



ZONING BOARD OF APPEALS Tuesday,

October 4, 2022

AMENDED

1. Roll Call – 7:00 P.M. – City Hall Council Chambers
2. Approval of Minutes – July 12, 2022 Regular Meeting
3. New Business
 - a. Case #866 – A front-yard setback, rear-yard setback and lot coverage variance request for 510 Rose Street
 - b. 2023 Meeting Dates
4. Public Comment
5. Updates
6. Adjournment



ZONING BOARD OF APPEALS

July 12, 2022

A regular meeting of the City of Petoskey Zoning Board of Appeals was conducted in the City Hall Council Chambers on Tuesday, July 12, 2022. 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: Diana Guiney, Young & Meathe, LLC
Jim Meathe, Young & Meathe, LLC
Doug and Sheila Wright, 816 State Street
Gwen Wyatt, 211 West Lake Street

Staff: Zachary Sompels, City Planner
Shane Horn, City Manager

Upon motion and support, the minutes from the February 1, 2022 regular meeting were approved. Motion carried 6-0.

Chairperson Pall introduced new City Planner Zachary Sompels.

Case #865 – Request for Lot Coverage and Side-yard Setback Variances at 816 State Street

Staff explained that the request was for lot coverage and side-yard setback variances to allow for the expansion of an existing attached garage. The lot is a 5,174 square foot parcel and the existing structure is non-conforming to the setbacks. The ordinance requires the side-yard setback be a minimum of five feet on one side/15 feet for both sides and a maximum lot coverage of 35%. The current side-yard setback on the property is zero feet/15 feet and the applicant is requesting a zero feet/11-foot side-yard setback. The current lot coverage is 35.5% and the applicant, in his written application, was asking for 41% lot coverage.

The applicant, Don Wright, 816 State Street, stated that the principal change is to enlarge the existing garage four feet to the west and seven feet to the north to expand their one-and-½-car garage to a two-car garage, build additional living space above and clean up the rooflines of the home and garage. In the course of discussions, Mr. Wright went on to explain that changes had been made in their plans and the new proposed addition will not encroach further to the north as had been demonstrated on the site plan. Given this, new calculations equated to the same side-yard setback variance request but a new lot coverage calculation of 38.4%.

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 because the structure can go no further west, and the proposed addition had actually gotten smaller than previously presented, that there would be no other way to accomplish this project based on the size of the lot.
- Whether the need for a variance was due to a situation that is unique to the property and not generally found elsewhere in the same zoning district was discussed and ultimately decided that the narrowness 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 there were only comments of approval from surrounding neighbors and that the improved roof lines would be more consistent with the neighborhood.
- 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 Clinton made a motion, seconded by Board member Morrison, to approve a variance for lot coverage of 38.4% and combined side-yard setbacks of 11-feet to allow the construction of an addition 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. Motion carried 6-0.

Case #864 – Request for a Rear-yard Setback Variance at 212 West Mitchell Street

Staff explained that the request was for rear-yard setback variance to allow for a two unit residential structure to be built. The proposed project would be unique in the City in that it would have two different allowable uses on one parcel, namely commercial and residential. The ordinance requires the rear-yard setback be a minimum of 20 feet. The current rear-yard setback on the property is zero feet. Staff also reviewed discussions with Public Safety and that the proposed distance in length between the two structures would meet their codes, but would be welcome to more space, if possible.

Jim Meathe, Young & Meathe, LLC, stated that the project is to demolish the existing non-conforming garage and construct a two unit residential structure. Mr. Meathe went on to explain that the structure will actually be closer to compliance than most structures in the area.

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 for the current business portion.
- The consensus on whether there was another way to accomplish the same purpose without a variance was that this was an improvement on the current non-conformity and the applicant asked for the minimal allowable variance.
- Whether the need for a variance was due to a situation that is unique to the property and not generally found elsewhere in the same zoning district was discussed and ultimately decided that this is a very unique situation in the City with the two uses.
- Discussion on whether the granting of the variance would still uphold the spirit and intent of the ordinance resulted in a consensus that there were only comments of approval from

surrounding neighbors and that the current setback situation was going to be an improvement.

- The consensus on whether the need for a variance was created by the applicant was that it was not.

Board member Clinton made a motion, seconded by Board member Morrison, to approve a variance for rear-yard setback of 8.5-feet to allow the construction of an addition 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. Motion carried 6-0.

Public Comment

No public comments were received.

Updates

Staff gave an update on the Frentz case that was still in the appeals court. Staff will also look into future training possibilities.

The meeting was then adjourned at 7:58 P.M.



BOARD: Zoning Board of Appeals

MEETING DATE: October 4, 2022

DATE PREPARED: September 14, 2022

AGENDA SUBJECT: Case #866 – Requested Variances for Rear-yard and Front-yard Setbacks and Lot Coverage

RECOMMENDATION: Consider the variance request



Source: Emmet County GIS,
Spring 2017 ortho photo

Background

The subject property is a 2,033 square foot parcel on the south side of Rose Street between Division Street and Williams Street. The property street address is 510 Rose Street which is adjacent to the alley to the east. The current single-family residence is part of the RM-2, Multiple Family Residential Zoning District.

Request

The applicant would like to lift the residence in order to repair the leaking foundation and in the process make some improvements to the home. The structure would total 1,067 square feet (not including the deck), and would reduce the rear-yard setback from the rear porch/ room being on the neighbor's property to zero feet at the lot line.

Table 1 Rear-yard Variance Request – 510 Rose Street

	RM-2 District	Existing	Proposed	Resulting Variance
Rear setback	35 Feet	-0' (over line)	0'	35'

The applicant's statement of practical difficulty is enclosed.

As part of the proposed improvements, tearing down and replacing the existing porch would result in a front setback change from 6 feet to 3 feet.

Table 2 Front-yard Variance Request – 510 Rose Street

	RM-2 District	Existing	Proposed	Resulting Variance
Front setback	25 Feet	6'	3'	22'

The applicant's statement of practical difficulty is enclosed.

For lot coverage, the lot measures as 38' [33' plus 5' of alley per Section 1800(4)] by 53.5' to equal 2,033 square feet. The existing structure measures 1,006 square feet with the proposed structure measuring 1,067 square feet.

Table 3 Lot Coverage Variance Request – 510 Rose Street

	RM-2 District	Existing	Proposed	Resulting Variance
Lot Coverage	30%	49%	52.5%	22.5%

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

Jeff Grantham

Grantham Building and Remodeling, LLC

Design/Build/Remodel

Petoskey

510 Rose Street

Comments:

We are asking for three additional feet of relief from the front setback and sixty additional square feet of lot coverage.

The owners bought this home in 2021 and contracted with me to design and build/remodel which would have added a new, single-car garage and rebuilt the sagging front and rear porches.

I worked with Benchmark Engineering to establish the four property corners and elevations at each property corner along the sloping street, alleyway and adjacent properties.

That survey revealed several issues unknown at the time of purchase: (see photos 2 and 3) first, the SE corner of the house sits approximately six inches OVER the south property line.

A second item discovered was that, contrary to seller's comments, (see photo 4) the driveway sits over a foot onto the neighboring north property line, narrowing the perceived lot width and area, thereby making a garage not feasible.

Also, the north, front lot line, typically along the city sidewalk, is in fact a foot forward of the sidewalk, making the lot shallower than perceived. (see photo 5)

In addition to these, snow melt and spring rains caused leakage to the basement and into the rear enclosed porch (see photos 6 and 7). The NE corner and most of the east side of the house sits two feet below the level of the alleyway which slopes to their property despite city maintenance efforts. With the recent installation of a permanent, concrete retaining wall across the alley, snow, from

the city plowing maintenance piles up along this subject property causing the owners to erect plywood to protect the siding and divert melting snow away from the structure with little success. The basement is inhabitable under current conditions.

The settling of soils on the east, alleyway side has also caused the east ends of the front and rear porches to settle, causing doors and windows to stick or not operate and allow weather and insects to infiltrate year-round.

The owners are committed to making the house as practical and functional as possible despite the lot size constraints. They have eliminated the garage from their wish list and want to rebuild the portions of the house that are structurally deficient.

We are proposing to remove the encroaching rear, south porch, necessitating the variance simply to rebuild what exists already, just smaller so that it sits entirely on this lot (see photo 7 and proposed site plan).

Additionally, they want to remove the settling front, north porch and build a new two-story porch. The second story deck would, in essence, replace the ground floor open space eliminated by the narrowing of the lot from their previous understanding. (see photos 8 and 9 and proposed elevation plan)

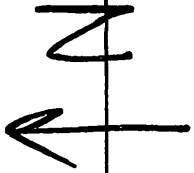
The house will be raised off its leaky foundation and a new foundation built in the same footprint of the main house and the house lowered onto the foundation walls which will be set to above the grade of the alleyway to meet the 8" construction code minimum clearance from adjacent soils.

By raising the house around 32" to meet that current code, four additional steps are necessary to enter the home (building code maximum is 8" risers) so that will eat into the usable square footage of the porches for rear and front entries.

We are asking for three additional feet of relief from the front setback and sixty additional square feet of lot coverage to create functional, habitable spaces not otherwise possible due to the low-lying lot upon one of the smallest lots in the city.

Thank you for your consideration, Jeff Grantham, CGR CAPS GMB CGP

ArcGIS Web Map



300-017

SUBJECT
PROPERTY

ROSE STREET

PERSPECTIVE OF
LOT SIZES TO
SUBJECT PROPERTY

102-003

102-005

ALLEY

102-002

510
ROSE

102-001

102-005

DIVISION STREET

1-007

009

Alley

LOT =
17,821'sq

HOUSE/PORCH
=

200-201
102-002
1,006'sq

COVERAGE AS IS
56%

COVERAGE PROPOSED
60%

ROSE ST.

N



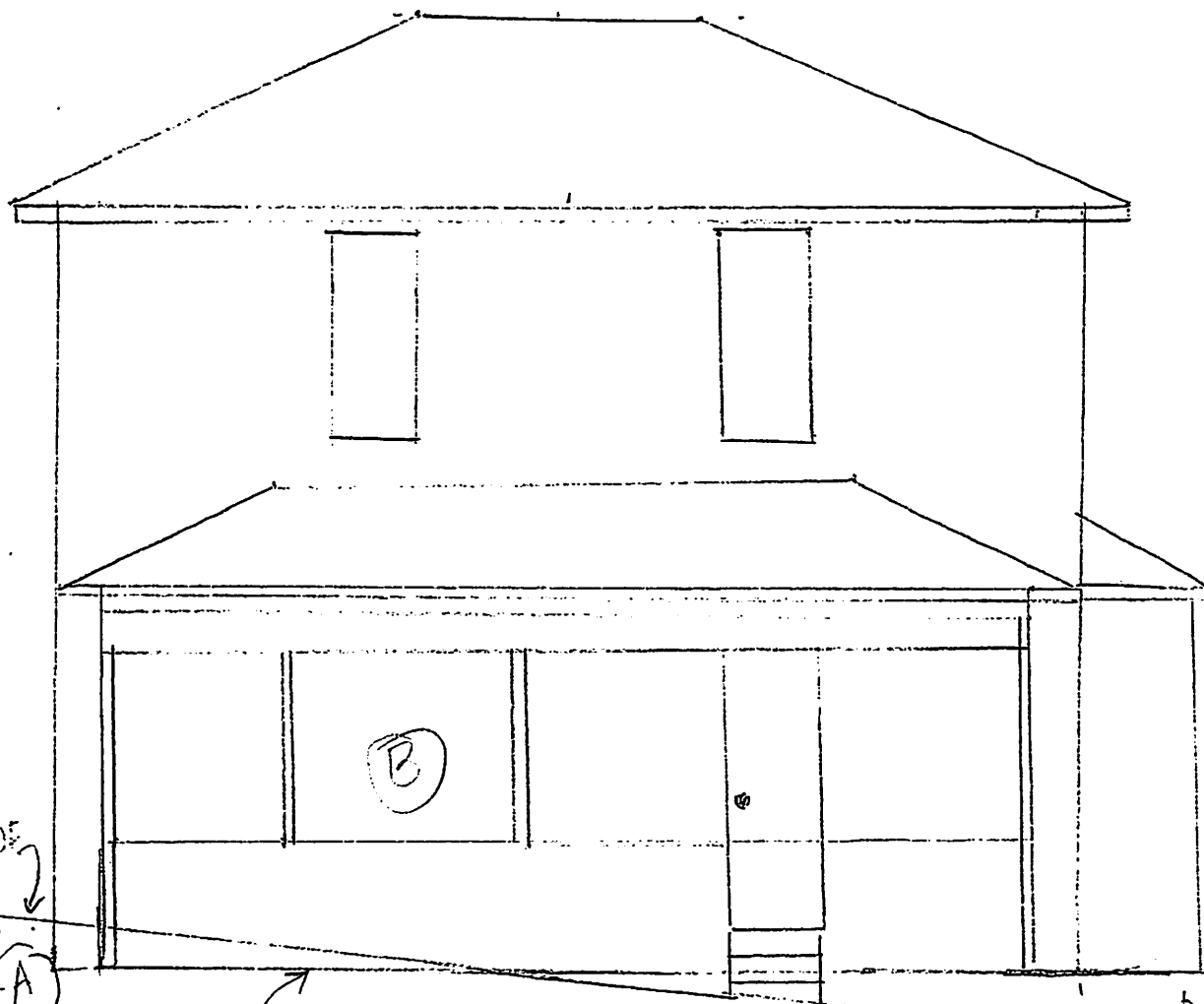
Tyler

510 ROSE STREET

EXISTING PLAN

NORTH ELEVATION

- A EXISTING TOP OF FOUNDATION IS TWO FEET BELOW THE ALLEY CAUSING PERSISTENT WEILNESS AND SETTLING
(1) BASEMENT
- B EXISTING PORCH IS 18' WIDE BY 5' DEEP

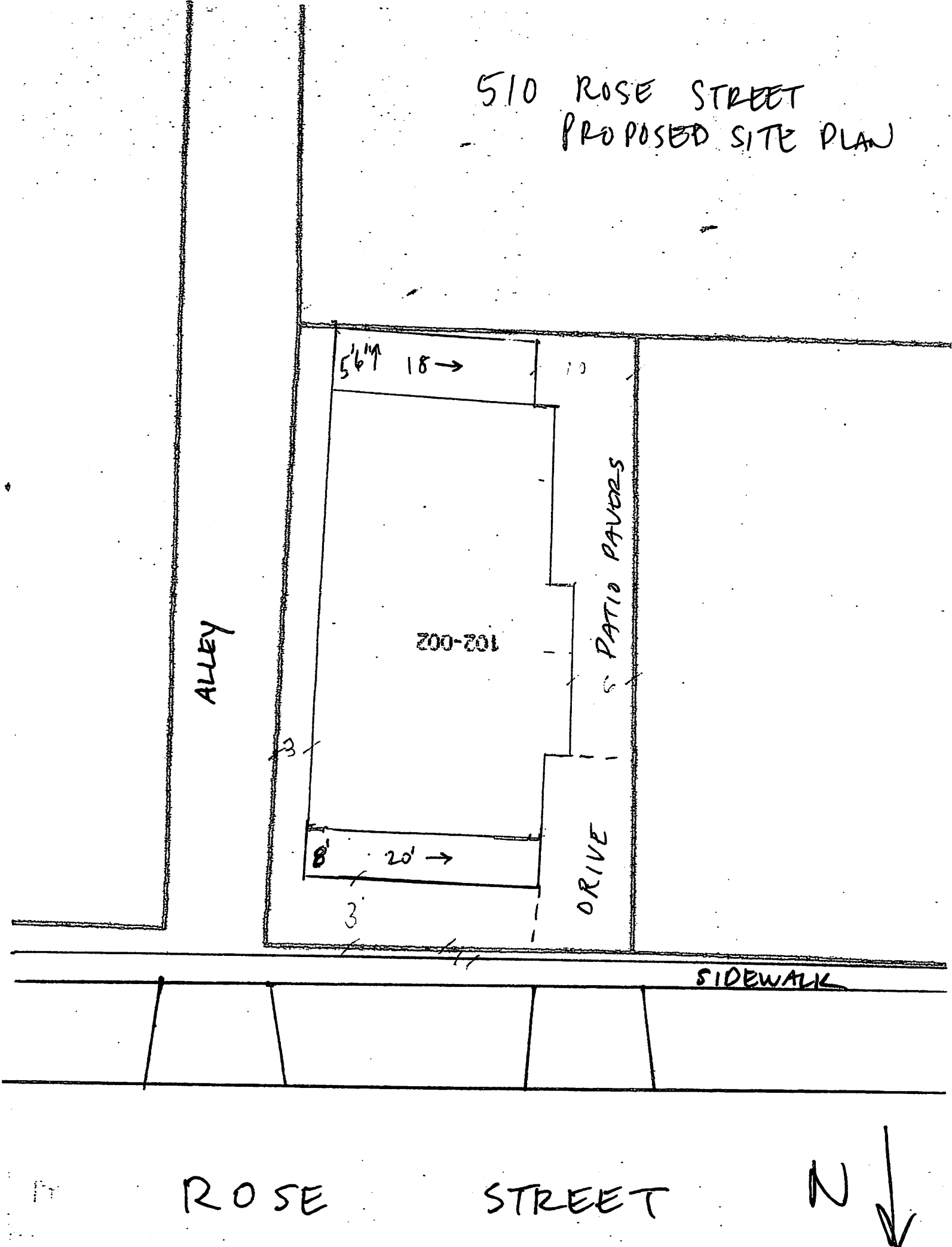


ROSE STREET

SIDEWALK

AVERAGE LOT
GRADE LINE &
HOUSE FOUNDATION LINE

510 ROSE STREET
PROPOSED SITE PLAN



510 ROSE STREET

PROPOSED PLAN

(NORTH ELEVATION)

- A RAISE HOUSE THREE FEET TO BRING TOP OF FOUNDATION 8" HIGHER THAN GRADE OF ALLEY
- B REMOVE EXISTING ENCLOSED PORCH 18'X5' REBUILD AN OPEN PORCH 20'WIDE X 8'DEEP
- C IN PLACE OF HIP ROOF, BUILD A BALCONY OVER PORCH
- D REMOVE THROAT & INSTALL DOOR TO BALCONY
- E NO MODIFICATION TO EXISTING ROOF OR MAIN HOUSE STRUCTURE



AVERAGE
LOT
GRADE

ROSE

STREET

SIDEWALK



2



3



4



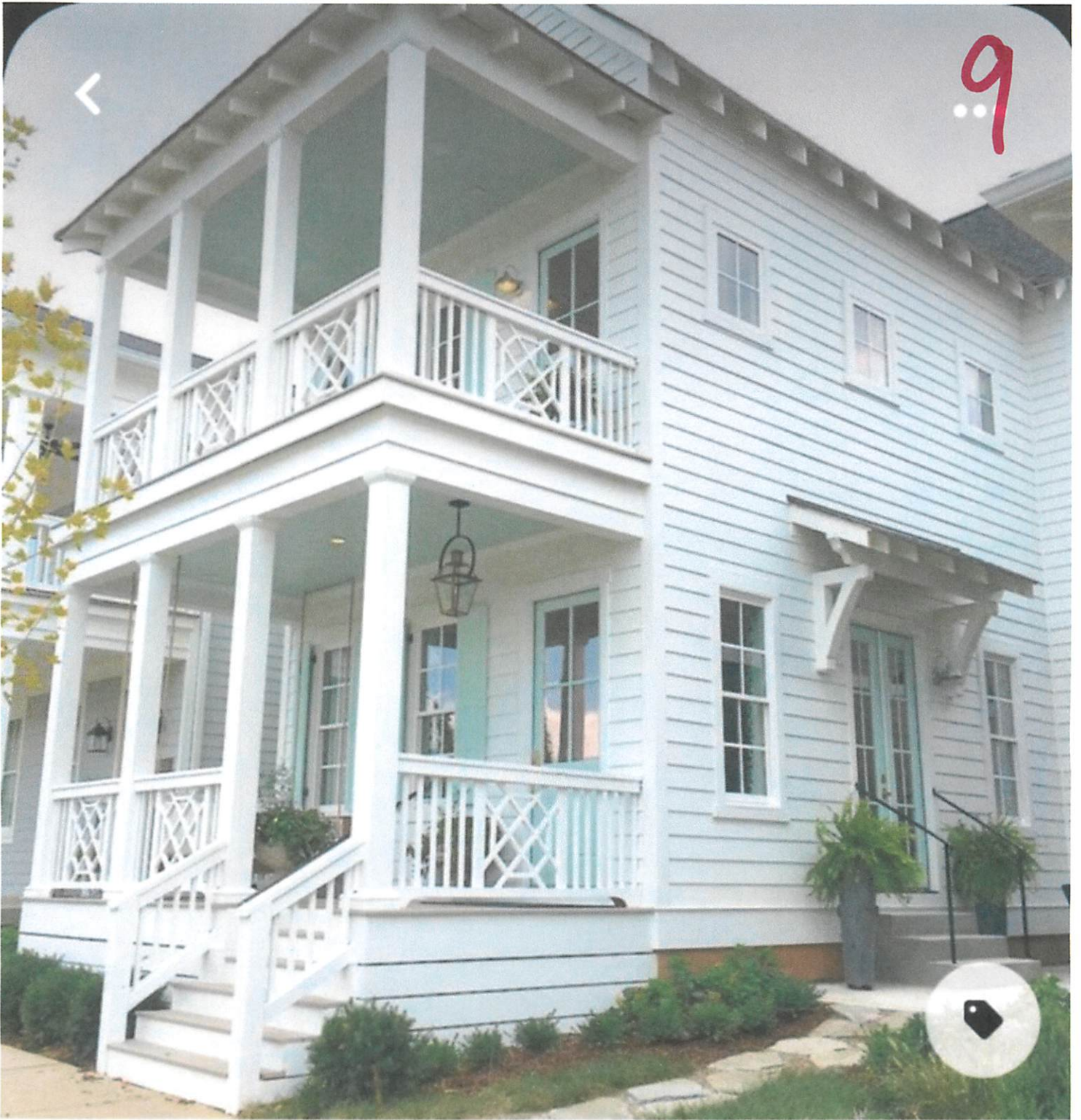






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September 19, 2022

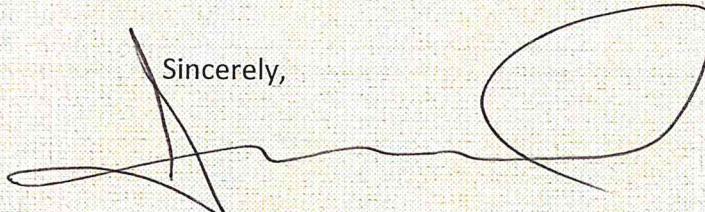
Petoskey Zoning Board of Appeals
101 East Lake St.
Petoskey, MI 49770

Ref: Request is for a front-yard setback variance, rear-yard setback variance and lot coverage variance at 510 Rose St.

To whom it May Concerns,

Upon reviewing the above notice, I would like to express my view on the above request. Haggard's Plumbing & Heating is not opposed to the changes of the property and/or the request. If a property owner is fortunate enough to have the ability and the recourses in this time to either build and/or improve their existing property, it would only help the economy continue to grow. It would prove positive for the local, county, and state to do all we can to improve and promote in anyways possible.

Sincerely,



John Haggard
Haggard's Plumbing & Heating



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: October 4, 2022 Case Number: 866

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 variance	Does not support the variance	Notes
Will strict compliance with the dimensional requirements of the zoning ordinance prevent the applicant from using the property for the permitted purpose? <ul style="list-style-type: none">- 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? <ul style="list-style-type: none">- 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? <ul style="list-style-type: none">- 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? <ul style="list-style-type: none">- 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? <ul style="list-style-type: none">- The Appeals Board is not responsible for "bailing out" an applicant who created the need for a variance.			



City of Petoskey

Office of City Planner

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

MOTIONS BY THE ZONING BOARD OF APPEALS Variance Requests

I move to (approve/ deny) **a variance for the rear yard setback of 0 feet at 510 Rose 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

that demonstrate there is a (practical difficulty/ lack of practical difficulty) created by **Section 1600** of the Zoning Ordinance due to:



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MOTIONS BY THE ZONING BOARD OF APPEALS Variance Requests

I move to (approve/ deny) **a variance for the front yard setback of 3 feet at 510 Rose 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

that demonstrate there is a (practical difficulty/ lack of practical difficulty) created by **Section 1600** of the Zoning Ordinance due to:



City of Petoskey

Office of City Planner

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MOTIONS BY THE ZONING BOARD OF APPEALS Variance Requests

I move to (approve/ deny) **a variance for lot coverage of 52.5% at 510 Rose 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

that demonstrate there is a (practical difficulty/ lack of practical difficulty) created by **Section 1600** of the Zoning Ordinance due to:

ZONING BOARD OF APPEALS
2023 MEETING SCHEDULE

Meeting Date

Tues., Jan. 3

Tues., Feb. 7

Tues., March 7

Tues., April 4

Tues., May 2

Tues., June 6

Tues., July 11

Tues., Aug. 1

Tues., Sept. 5

Tues., Oct. 3

Tues., Nov. 7

Tues., Dec. 5