



**VILLAGE OF PENTWATER
Zoning Board of Appeals**

65 South Hancock Street – P.O. Box 622
Pentwater, Michigan 49449
(231) 869-8301

**Annual Meeting Minutes – September 20, 2022 in-person
Park Place - 310 N. Rush St., Pentwater, MI 49449**

Chairperson Bainton called the annual meeting of the Pentwater Zoning Board of Appeals Meeting to order at 6:01 p.m. with the pledge of allegiance.

ROLL CALL: **Present:** Lisa McKinney, Jane Dosemagen and Bill Bainton.
 Absent: Nancy Ceton, Mary Temple and Jim Young.
 Alternate Jane Dosemagen filled in for Mary Temple.

Others present: Zoning Administrator Keith Edwards, and Deputy Clerk/Treasurer Kate Anderson.

APPROVAL OF AGENDA: *Motion* by McKinney, second by Dosemagen to approve the agenda as presented. Voice Vote: Ayes: 3, Nays: 0. Absent: 2. **Motion carried.**

APPROVAL OF MINUTES of June 21, 2022: *Motion* by McKinney, second by Dosemagen to approve the minutes of June 21, 2022 as submitted. Voice Vote: Ayes: 3, Nays: 0. Absent: 2. **Motion carried.**

PUBLIC COMMENTS: None

UNFINISHED BUSINESS: None

PUBLIC HEARING – 540 N. Hancock (Parcel ID No. 64-044-580-101-90)

Chairperson Bainton asked Zoning Administrator Keith Edwards to present the highlights of his report which determined that the proposed handicap ramp between the existing and proposed deck would be within 8.66 feet of the rear (east) property line, thus a 21.34 ft variance is requested, in accordance with the requirements of Section 10.04.F of the Residential-Office Zoning District.

The existing home (former dental office) is located only 12.66 feet from the east lot line adjacent to 64 E. Sands Street, where 30 feet is now required. In accordance with the research completed by Zoning Administrator Keith Edwards and Assessor, Barbie Eaton, it appears that the existing building was constructed prior to 1983, when the southern portion of the property was split off for the medical office of Dr. Nelson and Spectrum Health.

Prior to 1983, the existing building, the dental office of Dr. Williams (which was allowed by Special Land Use approval) would have been considered a corner lot that would have required two front setbacks on the west and south sides of the property at 17 feet each, and just two side setbacks of 6 feet each, while a rear yard setback would not have been required. Thus, when the property was divided for the Physician's Office, the existing building became nonconforming as

it was no longer a corner lot, but an interior lot, where the setback from the east property line changed from 6 feet to 30 feet. This action rendered the building nonconforming.

The existing deck on the southeast side of the home was reconstructed under permit in 2013. The existing deck is in compliance with the Zoning Ordinance since Section 3.07.B no 1, paragraphs “b” and “d” allow for such projections into yards.

Chairperson Bainton then referred to the applicant, Melissa Williams explained the reason for the request was to connect the existing east deck with a proposed north deck so that her husband Ryan, a quadriplegic would be able to move his wheelchair around the outside of the building so that he could observe the small children in the yard and provide a secondary means of egress from the building in the case of an emergency.

Chairperson Bainton opened the public hearing at 6:05 pm and closed the public hearing at 6:08 pm when he learned that no members of the audience wished to offer comment on the request.

CORRESPONDENCE / PUBLIC COMMENTS: Mr. Edwards said he had received no correspondence from the notices mailed.

NEW BUSINESS:

A. Variance Request for 540 N. Hancock – 21.34 feet variance from 30 ft. required rear yard setback.

Discussion: (Members reviewed Section 18.08.A Standards for Dimensional Variances)

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, will not cause an adverse effect to property in the vicinity, especially since it is adjacent to the Village North Park.

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: Yes, all agree, this is the first time such a request has been heard.

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 of 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 adjoining 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: Yes, all agree, the property narrows from the south to the north and the nonconforming condition was created when the property no longer was a corner lot, resulting in the existing condition when the building was no longer used as an office and became residential.

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: Yes, all agree, the variance requested represents the existing conditions and typical use of a property for residential purposes.

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. The conditions for the request were clearly not the result of any action of the applicant (new property owners), as the property was made nonconforming when it was divided.

Motion by McKinney, seconded by Dosemagen to grant the variance request for 21.34 ft. for the required 30 ft. rear setback, resulting in a rear (east) setback of 8.66 feet.

Roll call vote: McKinney, yes; Dosemagen, yes; Bainton, yes.

Ayes: 3. Nays: 0. Absent: 2. Motion passed. Variance Approved for 540 N. Hancock St.

ADJOURNMENT: Chairperson Bainton moved to adjourn the meeting at 6:17 pm, second by McKinney. Ayes: 3. Nays: 0 Absent:2 Motion passed.

Respectfully submitted by:

Keith Edwards, Zoning Administrator
Village of Pentwater

September 27, 2022

Approved by the Zoning Board of Appeals on _____.