



ZONING BOARD OF APPEALS

February 1, 2022

A regular meeting of the City of Petoskey Zoning Board of Appeals was conducted in the City Hall Council Chambers on Tuesday, February 1, 2022. Public was invited to attend in person and via Zoom. Roll was called at 7:00 P.M.

Present: Lori Pall, Chairperson
Mary Clinton
Chris Hinrichs
Matt McSweeney
Scott Morrison
Jessica Shaw-Nolff

Absent: Jim Knibbs

Others: Tom Fothman, 908 East Lake Street (via Zoom)

Staff: John Iacoangeli, Interim City Planner
Alan Terry, Interim City Manager
Lisa Denoyer, Administrative Assistant

Upon motion and support, the minutes from the December 7, 2021 regular meeting were approved. Motion carried 5-0-1, with Board member Clinton abstaining.

Chairperson Pall introduced new board member Matt McSweeney and interim City Planner John Iacoangeli to the board.

Case #863 – Front Yard Fence Variance Request for 908 East Lake Street

Staff informed the Board that the applicant and owner of 908 East Lake Street, located at the southeast corner of East Lake and Ottawa Streets had requested a front yard fence variance to enclose the front and corner front yards. The main entrance to the house and the garage are accessed from Ottawa Street and separating the house and the garage is a small side yard patio with a decorative fence along Ottawa Street.

The applicant was advised by City staff that if the address of the house were changed to Ottawa Street that the fence proposed for the front yard would then be allowed as a corner front yard fence. If the address were changed to Ottawa Street this condition would still require, based on the Applicant's request, to have a variance granted for the Ottawa Street front yard.

Chairperson Pall informed the Board that the question of front yard fences had come up and the Board asked the Planning Commission to take it up for discussion and the end result was the amended ordinance language to allow corner front yard fences.

Board member Clinton asked if the change had been made recently. Chairperson Pall responded that it had been within the last five years.

Tom Fochtman, owner of 908 East Lake Street, informed the Board that the previous owner had planted a hedge around the house without a permit and that he had removed them after purchasing the home with plans to replace them with a fence. He was unsure why the house was addressed on East Lake Street and believes it should be addressed on Ottawa Street. He asked if a variance request could be allowed if the address were changed to Ottawa Street, to allow a fence along the Ottawa Street side of the property. He then informed the Board that he had been working with Harbor Fence Company and that he himself is a landscape architect.

Chairperson Pall reminded the Board that a variance should only be granted after consideration of the following factors:

1. 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.

Board member Clinton commented that she had reviewed Section 1714 – Corner Clearance and she believes it speaks to why a front yard fence is not allowed.

Board member Shaw-Nolff referenced the diagram from the agenda memo that outlines where corner front yard fences are allowed.

Mr. Fochtman commented that the proposed fence would be two feet from the property line and approximately 14-feet from the curb.

Board member Hinrichs commented that he did not see any practical difficulty based on the site and that he believed the applicant could still have a substantial area fenced should he change the street address to Ottawa Street. While he could understand the desire for the space for pets and grandchildren, there is no practical difficulty for a variance.

Chairperson Pall stated that she agreed that she too did not see a practical difficulty and she believed a fenced in yard could be achieved without a variance.

Board members then reviewed the variance checklist and based on the information provided and discussion determined that strict compliance with the dimensional requirements of the zoning ordinance would not prevent the applicant from using the property for its permitted use, there is another way to accomplish the same purpose without a variance or with a lesser variance regardless of convenience or expense, the need for a variance is not due to a situation that is unique to the property and could be found elsewhere in the same zoning district, the variance would not uphold the spirit and intent of the ordinance and would not be fair to neighboring

properties, and the need for the variance was not been created through previous action of the applicant.

At this time, Board member Hinrichs made a motion, seconded by Board member Clinton to deny a variance request for a front yard fence at 908 East Lake Street based on the findings of fact in the submittal materials that demonstrate there is a lack of practical difficulty created by Section 1712 of the Zoning Ordinance and that the proposed changes are contrary to the intent of the ordinance and would cause substantial detriment to the public good or substantial impair to the intent and purpose of the ordinance. Motion passed 6-0.

Mr. Fochtman asked the board if it would help if the address were changed to Ottawa Street and if another variance request would be needed if the address were changed.

Chairperson Pall responded that if the address were changed the yard could be fenced from the front of the house on Ottawa Street to the rear of the property along Lake Street and no variance request would be needed so long as the request met the ordinance standards.

Public Comment

No public comments were received.

Updates

Chairperson Pall commented that she had received a brochure from Michigan Association of Planners offering virtual trainings and encouraged members to look into them and possibly attend as they are great educational opportunities.

Mr. Iacoangeli informed the board that Milton Township and Torch Lake Township would be holding an in-person training on the Essentials of Planning and Zoning on Saturday, March 5, 2022 and that he would send the information to staff to pass along to the Board.

The meeting was then adjourned at 7:28 P.M.