

City of Petoskey

ZONING BOARD OF APPEALS

Tuesday, September 7, 2021

- 1. <u>Roll Call</u> 7:00 P.M. City Hall Council Chambers
- 2. <u>Approval of Minutes</u> August 3, 2021 Regular Meeting
- 3. <u>New Business</u>
 - a. Case #858 A request for front and side yard setback variances at 120 E Lake Street
 - b. Case #859 A request for a driveway opening variance at 1209 Hill Street
- 4. Public Comment
- 5. <u>Updates</u>
- 6. Adjournment

You may also join the meeting remotely

Dial by Phone: 888-788-0099 US Toll-free

https://us02web.zoom.us/j/84416527487

Meeting ID: 844 1652 7487

If you have any questions you may contact the City Clerk's Office before the meeting by email or phone: <u>aterry@petoskey.us</u> or 231-347-2500.

According to the Attorney General, interrupting a public meeting in Michigan with hate speech or profanity could result in criminal charges under several State statutes relating to Fraudulent Access to a Computer or Network (MCL 752.797) and/or Malicious Use of Electronics Communication (MCL 750.540).

According to the US Attorney for Eastern Michigan, Federal charges may include disrupting a public meeting, computer intrusion, using a computer to commit a crime, hate crimes, fraud, or transmitting threatening communications.

Public meetings are being monitored and violations of statutes will be prosecuted.

City of Petoskey



ZONING BOARD OF APPEALS

August 3, 2021

A regular meeting of the City of Petoskey Zoning Board of Appeals was conducted in the City Hall Council Chambers on Tuesday, August 3, 2021. Public was invited to attend in person and via Zoom. Roll was called at 7:00 P.M.

| Present: | Mary Clinton Chris Hinrichs Jim Knibbs Scott Morrison Lori Pall Jessica Shaw-Nolff |
|----------|--|
| Absent: | Ben Crockett |
| Others: | Matthew Drozd, Lormax Stern Development Nicholas Gowan, Pure Property Management Jim Priebe, Lormax Stern Development (via Zoom) |
| Staff: | Amy Tweeten, City Planner Lisa Denoyer, Administrative Assistant |

Upon motion and support, the minutes from July 6, 2021 regular meeting were approved 4-0-1, with Commissioner Hinrichs abstaining.

Case #856 – Variance Request to Allow a Front Yard Fence at 304 Fulton Street

Staff informed the Board that the subject property is on the corner of Fulton and Petoskey Streets in the R-3 Single Family District. An addition to the house was constructed in 2018 and a partial retaining wall was installed along the east property line. The property owner is requesting to install a 4 to 5 foot privacy fence along the east property line to the front property line on Fulton Street. As this is a front yard, a variance is required.

Nicholas Gowan, Pure Property Maintenance, informed the Board that the homeowner had made attempts to landscape the hillside but washouts continued to occur due to the steep grade. The proposed fence would match the existing fence in the back yard, would be placed along the hillside and would not extend beyond the utility pole or obstruct vehicular site lines.

Chairperson Pall asked if the proposed fence would be in line with the existing retaining wall.

Mr. Gowan responded that it would not as a portion of the hill would have to be removed in order to line the fence with the retaining wall and would create a greater space between the driveway and the fence.

Board member Clinton asked how the fence would stop washouts from occurring and what the overall height of the hill was.

Mr. Gowan responded that the intent of the fence was not to prevent washouts but rather for cosmetic reasons to block the view of the hill and for financial reasons. He also responded that the overall height of the hill was between five and six feet tall.

Board Member Shaw-Nolff asked what the setback of the fence would be from the street.

Mr. Gowan responded that the fence would end approximately 10 to 12 feet from the street.

Chairperson Pall asked what the plan was for the bank and Mr. Gowan responded that the existing flowers will remain as they seem to be the best solution so far.

Board member Hinrichs asked if the owner knew the location of their property line and staff asked if the fence would be 10 to 12 feet from the curb or from the street right-of-way.

Mr. Gowan responded that the property owner is aware of the location of the property lines, that the neighbor is aware of and agreeable to the applicant's request and that the applicant would be happy to adjust the setback from the right-of-way.

Board members discussed the maximum height allowance of 42" and 50% openness allowed by the ordinance for a front-yard fence and voiced concerns with the lack of practical difficulty. Board members also commented that they felt a retaining wall would accomplish the same objective and also prevent washouts. The Board then went through the variance checklist.

At this time, Board member Hinrichs made a motion, seconded by Board member Clinton, to deny a front-yard fence at 304 Fulton Street based on the findings of facts in the submittal materials that the fence does not meet the zoning requirements and that there was a lack of a practical difficulty shown for granting a variance to allow a front-yard fence.

Motion carried 6-0.

Case #857 – Variance Request to Allow Changes to a Non-Conforming Freestanding Sign at 910 Spring Street

Staff informed the Board that Bay Mall is located in the B-3 General Business District that allows multi-tenant building signs of 8 feet in height and 42 square feet in area. The mall was constructed in the mid-1970s and was granted sign variances in 1977 and 1980. The existing freestanding sign is 275 square feet in area and 31 feet in height to the top of the square blue frame and 35 feet to the top of the point.

The mall owners would like to modernize the sign with brick columns, reduce the tenant panels from 275 square feet to 220 square feet, and reduce the overall height to 30 feet. Pursuant to Section 9.1(a)(1) of the Sign Ordinance, *Nonconforming signs shall not be structurally altered so as to prolong the life of the sign, such as to change the shape, size, type, design, or face of the sign. Nonconformities shall not be enlarged, expanded, or extended.*

Although the changes reduce the sign size, they are intended to extend the life of the sign so neither staff or the Planning Commission Sign Committee are able to approve. The Zoning Board of Appeals, however, is authorized to grant sign variances for sign dimensions, height, and the relocation of existing non-conforming signs and the applicant is therefore requesting consideration of the proposed changes.

Chairperson Pall asked staff what variances were granted and what the permitted size was at that time.

Staff responded that the approval minutes from those prior hearings did not give a clear description of the approved variance and that there was no sign ordinance in place at the time of approval.

Board member Clinton asked if the Planning Commission Sign Committee could not review this request because of its non-conforming status.

Chairperson Pall suggested that the ZBA could request that the Planning Commission look at the ordinance for potential changes.

Staff responded that the request is vastly beyond what is allowed and the Sign Committee can only approve up to 25% more than what is allowed per the ordinance.

Matthew Drozd, Lormax Stern Development, informed the Board that their intent was not to make any structural changes but rather to update it and make it more cosmetically appealing. While the existing sign is 40+ years old and outdated, it is structurally sound.

Staff informed the Board that she had contacted the City Attorney and he did not feel staff had the authority to approve the requested changes as they exceeded what was allowed under Section 9.1(a)(1) of the Sign Ordinance.

Board member Shaw-Nolff commented that she believed the overall height of the sign could be lower.

Mr. Drozd responded that it would require changes to the structure if they went any lower with the sign and that the existing tenants would not likely agree to even smaller sign area. So if the variance were not granted, the sign would remain as it is. He also stated that the panels on the sign would be brought into compliance with the existing ordinance per the staff's request.

Board member Morrison asked staff if the sign would have to comply with the ordinance if any structural changes were made.

Staff responded that the variance request is to keep the structure as is, update the design and slightly reduce the overall height. Any previous variances granted would remain with the sign.

Board members discussed whether or not allowing the sign to be updated would be considered extending the life of the sign or as maintenance and agreed that given the size and orientation of the mall a large sign would likely be required.

Board members reviewed the proposed changes and discussed how the changes to bring the sign more into compliance with the current sign ordinance requirements were positive, that the site was unique in its orientation; members also noted that whether structural or not, the design element changes were extending the life of the sign and that needed to be balanced with the alternative that the sign remain as it is.

At this time, Board member Knibbs made a motion, seconded by Board member Hinrichs, to approve a request for a sign variance at 910 Spring Street to reduce the existing sign size from 275 square feet to 220 square feet and a total height of 30 feet based on the findings of fact that there will be no structural changes, an effort has been made to reduce the size of the sign, the sign panels will meet the ordinance requirements, a practical difficulty is created by Section 9.1(a)(1) of the Sign Ordinance and that the proposed changes are not contrary to the intent of the ordinance.

Motion carried 6-0.

No public comments were received.

The meeting was then adjourned at 8:00 P.M.



City of Petoskey

Agenda Memo

| BOARD: | Zoning Board of Appeals | |
|-----------------|--|---|
| MEETING DATE: | September 7, 2021 | DATE PREPARED: August 25, 2021 |
| AGENDA SUBJECT: | Case #858 – Requested front an Street | d side yard setback variances at 120 E Lake |
| | Consider the request | |

Background

The subject property is an approximately 4,000 square foot lot in the O-S Office Service District that allows multiple family uses subject to RM-2 District standards. The building was most recently used as offices for Gaslight Media but was constructed as a dwelling and also served as a boarding house according to the 1907, 1919 and 1929 Sanborn Maps.

The structure is non-conforming to the rear-yard setback and lot coverage for the RM-2 Zoning District, with encroachments into the undeveloped Bay Street right-of-way. The building has no onsite parking, but the requirement for the proposed use is less than the previous office (six versus twelve), which used on-street and Bayfront Park parking.

The house to the west (114 E Lake Street) received variances in 2009 to be built one (1) foot from its east property line.

Request

The new owners would like to return the structure to residential use, creating three dwellings. Due to current building code requirements, a barrier free ramp is required for the ground floor unit and each unit will have a separate entrance. A stairway on the west side of the building to access the upper story units is also proposed. From the application form:

We will be adding an ADA ramp at the front entrance, in order to provide an accessible unit on first floor. Currently the access to the 2nd and 3rd floor units are accessed by an interior stairway. Per code we will need to add separate entrances for each unit including adding a proper stairway for access to the back area where the additional exterior entrance is located. Square off current deck since it will become a walkway, provide a uniform walkway for safety of renters.



Table 1 Dimensional Variance Request

| | RM-2 Single Family Standards | Existing at 120 E Lake | Proposed | Resulting variance |
|-----------------------|------------------------------------|------------------------------|-----------|------------------------|
| Front-yard setback | 25 | 6.5 feet | 0.25 feet | 24.75 |
| Side-yard setback | 10; 10 | 13; 10.5 | 11; 4.75 | 0; 5.25 (west side) |

In making its motion, the Board shall state the grounds, or findings of fact upon which it justifies the granting of a variance and may attach any conditions regarding the location, character, and features of the request that further the purposes of the ordinance. In addition, a variance should only be granted after consideration of the following factors:

- The need for the variance is due to unique circumstances, or physical conditions, of the property involved, such as exceptional narrowness, shallowness, shape or area, exceptional topographic conditions or other extraordinary or exceptional conditions of the specific piece of property and is not shared by neighboring properties;
- 2) The request is not due to the applicant's personal or economic situation;
- 3) The practical difficulty was not created by an action of the applicant;
- The requested variance is the minimum variance necessary to grant substantial relief to the applicant while at the same time minimizing any adverse impacts to other property owners in the general neighborhood or zoning district;
- 5) The request, if granted, would not cause substantial detriment to the public good or substantially impair the intent and purpose of the ordinance; and
- 6) The strict application of the regulations would result in peculiar or exceptional practical difficulties.

APPLICANT ANSWERS TO VARIANCE CHECKLIST

Will strict compliance with the dimensional requirements of the zoning ordinance prevent the application from using the property for the permitted purpose?

A variance is required due to the following specifics of the property:

- Returning the property back to its original use of a residential property, first as a single-family home and following as three apartments. We are returning this structure to multi-family housing.
- We are restricted from using the opposite side of the building due to the Bay Street right of way and the existing retaining wall structure
- Current access to the 2nd and 3rd floors is located in the back of the home, adding a side stairway to connect to the existing walkway in the back of the home is necessary
- An ADA ramp is needed for the accessible access to the proposed first floor ADA unit. Due to topography and elevation the spot needed to provide the proper slope for the ramp requires a variance.

Is there a way to accomplish the same purpose without a variance or with a lesser variance regardless of convenience or expense?

- Due to the shape of the lot, original location of the home much of the property is a nonconforming structure as it was originally built in 1889 and additions in 1977.
- The ramp location requested gives the best option for a person needing a ramp without any changes to the city sidewalk.
 - It will be closet to a city sidewalk current curb cut and best transition from the sidewalk to the ramp.
 - Also, gives the best option (least amount of travel distance) based on current public parking and the nearest crosswalk.
- Due to the topography of the land the proposed stairway would provide the appropriate elevation. Proposed variance would use the property owners' property rather than city property. It would not encroach on city property, while placing the stairway on the other side would require use of city property.
- Changes to the walkway at the back of the building (squaring off the walkway) addresses safety concerns of having an oddly shaped walkway used by renters.

Is the need for the variance due to a situation that is unique to the property and would not generally be found elsewhere in the same zoning district?

- This is unique due to the shape of the lot; it is a triangle lot with two sides of city property. In addition to the unique shape of the lot the topography has dramatic differences from the back, front, sides of the building. This is not a flat lot and access to each unit is not on the same level or in an area where stairs are not required.
- The original home was built in 1889 (1800 sq feet) and added on (totaling 4200 sq feet) in 1977 to accommodate 3 apartments and a business, most likely adhering to different zoning ordinances. ADA access and separate accesses for each unit were not a consideration when the property was built or added onto as it is today in current building codes.
- Also, use of the city property, roads, topography has changed dramatically since the home was originally built.

If granted, will the variance uphold the spirit and the intent of the ordinance and be fair to the neighboring units?

• This will bring back the spirit of this row of homes. 120 E Lake Street was the only property ran as a commercial property on a row of residential homes and condo units on this side of Lake

Street. Bringing it back to residential is taking it back to its original use and creating a more neighborhood feel for the residential homes and condos along this portion of E Lake Street.

• We are requesting a side-yard setback variance of five feet on the west side, maintaining five feet from the stairway. The house to the west received a variance to be constructed 1 foot from this lot line. With the lot sizes and need to improve historical/outdated structures the variance is needed.

Has the need for the variance been created through previous action of the applicant?

• No, we purchased the home in April 2021 and have not made any modifications to the property but think returning the building to multifamily is a positive change.









120 East Lake Street, Petoskey, Michigan

From the Article Below: Frank Dahmer salvaged the aging house old house with an abundance of overgrown brush at the corner of Lake Street and US-31 in 1977. The house was originally built in 1889. The building was enlarged from 1800 square feet to 4200 square feet with infrastructure upgrades to hold three apartments and a studio for Dahmer. Beginning in 1968 Dahmer had taught himself the basics of stained glass. Dahmer moved to Petoskey in 1975 where he opened a small shop, Shadetree Stained Glass Studio, in the Gaslight District where he hired Penny Rakoniewski into his business, teaching her along the way. Penny moved with the shop in 1980 when Dahmer moved to the 120 East Lake Street location... selling offering classed, repairing and restoring damaged stained materials. glass, frosting and etching... anything having to do with stained glass.

This house/shop/apartments location was FIRST sold in 1873 as part of a 12 acre parcel by Neyas Petosegay Neeitooshig (Chief Petoskey, namesake of the City of Petoskey).



BEFORE



AFTER

é , Local home gets new lease on life

Frank Dahmer's hard work becomes asset for area

By Audrey Collins

Two and a half years ago, the corner of Lake Street at US-31 was occupied by an aging house and a lot of overgrown brush.

Two and a half years ago, Frank Dahmer wanted to get out of his basement apartment, so sight unseen, he plunked a \$100 deposit on the property.

Today, that corner is a Petoskey landmark, a setting for the gem that is Shadetree, Dahmer's turreted, neo-Victorian stained glass studio.

"I had the esthetics of a beautiful place to be," says Dahmer. "I love Victorian architecture and wanted to capture the Bay View character. This place gave me the opportunity to show that with some kinds of businesses, you can add to the look of the town and provide for the needs of the structure and still have a viable kind of construction.

It would have been easier, he says, to have torn down the original core of the ouse, built back in 1889.

"I wanted to rebuild from scratch, authentically," says the Gainesville, Fla., native. Zoning requirements for new construction were so restrictive, however, he decided to do it the hard way, by extensive remodeling.

Dahmer has added all the modern amenities such as wiring, plumbing, insulation and a combination of gas hot water or wood heat. Skylights bring in the sun from the building's Southern exposure.

The building has grown from 1800 square feet to 4200 square feet and will contain three apartments plus Dahmer's studio when it is completed.

A self-proclaimed "Jack of all trades" who has been by turns a hairdresser and a shoe salesman, Dahmer learned his skills for remodeling by starting small and doing odd-job repairs.

"When I got into a situation I couldn't handle, I asked the old-timers how to do it. They were always glad to teach me, and I'm a person who can watch it being done and then do it myself." he says.

He started in stained glass work the same way, beginning in 1968. He taught himself the basics and learned the fine points by "hanging around studios and talking to some of the old-timers."

At that time, he was one of two people in the state of Florida who did stained glass. Now he estimates that there are nearly 300,000 hobbyists in the country. Many of them purchase kits for lamps and windows, or patterns and tools which he has designed for marketing through Craft House in Ohio.

In 1975, Dahmer moved to Petoskey and opened his Shadetree Stained Glass himself. Studio as a small shop in the Gaslight district. He hired Penny Rakoniewski, who "came into the studio and said she wanted to be an artist. Now she is an artist," he says. She draws designs and also does soldering on the pieces, which are constructed by Tiffany's copper foil method.

much easier.



FRANK DAHMER in his studio watches his stained glass artist and protegee Penny Rakoniewski as she does finish soldering on a decorative panel.

Penny and five other full time employees moved to Shadetree's present location in April of 1980 and since have seen the business expand to include selling do-it-yourself materials, offering classes, repairing and restoring damaged stained glass, frosting and etching. Dahmer says he is delighted with the new site.

"We get a lot of people in the shop just because they are curious about the house, he says.

The place has come a long way since the 12 acre parcel was first sold by Neyas Petosegay Neeitooshig for \$25 an acre in 1873.

Now Dahmer estimates its value in excess of a quarter of a million dollars.

"I've got that much in it, in sweat, tears, stress, worry, hassle, late nights, blood, " says Dahmer, who designed the new look and did much of the work muscle...

Design is his first love. If he had his 'druthers, he would spend his energy building Victorian homes. In part, he is getting his wish, serving as a consultant and designed for both interior and exterior "creative remodeling."

Already his architectural designs are being implemented at new construction sites Actually cutting the glass is probably the trickiest part of stained glass work, but in Flint and Plymouth. They bear testimony to the enduring appeal of a century-old according to Rackoniewski, drawing the design in "cut-able pieces" makes that job grace that has been preserved in Northwestern Michigan and is being revived by young visionaries like Frank Dahmer.

Penny Rakoniewski Kristo eventually bought out the stained glass business and moved it to 446 East Mitchell Street Emmet Street, next to Howard Street, and then moved to is most recent 421 Emmet Street, Petoskey, location. Additional information about the Shadetree Studios may be accessed on the "Art & Authors" web page on this same site by clicking HERE.

Frank Dahmer is related to the Russell Family that owns the Russell's Shoes store at 405 East Lake Street, Petoskey. Therefore, it is not surprising that Dahmer created the Russell's stained glass sign which still (2021) hangs over the door to the store downtown. He also designed some of the many stained lamps with the letter "R" inside the store as part of relative Dave Russell's vast collection of lighting. Additional information about the Dave Russell's store and private

museum may be accessed on the "Vehicles & Bicycles" web page on this same site by clicking <u>HERE</u>.





| Sale Date | Sale Price | Instrument | Grantor | Grantee | Liber/Page |
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| 06/06/2016 | \$0.00 | QC | SCOTT CHARLES P TRUST | SCOTT CHARLES P, SCHWINKE JANICE M | 1186/662 |
| 06/06/2016 | \$0.00 | QC | SCOTT CHARLES P, SCHWINKE JANICE M | SCOTT CHARLES P TRUST | 1186/667 |
| 09/06/2000 | \$0.00 | QC | SCOTT CHARLES P | SCOTT CHARLES P TRUST | 746-111 |
| 07/16/1998 | \$257,500.00 | WD | VADIVEL SAKTHI | SCOTT CHARLES P | 653-002 |
| 06/17/1992 | \$275,000.00 | WD | CARPENTER JOHN EDWARD | VADIVEL SAKTHI | 472:356 |
| 12/31/1982 | \$0.00 | WD | DAHMER FRANK | CARPENTER JOHN EDWARD | 325/452 |
| 04/29/1977 | \$35,000.00 | LC | PICKARSKI SOPHIE | DAHMER FRANK | 274/616 |
| 01/02/1976 | \$0.00 | QC | PICKARSKI RONALD | PICKARSKI JOHN & SOPHIE | 273/885 |

Items sourced from article:

https://northernmichmashpreserve.weebly.com/old-houses.html



MICHIGAN REHABILITATION CODE FOR EXISTING BUILDINGS 2015 (MRCEB)

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PLEASE NOTE:

QUESTIONS AND CONSULTATION AFTER THE RELEASE OF THE FINAL CONSTRUCTION DRAWINGS WILL BE SUBJECT TO FEES / BILLING PER THE CLIENT'S CONTRACT.

QUESTIONS CONCERNING ARCHITECTURAL DRAWINGS, CONTACT:

LEXI SZYMONIAK PHONE # (231) 348-0497

QUESTIONS CONCERNING STRUCTURAL DRAWINGS, CONTACT:

BRYAN LINDFORS, P.E. PHONE # (231) 348-0497

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CODE INFORMATION:

EXCEPT WHERE OTHERWISE INDICATED, THE PLANS (CONTRACT DOCUMENTS) HAVE BEEN DEVELOPED IN ACCORDANCE WITH THE 2015 MICHIGAN REHABILITATION CODE FOR EXISTING BUILDINGS. THE GENERAL CONTRACTOR IS RESPONSIBLE FOR MEETING ALL LOCAL BUILDING CODES AND ZONING REQUIREMENTS. PLEASE NOTIFY EDGEWATER DESIGN GROUP, LLC OF ANY ADJUSTMENTS THAT NEED TO BE MADE TO THE DRAWING SET TO ACCOMMODATE LOCAL REQUIREMENTS.

DISCLAIMER:

| PROJECT EXCLUSIVELY DESIGNED FOR: Date: REVISIONS: Date: REVISIONS: Date: BCI: DENISE & MICHEAL CROAKE 06/25/21 SCHEMATIC DESIGN RELEASED FOR DEMOLITION PERMITS 15 15 DENISE & MICHEAL CROAKE 07/27/21 CONSTRUCTION DOCUMENTS RELEASED FOR PERMITS # CONSTRUCTION 15 15 DRAWING NAME: Image: Construction Documents Released For PERMITS # CONSTRUCTION 15 15 15 GENERAL NOTES & SHEET INDEX Image: Construction Documents Released For PERMITS # CONSTRUCTION 15 DE | VISIONS: | DEMOLITION PERMITS LS | | | | | | |
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| OCCURRED. EDGEWATER DESIGN GROUP LLC SHALL NOT BE HELD RESPONSIBLE FOR STRUCTURAL, MECHANICAL OR OTHER ELEMENTS DISCOVERED DURING DEMOLITION THAT MAY AFFECT THE CONSTRUCTION OF THE RENOVATION. PLEASE CONTACT EDG IMMEDIATELY UPON ISSUES DISCOVERED DURING DEMOLITION OR ITEMS THAT CONTRADICT THE DESIGN AND ENGINEERING PROVIDED BY EDG FOR THIS PROJECT. | SCALE PLOTT SHEE | E: A FED: 7 T: A | <u>5 SHOWN</u> 7/29/2021 |

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|--|----------------------------|---|--|-------------------------------|
| NEW SEPARATED ENTRY DOOR TO SECOND LEVEL | 109'-1 3/8" THIRD LEVEL | | EUGEWALEK DESIGN GROUP | |
| ADDIL LAYER OF CONC. WALWAY TO EXISTING, FULSTING SUPFACE EVEN WALKING SUPFACE UNITY DOOR TO UPPER LEVEL APPROX. LINE OF EXIT GRADE | 91'-35/8" MAIN LEVEL | DATE: REVISIONS: CHG 06/25/21 SCHEMATIC DESIGN RELEASED FOR DEMOLITION PERMITS L5 | 07/27/21 CONSTRUCTION DOCUMENTS RELEASED FOR PERMITS & CONSTRUCTION L5 | _ |
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DESIGN CODE: 2015 MICHIGAN REHABILITATION CODE FOR EXIST BUILDINGS G. GENERAL CONTRACTOR SHALL VERIFY LOCATION OF ALL MECHANICAL LINES BEFORE CASTING FOUNDATIONS AND PROVIDE SLEEVES, I. THESE GENERAL NOTES APPLY TO ALL STRUCTURAL DRAWINGS AND LOWER FOUNDATIONS. OR CAST PROTECTION AROUND LINES AS SUPPLEMENT THE PROJECT SPECIFICATIONS WHICH SHALL BE REFERRED REQUIRED. TO FOR ADDITIONAL REQUIREMENTS. H. NO BOND BREAKER OR COMPRESSIBLE JOINT FILLER SHALL BE 2. THE CONTRACTOR SHALL COMPLY WITH ALL FEDERAL, STATE, AND LOCAL PLACED BETWEEN SLAB ON GRADE AND FOUNDATION WALLS OR SAFETY AND CONSTRUCTION REQUIREMENTS, INCLUDING BUT LIMITED TO FOOTINGS. OSHA AND MIOSHA. THE CONTRACTOR IS SOLELY RESPONSIBLE FOR ALL DETERMINATIONS OF BRACING AND OTHERWISE, AND CONTRACTOR 5. COORDINATION: ACHKNOWLEDGES THAT UPON BIDDING ON THESE DRAWINGS AND/OR PERFORMING THE WORK, HAS REVIEWED THE DRAWINGS, UNDERSTANDS A. STRUCTURAL DRAWINGS SHALL BE COORDINATED WITH MECHANICAL THE DRAWINGS AND THE WORK TO BE DONE, AND ACKNOWLEDGES THAT AND ARCHITECTURAL DRAWINGS. CONTRACTOR SHALL REPORT IT HAS CONDUCTED A COMPLETE AND DETAILED INVESTIGATION OF THE DISCREPANCIES TO THE ARCHITECT/ ENGINEER. REFER TO WORK. MECHANICAL, ELECTRICAL AND ARCHITECTURAL DRAWINGS FOR OPENINGS NOT SHOWN ON STRUCTURAL DRAWINGS. NO OPENING 3. LOADS USED IN DESIGN: SHALL BE MADE IN ANY STRUCTURAL MEMBER WITHOUT THE WRITTEN APPROVAL OF THE ARCHITECT/ENGINEER. LIVE LOADS: A. ROOF SNOW **B.** THE STRUCTURE IS DESIGNED TO FUNCTION AS A UNIT UPON GROUND SNOW LOAD (PG)_____70 PSF COMPLETION. THE CONTRACTOR IS RESPONSIBLE FOR FURNISHING EXPOSURE FACTOR (CE)_____I.O ALL TEMPORARY BRACING AND/ OR SUPPORT THAT MAY BE REQUIRED THERMAL FACTOR (CT) AS THE RESULT OF THE CONTRACTOR'S CONSTRUCTION METHODS SNOW LOAD IMPORTANCE FACTOR (IS)_____I.0 AND/ OR SEQUENCES. FLAT ROOF SNOW LOAD (PF)_____54 PSF ROOF DEAD C. DO NOT SCALE DRAWINGS- USE DIMENSIONS OR REQUEST TOP CHORD____I 2 PSF CLARIFICATION FROM ARCHITECT/ENGINEER. BOTTOM CHORD _____8 PSF **B.** FLOOR: LIVE 6. CONCRETE: ALL AREAS_____40 PSF FLOOR: DEAD_____20 PSF A. CONCRETE MATERIALS-ASTM C94 PORTLAND CEMENT: ASTM C | 50, TYPE I / II. C. WIND LOADS FLY ASH: ASTM CG18, CLASS C OR F. MAX 15% REPLACEMENT. ULTIMATE WIND SPEED_____I I 5 MPH (VASD = 89MPH) NORMAL-WEIGHT AGGREGATE: ASTM C33, UNIFORMLY GRADED, NOT EXPOSURE_____C LESS THAN 3S, NOMINAL MAXIMUM AGGREGATE SIZE- I INCH. SURFACE ROUGHNESS_____Kzt = 1.0 WATER - POTABLE AND COMPLYING WITH ASTM C94. WIND LOAD IMPORTANCE CATEGORY (C1) _____ I .0 GROUND GRANULATED BLAST FURNACE SLAG CEMENT, NEUTRAL SET, MAX 15% REPLACEMENT. GGBFSC SHALL NOT BE INCLUDED IN D. SEISMIC EXTERIOR FLATWORK CONCRETE. SEISMIC DESIGN CATEGORY _____A GENERAL STRUCTURAL INTEGRITY FX=0.01WxB. ADMIXTURES - ADMIXTURES CERTIFIED BY MANUFACTURER TO CONTAIN NOT MORE THAN O. I PERCENT WATER -SOLUBLE CHLORIDE **4.** FOUNDATIONS: IONS BY MASS OF CEMENTITIOUS MATERIAL AND TO BE COMPATIBLE WITH OTHER ADMIXTURES AND CEMENTITIOUS MATERIALS. DO NOT A. THIS STRUCTURE HAS BEEN DESIGNED TO BEAR ON SPREAD USE ADMIXTURES CONTAINING CALCIUM CHLORIDE. WATER-FOOTINGS PLACED ON UNDISTURBED NATURAL SOILS OR COMPACTED REDUCING ADMIXTURE: ASTM C494, TYPE A. GRANULAR ENGINEERED FILL THE ASSUMED ALLOWABLE SOIL BEARING PRESSURE IS 2,000 PSF. C. STEEL REINFORCEMENT-REINFORCING BARS: ASTM AG 15, GRADE 60, DEFORMED. **B.** ALL FOOTINGS SHALL BE SET A MINIMUM OF 3'-6" BELOW GRADE OR WELDABLE LOW ALLOW RE-BARS: ASTM A706, GRADE 60, FROST DEPTH PER LOCAL BUILDING CODE REQUIREMENTS. DEFORMED. PLAIN STEEL WIRE: ASTM A82, AS DRAWN. C. THE G.C. SHALL BE RESPONSIBLE TO SECURE THE SERVICES OR STEEL WELDED WIRE REINF., PLAIN, FOR CONC, ASTM A185 PROVIDE, AS REQUIRED. ALL EARTHWORK INCLUDING PROVIDING ALL FY=75KSI EQUIPMENT, MATERIALS AND QUALIFIED LABOR NECESSARY FOR EXCAVATION, DEWATERING SYSTEMS (IF REQUIRED), BACKFILL AND D. CONCRETE MIXES- PREPARE DESIGN MIXES FOR EACH TYPE AND COMPACTION OF THE SOIL AS REQUIRED TO CONSTRUCT STRENGTH OF CONCRETE DETERMINED BY EITHER LABORATORY TRIAL STRUCTURES TO THE LINE AND GRADE AS SHOWN ON THESE PLANS. MIX OR FIELD TEST DATABASES. PROPORTION CONCRETE ACCORDING TO ACI 211.1 AND ACI 301 D. EXCAVATE TO ELEVATIONS AND DIMENSIONS SHOWN ON THE PLANS I) FOOTINGS AND FOUNDATION WALLS-WITHIN A TOLERANCE OF ± 0.04 '. EXCAVATE BY HAND TO FINAL COMPRESSIVE STRENGTH 3,500 PSI, WATER: CEMENT RATIO GRADE FOR FOOTINGS. .50 MAX, MAX SLUMP 6". ENTRAINED, AIR 6% \pm 1.5% 2) INTERIOR AND BASEMENT SLAB ON GRADE- COMPRESSIVE E. BACKFILL ALL STRUCTURAL WORK WITH CLEAN GRANULAR FILL. ONSITE STRENGTH (28 DAYS) 4,000 PSI, MAX, 45 WATER: CEMENT MATERIAL SHALL BE TESTED AND CONFORM TO MDOT CLASS 2 RATIO. MAX SLUMP 6" NO ENTRAINED AIR REQUIRED, 3% MAX. BEFORE BEING PERMITTED, OTHERWISE BACKFILL MATERIAL SHALL BE 3) EXTERIOR AND GARAGE SLAB ON GRADE- COMPRESSIVE IMPORTED THAT MEETS THOSE REQUIREMENTS. DO NOT BACKFILL STRENGTH (28 DAYS): 4,500 PSI, MAX SLUMP 6 INCHES. MAX WITH FROZEN MATERIALS. BACKFILL EACH SIDE OF FOUNDATION WATER- CEMENT RATIO 0.40 AIR CONTENT: 6% ± 1.5% LIMIT WALL SIMULTANEOUSLY, DO NOT BACKFILL BASEMENT WALLS UNTIL WATER- SOLUBLE CHLORIDE-ION CONTENT IN HARDENED BASEMENT FLOOR AND FIRST FLOOR FRAMING AND SHEATHING HAVE CONCRETE TO 0.15%. USE ADMIXTURES ACCORDING TO BEEN INSTALLED. MANUFACTURERS WRITTEN INSTRUCTIONS. F. COMPACT SOILS BELOW FOOTINGS AND CONCRETE FLOOR SLABS IN E. DESIGN, ERECT, SHORE, BRACE, AND MAINTAIN FORMWORK, 6" MAX. LIFTS TO A MINIMUM 95% MODIFIED PROCTOR DENSITY. ACCORDING TO ACI 301. DO NOT USE RUST-STAINED STEEL FORM-(ASTMD1557) FACING MATERIAL. PROVIDE TEMPORARY OPENINGS FOR CLEANOUTS

AND INSPECTION PORTS WHERE INTERIOR AREA OF FORMWORK IS INACCESSIBLE. CHAMFER EXTERIOR CORNERS AND EDGES OF PERMANENTLY EXPOSED CONCRETE. FORM OPENINGS, OFFSETS. KEYWAYS. AND BULKHEADS REQUIRED IN THE WORK. DETERMINE SIZES AND LOCATIONS FROM TRADES PROVIDING SUCH ITEMS.

- F. FORM TIES: FACTORY-FABRICATED, FORM TIES DESIGNED TO RESIST LATERAL PRESSURE OF FRESH CONCRETE ON FORMS AND TO SUPPORT REINFORCING STEEL IN POSITIONS INDICATED ON THE DRAWINGS DURING CONCRETING AND CONSOLIDATION.
- G. PLACE AND SECURE ANCHORAGE DEVICES AND OTHER EMBEDDED ITEMS. USE SETTING DRAWINGS, TEMPLATES, AND DIRECTIONS FURNISHED WITH ITEMS TO BE EMBEDDED. INSTALL ANCHOR BOLTS, ACCURATELY LOCATED. TO ELEVATION REQUIRED.
- H. COMPLY WITH "CRSI'S MANUAL OR STANDARD PRACTICE" FOR FABRICATING AND PLACING REINFORCEMENT. CLEAN REINFORCEMENT OR LOOSE RUST AND MILL SCALE, EARTH, AND ICE. ACCURATELY POSITION, SUPPORT AND SECURE REINFORCEMENT AGAINST DISPLACEMENT. LOCATE AND SUPPORT REINFORCEMENT WITH BAR SUPPORTS TO MAINTAIN MINIMUM CONCRETE COVER. DO NOT TACK WELD CROSSING REINFORCING BARS.
- I. IF TEMPERATURE AT THE BUILDING SITE FALLS BELOW 50° FAHRENHEIT AT ANY TIME DURING THE FIRST 24 HOURS AFTER POUR. FOLLOW THE RECOMMENDATIONS IN GUIDE TO COLD WEATHER CONCRETE ACI 30GR. CONVERSELY, TEMPERATURES ABOVE 77° FAHRENHEIT REQUIRE CONFORMANCE WITH GUIDE TO HOT WEATHER CONCRETE ACI 305 R.
- J. BEFORE PLACING CONCRETE, VERIFY THAT INSTALLATION OF FORMWORK, REINFORCEMENT, AND EMBEDDED ITEMS IN COMPLETE AND THAT REQUIRED INSPECTIONS HAVE BEEN PERFORMED. WATER SHOWN ON BATCH TICKET AS BEING WITHHELD MAY ONLY BE ADDED AT PROJECT SITE, BEFORE ANY CONCRETE HAS BEEN DISCHARGED AND BE SUBJECT TO LIMITATIONS OF ACI 301. DO NOT ADD WATER TO CONCRETE AFTER ADDING HIGH-RANGE WATER-REDUCING ADMIXTURES TO MIX. CONCRETE TESTING SHALL BE AFTER ANY FIELD ADJUSTMENTS AND THOROUGH MIXING.
- K. ALL CONCRETE PUMP PRIMING SLURRY SHALL BE PLACED OUTSIDE OF PROJECT AREA AND NOT INCLUDED IN THE WORK.
- L. DEPOSIT CONCRETE CONTINUOUSLY OR IN LAYERS OF SUCH THICKNESS THAT NO NEW CONCRETE WILL BE PLACED ON CONCRETE THAT HAS HARDENED ENOUGH TO CAUSE SEAMS OR PLANES OF WEAKNESS, DEPOSIT CONCRETE TO AVOID SEGREGATION, DEPOSIT CONCRETE IN FORMS IN HORIZONTAL LAYERS NO DEEPER THAN 24 INCHES AND IN A MANNER TO AVOID INCLINED CONSTRUCTION JOINTS. PLACE EACH LAYER WHILE PRECEDING LAYER IS STILL PLASTIC. TO AVOID COLD JOINTS.
- M. CONSOLIDATE ALL PLACED CONCRETE WITH INTERNAL MECHANICAL VIBRATING EQUIPMENT. EXTERIOR FORM VIBRATION IS NOT SUFFICIENT. DO NOT USE VIBRATORS TO TRANSPORT CONCRETE INSIDE FORMS.
- N. PATCH TIE HOLES AND REPAIR DEFECTIVE AREAS. REMOVE FINS AND OTHER PROJECTIONS EXCEEDING ACI 347R LIMITS FOR CLASS B SURFACE.

7. <u>WOOD:</u>

A. FRAMING LUMBER: (UNLESS NOTED OTHERWISE)

- (1) INTERIOR: STUDS & TRIMMERS: SPRUCE-PINE-FIR # 1 OR #2 WALL HORIZONTAL PLATES_____SPF. #1 OR #2 (2) EXTERIOR:
- JOISTS & POSTS:______P.T. #2 SYP, U.N.O. (3) ALL COMPOSITE WOOD PRODUCTS DESIGNED AS TRUSS JOIST
- MACMILLAN. FOLLOW ALL REQUIREMENTS AND RECOMMENDATIONS OF MANUFACTURER.
 - A. LVL= 2.0E, FB=2900 PSI, LAMINATED VENEER LUMBER B. LSL= 1.55E, FB=2325 PSI, LAMINATED STRAND LUMBER

- A. ALL WOOD IN DIRECT CONTACT WITH CONCRETE SHALL BE PRESSURE TREATED. WOOD SILL PLATES LOCATED INTERIOR OF EXTERIOR SIDING MAY BE TREATED BEFORE BORATE BASED PRESERVATIVE. ALL WOOD FRAMING AND SHEATHING SUPPORTING STONE / MASONRY VENEER LOCATED OUTSIDE THE BUILDING ENVELOPE SHALL BE PRESSURE TREATED.
- **B.** ALL DOUBLE TOP PLATES ARE TO BE INSTALLED TO PROVIDE INTERLEAVING AT CORNERS AND INTERSECTIONS WITH BEARING PARTITIONS. BUTT JOINTS OF TOP PLATES SHALL BE OFFSET 24" MINIMUM.
- C. GLUE AND NAIL 2X STUDS TOGETHER TO FORM BUILT-UP WOOD COLUMNS. USE A NUMBER OF STUDS FOR EACH COLUMN SUCH THAT THE COLUMN WIDTH EQUALS OR EXCEEDS THE WIDTH OF THE SUPPORTED MEMBER BUT IN NO CASE LESS THAN TWO (2) STUDS. MINIMUM NAILING: (3) 0.130" X 3.5" NAILS @ 6" O.C. FROM EACH DIRECTION, OFFSET BY 3"
- D. ALL EXTERIOR HEADER MATERIAL TO BE 3 1/2"X9 1/2" 1.55E TIMBERSTRAND LSL OR EQUIVALENT. UNLESS NOTED OTHERWISE.
- E. ALL INTERIOR 2XG BEARING WALLS SHALL BE SHEATHED ON ONE SIDE WITH 1/2" OSB. NAIL TO STUDS AT 4" O.C. AT PANEL PERIMETER AND 12" O.C. ON INTERIOR STUDS.
- F. USE SIMPSON HI HURRICANE TIE AT EACH SINGLE PLY 2X RAFTER/LADDER & PRE- ENGINEERED TRUSS SEAT. USE SIMPSON H2.5 HURRICANE TIE AT EACH MULTI-PLY 2X RAFTER/LADDER & PRE-ENGINEERED TRUSS SEAT. USE SIMPSON ST 2115 STRAP TIES OVER EACH RAFTER AT RIDGE BEAM/BOARD. UNLESS NOTED OTHERWISE ON ROOF FRAMING PLAN.
- G. ALL WOOD CONSTRUCTION SHALL BE IN CONFORMANCE WITH THE PROVISIONS OF THE "NATIONAL DESIGN SPECIFICATION (NDS) FOR WOOD CONSTRUCTION 2012 EDITION".
- H. CALCULATED LIVE LOAD DEFLECTIONS OF FLOOR JOIST SHALL NOT EXCEED L/480 OF THE SPAN LENGTH. DEAD LOAD FLOOR JOIST DEFLECTION SHALL NOT EXCEED 0.375 INCHES.
- I. ANY SUBSTITUTION OF ENGINEERED WOOD PRODUCTS (EWP). AS NOTED ON THESE DRAWINGS, WITHOUT THE PRIOR WRITTEN APPROVAL FROM THE STRUCTURAL ENGINEER OF RECORD, VOIDS ANALYSIS.
- J. ALL FLOORS ARE TO BE SHEATHED WITH 3/4" OSB MINIMUM WITH SUBFLOOR CONSTRUCTION ADHESIVE AND 8D NAILS SPACED 6"O.C. AROUND PANEL EDGES AND 12" O.C. ON INTERMEDIATE JOIST, UNO. FLOOR TRUSS STRONG BACK BRIDGING TO BE 2X8XCONT. 8' O.C. MAXIMUM, UNO.
- K. ALL ROOF SHEATHING TO BE 5/8" O.S.B., 40/20 APA RATING MINIMUM WITH A SPAN NOT GREATER THAN 24". G.C. TO PROVIDE PANEL CLIPS, TONGUE AND GROOVE, OR SOLID BLOCKING AT UNSUPPORTED PANEL EDGES.
- L. ROOF SHEATHING TO BE NAILED TO FRAMING WITH 8D NAILS SPACED 6" O.C. AROUND PANEL EDGES AND 12" O.C. ROOF TRUSS LATERAL BRACING TO BE 8' O.C. AND LATERAL WEB BRACING SHALL BE LATERALLY BRACED AT 20' O.C. MAXIMUM, UNO.
- M. ALL EXTERIOR WALLS ARE TO BE FULLY SHEATHED WITH 1/2" O.S.B., 24/16 APA RATED SHEATHING. EXPOSURE 1 (APPLIED FULL HEIGHT). W/ 8D COMMON (2.5" X O. I 3 I " DIAMETER) NAILS AT 6" O.C. AT ALL EDGES AND 12" O.C. IN THE FIELD UNLESS NOTED OTHERWISE. REFER TO SHEAR WALL PLANS AND SCHEDULE.

| PROJECT EXCLUSIVELY DESIGNED FOR: Date: REVISION: Date: REVISION: Distribution Distribution <th< th=""><th>1 E. MITCHELL STREET</th><th>USKEY, IMICHIGAN 4977U (231) 348-0497</th><th>S DRAWING IS CONSIDERED</th><th>PROPRIETARY PRODUCT OF</th><th>TO BE LISED OR REPRODUCED</th><th>IN ANY MANNER</th><th>35 AUTHORIZED IN WRITING BY</th><th>EWATER DESIGN GROUP, LLC.</th></th<> | 1 E. MITCHELL STREET | USKEY, IMICHIGAN 4977U (231) 348-0497 | S DRAWING IS CONSIDERED | PROPRIETARY PRODUCT OF | TO BE LISED OR REPRODUCED | IN ANY MANNER | 35 AUTHORIZED IN WRITING BY | EWATER DESIGN GROUP, LLC. |
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| 7/29/2021 SHEET: | | | ۱ ۲ | | | | | |

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<u>SECTION</u>

City of Petoskey

Office of City Planner 101 East Lake Street, Petoskey, Michigan 49770 • 231 347-2500

Zoning Board of Appeals Zoning Ordinance Regulation Variance Checklist

 Date:
 September 7, 2021
 Case Number:
 858

It is the applicant's responsibility to prove a practical difficulty. It is not the job of the ZBA to find the practical difficulty for the applicant.

| Issue to be evaluated | Supports | Does not | Notes |
|---|----------|-------------|-------|
| (Practical Difficulty) | the | support the | |
| | variance | variance | |
| Will strict compliance with the dimensional requirements of the zoning ordinance prevent the applicant from using the property for the permitted purpose? A variance is granted for circumstances unique to the PROPERTY, not those unique to the owner. | | | |
| Is there a way to accomplish the same purpose without a variance or with a lesser variance regardless of convenience or expense? - The ZBA considers the property, not issues with the interior of the structure. | | | |
| Is the need for the variance due to a situation that is unique to the property and would not generally be found elsewhere in the same zoning district? - If the situation is often repeated in the same zoning district, then the variance request should be denied. | | | |
| If granted, will the variance uphold the spirit and intent of the ordinance and be fair to neighboring properties? - There are reasons the ordinance was adopted and those reasons should be respected and upheld. | | | |
| Has the need for the variance been created through previous action of the applicant? - The Appeals Board is not responsible for "bailing out" an applicant who created the need for a variance. | | | |

Office of City Planner 101 East Lake Street, Petoskey, Michigan 49770 • 231 347-2500

MOTIONS BY THE ZONING BOARD OF APPEALS Variance Requests

In Case #858, I move to (approve/ deny) a request for a _____feet front yard setback variance

for an entry ramp and a _____ feet side-yard setback variance for a stairway at 120 E Lake

Street with the (conditions/modifications) of:

Based on the findings of fact in the (e.g. agenda memo, submittal materials, etc.) that:

and the comments provided by

(e.g., those in attendance at the hearing, the applicant, the applicant's representative, etc.),

that demonstrate there is a (practical difficulty/ lack of practical difficulty) created by Section

1600 of the Zoning Ordinance and that the proposed changes (*are/are not*) contrary to the intent of the ordinance.

Background

In 2016, changes were made to Section 1704 of the Zoning Ordinance that regulates parking. The changes made in single and two family districts were to limit the number of curb cuts to one, establish a maximum percent of front yard that could be paved for parking, and a maximum curb cut opening to 16 feet. The purpose for these changes was for access management by restricting curb openings, and maintaining residential character of neighborhoods.

The property at 1209 Hill Street is zoned R-2 Single Family. In June of 2021, staff noticed that the driveway opening had been widened without a right-of-way use permit and is not in compliance with City construction standards. The opening had been 16 feet and was widened to 26 feet. According to Section 1704(b)(8), driveway curb cuts shall be no wider than 16 feet in one and two family districts.

Source: Emmet County GIS, 2017 Ortho photo

Source: Google Maps Street View, September 2019

Request

The property owner, Mr. Becker, has been working with the Department of Public Works on correcting the curb work to meet construction standards, however, he would like to continue to have the opening of 26 feet (a variance of 10 feet), or alternatively, reduced to 20 feet (a variance of 4 feet) rather than the allowed 16 feet.

In making its motion, the Board shall state the grounds, or findings of fact upon which it justifies the granting of a variance and may attach any conditions regarding the location, character, and features of the request that further the purposes of the ordinance. In addition, a variance should only be granted after consideration of the following factors:

- The need for the variance is due to unique circumstances, or physical conditions, of the property involved, such as exceptional narrowness, shallowness, shape or area, exceptional topographic conditions or other extraordinary or exceptional conditions of the specific piece of property and is not shared by neighboring properties;
- 2) The request is not due to the applicant's personal or economic situation;
- 3) The practical difficulty was not created by an action of the applicant;

- 4) The requested variance is the minimum variance necessary to grant substantial relief to the applicant while at the same time minimizing any adverse impacts to other property owners in the general neighborhood or zoning district;
- 5) The request, if granted, would not cause substantial detriment to the public good or substantially impair the intent and purpose of the ordinance; and
- 6) The strict application of the regulations would result in peculiar or exceptional practical difficulties.

ATTACHMENT TO ZONING BOARD OF APPEALS APPLICATION

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Background:

We purchased 1209 Hill Street on October 18, 2017 and rented the property starting in January 2018 to a young man and his family who had obtained employment with Reuss Jewelers. We allowed them to terminate the lease early so they could buy a home in the area. In the fall of 2018, we employed George Parker Jr. Construction Co. to undertake a complete renovation of the house which was completed in November 2019. That fall we sold our Burt Lake home and moved into our newly renovated home on December 23, 2019. Subsequently, landscaping improvements were made, the last of which were completed in November 2020.

Driveway and Curb Cut:

The original curb cut (on the flat) was sixteen feet. The east side of the driveway was perpendicular to the house all the way to the street, and the west side of the driveway angled from the street until its width widened to approximately to a width of 19'6" about 7' in front of the concrete apron in front of the two-car garage. The asphalt was in poor condition, and it had a severe slope from west to east, such that water in the winter ponded and froze on the east side of the drive and at times over the curb, thus causing a dangerous slippery condition. Because we own two vehicles and a truck, the latter was parked partly on the grass and on the west side of the driveway.

As our neighbor next to us on the west, Paul Matthews, had engaged Olstrom Excavating and Paving, Inc.¹ to pave his driveway, we did the same, and the work was completed in October 2020. We asked Ostrom's to widen the driveway to accommodate parking the truck on the driveway, and at no time did Olstrom's inform us of the obligation to obtain a variance for a widened curb cut or a permit to work in the unpaved portion of the right-of-way. In fact, applicant was unaware that Olstrom's would cut the curb to its existing width, and he was not present at the time it was cut.

Reasons for a Variance:

¹ Applicant was informed recently by the City's Engineer, Jason Fate, in a document that lists Olstrom's as an approved contractor for Streets, Underground & Asphalt Paving. Hence, they would certainly have known of the obligation for obtaining variances and ROW permits before doing any work in the road or right of way.

It appears that the variance requested is a use variance' under Sec. 2004(2)(b).² The standard is laid out as follows:

The zoning board of appeals shall have the authority to grant variances from the uses of land...that...absent relief, an "unnecessary hardship" may occur. For use variances, the zoning board of appeals may grant a variance so that the spirit of this zoning ordinance is observed, public safety secured and substantial justice is done.

This section then refers to "undue hardship," and gives the board the authority to grant relief where there is no substantial detriment to the public good and without substantially impairing the intent and purpose of the ordinance.

Suffice it to say, it was not Applicant's fault that the unpermitted work was done. Had the contractor lived up to its responsibility, Applicant would not be in this position. Notwithstanding, Applicant believes that this board should grant a variance to expand the curb cut, either to its existing width of 26 feet or at a minimum to 20 feet.

At the outset, it should be noted that Applicant will be responsible to replace the curb that was cut – the only issue is its size.³

Applicant does not believe that a grant of a variance will be detrimental to the public good or impair the intent and purpose of this ordinance requirement, which, obviously, seeks uniformity. Hill Street has not been developed in such a uniform manner. Of the 23 houses on Hill Street (see Note 2 on Exhibit 2), almost seventy (70%) percent of the homes on the street have openings well in excess of the 16-foot requirement. The existing driveway⁴ and curb cut (as to size) are certainly in harmony with the vast majority of homes on the street.

Applicant owns a Toyota Tundra that is approximately 19 feet long. By ordinance, it cannot be parked on unpaved surfaces or on the street for; more than three (3) hours.⁵ It would be burdensome to park it on a 16-foot driveway and to move it every time use was made of the garaged

² A non-use variance under Sec. 2004(2)(a) seems to relate only to "...construction, structural changes or alterations of buildings or structures related to dimensional requirements of this zoning ordinance. ..."

³ The approximate length of curb to be replaced by a City-approved contractor is between 10 and 12 feet, based on where the existing curb must be cut to tie it in to the replacement curb.

⁴ The issue of the pavement in the ROW area is to be decided after the Board makes its decision. However, it should be noted that the current driveway area does not violate Section 1704(d)(1)(a) of the Zoning Ordinance as it does not exceed 40% of the front yard area.

⁵ Zoning Ordinance, Sec. 1704(d)(1)(a), and, Ch. 21, Municipal Code, Div. 1, Sec. 21-34 (27)...parking in excess of 3 hours is a civil infraction.

vehicles. In order to back out of the current driveway (with only a 16-foot curb cut), it would require entering the street at a severe angle, and that presents a safety hazard (especially when the schools are in session) because the view of traffic would be diminished thereby increasing the risk of an accident.

Considering all the facts and circumstances, it is submitted that relief from the ordinance regulating residential curb cuts should be granted, as such relief will remove a burden on Applicant's fair use of his property; and, it will not substantially impair this particular ordinance provision because of the way this particular street has been developed with many wider curb cuts that have been allowed as compared to most other streets in the city.

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EXHIBIT 1

| SOUTH SIDE OF STREET - CURB CUT | | NORTH SIDE OF STREET – CURB CUT | | |
|---------------------------------|-------|---------------------------------|--------|--|
| SCOTT SIDE OF ST | | | 242 | |
| 1052 Hill | 19'6" | 1019 Hill | 24 | |
| 1112 Hill | 19'6" | 1029 Hill | 22' | |
| 1122 Hill | 20' | 1033 Hill | 20' | |
| 1200 Hill | 20' | 1051 Hill | 18' | |
| 1202 Hill | 20' | 12 1 1 Hill | 22'6" | |
| 1202 Hill | 17' | 1223 Hill | 21'6" | |
| 1212 Hill | 24' | | | |
| 1226 Hill | 22' | x | | |
| 1228 Hill | 21' | | 2 2 | |
| 1230 Hill | 21' | | | |
| | | | | |

HILL STREET (BETWEEN KALAMAZOO AND SCHOOL PROPERTY)

Notes:

1. 1202 Hill, right across the street from 1209 Hill, has two curb cuts, the 17' curb cut is in use, and the 20' curb cut is not in use.

2. Sixteen houses have curb cuts in excess of 16' per ordinance. There are a total of 23 houses on Hill Street between Kalamazoo St. and the School District property, one of which (1200) has a driveway on Hill and is on a lot behind 1122 Hill; [This count excludes the two houses facing Kalamazoo that have garages and driveways on Hill.]

EXHIBIT 2

City of Petoskey

Office of City Planner 101 East Lake Street, Petoskey, Michigan 49770 • 231 347-2500

Zoning Board of Appeals Zoning Ordinance Regulation Variance Checklist

 Date:
 September 7, 2021
 Case Number:
 859

It is the applicant's responsibility to prove a practical difficulty. It is not the job of the ZBA to find the practical difficulty for the applicant.

| Issue to be evaluated (Practical Difficulty) | Supports the | Does not support the | Notes |
|---|-----------------|-------------------------|-------|
| (************************************** | variance | variance | |
| Will strict compliance with the dimensional requirements of the zoning ordinance prevent the applicant from using the property for the permitted purpose? A variance is granted for circumstances unique to the PROPERTY, not those unique to the owner. | | | |
| Is there a way to accomplish the same purpose without a variance or with a lesser variance regardless of convenience or expense? - The ZBA considers the property, not issues with the interior of the structure. | | | |
| Is the need for the variance due to a situation that is unique to the property and would not generally be found elsewhere in the same zoning district? - If the situation is often repeated in the same zoning district, then the variance request should be denied. | | | |
| If granted, will the variance uphold the spirit and intent of the ordinance and be fair to neighboring properties? - There are reasons the ordinance was adopted and those reasons should be respected and upheld. | | | |
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Office of City Planner 101 East Lake Street, Petoskey, Michigan 49770 • 231 347-2500

MOTIONS BY THE ZONING BOARD OF APPEALS Variance Requests

In Case #859, I move to (approve/ deny) a request for a _____feet driveway opening variance at

1209 Hill Street with the (conditions/modifications) of:

Based on the findings of fact in the (e.g. agenda memo, submittal materials, etc.) that:

_____ and the comments provided by

(e.g., those in attendance at the hearing, the applicant, the applicant's representative, etc.),

that demonstrate there is a (practical difficulty/ lack of practical difficulty) created by Section

1704(b)(8) of the Zoning Ordinance and that the proposed changes (*are/are not*) contrary to the intent of the ordinance.