

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES

December 10, 2013

Chairman R. Hilt called the meeting to order at 4:02 p.m. and roll was taken.

MEMBERS PRESENT: R. Hilt, S. Warmington, B. Larson, W. German Jr., T. Halterman,
E. Fordham

MEMBERS ABSENT: None

STAFF PRESENT: M. Franzak, D. Renkenberger

OTHERS PRESENT: D. Greve, 1433 Montgomery; G. Ishmael, 1418 Nolan; J. Frenndt, St.
Clair Construction Co., Holland MI

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of October 8, 2013 be approved was made by S. Warmington, supported by E. Fordham and unanimously approved.

PUBLIC HEARINGS

W. German arrived at 4:06 p.m.

Hearing; Case 2013-06: Request for a variance from Section 404 (Area and Bulk Requirements) of the zoning ordinance to construct a home on a lot smaller than 6,000 square feet in size and also for a reduction in the minimum rear lot setback, at 1433 Montgomery Avenue by Daniel Greve. M. Franzak presented the staff report. The parcel is located in a R-1, Single Family Residential district, and was recently damaged beyond repair by a fire. The lot The parcel is a corner lot measuring approximately 4,240 square feet, which does not meet the size requirements (6,000 square feet) for a buildable lot. The lot is not considered a legal lot of record because it was previously reduced in size. The subject lot is adjacent to another non-conforming lot to the south, and a conforming lot to the east. Rear lot setbacks are 30 feet in this zoning district. The current house sits back about 18 feet from the rear lot line. The applicant would like to be able to build within the 18 feet and is asking for a variance to allow development up to an 18-foot rear setback. S. Hollern, owner of a nearby property at 1832 Moore, contacted staff to say that she was in favor of the request, as the house was a detriment to the neighborhood as it currently was.

E. Fordham asked if the house would be built on the same footprint. M. Franzak and D. Greve stated that it would. W. German asked if the rebuilt house would be closer to the property line than the original house was. M. Franzak stated that the original house was approximately 20 feet from the rear property line, but they were requesting the variance for 18 feet to give the owner a little flexibility in case of an error in measurements. G. Ishmael lived behind this property and stated she preferred to maintain the 20-foot distance. S. Warmington asked if she had any objection if the house was longer from side to side. G. Ishmael stated that if the length along Montgomery were longer, she would not have an issue with that. M. Franzak pointed out that

the setbacks were measured from the drip edge, not the foundation, and the 18-foot measurement was only suggested to allow for minor measuring errors.

A motion to close the public hearing was made by S. Warmington, supported by B. Larson and unanimously approved.

The following findings of fact were offered: a) That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district, b) That such dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity, c) That the authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest, d) That the alleged difficulty is caused by the ordinance and has not been created by any person presently having an interest in the property, or by any previous owner, e) That the alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner, and f) That the requested variance is the minimum action required to eliminate the difficulty.

A motion that the findings of fact (found in Section 2502 of the Zoning Ordinance) be adopted, and that the request to allow development on a parcel less than 6,000 square feet in size, and a variance from the minimum rear lot setback of 30 feet to a minimum of 18 feet be approved, was made by S. Warmington, supported by B. Larson and unanimously approved.

Hearing, Case 2013-07: Request for a variance from Section 2331 (Fencing) of the Zoning Ordinance to construct a six-foot fence in multiple front yards at 864 Spring Street. M. Franzak presented the staff report. This parcel is the Bayview Towers apartment complex and is zoned RM-3, High-Density Multiple Family Residential. The property is surrounded by streets on all four sides, giving it four front yards. The zoning ordinance states that fences in front yards in residential districts may not exceed four feet in height. The applicant is requesting a variance to erect six-foot fencing around the property. Myrtle Avenue is generally considered the front of the building, which is where the main entrance is located. The requested variance would allow six-foot fencing on Yuba Street, Myrtle Avenue, Cedar Street. The applicant recently put in a sidewalk along Yuba Street and is expecting more pedestrian traffic, which is why they would like to fence off the area. Renderings of the type of fencing to be used were provided to board members.

B. Larson asked if the top of the fence would have spears or be flat. J. Frendt stated that it would have the spear-shaped top, and it would be black in color, made of steel. He stated that they preferred to have the 6-foot fence around all four sides of the property, but it was not in the budget at this time. M. Franzak requested that board members considered granting the variance for all four sides of the property anyway, so that another variance would not be required if they wanted to extend the fence in the future.

A motion to close the public hearing was made by S. Warmington, supported by B. Larson and unanimously approved.

The following findings of fact were offered: a) Having a property with 4 front yards is an exceptional or extraordinary circumstance applying to the property in question that does not apply generally to other properties or class of uses in the same zoning district, b) That such

dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity, c) That the authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest, d) That the alleged difficulty is caused by the ordinance and has not been created by any person presently having an interest in the property, or by any previous owner, e) That the alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner, and f) That the requested variance is the minimum action required to eliminate the difficulty.

A motion that the findings of fact (found in Section 2502 of the Zoning Ordinance) be adopted, and that the the variance request to allow a six-foot high fence to be constructed on the property at 864 Spring Street along the frontages on Yuba, Cedar, Myrtle, and Spring Streets be approved, was made by S. Warmington, supported by W. German and unanimously approved.

OLD BUSINESS

None

OTHER

There being no further business, the meeting was adjourned at 4:22 p.m.