



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

Planning & Development

AGENDA

ZONING BOARD OF APPEALS

August 29, 2018, 5:00 p.m.

Council Chambers, City Hall

1. CALL TO ORDER:

2. ROLL CALL:

3. PUBLIC HEARING:

In Case ZBA 18-04, Janet Stafford, 5425 Long Rapids Road, Alpena, MI 49707, is requesting a use variance to allow the owner occupied two unit dwelling located at 535 W Miller Street to be converted to a non-owner occupied two family dwelling. Article 5.7B

4. ACTION ON PUBLIC HEARING:

Case ZBA18-04

5. NEW BUSINESS

- a. Approve minutes of May 30, 2018 meeting.

6. COMMUNICATIONS:

7. PUBLIC COMMENT:

8. ADJOURNMENT

MEMORANDUM

TO: Zoning Board of Appeals

FROM: Adam Poll, Planning and Development Director

SUBJECT: ZBA 18-04, Janet Stafford, 535 W Miller Street-
Findings of fact

DATE: August 24, 2018

In Case ZBA 18-04, Janet Stafford, 5425 Long Rapids Road, Alpena, MI 49707, is requesting a use variance to allow the owner occupied two unit dwelling located at 535 W Miller Street to be converted to a non-owner occupied two family dwelling. Article 5.7B

Property Address: 535 W Miller Street

To authorize a 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).

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

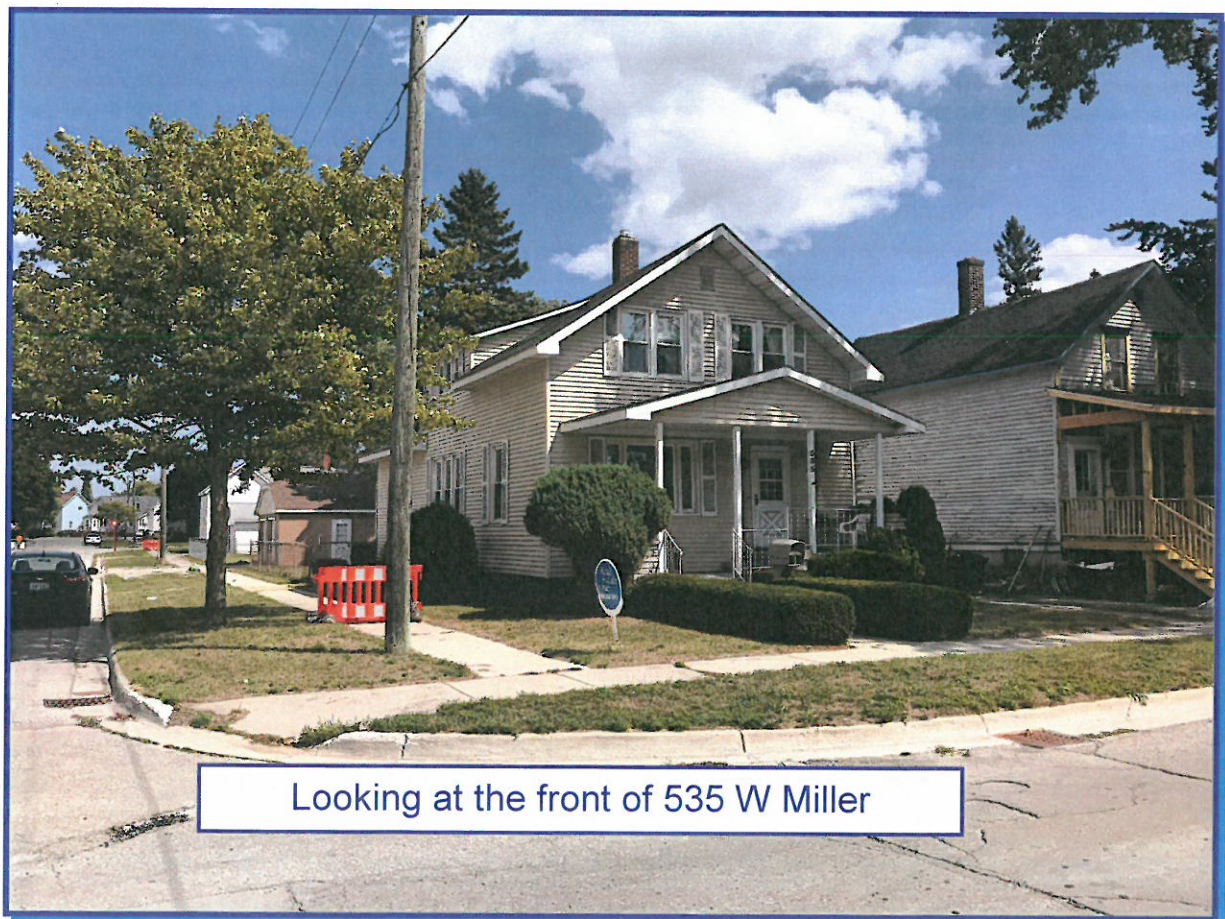
The applicant is requesting to convert the property from a two unit home which one unit is required to be occupied by the owner to a non-owner occupied two unit home. The applicant obtained a special use permit 2014 to allow for the home to be utilized as a two unit home noting that there grandson was purchasing the property under land contract and would be the owner. Initially the grandson resided in the lower level and another tenant lived on the upper level. Eventually the grandson broke the land contract and the property went back into the

possession of the applicants who cannot reside at the property and are in the process of selling the property.

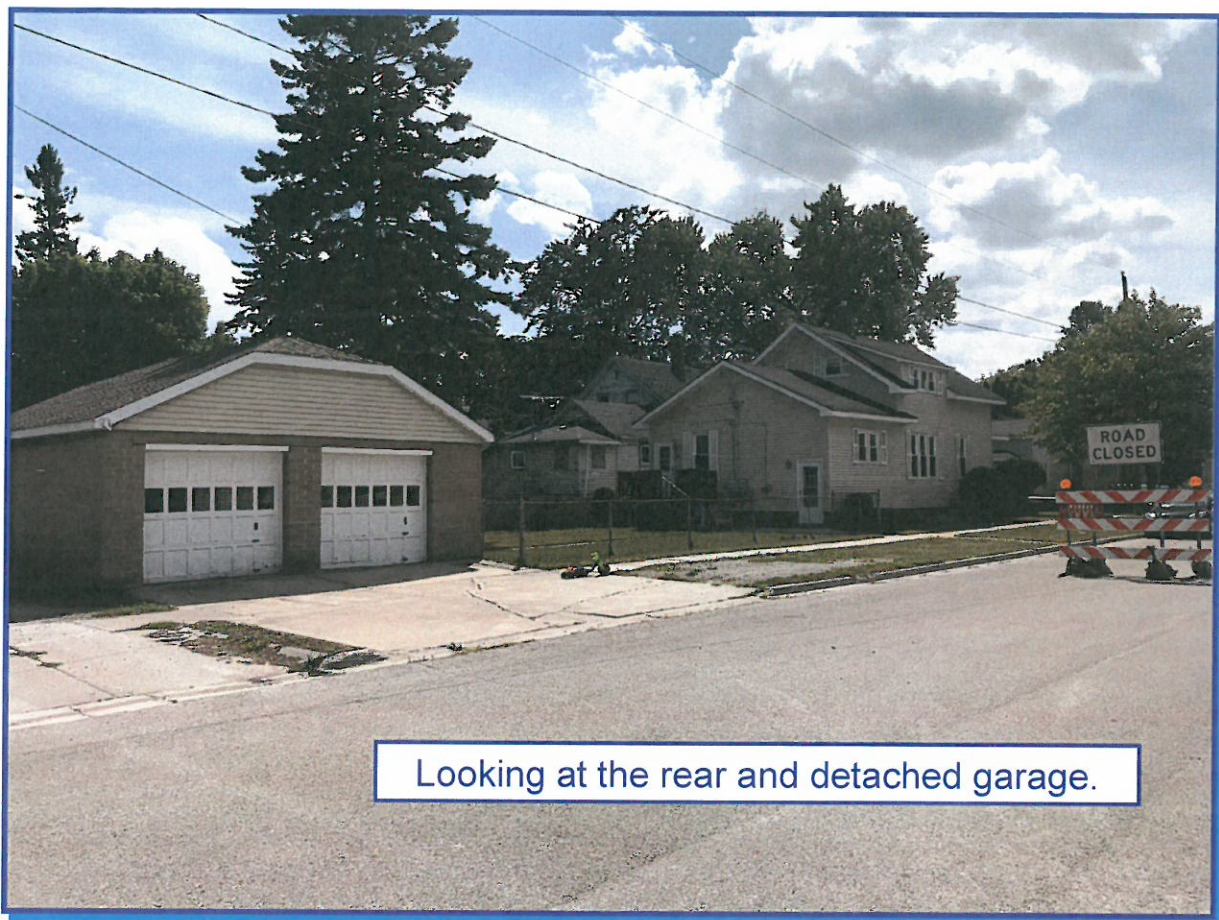
1. The property could be utilized as a single family home and has in the past, however the property is unique in that it has been utilized for several years as a duplex, and there is an existing tenant in the upper unit that has a lease until the end of the year. The property could still be utilized as a two unit property without the granting of a variance if the new owner were to reside in one of the units.
2. The circumstances would appear to be unique in that the property has been utilized legally as a two unit home with the issuance of a special permit if the owner resides in the house. In this case the owners sold the home to their grandson via a land contract. The land contract was later broken and the applicants received the home back and now want to sell the property. The setup of the home as a duplex with a tenant living on the upper lever are a unique circumstance. In addition, there are several other legal non-conforming two unit homes in the vicinity of this one.
3. The proposed use would not appear to alter the essential character of the neighborhood. It has been utilized as a two unit home since 2014 without and issues. There appears to be adequate parking for two cars in the garage in addition to street parking.
4. As the applicant believed the house was sold to their grandson and they did not expect to get it back in their possession and the property has been utilized as a duplex since 2014 without any known issues and due to the presence of many legal non-conforming duplexes in the area, the request would appear to be a reasonable exercise of discretion of the Zoning Board of Appeals.

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. 18-04



ZBA Case No. 18-04



Looking at the rear and detached garage.

MINUTES

ZONING BOARD OF APPEALS

May 30, 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, Guest, Lamble

Absent: Keller and Lewis

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

Public Hearing of Case ZBA18-03

Adam Poll, Planning and Development Director presented the zoning variance request as follows: 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 square foot (30' x 40') detached garage 17.5 feet tall, for a total of 1,440 square feet of detached accessory structures, 598 square feet more than allowed and 2.5 feet taller than allowed. Article 3.11D, E

Property Address: 321 Charlotte Street

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

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 applicant is proposing to construct a 30' x 40' (1,200 square foot) detached garage on his property at 321 Charlotte Street. He is also requesting a 17.5 foot height, 2.5 feet taller than allowed. The applicant currently has two detached accessory structures that are both 12' x 20' (240 square feet). 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 1,440 square feet 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 applicant's home is 842 square feet with a 320 square foot attached garage for a total footprint of 1,162 square feet. The zoning ordinance indicated that the combined area of all detached 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 feet wide and 140 feet deep, and if the variance request is approved as requested, total coverage of the rear yard would not exceed 30 percent.

The applicant has also requested a height variance allowing for a 17.5 foot height, 2.5 feet more than allowed. The applicant has indicated that this is needed 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 applicant's neighbors on Charlotte Street are zoned R-2 One-Family Residential and consist of single family homes, while the property to the abutting 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 six stories in height and that is allowed 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 borders both B-1 and RM-2 Districts to the rear. The RM-2 district allows construction of a six story building by right. 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 1,162 square feet of accessory buildings that do not exceed 15 feet 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 1,162 square foot 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 square feet 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 structures to 1,200 square feet, so many other residences have similar sized buildings. If the applicant needs the additional 240 square feet he is requesting, he could add it onto 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 square foot garage and keeping the existing 240 square foot garage would exceed the total square footage allowed for detached accessory structures in the city. Granting a variance to allow 1,200 square feet of accessory structures may not be self-created, as 30' x 40' is a much more common building size to construct than the unique dimensions of a 1,162 square foot 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 square feet 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.

Staff observations:

The applicant desires to construct the building to store his RV, and if it is constructed at the 15 foot height, it will not fit without designing a flat roofed structure which would not match the architecture style of the surrounding neighborhood. The applicant has indicated that he wants to keep one of the 12' x 20' (240 square foot) detached garages. If the applicant was to eliminate both of the existing detached garages, the proposed detached structure would be 38 square feet more than the maximum allowed, which would not appear to be significantly different in appearance, but would be much easier to find materials for construction.

The applicant has indicated that the proposed 30' x 40' accessory structure would be enough space for his camper, pontoon, and fishing boat. In addition, the applicant has a 16' x 20' attached garage.

One of the requirements in the Zoning Ordinance states that "Accessory structures shall be architecturally consistent with the primary structure on the lot." Although, many pole buildings are constructed with vertical metal siding, that material is not consistent with the surrounding residential neighborhood, despite the presence of the agricultural buildings at the Alpena County Fairgrounds that utilize vertical metal siding almost exclusively. Staff would recommend that if any variance is approved, a condition is that vertical metal siding cannot be used.

Therefore, staff would recommend that the variance request to allow for 1,440 square feet of detached accessory structures is **denied**. Staff would recommend approval of 1,200 square feet of detached accessory buildings for the property and the requested 17.5 foot height for the reasons listed above. Staff would also add the following condition to the approval:

Vertical metal siding cannot be utilized on any detached accessory structure.

PUBLIC COMMENT:

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

Dave Smith of 321 Charlotte Street addressed the board. He moved to town and bought the house at 321 Charlotte Street. It had one detached building on it. He still owns a farm and is getting ready to sell that farm, and he needs a place to store his stuff now, which is a camper, a pontoon boat, and a fishing boat. A pontoon with the top up won't fit through a twelve foot door. That is why he needs 14 foot doors. Even though 15 foot side height is not an uncommon size that is what he went with to keep the roof down. At the lot next to him, there was a guy working on a really beat up old house. He told that person he would buy the lot from him if he tore down the house. The neighbor tore down the house and made everything look better and made his lot look huge and he gained a 12' x 20' garage from that lot. Neither garage would accommodate his camper and pontoon boat. He would like to build the 30' x 40' detached garage over on that lot and tear down the really old shed, which is 12' x 20'. The gray one would be in the way of the new one and he would move it over. He still needs a shed for his lawnmower and roto tiller. As far as putting vinyl siding on to make it match, you can put vinyl siding on a pole building. You just have to put OSB on it and it ups the charge. He is willing to do that to make it look good. Probably next year he will put siding and new roofing on his house to make it look better too.

Chairman Anderson asked Mr. Smith if there is any room for shrinkage at all in the square feet.

He said his pontoon boat from the motor to the front of his trailer is a little over 31 feet long. He currently has a 26 foot camper, which he plans on getting a different one. That barely allows for his 18 foot fishing boat. There is no more room in there for anything else.

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 ZBA18-03.

DISCUSSION BY BOARD MEMBERS:

Member Guest said this is kind of a perplexing case, because we have opposite views. The city's view is that the ordinance is 1,200 square feet, period. But they also view is that they would like all of your stuff stored inside. What would make him be inclined to allow that extra facility, was the fact Mr. Smith has no other reasonable place to put his lawn mower and roto tiller. Whether that is justification for approving a variance that is a little bit questionable.

Member Guest asked if they all agree with the city on the height that the height of 17.5 feet tall is not an issue. The city said they are OK with the extra height. He is OK with that. To specify that the old garage be removed, and the condition that vertical metal siding cannot be utilized on the detached accessory structure.

Adam Poll told the board because there are only four board members at this meeting that any approved variance would have to be unanimous.

Member Guest made a motion to approve the construction of the 30' x 40' (1,200 square foot) detached accessory garage, vertical metal siding cannot be used, that the older existing garage with the peak roof must be removed, and the newer small garage can remain.

Member Lamble seconded the motion.

ROLL:

Ayes: Anderson, Bray, Guest, Lamble

Nays: None

The variance to allow construction of a 30' x 40' (1,200 square foot) detached accessory garage, with a height of 17.5 feet has been granted, with the removal of the older peaked roofed garage, also with the condition that vertical metal siding cannot be used on the building. The newer 12' x 20' detached garage will remain.

BUSINESS PORTION OF THE MEETING:

OLD BUSINESS:

Per Adam Poll, there was not any old business.

NEW BUSINESS:

The minutes of the March 28, 2018 meeting were approved as written.

Adam Poll said W. G. Benjey came in again because they bought the property at 316 Cavanaugh Street adjacent to their building, so they are looking at building a larger building. At this point, Adam said he is having the Planning Commission rezone some of the other property to avoid any variances. So they are going to rezone half of that lot to P-1 parking. So W. G. Benjey is going to build a larger building than what they asked for originally. That would not involve any potential variances. It will be going to the Planning Commission for a rezone.

ADJOURNMENT:

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

Alan Guest, Secretary

Elwood Anderson, Chairman