

MINUTES

ZONING BOARD OF APPEALS

June 25, 2014

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, Lambie, Lewis, Polluch

Absent: Guest, Martindale

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

Public Hearing of PZ14-002

Adam Poll, Planning and Development Director presented the zoning request as follows: Meghan Winterstein, 1013 S. First Avenue is requesting a variance to the 20 foot required street front side yard setback for a corner lot in the R-2 One Family Residence District, to allow for the construction of a 24' x 24' home addition 6'6" from the side property line, matching the existing homes setback, 14'6" less than required. Article 5.7C

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 home in question is unique as it is located on the corner of First Avenue and E. Wisner Street. The home faces and is addressed off First Avenue, but because it is a corner lot is required to have a full 20 foot setback off of both First Avenue and E. Wisner Street in an R-2 One Family Residential District. The homes current setback off E. Wisner Street is 6'6" from the property line and the home is considered a legal non-conforming use. The applicants are requesting to construct a 24' x 24' garage structure with the second level being living area. An addition of this size could not be easily obtained while meeting existing setback requirements.
2. The applicants intend to use the addition as an attached garage with living area on the second level. The applicants could potentially move the addition away from the Wisner property line to meet setbacks, but that would not allow access to the second level of the addition, as the home in that part of the lot is a single story. It would appear to be a much better fit architecturally and aesthetically to allow the addition to match the existing setback of the home.
3. The applicants request would not appear to have a significant negative impact on the area. The existing home is already 6'6" from the property line and the addition would be constructed to meet the existing setback and appear to match the home. In

addition, the proposed addition would still be located 50 feet from the northwest property line, 25 feet more than required by the Zoning Ordinance.

4. The applicants are requesting to construct an attached garage with living area above it. The home in question was constructed prior to the adoption of the Zoning Ordinance and is considered a legal non-conforming home. Expanding a legal non-conforming structure is not permitted by ordinance, and thus requires a variance for any addition not meeting existing zoning standards.
5. Granting the requested variance would not appear to have a negative impact on the neighborhood. The proposed addition maintains the existing setback of the home, and would not appear to encroach too close to the adjoining neighbor at 114 E. Wisner Street. The addition would appear to architecturally match the existing home as well, and would appear to enhance the property.

Due to these facts, staff would recommend approval of the variance.

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.

PUBLIC COMMENT:

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

Member Polluch asked if the existing driveway will be moved to where the garage is.

Adam Poll said that driveway will remain. He will have two driveways, the current driveway for the proposed addition and also a driveway where the new garage is being built. Mr. Winterstein is allowed to have two driveways for a corner lot.

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 5:05 p.m. to deliberate for Case PZ14-002.

Member Lamble made a motion to approve the variance to build a 24' x 24' home addition 6'6" from the side property line to match the existing homes setback, with the five conditions relative to this petition.

Member Anderson seconded the motion.

ROLL:

Ayes: Anderson, Dutcher, Lamble, Lewis, Polluch

Nays: None

DISCUSSION BY BOARD MEMBERS:

There was no further discussion on this variance from the board members.

Let the record show to authorize a variance, the board shall find that all of the following criteria has been met for Case PZ14-002.

1. The home in question is unique as it is located on the corner of First Avenue and E. Wisner Street. The home faces and is addressed off First Avenue, but because it is a corner lot is required to have a full 20 foot setback off of both First Avenue and E. Wisner Street in an R-2 One Family Residential District. The homes current setback off E. Wisner Street is 6'6" from the property line and the home is considered a legal non-conforming use. The applicants are requesting to construct a 24' x 24' garage structure with the second level being living area. An addition of this size could not be easily obtained while meeting existing setback requirements.
2. The applicants intend to use the addition as an attached garage with living area on the second level. The applicants could potentially move the addition away from the Wisner property line to meet setbacks, but that would not allow access to the second level of the addition, as the home in that part of the lot is a single story. It would appear to be a much better fit architecturally and aesthetically to allow the addition to match the existing setback of the home.
3. The applicants request would not appear to have a significant negative impact on the area. The existing home is already 6'6" from the property line and the addition would be constructed to meet the existing setback and appear to match the home. In addition, the proposed addition would still be located 50 feet from the northwest property line, 25 feet more than required by the Zoning Ordinance.
4. The applicants are requesting to construct an attached garage with living area above it. The home in question was constructed prior to the adoption of the Zoning Ordinance and is considered a legal non-conforming home. Expanding a legal non-conforming structure is not permitted by ordinance, and thus requires a variance for any addition not meeting existing zoning standards.
5. Granting the requested variance would not appear to have a negative impact on the neighborhood. The proposed addition maintains the existing setback of the home, and would not appear to encroach too close to the adjoining neighbor at 114 E. Wisner

Street. The addition would appear to architecturally match the existing home as well, and would appear to enhance the property.

Public Hearing PZ14-003

Adam Poll, Planning and Development Director presented the zoning request as follows: Scott McQuarrie, 307 S. Third Avenue is requesting a use variance in the Central Business District (CBD) to allow for the distribution and sale of propane. Article 5.712B

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

Adam Poll said he did receive an e-mail from a Mr. Ray Fencil of 209 Sable Street that he is in favor of the variance request for selling propane.

To obtain a variance from the use regulations of this ordinance, the applicant must demonstrate that an unnecessary hardship exists by showing all of the following:

1. The building, structure, or land cannot be reasonably used for any of the uses permitted by right or by a special use permit in the zoning district in which it is located.
2. The need for the requested variance is due to unique circumstances or physical conditions of the property involved such as narrowness, shallowness, shape, water or topography, and is not due to the applicant's personal or economic hardship.
3. The proposed use will not alter the essential character of the neighborhood.
4. The immediate hardship causing the need for the use variance was not created by the property owner or the previous property owners (self-created).

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 property in question is unique in the fact that it is located at the edge of the Central Business District and has a large parking lot to buffer the requested use from adjoining commercial and residential properties. The previous use of the property was vehicle sales and that use required a large parking area. The applicant would like to use the building structure for a meat market and general goods store, while utilizing a

residential style 1,000 gallon propane filling station in the center of the existing parking area.

2. The applicant could operate his meat market and general goods store without the sale of propane. In addition, the applicant could utilize a propane cylinder exchange center (similar to many other convenience stores) without requiring a use variance. The applicant has noted that there are many customers that do not like to swap tanks because it is difficult to remove them from an anchoring (such as campers or RVs) and/or many individuals have partially empty tanks that they would like to fill up, and only pay for the propane they need, not a full cylinder.
3. If conditions are in place that assures the safety of the surrounding neighborhood and effective screening of the tank, than the existence of the propane distribution at this location would not appear to have a negative impact on the area. Currently the Fire Chief is evaluating the impact on a potential propane tank in this location. The applicant has agreed to screen the tank and noted he would be willing to use concrete landscaping block to hide the tank from view and enhance the safety of the area. Additional screening could be required.
4. The proposed location was previously used as a car dealership, but has been vacant for some time. The applicant would like to utilize the site, but noted that it would be difficult for his business plan to succeed without the supplemental income of the propane filling station.
5. The Fire Chief is currently evaluating any safety concerns that the presence of a 1,000 gallon propane filling station would cause. The size of tank in question is a size similar to many residential style tanks outside of the City, and most of those would have a much smaller setback than what the applicant is proposing. The applicant has also offered to screen the tank on three sides to lessen the visual impact on the neighborhood.

Due to these facts, a recommendation of **denial** could be made for the variance request, due to the land/building/structure could be used for uses permitted by right other than propane distribution and sales.

However, a recommendation of **approval** could be made for the variance request due to both the uniqueness's of the site, and the fact that the propane distribution is not the principal use of the property, and would appear to be accessory to the use as a general store/meat market. If **approval** were recommended, staff would recommend that the following conditions are met:

1. The propane tank and distribution area be screened on sides facing the street to the standards of the Zoning Ordinance to be verified by city staff.
2. The use meets all applicable fire and building codes.

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.

PUBLIC COMMENT:

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

Donald Gilmet, Building Official addressed the board. Donald Gilmet asked Scott McQuarrie if the propane tank will be a 1,000 gallon tank. Mr. McQuarrie said yes. Mr. Gilmet said people can have a 1,000 gallon propane tank next to their house all day long, and it does not matter if the city likes it or not. These are going to be permitted because Mr. McQuarrie is going to be doing a fill-up station. He has to go through the DEQ, and you have to comply with all their laws for all the safety aspects. Everything in regards to the propane operation will be monitored by the State laws and the DEQ permits.

Mike Moors of 125 W. White Street addressed the board. Since he lives only about 200 feet away from the location, he is concerned about having a propane fill-up station there. He is worried there might be a propane explosion. Because of the propane fill-up station, he is concerned about his property value and the safety of his property. He is against the variance.

The applicant Scott McQuarrie addressed the board. He said the concerns of the neighbors are a very good point. Mr. McQuarrie said he has to go to the DEQ next. Their standards, is a 4-inch steel pole on four foot on center filled with concrete all the way around. Mr. McQuarrie said the city's concern is looks. So he said the best thing is to put a fence all around the tank. Scott said he would install bunker blocks, with a nice stone finish. For the protection of the neighbor's, the blocks are two feet thick. When the wall around the tank is finished, it would be 5 feet high with two-foot thick concrete tongue and groove blocks three quarters of the way around the tank. The wall will have a one-foot cap on top. The only open area is going to be toward the store. Each block weighs almost 6,000 lbs.

He also said that all of his staff and himself have to be trained and certified according to the DEQ to operate a propane tank fill-up station.

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 5:20 p.m. to deliberate for Case PZ14-003.

Member Lamble made a motion to approve this use variance for a 1,000 gallon propane tank to be installed in the parking lot for the sale and distribution of propane, with the conditions that the tank does not exceed 1,000 gallons and for the tank to be shielded and screened with the proposed block wall around the tank on sides facing the street and meets all applicable fire and building codes, and also according to the five conditions relative to this petition.

Member Polluch seconded the motion.

ROLL:

Ayes: Anderson, Dutcher, Lamble, Lewis, Polluch

Nays: None

DISCUSSION BY BOARD MEMEBERS:

There was no further discussion on the variance from the board members.

A variance to allow for the sale and distribution of propane within the Central Business District, with a concrete landscaping block wall to hide the tank from view and enhance the safety of the area has been granted.

Let the record show to authorize a variance, the board shall find that all of the following criteria has been met for Case PZ14-003:

1. The property in question is unique in the fact that it is located at the edge of the Central Business District and has a large parking lot to buffer the requested use from adjoining commercial and residential properties. The previous use of the property was vehicle sales and that use required a large parking area. The applicant would like to use the building structure for a meat market and general goods store, while utilizing a residential style 1,000 gallon propane filling station in the center of the existing parking area.
2. The applicant could operate his meat market and general goods store without the sale of propane. In addition, the applicant could utilize a propane cylinder exchange center (similar to many other convenience stores) without requiring a use variance. The applicant has noted that there are many customers that do not like to swap tanks because it is difficult to remove them from an anchoring (such as campers or RVs) and/or many individuals have partially empty tanks that they would like to fill up, and only pay for the propane they need, not a full cylinder.
3. If conditions are in place that assures the safety of the surrounding neighborhood and effective screening of the tank, than the existence of the propane distribution at this location would not appear to have a negative impact on the area. Currently the Fire

Chief is evaluating the impact on a potential propane tank in this location. The applicant has agreed to screen the tank and noted he would be willing to use concrete landscaping block to hide the tank from view and enhance the safety of the area. Additional screening could be required.

4. The proposed location was previously used as a car dealership, but has been vacant for some time. The applicant would like to utilize the site, but noted that it would be difficult for his business plan to succeed without the supplemental income of the propane filling station.
5. The Fire Chief is currently evaluating any safety concerns that the presence of a 1,000 gallon propane filling station would cause. The size of tank in question is a size similar to many residential style tanks outside of the City, and most of those would have a much smaller setback than what the applicant is proposing. The applicant has also offered to screen the tank on three sides to lessen the visual impact on the neighborhood.

OLD BUSINESS:

Adam Poll said there was not any old business.

NEW BUSINESS:

Chairman Dutcher said that Susan Martindale's name was omitted from the May 28, 2014 minutes Roll Call. Susan Martindale was present at that meeting.

The minutes of the May 28, 2014 meeting were approved with the correction that Martindale's name be added as present for Roll Call.

Michael Polluch is the new member to the Zoning Board of Appeals.

ADJOURNMENT:

With no other business to discuss, Chairman Dutcher adjourned the meeting at 5:35 p.m.

Alan Guest, Secretary

Norman Dutcher, Chairman