

**CITY OF MARQUETTE
BOARD OF ZONING APPEALS
OFFICIAL PROCEEDINGS
March 6, 2025**

MEETING CALLED TO ORDER

A regular meeting of the Marquette City Board of Zoning Appeals was called to order at 7:00 p.m. on Thursday, March 6, 2025, located in Room 103 of the Municipal Service Center, 1100 Wright St.

ROLL CALL

Present: Chair Ms. Dombrowski, Mr. Patrick, Ms. Wright, Mr. Neumann, Vice Chair Ms. Hill, and Zoning Official A. Landers.

Absent: None

MINUTES

It was moved by Mr. Patrick, seconded by Ms. Hill, and carried 5-0 to approve the minutes of December 5, 2024, as presented.

ADDITIONS TO OR DELETIONS FROM THE AGENDA

It was moved by Mr. Neumann, seconded by Ms. Wright, and carried 5-0 to approve the agenda as presented.

ELECTION OF OFFICERS

CHAIR: Ms. Dombrowski was nominated. No other nominations.

VICE CHAIR: Ms. Hill was nominated. No other nominations.

It was moved by Ms. Wright, seconded by Mr. Neumann, and carried 5-0 to elect Ms. Dombrowski as Chair and elect Ms. Hill as Vice-Chair.

PUBLIC HEARINGS

01-VAR-03-25 – 1710 Harbour View Dr. (PIN: 1030030): Virginia Killough is seeking a 6.5-ft front yard variance, 2-ft side yard variance, and a 2.5-ft eave encroachment variance from the City of Marquette Land Development Code to allow a 10.5-ft x 12.6-ft partially enclosed pergola/accessory structure and eaves that encroach more than the maximum of 2.5-ft from the property line at 1710 Harbour View Drive.

A. Landers: The Board of Zoning Appeals is being asked to review an application for a 6.5-ft front yard variance, 2-ft side yard variance, and a 2.5-ft eave encroachment variance from the City of Marquette Land Development Code to allow a 10.5-ft x 12.6-ft partially enclosed pergola/accessory structure and eaves that encroach more than the maximum of 2.5-ft from the property line at 1710 Harbour View Drive. She referenced the staff report and attachments, and visuals from the agenda packet were shown.

Mr. Patrick: It says something about a building permit in the packet, do they need a building permit?

A. Landers: No, it does not require a building permit from the County.

Mr. Patrick: If it was just a raised garden bed and met the regulations then it would not need a variance.

A. Landers read the staff report that stated the regulations for raised planting beds in required yards.

Ms. Hill: Would this still be considered a pergola without the top rafters and if it was just the posts with the netting?

A. Landers: It would still be considered a partially closed accessory structure the way it was built.

Mr. Neumann asked for the best picture of the front yard to be shown on the screen.

Ms. Wright: There is really no place to put it, as there are trees everywhere else.

Mr. Neumann: I am trying to get a sense of how shaded the front yard is.

Ms. Wright: There is a big rock outcrop there as well.

Virginia Killough, the applicant at 1710 Harbour View Drive: This was the raised bed of my dreams. I have lived at this residence since we built the house 35 years ago. I have tried to garden all that time, and I was mostly defeated by shade and deer. It has been really difficult. In the winter of early 2023, I found the plans for this raised garden on Etsy and had Mike Potts build it for me. I called zoning because I never built anything on my property, so I wanted to make sure I was doing it right. The way I remember the conversation is that I said I understand it must be 15 feet back, and whoever I talked to, was a woman, said no it has to be 20 feet back. I remember being concerned about that because there used to be trees, and that area would tuck it back behind the trees. I thought the 20 feet setback meant from the road. Then I was told 3-ft from the side lot line. I thought we built it 6 feet from the lot line. I have been there ever since the subdivision was platted and to my knowledge there has never been a marker on that corner, so my neighbors and I always assumed it was farther over. I was totally surprised when the surveyor showed me differently. Anyway after the phone call I thought I was in the clear, so I saved up my money for a year and then the next year we built it, and that was last year. It was great, as I can stand up and garden in it, which has become important since I have some physical problems and cannot kneel and bend over as well. It worked well keeping the animals out. Half of it was sunny up by the road and the other part I did greens. She asked the staff to show her pictures on the screen. There was not any mention to me about 24 inches high. I need to have the fencing for the deer. In July of last year, we had that big windstorm, and the sentinel pine from my neighbor's yard came down and took two maple trees with it and crushed the top part of this. I would be able to rebuild on the base that is there. The posts on the corners are sunk, and Mike's crew had to dig out all the sod and put gravel in for the base. So, I would like to repair what is there.

Ms. Dombrowski: I know we talked about it before, but would there be another spot, like in the backyard or somewhere else?

Virginia Killough: Now that the trees fell there is a little more sun.

Mike Potts, 205 Newberry, and the contractor: From a mobility standpoint for the property owner

it is near the driveway, right now she gets around pretty well but we are all getting older. It is very friendly for an aging-in-place facility. She is trying to stay in her house as long as possible and this is a perfect structure for that.

Virginia Killough: When we were building it, my neighbors came by every day to see what was going on and really admired it. Everybody was so upset when it got crushed.

The board discussed with the applicant the area between the two big trees in the front, and that there was no location to place it there as there are rock outcrops, smaller trees, bushes, etc.

Ms. Hill: The only thing to do for proper gardening for another location would be to remove a bunch of trees.

Mr. Patrick: Or reroute the driveway.

Mr. Neumann: What is involved in repairing this?

Mike Potts: If it stays where it is, then it is just a matter of putting new corners on it, fencing, etc.

Mr. Neumann: So, the four corners that are sunk into the ground, you are just going to add new posts on top of it?

Mike Potts: Yes, and because there is a massive amount of dirt that was specifically bought and mixed, and shoveled in there, it would be a huge task to shovel the dirt out and move it 2-ft or whatever. The best-case scenario would be to rebuild it with the base where it is and put a new deer fence around it. The pergola tops were a decorative feature not structural exactly, we could end them at the wall and remove the eave overhang.

Chair Dombrowski opened the Public Hearing. No one wished to comment. Chair Dombrowski closed the Public Hearing.

The Board read each item in Section 54.1404(B)(5)(a. through j.) of the Land Development Code.

(a) Special Conditions and Circumstances Unique to the Land, Structure, or Building. *That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings in the same district;*

Ms. Wright: I think this is unique unless you cut down all the trees.

Ms. Hill: Yeah, which trees are important for the watershed, ecosystem, and environment. Cutting down trees does not make sense.

Ms. Dombrowski: We have established that other areas of the parcel have rocks or other things going through there.

(b) Rights of Similar Properties in the Same Districts. *That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other similar properties in the same district under the terms of this Ordinance;*

Ms. Hill: There are a lot of gardens and the right for someone to build something that

helps you age in place.

Ms. Wright: I agree, and the city is filled with deer.

Ms. Dombrowski: Agree that people like to garden and there is no other space within the yard.

(c) Not a Result of Actions of the Applicant. *That the special conditions and circumstances do not result from the actions of the applicant;*

Ms. Dombrowski: The applicant stated she felt she was doing things correctly.

Ms. Hill: And they called and asked questions, hard to understand the code, and may have been fed the wrong information.

Mr. Neumann: There is a reference to special conditions and circumstances which is a reference back up to (a). So, if we are referring to bedrock and trees which is the current condition of the property which has aesthetics to it and environmental function. Item (c) is not necessarily read as constructed something, but the situation of the property is not a result of the applicant.

Ms. Hill: No one seems to get their land surveyed before adding a garden to their property.

(d) Special Privileges Prohibited. *That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district;*

Ms. Hill: This is not a solid structure, the trees are more dense.

Ms. Wright: I agree.

(e) Comparison to Other Lands, Structures, or Buildings Not a Factor. *That no nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.*

Ms. Dombrowski: This is being reviewed as a stand-alone decision, this is met.

(f) Strict Compliance is Unnecessarily Burdensome. *That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose and would thereby render the conformity unnecessarily burdensome for other than financial reasons;*

Ms. Wright: You would have to cut trees.

Ms. Hill: The current Land Development Code is geared toward trees maintaining and providing trees.

(g) Substantial Justice. That a variance would do substantial justice to the applicant, as well as to other property owners in the district (the BZA, however, may determine that a reduced relaxation would give substantial relief and be more just);

Ms. Wright: Hard to garden anything smaller than that.

Ms. Hill: The deer are horrendous, and the mesh is important. If this was not constructed in the setback, we would not even be talking about it. The pergola is somewhat structural if you are growing vines, they will help support the walls from pulling into each other. The cross bracing would help, and plants are heavy.

Mr. Neumann: How I read this is, does this unfairly impact the neighbors?

Ms. Hill: I could see if the road was curved the other way then it might block the view while driving, but that is not the case.

Ms. Dombrowski: It does substantial justice to the applicant as well as not deferring any justice to anyone around them.

(h) Impact. That the proposed variance will not impair an adequate supply of light and air to adjacent property or increase the congestion in public streets; that the variance will not increase the hazard of fire or flood or endanger public safety; that the variance will not unreasonably diminish or impair established property values within the surrounding area; and that the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Ms. Wright: It does not impair any sunlight or air to the adjacent property.

Ms. Hill: No line-of-sight issues while driving.

(i) Minimum Variance Necessary. That the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

Ms. Wright: Do not see how you could make it any smaller.

Ms. Dombrowski: Where it sits on the property versus the property adjacent to it, it is within the front and side setbacks. This is the minimum.

(j) Purpose and Intent of the Land Development Code. That the granting of the variance, will be in harmony with the general purpose and intent of this Ordinance.

Ms. Dombrowski: The Land Development Code is trying to make a livable and sustainable community, being able to keep the trees and have a garden.

Mr. Neumann: With decisions as we are talking about very specific variances for a very specific structure, the written decision letter or the zoning permit will speak to the specifics of this structure, so 20 years from now a property owner does not put full sides on this structure and now there is a fully enclosed building. Or take a bunch of windows and turn it into a greenhouse.

A. Landers: Their proposal is specific to this structure in the photos that were submitted, and with a zoning compliance permit they would have to provide those specifics, and it would be compared to what was submitted and presented to the Board of Zoning Appeals.

Mr. Patrick: I think we stretched it on a through h on a number of them. If we never discussed vegetables or deer and just went with feet and inches this would not be approved. I am going to vote against it.

It was moved by Ms. Wright, seconded by Ms. Hill, and carried 4-1 that after conducting a public hearing and review of the STAFF REPORT/ANALYSIS for 01-VAR-03-25, the Board of Zoning Appeals finds that the request demonstrates the standards found in Section 54.1404(B)(5)(a. through j.) of the Land Development Code and hereby approves 01-VAR-03-25 as presented with the following condition that it is rebuilt to the specifics as before and as shown in the attached photos provided by the applicant, and it does not enclose any further.

Yes: Ms. Hill, Ms. Wright, Ms. Dombrowski, and Mr. Neumann.

No: Mr. Patrick.

ADJOURNMENT

The meeting was adjourned at 7:48 p.m.

Respectfully Submitted,



Andrea Landers
Zoning Official
Community Development Department,
For the Board of Zoning Appeals