



ZONING BOARD OF APPEALS

Tuesday, December 6, 2022

1. Roll Call – 7:00 P.M. – City Hall Council Chambers
2. Approval of Minutes – October 4, 2022 Regular Meeting
3. New Business
 - a. Case #867 – A rear-yard setback request for 212 West Mitchell Street
4. Public Comment
5. Updates
6. Adjournment

Alternatively, you may join the meeting via the Zoom platform

<https://us02web.zoom.us/j/87835861651>

Meeting ID: 878 3586 1651

Or by calling +1 646 558 8656 US

Persons interested in addressing the Zoning Board of Appeals during the meeting under public comment period can press the “raise hand” button in Zoom or by phone press *9.



ZONING BOARD OF APPEALS

October 4, 2022

A regular meeting of the City of Petoskey Zoning Board of Appeals was conducted in the City Hall Council Chambers on Tuesday, October 4, 2022. Roll was called at 7:00 P.M.

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

Absent: Mary Clinton

Others: Jeff Grantham, Grantham Building and Remodeling, LLC
Karla Sherman, 105 Division Street
Richard Smith, 115 Division Street

Staff: Zachary Sompels, City Planner

Upon motion and support, the minutes from the July 12, 2022 regular meeting were approved. Motion carried 6-0.

Case #866 – Request for Lot Coverage, Front-yard Setback, and Rear-yard Setback Variances at 510 Rose Street

Staff explained that the request was for lot coverage, front-yard setback, and rear-yard setback variances to allow for the tear down and rebuilding with expansion of an existing attached front porch and tear down and rebuilding onto the owners property, a rear addition. The lot is a 2,033 square foot parcel and the existing structure is non-conforming to the setbacks, as well as lot coverage. Additionally, the existing rear porch is six inches onto the neighboring property. The ordinance requires the front-yard setback be a minimum of 25 feet, a rear-yard setback of 35 feet and a maximum lot coverage of 30%. The current state of the property has a front yard setback of six feet, a rear yard setback of negative six inches, and a lot coverage of 49%.

Jeff Grantham, Grantham Building and Remodeling, LLC and applicant for the owners of 510 Rose Street, stated that the principal change is to rebuild the existing front porch slightly closer to the street and the full width of the house to allow proper use of the structure, while a tear down and rebuild of the rear addition onto their own property would allow for proper use while removing any inconvenience for the neighbor. It was because of these that the lot coverage variance would be required.

Chairperson Pall took public comments at this time.

Karla Sherman, 105 Division Street, spoke about her concerns with the property having previous issues with short term rentals and these improvements would only exacerbate the problem.

Richard Smith, 115 Division Street, made comments on how he thought these improvements could be done without a variance.

Board members reviewed the facts and discussed.

Board members then reviewed the variance checklist.

- Discussion resulted in deciding that strict compliance with dimensional requirements of the zoning ordinance would still allow the property to be useable.
- The consensus on whether there was another way to accomplish the same purpose without a variance was that while a variance would be needed to rebuild the existing structure, the expansion of the deck the full length of the house was less of their concern.
- Whether the need for a variance was due to a situation that was unique to the property and not generally found elsewhere in the same zoning district was discussed and ultimately decided that the small size of the lot was unique to the area and out of control of the applicant.
- Discussion on whether the granting of the variance would still uphold the spirit and intent of the ordinance resulted in a consensus that permitting the fully requested variance would further encroach into open space and have a negative effect on site lines with the alley.
- The consensus on whether the need for a variance was created by the applicant was that the house was constructed and additions were made long before the applicant purchased the home.

Board member Hinrichs made a motion, seconded by Board member Morrison, to approve a variance for the front-yard setback to the existing six feet from the property line, the width of the house, based on the findings of fact in the agenda memo and the findings provided by the applicant that demonstrate there is a practical difficulty created by Section 1600 of the Zoning Ordinance due to the unusually small lot size and the fact that the structure exists at that line currently. Motion carried 6-0.

Board member Knibbs made a motion, seconded by Board member Morrison, to approve a variance for the rear-yard setback to be at the lot line based on the findings of fact in the agenda memo and the findings provided by the applicant that demonstrate there is a practical difficulty created by Section 1600 of the Zoning Ordinance due to the unusually small lot size and the fact that this is an improvement in setback from the current structure. Motion carried 6-0.

Board member Morrison made a motion, seconded by Board member Hinrichs, to approve a variance for lot coverage of 49.5% based on the findings of fact in the agenda memo and the findings provided by the applicant that demonstrate there is a practical difficulty created by Section 1600 of the Zoning Ordinance due to the unusually small lot size, the fact that they would be bringing the rear addition closer to setback compliance, and the fact that any structure built there would require variances of some kind. Motion carried 6-0.

Public Comment

No public comments were received.

Updates

Staff gave a report that they are working with Mr. Frentz on compliance of his illegal structure.

The meeting was then adjourned at 8:45 P.M.



BOARD: Zoning Board of Appeals

MEETING DATE: December 6, 2022

DATE PREPARED: November 15, 2022

AGENDA SUBJECT: Case #867 – Requested Rear-yard Setback Variance for the Construction Of a Two-family Residence at 212 West Mitchell Street

RECOMMENDATION: Consider the Variance Request



Source: Emmet County GIS,
Spring 2017 ortho photo

Background

A variance for an 8.5 foot setback was approved on this property in July 2022. Due to a siting error, the applicant has come back to ask for a 6 foot setback.

The subject property is an 11,325 square foot parcel on the north side of West Mitchell Street between Liberty Street and Wachtel Avenue. The current business sits near the front (south) part of the property in the B-3 Zoning District. This request is unique because residential uses are permitted in this district but fall under B-3 ruling for setbacks (20 foot rear setbacks). While building code and fire code have few regulations on distances between buildings, pending proper fire wall installation, ample room for public safety officers to work between buildings is always welcome.

Request

The applicant would like to build a two-family residence behind the business at 212 West Mitchell Street. The structure would total 1,300 square feet (not including the deck), and would reduce the rear-yard setback from 20 feet to 6 feet.

Table 1 Variance Request – 212 W Mitchell Street

	B-3 District	Existing	Proposed	Resulting Variance
Rear setback	20 Feet	0	6	14

The applicant's statement of practical difficulty is enclosed.

Action

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 place or 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:

- 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.

ZS



Zoning Board of Appeals Application

101 East Lake Street, Petoskey, Michigan 49770 • 231 347-2500 • 231 348-0350

Case # _____

Applicant Information

Name: **Diana Guiney - Young & Meathe Homes, LLC**

Address: **212 W Mitchell Street**

City: **Petoskey**

State: **MI**

ZIP Code: **49770**

Phone: **231.838.6668**

Email: **diana@youngandmeathe.com**

Interest in property, if applicant is not owner:

Builder

Owner Information (if different than applicant)

Name: **James Meathe**

Address: **212 W Mitchell Street**

City: **Petoskey**

State: **MI**

ZIP Code: **49770**

Phone: **313.510.4805**

Email: **jmeathe@me.com**

I am requesting a variance, appeal or reasonable accommodation from the requirements of the Zoning Ordinance and understand the importance of knowing exactly where my property lines are relative to all structures. I have been advised that the only way to know this information for certain if the property stakes cannot be found is to obtain a property survey. I am not required to obtain a survey to make application to the Zoning Board of Appeals, but understand that the Board may postpone action on my request until one is provided to ensure that all dimensional standards stated in my application are correct.

As the applicant, I state that all information provided herein is accurate to the best of my knowledge. I further authorize City of Petoskey staff and Board of Appeals members to enter upon the property for which a variance or special exception from the Zoning Ordinance is sought.

Signature: *Diana Guiney* Date: 11/7/2022

Owner's Signature: *[Signature]* Date: 11/07/2022
(required if the applicant is not the property owner)

Property Location

Address: **212 W Mitchell Street**

Zone: **RM-2**

Use: **Residential**

Property Information

	Code Required	Actual	Proposed
Lot Area	minimum 5,000 sq ft		+/- 11,580 sq ft
Front Setback	25'	70'(street)	78'
Side Setback	10'	2.5'(East)	10'
Side Setback	10'	57'(West)	32'
Rear Setback	35'	2.5'	6'
Building Height	33'	16'	28'-10 5/8"
Other			

Type of Request

- ☒ Variance ☐ Administrative Review ☐ Temporary Use
☐ Exception of Special Approval ☐ Interpretation ☐ Appeal
☐ Fair Housing Reasonable Accommodation

Applicable Code Sections: _____

Specific Request: We had originally been granted a variance on the north side to allow an 11.5' setback instead of the standard 25' requirement.

Due to a siting mistake by the survey company we need to move the townhouses and additional 5.5' to the North which would give a 6' setback.

This would allow us to have the designed 7.5' between the office building and the new townhouses which is the minimum needed to all of a front door on both units.

APPLICANT STATEMENT OF HARDSHIP OR EXCEPTIONAL PRACTICAL DIFFICULTY CREATED BY ZONING CODE REQUIREMENTS (REQUIRED FOR VARIANCE REQUESTS).

This statement must apply specifically to your property and address exceptional narrowness, shallowness, shape, area, topographic conditions or other extraordinary or exceptional conditions of the property (may be submitted on a separate sheet).

When we realized the additional 5.5' were needed on the north, we considered moving the front door/stoop areas to the East and West sides of the building. However, this would encroach on the East side setback and we wanted to stay within the 10' requirement.

Required Submittal Materials

If an application is not complete upon submittal, it will be held until all required materials are provided. With this application form, please provide eight (8) hard copies and one electronic copy of the following:

- ☒ A Scaled Site Plan, including elevation(s) of structure (existing and proposed)
☒ Photographs of property

NOTE TO APPLICANT: A variance is valid for construction within 12 months of the approval date. If construction is not commenced within 12 months, the variance is no longer valid.

Please note that a public hearing notice will be posted on our property stating your request and the date, time and location of the Zoning Board of Appeals hearing.

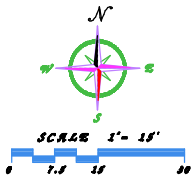
For Office Use Only

Received By: _____ Date Received: _____

Filing Fee: _____ Date Paid: _____

PRELIMINARY SITE PLAN
YOUNG & MEATHE PROPERTY

LOT 18 AND PART OF LOTS 11, 12, 13, 14 &
17, WACHTEL'S QUINLAN & MCCARTHY'S ADDITION
TO THE CITY OF PETOSKEY, SEC. 6, T34N, R5W,
EMMET COUNTY, MICHIGAN.



LEGEND

- PREVIOUSLY FOUND SURVEY MARKER AS NOTED
- PREVIOUSLY SET 5/8" REBAR THIS SURVEY
- PROPERTY LINE
- BUILDING ENVELOPE (SETBACK LINE)
- FENCE
- TREE HARDWOOD (AS DESCRIBED)
- TREE CONIFER (AS DESCRIBED)
- ELECTRIC BOX
- POWER POLE
- CURBSTOP
- CLEANOUT
- GAS METER
- UNDERGROUND ELECTRIC FROM FLAGS

GENERAL NOTES:

UNDERGROUND UTILITY LOCATIONS SHOWN ON THIS PLAN SHALL BE CONSIDERED APPROXIMATE. CALL MISS DIG (3) FULL WORK DAYS PRIOR TO EXCAVATION.

NO NEW HARD SURFACE ADDED.

STORM SEWER STRUCTURES AND PIPE SHALL BE INSPECTED AND CLEANED OUT ANNUALLY AS NEEDED TO MAINTAIN PROPER FUNCTIONALITY.

THE SANITARY SEWER SERVICE, WATER SERVICE, STORM DRAINAGE STRUCTURES IF ANY SHALL BE CONSTRUCTED IN ACCORDANCE WITH CITY OF PETOSKEY SPECIFICATIONS AND REQUIREMENTS.

THE OWNER SHALL OBTAIN PERMITS FROM THE CITY OF PETOSKEY FOR/IF REQUIRED FOR THE PROPOSED WORK.

No current field work was done for the preparation of this map. Existing planimetric data was taken from work done in 2019 for Meathe and in 2000 for Natures Garden and may or may not reflect current field conditions.

The property description was furnished, and no check of title relative to ownership, gaps, overlaps or occupation has been performed as part of this sketch.

Bearings and distances shown on this map were taken from a survey by R.E. Delke, PS #33983, for Natures Garden, dated 9 Jan. 2001.

This is a professional opinion concerning the location of the property boundaries depicted hereon, based upon the appropriate boundary law principles governed by the facts and evidence gathered and evaluated during the course of this survey. Monuments, that in the opinion of this surveyor represent the true and correct corners of the property being surveyed, have been found or set as indicated hereon. As a professional opinion, this survey carries with it no guarantees or warranties, expressed or implied.

SITE NOTES:

SITE ZONING: B-3
SITE AREA: +/- 11,580 SQ.FT.
ZONING SETBACKS: FRONT = 20'
SIDE = 0' OR 10'
REAR = 20'] VERIFY WITH CITY

EXISTING USE: EXISTING COMMERCIAL BUILDING
PROPOSED USE: RESIDENTIAL DUPLEX HOUSE

PROPOSED NEW DUPLEX AREA = 1,300 SFT
PROPOSED TOTAL BUILDING AREA = 3,295 SFT

PROPOSED BUILDING COVERAGE: 28% TOTAL

PARKING PERMITTED IN YARD AREAS, REQUIRED: per ZONING

PARKING PROVIDED: 7 SPACES Incl. 1 Barrier Free

TREES REQUIRED: 1 per 10 SPACES = 1 TREE
TREES PROVIDED: See Landscape Plan

WATER: CONNECT TO CITY WATER

SEWER: CONNECT TO CITY SEWER

SOILS: USDA KoB (Kalkaska) SAND WELL DRAINED

SIGNAGE: IF ANY, SHALL CONFORM W/ SIGN & LIGHTING COMMITTEE GUIDELINES

LIGHTING: IF ANY, SHALL CONFORM W/ SIGN & LIGHTING COMMITTEE GUIDELINES

VERIFY WITH CITY
ZONING REQUIREMENTS

ZONING DISTRICT = RM-2
MINIMUM LOT WIDTH = LOT OF RECORD
MINIMUM LOT AREA = 5,000 SQFT
SETBACKS: FRONT = 25'
REAR = 35'
SIDE = 10'

ZONING DISTRICT = B-3 GEN. BUSINESS
MINIMUM LOT WIDTH = LOT OF RECORD
MINIMUM LOT AREA = LOT OF RECORD
SETBACKS: FRONT = 20'
REAR = 20'
SIDE = 0' OR 10'

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Date: (revisions)	by
19 APRIL 2022	
3 May 2022	
12 May 2022	
7 Nov. 2022	

Client : YOUNG & MEATHE
Project Mgr : R.E. DELKE
Drawn By : REO
Field By :
File : R22087 site v5.cxd
Job # : 22-087
Sheet # : 1 of 1

BENCHMARK
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SURVEYORS
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Current pinning of new townhouses southwest corner



Previous garages that have been demo'd showing on property line at the alley.

Hello Zachary,

I am writing regarding the recent letter that was sent to us on November 18, 2022, requesting a rear yard setback variance for 212 West Mitchell Street.

We are in Arizona right now and did not receive the letter, but our neighbor contacted us and texted a copy of the letter to let us know. We live at 200 W. Lake Street, Unit 15. Our unit faces the location of the property in question. When we are outside on our balcony or inside with the windows open, we can hear the noise from the current rental just down the way from there which is owned by the same company. It is my understanding that there was a letter for that multifamily rental that was sent out in June or July that we did not receive.

Our concern is the additional noise and the stability of the hill with the rental being built that much closer to the slope of the hill. With the building space as is, maybe the owner could plant trees as a buffer and add stability to the hill.

We will not be able to attend your upcoming meeting to express our concerns. Let this letter serve as our voice in this matter.

Thank you for your time.

August & Peggy Matuzak
200 W. Lake Street, Unit 15
Petoskey, MI 49770

Zachary,

I am writing as a follow up to our phone conversation regarding a letter we received from November 18, 2022 requesting a rear yard setback variance for 212 West Mitchell St.

We own a condo at 200 W. Lake St. Unit # 16 directly below the intended units to be built. Our main concern is the noise level with the noise travelling directly down the hill. Young and Meathe own another rental property at Jefferson at the top of the staircase. On at least 1 occasion we have had to go tell the renters that the noise was travelling directly down into our condo where we could hear their entire conversation. They were on the deck at the time.

I understand that the benefit to a property on the hill would be to enjoy the view of the water. But if the rear yard set back variance is denied, our hope would be for some landscaping to provide a sound buffer between this property and our property below.

We are also concerned about the integrity and stability of the hill especially if the unit would be built closer to the edge of the property line.

I understand there was a notice that went out in June or July to build this Multi Family rental. We NEVER received that notice and are totally caught off guard that there will be building happening directly up hill from our condo.

We are unavailable on December 6th to attend the meeting or Zoom, but we wanted to share our concerns regarding 212 W. Mitchell St.

Sincerely,

Catherine and David Rabahy
200 West Lake St. #16
Petoskey
734 945-2643