

MINUTES  
ZONING BOARD OF APPEALS

January 27, 2021  
COUNCIL CHAMBERS, CITY HALL (Virtual)

CALL TO ORDER:

Zoning Director Andrea Kares called the Zoning Board of Appeals to order at 5:04 p.m.

ROLL CALL:

Present: Bray, Guest, Lewis, Keller

Absent: Lamble, Broers

Zoning Director Andrea Kares suggested they postpone the election of officers until the next meeting.

Member Guest made a motion to postpone the election of officers.

Member Broers seconded the motion.

Ayes: All to table the election of officers until the next meeting.

Kares opened the public hearing and explained the procedures for the hearing.

Public Hearing of Case PZ200023

Andrea Kares, Zoning Director presented the variance as follows: **In Case Number PZ200023, Travis Kaiser, 1203 South 4<sup>th</sup> Ave**, Alpena, MI 49707 has requested a variance from the Zoning Board of Appeals to construct a new home 9 feet from their rear property line where the current home to be demolished resides. The required setback in the R-2 zone is 20 feet per the City of Alpena Zoning Ordinance.

**Property Address: 1104 S. Third Avenue**

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 the following conditions are met:

1. 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.
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 variance was not created by the property owner or previous property owners (self-created).
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:

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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 variance was not created by the property owner or previous property owners (self-created).
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.

In addition, two public comments were received for this project regarding some construction that has already taken place. The construction that has already taken place was the result of a misunderstanding between multiple staff members, and the homeowner. Staff have spoken to the homeowner about the miscommunication, and an understanding has been reached for any future projects.

Staff recommends that the variance be approved with no additional conditions attached as the variance is the result of the home not being properly addressed in the past. However, 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.

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Staff observations:

Member Keller asks Kares to give more background information on the level of construction that has taken place and why.

Kares states that the property owner had intentions of remodeling the home, however, upon further inspection of the home, as they began the work, the homeowner realized he needed to demolish the structure and build new. Previously, when the remodel was the proposed way forward, a building permit was issued, as the structure was compliant to what it was built to at that time. After the decision was made to demolish the home, the homeowner did not realize that the original permit issued was no longer valid. The majority of the construction has been completed, however; this variance is more due to the fact that the property was not properly addressed to begin with. Had it been properly addressed, all setbacks would comply, and the need for the variance would no longer exist.

Homeowner Travis Kaiser states once they opened up the interior, they found it to be in total disrepair. It needed to be demolished to make it a safe and comfortable house for whoever is going to live in it.

Broers questioned how the garage and breezeway were constructed without the proper inspections if it was non-compliant based upon the address. Kares explains the miscommunication between multiple staff members and the building owner. She states that they are just waiting on the board's approval or denial to move forward.

Member Guest asks Kares if she has received any communication from the neighbors.

Kares states she has received communications from the neighbors regarding what has been built and that she had not been made aware of the construction that had already taken place. Both comments that she received did also mention that the new construction is a welcomed addition to the neighborhood, as the previous structure was a blight on the neighborhood.

Broers questions the 6' fence that was erected, and whether there was a permit issued for that.

Kares says a permit was issued for the fence, and the homeowner will be charged additional fees for not obtaining the required building permit prior to construction.

Member Broers addresses Kaiser, asking him why he did not pull the proper permits and go through the proper routes to begin construction.

Kaiser explains that he thought he had done everything correctly. He says he thought things were prolonged or delayed due to the Covid pandemic. Kaiser says everything they are doing is to further the community, and nobody is trying to pull the wool over anyone's eyes. We are trying to make this place as safe and as nice as possible. Any rental property that we rehab is never halfway done. We have done other projects in town and finished them completely. He states

that he wants something that if he is going to rent it, he would live in it. He states he wanted to do the right thing and was not planning on the demolition.

Broers again questions why the garage was built without the plans being approved by City Hall.

Kaiser states he has had site visits with Don and Mike (City of Alpena employees) and that he did turn in the plans, but somewhere along the lines, there must have been a loophole and he did not receive the necessary paperwork.

Kares addresses the board and states that plans were submitted, but the city can not approve those plans and issue the permit until the board has met to make a decision.

Member Guest states that if we all would assume everything has been done proper, construction had not begun, and they were looking at the proposed building plans, he would be inclined to support a motion to approve the variance. He goes on further to mention that the fact that construction has already happened is unfortunate, but for him it does not change the fact that he would approve it.

Broers inquires about just changing the address.

Kares states that they could change the address; however, an approval from the board is preferred. Changing the address does potentially cause some issues in the next month or so in the event the home is completed, and a renter does move in, in terms of utilities, fire and ambulance getting there.

Member Bray asks the board why we are having a meeting, and the variance just given in house.

Member Guest states the city does not have that power; it is the Zoning Board of Appeals power.

Kares states that we are wanting to go through the proper channels. She goes on to further explain that any variance goes through the Planning department as it has to do with the zoning ordinance. Furthermore, an in-house granted variance, or administrative departure, would not be appropriate in this case.

Member Guest prepares a motion to approve the setback variance.

Member Bray seconded the motion.

Roll:

Ayes: Bray, Broers, Guest, Keller

Nays: none

Motion passed: 4-0

Following the vote, Kaiser and Broers exchanged commentary about the project. Broers stated he thinks the whole situation should have never happened, and the department should be extra cautious in the future so that something like this does not happen again. He goes on further to mention that the contractors are doing a beautiful job on the home.

Kaiser expresses his appreciation for the kind words and allowing the variance to be approved.

The public portion of the meeting was closed at 5:35 p.m.

#### NEW BUSINESS:

1. Member Guest made a motion to approve the minutes from the October 28, 2020 meeting.

Member Lewis seconded the motion.

Ayes: All

The minutes from the October 28, 2020 meeting were approved.

2. Member Guest made a motion to approve the 2021 meeting schedule as written.

Member Keller seconded the motion.

Ayes: All

#### PUBLIC COMMENT:

Mr. Peters, the owner of the adjoining property to 1203 South Fourth Ave voices his concerns of the construction vehicles driving on his grass and leaving tire tracks. He says he has taken pictures and would appreciate it if they could keep the vehicles on their own property.

Travis Kaiser addressed Mr. Peters concerns about the truck traffic on his lawn. He assures Mr. Peters that in the spring if there has been any visible damage to his lawn, if he needs sod, grass seed, he will pay for the damages done. He apologized for the incident, and said he was not aware of this happening.

#### COMMUNICATIONS:

There were no communications.

ADJOURNMENT:

With no other business to discuss, Zoning Director Kares adjourned the meeting at 5:43 p.m.

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Alan Guest, Secretary

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Chairman