

MINUTES  
ZONING BOARD OF APPEALS

September 30, 2020  
COUNCIL CHAMBERS, CITY HALL

CALL TO ORDER:

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

ROLL CALL:

Present: Anderson, Bray, Broers, Guest, Keller, Lamble, Lewis

Absent: None

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

Public Hearing of Case ZBA20-01

Donald Gilmet, Building Official, presented the variance as follows: Steve and Gayle Torhan, 908 S. State Avenue, Alpena, MI 49707 are requesting a variance to construct an attached 20' x 32' garage located at 908 S. State Avenue, with a three foot side yard setback in an R-2 One Family Residential District, three feet less than allowed. Article 5.7C1

**Property Address: 908 S. State 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 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 property in question has an existing detached garage in the center of the lot. The applicants want to construct an attached garage on the side lot line to make it easier to enter onto State Avenue with a vehicle. Currently they have to back out onto State Avenue.
2. Strict compliance with the regulations could potentially be met by moving the garage further away from the side lot line but would require removal of existing structures (deck) on the rear of the house. The new plan allows for a smaller deck to be left after reconstruction.
3. The proposed request would appear to do substantial justice to the neighbors. The building would be constructed to current building codes and be fire rated construction due to the proximity to the side lot line. With the removal of the existing detached garage it would open up the view of the lake to pedestrians and neighbors across the street.
4. The need for a variance was not created by the owner. Houses along State Avenue were generally constructed long before the city was zoned.
5. The proposed request would not appear to alter the character of the neighborhood. There are several houses and accessory structures with similar setbacks in the area.

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.

Donald Gilmet, Building Official told the board he mailed out letters to all property owners within 300 feet of the property and he did not receive any comments.

Staff observations:

This request would appear to be unique in that they are replacing a detached garage with an attached garage. The proposed garage would have additional fire ratings as it is within five feet of the lot line, would facilitate a safer exit from the driveway onto a busy street and open up the view to the lake for other property owners and pedestrians. There are no negative issues with this request.

Therefore, staff would recommend **approval** of the requested variance and it would appear to fulfill the variance criteria listed in the ordinance.

PUBLIC COMMENT:

Mr. Torhan addressed the board. He said having the attached garage is a safety issue for himself and his wife when unloading groceries, especially in the wintertime. The driveway gets icy and snowy, that is the prime reason, in addition to backing out onto State Avenue.

Member Lewis said it almost looks like that garage could be moved over to meet the setback and you would still have room to back out. He was wondering why it was shoved over so far.

Mr. Gilmet asked the owner is there already a door there to get into the house to go somewhere else. Does it make any difference in that entire back wall where that door would be?

Mrs. Torhan addressed the board. She said when they looked out at the lake, they saw half a garage. She said they talked to their neighbor, Dr. Walls, and asked if it was OK for them to move it over a little bit. Their neighbor said, no problem. That is why they wanted to scoot it over two feet so when they look out the window, they could see more of the lake.

Member Lamble said other than the setback variance, otherwise there would be no reason for a one-hour fire rated firewall on that side. Mr. Gilmet said that is correct. The building code requires that for anything built within five feet of the property line, it would require a one-hour firewall from the outside and from the inside up the roof.

Since no one else wished to speak either for or against this variance, Chairman Anderson closed the public comment portion of the meeting to deliberate for case ZBA20-01.

DISCUSSION BY BOARD MEMBERS:

There was no further discussion by the board members about this case.

Member Lamble made a motion that the variance be granted for the reasons set forth by the city.

Member Lewis seconded the motion.

ROLL:

AYES: Anderson, Bray, Broers, Guest, Keller, Lamble, Lewis

Nays: None

The variance to build an attached garage and breezeway that will be located two feet from the side property line has been granted.

This variance meets all the following conditions:

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:

There was no old business.

NEW BUSINESS:

Member Lamble made a motion to approve the minutes from the October 30, 2019 meeting.

Member Guest seconded the motion.

AYES: All

COMMUNICATIONS:

There were no communications.

ADJOURNMENT:

With no other business to discuss, Chairman Elwood Anderson adjourned the meeting.

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Alan Guest, Secretary

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Elwood Anderson, Chairman