. There would appear to be some question in regards to parking and where employees will be parking. If parking can be adequately provided and screening, there

would not appear to be a significant negative impact in the area. The applicant appears to be asking for variances along setbacks that would not significantly impact surrounding uses.

The applicant has purchased the adjacent residence at 316 Cavanaugh Street that is zoned industrial. Subsequently since they last spoke, Adam Poll said he found out about it this afternoon. That residence is unique and has a double lot. The house sits on the industrial side. It is split, half of it is zoned industrial and half of it is zoned residential.

Therefore, if the applicant can demonstrate that parking needs are adequately met, staff would recommend **approval** of the requested variance as it appears to meet the variance criteria listed in the ordinance.

PUBLIC COMMENT:

Chairman Anderson asked if there was anyone who desired to speak either for or against this variance.

Alan Dziesinski, representing W. G. Benjey Company addressed the board. To address Adam's question about parking, the intent is to shift parking over to the existing building parking lot, which they are using right now to bring in all those steel trucks to load steel. The new facility would basically be used for storage. They have outgrown the inside of the building they have. It is quite practical to expand to the new building than to move somewhere else.

Chairman Anderson asked Mr. Dziesinski, so it would be a financial hardship otherwise.

Mr. Dziesinski said it would be, because they would have to basically relocate everything they have.

Tom Bleau of 909 S. Ninth Avenue addressed the board. He says he owns property adjacent to where the development is going to be. He has a narrow lot 50 feet wide by approximately 200 feet deep. He is in favor of this variance.

Since no one else wished to speak on this case, either for or against, Chairman Anderson closed the public comment portion of the meeting to deliberate for case ZBA18-02.

DISCUSSION BY BOARD MEMBERS:

There was no further discussion from the board members.

Member Lamble made a motion to approve the granting of the variance with the reasons stated by the city.

Member Lewis seconded the motion.

ROLL:

Ayes: Anderson, Bray, Guest, Keller, Lamble and Lewis

Nays: None

The variance to construct a new 5, 546 square foot building with a zero foot side yard setback, a ten foot front yard setback, and an 8.5 foot rear yard setback in the Light Industrial District has been granted.

To authorize a variance, the board shall find that all of the following conditions are met:

1. The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally to other properties in the surrounding area, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.

2. Strict compliance with the regulations governing area, setbacks, frontage, height bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.

3. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give substantial relief to the property owner and be more consistent with justice to other property owners;

4. The need for the requested variance is not the result of action of the property owner or previous property owners. It is not a self-created problem.

5. That the requested variance will not cause an adverse impact on the surrounding property, property values, or the use and enjoyment of the property in the neighborhood or zoning district and will not impair an adequate supply of light and air to adjacent property, unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City of Alpena.

BUSINESS PORTION OF THE MEETING:

OLD BUSINESS:

Per Adam Poll, there was not any old business.

NEW BUSINESS:

The minutes of the October 4, 2017 meeting were approved with the correction of a typo error.

ADJOURNMENT:

With no other business to discuss, Chairman Elwood Anderson adjourned the meeting.

Alan Guest, Secretary	Elwood Anderson, Chairman