

MINUTES
REGULAR MEETING OF THE OWOSSO ZONING BOARD OF APPEALS
CITY OF OWOSSO
SEPTEMBER 18, 2018 AT 9:30 A.M.
CITY COUNCIL CHAMBERS

CALL TO ORDER: The meeting was called to order by Chairman Randy Horton at 9:30 a.m.

ROLL CALL: Was taken by Tanya Buckelew.

MEMBERS PRESENT: Chairman Randy Horton, Board Members Matthew Grubb, Kent Telesz and Alternate John Horvath

MEMBERS ABSENT: Vice-Chairman Christopher Eveleth, Board Member Tom Taylor

OTHERS PRESENT: Ms. Amy Cyphert, Assistant City Manager and Director of Community Development; Kateri Lehr, Stephanie Chapman, Julie Pinson

AGENDA:

IT WAS MOVED BY BOARD MEMBER TELESZ AND SUPPORTED BY ALTERNATE JOHN HORVATH TO APPROVE THE AGENDA FOR THE SEPTEMBER 18, 2018 REGULAR MEETING AS PRESENTED.

YEAS: ALL. MOTION CARRIED.

MINUTES:

IT WAS MOVED BY BOARD MEMBER TELESZ AND SUPPORTED BY BOARD MEMBER GRUBB TO APPROVE THE MINUTES OF AUGUST 21, 2018 AS PRESENTED.

YEAS: ALL. MOTION CARRIED.

OLD BUSINESS: - None

NEW BUSINESS/PUBLIC HEARINGS:

- | | |
|----------------------------|--|
| 1. APPLICANT: | Kateri Lehr |
| CASE # 2018-06: | Parcel 050-670-002-018-00 |
| PROPERTY ZONING: | R-1, One-family Residential District |
| LOCATION OF APPEAL: | 804 W. Oliver Street, Owosso, MI 48867 |

The applicant is proposing to demolish the existing carport and construct a new attached garage. The existing home and carport are non-conforming.

Sec. 38-379 (1) where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all regulations of this chapter applicable to main building.

Section 38-351 states that a structure within the R-1 zoning district shall have a minimum side yard setback of 8 feet, a minimum rear yard setback of 35 feet and maximum lot coverage of 25%.

A 2.7' foot side yard variance, an 11.83' rear yard variance and a 2.5% lot coverage variance are being requested.

Resolution 180918-06
FINDINGS OF FACT AND CONCLUSIONS

Record of Proceedings. The following documents were reviewed and considered by the Zoning Boards of Appeals in reaching its decision, in addition to the comments made by Applicant, members of the public, and members of the Board:

1. Application with sketches of proposed attached garage.
2. Owners of the home stated their intent with this project and the improvement it will make to their home and the neighborhood.
3. Board discussed

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4. Received an email from John Garrison, 802 W Oliver St. Chairman Horton read the email indicating Mr. Garrison's support.
5. No public was present in regards to this case.

Upon motion of Member Telesz, seconded by Member Grubb, the following findings, conclusions, decisions, and conditions were adopted by the Board as its decision on the above variance. The applicant **does** meet all nine (9) facts of findings:

a. Basic Conditions 1-9 in order for the variance to be granted.

Factor 1: (Section 38-504(3) a.1.) "Will not be contrary to the public interest or to the intent and purpose of this chapter."

Factor 2: (Section 38-504(3) a.2.) "Shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a conditional use permit or a temporary use permit is required."

Factor 3: (Section 38-504(3) a.3.) "Is one that is unique and not shared with other property owners."

Factor 4: (Section 38-504(3) a.4.) "Will relate only to property that is under control of the applicant."

Factor 5: (Section 38-504(3) a.5.) "Is applicable whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome."

Factor 6: Section 38-504(3) a.6.) "Was not created by action of the applicant (i.e., that it was not self-created.)"

Factor 7: Section 38-504(3) a.7.) "Will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion of public streets or increase the danger of fire or endanger the public safety."

Factor 8: Section 38-504(3) a.8.) "Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located."

Factor 9: Section 38-504(3) a.9.) "Is applicable whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the area, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners."

Special Conditions. When all of the foregoing basic conditions can be satisfied, a variance may be granted when any one (1) of the following special conditions can be clearly demonstrated:

1. "Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this chapter. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land."
2. "Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district."

**The Board finds that Section 38-504(3) b.2 has been met for the following reasons:
shallowness of the rear yard area**

3. "Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district."

The request for a variance is approved for the above reasons.

The following are imposed as conditions upon grant of the variance:

The variance was approved based on all aspects of the plans and descriptions submitted. The structure, use or activity shall be constructed or carried on in accordance with the plans and/or description provided by the Applicant. All aspects of construction shall be in compliance with the plan submitted, regardless of whether a variance was sought or necessary for certain dimensional or other aspects of the plan.

Any variance granted by the Zoning Board of Appeals shall not be valid after a period of six (6) months from the date granted unless the owner shall have taken substantial steps, as determined by the Board, in implementing the variance granted by the Board.” Sec. 38-504(c) 2. i. ii., Chapter 38, of the City of Owosso Zoning Ordinance.

The above findings, conclusions and decision were adopted by roll call vote as follows:

AYES: BOARD MEMBER GRUBB, ALTERNATE HORVATH, BOARD MEMBER TELESZ AND
CHAIRMAN HORTON

NAYS: NONE

2. **APPLICANT:** Troy & Stephanie Chapman
CASE # 2018-07: Parcel 050-580-000-093-00
PROPERTY ZONING: R-1, One-family Residential District
LOCATION OF APPEAL: 215 Oakwood Ave, Owosso, MI 48867

The applicant is requesting a variance to allow a 5-foot solid wood fence 1.6 feet from the property line along Grover Street.

Section 38-393 (3) states that fences and hedges in front yards that function as exterior side yards must follow front yard restrictions unless the fence or hedge is installed or planted at least nineteen (19) feet back from the right-of-way line or follows the building line of the nearest legal structure. All such fences and hedges must meet clear vision requirements for streets, driveways, and sidewalks and (2) states front yard fences or hedges must be less than fifty (50) percent solid, impervious, or of an obscuring nature above a height of thirty (30) inches above the curb or centerline of the street, and not exceed four (4) feet in total height.

A setback variance of 17.4 feet and variance of 1 foot is being requested in order to allow a 5-foot solid wood fence 1.6 feet from the public street right-of-way.

Resolution 180918-07 FINDINGS OF FACT AND CONCLUSIONS

Record of Proceedings. The following documents were reviewed and considered by the Zoning Boards of Appeals in reaching its decision, in addition to the comments made by Applicant, members of the public, and members of the Board:

1. Application and photos of previous and new fence
2. Owner Stephanie Chapman stated the need for the fence is due to the water and flooding issues with the home. A gas powered pump is just outside the home and runs frequently. The fence is for security as this pump has been turned off by someone in the past or if it is stolen the basement would flood in about 15 minutes.
3. Dean Pennell, 208 Oakwood does not have a problem with the fence.
4. Judy Pennell, 208 Oakwood supports the fence.
5. Jeff Turner, 204 Oakwood supports the fence.
6. Lisa Frolka, 1316 Henry/204 Oakwood supports the fence.
7. Received 2 letters from Charles and Nancy Shepard, 713 Grover in support of the fence. Chairman Horton read these letters to the board and the public.
8. Board discussed the fence.

Upon motion of Member Grubb, seconded by Member Telesz, the following findings, conclusions, decisions, and conditions were adopted by the Board as its decision on the above variance. The applicant **does** meet all nine (9) facts of findings:

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a. Basic Conditions 1-9 in order for the variance to be granted.

Factor 1: (Section 38-504(3) a.1.) "Will not be contrary to the public interest or to the intent and purpose of this chapter."

Factor 2: (Section 38-504(3) a.2.) "Shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a conditional use permit or a temporary use permit is required."

Factor 3: (Section 38-504(3) a.3.) "Is one that is unique and not shared with other property owners."

Factor 4: (Section 38-504(3) a.4.) "Will relate only to property that is under control of the applicant."

Factor 5: (Section 38-504(3) a.5.) "Is applicable whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome."

Factor 6: Section 38-504(3) a.6.) "Was not created by action of the applicant (i.e., that it was not self-created.)"

Factor 7: Section 38-504(3) a.7.) "Will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion of public streets or increase the danger of fire or endanger the public safety."

Factor 8: Section 38-504(3) a.8.) "Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located."

Factor 9: Section 38-504(3) a.9.) "Is applicable whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the area, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners."

Special Conditions. When all of the foregoing basic conditions can be satisfied, a variance may be granted when any one (1) of the following special conditions can be clearly demonstrated:

1. "Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this chapter. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land."
2. **"Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district."**

The Board finds that Section 38-504(3) b.2. has been met for the following reasons: topography, flooding concern, requires constant pumping and fence is security to protect the outdoor pump. Also the property owner is bringing the fence into more conformance with the ordinance by replacing the old fence.

3. "Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district."

The request for a variance is approved for the above reasons.

The following are imposed as conditions upon grant of the variance:

The variance was approved based on all aspects of the plans and descriptions submitted. The structure, use or activity shall be constructed or carried on in accordance with the plans and/or description provided by the Applicant. All aspects of construction shall be in compliance with the plan submitted, regardless of whether a variance was sought or necessary for certain dimensional or other aspects of the plan

Any variance granted by the Zoning Board of Appeals shall not be valid after a period of six (6) months from the date granted unless the owner shall have taken substantial steps, as determined by the Board, in implementing the variance granted by the Board." Sec. 38-504(c) 2. i. ii., Chapter 38, of the City of Owosso Zoning Ordinance.

The above findings, conclusions and decision were adopted by roll call vote as follows:

AYES: ALTERNATE HORVATH, BOARD MEMBER TELESZ AND GRUBB, CHAIRMAN
HORTON

NAYS: NONE

3. **APPLICANT:** Julie Pinson
CASE # 2018-08: Parcel 050-660-001-011-00
PROPERTY ZONING: R-1, One-family Residential District
LOCATION OF APPEAL: 620 Lee Street, Owosso, MI 48867

The applicant is proposing to construct a pergola and an addition to their garage. The existing home and shed are non-conforming.

Sec. 38-379 (4) states no detached accessory building shall be located closer than ten (10) feet to any main building nor shall it be located closer than three (3) feet to any side or rear lot line.

A 3' foot rear yard variance and a 10 foot setback variance from the house are being requested for the pergola. A 3' side yard variance is being requested for the shed addition. A 2% lot coverage variance is being requested for the site.

**Resolution 180918-08
FINDINGS OF FACT AND CONCLUSIONS**

Record of Proceedings. The following documents were reviewed and considered by the Zoning Boards of Appeals in reaching its decision, in addition to the comments made by Applicant, members of the public, and members of the Board:

1. Application with photos of the back yard area.
2. Owners Julie and John Pinson stated their intent with the back yard area.
3. Jill Redmond, 624 Lee Street supports this variance request.
4. Assistant City Manager Amy Cyphert stated the property is non-conforming and always will be. This variance would make the property a legally non-conforming Class A.
5. Board discussed.

Upon motion of Member Grubb, seconded by Member Telesz, the following findings, conclusions, decisions, and conditions were adopted by the Board as its decision on the above variance. The applicant does meet all nine (9) facts of findings:

a. Basic Conditions 1-9 in order for the variance to be granted.

Factor 1: (Section 38-504(3) a.1.) "Will not be contrary to the public interest or to the intent and purpose of this chapter."

Factor 2: (Section 38-504(3) a.2.) "Shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a conditional use permit or a temporary use permit is required."

Factor 3: (Section 38-504(3) a.3.) "Is one that is unique and not shared with other property owners."

Factor 4: (Section 38-504(3) a.4.) "Will relate only to property that is under control of the applicant."

Factor 5: (Section 38-504(3) a.5.) "Is applicable whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome."

Factor 6: Section 38-504(3) a.6.) "Was not created by action of the applicant (i.e., that it was not self-created.)"

Factor 7: Section 38-504(3) a.7.) "Will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion of public streets or increase the danger of fire or endanger the public safety."

Factor 8: Section 38-504(3) a.8.) "Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located."

Factor 9: Section 38-504(3) a.9.) “Is applicable whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the area, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.”

Special Conditions. When all of the foregoing basic conditions can be satisfied, a variance may be granted when any one (1) of the following special conditions can be clearly demonstrated:

1. “Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this chapter. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.”
2. “Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district.”

The Board finds that Section 38-504(3) b.2. has been met for the following reasons: narrowness of the lot and the current structures are on the lot lines.

3. “Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.”

The request for a variance is approved for the above reasons.

The following are imposed as conditions upon grant of the variance:

The variance was approved based on all aspects of the plans and descriptions submitted. The structure, use or activity shall be constructed or carried on in accordance with the plans and/or description provided by the Applicant. All aspects of construction shall be in compliance with the plan submitted, regardless of whether a variance was sought or necessary for certain dimensional or other aspects of the plan.

Other conditions: Designate this parcel as Class A Non-conforming

Any variance granted by the Zoning Board of Appeals shall not be valid after a period of six (6) months from the date granted unless the owner shall have taken substantial steps, as determined by the Board, in implementing the variance granted by the Board.” Sec. 38-504(c) 2. i. ii., Chapter 38, of the City of Owosso Zoning Ordinance.

The above findings, conclusions and decision were adopted by roll call vote as follows:

AYES: BOARD MEMBER TELESZ, GRUBB, ALTERNATE HORVATH AND CHAIRMAN HORTON
NAYS: NONE

OTHER BOARD BUSINESS:

The sign ordinance request has gone to the Planning Commission. Draft amendments will be presented at the October Planning Commission meeting.

Alternate John Horvath will not be able to attend the October ZBA meeting.

PUBLIC COMMENTS AND COMMUNICATIONS
NONE

ADJOURNMENT:

**MOTION BY BOARD MEMBER TELESZ AND SUPPORTED BY ALTERNATE HORVATH TO ADJOURN AT 10:55 A.M. UNTIL THE NEXT REGULARLY SCHEDULED MEETING ON TUESDAY, OCTOBER 16, 2018, IF ANY REQUESTS ARE RECEIVED.
YEAS: ALL. MOTION CARRIED.**

Matthew Grubb, Secretary

Approved *minutes 09-18-2018*