

City of Keego Harbor
ZONING BOARD OF APPEALS MEETING MINUTES
WEDNESDAY, JANUARY 24, 2018 7:00 PM
2025 Beechmont
Keego Harbor, MI 48320

CALL TO ORDER: Vice Chairman Lockwood called the meeting to order at 7:00 p.m.

ROLL CALL

PRESENT: Vice Chairman Kenneth Lockwood, Board Members Stephen Bernstein, David Emerling, Scott Balutowicz and Liaison Planning Commission Brian Lampl.

Staff Present: City Planner Jason Smith, Council Liaison John Fletcher and City Manager Linda Voll.

NEW BUSINESS

1862/1864 Cass Lake Front Street ZBA 17-008: Request for Dimensional (Non-Use) Variance: Area-Height-Bulk-Placement Requirements, Section 4.08(3)(a) Reduce the minimum front yard setback by 11 feet 8 inches; Section 15.11(b) to allow for an upper level balcony to project on the front yard open space 16 feet 8 inches in the Neighborhood Residential District (NR). This is 8 feet 8 inches beyond ordinance allowance; Section 4.06(c) To allow temporary parking on a permeable paver product to be installed adjacent to the proposed driveway to allow for parking on areas other than improved surface of concrete, asphalt, or brick. Ordinance only allows parking areas to be improved surface.

PROPERTY DESCRIPTION: 1862/1864 Cass Lake Front Street, Lot 5 of "Assessor's Plat No. 3"

Tax ID #, 18-02-276-020

PROPERTY LOCATION: Property is located on the west side of Cass Lake Front Street, on the Cass Lake waterfront, between Moss and Glenbroke Streets

ZONING CLASSIFICATION: **Subject Property:** NR, Neighborhood Residential District.
Adjacent Properties: NR, Neighborhood Residential District.

DEPARTMENT FINDINGS OF FACT:

1. The subject site is zoned NR, Neighborhood Residential.
2. The proposed new house construction conforms to some, but not all the minimum bulk and area standards of the Zoning Ordinance.
3. The applicant will be required to meet the architectural design standards for any new house construction.

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4. The proposed side yard and waterfront yard setbacks at the north and west property lines will be brought into compliance to meet the minimum standards of the Zoning Ordinance. These existing setbacks are currently non-conforming.
5. The proposed front yard setback and front balcony are non-conforming.
6. The proposed lot coverage percentage is compliant.
7. The existing duplex residence and detached garage with apartment at 1862 and 1864 Cass Lake Front Street is proposed to be demolished in favor of new construction.
8. The existing lot (Tax ID #, 18-02-276-020) is shaped similarly to immediately adjacent lots and is not uniquely shaped while having a wider lot than most adjacent to it.
9. Although the existing lot is not uniquely shaped, the lot width is 57.2 feet while the lot depth is 308.3 on the south side and 272 feet on the north side.
10. Cass Lake Front Street runs diagonally.
11. Lots on west side of Cass Lake Front Street have frontage on Cass Lake.
12. The applicant proposes to build and construct a two and a half story single-family home (3,333 square feet with two-car garage).
13. Applicant proposes for existing shed (253 square feet) to remain.
14. Applicant proposed for the existing stone retaining wall on the east side of the property along Cass Lake Front Street to remain.
15. The applicant has proposed providing additional parking by way of a permeable paver product that will be installed beneath the lawn area to protect the lawn from damage while vehicles are temporarily parked on this surface (1,908 square feet in area).
16. The applicant is proposing additional downspouts and driveway catch basins that will direct water away from adjacent properties and Cass Lake Front Street.
17. It should be noted that the Planning Commission is currently researching the existing driveway and off-street parking requirements within the Keego Harbor Zoning Ordinance for the Neighborhood Residential District to find ways to provide some parking options/relief for residence of Keego Harbor.

AUTHORIZATION:

Section 17.03(c) **Dimensional Variance**

The ZBA shall have the authority in specific cases to authorize one or more variances from the strict letter and terms of this Ordinance by varying or modifying any of its rules or provisions so that the spirit of this Ordinance is observed, public safety secured, and substantial justice done. Such authority shall be exercised in accordance with the following standards:

1. The ZBA may grant a requested variance only upon a finding that practical difficulties exist. A finding of practical difficulties shall require demonstration by the applicant of the following:
 - a. Strict compliance with restrictions governing area, setback, frontage, height, bulk or density will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.
Does not meet the standard, strict compliance with the ordinance would not completely prevent the property owner from constructing a house. However, the

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applicant is requesting to construct a house and garage that is below the allowed lot coverage (24.6% proposed vs 30% allowed). The applicant claims that the residence to the north is setback unusually far, which skews the front yard setback average. Meeting the allowable lot coverage is impossible to achieve on the existing lot without some variances.

In addition, the proposed driveway and two-car garage could reasonably park an estimated 8-9 vehicles which meets the required off street parking requirement for a single-family home of two (2).

- b. The variance will do substantial justice to the applicant, as well as to other property owners.

Meets the standard, the variance would provide substantial justice to the current property owner and to other property owners in the area as the existing use in non-conforming along with existing side and waterfront setbacks. There may be several lots that front along Cass Lake Front Street that experience similar conditions because of the existing conditions.

As stated, the applicant could reasonably park 8-9 vehicles on the proposed driveway. Given that on-street parking is not allowed along Cass Lake Front, a variance to allow for "infrequent parking" on the proposed permeable paver product would provide some justice for the applicant.

- c. A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.

Somewhat meets the standard; in relation to the front setback and permitted projection variance request a lesser variance would not provide substantial relief. Specifically, a lesser variance would provide some relief, but the effect could be considered a negligible amount relief.

In relation to the request for parking on a surface other than an improved surface, a lesser variance could provide some relief given the sizeable area being proposed for this purpose.

- d. The need for the variance is due to unique circumstances peculiar to the property and not generally applicable to other properties in the same zoning district.

Somewhat meets the standard, in relation to the front setback requirements, the property is unique and peculiar based on existing conditions when compared to other properties within the City that reside in the Neighborhood Residential District. It is a waterfront lot on an angular street with narrow frontage. There are many other structures on Cass Lake Front Street that sit much closer to the road than what the applicant is proposing.

Also, given that on-street parking is not allowed within the City and the presence of many narrow lots, the need for additional parking area within the

Neighborhood Residential District is not a unique circumstance for the subject property.

- e. The problem and resulting need for the variance has not been self-created.
Does not meet the technical standard, the property owner has created the problem or the need for a variance by proposing to construct a new house. A two and a half story house could be constructed without a variance. However, the unique lot configuration and conditions along the angular street frontage and waterfront frontage are not self-created hardships.

Also, as stated the proposed driveway appears to be more than sufficient to meet the minimum off-street parking required within the Neighborhood Residential District.

2. In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the ZBA may make the required findings. Administrative officials and other persons may, but shall not be required to, provide information, testimony and/or evidence on a variance request.
3. The following are specified as appropriate considerations by the ZBA in hearings and deciding variance requests, provided, this list shall in no respect constitute a limitation upon the considerations which may be made by the ZBA:
 - a. Other lands, structures, buildings, lots and uses in the same district and in the general vicinity of the property in question.
 - b. Whether granting the variance will confer special privileges on the applicant that have been denied by the Ordinance and/or ZBA in other cases.
 - c. Whether the requested variance is the minimum necessary to authorize reasonable use of the property in relation to the surrounding area.
 - d. Reasonable and available alternatives, which, although not requested by the applicant, would minimize or eliminate the need for variance relief.
 - e. The provisions of this Ordinance from which a variance is requested, including the purpose and intent of such provisions within the context of the Ordinance as a whole.
 - f. The imposition of appropriate and authorized conditions.
 - g. The existence of nonconforming structures, uses of land, or the combination of structures and uses, shall not be used as a singular basis or rationale for granting a variance.

RECOMMENDATION:

1. To approve the dimensional variance request for ZBA-17-006, 2968 Glenbroke Street for Section 15.26(d)(1) Site Grading; to increase the maximum finished floor height from 2.5 feet to 6.0 feet above the center line elevation of the fronting street. A variance of 3.5 feet of finished first floor height is granted; as the request meets the specific standards for practical difficulty from Section 17.03(c) of the Zoning Ordinance based on the existing conditions of the land.

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2. To deny the variance request for ZBA-17-008, 1862/1864 Cass Lake Front Street for Section 4.06(c) to allow temporary parking on a permeable paver product to be installed adjacent to the proposed driveway to allow for parking on areas other than improved surface of concrete, asphalt, or brick as the request does not meet the specific standards for practical difficulty from Section 17.03(c) of the Zoning Ordinance.

Commissioners questions for Planner Smith;
Commissioner Bernstein; if you have an existing non-conforming use, and a new structure is built does that eliminate that use?
Planner Smith stated that is correct.

City Liaison Fletcher asked for clarification on item 17; the applicant is requesting to put Permeable paving system in under a living surface. He does not need the ZBA permission to do this. What the applicant is looking for is the ZBA approve a parking issue. City Liaison Fletcher's understanding if you are going to have a special function you contact the Police Chief and get permission for parking.

Planner Smith; The Planning Commission is looking at parking issues. The current ordinance allows for a 12-foot wide driveway. Parking is not allowed on non-improved surfaces. Smith asked City Manager Voll for parking clarification.

Manager Voll; Permission can be given for special event parking at a residence. A written request must be submitted to Police Chief. The Chief will explain parking is allowed on only one side of the street. He will make the determination of parking on your lawn. The biggest issue is emergency vehicles must be able to maneuver the streets at all times.

Vice Chair Lockwood; the applicant parking request how many vehicles can this property park currently?

Planner Smith; currently approximately 9 vehicles can park in his proposed driveway. The permeable paving system area would increase the parking by an estimated 4 or 5 vehicles. It is 1,900 sq. ft., but a few issues were looked at for a functional stand point.

Commissioner Emerling; did not see that the Permeable paving system is a bad idea. It would keep residences from parking on the streets. The plan for the storm water runoff is an issue that is needed to be address in the City.

Commissioner Balutowicz; how many front yard setbacks have been granted in the city?
Planner Smith; in doing research one was granted in the last 3 years.

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Open Meeting to Applicant:

Roger Young with Young & Young Architects: This Permeable paving system does not get damaged when driven on. It doesn't have to be used just for parking; it could be used for a turnaround if you have a difficult driveway. The intent of this would be used on occasion for overflow parking.

The setback regulations are very difficult; the balcony does encroach into the front yard setback. We have eliminated several nonconforming uses from the existing duplex. The duplex has 3 living units currently, this will change to one dwelling.

Commissioners discussed;

The proposed French drain system. #4 department findings; Retainer wall is in disrepair, is this going to be address in the renovation? The retainer wall is going to be restored. Front yard fences; 3 ft. or shorter, decorative and open to light preferably not chain-link fence. The Permeable paving system is an excellent system and works very well. The ordinance does state no parking on the grass.

Applicant/Owner: Anmar Safara, 3720 Wabeek Lake East, West Bloomfield 48320

This is a very non-conforming property. The request on the parking is going to be a hot topic, rather than pouring more cement and having water runoff issues.

We want this to be beautiful landscaped and less cement. We ask the city to work with on turning a very nonconforming property into a conforming property. This property is not going to be primary residence.

Commissioners questioned:

If any other residence in the City calls the police department every weekend tor parking approval. That would be a police department question.

Open the Meeting to the floor:

Letter was received from Leslie Clark and read; In favor of the Permeable paving system and water runoff proposed would mitigate water issues within the City.

Vice Chair Lockwood: In a ZBA request were looking to lessen the non-conforming use of this property: There is a non-comforting shed on the property, request that this also be demolished. The ZBA has the option to request the Shed be demolished.

Commissioner Balutowicz; we address the issue with the retainer wall, maybe this shed could be enhanced and brought up to a higher value.

Applicant; Anmar Safara will not demolish the shed; he would like to make repairs to the shed.

Commissioner Lampl asker Planner Smith what could be done with the shed to bring it up to meet the ordinance? Smith explained a shed can be 100 sq. ft., this shed is 253 sq., and sets close to the property line. Lampl suggested allowing the shed to remain with stipulations that it remain a shed for storage. The parking issue is a great idea; it does

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not meet the specific standards for practical difficulty from Section 17.03(c) of the ordinance. If this is approved a precedence would be set.

City Liaison Fletcher the ZBA could make conations to allow the shed to remain on the property. The parking structure went from an occasional use, to every weekend use when the applicant spoke about parking. An occasional use would be (ie.) Memorial Day, 4th Of July, and Labor Day, not every weekend.

Owner Sarafa withdrew the variance request for temporary parking on a permeable paver.

The ZBA members would like for the Planning Commission to really look at the parking issued and define occasional parking and temporary parking.

Motion by Commissioner Emerling to approve the dimensional variance request for ZBA-17-006, 2968 Glenbroke Street for Section 15.26(d)(1) Site Grading; to increase the maximum finished floor height from 2.5 feet to 6.0 feet above the center line elevation of the fronting street. A variance of 3.5 feet of finished first floor height is granted; as the request meets the specific standards for practical difficulty from Section 17.03(c) of the Zoning Ordinance based on the existing conditions of the land. Support by Commissioner Bernstein.

No community opposition to this request. The front retainer wall will be rehabilitated, and maintained structurally sound. The shed will be rehabilitated, maintained structurally sound, the size height and bulk must remain the same. Support by Bernstein

Roll call vote: Ayes: 5 Motion Carried

- Appoint on New Chairman
Motion by Commissioner Bernstein to Nominate Ken Lockwood to Chairman, support by Commissioner Balutowicz.

Ayes:5 Motion Carried

- Appoint Vice Chairman
Motion by Commissioner Emerling to nominate Steve Bernstein, support by Chairman Lockwood.

Ayes:5 Motion Carried

- Motion by Chairman Lockwood to add the 2018 Meeting Calendar to the Agenda and approve the 2018 Calendar, support by Vice Chair Bernstein.

Planner Smith stated, ZBA by-laws you vote in March for the seats of office.

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APPROVAL OF MEETING MINUTES

- August 23, 2017

Motion to approve the meeting minutes from August 23, 2017 by Commissioner Emerling; seconded by Vic Chairman Bernstein.

Roll call vote: Ayes: 5 Abstain: 0 Motion Carried.

ADJOURNMENT

Being no further business Vice Chair Lockwood adjourned the Zoning Board Meeting at 8:55 P.M.

KENNETH LOCKWOOD
ZBA CHAIR

TAMMY BLEASHKA
ADMINISTRATIVE CLERK