



VILLAGE OF PENTWATER
Zoning Board of Appeals
ON PENTWATER LAKE AND LAKE MICHIGAN
327 South Hancock Street – P.O. Box 622
Pentwater, Michigan 49449
(231) 869-8301 – FAX (231) 869-5120

Meeting Minutes – September 5, 2018

Chairperson Castor called the meeting of the Pentwater Zoning Board of Appeals Meeting to order at 7:00 PM followed by the Pledge of Allegiance.

ROLL CALL: Present: Bruce Koorndyk, Bill Bainton, Jim Young, Bill O'Donnell, and Mike Castor.

Others present: 40 E. Fifth residents George and Pam Cornell, 863 Park Street residents Dayna and Ray Hasil, Fire Chief Paul Smith, Zoning Administrator Keith Edwards and Village Deputy Clerk/Treasurer Barbara Siok.

APPROVAL OF AGENDA: Motion by Mr. Young, second Mr. O'Donnell to approve the agenda as presented. Voice vote: Unanimous. **Motion carried.**

APPROVAL OF MINUTES of May 30, 2018: Motion by Mr. Young, second Mr. Koorndyk to approve the May 30, 2018 minutes as presented. Voice vote: Unanimous. **Motion carried.**

Chair Mike Castor stated there would be two public hearings regarding separate variance requests: (**PARCEL 64-044-680-004-50**) – **40 E. FIFTH STREET** and (**PARCEL 64-044-620-116-25**) – **863 PARK STREET.**

PUBLIC HEARING I – 40 E. FIFTH STREET (PARCEL 64-044-680-004-50)

Motion to open the Public Hearing I by Mr. Bainton, second by Mr. Young. Voice vote all Ayes. **Motion carried.**

Public Comments – Mr. Cornell said the property is in commercial zoning and wants to replace an existing 8x8 shed with a 9x12 which makes its closer than 10 feet to the house.

Zoning Administrator Keith Edwards stated the background, site observations and purpose of the variance request for 40 E. Fifth Street located within the C3 district (rather than a residential district) to replace an existing shed with a larger shed. Report was received and placed on file.

Applicant comments from George Cornell, 40 E. Fifth Street, explaining the size of the existing shed and requesting approval to replace it with a larger shed and to move back 1 foot further, also alleviate a safety issue.

Motion to close Public Hearing I by Mr. O'Donnell, second by Mr. Koorndyk. Voice vote all Ayes. **Motion carried.**

PUBLIC HEARING II – 863 PARK STREET (PARCEL 64-044-620-116-25)

Motion to open the Public Hearing II by Mr. O'Donnell, second by Mr. Young. Voice vote all Ayes. **Motion carried.**

Zoning Administrator Keith Edwards stated the purpose of the variance request for 863 Park Street is to allow the applicant to construct a covered front porch across a good portion of the facade across the home. Report was received and placed on file.

Applicant comments from Ray Hasil, 863 Park Street, said they purchased the house in January 2018. He explained the design of the home and said the front of the house is ugly and would like to build deck space across the front with a 2-foot overhang to dress up the front of the house.

Motion to close the Public Hearing II by Mr. O'Donnell, second by Mr. Bainton. Voice vote all Ayes. **Motion carried.**

CORRESPONDENCE / PUBLIC COMMENTS: Mr. Edwards said there was no correspondence, only two returned envelopes due to "No forwarding addresses." One return was hand delivered. No comments received.

UNFINISHED BUSINESS: ZBA BY-LAW REVISIONS FROM MAY 30, 2018 MEETING

Motion to accept change of By-Laws presented at the previous meeting, May 30, 2018 by Mr. O'Donnell, second by Mr. Bainton. Voice vote all Ayes. **Motion carried.**

NEW BUSINESS:

A. Variance Request for 40 E. Fifth Street

Motion by Mr. Bainton to approve the variance request for 40 E. Fifth Street, second by Mr. Young. Discussion followed using the worksheet, which will be part of the public record.

Condition #1: (Section 18.08 A (1)): "Granting the variance will not be contrary to the public interest and will ensure that the spirit of this Ordinance is observed." Comments: Contrary to the public issue in spirit of the ordinance is not being ignored or withdrawn due to having a unique situation which should be allowed. The setback will increase safety and a benefit to public interest for emergency access. All in agreement.

Condition #2: (Section 18.08 A (2)): "Granting the variance will not cause a substantial adverse effect to property or improvements in the vicinity or in the district in which the subject property is located." Comments: All agree there is no adverse effect.

Condition #3: (Section 18.08 A (3)): "The variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practicable." Comments: Agree, the property is unique and not where conditions are recurrent.

Condition #4: (Section 18.08 A (4)): "That there are practical difficulties in the way of carrying out the strict letter of these regulations which are caused by exceptional or extraordinary circumstances or conditions applying to the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the vicinity in the same zoning district. Exceptional or extraordinary circumstances of conditions include:

- a. Exceptional narrowness, shallowness or shape of a specific property on the effective date of this Ordinance;
- b. Exceptional topographic conditions;

- c. By reason of the use or development of the property immediately adjoin the property in question; or
- d. Any other physical situation on the land, building or structure deemed by the Board of Appeals to be extraordinary.

Comments: Majority in agreement.

Condition #5: (Section 18.08 A (5)): “That granting such variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district.” Comments: All agree.

Condition #6: (Section 18.08 A (6)): “That the variance is not necessitated as a result of any action or inaction to the property prior to the variance request by the applicant or his/her representative.” Comments: All agree.

Roll call vote: Bainton, yes; Young, yes; Koorndyk, yes; O’Donnell, yes, Castor, yes.

Ayes: 5, Nays: 0. Motion carried.

Variance granted for 40 E. Fifth Street.

B. Variance Request for 863 Park Street

Motion by Mr. Young to approve the variance request for 863 Park Street, second by Mr. Koorndyk. Discussion followed using the worksheet, which will be part of the public record.

Condition #1: (Section 18.08 A (1)): “Granting the variance will not be contrary to the public interest and will ensure that the spirit of this Ordinance is observed.”

Comments: All agree not contrary to public interest.

Condition #2: (Section 18.08 A (2)): “Granting the variance will not cause a substantial adverse effect to property or improvements in the vicinity or in the district in which the subject property is located.”

Comments: Yes, all agree.

Condition #3: (Section 18.08 A (3)): “The variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practicable.”

Comments: Two in agreement; three say no, in applying to general conditions.

Condition #4: (Section 18.08 A (4)): “That there are practical difficulties in the way of carrying out the strict letter of these regulations which are caused by exceptional or extraordinary circumstances or conditions applying to the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the vicinity in the same zoning district. Exceptional or extraordinary circumstances of conditions include:

- a. Exceptional narrowness, shallowness or shape of a specific property on the effective date of this Ordinance;
- b. Exceptional topographic conditions;
- c. By reason of the use or development of the property immediately adjoin the property in question; or
- d. Any other physical situation on the land, building or structure deemed by the Board of Appeals to be extraordinary.

Comments: Majority agree, the fact not knowing what ordinances were in effect, if any, when the house was built to the lot line, and now limited by newer rules an exception., but not all exceptions.

Condition #5: (Section 18.08 A (5)): “That granting such variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district.”

Comments: Agree it does not meet condition but is not denying property right to build a deck that other people have, otherwise saying that anyone that wants to make an exception to the zoning is being denied a property right. Most in the vicinity have room for a covered front porch because of the existing placement of their homes.

Condition #6: (Section 18.08 A (6)): “That the variance is not necessitated as a result of any action or inaction to the property prior to the variance request by the applicant or his/her representative.”

Comments: All agree. No impact.

Agree concept but stated concern regarding overhang.

Roll call vote: Young, yes; Koorndyk, yes; Bainton, no; O’Donnell, no, Castor, no.

Ayes: 2. Nays: 3. Motion failed.

Variance denied for 863 Park Street.

Mr. Castor explained choices to come back with changes or take to court in Hart.

C. 2018-2019 Meeting Schedule proposed (third Tuesday of the month at 7 PM) subject to cancellation except for annual meeting

Motion to accept meeting schedule at presented by Mr. Young, second by Mr. Bainton.

All ayes. Motion carried.

ADJOURNMENT: There being no further business, meeting adjourned at 8:52 PM by Mr. Castor.

Respectfully submitted by:

Keith Edwards, Zoning Administrator
Village of Pentwater

September 11, 2018

Recording Secretary, Barbara Siok

September 11, 2018

Approved by the Zoning Board of Appeals on November 20, 2018.