

**CITY OF MARQUETTE  
BOARD OF ZONING APPEALS  
OFFICIAL PROCEEDINGS  
June 6, 2024**

**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, June 6, 2024, located in Room 103 of the Municipal Service Center, 1100 Wright St.

**ROLL CALL**

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

Absent: Chair Ms. Dombrowski (*excused*).

**MINUTES**

It was moved by Ms. Wright, seconded by Mr. Patrick, and carried 5-0 to approve the minutes of December 7, 2023, 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**

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

**PUBLIC HEARINGS**

**01-VAR-06-24 – 2328 & 2330 Presque Isle Ave. (PIN: 0480010 & 0480020): Steven Pelto is seeking a 9.31% front area hard surface coverage variance and a 1.48% impervious surface lot coverage variance from the City of Marquette Land Development Code to allow for widening a driveway that will cover more than 30% of the front area with a hard surface, and more than 50% of impervious surface lot coverage for a new single-family home and structures at 2328 & 2330 Presque Isle Ave**

A. Landers stated that the Board of Zoning Appeals is being asked to review an application for a 9.31% front area hard surface coverage variance and a 1.48% impervious surface lot coverage variance from the City of Marquette Land Development Code to allow for widening a driveway that will cover more than 30% of the front area with hard surface, and more than 50% of impervious surface lot coverage for a new single-family home and structures at 2328 & 2330 Presque Isle Ave. She stated on May 28, 2024, a land division application has been conditionally approved for the proposed 70-ft x 140-ft parcel as shown in the location sketch. She also stated that this request is being reviewed with the new parcel information. Visuals of the staff report and attachments were shown.

Mr. Neumann: So, the land division would create a 70-ft wide zoning parcel here and that would leave to the south an 80-ft x 140-ft parcel. Is that correct? And maybe the applicant can get into this more. So, with the land division, which I understand is not our direct concern, though it does affect the size of the parcel, which then affects the calculations that we're dealing with. I'm just wondering about the location of that line. You've got 150 feet along Presque Isle. If each of those lots was 75 feet in width, would that change these calculations to bring them in compliance? That's 700 square feet.

Ms. Landers: Yes, I believe you should ask the applicant this question.

Mr. Neumann: I just want to verify, though, with you the dimensions that we're talking about with sort of the land division.

Ms. Landers: Yep. With the land division, those are the new parcels that we're looking at but, yes, it is correct, which is why the land division has been made with the numbers they have provided of what they wanted the land division to be.

Mr. Neumann: Right, which is a self-initiated action to divide the land the way they're doing it. The code does not necessitate the 70 feet here.

Ms. Landers: No, this is their proposal. The Land Development Code requires for the Mixed-Use zoning district that the minimum that they have to meet is a 40-ft lot width and 4,800 square feet of lot area.

Mr. Neumann: So, the new lot line is movable, essentially. I mean, I know they've made an application for what we see here, but the code is not holding that line in that location. That's at the applicant's request.

Ms. Landers: Correct.

Mr. Neumann: Correct. Okay.

*Vice-Chair Hill opened the public hearing. No one wished to comment. Vice-Chair Hill closed the Public Hearing.*

Mr. Pelto: Thank you. My name's Steve Pelto, 60 Oak Hill Drive. Just to answer Mr. Neumann's question. First of all, my team did a lot of work on this and one of the reasons the parcels are presented this way is that my goal is to build an office on the other parcel. Our first lot width was 62.5 ft and then we expanded it to 70 ft. In order to build the office, we're going to be very tight, but we still moved it. I want to utilize the rest of that lot for an office and parking area, and that's the minimum that we're going to be able to go to because of the parking requirements with the 24-ft maneuvering lane and the 18-ft length for parking spaces. So just to clarify that, we've already addressed that situation, and my architect, John Larson, can expand on this, to meet all the requirements and everything else, you'd have to expand this lot not just 5 feet, but probably by 20 feet or so, but we'll get into that after. I have my thoughts together and would like to read them. Now on mixed-use zoning, you can have residential, multi-

family, and commercial uses. You can put a restaurant and there are many other uses. Now next door where I want to put my office, I don't have to worry about a 30 percent front yard coverage requirement. I can have a zero-front line on that. I can build my office right up to the front line. There are other things that, it's only residential that is the strictest when it comes to this zoning. I could put anything else in there and not have to worry about that 30 percent requirement, just to let you know that. I have the lot on the corner of Presque Isle and Hawley that was formally the warehouse. It burned down in a fire in 2019. It started in the warehouse next to me and it spread over to mine. Right now, both buildings are torn down and there's just a concrete slab as you probably all know that's left. I'd like to build a new single-family home on the 70-ft lot with a warehouse architectural style of steel and brick. Mixed-use zoning nearby. Now, I went up and down and I did some investigative work. Presque Isle Street to Hawley Street is at the baseball fields. There are apartment complexes and parking lots in the whole front yard. Some of these side yards and backyards all have asphalt areas. They don't meet the 30 percent or the 50 percent lot coverage requirements, or any of those that are required by the city. Older homes, two former convenience stores, and one old schoolhouse. St. Vincent De Paul has a parking lot on both the front and the sides. Some of these homes have gravel drives, many with just a small front yard with their drive on one side to the property line so, again, not meeting any of the codes that now we're faced with. I have a few properties in mixed-use areas. One is Lock & Leave; one is the vacant lot; one is Look Realty; Hawley Court Apartments, the three on the end of Presque Isle; and now the vacant lot that's in question. I try to keep up with these properties. If you look, Look Realty, Hawley Court Apartments, Lock & Leave - I'm not trying to be biased, I'm telling you we try to keep up our properties - they're probably some of the nicest landscaped and nicest kept up buildings in that multi-use area. The same would be done at the new building at 2330 Presque Isle. The second area in question is between Kaye and College. There's on the east side a church, a parking lot, a single-family house, a parking lot, an apartment building, and behind that single-family house, a parking lot. Three sides parking lot on a single-family home. I'm not asking for that. I'm giving you green space on the left, on the right, in the front, and the back. Now, the variance requests are not extreme. I know many people have come before you. I know in different places throughout town they've asked for extreme variances. These are not extreme ones, with 9.31 front yard surface, and 1.48 impervious surface coverage. Now, then, the third spot to look at is on Presque Isle to Wright Street. That's another area that's mixed-use zoning. This is what's right now next to different homes, but it's an allowable office building. So, if you can picture the houses in this mixed-use area, you'll see that both exceed what I'm requesting by probably 70 to 80 percent of these homes. We need to remember this area was platted back in the late 1800's. The warehouse we've designed to be our home and would like to build not only will add tremendously to the area but will also be a great addition to the city. This corner is the gateway to one of Marquette's biggest treasures, the island, and it also is the gateway to Big Bay, that corner right there. It splits up, one to Big Bay and one to the island. The question I have for the board is approving this variance, will this home make this area better or will it make it worse? This is our plan, and we see that this is a better idea. This is what that corner will now have.

Mr. Patrick: Why do you refer to it as a warehouse?

Mr. Pelto: It was a warehouse at one time, and we're calling it a warehouse because we're going to have steel on the sides, steel roof, and then we're going to have some brick on it.

Mr. Patrick: But it's all your home.

Mr. Pelto: Oh, it's going to be a home, but we've called it the "warehouse".

Mr. Patrick: Industrial look.

Mr. Pelto: Right, exactly. That's what we're doing. Do you have any questions for me? And if you have any questions, Bob Cambensy is a surveyor here in town and this is the architect, John Larson.

Mr. Cambensy: Well, one of the points that I brought up was, as a mixed-use district, if he took the same parcel, that same building, but he made two units out of it, a duplex, the 30 percent number that you're looking at goes to 40 percent. Put two families in that building, and split it so that you could have two complete units, the number is 40 percent.

Mr. Patrick: So you could, to avoid having a variance, if you cut 6 inches or a foot off of this all the way around, we wouldn't be here. That'd take away your 9 percent variance.

Ms. Hill: It might need more but, to your point, I was going to mention the whole section from the garage door out, you could pull back to be just in front of the garage doors.

Mr. Patrick: Right, but it would be awkward to get the car in if you did that. You probably would be running over the grass.

Ms. Hill: No, not that side, the other side. The north side of the plan. North of the car from that garage door back. It might not get the full 9.31 percent of the front area hard surface, but it would at least remove the need for the 1.48 percent lot coverage variance for the 145.35 square feet.

Mr. Patrick: You want to leave the pavement to get to the small door, you could probably go like this, but we're only talking 9 percent here, the variance request.

Mr. Larson: I don't believe your proposal would work, sir.

Mr. Patrick: I don't like it either. I'm not proposing it.

Mr. Larson: Well, what I'm trying to say is, we've looked at it we can't make the 400 square feet with what you just said, and I don't think it's practical.

Mr. Patrick: And I'm not proposing that.

Mr. Larson: I'd have to do the calculations, but we've looked at it quite a bit.

Mr. Patrick: It's your place to propose, not ours.

Ms. Wright: What would you have to cut out to make 400 square feet?

Mr. Larson: I wouldn't. I think it works the way it is right now, and I don't think it's excessive visually or even not practical to the ordinance. I think it works fine. It gives them the three-bay garage and the access he needs. The driveway meets the ordinance.

Mr. Cambensy: One of the things you need to look at is going in the garage and out of the garage. You need to be pretty straight with that vehicle.

Mr. Larson: And what this does, by complying with the ordinance, it's difficult for him to drive out forward on Presque Isle. That's the biggest thing I see. This will allow him to negotiate a turn in his driveway and pull out. We've looked at all the other configurations and it's very restrictive to do that turn. I guess I could've brought all those but to design it with the three-bay garage and try to flair out the driveway and keep the house with a relatively good backyard, it just, there wasn't a practical solution.

Mr. Patrick: You think you're able to turn around and come out of the driveway frontwards with this, which is much safer.

Mr. Larson: Yes.

Mr. Pelto: That's what we're trying to accomplish.

Mr. Larson: That's the biggest, that's probably one of the biggest things I see this advantage here. And then talking about the property line, keeping the house where it is, we would gain more front area, but we'd have to go about another 20 feet into that proposed lot that he wants to do his other development. That's how far we have to move that lot to get the percentage to work. Just trying to give you an example that we've looked at many, many configurations like that.

Mr. Neumann: So, the corner of the driveway that's closest to the clear vision triangle, the purpose of all that space is to back into because you're never going to touch that driving in.

Mr. Larson: Well, it's access to the three bays, and then it's also to back up and turn around, yes. We're trying to create a functional driveway for the three-bay garage.

Mr. Neumann: You could back the other way. You could back to the south out of the northmost bay, right? You could back to the south and probably still negotiate a forward exit. He indicated on the screen, you'll never touch that coming in here, all this out here.

Ms. Hill: That is what I was saying. That whole section from where your finger is to almost in front of the garage door, you can have pavement in front of that man door, but that whole top rectangle, but at least get probably rid of or close to getting rid of the first variance, the overall lot coverage.

Mr. Larson: Okay. If you're in that first bay, tell me how you get out to Presque Isle by backing out and pulling forward.

Ms. Hill: Not everyone has the luxury of...

Mr. Larson: All right. But you can't, you have got to make a point and go back.

Mr. Cambensy: Out of the middle bay. I mean, you could do any of these things you're talking about possibly with a couple of backward movements and one or two forward movements.

Mr. Patrick: Yeah, jockeying around three-point turns and stuff. Yeah.

Mr. Cambensy: I asked Andrea where did this come from? A few years ago, if you go back before the land development code five years ago, four to five years ago, where'd this front area...

Ms. Landers: That's always been in the code since I've been here, so it's been there since the 80's.

Mr. Cambensy: It came from engineering thinking of runoff, stormwater runoff, and I said why just restrict it to paved and not paved because you could say provide an area on the lot where you capture some of your stormwater runoff and you don't let it go over the curb, why wasn't that done. If you go back long enough and it's probably 25 or 30 years ago, I've been doing this for 51 years, so I've got a pretty good history of what progressed. When the City brought in what's called the rain tax, it's the stormwater assessment that everybody has on their property taxes. When it was first brought in, if you captured all of the runoff on your lot and didn't let any of it go off-site, you were exempt from the rain tax until about two or three years later. Then the people that were on the City Commission at that time said we can't let that happen, so they changed that ordinance. I mean, this is the reason for that.

Mr. Clegg: Is that something you're proposing for this property to collect all of your stormwater?

Mr. Cambensy: You could do that.

Mr. Pelto: We're one of few places, quite honestly, that has green space around it. If you go up and down that street, you'll find that you have gravel driveways. Maybe they're, let's just say they're paved driveways.

Mr. Clegg: Those are different. There's impervious and pervious.

Mr. Pelto: Okay. Well, let's say paved driveways. Let's say you have paved driveways there. You got the house right there and then you have the lot line. You have no green space on this side. In the front yard, we have just a little sliver of grass in the front. Then you have your backyard because it's the same backyard. They're all 140 feet.

So, I think one thing to remember is that we're providing more green space, more area for the runoff than 70 or 80 percent of the homes in that whole area. If you can picture that, that whole area, you look at these lots, most of those lots are 50-ft lots or two 25's together. The other thing is, if we wanted to put an office, which I do want to put next door, we could have that whole front yard paved, but we're not doing that, we want to make it aesthetically pleasing, but also practical to be able to get in and out of the garage. We're not asking for the world. I mean, I know there's been houses over on Cedar Street that I mean they built right to the lot lines and you guys went through probably a heck of a variance request and everything else. I mean, you had the whole neighborhood here. I'm not asking for that. As you can see, I do not think that anyone from the neighborhood had an issue with this. I think what we're doing is trying to put something nice on that corner, something that not only I'm going to be proud of, but the city will be proud of, too. That's what we're trying to do.

Ms. Landers: I just have one correction regarding the office building, that is where for commercial uses you have to provide stormwater calculations and how you're capturing that on the parcel. So that's where the commercial and residential are different.

Mr. Pelto: Right. But again, he said the duplex, too. If we put in a duplex, if I put the apartment downstairs, it wouldn't meet it.

Mr. Clegg: I can speak about that as a planning commission member. There are bonuses. We have dearth a of multi-family homes in this city, and we elected to provide bonuses for those percentages to allow people to more easily build duplexes at a reasonable size.

Ms. Landers: Plus, it requires more parking.

Mr. Larson: Yeah, and that's where my speculation, though, of this 30 percent is different than Bob's. I don't know who wrote it because we already have an impervious surface requirement that's separate from the front area requirement. They're completely independent. I think it's a green space requirement. They're trying to provide additional green space for the residential with the front area because the impervious surface is carried in a different part of the ordinance and the driveway is affected by that, but that's where we're just over by a slim margin. So, to me, I think when you take into account the effects of this parking lot versus the ordinance, it's more of a visual green area cause the impervious surface is a calculation for drain water and so forth. It's not the driveway. That's the way I kind of speculate the ordinance. You know what I'm trying to say? So, I think when they wrote the 30 percent, it was more of a contextual green space versus a driveway cause it doesn't even include sidewalks in that. That's why I'm thinking that maybe there wouldn't be objections. We have more driveway, but it's a functional requirement for the three-bay garage and also to turn around.

Mr. Clegg: Well, true, but I think we're losing sight of the fact that this is a new building and it's your design and choices as a three-car garage. If you had a two-car garage, this would not be an issue.

Ms. Hill: Or a tandem.

Mr. Larson: Sure, I know that.

Mr. Clegg: I do not see this being a practical difficulty because of the choice of what you're designing.

Mr. Larson: But he's got a three-bay garage. That's a programming element he should be able to have. It just doesn't make sense to me.

Mr. Pelto: One thing, Kevin, is I've been in real estate for 50 years, older than you've probably been alive, and right now, I mean, if you look at new homes that are being built, almost every single one of them has a three-car garage. If you're looking at the marketing of homes.

Mr. Clegg: I'd like to see one built in the City of Marquette that is a three-car garage. Can you point to a single-family home with a three-car garage in the City of Marquette?

Mr. Pelto: Yep. The ones behind Econo in the Swadley development. Almost every single one of them has a three-car garage.

Mr. Clegg: How big are those lots?

Mr. Pelto: I honestly don't know. I honestly don't know, but that's where the market is, Kevin, right now, and it's not only today, but it's tomorrow. It's more and more people. When I was growing up as a young guy, my dad built a house on Fair Street. He was the only one to build a two-car garage. Everybody else had a one-car garage, so times have changed. We've gone from one to two, to now three. People even have more than three. I mean, they have, whether they have a two-car plus another additional two-car or they have a three-car plus an additional one, too. I mean, it's all over.

Mr. Clegg: But the Marquette County Land Bank Authority just did a target market analysis and most of what people are looking for are not three-car garage homes. They're looking for townhouses and two and one-bedroom houses. We just approved a building at Hemlock Park. It's an apartment building with largely two and one-bedroom apartments and those are the ones that get filled up like that. That is not where our city is going. That is not where the market is at.

Mr. Larson: Well, another thing about it is even if it went down to a two-bay garage, you could still have the difficulty of backing out and turning around.

Ms. Wright: So the condos next to the new condos that are always having all that problem. They have one-car garages, and everybody has a car parked in the driveway beside the car that's in the garage. Everybody has one car in the driveway.

Mr. Larson: And it's not entirely the three-car garage, too. Even if a two-car garage, it's still going to be restrictive with that, taking that 400 square feet off of that in my opinion anyways.

Mr. Patrick: Aren't there some areas where people have been denied a garage or a drive because they had to back out onto Third Street?

Ms. Landers: The only thing that commercial and multi-family residential, you're prohibited to back out. Single or two-family residential are allowed to back out onto the street.

Ms. Wright: My daughter has a three-car garage and so does their neighbor and they live on Marquette Drive.

Mr. Clegg: Is that a new build?

Ms. Wright: No.

Mr. Pelto: Well, that's been 40 years old.

Mr. Larson: Dictating what the city wants shouldn't be an issue anyway.

Mr. Clegg: It's not.

Mr. Larson: Okay.

Mr. Neumann: Question for the applicant. So, the driveway is 20 feet wide.

Mr. Pelto: Correct. We could have gone up to 24 feet, but we put it down to 20. We're allowed to go up to 24.

Mr. Neumann: You could certainly go narrower, right? What's the minimum opening for a driveway?

Ms. Landers: We allow any residential lot size to have 18 feet minimum, but people do go to 10 or 11 feet, but I think 18 is reasonable. It allows for maneuvering in and out. 18 feet width is what we allow for up to 60-ft wide lots, and then when the lot width is more than 60-ft, you're allowed up to 24 feet wide.

Mr. Larson: Yeah, and the interesting thing is, is that, if it's my understanding, you could run that 24-ft drive across the whole lot.

Ms. Landers: Yes, you only get into the 30 percent front yard coverage requirement when you're widening within the front yard area.

Mr. Larson: Yeah, so there's another thing that's discontinuous to the drainage issue. In other words, we could have that whole thing go back and build something tiny in the back and have a 24-ft wide driveway, but you're right. If we did narrow that, we're kind of inching closer to the 30 percent, I would suppose, but I'm not sure what Steve would be willing to do as I think he came up with this design because that would dictate the turnaround.

Vice-Chair Hill asked if there were any more questions for the applicant. There was not, so she stated it was now time for the Board to deliberate.

Mr. Patrick stated looking at our required standards of review, and he 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;*

Mr. Patrick stated this lot is somewhat awkward because it was platted in 1880.

Ms. Hill: For number (a), I would not agree with you because they are making a new lot out of it. It's not an existing lot anymore.

Mr. Clegg: I agree with Kristina.

Mr. Neumann: I agree. The lot is, if anything, bigger than a lot of lots that we do deal with, right, at 70 feet.

Mr. Pelto: But as I said, we're making three lots into two.

Ms. Wright: I agree with Mr. Patrick on (a) because it is a special unique lot.

***(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;*

Mr. Patrick stated he had trouble seeing where that is applicable.

Ms. Hill said the unfortunate thing is, yes, when you're in a mixed-use zoning district you can have different use types like multi-family and commercial. They have different requirements, but we have to look at this request as a single-family home, and the requirements for that and those requirements are being exceeded here. Even though there are adjacent properties where, yes, the pavement is right up against the lot line, they are different building types. They're multi-family, commercial, not residential.

Mr. Neumann: We'd also consider many of them nonconforming, so they were created at a different time under different standards and are allowed to continue but, if they were to be modified, if the applicant or if another homeowner was proposing an addition, then it would need to be brought into compliance with the code at that time. Yeah, (b) I think holding to the Ordinance in this case does not deprive the applicant of rights that are common throughout the district.

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

Mr. Clegg: I think it's hard to say that it doesn't because the lots were modified.

Ms. Hill stated yes, and there is a choice on the garage size, the configuration, and the amount of concrete. There are areas I can see where concrete could be reduced. I think the one variance that could be eliminated is the overall impervious lot coverage variance. There are ways to cut them out of concrete or provide a pervious surface in some of those locations to cut it back. You don't necessarily have to have full concrete the whole width, especially that part in front of the man door, some of the little edging.

***(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;*

Mr. Patrick stated was unsure.

Mr. Neumann: Well, this one, is the applicant enjoying a privilege that isn't commonly enjoyed by others by granting the variance, and I think there is that privilege granting the variance in this instance.

Ms. Wright: On that one, it would be a little different because most homes that would be built now would not be on that tiny little lot. What we're talking about is behind Econo Foods are huge lots so those people, of course, would have a lot more land to be able to do that with.

Ms. Hill: That's part of the land size. I wouldn't expect to put a house of this size on a small lot.

Ms. Wright: This is a small lot.

Ms. Hill: But it's normal in any circumstances to look at the zoning and say I got to fit within this. That happens in everyday practice.

Mr. Patrick: There are a lot of homes in Marquette old homes and existing homes that if you went and looked at them the homes wouldn't meet the standards that we're holding him to, that they're asking for here that (d) expects.

***(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.*

Mr. Patrick: I do not think we've done that. I think we're okay on (e).

Mr. Clegg: I think the applicant made arguments about his neighboring properties and how if they are nonconforming, he should be allowed to be granted this variance and I think that that is not accurate. I think this is not met.

Ms. Hill: I agree with Mr. Clegg.

***(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;*

Mr. Patrick: We're not supposed to pay attention to financial reasons. We're just feet and inches.

Mr. Neumann: I mean, the question is, does a less impervious surface create an unnecessarily burdensome situation in using the property?

Mr. Patrick asked what if he graveled all this instead of paved it.

Ms. Landers: Gravel is still impervious.

Mr. Neumann: Pavers, though, different hard-surface pavers are considered pervious.

Ms. Landers: There are pervious pavers that are out there.

Ms. Wright: Which one of the variances would that be?

Ms. Landers: The maximum impervious coverage of the lot.

Ms. Hill: If they did do a pervious paver that would take away from the impervious percentage, would that still count towards the front yard coverage variance?

Ms. Landers: If it is in the front yard area and even if they went with pervious materials for that 9.31 percent of the area, the code doesn't allow for staff to consider that as not a hard surface, so they would still have to come here going for a variance as pervious materials still fall under the hard surface definition. They did not want someone to cover their whole front yard with pervious pavers and use the entire area as parking. They would be meeting that other variance of the maximum lot coverage.

Mr. Cambensy: What is the definition of the front area? How is that spelled out in the ordinance?

Ms. Landers: You have it drawn up correctly. It goes from the curb into the front line of the dwelling and then, because it's a corner lot, it talks about how you're allowed to use that extra front area that you're using from Presque Isle.

Mr. Cambensy: So, the wording is hard-surface coverage.

Ms. Landers stated we consider pervious materials still hard surface because it is still somewhat of a hard surface. With a hard surface parking definition, you are allowed pervious materials. So, I mean, if that's where you guys are looking at, you'd have to talk to the applicant about that.

Mr. Cambensy: The question is how it's defined. I mean, because you're allowing "pervious pavers" as far as the other variance goes. I think you can see what I'm getting at there. If it's not defined and you're just as a staff member...

Ms. Landers: No, it is defined in the code. That's what I'm saying. The pervious pavers fall under a hard-surface parking definition. That's something we have to look at if the Planning Commission and the City Commission would like to say you can over the 30 percent with pervious pavers or something like that. That's something that would have to be discussed for an ordinance amendment.

Mr. Patrick stated this is supposed to be the board discussion part. I think we talked (f) to death.

*(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);*

Mr. Patrick said he thinks that is correct. It would do substantial justice to the applicant and the other property owners in the district.

Mr. Neumann: I think that one you could argue is satisfied.

Ms. Hill agreed.

Mr. Neumann: The variance is not extreme where neighbors would be severely impacted. I think that's what that's getting at, is it fair to both the applicant and to neighbors and perhaps that is.

*(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.*

Mr. Patrick: This one is met.

Ms. Hill: Agreed.

Mr. Neumann: Agreed.

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

Mr. Patrick stated he agrees with that.

Ms. Wright said she also agreed.

Mr. Patrick: A smaller driveway is going to be awkward. You're going to be backing and pulling a couple three times to get out of there with a smaller driveway.

Mr. Clegg: I think it comes back down to their design choice. If they put a different building on this, this would not be an issue.

Ms. Hill: I would agree with you on that.

Mr. Clegg: We're not dealing with an existing building that they're trying to modify or change. They're trying to go from the ground up.

Mr. Patrick: You don't want to do a different building. Somebody else should build that.

Mr. Cambensy: You're building the home to live in.

Mr. Peltó: He just answered that. He said we're not building the home to sell. I'm building the home to live in. Just to let you know, Kevin, we're getting older. I'm 68 years old. Part of the design is they have an elevator. I have a bad back right now. I'm hoping I don't have to have surgery. The doctor told me that if I do, he said it's going to his words "suck" because you have to go through the stomach to the side and the back. So, I'm looking for the future and that's why we have an elevator set for inside of this, nothing fancy. Basically, down the road, if something happens, I have an elevator and will be able to get up and down. Like I said, we're not trying to do anything out of the ordinary.

Mr. Patrick: This is the board discussion and I am in agreement with (i). How about the rest of the board?

Ms. Wright: I think this met.

Mr. Clegg: I do not.

Ms. Hill: I do not.

Mr. Neumann: That earlier standard is related to whether it's a self-created situation and the Land Division, that sets the denominator essentially given the size of the parcel. That's another choice, individual choice, which would affect just what is minimum. So that one is, I think, arguable. It's not 10 percent. It's 1 percent and 9 percent or whatever it is.

Mr. Patrick: Okay, they could've been asking for a lot more.

Mr. Neumann: Yes, they could've been asking for more, sure.

***(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.

Mr. Patrick: I guess we're okay there and I know we're not that concerned with aesthetics, but think about the old warehouse that was there before. That was no beauty.

Ms. Hill: I do think it's weird that the hard surface definition would include pervious is where I kind of don't agree with the land development code all the way. Unfortunately, I just have to follow it as part of why we're here. I do think that there are ways to reduce the concrete amount and at least avoid one of these variances. It would not reduce the second one, but it would reduce the first one and if we're talking about stormwater runoff and all of that, if we're reducing concrete, that is always better.

Mr. Patrick: We're not supposed to suggest to the applicant that you do this or you do that. We're supposed to say yes or no and if we say no, then you decide.

Ms. Hill: We have approved with conditions.

Mr. Patrick: That's true.

Ms. Landers: Per the previous City Attorney, you would have the option of saying something like the applicant requested an X amount of variance, which the facts show is not appropriate. However, an X variance is warranted and you can add conditions, reasonable conditions, to things as well. You do have the authority to do something like that. You can go less, you cannot go greater.

Mr. Neumann: Right.

Ms. Wright: In one of our meetings, we could tell the applicant to see if they could come up with something better for the next meeting without having to pay the extra money. I think that was the hotel. Remember when we told the hotel that they could go and why don't you come back next month and come up with a little bit better so that we wouldn't have 4 feet, we'd have 2 feet?

Ms. Landers: That also could be a discussion. For instance, you know Robert's Rules, you could postpone a hearing, but you'd have to say why you're postponing the hearing, what you need them to bring back, and for that hearing for what date.

Ms. Wright: Right, so they could come back with the pervious pavers and then we wouldn't be looking at that anymore and maybe they could cut out 9 percent, go to 4 percent, but they'd have to go back and do their homework and come back next month.

Ms. Landers: Also, you could tell them what happens if some of the front yard if they put pervious materials as well even though they'd still have to go for a variance, or if that is more reasonable with the green space argument, etc.

Ms. Wright: Ok.

Mr. Patrick: They could reduce the size of the driveway and drive all over the lawn and run it up when you have a day like this when it's wet.

Mr. Pelto asked can you ask the applicant if there are questions that are things that we can do.

Ms. Landers: It's up to you guys.

Mr. Clegg: Madam Vice-Chair?

Ms. Hill: I get it because I work for an architecture firm. I read land development codes for multiple cities. I get that they don't always make sense. It's part of the reason why I like being on this board. Do I think you can really reduce the amount with a three-car garage? There are some areas, yes. I do think we could try to reduce it at least by 145.35 S.F. to get rid of the one variance. I think that's more than reasonable. I do think Marquette has difficulties like many other older cities that have small lots. It is now a bigger lot, so I think there are ways that we can reduce the amount of variance needed in this case and that's kind of where I feel now. And I know we want to talk about health and safety, and that is very important, but we have to just read the zoning code as is, unfortunately.

Mr. Patrick: Would somebody like to make a motion to either approve or deny and then we'll know if we need to carry on any further?

Mr. Pelto: You'd asked about if we're willing to make some changes and I wanted to say I'm willing to do something. Like I said, we tried our best to do what we could, quite honestly. I mean, this has been worked on for six months. It's not something that we just dreamed up last night. I mean, we've done a lot of work. Andrea made it best to go through the City to get the lot split and everything else to make sure that it was right. We went from a 62.5-ft lot to a 70-ft lot to make the green space better, but if we needed to take off 2 feet coming in from the driveway, that's something I can live with. I don't know how much that's going to make a difference. I mean, let's, if we can use a calculation, I want to work with you guys, but I need to as you know, it's building season, get going on things. I need to know what's going on and I've been waiting, like I said, unfortunately, for many months now to get going on this and I want to move forward. I want to work with you guys. Like I said, we've tried our best. We've done very well. As you know, John has been in contact with Andrea. Bob has been in contact with Andrea. It's not like we're trying to pull the wool over somebody's eyes. Like I said, coming in, if 18 makes you happier, that's fine. If we shave a foot off the top or something or a foot off somewhere, that makes it closer. I can live with that. I just really need to try to move ahead.

Ms. Landers: To make it clear, the applicant is currently not asking to postpone it.

Mr. Pelto: Yes.

Ms. Wright: If he went with the pervious pavers and we wouldn't be looking at that and then he'd shave off a certain amount of something of concrete, he would only go back to you because we put a number on it.

Ms. Landers: Depending on the motion that you guys make.

Ms. Wright: So we would say instead of 9 percent, we'd say 4 percent and if he made the 4 percent, he'd just go to you and that would be the end of it.

Ms. Landers: Yes, and that could save him from coming back to another meeting.

Mr. Larson: Can I say one thing? The impervious paver includes the whole terrace on the east, too, so there is some flexibility there, correct?

Mr. Pelto: I guess what I'd like to do is try to see if the board is more concerned about the concrete in the front than you are about the 9 percent of the overall space being used. Is that correct? I mean, am I wrong or right?

Mr. Patrick: I'm not concerned about either one. If I made a motion to approve it and the motion fails, then can we go back and put conditions and revote?

Ms. Landers: Yes, if someone else wished to make another motion, they could.

Ms. Hill: Per our discussion, not all of us stated they met all of the items.

Ms. Landers: Per the code, you have to have a finding of fact that the request meets all the items (a) through (j). So if you have a majority of people that said there was one that did not meet, your motion's going to fail.

Mr. Patrick: But we don't all have to agree with all of them, just the majority has to agree with all of them.

Ms. Hill: There were a few that we all did not agree with.

Ms. Landers: In this respect, it might be nice to hear from the applicant exactly what they would be willing to do and then you guys can discuss if you felt the changes that they would make could meet all items (a) through (j).

Mr. Pelto: What would reducing from 20-foot wide to an 18-foot wide drive do? Do we know Andrea, or John, or Bob? How many square feet?

Mr. Patrick: So, it'd be 2 feet x about 20 feet.

Mr. Pelto: Right.

Mr. Patrick: So, it's maybe 20 or even 20, 10.

Ms. Hill said that's 10.

Ms. Hill: I would say 30 x 2 feet. That's 60 square feet.

Mr. Pelto: Okay, we can put a sidewalk from the garage over. How about if we, what if we take a foot or so off that far right-hand side there, George?

Mr. Patrick: Yeah, what if you did this and then came out there so you got some pavement to get in the door?

Ms. Hill: Yes, that's kind of what I was noting earlier cause you have the whole man door. You take away that 5 feet for the sidewalk, so it's 30 feet up there minus that 5 feet, that's 25 feet. In front of that man door is probably 5 feet. You could probably cut off 25 x 5 feet. That's 100 square feet right there.

Mr. Larson: And then, Andrea, if I'm not correct, that sidewalk isn't included, too, right?

Ms. Landers: If you don't have a driveway there and you just have a sidewalk going in, it would not be included.

Mr. Larson: Yeah, okay.

Ms. Hill: So that's even more. I mean those two things get rid of the one variance altogether. So, 60 plus, what did I say, 100, and then you said in front of the man door wouldn't count?

Ms. Landers: Correct, it wouldn't count.

Ms. Hill: So, then that's 5 x 30.

Mr. Larson: Yeah, it would be similar to that return on the bottom.

Ms. Hill: Plus, the 60 so now you're at 210 and you're now almost halfway.

Ms. Wright: So, instead of 9 percent, we'd have 4.5 percent.

Ms. Hill: Yeah, then you're halfway down from the 9 percent almost and you get rid of the first variance.

Mr. Pelto: I want to work with you guys. Will that work?

Mr. Neumann: So yeah, so not to exceed 5 percent?

Ms. Hill: Yes.

Mr. Patrick: Then they can decide where to take it from? We don't have to tell them.

Ms. Wright: Yeah, we don't have to do anything. As long as they come up with the 5 percent.

Mr. Patrick: Take about half of the variance away.

Ms. Hill stated yeah, 5 percent max. It would also get rid of the first variance.

Mr. Patrick: Are there any drawbacks to putting in pervious pavers? I'm really not familiar with them.

Ms. Landers: They're made of different materials, too. They got recycled plastic, concrete, etc.

Ms. Hill: I had this conversation on a call with a civil engineer today. Developers overall when they're looking at a building to keep for 50 years cause they're always looking at the cost of it, sometimes developers don't like it because they might not hold up like concrete but eventually concrete's going to fail, too.

Mr. Patrick: I mean, how do they do with snowplows on them?

Mr. Pelto: I have a friend that had pavers and it's a nightmare when it comes time to, whether you're using even a snow blower or you're having to plow or something like that, those pavers keep coming up and they're all over the place and plus you get the up and down shifting, especially down there because, as you know, that was called the swamp. These things are going to move. I don't care what you do, what fill you have, you're going to have movement.

Mr. Pelto: Yes, if we can have instead of 9 percent 5 percent, I can definitely live with that if that's what you're saying.

Mr. Cambensy: The only question I have is if you put a hard percentage on it and you work at it and you can get it down to within a little bit of that...

Mr. Patrick: You'll get it. You have a surveyor and an architect.

Ms. Hill: Yeah, I mean, getting it from the 9.31 percent down to the 5 percent I don't think is going to be as hard as you think.

Ms. Wright: Yes.

Mr. Larson: I think you're right.

Mr. Neumann: I would like to make a motion.

*It was moved by Mr. Neumann, seconded by Ms. Wright, and carried 5-0 that after conducting a public hearing and review of the STAFF REPORT/ANALYSIS for 01-VAR-06-24, the Board of Zoning Appeals finds that the request as presented does not demonstrate the standards found in Section 54.1404(B)(5)(a. through j.) of the Land Development Code. The applicant requested a 9.31% front area hard surface coverage variance and a 1.48% impervious surface lot coverage variance, which the facts show is not appropriate; however, a 5% front area hard surface coverage*

*variance is warranted by the facts and demonstrates the standards found in Section 54.1404(B)(5) (a. through j.) of the Land Development Code, and the Board of Zoning Appeals hereby approves 01-VAR-06-24 with the amendment for a 5% front area hard surface coverage variance.*

## **NEW BUSINESS**

### **2024 BZA Presentation to the City Commission**

The board discussed the presentation and the items they wanted to add to it.

## **ADJOURNMENT**

The meeting was adjourned at 8:34 p.m.

Respectfully Submitted,

A handwritten signature in black ink that reads "Andrea Landers". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

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