



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.

Public Comment

No public comments were received.

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