

**MINUTES
REGULAR MEETING OF THE OWOSSO ZONING BOARD OF APPEALS
CITY OF OWOSSO
JUNE 16, 2020 AT 9:30 A.M.
VIRTUAL MEETING**

CALL TO ORDER: The meeting was called to order by City Manager Nathan Henne at 9:35 a.m.

ROLL CALL: Was taken by Tanya Buckelew.

MEMBERS PRESENT: Chairman Randy Horton (joined meeting at 9:41 a.m.), Board Members Michael Bruff, Robert Teich and Kent Telesz

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

OTHERS PRESENT: Justin Sprague, CIB Planning,

AGENDA:

IT WAS MOVED BY BOARD MEMBER BRUFF AND SUPPORTED BY BOARD MEMBER TELESZ TO APPROVE THE AGENDA FOR THE JUNE 16, 2020 REGULAR MEETING WITH THE ADDITION OF APPROVAL OF MINUTES OF MAY 21, 2019.

YEAS: ALL. MOTION CARRIED.

MINUTES:

IT WAS MOVED BY BOARD MEMBER TELESZ AND SUPPORTED BY BOARD MEMBER BRUFF TO APPROVE THE MINUTES OF MAY 21, 2019 AS PRESENTED.

YEAS: ALL. MOTION CARRIED.

IT WAS MOVED BY BOARD MEMBER TELESZ AND SUPPORTED BY BOARD MEMBER BRUFF TO APPROVE THE MINUTES OF JULY 16, 2019 AS PRESENTED.

YEAS: ALL. MOTION CARRIED.

OLD BUSINESS: - None

NEW BUSINESS/PUBLIC HEARINGS:

- | | |
|----------------------------|--------------------------------------|
| 1. APPLICANT: | ALLAN MARTIN |
| LOCATION OF APPEAL: | 615 N PARK STREET, Owosso, MI 48867 |
| PARCEL NUMBER: | 050-470-032-005-00 |
| PROPERTY ZONING: | R-2, TWO-FAMILY RESIDENTIAL DISTRICT |
| CASE #: | P2020-007 |

The applicant is seeking variances to allow the replacement of current garage with new 26' X 26' – 2 stall garage - height of 18' 10" and location of 2' 4" from side yard lot line and 2' 7" from rear yard lot line.

VARIANCE REQUEST #1 – Height of Structure:

A variance to permit the building height of 18' 10" that exceeds the maximum height permitted by *Section 38-379, Accessory Buildings (5) No detached accessory building in R-1, R-2, RT-1, RM-1, RM-2, OS-1, B-1 and P-1 districts shall exceed one (1) story or fourteen (14) feet in height.*

VARIANCE REQUEST #2 – Location from Side and Rear Lot Lines:

A variance to permit the setbacks of 2' 4" from side yard lot line and 2' 7" from rear yard lot line that is less than permitted by *Section 38-379, Accessory Buildings (4) 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*

Justin Sprague, CIB Planning, discussed the details of this request.

PUBLIC HEARING 9:50 – 10 a.m.:

No comments were received

After discussion between board members, city planner and property owner the following motions were made:

VARIANCE REQUEST #1:

UPON MOTION OF BOARD MEMBER TEICH, SECONDED BY BOARD MEMBER BRUFF, the following findings, conclusions, decisions, and conditions were adopted by the Board as its decision on Variance Request #1. The applicant does meet the applicable nine (9) facts of findings:

Dimensional and non-use variances are regulated under *Section 38-504(3)* of the Zoning Ordinance. The board shall have the power to authorize, upon appeal, specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, signs and off-street parking and loading space requirements, provided all of the basic conditions listed below and any one (1) of the special conditions listed thereafter can be satisfied:

1. *Will not be contrary to the public interest or the intent and purpose of this chapter.*
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.*

Review Comment: The use is a permitted accessory use within the R-1 District.

3. *Is one that is unique and not shared by others.*

Review Comment: This condition is applied across the community and is not unique to this property.

4. *Will relate only to the property that is under control of the applicant.*

Review Comment: The variance will only relate to the property under the control of the applicant.

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.*

Review Comment: The strict letter of the law will not prevent the owner of the property from reasonably using the property, and it would not be unnecessarily burdensome to comply.

6. *Was not created by action of the applicant (i.e. that it was not self-created).*

Review Comment: it is clear that a number of additional garages in the area appear to be over the 14-foot required height.

7. *Will not impair an adequate supply of light and air to adjacent property or unreasonably increase congestion of public streets or increase the danger of fire or endanger the public safety.*

Review Comment: The variance would not impair the supply of light or air to adjacent properties, create unreasonable congestion or endanger the public.

8. *Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district which the property of the applicant is located.*

Review Comment: The variance would not impact property values in the immediate vicinity.

9. Is applicable whether a grant of the variance would be 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.

Review Comment: Applying a lesser variance would possibly provide justice to the property owner, however other properties in the area have the same conditions with their accessory structures having heights above 14-feet.

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 piece of land.

Review Comment: It is our opinion that a practical difficulty or unnecessary hardship would exist by meeting the strict letter of the code.

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.

Review Comment: There appear to be no exceptional or extraordinary circumstances or physical conditions with this property that do not generally apply to other properties in the same district

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

Review Comment: The variation would allow the property owner to maintain existing conditions on the property, something that many other properties in the area also maintain.

After review of the requested variance against the standards of the Michigan Zoning Enabling Act and the City of Owosso Zoning Ordinance, we are of the opinion that the requested variance for **615 N. Park Street to allow an accessory structure have a height that is 4-feet above what is required, be approved**, for the following reasons:

1. The reduction would not be contrary to the intent of the ordinance;
2. The variance would provide justice shared by other properties in the area;
3. A variation is necessary for the preservation of a substantial property right possessed by others in the same district; and

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

AYES: BOARD MEMBERS BRUFF, TEICH, TELESZ AND CHAIRMAN HORTON
NAYS: NONE

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.

VARIANCE REQUEST #2:

MOTION BY BOARD MEMBER BRUFF, SECONDED BY BOARD MEMBER TELESZ TO ACCEPT THE WITHDRAW REQUEST FROM PROPERTY OWNER, ALLEN MARTIN FOR THE 3’ SETBACK FROM PROPERTY LINES, AS THE STRUCTURE WILL NOW BE AT LEAST 3’ AWAY FROM THE SIDE AND REAR LOT LINES.

AYES: BOARD MEMBERS BRUFF, TEICH, TELESZ AND CHAIRMAN HORTON

NAYS: NONE

RCV

2. APPLICANT:	GORDON SURETTE/JOSEPH HAMMONTREE
LOCATION OF APPEAL:	507 GILBERT STREET, Owosso, MI 48867
PARCEL NUMBER:	050-111-002-012-00
PROPERTY ZONING:	R-1, ONE-FAMILY RESIDENTIAL DISTRICT
CASE #:	P2020-008

The applicant is seeking a variance to allow the replacement of current attached garage with new 8’ X 12’ X 9’ at peak detached accessory structure. Location – 7’ from main structure, 0’ from side yard lot line and 1’ from rear yard lot line.

VARIANCE REQUEST #1 – Location from Main Building and Side/Rear Lot Lines:

A variance to permit the setbacks of 0’ from side yard lot line, 1’ from rear yard lot line and 7’ from main building that is less than permitted by *Section 38-379, Accessory Buildings (4) 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*

Justin Sprague, CIB Planning, discussed the details of this request.

PUBLIC HEARING 10:02 – 10:05 a.m.:

One comment was received from Janet Walker of 615 E. Oliver Street on June 12, 2020. She was unable to attend the meeting but approves of the request.

UPON MOTION OF BOARD MEMBER TEICH, SECONDED BY BOARD MEMBER BRUFF, the following findings, conclusions, decisions, and conditions were adopted by the Board as its decision on Variance Request #1. The applicant does meet the applicable nine (9) facts of findings:

Dimensional and non-use variances are regulated under *Section 38-504(3)* of the Zoning Ordinance. The board shall have the power to authorize, upon appeal, specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, signs and off-street parking and loading space requirements, provided all of the basic conditions listed below and any one (1) of the special conditions listed thereafter can be satisfied:

1. *Will not be contrary to the public interest or the intent and purpose of this chapter.*

Review Comment: The intent of the ordinance is to prevent neighbors from erecting unsightly buildings or structures directly on the property line as well as to provide a level of fire safety by keeping a minimum distance of separation from adjacent structures. In this neighborhood, many of the existing structures pre-date the existing zoning regulations and the majority of accessory structures are located less than 3-feet from existing lot lines. In this case, the applicant is just looking to keep the same footprint as the existing garage and will be locating the shed behind the garage to maintain the existing look and building lines.

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.*

Review Comment: The use is a permitted accessory use within the R-1 District.

3. *Is one that is unique and not shared by others.*

Review Comment: This condition is applied across the community and is not unique to this property.

4. *Will relate only to the property that is under control of the applicant.*

Review Comment: The variance will only relate to the property under the control of the applicant.

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.*

Review Comment: The strict letter of the law will not prevent the owner of the property from reasonably using the property, and it would not be unnecessarily burdensome to comply.

6. *Was not created by action of the applicant (i.e. that it was not self-created).*

Review Comment: while the need for the variance is self-created, the owner is only trying to maintain the existing condition on the property which pre-dates the existing ordinance.

7. *Will not impair an adequate supply of light and air to adjacent property or unreasonably increase congestion of public streets or increase the danger of fire or endanger the public safety.*

Review Comment: The variance would not impair the supply of light or air to adjacent properties, create unreasonable congestion or endanger the public. It should be noted though that if the variance is approved, the applicant will need to ensure the building is fire rated and approved by the City Building Official to ensure there will be no fire issues for the adjacent property.

8. *Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district which the property of the applicant is located.*

Review Comment: The variance would not impact property values in the immediate vicinity.

9. *Is applicable whether a grant of the variance would be 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.*

Review Comment: Applying a lesser variance would possibly provide justice to the property owner, however other properties in the area have the same conditions with their accessory structures being less than 3 feet from adjacent property lines.

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 piece of land.*

Review Comment: It is our opinion that a practical difficulty or unnecessary hardship would exist by meeting the strict letter of the code.

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.

Review Comment: There appear to be no exceptional or extraordinary circumstances or physical conditions with this property that do not generally apply to other properties in the same district

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

Review Comment: The variation would allow the property owner to maintain existing conditions on the property, something that many other properties in the area also maintain.

RECOMMENDATION

After review of the requested variance against the standards of the Michigan Zoning Enabling Act and the City of Owosso Zoning Ordinance, we are of the opinion that the requested variance for **507 Gilbert Street to allow an accessory structure to be placed less than 3-feet from the adjacent property line be approved**, for the following reasons:

1. The reduction would not be contrary to the intent of the ordinance;
2. The variance would provide justice shared by other properties in the area;
3. A variation is necessary for the preservation of a substantial property right possessed by others in the same district; and
4. As a condition of approval, the building official must approve the accessory structure to ensure fire code is met.

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

**AYES: BOARD MEMBERS BRUFF, TEICH, TELESZ AND CHAIRMAN HORTON
NAYS: NONE**

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.

UPON MOTION OF BOARD MEMBER TEICH, SECONDED BY BOARD MEMBER BRUFF, the following findings, conclusions, decisions, and conditions were adopted by the Board as its decision on Variance Request #1. The applicant **does** meet the applicable nine (9) facts of findings:

Dimensional and non-use variances are regulated under *Section 38-504(3)* of the Zoning Ordinance. The board shall have the power to authorize, upon appeal, specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, signs and off-street parking and loading space requirements, provided all of the basic conditions listed below and any one (1) of the special conditions listed thereafter can be satisfied:

7. *Will not be contrary to the public interest or the intent and purpose of this chapter.*

Review Comment: The intent of the ordinance is to prevent neighbors from erecting unsightly buildings or structures directly on the property line as well as to provide a level of fire safety by keeping a minimum distance of separation from adjacent structures. In this neighborhood, many of the existing structures pre-date the existing zoning regulations and the majority of accessory structures are located less than 3-feet from existing lot lines. In this case, the applicant is just looking to keep the same footprint as the existing garage and will be locating the shed behind the garage to maintain the existing look and building lines.

8. *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.*

Review Comment: The use is a permitted accessory use within the R-1 District.

9. *Is one that is unique and not shared by others.*

Review Comment: This condition is applied across the community and is not unique to this property.

10. *Will relate only to the property that is under control of the applicant.*

Review Comment: The variance will only relate to the property under the control of the applicant.

11. *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.*

Review Comment: The strict letter of the law will not prevent the owner of the property from reasonably using the property, and it would not be unnecessarily burdensome to comply.

12. *Was not created by action of the applicant (i.e. that it was not self-created).*

Review Comment: while the need for the variance is self-created, the owner is only trying to maintain the existing condition on the property which pre-dates the existing ordinance.

7. *Will not impair an adequate supply of light and air to adjacent property or unreasonably increase congestion of public streets or increase the danger of fire or endanger the public safety.*

Review Comment: The variance would not impair the supply of light or air to adjacent properties, create unreasonable congestion or endanger the public. It should be noted though that if the variance is approved, the applicant will need to ensure the building is fire rated and approved by the City Building Official to ensure there will be no fire issues for the adjacent property.

8. *Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district which the property of the applicant is located.*

Review Comment: The variance would not impact property values in the immediate vicinity.

9. *Is applicable whether a grant of the variance would be 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.*

Review Comment: Applying a lesser variance would possibly provide justice to the property owner,

however other properties in the area have the same conditions with their accessory structures being less than 3 feet from adjacent property lines.

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 piece of land.

Review Comment: It is our opinion that a practical difficulty or unnecessary hardship would exist by meeting the strict letter of the code.

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.

Review Comment: There appear to be no exceptional or extraordinary circumstances or physical conditions with this property that do not generally apply to other properties in the same district

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

Review Comment: The variation would allow the property owner to maintain existing conditions on the property, something that many other properties in the area also maintain.

RECOMMENDATION

After review of the requested variance against the standards of the Michigan Zoning Enabling Act and the City of Owosso Zoning Ordinance, we are of the opinion that the requested variance for **507 Gilbert Street to allow an accessory structure to be placed less than 10-feet from the home be approved**, for the following reasons:

5. The reduction would not be contrary to the intent of the ordinance;
6. The variance would provide justice shared by other properties in the area;
7. A variation is necessary for the preservation of a substantial property right possessed by others in the same district; and
8. As a condition of approval, the building official must approve the accessory structure to ensure fire code is met.

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

AYES: BOARD MEMBERS BRUFF, TEICH, TELESZ AND CHAIRMAN HORTON

NAYS: NONE

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.

OTHER BOARD BUSINESS: None

PUBLIC COMMENTS AND COMMUNICATIONS: None

ADJOURNMENT:

**MOTION BY BOARD MEMBER BRUFF AND SUPPORTED BY BOARD MEMBER TEICH TO
ADJOURN AT 10:27 A.M. UNTIL THE NEXT REGULARLY SCHEDULED MEETING ON TUESDAY,
JULY 21, 2020, IF ANY REQUESTS ARE RECEIVED.**

YEAS: ALL. MOTION CARRIED.

Matthew Grubb, Secretary