

**WATERVLIET CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
MEETING AND PUBLIC HEARING MINUTES
MAY 17, 2023**

Site Address: 8303 Terrace Ave.

Property Number: 11-21-2220-0261-00-4

Applicant: Stephen and Linda Patton

Variances Requested: The parcel currently has a legal non-conforming accessory structure located on the south side of the property fronting on Lake Ave. The Pattons wish to raze the existing structure and construct a new accessory structure more centered on the property. The proposed structure is 22 feet wide by 46 feet long. With the planned configuration, the structure will come to within 16 feet, at its closest point, on the northwest corner from Terrace Ave. and 16 feet, at its closest point, on its southwest corner from Lake Ave. The north and east sides of the proposed structure meet all required side yard setback requirements.

Watervliet Charter Township Code of Ordinances, Chapter 450 - Zoning, Sec. 450-21 (a) - Schedule of District Regulations: Yard, Height and Lot Size Requirements for Principal and Accessory Uses, mandates a roadside set back of at least 35 feet in this specific residential district. As such, a variance of 19 feet will have to be granted for both the northwest and southwest corners for this structure to be built as requested.

Members Present: Carl Spessard, Mark Vander Linden, Stephen Myers, Robert Wallace, Deanna Heminger, Deane Fizzell.

Also Present: Stephen and Linda Patton, Steve Langworthy.

Chairman Spessard called the meeting to order at 2:00 p.m.

The minutes of the September 21, 2022 meeting were read. S. Myers made a motion to approve the minutes as read. M. Vander Linden seconded and the motion carried unanimously.

At 2:05 p.m. Chairman Spessard requested a motion to close out of the regular meeting and enter the scheduled public hearing portion of the meeting. R. Wallace motioned to close out of regular session and enter the public hearing. S. Myers seconded and the motion carried unanimously.

C. Spessard then requested a reading of the variances being requested, after which, the Chair recognized S. Patton to address the Board.

Patton, referencing the material submitted for the hearing, noted that the structure needing the variances, has been reduced considerably in size from a previous submittal. He noted the proximate locations of the surrounding existing structures as well as noting that the lot on which he plans to build is relatively narrow with a width of only 56 feet. Patton then presented an illustration showing the required setback coverage of the lot of both required 35' setbacks from Lake Ave. and Terrace. He further showed that the resultant buildable area for the entire lot would be an area of just 6' to the south and 3' to the north. He pointed out that the parcel is absolutely unbuildable, absent a variance.

Patton then turned his attention to the proposed structure. Again turning to an illustration, he noted that the currently proposed structure is decidedly different from the previous submittal, adding that it went from an essentially cruciform shape to a more conventional rectangular shape. He added that in doing so he reduced the overall square footage of the structure by 20 percent. Patton then pointed out that by redesigning the structure the east side variance, requested in the previous submittal, was eliminated. He also noted that the structure was pushed back further from the Lake Ave. frontage thus putting the south wall of the structure behind the front building lines of the two existing accessory structures to the east. On top of that, he noted that through redesigning the proposed structure, all the setbacks have been increased on all four sides.

R. Wallace asked S. Patton if the proposed structure is going to be two stories? Patton replied that he didn't know if it would be or not. He added that, at this point, "I'm just trying to get the floor plan approved."

S. Myers, for clarification, inquired what the line on the map labeled as "street" actually denoted. Patton stated that he drew the actual paved surface of the street on the map to illustrate that the setback distances - for safety, line of sight and aesthetics - are actually greater than the legally established lotline. He further pointed out that from the northwest corner of the proposed structure to the right-of-way line it is 16 feet, but from that point to the actual driving surface it's an additional 11 feet. He went on to state that those distances added together creates a practical setback distance of 27 feet. "And that's only 8 feet from the required 35 feet." Patton went on to point out that using that same method on the south side along Lake Ave. would create an additional distance average of about 10 feet more from the requested setback line.

Patton then turned to the 4 point requirements in the Township's Zoning Ordinance that should be met in order to properly grant a variance and explained how, under these particular circumstances, his request met all of them by citing an expert report submitted by Michigan Zoning Consultant S. Langworthy.

R. Wallace inquired if they (the Pattons) still own a small house on the south side of Lake Ave. He replied that their kids own the home presently but that should not be a factor in deciding if a variance is warranted for a completely separate parcel but, if having to be taken into consideration, Patton pointed out the relevant aspect that the variance is being requested for an accessory structure. The house being discussed has no garage, storage or parking facilities at all.

In seeking clarification regarding the Township's Zoning Ordinance, C. Spessard asked Langworthy a hypothetical question of interior lots and a resultant corner lot.

Langworthy noted that, after studying the Township's Zoning Ordinance, the section dealing with variances, specifically cites corner lots as possibly causing practical difficulty for a property owner that may be subject to special consideration.

M. Vander Linden asked S. Patton why the 24 feet between the north side of the proposed structure and the north lot line was not utilized? Patton replied that for aesthetic reasons, he would prefer to keep the structure centered on the property, coupled with the fact that a neighboring property owner sometimes utilizes the yard space for activities.

At this point the sole written correspondence submitted by William Pater, 8327 Terrace Ave., was read into the record. That correspondence is attached to these minutes.

With no further information or discussion from the audience, C. Spessard entertained a motion to close out of the public hearing and re-enter regular session. D. Fizzell made a motion to adjourn the public hearing. R. Wallace seconded and the motion carried. The public hearing was adjourned at 2:37 p.m.

Back in regular session, R. Wallace commented that he was satisfied with the scaled down version of the resubmission and reiterated his stand that everyone should be entitled to a garage. S. Myers stated that the resubmitted variance request addressed many of the major concerns they (the ZBA) had with the initial request. Myers further stated that he was surprised by the distances from the roadway to the lot line, adding; "I don't think that was brought up last time."

At this point, S. Myers made a motion to approve the variances as requested. R. Wallace seconded. A roll call vote is as follows: M. Vander Linden, yea; D. Fizzell, yea; R. Wallace, yea; S. Myers, yea; C. Spessard, yea. The motion carried unanimously.

With there being no further business before the Board, D. Fizzell made a motion to adjourn. M. Vander Linden seconded and the motion carried unanimously.

The meeting was adjourned at 3:40 p.m.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Robert Lohr", with a stylized flourish at the end.

Robert Lohr
Zoning Administrator

William Pater
8327 Terrace Ave.
Watervliet, MI 49098
312-560-2893

May 3, 2023

Watervliet Charter Township
4959 M-140
Watervliet, MI 49098

Zoning Board of Appeals,

This is William Pater owner of property # 11-21-2220-0172-00-1 at 8327 Terrace Ave. which is located within 300 feet of subject property # 11-21-2220-0261-00-4. The area affected by the applicant's request is directly in the line of sight from my property at the roadside.

For the record, this is the applicant's second try for two variances to build a raised non-conforming structure encroaching the corner of Lake Ave and Terrace Ave. The proposal is similar to the rejected previous proposal in that the applicant does not meet all 4 requirements in Section 14.02 (B).

A) There is no special conditions or circumstances which are peculiar to the land or the proposed structure involved. The land is a small, flat, surveyed, and similar to neighboring lots. The structure is raised, rectangular, and similar to other neighboring structures.

B) The Literal interpretation of the provisions of the ordinance does not deny the applicant commonly enjoyed rights by other properties. The applicant already has a non-conforming structure located on the subject property. The request to raise and enlarge the non-conforming structure is not the applicants right.

C) The conditions or the circumstances involved were known by the applicant when the applicant purchased the property. The property was purchased less than 3 years ago.

D) The applicant cannot meet the first three requirements and if a variance is granted it would confer on the applicant a special privilege.

I ask the board to please consider the requirements in Section 14.02 (B) and deny the applicant's request.

Sincerely,


William Pater