

**MINUTES
REGULAR MEETING OF THE CITY OF OWOSSO ZONING BOARD OF APPEALS
APRIL 19, 2022 AT 9:30 A.M.**

CALL TO ORDER: Chairman Horton called the meeting to order at 9:30 a.m.

ROLL CALL: Was taken by Molly Hier

MEMBERS PRESENT: Vice-Chair Christopher Eveleth, Secretary Grubb, Board Member Robert Teich, Tom Taylor and Chairman Randy Horton

MEMBERS ABSENT: None

OTHERS PRESENT: Justin Sprague, CIB Planning, Tanya Buckelew, Planning & Building Director and Charlie Wargel from Saginaw-Shiawassee Habitat for Humanity

AGENDA:

IT WAS MOVED BY VICE-CHAIR EVELETH AND SUPPORTED BY BOARD MEMBER TAYLOR TO APPROVE THE AGENDA FOR THE APRIL 19, 2022 REGULAR MEETING.

YEAS: ALL. MOTION CARRIED.

MINUTES:

IT WAS MOVED BY VICE-CHAIR EVELETH AND SUPPORTED BY BOARD MEMBER TAYLOR TO AMEND AND APPROVE THE MINUTES OF JULY 16, 2019, JUNE 16, 2020 AND AUGUST 17, 2021 FOR THE FOLLOWING REASONS.

1. THE CITY DID NOT REAPPOINT KENT TELESZ TO THE ZONING BOARD OF APPEALS IN JUNE OF 2019 BECAUSE MR. TELESZ HAD A DELINQUENCY DUE TO THE CITY OF OWOSSO.
2. AS PER THE CITY CHARTER – CHAPTER 4. – OFFICERS SECTION 4.3. – CERTAIN PERSONS INELIGIBLE FOR CITY OFFICE OR EMPLOYMENT (A) A PERSON WHO IS IN DEFAULT TO THE CITY, SHALL NOT BE ELIGIBLE TO HOLD ANY OFFICE.

YEAS: ALL. MOTION CARRIED.

THE FOLLOWING ARE THE AMENDED AND APPROVED MINUTES

**REGULAR MEETING OF THE OWOSSO ZONING BOARD OF APPEALS
JULY 16, 2019 AT 9:30 A.M.**

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 Michael Bruff, Tom Taylor and Kent Telesz

MEMBERS ABSENT: Vice-Chairman Christopher Eveleth, Board Member Matt Grubb and Alternate Robert Teich

OTHERS PRESENT: Justin Sprague, CIB Planning, Jordan London, Architect with Edmund London & Associates, Inc., Charlie Thompson, Memorial Healthcare Director of Facilities

AGENDA:

IT WAS MOVED BY BOARD MEMBER TAYLOR AND SUPPORTED BY BOARD MEMBER BRUFF TO APPROVE THE AGENDA FOR THE JULY 16, 2019 REGULAR MEETING AS PRESENTED.

YEAS: ALL. MOTION CARRIED.

MINUTES:

THIS ITEM WAS TABLED UNTIL THE NEXT MEETING TO ALLOW FOR REVIEW

CONFLICT OF INTEREST:

Board Member Bruff received the zoning variance notice due to him living within 300' of the proposed building. Mr. Bruff brought this up as to assure there was not a conflict of interest in regards to him voting on the variances. He is not in conflict as there is neither a financial conflict nor a personal benefit the Mr. Bruff would receive. Chairman Horton, Board Members Taylor and Telesz have agreed there is not a conflict of interest.

OLD BUSINESS: - None

NEW BUSINESS/PUBLIC HEARINGS:

APPLICANT: MEMORIAL HEALTH CARE
LOCATION OF APPEAL: 826 W KING STREET, Owosso, MI 48867
PARCEL NUMBERS: 050-310-000-006-00, 050-310-000-007-00, 050-310-000-008-00, 050-310-000-009-00, 050-310-003-001-00, 050-310-003-002-00, 050-310-003-003-00, 050-310-001-015-00, 050-310-001-016-00, 050-310-001-017-00, 050-310-001-001-00, 050-310-001-002-00, 050-310-001-003-00, 050-310-001-004-00

PROPERTY ZONING: R-1, ONE-FAMILY RESIDENTIAL and OS-1, OFFICE SERVICE

THE APPLICANT IS SEEKING VARIANCES TO ALLOW THE ADDITION OF A NEURO/ORTHO/WELLNESS CENTER:

VARIANCE REQUEST #1:

THE BUILDING HEIGHT OF 43'4" EXCEEDS THE MAXIMUM HEIGHT OF 35 FEET, PERMITTED BY SECTION 38-351, SCHEDULE LIMITING HEIGHT, BULK, DENSITY, AND AREA BY ZONING DISTRICT

VARIANCE REQUEST #2:

A VARIANCE TO PERMIT A PARKING LOT SETBACK OF 25 FEET WHERE SECTION 38(43)(9)(D) OFF-STREET PARKING REQUIRES OFF-STREET PARKING LOTS TO BE SET BACK 50 FEET FROM LOCAL STREETS.

THE CITY OF OWOSSO MUNICIPAL CODE REQUIRES APPROVAL OF DIMENSIONAL VARIANCES FROM THE ZONING BOARD OF APPEALS.

Jordan London presented the plans for the proposed building. He presented each of the 3 floors, noting the 3rd floor use on the south side of the building would be a running track and the 3rd floor to the north would be for future medical offices.

Justin Sprague explained why the variances would be needed. Originally, the proposal was going to proceed with a Planned Unit Development (PUD), but with the PUD being a long process, it was decided to go for the 2 variances as the process would move along at a faster pace. The Planning Commission made the decision to add landscaping as opposed to a mason wall.

Chairman Horton opened the Public Hearing and the following spoke:

- 1. Marv Sanders, 916 Ada Street, asked about the parking and the survey stakes that are currently present.**

Response: The property was recently surveyed and the parking lot (if variance is approved) would not begin until 25' setback from the property stakes/property line. The landscape buffer would encompass the area between the parking lot and the property line.

2. Tom Koenig, 1000 Ada Street, asked about the landscaping.

Response: Additional discussion regarding the landscape buffer continued. The buffer is meant for the new parking lot as there are already trees planted along the existing parking area.

3. Karen Harris, 900 Campbell Drive, asked about adding landscaping to the river and the possibility of the light pollution increasing on the neighboring homes. Also asked if there would be any vehicle entry off of Jennett Street and Ada Street.

Response: There is not an intention to add in additional landscaping to the river. The light pollution would increase and the hospital will make every effort for it to be a minimal impact on the neighbors. There will not be entry to the hospital from Jennett nor Ada Street.

4. Sherry Elwell, 1018 Ada Street, asked why the 25' variance is needed for parking.

Response: The variance for parking is part of the Mater Plan and future development for the hospital. In addition, this is part of the reconfiguration of the parking lot to allow for more spaces.

5. John Smith, 910 Ada Street, asked the parking lot and hill area across the street from his house and if the Consumers Energy gas lines would be affected again and disrupt his front yard area.

Response: The hill area would not be affected by the new parking lot. The hospital has a direct contact with Consumers Energy and any concerns regarding the gas lines will be addressed accordingly.

6. Barbara Perkovic, 713 Pine Street, lives behind the old Sunoco station that is now demolished and asked about what additional homes were going to be demolished on her block.

Response: The 2 homes adjacent to the former Sunoco building are being demolished – 1 faces King Street and the other faces 52. At this time, nothing is planned for this area. Future development could possibly include parking.

FINDINGS OF FACT AND CONCLUSIONS

UPON MOTION OF BOARD MEMBER TELESZ BRUFF, SECONDED BY BOARD MEMBER TAYLOR, 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:

1. Basic Conditions. In order to qualify for a variance, the applicant must show that a variance:

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

Review Comment. The variance will not be contrary to the public interest or to the intent of the ordinance. The request for additional height to allow a third story is consistent with existing buildings on the campus as the hospital itself has a building five (5) stories in height. The reduced parking lot setback still provides ample room for a landscape buffer to shield the parked cars, meeting the intent of the requirement. Standard met.

b. 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 permitted by right. Standard met.

c. Is one that is unique and not shared with other property owners;

Review Comment. The Memorial Heath Care campus is an established facility with limited expansion opportunities. Surrounding properties are residential and professional offices, many of which are medical-related. The situation is unique to the healthcare campus. Standard met.

d. Will relate only to property that is under control of the applicant;

Review Comment. This request relates only to the property under the control of the applicant. Standard met.

e. 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. Compliance with the strict letter of the regulations would prevent the applicant from providing the required number of parking spaces to support the facility. Compliance with the strict letter of the height regulations would prevent the applicant from constructing a three story building and therefore reducing the needed square footage needed to provide the new centers. Standard met.

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

Review Comment. The need for the variance was not created by the applicant but rather it is due to its established location. Standard met.

g. 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;

Review Comment. The height increase and reduced parking lot setback will not be impair the adequate supply of light and air to adjacent properties or increase the congestion of public streets or increase the danger of fire or endanger the public safety. Standard met.

h. 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;

Review Comment. The proposed height and parking lot setback reduction will not be detrimental to the adjacent property or the surrounding area. Standard met.

i. 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.

Review Comment. An increase in height and encroachment into the front yard setback will not be detrimental to the adjacent property or the surrounding area. Without the requested variances, the applicant is not able to construct the building will all its proposed centers.

2. 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:

a. 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; OR

b. 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; OR

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

Review Comment.

(b) In order for Memorial Health Care to provide additional care in Neuro, Orthopedic, and Wellness areas, the requested variances are necessary to construct the building. The campus has a limited amount of property to expand their facilities. Acquiring additional land for parking expansion and future construction is not feasible. Memorial Health Care is an established facility and at one point was permitted to construct a 5-story building. Should the height variance not be approved, the applicant may be forced to use more ground floor area to expand the footprint of the facility, thereby increasing the lot coverage on the lot and limiting future expansion and growth (new buildings providing additional services). The intended use of the property as a health care campus does not apply to other properties in the same zoning district--the campus-style development is unique to the City.

The Variance Request #1 for an 8' 4" high dimensional variance is approved to allow the height of the building to be constructed at 43'4" instead of the maximum height of 35'.

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 a roll call vote as follows:

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

FINDINGS OF FACT AND CONCLUSIONS

UPON MOTION OF BOARD MEMBER TAYLOR, SECONDED BY BOARD MEMBER TELESZ BRUFF, the following findings, conclusions, decisions, and conditions were adopted by the Board as its decision on Variance Request #2. The applicant does meet the applicable nine (9) facts of findings:

3. Basic Conditions. In order to qualify for a variance, the applicant must show that a variance:

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

Review Comment. The variance will not be contrary to the public interest or to the intent of the ordinance. The request for additional height to allow a third story is consistent with existing buildings on the campus as the hospital itself has a building five (5) stories in height. The reduced parking lot setback still provides ample room for a landscape buffer to shield the parked cars, meeting the intent of the requirement. Standard met.

b. 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 permitted by right. Standard met.

c. Is one that is unique and not shared with other property owners;

Review Comment. The Memorial Health Care campus is an established facility with limited expansion opportunities. Surrounding properties are residential and professional offices, many of which are medical-related. The situation is unique to the healthcare campus. Standard met.

d. Will relate only to property that is under control of the applicant;

Review Comment. This request relates only to the property under the control of the applicant. Standard met.

e. 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. Compliance with the strict letter of the regulations would prevent the applicant from providing the required number of parking spaces to support the facility. Compliance with the strict letter of the height regulations would prevent the applicant from constructing a three story building and therefore reducing the needed square footage needed to provide the new centers. Standard met.

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

Review Comment. The need for the variance was not created by the applicant but rather it is due to its established location. Standard met.

g. 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;

Review Comment. The height increase and reduced parking lot setback will not be impair the adequate supply of light and air to adjacent properties or increase the congestion of public streets or increase the danger of fire or endanger the public safety. Standard met.

h. 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;

Review Comment. The proposed height and parking lot setback reduction will not be detrimental to the adjacent property or the surrounding area. Standard met.

i. 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.

Review Comment. An increase in height and encroachment into the front yard setback will not be detrimental to the adjacent property or the surrounding area. Without the requested variances, the applicant is not able to construct the building will all its proposed centers.

4. 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:

a. 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; OR

b. 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; OR

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

Review Comment.

(b) In order for Memorial Health Care to provide additional care in Neuro, Orthopedic, and Wellness areas, the requested variances are necessary to construct the building. The campus has a limited amount of property to expand their facilities. Acquiring additional land for parking expansion and future construction is not feasible. Memorial Health Care is an established facility and at one point was permitted to construct a 5-story building. Should the height variance not be approved, the applicant may be forced to use more ground floor area to expand the footprint of the facility, thereby increasing the lot coverage on the lot and limiting future expansion and growth (new buildings providing additional services). The intended use of the property as a health care campus does not apply to other properties in the same zoning district--the campus-style development is unique to the City.

The Variance Request #2 for the parking lot to be setback 25' from the property line instead of the required 50' setback is approved.

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 a 3 – 1 roll call vote as follows:

**AYES: BOARD MEMBERS BRUFF, TAYLOR AND CHAIRMAN HORTON
NAYS: BOARD MEMBER TELESZ-NONE**

OTHER BOARD BUSINESS: None

PUBLIC COMMENTS AND COMMUNICATIONS: None

ADJOURNMENT:

MOTION BY BOARD MEMBER TELESZ BRUFF AND SUPPORTED BY BOARD MEMBER TAYLOR TO ADJOURN AT 10:35 A.M. UNTIL THE NEXT REGULARLY SCHEDULED MEETING ON TUESDAY, AUGUST 20, 2019, IF ANY REQUESTS ARE RECEIVED.

YEAS: ALL. MOTION CARRIED.

**REGULAR MEETING OF THE OWOSSO ZONING BOARD OF APPEALS
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 TEICH 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 TEICH 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 TEICH 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 TEICH 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:

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.

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.

**REGULAR MEETING OF THE OWOSSO ZONING BOARD OF APPEALS
AUGUST 17, 2021 AT 9:30 A.M.**

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

ROLL CALL: Was taken by Tanya Buckelew.

MEMBERS PRESENT: Board Members Tom Taylor, Robert Teich, Kent Telesz and Chairman Randy Horton.

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

OTHERS PRESENT: Justin Sprague, CIB Planning,

AGENDA:

IT WAS MOVED BY BOARD MEMBER TEICH AND SUPPORTED BY BOARD MEMBER TAYLOR TO APPROVE THE AGENDA FOR THE AUGUST 17, 2021 REGULAR MEETING.

YEAS: ALL. MOTION CARRIED.

MINUTES:

IT WAS MOVED BY BOARD MEMBER TEICH AND SUPPORTED BY BOARD MEMBER TAYLOR TO APPROVE THE MINUTES OF JUNE 16, 2020 AS PRESENTED.

YEAS: ALL. MOTION CARRIED.

OLD BUSINESS: - None

NEW BUSINESS:

1. SELECTION OF OFFICERS – CHAIRMAN, VICE-CHAIR, SECRETARY

IT WAS MOVED BY BOARD MEMBER TELESZ TEICH AND SUPPORTED BY BOARD MEMBER TAYLOR TO APPOINT RANDY HORTON AS CHAIRMAN, CHRISTOPHER EVELETH AS VICE-CHAIR AND MATTHEW GRUBB AS SECRETARY.

PUBLIC HEARINGS:

- | | |
|----------------------------|--|
| 1. APPLICANT: | JANIE & KEVIN YEAGER |
| LOCATION OF APPEAL: | 612 W STEWART STREET, Owosso, MI 48867 |
| PARCEL NUMBER: | 050-673-006-011-00 |
| PROPERTY ZONING: | R-1, ONE-FAMILY RESIDENTIAL DISTRICT |
| CASE #: | P2021-011 |

Chairman Horton opened the Public Hearing at 9:35 am.

Received a phone call from Thomas Brewer of 610 W. Stewart Street and stated he had no objections to the variance.

Janie and Kevin Yeager stated the purpose of the variance request. When they bought the house in 2020, there was already a 4' high privacy fence close to the sidewalk. They stated the 8' sections near the driveway would be brought in to have driveway clearance.

REVIEW COMMENTS:

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

Review Comment: The applicant is proposing to replace the existing fence which is too close to the right-of-way according to ordinance. The fence is required to be at least 19 feet from the public right-of-way in a

front yard, which this lot is a corner lot placing the existing fence in the front yard. Since the fence will not add height and will comply otherwise, it is found that this will not be contrary to the intent of the 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 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. In fact, there are a number of properties similarly situated adjacent and near this property with existing non-conforming fences.

- 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 by replacing the fence, 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.

- 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 fences being less than 19 feet from adjacent rights-of-way.

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 not 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 612 W Stewart Street to allow the replacement of an existing fence, less than 19-feet from a right-of-way, be approved, for the following reasons:

1. **The replacement 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**

IT WAS MOVED BY BOARD MEMBER TELESZ TAYLOR AND SUPPORTED BY BOARD MEMBER TEICH TO ALLOW THE REPLACEMENT OF AN EXISTING FENCE, LESS THAN 19 FEET FROM A RIGHT-OF-WAY BE APPROVED AS RECOMMENDED BY THE CITY PLANNER.

**AYES: BOARD MEMBERS TAYLOR, TEICH, TELESZ AND CHAIRMAN HORTON.
NAYS: NONE
RCV MOTION CARRIED**

2. **APPLICANT:** DEAN GAFFNER
LOCATION OF APPEAL: 1225 W STEWART STREET, Owosso, MI 48867
PARCEL NUMBERS: 050-606-001-016-00
PROPERTY ZONING: B-1, LOCAL BUSINESS DISTRICT CASE #: P2021-013

Dena Gaffner, Owner and Chandler Buck, Employee spoke about the need for a fenced in area for towing and storage of vehicles.

Justin Sprague comments:

The applicant property is located at 1225 Stewart and is an existing auto body repair shop which is a non-conforming use. The existing business has also been utilizing a vacant lot across Stewart Street to park customer vehicles either in the que to be repaired or waiting for customer pickup.

The applicant initially wanted to fence the vacant lot but was not permitted as that would be an expansion of the non-conforming lot. The applicant in now proposing to fence a portion of the existing lot with the business to

secure customer vehicles and screen parking on the site. The subject property is zoned B-1, Local Business District where this use is a non-conforming use.

Justin Horvath, SEDP, spoke in favor of the variance and support for the business.

REVIEW COMMENTS

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

Review Comment: The applicant is proposing to add screening fence which is too close to the right-of-way according to ordinance. The fence is required to be at least 19 feet from the public right-of-way in a front yard, which this lot is a corner lot placing the existing fence in the front yard. Since the fence will prevent an expansion of a non-conforming use on a vacant lot, it is found that this will not be contrary to the intent of the 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 legal non-conforming use within the B-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. In fact, there are a number of properties similarly situated adjacent and near this property with existing non-conforming fences.

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, but would 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 improve the existing condition on the property for both the community as well as improve the security of customer vehicles.

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 fences being less than 19 feet from adjacent rights-of-way.

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 not 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 improve existing conditions on the property as well as prevent the expansion of an existing non-conforming use of a vacant lot.

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 1225 Stewart Street to allow the replacement of an existing fence, less than 19-feet from a right-of-way, be approved, for the following reasons:

1. The replacement 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
4. Fence is required to be maintained in high quality

IT WAS MOVED BY BOARD MEMBER TEICH AND SUPPORTED BY BOARD MEMBER ~~TELESZ~~ TAYLOR TO ALLOW A NEW FENCE, LESS THAN 19-FEET FROM THE RIGHT-OF-WAY BE APPROVED AS RECOMMENDED BY THE CITY PLANNER.

AYES: BOARD MEMBERS TAYLOR, TEICH, ~~TELESZ~~ AND CHAIRMAN HORTON.

NAYS: NONE

RCV MOTION CARRIED

OTHER BOARD BUSINESS: Board member Telesz discussed 229 S. Cedar Street and violations of variance. ALL in agreement to enforce conditions provided in variance. Will need to revoke variance if conditions not met.

PUBLIC COMMENTS AND COMMUNICATIONS: None

ADJOURNMENT:

IT WAS MOVED BY BOARD MEMBER TELESZ TEICH AND SUPPORTED BY BOARD MEMBER TAYLOR TO ADJOURN THE MEETING AT 10:05 A.M. UNTIL THE NEXT REGULARLY SCHEDULED MEETING ON TUESDAY, SEPTEMBER 21, 2021.

YEAS: ALL. MOTION CARRIED.

MINUTES OF APRIL 19, 2022 ZONING BOARD OF APPEALS MEETING CONTINUED:

OLD BUSINESS: NONE
SELECTION OF OFFICERS: DUE AUGUST 2022
NEW BUSINESS: NONE

PUBLIC HEARINGS:

- 1. APPLICANT:** SAGINAW SHIAWASSEE HABITAT FOR HUMANITY
LOCATION OF APPEAL: 701 S PARK STREET, Owosso, MI 48867
PARCEL NUMBER: 050-652-004-008-00
PROPERTY ZONING: R-1, ONE-FAMILY RESIDENTIAL DISTRICT
CASE #: P2022-005

- 2. APPLICANT:** SAGINAW SHIAWASSEE HABITAT FOR HUMANITY
LOCATION OF APPEAL: 702 S SAGINAW STREET, Owosso, MI 48867
PARCEL NUMBERS: 050-652-004-010-00
PROPERTY ZONING: R-1, ONE-FAMILY RESIDENTIAL DISTRICT
CASE #: P2022-005

Chairman Horton offered the floor to Charlie Wargel with Habitat for Humanity, to speak on the pending construction.

Mr. Charlie Wargel, explained a construction plan of building six homes in three years; with the intent of completing one in 2022. Briefly described the size of the homes and the importance of the front porches to “create communities”. He also offered the design plans for anyone interested to review.

Chairman Horton opened the Public Hearing at 9:36 am.

Tom Brown of 802 S. Park Street asked if all the homes planned for construction would require variances, and how close the porches would be to the Right of Way.

Justin Sprague, CIB Planning explained the variances are only for 701 S. Park and 702 S. Saginaw because they are corner lots and that the porches would be 20 feet from the sidewalk instead of the 25 feet requirement.

Chairman Horton closed the public hearing at 9:41 am.

Justin Sprague, CIB, explained the following:

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 applicant is proposing to develop new housing on vacant lots and would like to add front porches to the proposed homes. Since this is a residential area, the porch encroachments would not be contrary to the intent of the chapter or contrary to the public interest.

1. *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 proposed use is a permitted use in the R-1 District.

2. *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. In fact, there are a number of properties similarly situated near these properties with existing non-conforming porches.

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

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

4. *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, but would be unnecessarily burdensome to comply.

5. *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 improve the existing condition on the properties for both the community as well as improve the neighborhood.

5. *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.

6. *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 negatively impact property values in the immediate vicinity, but would definitely improve property values in the area.

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 similar conditions especially on smaller corner lots with two front-yard requirements.

Special Conditions - When all of the foregoing basic conditions can be satisfied, a variance may be granted when anyone (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 not 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 improve existing conditions on the properties.

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 variances for **701 S. Park Street and 702 S. Saginaw Street to allow an encroachment of 5-feet for the purpose of adding porches to proposed new houses on corner lots, be approved**, for the following reasons:

1. The encroachments 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

MOTION BY VICE-CHAIR EVELETH, SECONDED BY BOARD MEMBER TAYLOR TO APPROVE THE REQUESTED VARIANCE FOR 701 S PARK STREET TO ALLOW AN ENCROACHMENT OF 5 FEET FOR THE PURPOSE OF ADDING A PORCH TO THE PROPOSED NEW HOME ON A CORNER LOT .

AYES: VICE-CHAIR EVELETH, SECRETARY GRUBB, BOARD MEMBER TAYLOR, TEICH AND CHAIRMAN HORTON.

NAYS: NONE

RCV MOTION CARRIED

MOTION BY VICE-CHAIR EVELETH, SECONDED BY BOARD MEMBER TAYLOR TO APPROVE THE REQUESTED VARIANCE FOR 702 S SAGINAW STREET TO ALLOW AN ENCROACHMENT OF 5 FEET FOR THE PURPOSE OF ADDING A PORCH TO THE PROPOSED NEW HOME ON A CORNER LOT .

AYES: SECRETARY GRUBB, BOARD MEMBER TAYLOR, TEICH, VICE-CHAIR EVELETH AND CHAIRMAN HORTON.

NAYS: NONE

RCV MOTION CARRIED

OTHER BOARD BUSINESS: NONE

PUBLIC COMMENTS AND COMMUNICATIONS: NONE

ADJOURNMENT:

IT WAS MOVED BY VICE-CHAIR EVELETH AND SUPPORTED BY SECRETARY GRUBB TO ADJOURN THE MEETING AT 9:52 A.M. UNTIL THE NEXT REGULARLY SCHEDULED MEETING ON TUESDAY, MAY 17, 2022.

YEAS: ALL. MOTION CARRIED.

Matthew Grubb, Secretary