

Council Chamber
Henry L. Brown Municipal Bldg.
One Grand Street
Coldwater, Michigan



September 29 2021
4:30 p.m.
(517) 279-9501
www.coldwater.org

Zoning Board of Appeals Minutes

Special Meeting

The petitioner was informed that it would require the affirmative votes of at least three ZBA members present to approve the request, and as is customary the petitioner could ask for a postponement of the hearing if they want to wait for a full five-member review.

Petitioner declined the offer.

MEMBERS PRESENT: The meeting was called to order by Vice Chairman Gordon Swan at 4:44 p.m. with the following members present: Mike Eddy, Alternate Member Jim Bilsborrow and Alternate member Jeff Holbrook.

*Vice Chairman Gordon Swan, as a next door neighbor to the petitioner and therefore having a conflict of interest in the matter, recused himself from the proceedings and left the meeting at 4:45 p.m.

MEMBERS ABSENT: Chairman Michael Renshaw, Joseph Hayes, David Cole, Gordon Swan.

OTHERS PRESENT: Administrator Dean Walrack, Shauna Chávez and Joseph Renshaw.

MINUTES

1. Regular Meeting of August 18, 2021.

Board Action: Motion by Alternate Member Bilsborrow, and seconded by Alternate Member Holbrook, to approve the Regular Meeting minutes of August 18, 2021, as presented.

Ayes: 3

Nays: 0

Motion carried

2. Non-Quorum Meeting of September 15, 2021

Board Action: Motion by Alternate Member Bilsborrow, and seconded by Alternate Member Holbrook, to approve the Regular Meeting minutes of September 15, 2021, as presented.

Ayes: 3

Nays: 0

Motion carried

PUBLIC COMMENTS

- None.

PUBLIC HEARING

3. ZBA21-04 A request from Joseph and Sarah Renshaw located at 24 Cheryl Ann Dr. to consider a 2 ft. height variance from Section 5.13.C.1 and a characteristic variance from Section 5.13.D.1 of the Coldwater Zoning Code to allow privacy fencing to be installed at a maximum height of six ft. six in. in a residential front yard.

Member Mike Eddy opened the public hearing at 4:47 p.m.

Administrator Walrack presented ZBA21-04 a request by Joseph and Sarah Renshaw of 24 Cheryl Ann Dr. for a two ft. height variance and a characteristic variance to install Privacy Fencing at the right-of-way line at the west Front Yard of their property at 24 Cheryl Ann Dr. The zoning ordinance limits Front Yard fencing to four ft. six in. in height and 50% opacity. Fence height is measured from “common grade” which is determined by the land extending six ft. in each direction from the fencing.

24 Cheryl Ann Dr. is a corner lot with two front yards. Sidewalks exist on each right-of-way adjacent to this property, however, they have not been extended north on Alandale Dr. There are significant elevation changes on the property as it currently is situated.

The applicable sections of the zoning code are highlighted below:

5.13.C.1 Fence height in residential front yards Except as otherwise provided herein, no fence in any front yard shall exceed four feet and six inches in height, nor shall any fence exceed six feet and six inches in height.

5.13.D.1 Construction regulation of fences in residential front yards Except as otherwise provided herein, no chain link fence, wire mesh fence, or privacy fence may be located in any front yard.

Variances to be considered: Two ft. height variance for Front Yard Fencing from Section 5.13.C.1 and Privacy fencing in a residential front yard from Section 5.13.D.1.

The Zoning Board of Appeals may grant a “non-use” variance only upon a finding that practical difficulties exist. A finding of practical difficulty is when the applicant has demonstrated all of the following:

A. That special conditions and circumstances exist which are peculiar to the land, land use, structure or building in the same zoning district so as to present such a unique situation that a precedent will not be established for other properties in the district to also ask the same or similar change through the zoning appeal procedure.

Petitioner’s response: Corner lot which leads to having two front yards, small lot size with slope towards three sides.

Staff commentary: The lot is ~10,000 sq. ft. in area and has two front yards. It is among the smallest 1/3 of properties zoned A-1 (2,221 total), though the minimum lot size for this zoning district is 7,800 sq. ft. Of lots this size or smaller in this zoning district, 100 are corner lots. Of the yards on this property, front yards occupy ~4,800 sq. ft. and side yards occupy ~3,500 sq. ft. The elevation fall ~ two ft. from the house to the north property line and ~ five ft. from east property line to west.

B. 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.

Petitioner’s response: Goal is to maximize usable play area for growing family while maintaining a reasonable degree of privacy and safety. Staff Comments: Six ft. six in. privacy fencing is only permissible in side and rear yards, however four ft. six in. decorative fencing is allowed in all yards.

C. The authorization of such variance will not be of substantial detriment to adjacent property and will not naturally impair the intent and purpose of this Zoning Code or the public interest. Petitioner’s response: It will not be detrimental to adjacent properties for the intent of the ordinance.

Staff Commentary: The intent of the Fence Standards and Regulations is to “...ensure safe site lines and to minimize the potential negative visual impact and hazards of excessively tall and unsightly fences.” Fencing adjacent to sidewalks can create a poor pedestrian experience and safety issues related to instances of poor visibility. Sidewalks do exist on both rights-of-way on this property, but have not been extended north of this site on Alandale Dr.

D. That granting of the variance requested will not confer on the applicant any special privilege that is denied by the provision of this Zoning Code to other lands, structures or building in the same zoning district.

Petitioner’s response: Will not grant special privileges but rather seek to normalize my ability to use my property.

Staff Commentary: Double-frontage lots are particularly affected by front yard restrictions and common requests for variance. An index of variance actions for Front Yard Fencing has been appended to the end of this report.

E. That the reasons set forth in the application for the variance justify the granting of the variance and the variance is the minimum variance that will make possible the reasonable use of the land, building or structure in the zoning district in which it is located.

Petitioner's response: The reasons that justify the granting are unique to this property and are the minimum needed to enable a similar use as exist for other properties in the zoning district.

Staff Comments: The majority of the yards on the applicant's lot is comprised of Front Yard.

Front yards may still be fenced to differentiate property which is private and public, and to prevent children, animals, or objects from leaving or entering a site, however all fencing must be of a certain character to prevent negative effects on public safety or the pedestrian experience. There are some restrictions on landscaping as it affects vehicular safety, but it may also be used to provide privacy in some instances.

Public Comment: Administrator Walrack read an email from Dale Williams – 32 Bishop Ave. in opposition to ZBA21-04 (attached in Addendum A).

Joseph Renshaw, owner of the property was on hand to answer questions.

Member Eddy closed the public hearing at 6:01 p.m.

Board Action: Motion by Alternate Member Holbrook, and seconded by Alternate Member Bilsborrow, to deny the variance due to not meeting criteria B, as presented.

Ayes: 3

Nays: 0

Motion Carried.

OLD BUSINESS

- None.

NEW BUSINESS

- None.

ADJOURNMENT – Next meeting 4:30 p.m. November 15, 2021.

Meeting adjourned at 6:40 p.m.

A handwritten signature in blue ink that reads "Shauna Chavez". The signature is written in a cursive style with a large, looping initial 'S'.

Shauna Chávez
Deputy City Clerk

Dr Dale Williams
32 Bishop Ave
Coldwater, MI 49036

I am opposed to privacy fence that extended beyond normal range of current law. A six foot back yard fence is bad enough. Front and side yard 6 foot fence are ugly. I realize it is a corner lot but the owner should have thought of that before purchasing the property

Dale Williams