

**CITY OF MARQUETTE
BOARD OF ZONING APPEALS
OFFICIAL PROCEEDINGS
August 1, 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, August 1, 2024, located in Room 103 of the Municipal Service Center, 1100 Wright St.

ROLL CALL

Present: Chair Ms. Dombrowski, Mr. Patrick, Ms. Wright, Mr. Clegg, and Zoning Official A. Landers.

Absent: Mr. Neumann and Vice Chair Ms. Hill.

MINUTES

It was moved by Ms. Wright, seconded by Mr. Patrick, and carried 4-0 to approve the minutes of July 11, 2024, with the correction of fixing the misspelling of Ms. Dombrowski's name on Page 9 and adding a "w".

ADDITIONS TO OR DELETIONS FROM THE AGENDA

It was moved by Mr. Patrick, seconded by Ms. Wright, and carried 4-0 to approve the agenda with the addition of 2 pieces of correspondence for 02-VAR-08-24.

PUBLIC HEARINGS

02-VAR-08-24 – 121 E. Hewitt Ave. (PIN: 0330080): Lynne Mestnik is seeking a 2-ft 1-in fence height variance, and a 50% open construction fence variance from the City of Marquette Land Development Code to allow a 73-inch-high closed construction fence located in the side yard.

A. Landers: The Board of Zoning Appeals is being asked to review an application for a 2-ft. 1-in. fence height variance, and a 50% open construction fence variance from the City of Marquette Land Development Code to allow a 64-in. to 73-in. high closed construction fence with a portion having lattice located in the side yard at 121 E. Hewitt Ave. On May 15, 2024, the Planning/Zoning Specialist sent an enforcement letter for a fence that has been reconstructed and the city does not have a fence permit on file for the construction. On May 29, 2024, the property owner submitted a fence permit, however, staff reviewed it and found that it did not meet the code. The homeowner decided to submit a variance application. Visuals of the staff report, and attachments were shown.

Lynne Mestnik, the applicant at 121 E. Hewitt Ave.: I purchased the house in early October of 2022. We had a storm this year in May, and a tree and debris fell on the fence. When we went to repair that section of the fence, the rest of the fence had

collapsed. I do not believe it was constructed very well, and the previous owner did not pull a permit for that fence. We are just working to improve the house, fence, and yard. We put the new fence up with the same style and construction that was there previously, to match everything else. It was my error; I did not know a permit was required and the fence did not meet the code requirements. I found that out when I received the enforcement letter.

Nicholas Mestnik, 16705 Holli Blue Rd, Champion, Michigan: I would like to add the storm was the cause of breaking the original fence, however, as stated the original intent was to fix it, as the prices of lumber and materials are very expensive. Upon doing that several of the posts fell over when they were touched and we found that the original homeowner just set posts in the ground, never any footing or cylinders to make it a proper fence which is the whole reason it ended up falling. So, it was a combination of the storm and the original improper construction. The photo is a perfect display of the back side of the house where there is the same construction on that back panel, and it is beginning to fall apart due to not being installed correctly.

Lynne Mestnik: I walked around the neighborhood and in that section of town a lot of fences are like that.

Chair Dombrowski opened the public hearing for comment.

Karen and Alan Storck, 118 E. Prospect St.: Alan stated we have done some fence building ourselves, and we are fine with the request. We just wanted to show up and see how this works. Karen stated we can understand this request under the circumstances considering there is a party store close by and the fence is very far away from the sidewalk area. Also, this property is well-kept.

No one else wished to comment. Chair Dombrowski closed the public hearing for comment.

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;*

Ms. Dombrowski: Where the house sits on the lot in comparison to the house that is next door, so their backyard is really far back. Anyone else with a reasonably placed house would have more of a backyard.

(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: The request meets this.

(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: The falling tree is not a result of the actions of the applicant.

Ms. Dombrowski: The fence already being there and blocking the dirt driveway, is not the result of the applicant.

(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: This is met.

Ms. Dombrowski: Looking at the code we are not granting a special privilege outside any normal realm of wanting to have a fence.

(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 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: I would hate to have to keep seeing the cars go by on a dirt driveway if it was my neighbor, you lose your privacy if you had an open fence.

Ms. Dombrowski: Replacing something that already existed is a little bit different than putting up a fence and saying that I had no idea there could not be this type of fence there. It also looks like the backyard at this point, too.

(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. Dombrowski: As stated by the adjacent property owners, it fits within that realm.

Mr. Clegg: The adjacent property owners seem to think that substantial justice would be done.

(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. Dombrowski: We can easily say there would be no impact, as that fence was already there with no issues.

Ms. Wright: With the location, it will not impair any supply of light or air.

(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. Clegg: They are not making it taller than it was originally.

Ms. Dombrowski: It is in the side yard and not in the front yard, so it is the minimum necessary.

(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 purpose and intent of the Land Development Code is to make a livable community where people can have their properties and live neighborly next to someone too. Again, it makes a difference that it already existed, and now there is a written agreement with the neighbor.

It was moved by Ms. Wright, and seconded by Mr. Patrick, and carried 4-0 that after conducting a public hearing and review of the STAFF REPORT/ANALYSIS for 02-VAR-08-24, 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 02-VAR-08-24 as presented.

ADJOURNMENT

The meeting was adjourned at 7:28 p.m.

Respectfully Submitted,



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