

CITY OF CHARLEVOIX ZONING BOARD OF APPEALS MINUTES
Wednesday, March 23, 2011 - 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 Vice-Chairperson Eveleigh at 6:00 p.m.

B) ROLL CALL

Members Present: Richard Clem, Mary Eveleigh, and Alternate Larry Sullivan
Members Absent: June Cross, Gary Anderson, and Greg Withrow
Staff Present: Michael Spencer, City Planner

Larry Sullivan was designed as a voting member.

Motion made by Member Sullivan and seconded by Member Clem to excuse Members Cross, Anderson and Withrow. Motion adopted by unanimous voice vote.

C) INQUIRY INTO POTENTIAL CONFLICTS OF INTEREST None

D) APPROVAL OF AGENDA

Motion made by Member Clem and seconded by Member Sullivan to approve the agenda as submitted. Motion adopted by unanimous voice vote.

E) APPROVAL OF MINUTES

1. Motion to approve or amend November 17, 2010 meeting minutes

The Board reviewed the November 17, 2010 minutes.

Member Clem asked that the minutes of November 17th be amended to add the word "not" to the third paragraph of item d. The paragraph shall read as follows:

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.

Member Clem asked that the word "to" be added to the fifth paragraph under item d.

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.

Motion made by Member Clem and seconded by Member Sullivan to approve the minutes of November 17, 2010 as amended. The motion was adopted by a unanimous voice vote.

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

G) OLD BUSINESS

The nomination of officers was tabled.

H) NEW BUSINESS

1. Public hearing for Project 2011-01 ZBA Ramsey Variance Request.
 - a. Staff Presentation.

City Planner Mike Spencer reviewed the request with the Board. The applicant is requesting a dimensional variance from the City of Charlevoix Zoning Ordinance to construct a garage on the Dixon Avenue side of the lot. The construction of a foyer will change the entrance to the home from Eagle Drive to East Dixon Avenue. The applicant wishes to add a 24' X 24' attached garage and a 10' X 17' addition to south side of the home. The attached garage and 10X17 addition do not meet the setbacks required for front, side and rear yards. (Sections 5.43 (2), (3) and (4) for front, side, rear yard setbacks in an R-1 zone.

Front Yard Setback:	35 feet	Applicant is asking for 33 feet for garage only.
Side Yard Setback:	15 feet	Applicant is asking for 10 feet for the garage only.
Rear Yard Setback:	35 feet	Applicant is asking for 16 feet for the 10X17 addition to the master bedroom.

The Planner also reviewed the floor plan (Exhibit 4) and elevation (Exhibit 3) with the Board.

- b. Presentation/Comment from applicant if requested.

Jodi Alger of Home Planning & Design spoke to the Board as Mr. Ramsey's representative. The existing house and additions will cover only 21% of the lot. The house presently encroaches into the required 35' front yard setback. The proposed garage is planned to be 2' back from the existing Dixon Avenue house line or 33' from the front property line. The proposed foyer is estimated to be six feet back from the existing Dixon Avenue house line. This is a two bedroom home. The hedges along Dixon Avenue will be replaced and the back yard will become private. The Eagle Drive side of the lot will still have a door that accesses the house and will be used as a grill area. The proposed plan blends into the existing neighborhood.

Member Clem asked for details on the existing master bedroom area. Ms. Alger stated that the existing master bedroom is located in the proposed tub and shower area.

Member Clem asked for clarification on the size of the proposed foyer area. Ms. Alger stated that the proposed laundry area requires the foyer be 8' wide to accommodate the washer/dryer and sink. Member Clem suggested that the foyer could be narrowed to allow necessary five foot for the side yard setback for the garage addition and eliminate the side yard variance.

Ms. Alger stated the residence used to have a small apartment. The apartment is being eliminated. The section of the house that includes the guest bedroom and second bathroom will be raised to the same level as the rest of the house.

Vice-Chairperson Eveleigh asked for clarification size of the garage. Ms. Alger stated that the garage is proposed to be 24' wide and 26' deep. A small storage area is being proposed in the rear of the garage.

Member Sullivan asked for clarification on the location of the front/side/rear lot lines. The Board discussed the City Code sections that define the front, side and rear yard. The Board reviewed the variance requests.

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- 2' front yard variance for the garage. **(Dixon Ave)**
- 5' side yard variance for the garage. **(west line)**
- 1' front yard variance for the 10X17 addition to the master bedroom. **(Eagle)**
- 10' rear yard variance for the 10X17 addition to the master bedroom. **(south line)**

Ms. Alger stated that the existing home encroaches into the required Dixon Avenue front yard setback area. The proposed garage is located 2' behind the existing house. The new covered porch is pushed back 6' from the existing building line and the foyer's front door is an addition 6', so the new entrance into the home is 12' from the existing building line. If the garage is pushed back any further, Mr. Ramsey would lose the ability to have natural light in the dining area

The Board reviewed the footprint of the existing house. The house is non-conforming and encroaches slightly into Eagle Drive and East Dixon required front yard setbacks.

c. Call for public comments.

Vice-Chairperson Eveleigh opened the public hearing and asked for comments from the audience.

John Kurtz, owner of lots 26 and 27 (712 East Dixon) addressed the Board. His property is located on the side (west) of the subject property. They are pleased with the house design and it will look nice along Dixon Avenue. But he has concerns about the proximity of the proposed garage to the side lot line. The existing homes along Dixon Avenue have at least 35' between them. The proposed garage will be only approximately 20-25' from their bedroom. He asked the Board to look at shrinking the garage to allow a greater distance between the two houses.

Member Clem asked Ms. Alger if the existing pine tree would be retained. Ms. Alger stated that the pine tree will be removed.

Marge Neale of 711 East Dixon stated that she likes the house design. She has concerns about the distance between the two houses. She asked if the applicant could make do with a one car garage. Or could the project be designed to go up? There are other two story homes in the area. Ms. Neale also voiced concerns on behalf of the back door neighbor (101 Eagle) and the proposed rear yard encroachment.

The Board reviewed a letter from Shelley Boehmer, owner of 109 Chicago Avenue, whose property abuts the rear yard of 103 Eagle.

The Public Hearing portion of the meeting was closed.

d. ZBA determination of findings of fact.

City Planner Mike Spencer reviewed the standards and findings of fact that the Board must use in determining whether a variance can be granted.

(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.*

- (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).*
- (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 Board was asked to look at the rear yard variance request.

Member Clem stated that the variance requests are being created by the homeowner. The property is narrow and there isn't a lot of space and the applicant is reconfiguring the building which causes the need for the rear yard setback variance. The proposed addition will encroach an additional 10'.

Member Sullivan stated that he does not see any unique physical characteristics that are not faced by other lots in the area.

Vice-Chairperson Eveleigh voiced concern over the proposed rear yard encroachment. The proposed addition will encroach into the existing non-conforming rear setback area. The applicant is proposing a yard setback of 16' instead of the required 35'.

The Board did not support the proposed rear yard variance.

The Board reviewed the front yard (East Dixon side) setback variance request. Board members voiced support for the East Dixon front yard variance request.

The Board reviewed the side yard variance request.

Vice-Chairperson Eveleigh stated that the required 15' side yard setback is important. She asked Ms. Alger if the applicant could shorten the garage and if the entry be narrowed to eliminate the variance request? Ms. Eveleigh stated that both the side and rear yard variance requests were reaching and the required setback needs to be maintained. The existing house is not conforming and the Board has a goal to not permit a lot to become more non-conforming.

Member Clem stated that he does not support the side yard variance request. He wants to see a 15' side yard setback. He suggested that the applicant shrink the width of the foyer.

Member Sullivan would also like to see a 15' side yard setback. The foyer is excessive and can be reduced and allow the garage to meet the required side yard setback.

The Board reviewed the staff report.

Ms. Alger asked for clarification on the Board's comments. The existing residence is 26.8' from the rear property line. She asked if she could place a wing/addition onto the west side of the existing residence. The Board discussed the request. The Board asked Ms. Alger to submit an alternative plan.

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e. Motion.

Motion Member Clem seconded by Member Sullivan that the City of Charlevoix Zoning Board of Appeals hereby tables Project 2011-01ZBA until April 20, 2011 at 6:00 a.m. Motion was adopted by unanimous voice vote.

I) ADJOURNMENT

The meeting was adjourned by Vice-Chairperson Eveleigh at 7:00 p.m.

Greg Withrow, Chairperson

Mary Eveleigh, Vice-Chairperson

Linda Jo A. Weller, Recording Secretary

Carol A. Ochs, City Clerk