

CITY OF CHARLEVOIX
ZONING BOARD OF APPEALS MINUTES
Wednesday, September 25, 2013 - 6:00 p.m.
210 State Street, City Hall, 2nd Floor Council Chambers, Charlevoix, MI

(A) CALL TO ORDER

The meeting was called to order by Chair Greg Withrow at 6:00 p.m.

(B) ROLL CALL/PLEDGE OF ALLEGIANCE

Members Present: Greg Withrow, Art Nash, Pat Miller, Larry Sullivan (alt.), Ann Gorney

Members Absent: Gary Anderson, Greg Bryan (alt.)

Staff Present: City Planner Michael Spencer

Chair Withrow noted that Member Sullivan would be a voting member at this evening's meeting.

[Planner Spencer stated that Greg Bryan was present before the meeting and left prior to roll call, as there were sufficient members present.]

(C) INQUIRY INTO POTENTIAL CONFLICTS OF INTEREST

None.

(D) APPROVAL OF AGENDA

The agenda was approved as presented.

(E) APPROVAL OF MINUTES

The Board reviewed the July 17, 2013 minutes.

Motion by Member Nash, second by Member Sullivan, that the July 17, 2013 minutes be approved as written. Motion approved by unanimous voice vote.

(F) NEW BUSINESS

1. Public Hearing for Project 2013-03 ZBA: Variance Request.

Applicant: Debra Niswander

Subject Property: 307 May Street

City Planner Mike Spencer stated that he called the applicant who was not aware that he was supposed to be at this meeting, and his ex-wife, who is the property owner, was out of town. He stated that the applicant was in Petoskey and available by phone if needed. Staff did not perceive any complexity and there was no opposition from any Board member to proceeding with the hearing.

a. Staff Presentation

Planner Spencer stated the applicant is requesting a dimensional variance from the City of Charlevoix Zoning Ordinance for the construction of an addition to the existing home at 307 May Street. The addition would be a 10' x 12' covered porch (mud room) on the south side of the home in the front yard. The proposed addition does not meet the setback requirements for front yards in an R-2 Zone.

The agenda packet includes a variance application form, a site plan, proposed elevation drawings, and public comments in the form of a letter from Haggard's Plumbing and Heating.

Planner Spencer noted that the lot size is 50' x 114.75'. He stated that when the corners were surveyed the applicant indicated 7' from the property line, but staff measured the distance as 5', therefore the front yard setback is 15' and the applicant is asking to reduce the 15' setback to 5' from the property line.

Member Nash questioned if the variance request is for the front yard setback. Planner Spencer stated that it is the traditional front entrance of the home, which is how the Zoning

Ordinance reads. He stated that the review standards of the new Zoning Ordinance are slightly different, but the process is essentially the same.

Member Gorney questioned why the address was May Street. Planner Spencer responded that he did not know, that Linda Weller handled addressing issues, and that the property address has nothing to do with establishing the front yard. Member Gorney stated that the street address was the narrowest dimension and Planner Spencer agreed. Member Sullivan read from the new Zoning Ordinance, definition of "front lot line": "for a corner lot, the front lot line shall be the shortest of the two lot lines tangent to the street right-of-way or road easement." Planner Spencer stated that the definition applies to front lot lines in the middle of a block, but Member Sullivan stated that the second sentence of the definition refers to corner lots. Planner Spencer referenced Section 5.71 of the new Zoning Ordinance regarding front setbacks on corner lots. He stated that the definition was intended for a vacant lot in which the front is determined as facing the narrowest street frontage, but with an existing house on a corner lot that has two doors, Section 5.71 applies. Chair Withrow felt that it would be worthwhile to make an interpretation of the sections under discussion at a future meeting for the ZBA.

- b. Presentation by Applicant
The Applicant was not present.

- c. Call for Public Comment
The Chair opened the public hearing on Project 2013-03 ZBA at 6:12 p.m.

There were no comments.

The Chair closed the public hearing at 6:13 p.m.

- d. ZBA Determination of Findings of Fact
Member Sullivan questioned if there is an existing porch. Planner Spencer reported that there is a deck there, and after discussion it was noted that the proposed structure would cover the existing wooden deck. The steps leading onto the deck are on the side and do not encroach into the 5'. Member Nash stated that the application should have read "enclosed porch" rather than "covered porch" and he asked if the addition was to be heated. Planner Spencer responded affirmatively. Chair Withrow noted that the variance request is on the building size not on the use, that it's a single family residence, and that a porch is part of the use of a residence, whether its heated or not.

Member Nash stated that the application is not clear as to what the structure is going to be and he believes that if the ZBA was going to take action on an application, the application documents should be clear. This application does not indicate that this is an enclosed porch and does not indicate if the room will be heated or is just a "mud room". Member Nash believes that the application is lacking. Member Sullivan expressed concern that the homeowner may call this structure a bedroom and ask to enlarge the porch on the east side of the house that faces May Street.

Chair Withrow stated that generally speaking all the ZBA was looking at was an R-2 facility, which has the capability to house people in a heated or non-heated area. The drawing submitted shows a roof and walls so it is an enclosed structure. Member Nash proposed tabling the hearing until the applicant was present at a meeting. Member Miller suggested calling the applicant for information so that the item would not have to be tabled. Chair Withrow stated that the applicant should be present in order to answer questions and provide additional information. Member Nash stated that he would feel comfortable moving **moves** forward unless other Members want to table the hearing, but that a lot of language would need to be included in the Findings of Fact to make exactly clear what the ZBA was either granting or denying in the variance.

e. Motion

Motion by Chair Withrow, second by Member Nash to table Project 2013-03 ZBA until staff prepares a new draft Findings and ensure that the applicant(s) is present at the meeting to answer questions.

Yeas: Withrow, Nash, Miller, Sullivan, Gorney

Nays: None

Motion passed 5-0

Member Nash questioned if it would be appropriate to ask staff to address the issues and put those in the Findings and Chair Withrow agreed. Member Nash stated that the Findings should specifically mention that it is an enclosed structure, heated or not-heated, with a 5' setback, and remove reference to the bedroom.

The next meeting of the ZBA will be Wednesday, October 16, 2013, at 6:00 p.m.

(G) CALL FOR PUBLIC COMMENT ON NON-AGENDA ITEMS

The Chair called for public comment on non-agenda items at 6:25 p.m.

The Chair closed public comment at 6:25 p.m.

(H) ADJOURNMENT

Motion by Member Miller, second by Member Nash, that the meeting be adjourned.

There were no objections.

The meeting adjourned at 6:25 p.m.

Stephanie Brown/fgm

Deputy City Clerk

Greg Withrow

Chair