

Zoning Board of Appeals

Regular Meeting Agenda

Monday, June 22, 2015
7:00 p.m., Council Chambers



City of South Haven

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Approval of Minutes – May 18, 2015
5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda
6. New Business – Public Hearings
 - a. Haraldur and Grace Borgfjord, 9802 Sunnywood Drive, Kalamazoo, are seeking two variances for a proposed residence at 302 Michigan which will have 46.5% lot coverage where 40% lot coverage is the maximum allowed. The residence will also have a rear yard setback of 16 feet 3 inches for a portion of the building where the minimum allowed is 25 feet.
7. Election of Officers 2015-16
8. Commissioner Comments
9. Adjourn

RESPECTFULLY SUBMITTED,

Linda Anderson,
Zoning Administrator

South Haven City Hall is barrier free and the City of South Haven will provide the necessary reasonable auxiliary aids and services for persons with disabilities, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting to individuals with disabilities at the meeting upon seven (7) days notice to the South Haven City Hall.

Zoning Board of Appeals

Regular Meeting Minutes

Monday, May 18, 2015
7:00 p.m., City Hall Basement



City of South Haven

1. Call to Order by Lewis at 7:00 p.m.

2. Roll Call

Present: Bugge, Miller, Paull, Wheeler, Lewis
Absent: Boyd

3. Approval of Agenda

Motion by Paull, second by Bugge to approve the May 18, 2015 regular meeting agenda as presented.

All in favor. Motion carried.

4. Approval of Minutes – April 27, 2014

Motion by Bugge, second by Paull to approve the April 27, 2014 regular meeting minutes as clarified.

All in favor. Motion carried.

5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda

None at this time.

6. New Business – Public Hearings

- a. *Haraldur and Grace Borgfjord, 9802 Sunnywood Drive, Kalamazoo, are seeking a variance to build a residence at 302 Michigan which will have 50% lot coverage where 40% lot coverage is the maximum allowed. The site plans indicate that the setbacks comply with the zone requirements for R1-A. The applicants state that they would like to build a home which is large enough to accommodate future barrier-free needs.*

Anderson noted there was some discussion about the indication of two fronts and two sides and Bugge pointed out that the ordinance states that you have to have a rear yard. If the

applicant were to make one of the side yards be a rear yard the setback requirements cannot be met. This lot is larger than other lots in that zone and the Borgfjords noted they prefer to have the larger house. There was one letter of opposition from a neighbor who felt this plan did not fit the character of this area.

Discussion ensued among the board regarding the Zoning Ordinance requirement of a rear yard. Lewis clarified that if we granted this variance for lot coverage the setback requirements would not be met.

Motion by Miller, second by Wheeler to open the public hearing.

All in favor. Motion carried.

Grace Borgfjord, 9802 Sunnywood Drive, Kalamazoo. Thanked the members for being here tonight. Distributed a handout regarding the history of the parcel. Noted that the applicants both live and work in Kalamazoo and are planning for the next phase of life. Stated this has been a journey because she wanted a smaller home and lot and her husband did not want a condo. Noted this will be a permanent residence in which will provide stability in the neighborhood; many of the other houses are seasonal rentals. Requested the board's consideration to allow them to move forward.

Lewis asked if the stairway on the plan goes to a basement to which Borgfjord responded that it does and noted there is no second story.

Lewis questioned the rear yard issue. The Borgfjord's builder stated that he thought there would be two front and two side yards which Anderson noted was a misunderstanding. Regarding a question by the builder regarding whether the discrepancy could be part of the discussion tonight, Lewis responded, "No, it was advertised as just the lot coverage variance." Wheeler suggested that the board's hands may be tied. Lewis noted that if the board granted the fifty percent (50%) lot coverage variance the applicants would still need a variance for a rear yard setback.

Wheeler questioned whether the request for a second variance would be a full submission and a new fee, to which Anderson responded that she would not charge another fee due to a plausible misunderstanding of ordinance requirements. Anderson said the variance would need to be on the south side. Lewis asked if the two side yard setbacks are in compliance and Anderson responded, "Yes, the setbacks are three feet (3') and fifteen (15') so they actually have three (3) feet extra there."

Miller asked if it would be appropriate to ask the applicants to reconsider and resubmit with the appropriate rear yard and consider both requests at the same time. Lewis noted that the board can always grant a variance less than requested but "we don't know what that

variance would be at this time.” Lewis suggested continuing this request until the applicant can determine what they want to do.

After a question from the builder, Anderson noted that in this case the rear yard would be opposite the driveway. The Borgfjord’s builder asked if the fifty percent (50%) variance were granted tonight, then the applicants should still continue to ask for the setback variance. Wheeler still feels it would be better to look at it all at one time. Bugge noted it needs to be reconfigured regardless.

Kathleen Craig, 312 Michigan Avenue. Identified herself as a neighbor and stated she met with the applicants yesterday. Was thrilled to hear, regardless of lot coverage or variances that it is going to be a permanent residence as 312 Michigan Avenue is the only permanent residence on that side of the block. Stated she is a little surprised at what seems to be a rigid attitude towards variances because when she looks around South Haven every new build seems to be over 50% lot coverage.

Motion by Paull, second by Wheeler to close the public hearing.

All in favor. Motion carried.

Motion by Bugge, second by Miller to continue this item after Item 6b to allow the applicants time to privately discuss the matter.

All in favor. Motion carried.

Motion by Wheeler, second by Paull to continue this item until later in the agenda.

All ayes.

b. Ben Brush of South Haven is requesting a driveway variance from zoning ordinance section 1716, 1-c to allow construction of an industrial driveway which will be closer than 200 feet to an existing driveway on the property. The address for the property is 1400 Kalamazoo Street and the property owner of record is Bernard Pero.

Anderson explained that the building in question has been in the Industrial Park and for a long time used for boat storage. The applicant is looking for a place to do large engine repair and has worked with our building official and the fire marshall to work out the requirements for fire safety. The applicant needs to be able to drive the trucks around rather than having them back up onto the street. They want to have a second driveway and the city engineer said it would not be a problem since it is in the Industrial Park and there is not going to be a constant stream of deliveries.

Miller asked if the driveway proposed is on the north side to which Brush responded that the proposed driveway is on the east side.

Bugge asked if the two existing driveways are nonconforming and a brief discussion ensued.

Motion by Miller, second by Bugge to open the public hearing.

Ben Brush, C. R. 689, South Haven. Stated he needs to grow his business and has outgrown the current building. Explained that to utilize the building he needs to drive the trucks into the building and on out rather than backing out over two hundred (200) feet. Explained the flow through the lot and building. There would be five or ten trucks a day that would come through. Noted he has four full time mechanics, plus himself and his wife.

Bugge asked what he is working on, the cab or the trailer. Brush responded that he works on both. Bugge asked what happens to the trucks when he is done with them and pulls them out. Brush explained the way he plans to lay the property out for the site plan.

Bugge asked questions about the radius needed to make a turn to which Brush answered he does not know the exact radius but it would be no different than turning at an intersection. Brush also noted that if his request is turned down he is not going to buy the building.

Motion by Wheeler, second by Miller to close the public hearing.

All in favor. Motion carried.

Lewis thinks it is a good reuse of this building and has no objections. Wheeler commented that he is ready to vote on this any time. Lewis reminded that the motion should include reasons.

Motion by Wheeler that we approve the variance request by Ben Brush because it is a good use of the property.

During the boards' discussion of the nine standards, the following were identified:

This is not a self-created problem.

Approval of the driveway will not be detrimental to the adjacent property.

This request is not of a general or recurrent nature.

It is the minimum variance needed.

The motion by Wheeler was amended as follows:

Motion by Wheeler to approve the variance request by Ben Brush because it is a good reuse of the property; it is not a self-created problem; it is not detrimental to the adjacent property; this is not a general or recurrent situation and is the minimum variance needed. Second by Miller.

All in favor. Motion carried.

After a brief discussion with the Borgfjords and their builder the board agreed to continue Item 6a and the following motion was offered:

Motion by Wheeler, second by Paull to continue Item 6a to the next regular meeting. Any changes made to the original variance will need to be readvertised

All in favor. Motion carried.

7. Commissioner comments

Lewis: Wittkop resigned. A new board member is being appointed at City Council tonight.

There were no other comments.

9. Adjourn

Motion by Paull, second by Miller to adjourn at 7:39 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom
Recording Secretary

Zoning Board of Appeals

Staff Report



Agenda Item #6 Lot Coverage and Rear Yard Setback Variances

City of South Haven

Background Information: Haraldur and Grace Borgfjord, 9802 Sunnywood Drive, Kalamazoo, came before the ZBA last month seeking a lot coverage variance. The request was continued at that time until the Borgfjord's could make modifications to their request. Now the Borgfjord's are back seeking two variances for their proposed residence at 302 Michigan. The revised application shows the house will have 46.5% lot coverage where 40% lot coverage is the maximum allowed. The applicants are also asking for a rear yard variance for a portion of the house that will be 16 feet 3 inches from the lot line where 25 feet is required. The applicants state that they would like to build a home which is large enough to accommodate future barrier-free needs.

Recommendation: Staff recommends that the ZBA members review the application, staff findings of fact and the physical property before making a determination on the variance. The members must find that the request complies with all standards of zoning ordinance section 2205 to approve a variance.

Comments Received: One neighbor, Marla Brunner, called to tell me she opposed the variances believing them to be unnecessary.

Support Material:

Application (The applicant is using the same rationale for the variances as was submitted last month.)

Proposed site plan

Staff Findings of Fact

ZONING VARIANCE REQUEST
CITY OF SOUTH HAVEN
BUILDING DEPARTMENT
539 PHOENIX STREET, SOUTH HAVEN, MICHIGAN 49090
FOR INFORMATION CALL 269-637-0760

NOTE: Incomplete applications will not be processed. A fee of \$300 will be required at the time the application is submitted.

Name: Grace & Haraldur Borgfjord

Date: 6.10.2015

Address: 9802 Sunnywood Drive, Kalamazoo

Phone: 2699980617

Address of Property in Question: 302 Michigan Avenue

Present Zoning of Property: R1A

Name of Property Owner(s): Grace Ann Borgfjord Living Trust

Dimensions and area of property 100.11' X 61.06'

Dimensions of all buildings on the property (also shown on a diagram) _____

Setback measurements of all structures on the property (also shown on diagram) _____

Present Zoning of Neighboring Properties to the :

North R1A South R1A East R1A West R1A

Which Sections of the South Haven Zoning Ordinance are you requesting a variance from? Please indicate Section and Paragraph numbers. (City staff will help determine which variance(s) are required).

Section(s): _____

Under Article XXII, Section 2205 of the South Haven Zoning Ordinance, the Zoning Board of Appeals may not grant a variance from the regulations within the Ordinance unless certain conditions exist. No variance in the provisions of this Ordinance shall be authorized unless the Board finds, from reasonable evidence, that all of the following standards have been met:

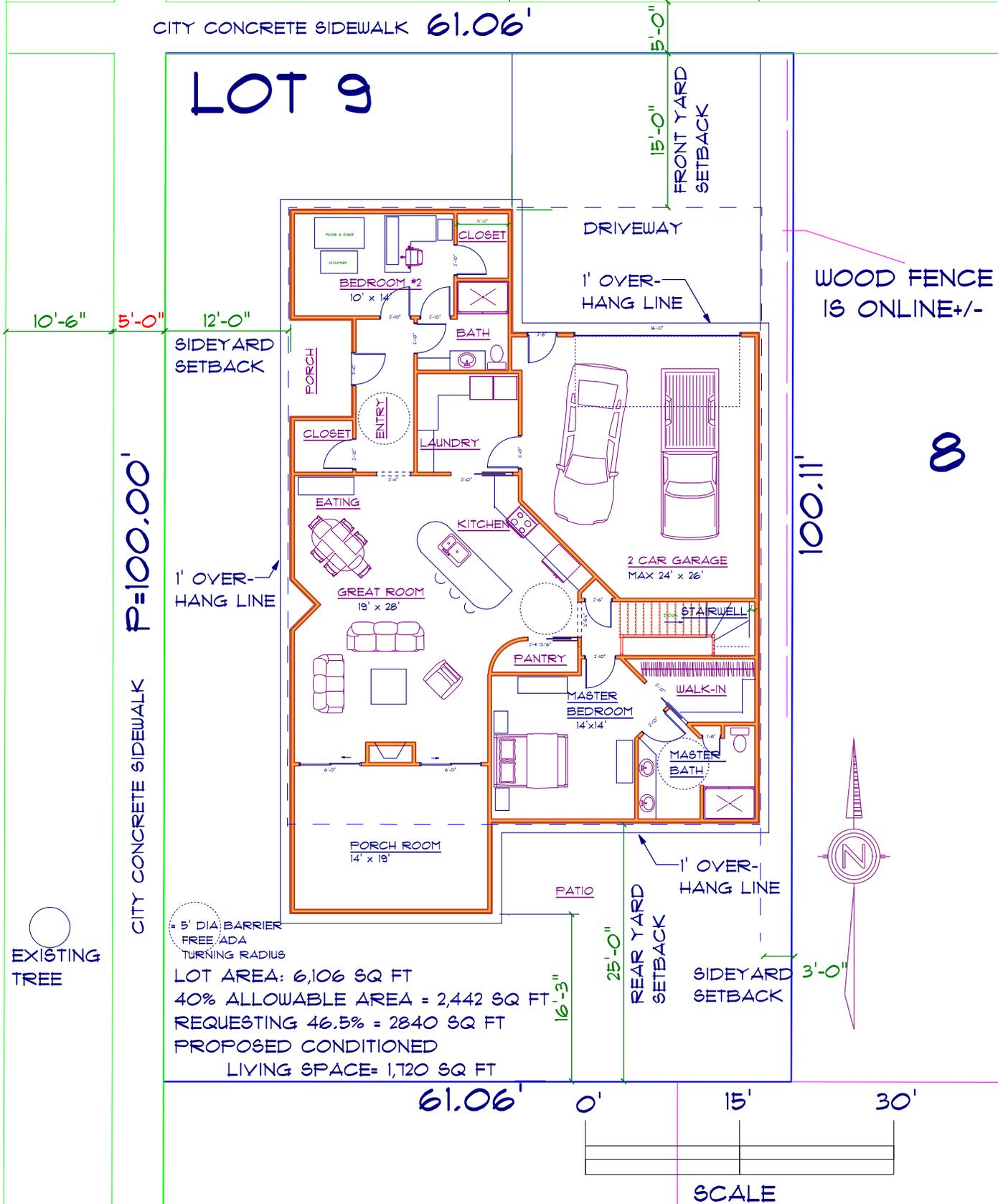
1. Such variance will not be detrimental to adjacent property and the surrounding neighborhood.

2. Such variance will not impair the intent and purpose of this Ordinance.

INDIANA AVE.
(66' R.O.W.)

CITY CONCRETE SIDEWALK 61.06'

LOT 9



STAFF FINDINGS OF FACT

CITY OF SOUTH HAVEN ZONING BOARD OF APPEALS

DATE: June 22, 2015
ADDRESS: 302 Michigan
ZONING DISTRICT: R1-A Single Family Residential
LOT DIMENSIONS: 61' wide; 100' deep
LOT AREA: 6106 square feet
LOT COVERAGE: vacant

PROPOSED SETBACK: 15 feet on street front; 3' and 12' sides; 16' 3" and 25' in rear

VARIANCE REQUEST: The applicant is asking for a variance in order to construct a residence which would have 46.5% lot coverage where 40% is the ordinance maximum. They are also asking for a rear yard setback of 16'3" where 25' is required.

DIMENSIONAL VARIANCE STANDARDS

City of South Haven Zoning Ordinance Section 2205:

1. Such variance will not be detrimental to adjacent property and the surrounding neighborhood.

This property is in a residential zone and the request is consistent with the intent of the district.

2. Such variance will not impair the intent and purpose of this Ordinance.

The R1-A zone is intended for single family homes on lots smaller than allowed in the R1-B zone. This lot is 1106 square feet over the minimum size allowed in the R1-A district.

3. Exceptional or extraordinary circumstances or conditions apply to the property in question or to the intended use of the property that do not apply generally to other properties in the same zoning district. Such circumstances shall create a practical difficulty because of unique circumstances or physical conditions such as narrowness, shallowness, shape or topography of the property involved, or to the intended use of the property. See Section 2204(2).

Staff finds no exceptional or extraordinary conditions with the property which would justify the variance.

4. Such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

Most other houses in this neighborhood appear to be in compliance with the lot coverage requirements and this lot is larger than most. The two (2) homes directly south of this lot, however, do have between 45 and 50 percent lot coverage. There is no reason that the applicants could not build a residence in compliance with the lot coverage requirements. There does not appear to be a financial motive for the request.

5. The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

Since most properties in the R1-A zone comply with the lot coverage requirement, this is not a common enough situation to prompt an ordinance amendment.

6. The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought, shall not be the result of actions of the property owner. In other words, the problem shall not be self-created.

The problem is self-created in that the applicant is choosing to construct a home of such size as to not comply with lot coverage and rear setback requirements. The argument made by the applicants is that they need the house to be one story and large to accommodate future barrier free needs.

7. That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.

Without the requested variance, the applicant would still be able to construct a home on the property. The ZBA will need to determine whether the applicant's desire for a larger home outweighs the regulations and places an unnecessary burden on the owner.

8. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship. **Staff does not find any inherent problem with the property that would warrant the granting of the variance.**

9. That the variance will relate only to property under the control of the applicant.

The variance request only involves the property owned by the applicant.