

Zoning Board of Appeals

Regular Meeting Minutes

Monday, October 28, 2013
7:00 p.m., Council Chambers



City of South Haven

1. Call to Order by Vice Chair Paull at 7:00 p.m.

2. Roll Call

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

3. Approval of Agenda

Motion by Bugge, second by Wittkop to approve the agenda as presented.

All in favor. Motion carried.

4. Approval of Minutes – August 26, 2013

Wheeler noted that Lewis needs to be added to the roll call of the August 26, 2013 minutes.

Motion by Bugge, second by Wittkop to approve the August 26, 2013 regular meeting minutes.

Anderson reminded the board that the attorney for one of the applicants at last month's meeting requested some amendments to the minutes and a copy of the minutes with his revisions was emailed to the board.

Bugge requested to amend the minutes as requested and noted those amendments as:

Page 2, 4th full paragraph: change the word "to" to "for"

Page 9, 4th paragraph from the bottom of the page: – makes a clearer statement than what was originally expressed

Motion by Bugge, second by Wittkop to approve the August 26, 2013 regular meeting minutes as corrected and amended.

Yeas: Boyd, Bugge, Miller, Wheeler, Wittkop

Nays: Paull

Motion carried.

Paull expressed his dislike for approving minutes that have been amended by the plaintiff's attorney.

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

None at this time.

NEW BUSINESS – PUBLIC HEARING

- 6. George R. Foster, 335 Pearl Street, is asking for a front yard variance in order to extend his landing and steps four (4) feet further into the required yard. The house is already nonconforming with a front setback of 20 feet where 25 feet is required. Steps are allowed to encroach into the front yard to within 16 feet of the sidewalk. This variance, if granted, will increase the nonconformity by allowing the front steps to be 13 feet away from the sidewalk.**

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

All in favor. Motion carried.

Paull noted that the applicant is not present.

George Wondergem, 315 Pearl Street, neighbor of the applicant. Supports Dick Foster's request and had sent a letter to the Zoning Administrator expressing that support. Also brought over another neighbor's letter; Amanda and Mike Creeden are also in support of Dick Foster's proposal. Wondergem does not feel that the requested porch is too big of an encroachment into the front yard. "Many of the homes on Pearl Street were built many years before this zoning was implemented." Does not feel there will be any problem with the neighbors as homes on Pearl Street have varying setbacks. Knows that there are many nonconforming situations on this street; urges the board to give his proposal positive consideration.

Anderson noted to the board that the two letters she had received were in support and another neighbor came in and wanted some questions answered but was not against it due to the character of the neighborhood and varying front setbacks. There was no negative input received.

Motion by Bugge, second by Boyd to close the public hearing.

All in favor. Motion carried.

Paull called for commissioner questions.

Bugge said under Criteria 3 the property does not suffer from two setback variances.

Bugge questioned the applicant's statement regarding easier accessibility, noting that handicap access does not seem to be his intention. Discussion ensued regarding the applicant's age and that access can become more of an issue as the years go by.

Anderson said the existing stoop is very narrow and people have to step back and down a step to open the door. Bugge asked if the applicant is referring to the storm door, which Anderson confirmed. Bugge said this situation is not unique to this house.

Wittkop noted that a person does have to back off to open the door and once you get the door open, "bam, you are in the house. That is, if you do not fall, as I might be known to do." Wittkop says if he is going to fall, he'd like to have the porch there to land on rather than go through the storm door. Wheeler commented, "Thus, the term 'landing'."

Paull asked the board's pleasure.

Wittkop noted that there is a statement in the application pointing out several other homes that are closer to the sidewalk. Boyd enumerated the ones referenced by the applicant.

Motion by Boyd, second by Wittkop to approve the variance as it is a reasonable and practical request.

Miller noted that much of the neighborhood is nonconforming to a similar degree and it does not seem right to deny the variance when it is reasonable and similar to the neighborhood.

Paull requested that Anderson read the standards from Section 2205, with which variances need to comply.

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.

Paull noted that the board has already commented on this standard. No other comments received.

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

Paull noted that it does not appear as though approving this variance would; it is not causing any issues. No other comments received.

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).

Paull feels this doesn't apply as other properties are similar. No other comments received.

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.

Not applicable per Paull. No other comments received.

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.

Anderson noted that she did not notice a preponderance of this type of request in this particular neighborhood; her opinion is that it is better to deal with such requests on a case by case basis rather than amending the Zoning Ordinance. General agreement from members.

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.

Paull pointed out that said condition already exists and is not the result of anything the owner did. No other comments received.

8. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship.

The board agreed that the porch is already nonconforming; this request will not make it much worse. Boyd pointed out that the applicant is only asking for 4'. No other comments received.

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

Boyd and Paull noted that is true.

Paull called the vote.

Yeas: Boyd, Miller, Paull, Wheeler, Wittkop

Nays: Bugge

Motion carried.

7. Member Comments

Boyd – No comment

Wittkop – No comment

Bugge – Feels that the applicant should be required to be present so the board may ask questions.

Paull – We have to deal with things as they come before us.

Miller – No comment

Wheeler – No comment

8. Adjourn

Motion by Miller, second by Boyd to adjourn at 7:25 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom
Recording Secretary