

CITY OF CHARLEVOIX ZONING BOARD OF APPEALS MINUTES
Wednesday, November 17, 2010 - 6:00 p.m.
210 State Street, City Hall, 2nd Floor Council Chambers, Charlevoix, MI

A) CALL TO ORDER

The meeting was called to order by Chairperson Withrow at 6:00 p.m.

B) ROLL CALL

Members Present: Gary Anderson, Richard Clem, June Cross, Mary Eveleigh, and Greg Withrow
Members Absent: Alternate Larry Sullivan
Staff Present: Recording Secretary Linda Weller

C) INQUIRY INTO POTENTIAL CONFLICTS OF INTEREST None

D) APPROVAL OF AGENDA

The Board reviewed the agenda and approved the agenda as presented.

E) APPROVAL OF MINUTES

1. Motion to approve or amend June 23, 2010 meeting minutes

The Board reviewed the June 23, 2010 minutes.

Motion made by Member Anderson and seconded by Member Clem to approve the minutes of June 23, 2010 as presented. The motion was adopted by a unanimous voice vote.

F) CALL FOR PUBLIC COMMENT (Not related to agenda items) None

G) OLD BUSINESS None

H) NEW BUSINESS

1. Public hearing for Project 2010-06 ZBA 410 Park Avenue Variance Request.
 - a. Staff Presentation. - None.
 - b. Presentation/Comment from applicant if requested.

Sherm Chamberlain of Ferguson & Chamberlain Associates, Inc. reviewed the application with the Board. Most of the houses located in Block 15 of the Plat of the Village of Charlevoix are nonconforming. The majority of the homes predate the zoning ordinance. Mr. Chamberlain submitted a map showing the location of adjacent Park Avenue homes. The map is entered into the record as Exhibit A. The Board reviewed the map. The home located at 410 Park Avenue was built in 1938. The proposed location of the garage and its access to Park Avenue were determined after careful review of the property. The garage will be setback 18' from the Park Avenue right-of-way line. Mr. Chamberlain advised the Board that if the garage were to be placed next to the house the foundation may be damaged. The rear of the garage is 10' from the right-of-way. Most of the houses along Mason Street are 8.5' to 16' from the right-of-way line.

Larry Porath of Porath Builders reviewed the placement of the garage with the Board. The placement of the garage and breezeway makes the house aesthetically pleasing. If the garage were attached directly to

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the house, it would affect the lake views from the home and the roof lines would not line up. The placement of the garage and the breezeway enhances the look of the place.

Shalmir Langeweg advised the Board that she likes the drawing.

c. Call for public comments.

No written comments were received.

Ken Staley asked the Board to review the survey. The width of Park Avenue from Grant Street to Antrim Street is only 33' wide. This is only half a road and most roads are 66' wide. Park Avenue gets busier every year. This is a very narrow street and the road cannot legally be made wider. He feels the building is being unnecessarily expanded by the breezeway addition. Mr. Staley asked the Board to carefully consider the application.

Chairman Withrow closed the public hearing at 6:07 pm

d. ZBA determination of findings of fact.

Member Cross stated that there are a lot of cars that park along the street in the summer. The residents that live in the area have a right to park on their property. If needed, the street can be made wider in the future.

Member Eveleigh asked for information on the height of the garage. She wanted to confirm that an apartment could not be placed above the garage. She also asked for clarification on the size of the garage. Chairman Withrow stated that it is a standard sized garage and measures 24' x 24'.

Member Clem voiced support on the project. He likes the placement of the garage and the fact it does not interfere with the site line of the intersection of Park and Mason.

Chairman Withrow and the Board reviewed and revised the proposed findings of fact.

Member Clem asked that item (4) Variance General Standards, subsection (b) of the findings be amended to add a sentence that the house was built in 1938.

Member Clem asked that (5) Special Findings, subsection (a) be amended to add the word "the" to the first sentence and to add a sentence at the end paragraph –"Because of the size and location of this specific property and the placement of the proposed garage, the site lines have been maintained."

The Zoning Board of Appeals concurred that the finding of fact shall read as follows:

(4) Variance General Standards.

(a) The need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, area, or topography and is not due to the applicant's personal or economic situation.

The ZBA finds that that the need for the requested variance is due to unique circumstances and physical conditions of the property including slope and the narrow building envelope formed by the triangle shaped lot. The irregular lot shape creates a hardship that does not allow enough space to construct the garage while meeting

the setback requirements. There is no existing garage on the property. The addition of a garage would better accommodate the applicants or future property owners for year-round living. There is no evidence to suggest that the applicant is requesting the variance based on their personal or economic situation.

(b) The need for the requested variance is not the result of action taken by the property owner or previous property owners that was in violation of zoning regulations in effect at the time the action was taken (self-created).

The ZBA finds that this variance is not the result of action taken by the current or the previous property owner that was in violation of the zoning regulations in effect at the time. This variance is not self-created since the property and structures were in the same size, shape, and proportion long before the City of Charlevoix enacted the zoning ordinance. The tax assessment records indicate the lot and associated structures were created long before the zoning was enacted within the City. The House was built in 1938.

(c) The requested variance is the minimum variance necessary to grant substantial relief to the applicant while at the same time minimizing any adverse impacts to other property owners in the general neighborhood or zoning district.

The ZBA finds that the applicant is requesting the minimum variance necessary and will not create any adverse impacts to other properties in the neighborhood or zoning district. Approval of the variance will not result in any sight distance problems with automobiles or pedestrians on the street intersections. The applicants are proposing a 24X24, two car garage, which is a standard size for a residential property, and not out of place in the current neighborhood. Given the size and location of the proposal the ZBA does not anticipate any adverse impacts to other property owners in the neighborhood or zoning distinct.

(5) Special Findings.

(a) Dimensional Variances. To obtain a variance from the dimensional requirements of this Ordinance (area setback, frontage, height, bulk, density, or other dimensional requirements), the applicant must establish that strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.

The ZBA finds that the irregular shape of this lot does not allow a wide enough building footprint for the garage. The slope and other physical conditions do not allow for the placement of the garage in a different location on the property. Approval of the variance will not result in any sight distance problems with automobiles or pedestrians on the street intersections. The applicants are proposing a two car garage which is typical for a residential property, and not out of place in the current neighborhood. The height of the garage is much smaller than the height of home. Given the size and location of the proposal the ZBA does not anticipate any adverse impacts to other property owners in the neighborhood or zoning distinct. Given the size and location of this specific property and the placement of the proposed garage, the site lines have been maintained. Because of the size and location of this specific property and the placement of the proposed garage, the site lines have been maintained.

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e. Motion.

Motion Member Clem seconded by Member Eveleigh that the City of Charlevoix Zoning Board of Appeals hereby approves Project 2010-06ZBA without conditions based on the findings of fact as written and modified and contained herein.

Motion was adopted by a unanimous voice vote.

I) ADJOURNMENT

Motion made by Member Cross and seconded by Member Clem to adjourn. Motion adopted by unanimous voice vote.

The meeting was adjourned by Chairman Withrow at 6:16 p.m.

Greg Withrow, Chairman

Linda Jo A. Weller, Recording Secretary

Carol A. Ochs, City Clerk