

MINUTES

ZONING BOARD OF APPEALS
SEPTEMBER 10, 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, Guest, Lamble, Lewis

Absent: Martindale, Polluch

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

Public Hearing of Case ZBA14-04

Adam Poll, Planning and Development Director presented the zoning request as follows: Alpena Lodging LLC/Asad Malik, 1130 E. Square Lake Road, Blanfield Hills, Michigan 48304, is requesting a variance in the Waterfront District and Downtown Overlay District requirements to allow them to provide 80 onsite parking stalls measuring 9 feet wide, 16 fewer stalls than required and one foot narrower than required, as well as a 67.8 foot setback along N. Third Avenue, 47.8 feet more than maximum allowed setback on a corner lot within the Downtown Overlay District. Article 3.30-13f, 5.13-B4, 3.30-12c

Property address: 225 River Street

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 lot in question has a number of uniqueness' present that together make this variance request necessary. The lot itself is uniquely shaped due to being located on the edge of the river, which cuts down on available space for parking. In addition, a portion of the property is located within the floodplain. The developers were able to remove a portion of the property from the floodplain with a letter of map amendment, but the remaining floodplain on the site caused the building to be moved closer to River Street which left the development deficient in the required parking. At the suggestion of staff, the developers have designed a connection to the city parking lot located between the proposed development and the Cellar Restaurant, and permission to utilize 20 parking spaces for overflow purposes. City Council granted the request, although a variance is still required as the overflow spaces are not considered onsite parking. Another uniqueness to the area is the presence of additional public parking in the area, which would appear to be sufficient for the additional spaces required due to the presence of meeting rooms at the proposed hotel.
2. The developer has made every effort to construct the maximum amount of onsite parking. In these efforts, the building was shifted away from Third Avenue, creating a 67.8 foot setback. Because the lot is on the corner of River Street and N. Third Avenue, front yard setbacks are required to be maintained on both River Street and N. Third Avenue. Because the lot is within the Downtown Overlay District, a front yard setback cannot exceed 20 feet. In this instance, meeting the appropriate setback would have appeared to change the amount of parking and the access to the proposed hotel. Even with the additional parking the greater setback along N. Third Avenue provides, the lot in question cannot meet the onsite parking requirements, and has been granted the ability to utilize the adjacent city lot for overflow purposes. In addition to these efforts, the developers have proposed a nine foot wide parking stall, 1 foot less than required for 90 degree parking. Many municipalities outside of Alpena have a minimum width for a parking stall of nine feet and the developer has asked for the narrower parking stalls in order to fit more parking on site.
3. The request would not appear to have a negative impact on the area. There is more than adequate public parking in the area. The overflow lot in question has 53 parking spaces, and on average only 15 are utilized. In addition, the West Carter lot has 25 spaces, and rarely more than five are used. Allowing the narrower onsite parking spaces would appear to have a positive impact as it allows

more onsite parking, while still maintaining a functional parking lot. The larger setback along N. Third Avenue would not appear to have a negative impact as there are no other buildings on that block that would be affected by the greater setback.

4. The need for the variance is not self-created. The lot size and the presence of the floodplain is unique to the property. If the floodplain was not present, additional parking could be constructed. In addition, if the lot was not a corner lot, the setback off of N. Third Avenue would not have a set maximum, and would not need a variance.
5. Granting the requested variance would appear to have a positive impact on the surrounding properties. A hotel located at this site would bring additional people into downtown Alpena creating new jobs and increasing business for neighboring retail establishments. In Addition, the proposed hotel would not have a negative impact on existing developments. The bike path would remain along the river, and it would appear to enhance the riverfront in this area. Public parking would not be greatly affected as the overflow spaces that would be utilized are rarely used.

Currently the Zoning Ordinance requires one parking space per room and one space per employee on the maximum shift. The applicants have indicated that there would be a maximum of six employees per shift, leaving the site with 16 fewer parking spaces than required. Due to the unique location of the lot, it is directly adjacent to a city owned parking lot. The lot in question would appear to be underutilized, with an average of 15 cars parked in the 53 parking stall lot. The City Council has agreed to allow the proposed hotel to utilize up to 20 parking spaces for overflow parking and connect their private lot to the city lot. As the city lot is technically offsite a variance is still required.

Additional parking is usually required for any meeting space. There is an abundance of short term parking in the area which would appear to be able to handle additional parking needs created by the presence of the meeting space.

Also, parking requirements are only required in the downtown for new buildings. If a large building such as John Henry's or The Center Building were to be converted for hotel use, they would not be required to provide any additional parking. Other similar new construction buildings have been constructed in the past without providing for adequate onsite parking including the First Federal Building and the Public Library which provide limited or no parking.

Due to these facts, staff would recommend approval of the variances to allow for a 47.8 foot setback, 9 foot wide parking stalls, and 80 onsite parking stalls with approval to utilize an additional 20 overflow spaces in the adjacent Carter Street public parking lot.

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.

Member Lamble asked Adam Poll what is the standard width of a parking lot.

Adam said the standard width of a typical parking stall in Alpena is for 90 degree parking is 10 feet wide by 19 feet long. Other municipalities have a standard 9' x 18' stall, which is not completely out of character. A little narrower and a little tougher for the really big trucks, but for the most part most people don't have a problem with it.

Member Lamble then asked how many parking spots can we fit on that lot if you had a standard size parking stall. Adam said right now they can fit 80 spots, but with a standard size parking stall they would lose eight spots. Member Lamble said if they were to lose those eight spots and do just a standard parking width stall, there is still sufficient offsite parking in the public lot to accommodate the needs of the hotel, correct. Mr. Poll said there could be, but they only requested 20 overflow lots from the City Council. Member Lamble asked if the Planning Commission has already approved that site plan. Mr. Poll said yes.

PUBLIC COMMENT:

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

Jim Klarich, Director of Target Alpena Development Corporation, located at 235 W. Chisholm Street addressed the board. They have evaluated what the positive economic impact would be toward downtown. But also take on a regional perspective that it goes beyond our downtown. They are the supply chain on a regional scale for visitors and business visitors to Alpena. From Alcona County, Montmorency County, as well as Presque Isle County they are also counting on Target Alpena to provide rooms for their visitors. He asked the board to please grant the variance.

Adam Poll said he received an e-mail from Lori Stephan, Real Estate One. She wanted to say that she is excited about a new business coming to downtown and had no issues with the size, but she did have some concerns regarding parking. Her office joins a city parking lot located over by Wayne Lewis' office on Chisholm Street. She noted that currently it is an all day lot mainly used by downtown employees and is usually full. She asked if we lose these spaces to hotel guests and employees, where would the downtown employees have to park. She said by changing the direction of Third Avenue they would be losing five parking spaces. In the winter they lose six to eight parking spaces due to snow piles. When the hotel is at full capacity, where will the extra parking spaces come from? The hotel guests and employees will be forced to park in the all day parking lot, which is already full. During the winter with no parking during the night and due to the snowplowing where will those extra spaces be made up?

Adam Poll said the City Council has designated 20 overflow parking spaces that are coming off the Carter Street lot adjacent to the river, which is quite a bit of a distance from the lot in question behind Real Estate One. The additional 20 overflow parking spaces will be connected to the hotel lot.

Greg Sundin, City Manager addressed the board. He also is on the DDA Board of Directors. He told the board this issue has been presented to the Downtown Development Authority. They are very much impacted by this. They want to see development occurring in the downtown. This is a Brownfield site, and they will be using Brownfield Tax Increment Financing on it as well as a tax abatement which directly impacts their revenues. But they see is this project serving as a catalyst, for not only expanding existing businesses in the downtown but attracting additional ones, which will benefit not only the DDA but the community as a whole. They are in support of this project. Mr. Sundin said this project is important to the DDA, and they feel the variances that are being asked for they feel are all reasonable.

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 ZBA14-04.

Member Lamble made a motion to approve the variances as recommended by the city to allow for a 47.8 foot setback, 9 foot wide parking stalls, and 80 onsite parking stalls with approval to utilize an additional 20 overflow parking spaces in the adjacent Carter Street public parking lot.

Member Anderson seconded the motion.

DISCUSSION BY BOARD MEMBERS:

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

ROLL:

Ayes: Anderson, Dutcher, Guest, Lamble

Abstain: Lewis

The variance to allow a 47.8 foot setback, 9 foot wide parking stalls, and 80 onsite parking stalls with approval to utilize an additional 20 overflow spaces in the adjacent Carter Street public parking lot 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 ZBA14-04.

1. The lot in question has a number of uniqueness' present that together make this variance request necessary. The lot itself is uniquely shaped due to being located on the edge of the river, which cuts down on available space for parking. In addition, a portion of the property is located within the floodplain. The developers were able to remove a portion of the property from the floodplain with a letter of map amendment, but the remaining floodplain on the site caused the building to be moved closer to River Street which left the development deficient in the required parking. At the suggestion of staff, the developers have designed a connection to the city parking lot located between the proposed development and the Cellar Restaurant, and permission to utilize 20 parking spaces for overflow purposes. City Council granted the request, although a variance is still required as the overflow spaces are not considered onsite parking. Another uniqueness to the area is the presence of additional public parking in the area, which would appear to be sufficient for the additional spaces required due to the presence of meeting rooms at the proposed hotel.
2. The developer has made every effort to construct the maximum amount of onsite parking. In these efforts, the building was shifted away from Third Avenue, creating a 67.8 foot setback. Because the lot is on the corner of River Street and N. Third Avenue, front yard setbacks are required to be maintained on both River Street and N. Third Avenue. Because the lot is within the Downtown Overlay District, a front yard setback cannot exceed 20 feet. In this instance, meeting the appropriate setback would have appeared to change the amount of parking and the access to the proposed hotel. Even with the additional parking the greater setback along N. Third Avenue provides, the lot in question cannot meet the onsite parking requirements, and has been granted the ability to utilize the adjacent city lot for overflow purposes. In addition to these efforts, the developers have proposed a nine foot wide parking stall, one foot less than required for 90 degree parking. Many municipalities outside of Alpena have a minimum width for a parking stall of nine feet and the developer has asked for the narrower parking stalls in order to fit more parking on site.

3. The request would not appear to have a negative impact on the area. There is more than adequate public parking in the area. The overflow lot in question has 53 parking spaces, and on average only 15 are utilized. In addition, the West Carter lot has 25 spaces, and rarely more than five are used. Allowing the narrower onsite parking spaces would appear to have a positive impact as it allows more onsite parking, while still maintaining a functional parking lot. The larger setback along N. Third Avenue would not appear to have a negative impact as there are no other buildings on that block that would be affected by the greater setback.
4. The need for the variance is not self-created. The lot size and the presence of the floodplain is unique to the property. If the floodplain was not present, additional parking could be constructed. In addition, if the lot was not a corner lot, the setback off of N. Third Avenue would not have a set maximum, and would not need a variance.
5. Granting the requested variance would appear to have a positive impact on the surrounding properties. A hotel located at this site would bring additional people into downtown Alpena creating new jobs and increasing business for neighboring retail establishments. In addition, the proposed hotel would not have a negative impact on existing developments. The bike path would remain along the river, and it would appear to enhance the riverfront in this area. Public parking would not be greatly affected as the overflow spaces that would be utilized are rarely used.

Public Hearing of Case ZBA14-05

Adam Poll, Planning and Development Director presented the zoning request as follows: HHC Hospitality, 111 S. Lafayette #164, South Lyon, Michigan 48178 is requesting a variance in the B-2 General Business District to allow for the construction of a hotel 45'3" tall, 10'3" taller than the maximum allowed.

Property address: 1007 U. S. 23 North

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 lot in question is unique in that it is located in a commercial corridor adjacent to only commercial or vacant properties and is unique in that it is only three acres in size. Major developments such as the proposed hotel looking to locate within a commercial corridor within the city must do so on relatively smaller lots than can be found outside the city. In order to accommodate the number of rooms required for a successful chain hotel, and in order to increase efficiency while reducing the footprint for the smaller available lots, hotels must build up rather than out.
2. Currently the B-2 General Business District only allows for a maximum height of 35 feet. The OS-1 Office Service District which lies to the southeast and west of the property in question has no height restriction, but any request to build over 35 feet tall must go to the Planning Commission for review to make sure the development is not detrimental to the light, air, or privacy of any other structure or use currently existing. (Hotels are allowed by Special Land Use Permit in the OS-1.) The height limit for the B-2 district has been in place for many years due to some of this districts locations along Ripley where there are no buildings approaching these heights, and very little to buffer the adjoining residential neighborhoods. In this case, there are some residential uses to the west, but they are not directly adjacent and also could be buffered by some of the taller trees present on the lot. In addition, in this area of the city, there are a number of buildings that are taller than 35 feet including the hospital located southeast of the site in question and Alpena Community College located further to the east. In this case, the development would not appear to be detrimental to the light, air, or privacy of existing developments as adjacent development are commercial in nature, and the land to the west is vacant and can be somewhat screened by existing trees.
3. The request would not appear to have a negative impact on the area. The area in question is along a state highway with many other commercial uses. Any traffic generated by the proposed use would enter and exit via U. S. 23. There are also several other large buildings in the area.

4. The need for the variance is not self-created. Due to the lot size and location, the hotel must build up to reach the desired amount of rooms. This allows for greater efficiency in the building as well as infill development within the city.
5. Granting the requested variance would not appear to have a negative impact on the surrounding area. The area to the northeast and south is commercial and the area to the west is vacant. The proposed development and its central location is a short distance from the hospital, Alpena Community College, and also the Apex, would appear to be good infill development that would be centrally located to a number of important civic uses, and appear to limit urban sprawl.

The property is zoned B-2 Business District which only allows a 35 foot tall building. The property was rezoned from OS-1 Office Service District in 2010 for the construction of Dean Arbor Ford. The B-2 height restriction was potentially added due to the presence of many B-2 districts in the Ripley Street corridor, and the lack of taller buildings in the area. There appear to be a number of trees on the site that could be left to buffer the proposed hotel from any potential residential to the west. Due to the fact the site is located on a state trunk line, with other tall buildings in the area, the lack of adjacent residential, and that the project is a proposed infill development, the proposed hotel would not appear to have a negative impact on the area.

Due to these facts, staff would recommend approval of the variance to allow for a 45'3" building height.

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.

Greg Sundin, City Manager addressed the board. Greg used to be the Planning Director and was involved with the new ordinance. When it comes to screening for any building even a single story, screening normally never blocks it 100 percent. It certainly has never been implied that as buildings get taller, whether they are 35 or 40 feet high, that screening is simply going to block them all. As much as anything, it's screening the activity on the ground, whether that may be vehicles or other activity. It doesn't require four stories of screening.

Terry Ridelle of 111 S. Lafayette #164, South Lyon, Michigan addressed the board. Mr. Ridelle said they will be setting the building back and it will be going parallel with U. S. 23. He said the intent is to leave as many trees as possible on the back property line, because that is where the back patio will be off the pool.

Shirley Dingman, half owner of Sally's Care Home addressed the board. She said the aerial photos they received in the mail from the city with the information, is showing the back side of the motel is going to be right on the back of their deck at the care home. She was wondering if they could put in a clause to build an 8 foot privacy fence so the care home folks do not travel over to the motel. Shirley was concerned that if a fence was not put up, the care home people would wander over to the hotel.

Don Gilmet, Building Official explained to Shirley those are assumed property lines on the aerial photo. They are not building lines for the property. The property for the hotel is going to be surveyed. When they do submit their site plan and building plans, it's going to be in our ordinance as far as all required screening and everything else. There is going to be a lot of trees left there wherever they put their hotel.

Greg Sundin told the board there is screening requirements, whatever that is they have options, and they will have to do something to separate from residential. They will have to comply with the zoning ordinance. Greg said that will be part of the internal review once the plans are submitted to make sure they comply with the zoning ordinance. They will be required to screen from any residential uses.

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 5:35 p.m. to deliberate for Case ZBA14-05.

Member Lamble made a motion to approve the request for a variance to allow for the construction of a 45'3" tall hotel with appropriate screening from adjacent properties.

Member Anderson seconded the motion.

Member Guest stated that his residence peaks at over 40 feet.

DISCUSSION BY BOARD MEMBERS:

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

ROLL:

Ayes: Anderson, Dutcher, Guest, Lamble, Lewis

Nays: None

A variance to allow construction for a 45'3" tall hotel with appropriate screening from adjoining properties at 1007 U.S. 23 North 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 ZBA14-05:

1. The lot in question is unique in that it is located in a commercial corridor adjacent to only commercial or vacant properties and is unique in that it is only three acres in size. Major developments such as the proposed hotel looking to locate within a commercial corridor within the city must do so on relatively smaller lots than can be found outside the city. In order to accommodate the number of rooms required for a successful chain hotel, and in order to increase efficiency while reducing the footprint for the smaller available lots, hotels must build up rather than out.
2. Currently the B-2 General Business District only allows for a maximum height of 35 feet. The OS-1 Office Service District which lies to the southeast and west of the property in question has no height restriction, but any request to build over 35 feet tall must go to the Planning Commission for review to make sure the development is not detrimental to the light, air, or privacy of any other

structure or use currently existing. (Hotels are allowed by Special Land Use Permit in the OS-1.) The height limit for the B-2 district has been in place for many years due to some of this districts locations along Ripley where there are no buildings approaching these heights, and very little to buffer the adjoining residential neighborhoods. In this case, there are some residential uses to the west, but they are not directly adjacent and also could be buffered by some of the taller trees present on the lot. In addition, in this area of the city, there are a number of buildings that are taller than 35 feet including the hospital located southeast of the site in question and Alpena Community College located further to the east. In this case, the development would not appear to be detrimental to the light, air, or privacy of existing developments as adjacent development are commercial in nature, and the land to the west is vacant and can be somewhat screened by existing trees.

3. The request would not appear to have a negative impact on the area. The area in question is along a state highway with many other commercial uses. Any traffic generated by the proposed use would enter and exit via U. S. 23. There are also several other large buildings in the area.
4. The need for the variance is not self-created. Due to the lot size and location, the hotel must build up to reach the desired amount of rooms. This allows for greater efficiency in the building as well as infill development within the city.
5. Granting the requested variance would not appear to have a negative impact on the surrounding area. The area to the northeast and south is commercial and the area to the west is vacant. The proposed development and its central location is a short distance from the hospital, Alpena Community College, and the Apex, would appear to be good infill development that would be centrally located to a number of important civic uses, and appear to limit urban sprawl.

Public Hearing of Case ZBA14-06

Adam Poll, Planning and Development Director presented the zoning request as follows: Doug Hale, 234 Lockwood Street, is requesting a variance in the OS-1, Office Service District, to allow for expansion of a legal non-conforming residence for the purpose of constructing an attached garage to his existing home, and setback variances for the proposed garage to allow a front setback of 4'9", 15'3" less than required, and a side yard setback of two feet, eight feet less than required and a variance to allow an uncovered porch to be constructed with a 4'9" front setback, 5'3" less than allowed. Article 5.15C

Property address: 234 Lockwood Street

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 lot in question is unique in that it is about half the size of a standard city lot, measuring 70' x 66'. Although this lot size is certainly not unique to Alpena, most residential lots are twice the size. There is no room on the lot to allow for the construction of a garage without requiring a variance.
2. The property in question is zoned OS-1, Office Service District. The existing home is a legal nonconforming use as single family homes are not allowed in the OS-1 District. According to the Zoning Ordinance, legal nonconforming uses such as this should not expand more than 30 percent of the total footprint of the existing structure. This would allow for the construction of a 335 square foot garage. In addition, that garage would need to meet OS-1 setback standards, which require a 20 foot front yard setback and a 10 foot side yard setback. Considering that the house was built with a 13.5 foot setback it would be difficult to build a garage without a variance. The applicant is requesting to construct a 951 square foot garage, or an 81 percent expansion of the existing footprint, significantly larger than the 30 percent allowed, and a front setback of 4.42 feet and a side yard setback of two feet. The applicants could construct a 3.5 foot deck, but have requested an 8.8 foot front deck.
3. The attached garage request could have a negative impact on the area. The proposed two foot setback along the side property line is closer than allowed in almost every zoning district. A building this close to the property line increases danger of fires, and would require additional firewall construction. In addition, the proposed garage could meet a standard six foot residential setback by reducing the width of the garage to 26 feet, or it could meet the required side yard

setback in the OS-1 district by ten feet by reducing the width of the garage to 22 feet. The proposed front yard setback is also of concern. Not only would a precedent be set allowing a structure to further encroach into a required front yard, but the proposed 4.42 foot setback would create a situation requiring cars that want to park outside the garage to park over the existing sidewalk. If the garage was allowed to match the existing setback of the house, it would create a driveway only 13.5 feet from the sidewalk, and would still cause cars parked in the driveway to block the sidewalk. If the depth of the garage were further shortened to allow an 18 foot drive, (the normal depth of a parking space) the garage would have a depth of 18.5 feet. The variance required for the front deck would not appear to have a negative impact on the area. The property at 124 S. Fourth Avenue has a covered porch about four feet from the sidewalk with stairs that come within one foot of the sidewalk, although there does not seem to be any porches with a similar setback on the applicant's side of the street.

4. The need for the variance is not self-created. Due to the lot size and location, there is no other area to construct a garage on the property. However, the size of the proposed attached garage would appear to be excessive as a smaller garage could be constructed with less significant variance requests.
5. Granting the requested variance for the attached garage could have a negative impact on the surrounding area. Allowing a two foot side yard setback would set a precedent, allowing others to make similar requests. It would appear a narrower garage could be constructed that would maintain a normal side yard setback. Allowing a 4.42 foot front yard setback would also set a precedent to allow others to make a similar request, while also very likely blocking the sidewalk if any cars park outside the garage. The garage could be reduced in depth to meet the existing setback of the house, but cars parked outside the garage would still appear to block the sidewalk. Granting the variance for the proposed front deck would not appear to have a negative impact on the area. The proposed deck would not appear to have a significant impact on visibility, and other houses in the area have similar setbacks. The deck could be reduced in size and still be functional, as 8'8" could be reduced to 7.5 feet or 8 feet. Staff would request that if the deck is constructed, a condition be added requiring the stairs to be directed off the side of the deck and not the front. A similar variance was granted in May for the address at 1006 S. First Avenue, which allowed a deck to be built seven feet from the front property line, with the condition that the stairs be constructed along the side of the deck.

If the applicant was approved for an attached garage that was constructed to match the front setback of the existing home, a car parking in front of the garage would still overhang the driveway. If the Zoning Board of Appeals were to approve a variance matching the existing setback, staff would ask that a condition be placed to the variance that the owner would not allow cars to park across the sidewalk at any time.

The requested two foot setback would also appear to have a negative impact on the area. A structure that close to the property line would appear to be a fire hazard for the adjoining property. The applicant would have to build an appropriate firewall if the variance were approved. In addition, most residential garages are not 30 feet wide. Many residential garages are 20 feet to 24 feet in width or even a single stall. Very few zoning districts allow for a two foot side yard setback. Approving the variance as requested would also appear to set a precedent allowing for similar requests. If the Zoning Board of Appeals were to approve a variance for the garage, staff would recommend that the garage is at least 6 feet from the side property line as required in residential districts.

Staff would recommend that if the deck is constructed, it be reduced in depth to 7.5 feet which would allow for a six foot front yard setback and a condition be added requiring the stairs to be directed to the side.

Due to these facts, staff would recommend **denial** of the variances as requested. Staff would be less concerned if the front yard setback met the existing home, the side yard setback was at least six feet and the front deck have at least a six foot setback with the condition that the owner agrees to not allow anyone to park across the sidewalk and the deck stairs are directed away from Fourth Avenue.

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.

Adam said he received an e-mail regarding the request from a Ray Fencil of 209 Sable Street. Mr. Fencil has no problems with this variance and has his approval.

Member Lambie asked Mr. Poll is the city's position that their recommending the granting of the variance subject to the conditions, for example the stairs going off to the side as opposed to approaching the sidewalk.

Mr. Poll said the city's condition is denial of the variances as requested. If a variance were to be granted, at the very minimum, we request the front yard setback not exceed the current setback of the home, which still causes a problem with any vehicle parking outside the garage. It would still be over the sidewalk. We would want a condition that they have some sort of written agreement that no one would park over the sidewalk. It is against the law to park over the sidewalk. They can be ticketed.

Member Guest said to understand their options would be to obviously grant the variance with no conditions, the second option would be to deny it in its entirety, and the third option would be to grant a variance of less than what has been requested. If that third option were taken, the question of whether that variance granted would satisfy the residential setback of six feet or the OS-1 setback of ten feet. Then there is the two different distances setback from the sidewalk, one would be a setback even with the house, and the other would be the 18 foot setback that the city would prefer. Adam says he would prefer it, but he is also aware that it does not create a very useful garage.

Don Gilmet, Building Official summed it up for the board. He said if the board went for a lesser variance, they would be fine with six feet off the side lot line, the front of the garage not be any closer to Fourth Avenue than the front corner of the house that gives him whatever size garage that allows him, and if you approve the deck, the edge of the deck would be no closer than six feet to that property line, which would be the sidewalks on both sides, and the stairs of the deck would go towards the driveway.

Chairman Dutcher closed the public comment portion of the meeting at 5:50 p.m. to deliberate for case ZBA14-06.

Member Guest made a motion to grant a lesser variance of a six foot setback from the side lot line, the garage setback be even with the front of the house, and the setback for the deck to be setback 5.5 feet from the sidewalk, with the steps of the deck going towards the driveway.

Member Lewis seconded the motion.

DISCUSSION BY BOARD MEMBERS:

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

ROLL:

Ayes: Anderson, Dutcher, Guest, Lamble, Lewis

Nays: None

A variance to grant a lesser variance of a six foot setback from the side lot line, the garage setback be even with the front of the house, and the setback for the deck to be setback 5.5 feet from the sidewalk, with the steps of the deck going towards the driveway has been granted.

OLD BUSINESS:

There was not any old business.

NEW BUSINESS:

The minutes of the June 25, 2014 meeting were approved as written. Guest abstained from voting on the minutes, because he was not at that meeting.

ADJOURNMENT:

With no other business to discuss, Chairman Dutcher adjourned the meeting at 5:56 p.m.

Alan Guest, Secretary

Norman Dutcher, Chairman