

MINUTES

ZONING BOARD OF APPEALS

April 29, 2015

COUNCIL CHAMBERS, CITY HALL

CALL TO ORDER:

Chairman Dutcher called the Zoning Board of Appeals to order at 5:00 p.m.

ROLL CALL:

Present: Anderson, Dutcher, Lamble, Lewis, Polluch

Absent: Guest and Martindale

Chairman Dutcher opened the public hearing and explained the procedures for the hearing.

Public Hearing of Case ZBA15-04

Adam Poll, Planning and Development Director presented the zoning request as follows: Kevin Maciejewski, 102 E. Bingham Street, is requesting a variance in the R-2 One Family Residential District to allow for the construction of a 20' x 34' accessory structure in addition to an existing 28' x 34' accessory structure for a total of 1,632 square feet of accessory structures, 432 square feet more than allowed located 5'2" from the side property line, 10" closer than allowed. Article 3.11D2 and Article 3.11C3.

**Property address: 102 E. Bingham Street**

Notices were sent to all adjoining property owners within 300 feet of the subject property.

To authorize a variance, the board shall find that all of the following conditions are met:

1. The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally to other properties in the surrounding area, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.
2. Strict compliance with the regulations governing area, setbacks, frontage, height bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.

3. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give substantial relief to the property owner and be more consistent with justice to other property owners;
4. The need for the requested variance is not the result of action of the property owner or previous property owners. It is not a self-created problem.
5. That the requested variance will not cause an adverse impact on the surrounding property, property values, or the use and enjoyment of the property in the neighborhood or zoning district and will not impair an adequate supply of light and air to adjacent property, unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City of Alpena.

**CONDITIONS:** The Zoning Board of Appeals may impose such conditions or limitations in granting a variance as deemed necessary to protect the character of the area, as provided for in Section 9.9.

**FINDING OF FACT:** In granting or denying a variance, the board shall state in a written statement of findings of fact, which you can do verbally, the grounds upon which it justifies the granting of the variance.

Staff evaluation of the five conditions relative to this petition is as follows:

1. The applicant currently has an existing 24' x 28' (672 square foot) garage and an existing 10' x 28' (280 square foot) lean-to structure alongside the existing garage. The applicant is proposing to construct a 24' x 20' (480 square foot) addition to the existing garage and extend the lean-to along the new garage adding a new lean-to section of 10' x 20'. With the new addition, the garage would be 1,152 square feet and the lean-to structure alongside the garage would be 480 square feet for a total of 1,632 square feet of accessory structures, 432 square feet more than allowed. The garage addition would not exceed the size requirements if the proposed and existing lean-to structure were removed. If the lean-to structure was attached to the applicant's house, it would not be subject to the 1,200 square foot size limitation. The ordinance reads that total accessory structures may not exceed 25 percent of the rear yard or 1,200 square feet in size. In this case the applicant owns a double lot with a large rear yard, and 25 percent of the rear yard would be 2,970 square feet, well above the 1,632 square foot request.

In addition to the variance for the size of the proposed accessory structures, the applicant is requesting to build the garage addition with the same 5'2" setback as the existing legal non-conforming garage. The applicant has indicated that constructing the new garage addition the full 6 feet away from the side property line would make it

difficult for his intended use of parking three cars in the garage addition. There have not been any known issues with the existing garages location.

The proposed location of the additional accessory structures is unique in that it is located behind the existing garage and would not be easily visible from the street. The proposed garage would also not be easily visible from the most affected neighbors as any possible view of the garage addition would be from their rear yard and not from an adjacent side yard.

2. The applicant could strictly comply with the regulations by removing the lean-to structures from the proposed and existing garage. The applicant has indicated that he uses the lean-to structure as a covered porch space for outdoor seating and grilling. The applicant could construct a covered porch on the rear of his home if the variance is not granted.
3. The proposed use would not appear to alter the essential character of the neighborhood. The proposed garage would not easily be visible, and would appear to have a positive impact on the area as the applicant would no longer have to store his classic car collection in his yard. The applicant has a large double lot, which is unusual for the neighborhood, which would appear to lessen the impact of the amount of accessory structures if the variance is granted.

The proposed setback variance would not appear to have a negative impact as it matches the setback of the existing legal non-conforming garage that has not caused any known issues.

4. The setback variance is not self-created. The existing garage was legally constructed and meeting the existing setback of the existing garage would appear to be the best design available for the proposed garage.

The size variance could potentially be self-created; however, the use of the lean-to is utilized for outdoor recreation and functions as a covered porch, which is a difference from most accessory structures.

5. If the variance is granted it would not appear to have a negative impact on the area. The proposed building would not easily be seen from the street, or from the most affected neighbors. The property is unique in that it is a double lot with a large rear yard.

In granting a variance, the board may attach conditions regarding the location, character and other features of the proposed structure as it may deem reasonable in furtherance of the purpose of this ordinance. In granting a variance, the board shall state the grounds upon which it justifies the granting of said variance.

The property would appear to be unique as the applicant owns a double lot with a large rear yard.

The applicant has indicated that he utilizes the existing lean-to/carport along the garage for outdoor seating and grilling. It would appear that expanding the lean-to structure along the new portion of the garage may not be necessary.

As one of the uniqueness of the property is its size, staff would recommend that the extra lot would not be allowed to be sold separately from the house without reducing the amount of accessory structures back to 1,200 square feet or less.

Therefore, staff would recommend **approval of a reduced variance** request to allow for the construction of a 24' x 20' (480 square foot) garage addition which would create a total of 1,432 square feet of accessory structures, 232 square feet more than allowed, and a 5'2" side yard setback, 10" closer than allowed with the condition that the extra lot cannot be sold separately from the house unless the total amount of accessory structures is reduced to 1,200 square feet or less.

#### PUBLIC COMMENT:

Chairman Dutcher asked if there was anyone who desired to speak either for or against this variance.

Richard Wiitala of 1405 S. First Avenue addressed the board. Mr. Wiitala told the board his back lot line is adjacent to 102 E. Bingham Street. He said they are totally in favor of this request and it would not bother them one bit. It would be a nice addition to his way of life as well as to his property. He said they do not have any objections whatsoever.

Since no one else wished to speak on this case, either for or against, Chairman Dutcher closed the public comment portion of the meeting at 5:10 p.m. to deliberate for case ZBA15-04.

Member Lewis said people do those lean-to's and in the end they end up getting enclosed and it becomes part of the garage. Mr. Maciejewski told Member Lewis that there is really no way you can enclose it.

Donald Gilmet, Building Official addressed the board on this question. He said the lean-to could be enclosed. Don said if you are inclined to pass the variance that is another condition you could add to the variance that not only does the lot not get sold off, unless the accessory structures on the remaining lot are reduced, but the lean-to, patio seating area or whatever you want to call it remains open with just a roof over the top.

Member Lamble made a motion to approve the variance as requested for the reasons set forth, including the expansion of the lean-to structure to the new portion, with the reasons stated by the city.

Member Lewis seconded the motion.

ROLL:

Ayes: Anderson, Dutcher, Lamble, Lewis, Polluch

Nays: None

The variance to construct a 24' x 20' addition to the existing garage and extend the lean-to along the new garage adding a new lean-to section of 10' x 20' and to build the garage addition with the same 5'2" setback as the existing legal non-conforming garage.

Let the record show to authorize a variance, the board shall find that all of the following criteria has been met for Case ZBA15-04:

1. The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally to other properties in the surrounding area, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.
2. Strict compliance with the regulations governing area, setbacks, frontage, height bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.
3. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give substantial relief to the property owner and be more consistent with justice to other property owners;
4. The need for the requested variance is not the result of action of the property owner or previous property owners. It is not a self-created problem.
5. That the requested variance will not cause an adverse impact on the surrounding property, property values, or the use and enjoyment of the property in the neighborhood or zoning district and will not impair an adequate supply of light and air to adjacent property, unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City of Alpena.

OLD BUSINESS:

Adam said he has had additional contact with Sunrise Mission and they are not going to be appealing to the court system. They are trying to work on a smaller activity center. If they do proceed with that, they will be bringing a new variance back to the Zoning Board of Appeals, but that is down the road.

Susan Martindale has resigned due to health concerns. He says they do have a vacancy and he does have an applicant right now on file. His name is Dennis Bray. Adam said they should have a full board the next time they meet.

NEW BUSINESS:

The minutes of the February 25, 2015 meeting were approved as printed.

ADJOURNMENT:

With no other business, Chairman Dutcher adjourned the meeting at 5:15 p.m.

---

Alan Guest, Secretary

---

Norman Dutcher, Chairman