Saugatuck Zoning Board of Appeals Meeting - Amended
April 13, 2023, Minutes

The Saugatuck Zoning Board of Appeals
Met in regular session at 7:00 p.m.
City Hall, 102 Butler Street, Saugatuck, Michigan.

1. **Call to Order** by Chairman Kubasiak at 7:00 p.m.
   Attendance:
   Present: Chairman Kubasiak, Board Members Bont, Bouck, Crawford, & McPolin.
   Absent: None.
   Others Present: Director of Planning, Zoning, & Project Management Ryan Cummins, & Deputy Clerk and DPW Administrative Assistant Sara Williams, City Attorney Jacob Witte

2. **Agenda Changes/Approval of Agenda:** Approved.
   Motion by McPolin, second by Bont to approve the agenda for April 13, 2023, meeting as presented. Upon voice vote, motion carried unanimously.

3. **Approval of Minutes:** Approved.
   Motion by Crawford, second by Bouck, to approve the minutes from March 9, 2023, as submitted. Upon voice vote, motion carried unanimously.

4. **Public Comments:** None.

5. **Unfinished Business:** None**.**

6. **New Business:**
   A. 350 Mason St – Screening and Parking Space Length: Case # V230003
   1. <u>The Public Hearing was called to order by the Chair at 7:06 p.m.</u>

   2. <u>Summary by Director of Planning, Zoning & Project Management Ryan Cummins:</u>
   The applicant requests a dimensional variance for the construction of a new bed and breakfast parking area at 350 Mason Street after the demolition of existing structures. The proposal requires dimensional variances to eliminate the screening requirement instead of the required landscape separation strip at least five feet in width along all property lines and streets on which the off-street parking is located and parking spaces with a length of 18 feet instead of the minimum of 20 feet.
   The property is located in the R-4 City Center Transitional Residential District. The lot is approximately 66 feet wide and 132 feet deep (approximately 8,712 square feet). The vacated St. Joseph Street right-of-way is located along the eastern lot line, with 33 feet on

each side. The existing curb cut is bisected by the shared property line, and access to both properties occurs from this location.

The property was recently approved for a two-story, 3,232-square-foot bed & breakfast establishment with three on-site parking spaces. The site plan was developed in accordance with all applicable zoning requirements. The approved plan includes a row of three parking spaces. The row is parallel to the street to the east of the building.

The proposed plan shows a row of eight spaces along the east side of the building perpendicular to the street. Based on the perpendicular arrangement with the need for a 22-foot drive lane behind the spaces, there is insufficient room for the five-foot landscape strip along the east property line to comply with the ordinance.

3. Presentation by the Applicant:

Matt Cole from Rosina & Associates presented on behalf of the applicant. The applicant already has a plan that is approved for three parking spaces. They have eight units in this bed and breakfast and there is a premium need for parking in the City especially as the weather gets warmer. They are proposing eight parking spaces so there is a parking space for each unit. He provided background information regarding the East side of the property line and explained that there used to be a street there that's been vacated. Each owner got half the street, and right now the pavement is still there. The neighbor mentioned that he preferred this layout, instead of having the shrubs in between them because he has more asphalt and more room to turn into his driveway and garage better. Otherwise, if they put shrubs there, he would have to drive into the grass in his yard. The neighbor is in support of the variance because it provides better access to his driveway. He stated that even though the property owner knows it will cost more money to construct it this way, he is in favor as it will get some of the parking for the tenants off the public street. Mr. Cole thinks that they meet the requirements of the variance because they have that existing street which is unique to the property, and they have the adjacent neighbor's support.

4. Public comment regarding the application:
    a. Supporting comments (No public comment. Email from neighbor listed below):
        1. Tom Sidlauskas – Saugatuck City resident.
    b. Opposing comments (audience and letters): None.
    c. General comments (audience and letters): None.
    d. Repeat comment opportunity (Supporting, Opposing, General): None.

5. Public comment portion closed by the Chair at 7:11 p.m.

6. Commission deliberation:

The board went into deliberation and discussed the dimensional variance for the construction of a new bed and breakfast parking area at 350 Mason Street after the demolition of existing structures. The proposal requires dimensional variances to eliminate the screening requirement instead of the required landscape separation strip at least five feet in width along all property lines and streets on which the off-street parking is located and parking spaces with a length of 18 feet instead of the minimum of 20 feet. The request relates to Sections 154.134 (G)(1) and 154.134 (B) of the Zoning Ordinance.

ZBA Findings of Fact: ***Note: Applicant must show practical difficulty by demonstrating that all four standards are met.***

Standard 1: "That strict compliance with area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity unnecessarily burdensome." § 154.155(B)(1). Bont, Bouck, Crawford, Kubasiak, and McPolin found this standard is not met because:

The property owner has the right to build on the property, they have already given him approval for three parking spaces. If the building was turned 90 degrees, they could get the rest of the requested parking spaces in there. Under this situation here, that is the only thing that I see that you would have the right to put the screening up. According to standard, right now it's not unrealistic, or unreasonably burdensome. It is not unreasonable to prevent them from using that and meets the zoning city ordinance standard the way it is.

Standard 2: "That a variance would do substantial justice to the owner as well as to other property owners in the district, or whether a lesser relaxation would give substantial relief and be more consistent with justice to others." § 154.155(B)(2). Bont, Bouck, Crawford, Kubasiak, and McPolin found this standard is not met because:

There was a screening in accordance with the ordinance and in the original plan, which was approved administratively after evaluation. They did not find that any further relaxation of the ordinance would be in order there. The purpose of the screening is for the benefit of the general community and the neighbors. There is no public purpose for removing it.

Standard 3: "That the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions." § 154.155(B)(3). Bont, Bouck, Crawford, Kubasiak, and McPolin found this standard is not met because:

The property clearly allows for them to build their bed and breakfast and to have the three required parking spaces. The property is not creating problems. The condition has not been met as demonstrated by the previous approval.

Standard 4: "That the problem is not self-created or based on personal financial circumstances." § 154.155(B)(4). Bont, Bouck, Crawford, Kubasiak, and McPolin found this standard is not met because:

They agree that it is not based on personal financial circumstances, they believe the problem is self-created by the owners' desire to have more parking spaces, and to eliminate the buffering to save the size of their building.

Practical Difficulty: A request for a dimensional variance shall be denied if the ZBA finds "that the requirements of this chapter, as written, can be met or that there is no practical difficulty preventing a reasonable use of the land." § 154.156(A). Bont, Bouck, Crawford, Kubasiak, and McPolin found this standard is not met because:

All four standards were not met, they had three strong no votes on the standards. The applicant made a nice presentation, which is what we needed to be able to apply the standards.

7. Commission action: ZBA Decision (Approve):
Motion by McPolin, second by Bouck, to deny the variance request for 350 Mason Street based on the negative findings documented in the staff memo and our discussion provided to the ZBA for its April 13, 2023, meeting. Upon roll call vote, motion carried unanimously.

B. 329-339/ Culver St – Lot Coverage: Case # V230004

1. The Public Hearing was called to order by the Chair at 7:35 p.m.

2. Summary by Director of Planning, Zoning & Project Management Ryan Cummins:

The applicant requests a dimensional variance for the construction of new decks at 329-339 Culver Street after the demolition of the east and west decks, which requires a dimensional variance to increase lot coverage to 29% instead of the minimum 25% lot coverage, an increase of 4%. The request relates to Section 154.030 (D) of the Zoning Ordinance.

The property is located in the R-2 Lake Street District. The lot is approximately 132 feet wide and ranges from 140 to 164 feet deep. The Windjammer of Saugatuck Condominium building exists on the site, and several improvements have been approved in recent months.

The applicant requests the variance because they will lose the nonconforming rights of their current 29% lot coverage as they remove two 60-square-foot decks to replace them. To build back a portion of the building after demolition, even if in the same footprint, is considered an increase in nonconforming lot coverage. There will be no net increase of square footage involved with this project, only the replacement of two 6-foot by 10-foot decks.

3. Presentation by the Applicant:

The applicant, Tim Straker, who is a member of the association, and a resident of 333 Culver, presented the application. He said that the building was built in 1983 and no changes have taken place to anything since the building was built. This is why they are replacing every surface. They are basically resurfacing the structure, and there are two decks that are the only things sort of in question in terms of the last bit of resurfacing to do.

4. Public comment regarding the application:
   a. Supporting comments: None.
   b. Opposing comments (audience and letters): None.
   c. General comments (audience and letters): None.
   d. Repeat comment opportunity (Supporting, Opposing, General): None.

5. Public comment portion closed by the Chair at 7:37 p.m.

6. Commission deliberation:

The board went into deliberation and discussed the dimensional variance for the construction of new decks at 329-339 Culver Street after the demolition of the east and west decks, which requires a dimensional variance to increase lot coverage to 29% instead of the minimum 25% lot coverage, an increase of 4%. The request relates to Section 154.030 (D) of the Zoning Ordinance.

ZBA Findings of Fact: ***Note: Applicant must show practical difficulty by demonstrating that all four standards are met.***

Standard 1: "That strict compliance with area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity unnecessarily burdensome." § 154.155(B)(1). Bont, Bouck, Crawford, Kubasiak, and McPolin found this standard is met because:

Strict compliance would not prevent the applicant from using the property, as the requirement will only impact the replacement of the decks. However, the proposal is a reasonable request as future conditions will be no more nonconforming than the present. The applicant simply desires to replace the decks within their existing footprint. As relates to this case, strict conformance with the ordinance would be unnecessarily burdensome to prevent a rebuilding and renovation project for a contributing resource.

Standard 2: "That a variance would do substantial justice to the owner as well as to other property owners in the district, or whether a lesser relaxation would give substantial relief and be more consistent with justice to others." § 154.155(B)(2). Bont, Bouck, Crawford, Kubasiak, and McPolin found this standard is met because:

The project would not increase any nonconforming square footage, and the project is minor in nature. Those factors seem to be fair to their neighbors and any surrounding properties that would probably have this similar situation again.

Standard 3: "That the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions." § 154.155(B)(3). Bont, Bouck, Crawford, Kubasiak, and McPolin found this standard is met because:

The plight is unique based on the existing nonconforming square footage of the condominium building.

Standard 4: "That the problem is not self-created or based on personal financial circumstances." § 154.155(B)(4). Bont, Bouck, Crawford, Kubasiak, and McPolin found this standard is met because:

The site conditions likely became nonconforming when the Zoning Ordinance or subsequent amendments were adopted. Additionally, the variance request has no relationship to project cost but is necessary to improve the condominium building.

Practical Difficulty: A request for a dimensional variance shall be denied if the ZBA finds "that the requirements of this chapter, as written, can be met or that there is no practical difficulty preventing a reasonable use of the land." § 154.156(A). Bont, Bouck, Crawford, Kubasiak, and McPolin found this standard is met because:

All four standards were met.

7. <u>Commission action: ZBA Decision</u> (Approve):
Motion by Bont, second by McPolin, to approve the variance allowed, the maximum lot coverage is 29% total construction now the replacement decks at 329 Culver street approval of lot coverage variances conditioned upon the actual demolition and

reconstruction occurring within the same dimension as included in the applicant's materials. Upon roll call vote, motion carried unanimously.

C. 865 Holland – Use: Case # V230005

1. The Public Hearing was called to order by the Chair at 7:47 p.m.

2. Summary by Director of Planning, Zoning & Project Management Ryan Cummins:

The applicant requests a use variance to construct an addition to an existing two-family dwelling at 865 Holland Street. Because two-family dwellings are not permitted subject zoning district, the nonconforming use cannot be expanded. A use variance would allow the two-family dwelling to be considered a conforming use.

The property is located in the R-1 Community Residential District. The lot is 114 feet wide and 88 feet deep, and it is approximately 10,032 square feet in size. The applicant plans to construct a 200 +/- square foot addition onto the side of the building.

3. Presentation by the Applicant: 48:40 Otter AI

The applicant, Timothy Woodby, was in person to present his application for 865 Holland Street. They purchased the property in 2019. It was in an estate in which half of the residence was occupied by estate members, the other half was a long-term rental for years. One of the renters moved out and they thought this would be a great opportunity to make some improvements to the internal structure. Prior to this, they built a garage. It was approved by the ZBA but when they came to the HDC for approval they were told that they could not do it as it was a nonconforming structure and that they could not proceed. They were told they needed a variance. The dwelling needs adaptations for a senior adult. Some of the door openings are 27 inches and the hallways are narrow. They are seeking a variance as this could possibly become their own residence as they age.

4. Public comment regarding the application:
   a. Supporting comments: None.
   b. Opposing comments (audience and letters): None.
   c. General comments (audience and letters): None.
   d. Repeat comment opportunity (Supporting, Opposing, General): None.

5. Public comment portion closed by the Chair at 7:52 p.m.

6. Commission deliberation:

The board went into deliberation and discussed a use variance to construct an addition to an existing two-family dwelling at 865 Holland Street. Because two-family dwellings are not permitted in the subject zoning district, the nonconforming use cannot be expanded. A use variance would allow the two-family dwelling to be considered a conforming use. The request relates to Section 154.026 (B) of the Zoning Ordinance.

ZBA Findings of Fact: ***Note: Applicant must show unnecessary hardship by demonstrating that all four standards are met.***

Standard 1: "That the property in question cannot be used for any of the uses permitted in the district in which it is located." Bont, Bouck, Crawford, Kubasiak, and McPolin found this standard is not met because:

The property in question can indeed be used for single family residence, which is permitted in the district, or it could continue as a two family without the addition.

Standard 2: "That the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions". Bont, Bouck, Crawford, Kubasiak, and McPolin found this standard is not met because:

The plight is unique, as it is likely one of a limited number of nonconforming uses in the subject zoning district and the vicinity.

Standard 3: "That by granting the variance, the essential character of the neighborhood would not be altered; and" Bont, Bouck, Crawford, Kubasiak, and McPolin found this standard is not met because:

Granting the variance itself will have no impact on the essential character of the neighborhood. However, it will allow for the building to be expanded in accordance with all other dimensional requirements. The character of the neighborhood is single family detached homes. It wouldn't alter that because it's there now, but it would grant it in perpetuity. It does change the character of the neighborhood by granting that forever.

Standard 4: "That the problem is not self-created or based on personal financial circumstances." Bont, Bouck, Crawford, Kubasiak, and McPolin found this standard is met because:

The building was likely constructed in a compliant manner prior to the two-family residential building limitation. As far as the financial circumstances are concerned, it could make it easier to rent the property. It could be functional for personal use as well.

7. Commission action: ZBA Decision (Approve):
Motion by Bouck, second by McPolin, to deny a use variance to allow a two-family dwelling as a permitted at 865 Holland Street based on the findings after a review of the standards and the findings. Standard one is not met. Standard two is not met. Standard three is not met. Standard four is met. Based on the ordinance, paragraph 154.174 for non-conforming uses, lots, and structures. Upon roll call vote, motion carried unanimously.

D. 181 Park St: Front Setback - Case # V230006

1. The Public Hearing was called to order by the Chair at 8:12 p.m.

2. Summary by Director of Planning, Zoning & Project Management Ryan Cummins:

The applicant requests a dimensional variance to construct a garage at 181 Park Street, which requires a dimensional variance to reduce the front setback to 15 feet instead of the minimum 25-foot setback for lots fronting on Park Street, a reduction of 10 feet.

The property is located in the R-1 Peninsula South District. The lot is approximately 40 feet wide at the right-of-way and ranges from 163 to 181 feet deep. The existing home is approximately 55 feet from the right-of-way.

3. Presentation by the Applicant:

The applicant, Stephen Scheller, was there to present his application. They were there in December 2019, were not well coached and went for a square footage variance. They were over 1.9% or 2% and that was granted. At that time, they were unaware there was another setback variance needed and the plans showed the garage in the same place it is today. At that point, they thought everything was fine and started on phase 2 which was building the garage. Then Covid happened and during that time their Zoning Permit expired. They came back last May and asked for an extension. At that point, they could have asked for this last setback variance but because they were not coached well, they wasted some time there. After finding someone interested in building a one-car garage, he goes through the motions of getting a building permit. Ryan Cummins then informed him that they needed a variance and that they don't fall into the legal definition. He called his surveyor and verified that the right of way is in fact the property boundary. It reveals a 15-foot setback that needs a variance. He referenced photos that were included in the packet. The survey shows that the garage is farther back than the shed and the shed was there for years, and they had no complaints. He also included several photographs and a chart that he prepared that reveal that there are plenty of other people upstream and downstream of Park Street that don't meet that standard or inside the right-of-way the way that he measured it.

Mr. Scheller says that his current right away is 10 feet three inches back from the edge of the pavement which can wash away. He also put the center of the road, which is more consistent, and it doesn't wash away, regardless if ten foot three is the setback. The property right of way and the property boundary are one in the same as ten foot three from the right edge of the road. A lot of people ask, "What happens if we want to put a sidewalk in the future?". Ten foot three is the what the city right of way is. What the ordinance asked for was 25 feet back from that. He said he has a non-conforming lot, and it is 30 when he is 37 feet at the lake and 39 feet at the road. The reason they had to build the house long and vertical in shotgun format, was the entry door in many of the shotgun houses are on the side. He used the graphic to point out where the back corner of the southeast corner of the proposed garage is and said that there is a sidewalk at that entrance that comes pretty close to the house. If they were going to move the garage 10 feet further back, 25 feet versus 15, it would be basically four to five feet away from the edge wall of the house. It would funnel all the guests into a situation where they must turn sharply left and squeeze between the garage and house. He thinks that is unnecessarily burdensome because all the other neighbors upstream and downstream seem to not have the 25-foot setback and the City built the walkway.

4. Public comment regarding the application:

   a. Supporting comments: None.
   b. Opposing comments (audience and letters): None.
   c. General comments (audience and letters): None.
   d. Repeat comment opportunity (Supporting, Opposing, General): None.

5. Public comment portion closed by the Chair at 8:29 p.m.

6. Commission deliberation:

The board went into deliberation and discussed a dimensional variance to construct a garage at 181 Park Street, which requires a dimensional variance to reduce the front setback to 15 feet instead of the minimum 25-foot setback for lots fronting on Park Street, a reduction of 10 feet. The request relates to Section 154.035 (D) of the Zoning Ordinance

ZBA Findings of Fact: ***Note:*** ***Applicant must show practical difficulty by demonstrating that all four standards are met.***

Standard 1: "That strict compliance with area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity unnecessarily burdensome. Bont, Bouck, Crawford, Kubasiak, and McPolin found this standard is met because:

The dwelling is approximately 55 feet from the right-of-way. With a 25-foot front setback requirement, only 10 feet would remain between the garage and the dwelling if placed in a compliant manner. In this case, requiring such a tight placement of buildings on the narrow property may be considered unreasonably burdensome.

Standard 2: "That a variance would do substantial justice to the owner as well as to other property owners in the district, or whether a lesser relaxation would give substantial relief and be more consistent with justice to others. Bont, Bouck, Crawford, Kubasiak, and McPolin found this standard is met because:

The applicant has indicated that several existing buildings have similar or lesser setbacks than the proposed 15-foot setback for the proposed garage. A 15-foot setback would still allow for sufficient space between the building and the right-of-way so that it would not have a cramped or cluttered appearance along the street frontage. As such, a variance may give substantial relief to the applicant and allow for justice for neighboring property owners.

Standard 3: "That the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions." Bont, Bouck, Crawford, Kubasiak, and McPolin found this standard is met because:

The site is unique based on its width and area, as well as the placement of the existing home.

Standard 4: "That the problem is not self-created or based on personal financial circumstances." Bont, Bouck, Crawford, Kubasiak, and McPolin found this standard is met because:

The problem is not self-created as the conditions are unique and compliant. Additionally, the variance request has no relationship to the project cost.

Practical Difficulty: A request for a dimensional variance shall be denied if the ZBA finds "that the requirements of this chapter, as written, can be met or that there is no practical difficulty preventing a reasonable use of the land." § 154.156(A). Bont, Bouck, Crawford, Kubasiak, and McPolin found this standard is met because:

All four standards were met.

7. Commission action: ZBA Decision (Approve):
   Motion by McPolin, second by Bont, to approve a front yard setback variance reduction from 25 feet to 15 feet, by 80, by 20-foot garage at 181 Park Street based on the positive findings documented in the staff memo proved to the ZBA in its April 13, 2023, meeting. This approval is contingent upon the construction being compliant with the garage location design and size as proposed and included in the ZBA variance applicant materials.

7. Communications:

A. Reminder - ZBA Member Training – May 18 at 3:30 PM: This will be joint meeting held at City Hall and presented by City Attorney Chris Patterson. The Planning Commission and ZBA members from Douglas and Saugatuck Township have been invited to attend.

8. ZBA Comments: None.

9. Public Comments: None.

10. Adjournment: *Motion by McPolin, second by Bouck to adjourn. Motion carried unanimously. The meeting was adjourned at 8:45 pm by Chair Kubasiak.*

Respectfully Submitted,
Sara Williams
City Deputy Clerk