

**CITY OF MARQUETTE
BOARD OF ZONING APPEALS
OFFICIAL PROCEEDINGS
September 5, 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, September 5, 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, Mr. Neumann, and Zoning Official A. Landers.

Absent: Vice Chair Ms. Hill (not excused).

MINUTES

It was moved by Ms. Wright, seconded by Mr. Clegg, and carried 5-0 to approve the minutes of August 1, 2024.

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 with the addition of 1 piece of correspondence for 03-VAR-09-24.

PUBLIC HEARINGS

03-VAR-09-24 – 417 E. Magnetic Street (PIN: 0390380): Thomas and Katherine Horton are seeking a 2-ft fence height variance, and a 50% open construction fence variance from the City of Marquette Land Development Code to allow a 6-ft high closed construction fence with a portion having lattice located in the front and side yards at 417 E. Magnetic Street.

A. Landers: The Board of Zoning Appeals is being asked to review an application for a 2-ft fence height variance, and a 50% open construction fence variance from the City of Marquette Land Development Code to allow a 6-ft high closed construction fence with a portion having lattice located in the front and side yards at 417 E. Magnetic Street. Visuals of the staff report, and attachments were shown.

Correspondence against the request from Dierdre and Alec Lindenberger, 414 E. Magnetic St, was read into the record.

Ms. Dombrowski: Asked staff to indicate where on this property the applicant could have a 6-ft high closed construction fence.

A. Landers stated the code defines yards for fences in relation to where the main structure is located. She showed the rear yard on the screen and the only portion of the

parcel that can have that type of fence.

Mr. Patrick: Did the correspondence from 414 E. Magnetic Street interpret the request accurately?

A. Landers: No, the proposal is not to enclose the front yard, they are asking to have this fence in the side and front yard but only up to the rear of the garage and only along one property line.

Mr. Neumann: Asked for the aerial photo to be shown. The neighbor's fence to the west is also 6 feet high and is similar.

Ms. Wright: Who owns the chain link fence?

Mr. Patrick: Is the chain link fence going to be removed?

Kathy Horton, the applicant at 417 E. Magnetic Street: We are asking for your approval on these variances to build a 6-ft high white vinyl fence starting at the back of our garage and going to the back of our lot. The neighbors to the east have approved of it and feel it would give them more privacy, and it gives us more privacy. The neighbor to the east owns the chain link fence and they would be taking their fence down and we would place ours. The back of their garage faces our backyard, and we see all of the extra stuff that most people put behind their garage. The house to the west of us is exactly where ours would start. We moved here 8 years ago and remodeled the house, improving the outside and the inside, and this is one more addition that we would like to have you approve. The house to the east of us can have the very same fence in the same location that we are requesting.

Ms. Wright: Did the neighbors to the west have to get a variance?

A. Landers: No, because the fence starts at the rear of their home. She also showed on the screen that the neighbor to the east was a corner lot and explained how their rear yard works, and yes, they could have the same fence in that location due to being their rear yard.

Mr. Neumann: Do you plan to place a gate there to connect to the garage?

Kathy Horton: It is going to be open; we have a gravel walkway on the side of our garage, and there is no reason to put a gate or connect to the garage. Their deck overlooks our patio and vice versa, so this is more of a privacy and aesthetic thing.

Ms. Dombrowski: There is not much space between the back of your house and the rear fence line, correct?

A. Landers: It is about 35 feet from the home to the rear lot line, using the scale on the map.

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

Chair Dombrowski closed the public hearing for comment.

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: They have a unique circumstance with the location of the home.

Mr. Neumann: Agree, you have a house and a detached garage that are swapped compared to what you would typically see in a historic neighborhood.

(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. Neumann: We just heard the property to the east could request the same fence and location with no need for a variance.

(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. Patrick: The house was built a long time ago, so this is not a result of the actions 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;

Ms. Dombrowski: This is not a special privilege because the neighbor could put this fence up.

(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: We are not comparing it to another property to say it is ok or not.

(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. Dombrowski: Their backyard is quite small, and most people have the luxury of having their house up front and having a big backyard.

(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. Neumann: This would provide substantial justice to the property owners and not overly burden the property owners. If anything, the fence to the west would place some burden on the property owner given the placement of the homes. It provides a benefit to the property of the east with the location of their deck and interest in privacy.

(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: This will not have a negative impact.

(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. Dombrowski: This is a minimum request. To me, it is like they are requesting to build off the back of the house except it is off the back of the detached garage.

Ms. Wright: With the neighbor's deck up higher the height request is minimal.

(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: Yes, it will.

It was moved by Ms. Wright, and seconded by Mr. Neumann, and carried 5-0 that after conducting a public hearing and review of the STAFF REPORT /ANALYSIS for 03-VAR-09-24, 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 03-VAR-09-24 as presented.

ADJOURNMENT

The meeting was adjourned at 7:23 p.m.

Respectfully Submitted,



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