

**CITY OF MARQUETTE
BOARD OF ZONING APPEALS
OFFICIAL PROCEEDINGS
October 5, 2023**

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, October 5, 2023, located in Room 103 of the Municipal Service Center, 1100 Wright St.

ROLL CALL

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

Absent: Mr. Neumann (*excused*)

MINUTES

It was moved by Mr. Patrick, seconded by Ms. Hill, and carried 5-0 to approve the minutes of August 3, 2023, as presented.

ADDITIONS TO OR DELETIONS FROM THE AGENDA

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

Ms. Hill declared a conflict of interest for the first case, as the company she works for is representing the applicant. She left the meeting room.

PUBLIC HEARINGS

06-VAR-10-23 – 1148 W. Washington St. (PIN: 0513740): 3Gen Marquette Holdings LLC is seeking a 3-ft fence height variance, and a 50% open construction fence variance from the City of Marquette Land Development Code to allow a 6-ft to 7-ft high closed construction fence located in the front yard at 1148 W. Washington St.

A. Landers stated the Board of Zoning Appeals is being asked to review an application for a 3-ft fence height variance, and a 50% open construction fence variance from the City of Marquette Land Development Code to allow a 6-ft to 7-ft high closed construction fence located in the front yard at 1148 W. Washington St. Visuals of the agenda packet were shown.

Ms. Wright asked staff to point out the residential area on the map. A. Landers showed on the map that the residential area is to the north of this property.

Ms. Dombrowski asked staff to explain if they were to build the fence to code what that

would be. A. Landers stated due to this being a front yard it could not be more than 4-ft high and has to be no more than 50% open construction. She also stated then you have the other part of the code that you have to screen your outside storage area, so the only other option is to enclose it with a building addition.

Chair Dombrowski asked the applicants to present the project.

Josh Dawson, Myefski Architects at 857 W. Washington Street and representing the applicant, stated the intricacies of why we are applying for the variances is because of the 50% rule and the height. He stated that one of the sections of the code state for a storage area the minimum height for a fence area is 6-ft, so we are running into contradicting code. He also stated that the maximum height for a fence in a front yard is 4-ft but then storage areas are restricted to a minimum height of 6-ft, so we could not build a fence that would meet code for the outside storage use in this location. He stated if this was a rear yard then they would be able to meet code, and normally this would be a rear yard if Ridge Street was not there and due to that, this lot has two fronts as it is a through lot. He stated a lot of the Ridge Street properties in this area due kind of treat this as a rear yard, in fact including when this building was originally constructed when you take a look at it, it is obviously treated as the rear of the building. He also stated working with City Staff we had come up with a solution of putting up an addition to the building but at that time from our understanding from previous surveys that Whetstone Creek ran along the south side of the property parallel to Washington Street. He stated we had a new survey done which shows Whetstone Creek is actually on the North side of the property, so we are trying to avoid having to do an addition over top of the creek. He also stated putting in a fence area is the least amount of impact over the Whetstone Creek, and the easiest to work on it, if something was to go wrong with it in the future. He stated also there are certain materials that L&M sells that cannot be placed inside a building because of the bulk nature of the products. He stated so those are our reasonings for requesting these variances.

Mr. Patrick asked if the entire area is paved. Josh Dawson stated yes, the entire proposed fenced area is currently paved, and we would fix the cracks, etc.

Ms. Wright asked if they would be bringing trucks into the proposed fenced area. Lee Sargent, Director of Store Operations for L&M Fleet Supply, stated it would just be forklift traffic. A. Landers also pointed out on the site plan the existing loading dock area. Mr. Patrick asked if there would be gates in the proposed fence area. Josh Dawson stated yes, one on the short end and two on the longer end.

Bromley Hall, Hall Contracting at 153 W. Washington Street, stated we are the contractors on the job and when the project was bid there was about a 15,000 S.F. addition it was not until after the bid and we were going through the building we noticed a bunch of manholes back there and heard running water, and realized that the Whetstone Creek was there. He also stated from what he understands this was done in the late 70s or early 80s and no easements granted through any of the properties that this runs through with private storm structure. He stated we were essentially awarded the project with the 1.3-million-dollar addition to the north side, it was not until we discovered the creek, then the variance was considered. He also stated so they had

ever intention to build the addition however, after they discovered the creek that the hardship of moving something like that would involve EGLE and not move very fast to begin with. Ms. Wright asked who maintains it. Bromley Hall stated that is a good question due to no easements it would have to be the private owners where it runs through the property. A. Landers stated that she can provide some information. She stated at the Office Max location sink holes were visible above the storm sewer line therefore the storm sewer was starting to deteriorate and fail, and the property owners had to get a permit from EGLE and fix the situation and it is a private storm sewer. Bromley Hall stated essentially that is the biggest factor regarding a practical difficulty and why we are asking for you to consider these variances.

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

Ms. Dombrowski stated that there are special conditions in that this property has two front yards and in changing it to not be enclosed makes sense due to the culvert going through there but wanting to protect the property is something that should be allowed. She also stated if one would strictly comply with it, I do not know where they would put it because there is no room on any other side. Ms. Wright stated and having two front yards, I always thought of this area as the rear yard as well.

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 yes very unique.

(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 most people have a rear yard, and due to this being a through lot they do not get to have one. He stated if it was a rear yard they could have the fence they are requesting.

(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 stated this is met, as it is not a result of the actions of the applicant. He stated the creek is already there.

(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 this is met.

(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 stated 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;

Mr. Patrick stated this is met.

(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 stated this is met.

(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 stated this is met.

(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 this is met.

(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 stated this is met.

Ms. Dombrowski stated recovery of a blighted area is important as well.

It was moved by Ms. Wright, seconded by Mr. Patrick, and carried 4-0 that after conducting a public hearing and review of the STAFF REPORT/ANALYSIS for 06-VAR-10-23, 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 06-VAR-10-23 as presented.

Ms. Hill came back to the meeting for the next case.

07-VAR-10-23 – 223 Genesee St. (PIN: 0050650): Sarah and Mark Hayes are seeking a 2.3-ft side yard variance and a 7.3-ft front yard variance from the City of Marquette Land Development Code to allow enclosing a portion of an existing unenclosed porch at 223 Genesee St.

A. Landers stated the Board of Zoning Appeals is being asked to review an application for a 2.3-ft side yard variance and a 7.3-ft front yard variance from the City of Marquette Land Development Code to allow enclosing a portion of an existing unenclosed porch at 223 Genesee St. Visuals of the agenda packet were shown.

Ms. Wright asked how wide is the lot. A. Landers stated 34-ft wide x 132-ft long. Ms. Hill stated and the minimum for this zoning district is 37.5-ft.

Ms. Dombrowski asked if they wanted a mudroom they would have to cut in to the home. Ms. Hill stated if the house was built with the exact same footprint, it seems like it could fit if the one side was at the minimum eight instead of the 9.5-ft. A. Landers stated it would have to be within the dashed line on the survey showing the required yard setbacks.

Chair Dombrowski asked the applicants to present the project.

Mark Hayes, the applicant at 223 Genesee St., stated we did not realize we needed a variance or permit because the porch was existing. He stated with the narrow lot size and how the existing house was built we do not have anywhere to put it to meet code and without a variance. Sarah Hayes, the applicant at 223 Genesee St., we are here because regardless this is the only way to create the structure and benefits our home and neighborhood, and that is why we are hoping to get the variance for this project.

Mr. Patrick asked Mark Hayes if he had completed the work himself of enclosing the existing unenclosed porch. Mark Hayes stated yes.

Mr. Williams asked if he had received a building permit. Mark Hayes stated no, that is what first triggered this, we did not know we needed permits. He stated once we received a letter that we needed a permit, we brought it in, and staff reviewed it and said we needed a variance as it did not meet code. He also stated we had a choice of removing the work or requesting variances from the Board of Zoning Appeals, and we chose the latter option. Sarah Hayes stated we consulted a builder to make sure we were doing it to the current building codes.

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

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 yes this is met, it is a narrow lot. Ms. Hill stated the existing home is already built into the setbacks.

(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 yes this is met.

(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 stated this is met, as it is not a result of the actions of the applicant. Ms. Dombrowski stated yes, as they did not build the house.

(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 this is met.

(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 stated 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;*

Mr. Patrick stated this is met.

(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 stated this is met.

(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 stated this is met.

(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 this is met.

(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 stated this is met.

Ms. Hill states she agrees, the house was already built and, currently a 34-ft wide lot is tough to build in.

Mr. Williams asked if the existing unenclosed porch met the current code. A. Landers stated the porch is 2.7-ft, so it does not meet the 3-ft allowed encroachment setback if it is an open porch. She stated an enclosed porch does not allow encroachments, so it must meet the 5-ft and 8-ft depending on which side. She also stated for the front, the code allows an unenclosed porch to encroach into the setback, but it must be at least 5-ft from the front lot line. She stated an enclosed porch must be 15-ft from the front lot line.

It was moved by Ms. Wright, seconded by Ms. Hill, and carried 5-0 that after conducting a public hearing and review of the STAFF REPORT/ANALYSIS for 07-VAR-10-23, 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 07-VAR-10-23 as presented.

ADJOURNMENT

The meeting was adjourned at 7:45 p.m.

Respectfully Submitted,



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