

ZONING BOARD OF APPEALS
CITY OF GRAND HAVEN
MEETING MINUTES

March 27, 2024



A regular meeting of the Grand Haven Zoning Board of Appeals was called to order by Chair Hills at 7:00 pm. in the Grand Haven Council Chambers. On roll call, the following members were:

Present: Vice-Chair Kerry Bridges, Chair Mark Hills, Amy Kozanecki, Brendan Pool, Tyler Berg

Absent: Tyler Jackson

Also present: Brian Urquhart, City Planner

Approval of Minutes

Motion by Bridges, seconded by Berg, to approve the December 20, 2023 minutes as written. Passed unanimously with a voice vote.

Approval of Agenda

Motion by Berg, seconded by Pool, to approve the agenda with item 8 listed as Board Membership. Passed unanimously with a voice vote.

Call to the Audience – None

Case 24-01: A request by for a variance related to allow a second story addition to the garage and attach the garage to the principal building at 116 Howard Ave. (parcel #70-03-20-459-004): a variance from Sec. 40-301.02.B.3 to allow an accessory building greater than 20 ft. to be located 8 ft. from the rear lot line where the minimum setback is 15 ft. in the Moderate Density Residential District.

Chair Hills opened the public hearing at 7:07pm.

Urquhart introduced the case. He said the applicant would like to construct an addition to the existing garage and connect the garage the home with a covered deck and stairs. Because the garage height and the attachment to the home, the building would need to meet the required yard setbacks for a principal building in the MDR District, which is 15 ft. for rear yard, and 6 ft. for the side yard.

Urquhart said the applicant would like to use the upper level of the garage for woodworking space. He added the variance application was incorrect, and the request is a rear yard setback variance, not a height variance.

William Dickenson, 116 Howard, spoke towards his project. He said he moved from Robinson township to live in the city of Grand Haven and felt adding onto the garage would be a nice addition.

Berg asked about the home at 411 Lake and the second story garage. Urquhart said that building is nonconforming.

Matt Moran 15270 David Ave. Grand Haven, said the ZBA should take into account the grade disparity with the neighbor's lot.

Motion by Kozanecki, seconded by Bridges, to close the public hearing was carried unanimously by voice vote. Public hearing closed at 7:13pm.

Urquhart said the City received two emails in support of the variance.

The board considered the seven basic conditions.

- A. Pools, Bridges and Berg felt the request to attach the garage and increase the height to 24 ft. would not be contrary to the spirit of the zoning ordinance. Hills and Kozanecki disagreed and said the ordinance is clear that a detached garage greater than 20 ft. in height is clearly regulated in the ordinance and should be treated the same as a principal building with respect to setbacks. Motion by Bridges, seconded by Berg, to approve Basic Condition A. Ayes: Bridges, Berg, Pool. Nays: Hills, Kozanecki. Condition A **passed** on a 3-2 vote.
- B. All members agreed the variance would not establish a use that is not permitted in the Moderate Density Residential district. Motion by Berg, seconded by Bridges, to approve Basic Condition B. Condition B **passed** unanimously on roll call vote
- C. All members agreed the approval of the variance would not cause substantial detriment to neighboring properties. Motion by Bridges, seconded by Pool, to approve Basic Condition C. Condition C **passed** unanimously on roll call vote
- D. All members agreed the location of the garage and shape of the parcel is not so general and recurrent in nature. Motion by Kozanecki, seconded by Berg, to approve Basic Condition D. Condition D **passed** unanimously on roll call vote
- E. Berg, Bridges and Pool agreed the extraordinary conditions were not self-created. Hills and Kozanecki said the applicant can construct a detached garage that is not greater than 20 ft. in height. Motion by Pool, seconded by Berg, to approve Basic Condition E. Yeas: Pool, Bridges, Berg. Nays: Hills, Kozanecki. Condition E **passed** on a 3-2 vote
- F. Pool, Bridges, and Berg felt the addition to the garage would be reasonable location, as the setbacks are not being reduced. Hills and Kozanecki felt the garage would be relocated, or the height could be reduced to 20 ft. in order to satisfy the ordinance. Motion by Berg, seconded by Bridges, to approve Basic Condition F. Yeas: Pool, Bridges, Berg. Nays: Hills, Kozanecki. Condition F **passed** on a 3-2 vote.
- G. All members agreed the 24 ft. tall garage is not the minimum variance that is necessary for the proposed addition. The applicant can detach the garage and build a garage at a height that would not require a 15 ft. rear yard setback. Motion

by Pool, seconded by Bridges, to deny Basic Condition G. Condition G **failed** unanimously on roll call vote

Motion by Bridges, seconded by Berg, to DENY a variance request related to allow a second story addition to the garage and attach the garage to the principal building at 116 Howard Ave. (parcel #70-03-20-459-004): a variance from Sec. 40-301.02.B.3 to allow an accessory building greater than 20 ft. to be located 8 ft. from the rear lot line where the minimum setback is 15 ft. in the Moderate Density Residential District because the variance request failed to satisfy basic condition G. Yeas: Hills, Bridges, Kozanecki, Pool, Berg. Nays: None. The variance was **DENIED** on a 5-0 vote.

Case 24-02: A request for a variance for an open, unenclosed, and uncovered paved patio at 139 Prospect St. (parcel #70-03-29-105-042) a variance from Sec. 40-306.05 to allow an open, unenclosed and uncovered paved patio to project greater than 50% into a required front yard in the DR – Dune Residential District.

Chair Hills opened the public hearing at 7:44pm.

Urquhart introduced the case. He said the home was built in 2021 on a vacant lot. The applicant has requested to install an additional 198 sq. ft. at grade patio north of the home. The proposed location of the patio would result in a 6 ft. setback from the Emmet St. right-of-way. Because the lot is a through lot, both the north and south yards must be considered front yards with a 20 ft. setback, which restricts the ability for a property owner to use a backyard for a patio, deck etc. He said the property owner may build a patio in the side yard, but would require removal of sensitive natural features in a critical dune.

Urquhart said the applicant has consulted with an environmental expert who has submitted the necessary EGLE permit.

Adrienne Peterson, 10389 Pathway Lane, Nunica, spoke on behalf of the property owner. She said patio would be incorporated into the existing outdoor living space, which includes a permanent fire place. She added the patio in encroached as little amount beyond the 50% required front yard setback. The property owner would also plant evergreen trees to provide screening for the patio space. Peterson confirmed the EGLE permit was applied in late January and should hear back soon.

Berg asked if the patio was located to the east of the home, would soil removal be required. Peterson responded it would be problematic to locate the patio in the side yard.

Hills asked if the patio is at grade. Peterson responded it is at grade.

Bridges asked if the fire pit is permanent. Peterson responded yes and it meets fire code.

Motion by Bridges, seconded by Berg, to close the public hearing was carried unanimously by a voice vote. Public hearing closed at 7:51pm.

Urquhart said the City received two emails in support of the variance.

The board considered the seven basic conditions.

- A. All members agreed the variance for an uncovered patio in the front yard setback is not contrary to the public interest. Motion by Pool, seconded by Berg, to approve Basic Condition A. Condition A **passed** unanimously on a roll call vote.
- B. All members agreed no use would be created that is not permitted in the Dune Residential district. Motion by Kozanecki, seconded by Bridges, to approve Basic Condition B. Condition B **passed** unanimously on roll call vote.
- C. All members agreed the patio in the proposed location would not create a substantial adverse effect on neighboring properties and the applicant provided a landscape plan to screen the patio around the patio. Motion by Bridges, seconded by Kozanecki, to approve Basic Condition C. Condition C **passed** unanimously on roll call vote.
- D. All members agreed this request is not so general or recurrent in nature based on the fact there are only five lots in the entire 5-mile hill area within the Dune Residential District are through lots. Motion by Pool, seconded by Berg, to approve Basic Condition D. Condition D **passed** unanimously on roll call vote.
- E. All members agreed the variance request is not self-created because the lot existed as a through lot prior to their purchasing of the property. Motion by Pool, seconded by Bridges, to approve Basic Condition E. Condition E **passed** unanimously on roll call vote.
- F. All members agreed there is no reasonable alternative location at 139 Emmet for an outdoor patio. The side yard contains too much grade and would require soil removal, and the driveway consumes the south yard off Prospect St. Motion by Bridges, seconded by Berg, to approve Basic Condition F. Condition F **passed** unanimously on roll call vote.
- G. All members agreed to allow a 198 sq. ft. patio 6 ft. from the Emmet St. right-of-way line is the minimum amount necessary to make reasonable use of the patio. The patio is unenclosed, uncovered and open and thus satisfies the essential standards in Sec. 40-306.05. Motion by Kozanecki, seconded by Pool, to approve Basic Condition G. Condition G **passed** unanimously on roll call vote.

Motion by Kozanecki, seconded by Bridges, to APPROVE a request for a variance for an open, unenclosed, and uncovered paved patio at 139 Prospect St. (parcel #70-03-29-105-042) a variance from Sec. 40-306.05 to allow an open, unenclosed and uncovered paved patio to project greater than 50% into a required front yard in the DR – Dune Residential District, based on the fact that all basic conditions A through G are met and with the following condition:

1. *An EGLE permit is approved.*

Roll Call vote: Yeas: Berg, Bridges, Kozanecki, Pool, Hills. Nays: None. Motion **approved** 5-0.

City Planner Report

Urquhart said the case with 20060 Breton St. will be heading to Circuit Court for an oral argument in May. He added there will be a variance request for the April ZBA meeting.

Board Membership

Members discussed the vacancy rule and the lack of attendance by member Tyler Jackson. According to the record, Jackson has missed the March 2024, December 2023, and November 2023 meetings without proper notification. His absences are considered unexcused and according to the recently adopted ZBA by-laws, three consecutive unexcused absences of regular meetings shall create a vacancy.

Urquhart responded he would verify the vacancy process described in the zoning ordinance, Michigan Zoning Enabling Act, and speak with Mayor Monetza and legal counsel.

Call to the Audience – Second Opportunity

None

Adjournment:

Motion by Kozanecki, seconded by Bridges, to adjourn. Unanimously approved by voice vote. Meeting adjourned at 8:10 p.m.



Brian Urquhart, City Planner