



**ZONING BOARD OF APPEALS**

April 6, 2021

A regular meeting of the City of Petoskey Zoning Board of Appeals was conducted virtually from remote locations, with staff at the City Hall Council Chambers on Tuesday, April 6, 2021. Roll was called at 7:00 P.M.

Present: Ben Crockett, Petoskey, Emmet County, MI  
Mary Clinton, Petoskey, Emmet County, MI  
Chris Hinrichs, Petoskey, Emmet County, MI  
Jim Knibbs, Springfield, Sangamon County, IL  
Lori Pall, Petoskey, Emmet County, MI  
Jessica Shaw-Nolff, Petoskey, Emmet County, MI

Others: Chris Corcoran, 326 West Lake Street  
Drew Mittig, 117 Howard Street  
M. Porterfield, 331 West Lake Street  
Robert Washburn, 621 East Mitchell Street

Staff: Amy Tweeten, City Planner  
Sarah Bek, Executive Assistant

Upon motion and support, the minutes from December 1, 2020 regular meeting were approved with corrections 6-0.

**Case #849 – Requested rear- and side-yard setback variances for an accessory building at 621 East Mitchell Street**

Staff summarized the request for the reconstruction of a garage on the existing foundation that is 2½ feet from the lot line. Once the existing structure is removed, a new structure would be required to meet the minimum 3 feet of setback from the rear and rear-side lot lines.

Robert Washburn, applicant, explained that he had done what he could to preserve the existing structure but now the trusses were bowing and he would like to replace it with a new garage of the same size.

Board member Knibbs asked if he had considered replacing the entire roof and keeping the sidewalls, to which Mr. Washburn responded that he had but determined it was not an ideal solution.

Board member Clinton asked if the proposed exterior walls would be placed in the same location, if the back wall were a retaining wall, if the garage floor would be removed from existing garage,

and if there was any discussion with an architect if there would be safety or structural issues if the variance were not granted.

Mr. Washburn responded that the exterior walls would be placed in the same location, the back wall is a retaining wall, that there are no issues with the existing garage floor which was replaced and reinforced six years ago, and the foundation is sturdy and structurally sound and will remain as it is holding up the retaining wall, but that framing structure is not sound.

At this time, the meeting was opened for public comment. No public comment was received.

Board member Clinton commented that the retaining wall remaining in the same location was a significant factor.

Board member Hinrichs commented that there is a significant slope and that the retaining wall is a requirement of the site and that he is inclined to support a 6-inch variance on two sides.

Chairperson Crockett commented that this is a unique piece of property and topography is an important element.

Board member Shaw-Nolff commented on the location of driveway and that there are no other options to move it and that it is not practical to build a new foundation.

Board member Hinrichs commented that proposed construction does not present any disturbance to the neighboring shed.

At this time, Board member Knibbs made a motion to approve the variance request of 6 inches for both the rear and side setbacks at 621 East Mitchell Street.

Board member Clinton requested an amendment to the motion to approve the variance request based on the findings that relocation of the garage further from the property lines may not be the safest option for adjacent properties, that the lot is unique due to slope, that if the retaining wall was removed it would negatively impact neighbors, and that the applicant did not create the need for the variance.

Board member Knibbs agreed to Board member Clinton's amendment to the motion and Board member Hinrichs seconded the motion. Motion carried 6-0.

**Case #850 – Requested rear- and side-yard setback variances for  
a new residence at 326 West Lake Street**

Staff summarized the request for the removal of an existing structure and construction of a new residence. The proposed house would maintain the existing side-yard setbacks. However, once the non-conforming structure is removed, any new structure is required to meet the district standards. Thus, a 5-foot variance would be required to build a structure to the same west-side setback. In addition, the proposed structure would encroach into the required rear-yard setback approximately 16 feet.

Board member Shaw-Nolff asked if a variance was required for the neighboring house at 322 West Lake Street and stated that this should not be a precedent in the neighborhood.

Chris Corcoran, applicant, informed the Board that he recently purchased the property and the integrity of the structure has been compromised and the house is limited in size, that more livable

space is needed and he is requesting to keep the existing foundation and extend the structure back to create more livable space.

Drew Mittig, White & Liebler Architects, stated that the size of the lot is smaller than the zoning ordinance requirement, the existing home is non-conforming to the side-yard setback, and is not livable in its current condition.

Board member Knibbs asked if the new covered porch on the rear of the home is encroaching on the rear setback.

Mr. Corcoran responded that half of the living room, a bathroom and 7-foot covered porch would be in the required rear setback.

Board member Pall inquired if the addition and covered porch would be constructed on both stories, commented on 50-foot wide lots throughout the City and that Planning Commission is currently talking about lots in various districts in regards to setbacks.

The City Planner responded that R-2 districts have 60-foot lots, R-1 districts have 70-foot lots, and a large majority of existing lots are platted at 50 feet throughout the City.

Board member Clinton inquired if the neighbor's footprint required a variance.

The City Planner responded that there was not a variance provided but remembered that the previous owner had requested a rear-yard setback variance to turn what was a stairway of sorts into a two-story deck and was denied. It is possible the new owner completed construction without approval.

The City Planner reviewed and read aloud two public comments that were submitted via email from Chelsea Granger and Constance Meech.

Chelsea Granger, 406 West Lake Street, commented that she is a renter in the neighborhood and that she believes the proposed structure should adhere to local conformity.

Constance Meech, 202 Ingalls Avenue, objected to the rear-yard setback, but that the open deck/porch and the side-yard setback were acceptable.

M. Porterfield, 331 West Lake Street, stated that she owns the house across the street from the applicant and asked for clarification that the applicant was requesting a variance to make the home larger for more living space and commented that the owner purchased the property knowing the size of the lot.

Board member Clinton stated that the variance issue is with the rear setback and covered porch and that the extension on side would not increase the non-conforming setback. She does not believe the side-yard variance request is excessive, but that the rear two-story addition and porch are extra and not critical.

Chairperson Crockett asked what the allowable building space would be if the house were constructed within the setbacks.

The City Planner responded that the proposed lot coverage is 35% and the existing structure is at 25% and calculated that on the 50x75 foot lot, a house of 30'x40' would be within setbacks but over on lot coverage allowance.

Chairperson Crockett commented that Lots 4 and 5 are small lots, but that a house can still be built on small lots.

Board member Shaw-Nolff commented that there is currently a house on the lot now.

Board member Pall commented that the proposed structure would have 2,200 square feet of living space, not including the porch.

Board member Shaw-Nolff commented that the proposed structure is not that large, however, it is a small lot and therefore not feasible.

Board member Hinrichs commented that there are plenty of small lots and small houses in Petoskey and he does not believe there is a practical difficulty to warrant a variance.

Board member Knibbs commented that new construction on a blank slate could be built within the requirements of the zoning ordinance and he does not believe there are any hardships.

Board member Pall commented that the extension on the first and second stories in the rear setback are close to the neighbor and encroaching into the neighbor's space and privacy. She has less of a problem with the side-yard variance request.

Chairperson Crockett commented that the purpose of the ordinance is to have buildings brought into conformity, that many are not currently, but didn't see what was unique to this property to necessitate a variance for a new structure.

At this time, Board member Hinrichs made a motion, seconded by Board member Clinton, to deny the variance request based on the finding that there was an absence of unique site issues demonstrated to create a practical difficulty that makes the site unbuildable for a residence within the ordinance requirements. Motion carried 6-0.

Mr. Corcoran asked if it would be a good strategy to keep the side-yard setbacks where they are and make the rear-yard setback comply with the zoning ordinance.

Chairperson Crockett reviewed that the Board denied this specific variance request and that the applicant should conform to all setbacks.

Mr. Corcoran then asked what his options were and if he could remove the existing house and build to current footprint without a variance or if it was allowable to come back to the Board for a separate, lesser variance.

Staff replied that the board denied the side-yard setback variance so a zoning permit could only be approved that met all ordinance standards.

### **Updates**

Staff informed the Board that a Circuit Court Judge had been appointed and the Frenz Circuit Court oral arguments were scheduled for April 12<sup>th</sup>.

The meeting was then adjourned at 8:29 P.M.