



Saugatuck Zoning Board of Appeals Meeting June 8, 2023, Minutes

The Saugatuck Zoning Board of Appeals
Met in regular session at 7:00 p.m.
City Hall, 102 Butler Street, Saugatuck, Michigan.

- 1. Call to Order** by Chairman Kubasiak at 7:03 p.m.

Attendance:

Present: Chairman Kubasiak, Board Members Bont, Bouck, Crawford, & McPolin.

Absent: None.

Others Present: Director of Planning, Zoning, & Project Management Ryan Cummins, & Deputy Clerk and DPW Administrative Assistant Sara Williams, City Attorney Jacob Witte

- 2. Agenda Changes/Approval of Agenda:** Approved.

Motion by McPolin, second by Bouck to approve the agenda for June 8, 2023, meeting as presented. Upon voice vote, motion carried unanimously.

- 3. Approval of Minutes:**

Motion by Bont, second by McPolin, to approve as amended, the minutes from April 13, 2023, as submitted. Upon voice vote, motion carried unanimously.

Motion by Crawford, second by Bont, to approve the minutes from May 18, 2023, Special Meeting, as submitted. Upon voice vote, motion carried unanimously.

- 4. Public Comments:** Anne Guild lives south and above the proposed home at 184 Park Street. She is in attendance to gather more information regarding the project and see how that may affect her property.

- 5. Unfinished Business:** None.

- 6. New Business:**

A. 184 Park – Front Setback:

1. The Public Hearing was called to order by the Chair at 7:07 p.m.

2. Summary by Director of Planning, Zoning & Project Management Ryan Cummins.

The applicant requests a dimensional variance to construct a new dwelling at 184 Park Street, which requires a reduced front setback of 15 feet instead of the minimum 25-foot setback from the Vine Street right-of-way, a reduction of 10 feet. The request relates to Section 154.036 (D) of the Zoning Ordinance, and the purpose of this report is to provide a review of the application and standards of approval.

The property is located in the Peninsula West R-1 zoning district. The corner lot is approximately 100 feet wide and 294 feet deep, and the property is just over one half (1/2) acre in size. The property is narrower toward the Park Street frontage due to a jog in the southside property line.

The ZBA previously granted variances, and all have expired. Most recently, in 2021, a front setback variance from the Vine Street right-of-way was granted for a 15-foot setback, a reduction of 10 feet. Similar variance requests were considered and approved in 2016 and 2018.

It should be noted that the site plan incorrectly applies a 25-foot setback to the southeast of the proposed dwelling. Although there is a jog in the south property boundary, it does not result in a 25-foot front setback anywhere that does not abut road right-of-way. A 25-foot front setback will only apply along the road right-of-ways (Park and Vine), and a 25-foot rear setback will apply from the western rear property line. The entire southern boundary is subject to a 10-foot side setback.

The setback determination is important as it increases the size of the building envelope beyond what was understood by the applicant at the time of plan development. When this issue was presented to the applicant, Mr. Damstra provided the following supplemental information in an email to Ryan Cummins (June 1, 2023):

EGLE has approved the existing site plan as the only solution for the parcel due to slope. While previous variances were approved by the ZBA, none had EGLE approval. It would seem reasonable that a site plan that is more conforming than previously approved plans and that is also EGLE-approved would meet the ZBA's expectations for variance approval.

It should also be noted that the 10-foot setback reduction is the same as previously approved on three occasions, although the plans indicate an 18-foot and five (5) inch setback. The previously referenced email correspondence also stated that an 18-foot and six (6) inch setback should be sufficient, but they still requested the 10-foot reduction for a 15-foot setback to cover contingencies.

3. Presentation by the Applicant:

Doug Damstra, from Damstra Consulting was here to present on behalf of Patricia Galleon and Skipper's Construction. He was hired to take care of their due diligence permitting, utilities and in this case because of the variance required, he was tasked with taking care of this as well. He said that there were three previous variances on the books that had been approved. They hoped they would get an extension, however with Ryan's guidance they realized that the variance had expired and could not be extended, so they applied for a new variance. This was very much dictated by Holland Engineering in their design to have the least impact on the property on the parcel from an engineering standpoint, and also with guidance from EGLE. Because of the steep grade on this particular property, they are using their guidance to locate it in the optimal position to be able to make this particular one work with Ryan's. They did have a misunderstanding about the front setback on Park Street. They were under the impression that the front setback was 15 feet and apparently, that is not the case, the front setback can actually be 10 feet. However, this particular corner is an individual lot owned by Kalamazoo Lake Sewer and Water Authority.

There is a big, barbed wire fence surrounding that and at this point it doesn't necessarily impact the variance but at the same time the client would prefer not to have their deck hanging out over the front over the top of the pump station. He said that the location of this house is really dictated by EGLE and Holland Engineering as far as location.

Damstra said that one question that came up regarding impact to neighboring properties, one thing that will occur, is they will be driving steel retention sheets into the ground to prevent any over digging on this part during excavation. They will be driving in steel along here and along the back of the property where they will be driving in steel to make sure that there is no way that hill can fall down into the excavation site, and it will be backfilled to make sure everything remains the same. He said that there is still some confusion on this. These two-iron imperforated potentially would be wing walls, those are not wing walls, there will not be any additional retention walls as part of the foundation on this. They have applied for a 15-foot setback because the previous variance was with a 15-foot setback that had never been approved by EGLE. It was great that it was approved but whether or not it actually ever would have been built is unlikely because of the fact that it never was approved at this point. This is fully ready to go, subject to your approval.

Damstra explained that they did just get full approval from the fire department. There was some confusion about whether or not that was going to be any kind of a problem. They made sure that they met the minimum expectations, even though it's within 100 feet of the roadway. Chris Mantells still wanted them to make sure that they had a way to meet the expectations. They met the minimum width as far as zoning for each individual parking spot, which is two or three parking spots for this particular property and of course trying to minimize the impact to the lot.

4. Public comment regarding the application:

- a. Supporting comments: None.
- b. Opposing comments (audience and letters): None.
- c. General comments (audience and letters): Anne Guild lives South and above the proposed home at 184 Park Street. She is in attendance to gather more information regarding the project and see how that may affect her property.
- d. Repeat comment opportunity (Supporting, Opposing, General): None.

5. Public comment portion closed by the Chair at 7:26 p.m.

6. Commission deliberation:

The board went into deliberation and discussed a dimensional variance to construct a new dwelling at 184 Park Street, which requires a reduced front setback of 15 feet instead of the minimum 25-foot setback from the Vine Street right-of-way, a reduction of 10 feet. The request relates to Section 154.036 (D) of the Zoning Ordinance, and the purpose of this report is to provide a review of the application and standards of approval.

ZBA Findings of Fact: *Note: Applicant must show practical difficulty by demonstrating that all four standards are met.*

Standard 1: *"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." § 154.155(B)(1). Bont, Bouck, Crawford, Kubasiak, and McPolin found this standard is met because:*

The footprint of the home is 1,208 square feet, which is reasonable for a half (1/2) acre lot. Although there is extra room to shift the home to the southeast and comply with the 10-foot setback, the location would be very close to a barbed wire fence and a City pump station. Because of the slope constricting the building envelope, proximity to the City pump station, and the limitations of the EGLE permit, requiring a compliant home with a significantly reduced footprint could be considered unreasonably burdensome.

Standard 2: *“That a variance would do substantial justice to the owner as well as to other property owners in the district, or whether a lesser relaxation would give substantial relief and be more consistent with justice to others.” § 154.155(B)(2).* Commissioner Bouck wanted to make it clear that they were referring to a 10-foot variance, which would give them a 15-foot setback. Bont, Bouck, Crawford, Kubasiak, and McPolin found this standard is met because:

Only a small corner of the home would fall within the required 25-foot setback from the Vine Street right-of-way. However, the applicant cannot simply remove a small triangular portion of the proposed home without significantly altering the home design and overall footprint. Compliance with current City requirements and the EGLE-approved location would require a greater footprint reduction than the small area shown within the setback.

The request is not extreme and is only enough to construct a reasonable-sized home on the property. As such, a variance may give substantial relief to the applicant and allow for justice for neighboring property owners. While the ZBA could consider less relaxation, such as a reduction of six (6) feet and six (six) inches, the 10-foot reduction would allow for contingencies and unanticipated field adjustments due to the unique nature of the site.

Standard 3: *“That the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions.” § 154.155(B)(3).* Bont, Bouck, Crawford, Kubasiak, and McPolin found this standard is met because:

The site is unique based on a combination of factors: the corner lot requires two (2) front setbacks; the buildable area is constricted by steeper slopes to the southwest and northeast of the site; a pump station and barbed wire fence exist to the southeast; and the southern boundary of the lot jogs inward for a narrower width for approximately one-third (1/3) of the site.

Standard 4: *“That the problem is not self-created or based on personal financial circumstances.” § 154.155(B)(4).* Bont, Bouck, Crawford, Kubasiak, and McPolin found this standard is met because:

The problem is not self-created as the conditions are unique, as stated in standard #3, and compliant placement and size of a home could be considered unnecessarily burdensome. Additionally, the variance request has no relationship to the project cost.

Per Chair Kubasiak, the Commission voted, and all four standards were met with strong backing for the application that has been presented. The applicant had a nice set of

documents for the Commission to review. He thanked the applicant for organizing something that is worth looking at and understanding.

7. Commission action: ZBA Decision (Approve):

Motion by Bouck, second by McPolin, to approve a variance to reduce the northern front setback from the Vine Street right-of-way from 25 feet to 15 feet for the construction of a new dwelling at 184 Park Street based on the positive findings documented in the staff memo provided to the ZBA for its June 8, 2023 meeting as well as the comments made by the members of the board during the meeting, as documented in the minutes. This approval is contingent upon the construction of the dwelling being in substantial conformance with the location, design and size, as proposed as included in the ZBA variance application, and that the height be in conformance with the city requirements. Upon roll call vote, motion carried unanimously.

7. Communications: None.

8. ZBA Comments:

Chairman Kubasiak said that they have complimented, and all enjoyed the Training Session with Chris Patterson. He thought it was great that they reached out to other Zoning Boards and had great participation.

9. Public Comments: None.

10. Adjournment: *Motion by Bont, second by Crawford to adjourn. Motion carried unanimously. The meeting was adjourned at 7:49 pm by Chair Kubasiak.*

Respectfully Submitted,
Sara Williams
City Deputy Clerk