

**CITY OF CHARLEVOIX**  
**ZONING BOARD OF APPEALS MINUTES**  
**Wednesday, July 6, 2016 - 6:00 p.m.**  
210 State Street, City Hall, Council Chambers, Charlevoix, MI

**A) CALL TO ORDER**

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

**B) ROLL CALL/PLEDGE OF ALLEGIANCE**

Members Present: Gary Anderson, Greg Bryan, Ann Gorney, Pat Miller, Art Nash, Greg Withrow  
Members Absent: Bob Bergmann  
Staff Present: Interim City Planner Zach Panoff

**C) INQUIRY INTO POTENTIAL CONFLICTS OF INTEREST**

None.

**D) APPROVAL OF AGENDA**

Member Anderson stated that he did not receive the agenda packet until the previous afternoon and did not have a chance to review the information. The Board agreed that they should receive their agenda packets at least a week prior to meetings.

**E) APPROVAL OF MINUTES**

Motion by Member Miller, second by Member Gorney to approve the December 2, 2015 meeting minutes as presented. Motion passed by unanimous voice vote.

**F) NEW BUSINESS**

1. Public Hearing for Project 2016-004 ZBA: Height Variance request from Ben Bergmann – 1101 Charlo Street

a. Staff presentation

Interim Planner Panoff presented background on the project located at the corner of Charlo and Crain Streets. The applicant is requesting a height variance for the construction of a fence at 1101 Charlo Street (measuring 60" tall in the secondary front yard.) The proposed fence exceeds the 36" height requirement in front yards. The applicant wishes to build the fence primarily to ensure that their dogs do not escape from the yard.

b. Applicant presentation (Bergmann)

Ben Bergman, 1101 Charlo Street, wished to install a privacy fence as they have two dogs that like to jump their current 36" fence. He explained that the proposed fence would be on the inside of the hedges and trees. Member Nash questioned whether they had tried an invisible fence and Mr. Bergmann replied affirmatively. He said he also tried a makeshift plastic snow fence and the dogs escaped the yard.

c. Call for public comments

None.

d. ZBA determination of findings of fact

Member Gorney questioned when a 4' fence was allowed and Interim Planner Panoff responded that there were no provisions that allowed for anything higher than a 3' fence in the front yard. Discussion followed regarding the possibility of having the 6' fence go from the back edge of the house to the property line which would eliminate the need for a variance, but would provide a smaller rear yard.

Member Nash stated he was concerned about the aesthetics and felt the City would have no control over what happened to the hedges that would hide the fence. Member Miller felt there was a good alternative to not putting the fence in the front of the house.

e. Motion

Motion by Member Nash, second by Member Miller that the Board hereby deny Project 2016-04 ZBA based on the findings of fact contained herein that demonstrate the variance application does not meet the requirements under Section 5.178, and also under the "not self-created section" draft findings against the request because of the

applicant's desire to have the dogs. Chair Withrow stated that there appears to be a reasonable alternative that would provide up to a 6' privacy fence from the rear of the home to the back property line.

Yeas: Anderson, Bryan, Gorney, Miller, Nash, Withrow  
Nays: None

2. Public Hearing for Project 2016-05 ZBA: Height variance request from William Racine – 507 State Street

a. Staff presentation

Interim Planner Panoff stated that the property tenant, William Racine, was requesting a height variance for the construction of a fence at 507 State Street. The applicant's home was at the northwest corner of State and Upright Streets and they had two front yards. The applicant wishes to construct a fence in the secondary front yard that measures 72" tall to retain an existing tree and to ensure their dogs do not escape from the yard.

b. Applicant presentation (Racine)

Mr. Ackerman, Beaver Island resident who owns the property, stated that the Racines are renting the house until such time as they can qualify for a mortgage on the property. Mrs. Ackerman stated that the Racines have a beagle who barks at everything she sees and they were asking for the variance for the 6' fence so that the beagle cannot see anyone coming or going. She stated that they have reduced the amount of fence that they initially asked for to 60' from State Street and 20' from Upright Street.

Member Anderson stated for clarification purposes there were three front yards on this property because of the alley, State Street and Upright Street. Interim Planner Panoff indicated that the alley frontage would not be considered a front yard.

Marilyn Racine, tenant, stated that they were hoping to purchase this home. They didn't know that the side of the house was considered a front yard also. She stated they were looking for a bit of room for the fence. Discussion followed regarding the revised plan submitted for the fencing and other solutions. An alternative to the requested variance would be to install a 6' privacy fence from the back side of the house along Upright Street from the line of the house straight back; or they could install a 3' fence with hedges/shrubbery higher than the 3' fence further out along the front yard on Upright Street.

c. Call for public comments

Mr. Ackerman stated that he and his wife own the property in question and has seen pine trees that have been cut 6' up from the ground that have been "butchered". He would rather take the tree out on the Upright Street side of the house. Discussion followed regarding what would be allowed based on the photograph of the property included in the agenda packet.

Michael Hedges, 106 Hurlbut Street, suggested that instead of a straight line from the back of the house, some plantings could be included.

Lynette Grams, 204 W. Upright Street, stated that she wanted to say thank you to the homeowners who are animal lovers and to the Board members for following the rules and doing the necessary research.

d. ZBA determination of findings of fact

No further discussion.

e. Motion

Motion by Member Nash, second by Member Anderson that the Board deny Project 2016-05 ZBA based on the findings of fact contained herein that demonstrate the variance application does not meet the requirements under Section 5.178.

Yeas: Anderson, Bryan, Gorney, Miller, Nash, Withrow  
Nays: None

**G) CALL FOR PUBLIC COMMENT ON NON-AGENDA ITEMS**

None.

Interim Planner Panoff stated that they have two more cases coming before the Board and suggested August 3<sup>rd</sup> for the next meeting. The Board concurred that there would be a quorum for a meeting on August 3<sup>rd</sup> at 6:00 p.m.

**H) ADJOURNMENT**

Motion by Member Anderson, second by Member Nash to adjourn the meeting. Motion passed by unanimous voice vote. The meeting adjourned at 6:48 p.m.

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Greg Withrow, Chair

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Joyce Golding/fgm, City Clerk