

Zoning Board of Appeals

Regular Meeting Minutes

Monday, December 15, 2014
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, Paull, Wheeler, Wittkop, Lewis
Absent: Boyd, Miller

3. Approval of Agenda

Motion by Wittkop, second by Bugge to approve the December 15, 2014 Regular Meeting Agenda as presented.

All in favor. Motion carried.

4. Approval of Minutes – November 17, 2014

Motion by Bugge, second by Wittkop to approve the November 17, 2014 Regular Meeting Minutes as revised.

Page 12, roll call vote for Kenneth Hogan request. Change the roll call vote to read as follows:

Yeas: Paull, Wheeler, Wittkop, Lewis
Nays: Bugge

Motion carried.

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

There were none.

6. New Business – None

7. Unfinished Business – 310 Eagle Street variances

Anderson gave the background of this being last month's request which was continued for clarification. The original request was correct as advertised and did not need to be re-noticed. The applicant's proposal is that the house will have a nine foot (9') setback where fifteen feet is required and three foot (3') setback for an open deck where a six foot (6') setback is required. Neighbors were generally in favor of the request at last month's public hearing.

Bugge questioned whether the required lot coverage is thirty-five percent (35%) or forty percent (40%). After discussion of what the lot coverage requirements are in the zone, Anderson stated that a variance is not required for lot coverage. Lewis thought that was the question last time which Bugge agreed with. After discussion regarding which zone the lot is in it was determined that the lot is in the R-1A zone which requires forty percent (40%) lot coverage, and further discussion on whether the garage square footage had been considered in the calculations. Anderson clarified that the lot coverage, including the garage, is forty-three and one-half percent (43.5%), which makes the proposed lot coverage three and one-half percent (3.5%) over the maximum.

To clarify, Wheeler noted that the two issues are the front setbacks to the drip edge and to the deck and the percentage of lot coverage.

Bugge asked about whether there are variances on the adjacent houses. Anderson noted that she did research that question and at the time those houses were issued building permits, zoning permits were not apparently issued as a separate document as they are now. The building inspector would have reviewed the zoning and if it was over must have let it go. In researching, Anderson found that the zoning on those properties was the same then as it is now. There was no evidence that a variance had been granted. Anderson explained that the adjacent houses were close so perhaps the averaging rule was used. Anderson did not find documentation regarding when the averaging rule went into effect.

Fries wondered whether the lot coverage requirement was the same then as now because 314 Eagle exceeds the lot coverage he is requesting.

The board decided that the three variances would be considered separately.

Bugge clarified the dimensions of the proposed setback as being twelve feet (12') to the existing foundation. Wheeler asked, "So the setback request is officially nine feet (9')?" which was agreed to by the board.

Bugge said she would not be comfortable with the new setback but would rather see it be similar (to match) the setback on the adjacent houses. Bugge, however, does not know whether those houses sit at the ten foot (10') line or would be less. Discussion ensued regarding the request and exactly what the applicant is asking for. Bugge stated that we are considering the setback to the house.

Lewis asked for comments on the house setback, noting that he is inclined to keep it all straight. Wittkop asked if we knew what the distance is from the street to the adjacent houses, to which Anderson said, "No." Bugge thinks it is about ten feet (10') and Anderson said it could be ten (10) feet if averaging were used, but no closer. Lewis asked for the

purpose of the motion, noting that the board does not need the measurement to make a motion.

Motion by Bugge, second by Wittkop, to grant a variance to the front *setback* of the house equivalent to the adjacent houses.

A Roll Call vote was taken:

Ayes: Bugge, Paull, Wheeler, Wittkop, Lewis

Nays: None

Motion carried.

Lewis moved on to discussion of the deck request, which is to be within three feet (3') of the property line when the required setback is nine feet (9'). It was noted that the applicant had already removed the railroad ties. Anderson pointed out that since the structure is currently nonconforming, once the applicant took it down he would need a variance to rebuild.

Motion by Paull, second by Bugge to approve the variance as requested because it is not going to change the current footprint.

A Roll Call vote was taken:

Ayes: Paull, Wheeler, Wittkop, Bugge, Lewis.

Nays: None

Motion carried.

Lewis suggested that regarding the lot coverage, that the house should not exceed the foundation as current. Anderson did a quick calculation regarding the setback and lot coverage, noting that if the applicant did that it would be thirty-one and thirty-six hundredths percent lot coverage (31.36%) for the house. Bugge pointed out that the applicant might come back with a different design. Lewis would like to see the numbers. Anderson stated that with the garage figured in the lot coverage would be two and eight-tenths percent (2.8%) less if the applicant took the one foot (1') off the front. Bugge would like to see the applicant just conform with the ordinance.

Motion by Bugge to deny the variance for lot coverage.

Lewis asked for support.

Hearing none, motion fails.

Lewis commented that he does not have too much problem with lot coverage approval; contingencies can always be added. For example, the applicant could build to the required coverage; they could also enclose that front. Lewis explained that a condition that could be put on the property is a requirement that the porch remain an open porch; he remembers doing that with other roof porches. Once someone did enclose such a porch and we made them rip it out.

Wittkop stated that it was at Maple and Erie Streets.

Wheeler questioned whether Lewis is thinking of giving some grace since part of it is open deck. Lewis said we can consider that.

Bugge asked what the design of the house they are going to build will be. Paull said we have to grant lot coverage of a certain percentage but we have no idea now what that is going to be. Wittkop said that lot is currently all house and no green space. Discussion ensued about concrete being open space but it is not green space.

Fries said he would agree with that to leave the upper deck open. Bugge said the open deck is not the issue. Fries clarified he is talking about the upper and lower covered porches.

Bugge noted that on the drawing it looks like the deck is about 3' from the roofline to the foundation. Bugge asked what the width of the floor from the wall of the building to the roofline. Fries noted that the measurement does not matter; the set back to the roofline is what matters.

Bugge asked for clarification of the scale of the drawing; it was noted that the drawing is not to scale but the noted measurements are accurate.

Paull observed that what the board has approved so far will send the applicant back to the drawing board for a new design, stating, "If we deny the request for the variance on lot coverage, he has to go back and redesign his house, and then wait to come back to us in a year. We don't want that."

Lewis asked about continuing this request until a design is submitted. Paull stated that the request should not be continued but tabled, because if the applicant complies with the current required lot coverage he will not have to come back, and he won't have to wait a year because we denied it.

Motion by Paull, second by Wittkop to table any action on the lot coverage variance request.

Paull noted to Fries that when he gets a new design he should bring it in to Anderson. If the design complies with the forty percent (40%) limit then a variance will not be needed. Bugge noted this does not mean that the applicant would automatically be granted a variance if he came back with more than 40% within the year.

All in favor. Motion carried.

8. Member Comments

Bugge: Happy Holidays, Merry Christmas, Happy New Year, etc.

Wittkop: Will it snow?

Paull: None

Wheeler: None

Wittkop: None

Lewis: None

8. Adjourn

Motion by Paull, second by Wheeler to adjourn at 7:35 p. m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom
Recording Secretary