

MINUTES

ZONING BOARD OF APPEALS

November 28, 2018

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, Guest, Keller, Lamble, Lewis

Absent: None

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

Public Hearing of Case ZBA18-07

Adam Poll asked the board if they would like to hear this case first, because the applicant for the 307 Saginaw Street case will not be present at the meeting. Adam said he will be representing him.

Adam Poll, Planning and Development Director presented the use variance as follows: Third Avenue Properties, LLC 307 S. Third Avenue, Alpena, MI 49707 is requesting a use variance to allow the installation and use of certain types of light manufacturing equipment in the CBD Central Business District. Article 5.12B

Property Address: 307 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 of the following conditions are met:

1. The building, structure, or land cannot be reasonably used for any of the uses permitted by right or by 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 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 four conditions relative to this petition is as follows:

The applicant is requesting to allow for the use of light industrial machinery to compress sawdust and woodchips into bricks. The applicant has indicated that the machinery is quiet and all elements of the production would be entirely contained within the building.

The building in question was previously a car dealership with car repair facilities that would have utilized compressors and air tools. More recently the building has been used as a specialty meat shop and office space, but is now vacant.

1. The property could be utilized as a form of many different general business uses that are permitted by right. The property is a former car dealership although the footprint is too small for most authorized modern dealerships. The unique size and layout of the building has led to it being vacant or underutilized for quite some time, and even when businesses did locate within the building, a majority of the building was still vacant.
2. The applicant has indicated they are in need of a larger building and want to remain in Alpena. This building would meet their needs and still allow them to operate their existing business with additional space for their needs.
3. The proposed use would not appear to alter the essential character of the neighborhood. The amount of noise produced by the proposed machinery would not appear to be audible to nearby residences and would allow for the utilization of a vacant building. In addition, there would still be space for office or retail use, which are the preferred uses in the Central Business District.
4. The applicant did not cause the immediate hardship. The building has a unique size and location that has led it to be vacant or underutilized for several years. While portions of the building have been utilized for retail and office, a majority of the building has been vacant since the car dealership changed locations.

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.

Staff observations:

The applicant has indicated that the machinery is quiet and would be entirely contained within the building.

The building in question was previously a car dealership with car repair facilities that would have utilized compressors and air tools. More recently, the building has been used as a specialty meat shop and office space, but is now vacant.

As the property appears to be unique in that the size and layout of the building has not been able to be fully utilized, and that the property has not been able to be fully utilized for uses allowed in the Central Business District due to its configuration, and that the bricket machine described would not appear to alter the characteristics of the neighborhood. Staff would recommend **approval** of the request for the use of a light industrial machinery to compress sawdust and woodchips into brickets if the following conditions are met:

1. The requested equipment is only operated between the hours of 7:00 a.m. to 7:00 p.m.
2. The requested equipment is only operated with doors closed.
3. The equipment and layout meets all building and fire codes prior to operation.

PUBLIC COMMENT:

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

Member Lamble asked if there are any chemicals used in this process. The applicant said no.

Mr. Jack McCoy showed the board one of the brickets. Member Lewis asked what they were used for.

Mr. McCoy said they were used for replacement of firewood. They are trying to restrict the amount of time for the distance they can transport firewood. They did pick up a contract with the State of Michigan for their parks and recreations.

Mr. McCoy of Third Avenue Properties addressed the board. The machine will be located within what used to be our paint booth when we had a body shop there. You would not even know it is operating. They are looking into putting in a sprinkling system in that area because of the woodchips.

Member Lewis asked, the product that goes into this, how does that come in? Does it get trucked in and piled up?

Mr. McCoy said they would be picking it up locally from Fiberchar Corporation or ABTco, places like that, bringing it in probably in huge bags or in the back of a truck. They would back into the body shop area and dump it off there and then transport it into the machine that presses the bricks.

Member Lewis asked if there was any storage outside. Mr. McCoy said no.

Member Keller asked if there are no chemicals, how do they do the process. Once the product is pressed, they run it through a paraffin dip tank that coats and waterproofs it so it can sit outside. There are no fumes or smoke from this product.

Chairman Anderson asked Mr. McCoy if they have an order with the State of Michigan now. He said they have a contract with the State of Michigan for at least 20 of their parks to replace the firewood contracts. When these bricks burn, it does not put out any sparks, does not throw a flame as high as firewood does, but it does last a lot longer and hotter.

Alisha Manning, 118 Tawas Street addressed the board. As a resident, her concern is the noise because she works at home. She said there is a machine shop on the corner of Fourth and Tawas. She said she hears noise coming from the machine shop, with mechanics working on machinery a lot. To add this to the machinery noise is definitely a concern to her.

Kathleen Melville-Hall at 342 S. Third Avenue addressed the board. They have had issues for a long time because of all the floodlights at the car dealership. The lights are always there and the bugs are always all over her house. She uses shades and room darkening draperies but those lights are on all night long. She says dust and noise is a big issue with her. She knows the building was being used last summer, and they had to open the doors because that place gets hot in the summer. She asked if in the summer that you are using this business, is this equipment going to create heat. Will you have a way of keeping it so the people inside are not going to melt without opening the doors. If they open the doors, is it going to become a noise issue? These issues does something to the value of her house. These issues are her concern.

Member Guest asked Kathleen for clarification of questions about concerns about the lights, dust, how to enforce the doors being closed, the noise from the semi-trailers, and the cleanliness.

Donald Gilmet, Building Official, says the first thing Jack McCoy needs to do is pull a building permit for change of use. What he is going to have is a factory use. It is either going to be F-1 moderate hazard factory, because wood is involved. Or depending on the amount of wood, sawdust, and other combustible dust producing materials, it may go down to low hazard. There is a lot of things that are going to have to happen in that building. Noise being one of them.

Mr. McCoy said the machine will be located in the northern portion of the building, which used to be a body shop towards the Skiba building. If we left all the doors open in the building, except for that area, you would not hear it standing in the parking lot.

Member Guest asked Adam Poll, what do we do about storage of raw material? I heard that raw material would be stored inside. Is that bound by any legality? Adam said outside storage of raw or finished materials is not allowed outside in the Central Business District. You can add an extra condition that it cannot be stored outside.

Since no one else wished to speak on this case, either for or against, Chairman Anderson closed the public comment portion of the meeting to deliberate for case ZBA 18-07.

Member Lamble made a motion that the request be approved, with the conditions stated by the city, and that we emphasize in terms of some of these special conditions that no product is stored outside, whether it is sawdust coming in or the finished product going out.

Member Bray seconded the motion.

DISCUSSION BY BOARD MEMBERS:

There was no further discussion on this case.

ROLL:

Ayes: Anderson, Bray, Keller, Lamble, Lewis

Nays: Guest

The use variance to allow Third Avenue Properties to install and use certain types of light manufacturing equipment in the Central Business District at 307 S. Third Avenue has been granted.

This variance meets all the following conditions:

1. The building, structure, or land cannot be reasonably used for any of the uses permitted by right or by 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 previous property owners (self-created).

Public Hearing of Case ZBA18-06

Adam Poll, Planning and Development Director presented the variance as follows: Duane Jennings, 9543 M-65 South, Lachine, MI 49753 is requesting a variance for the property located at **307 Saginaw Street** to allow the construction of a covered porch with a front yard setback of five feet, ten feet less than required in an R-2 One Family Residence District. Article 3.31 E1

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:

The applicant is in the process of replacing the front porch on their home. They would like to replace the former 4' x 4' open porch with a 4' x 4' covered porch. The Zoning Ordinance regulates a covered porch the same as an enclosed porch and requires that they project no more than five feet into a required setback. The house itself is nine feet from the property line.

1. The proposed request is unique as the home is setback nine feet from the property line. Any covered porch would require a variance and even an open porch would be a legal non-conforming use.
2. Strict compliance to the ordinance would not allow a porch on the property. Stairs could be without a porch, but not ideal.
3. The request would not appear to have a negative impact on the area. Granting a lesser variance would not appear to be an option.
4. The need for the variance is not self-created. The home has a nine foot front yard setback, which is eleven feet closer than would be allowed in an R-2 district.
5. The request for the variance would not appear to have a negative impact on the area. There are many homes with similar setbacks in the neighborhood, and many of them have covered porches with similar setbacks.

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.

Staff observations:

As the request would appear to be unique as the house is only nine feet from the front property line, and it would not appear to have a negative impact on the neighborhood as there was a previous 4' x 4' uncovered porch at this location without any issues, and the need is not self-created, staff would recommend that the variance is approved and the requested 4' x 4' covered porch is allowed to be constructed.

PUBLIC COMMENT:

Since no one was present to speak on this case, either for or against, Chairman Anderson closed the public comment portion of the meeting to deliberate for case ZBA18-06.

Member Bray asked what the setback requirement would be now. Adam Poll said to build a house today, the front setback would be 20 feet.

DISCUSSION BY BOARD MEMBERS:

There was no further discussion on this case.

Member Lamble made a motion to grant the variance with the reasons set forth by Adam Poll.

Member Guest seconded the motion.

ROLL:

Ayes: Anderson, Bray, Guest, Keller, Lamble, Lewis

Nays: None

The variance to construct a 4' x 4' covered porch has been granted with a front yard setback of five feet, ten feet less than required in an R-2 One-Family Residential District.

BUSINESS PORTION OF THE MEETING:

OLD BUSINESS:

Per Adam Poll, there was not any old business.

NEW BUSINESS:

The minutes from the October 24, 2018 meeting were approved as printed.

Ayes: All

ADJOURNMENT:

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

Alan Guest, Secretary

Elwood Anderson, Chairman