

CITY OF CHARLEVOIX ZONING BOARD OF APPEALS MINUTES
Wednesday, March 11, 2009 – 6:00 p.m.
210 State Street, City Hall, 2nd Floor Council Chambers, Charlevoix, MI

A) CALL TO ORDER

The meeting was called to order by Chairperson Withrow at 6:00 p.m.

B) ROLL CALL

Members Present: June Cross, Mary Eveleigh, Patricia Miller, Greg Withrow, and Alternate Larry Sullivan (entered at 6:04 p.m.)

Members Absent: Gary Anderson and Alternate Kim VanMeter-Sanderson

Staff Present: City Planner/Zoning Administrator Mike Spencer

C) INQUIRY INTO POTENTIAL CONFLICTS OF INTEREST

None.

D) APPROVAL OF AGENDA

Chairman Withrow asked to add "Review of the Zoning Board of Appeals' progress on the proposed changes to the Zoning Ordinance" to the agenda. The agenda was approved as amended.

E) NOMINATE OFFICERS

Motion made by Member Cross and seconded by Member Miller to nominate Greg Withrow as Chairman. The motion was approved by a unanimous voice vote.

Motion made by Member Cross and seconded by Member Miller to nominate Mary Eveleigh as Vice-Chairman. The motion was approved by a unanimous voice vote.

Alternate Larry Sullivan entered at 6:04 p.m.

Chairman Withrow designated Alternate Larry Sullivan as a voting member.

F) APPROVAL OF MINUTES

1. Motion to approve or amend June 18, 2008 meeting minutes

The Board reviewed the June 16, 2008 minutes. Motion made by Member Cross and seconded by Member Eveleigh to approve the minutes as written. The minutes were approved by a unanimous voice vote.

G) CALL FOR PUBLIC COMMENT (Not related to agenda items)

None.

H) NEW BUSINESS

1. Public Hearing for Alano Club Variance, Project 09-01ZBA
 - a. Staff presentation

City Planner Mike Spencer reviewed the application with the Board. The old Alano building was structurally unsound and did not meet building codes. The building's foundation and structure was completely removed in 2008. The old building had two parking spaces on the site. The removal of the building caused the Club to lose its grandfathered parking. The lot is very small and the proposed addition is modest in size. The zoning ordinance requires a total of five on site parking spaces. The Zoning Code also requires landscaping on the site. Given the size of the lot, it would not be possible for the applicant to comply with both the parking and landscaping requirements of the ordinance. As the site is located in the downtown area, staff suggested that the applicant comply with the landscape requirements. The landscaping will add needed green space in the downtown area. The applicant will provide one handicap parking space on the lot as outlined on Exhibit 3. The applicant will meet all the landscape standards as outlined in the Code.

The City Planning Office has received a letter of support for this project and no letters of opposition (Exhibit 6). The City Attorney has reviewed the variance request (Exhibit 7). Staff recommends that the variance request be granted.

b. Presentation by applicant (Optional)

Richard O'Leary, Alano Club Chairman of the Board of Directors, addressed the Board. The Alano Club has worked with the City for several years to come up with proposed design. The required five parking spaces would encompass the majority of the lot. The majority of their members do not drive and most of the meetings take place during non-business hours, early mornings, nights or weekends. There is public parking adjacent to the site.

c. Call for public comment None.

d. Board determination of review criteria and findings of fact

The Board reviewed the variance request and the Code's general standards, findings of fact and conditions of approval for variances. The applicant's parcel is very small.

REVIEW STANDARDS - FINDINGS OF FACT - CONDITIONS OF APPROVAL:

The following section is taken directly from the Section 5.286(4) of the Zoning Ordinance. The ZBA must make findings of fact to determine if the proposal meets each of the following standards. The ZBA must find that this proposal meets all of the following standards based on findings of fact before considering a motion to approve the variance application.

(4) Variance General Standards.

- (a) The need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic situation.

The ZBA finds that that the need for the requested variance is due to unique circumstances and physical conditions of the property including area and shape, and is not due to the applicant's personal or economic situation. The ZBA finds that this standard is met since the lot is much smaller in area and narrower

compared to other lots in the same block and the immediate vicinity. On average, lots in the Central Business District are much larger and wider than the subject property. The lot is 44 feet wide, which is 22 feet narrower than the majority of lots on this block. Three out of four of the remaining lots in this block are larger in area and wider than the subject property. The applicant is not requesting the variance for personal or economic reasons. The applicant is required to seek the variance ultimately based on specific recommendations by a professional engineer, rather than personal or economic reasons.

- (b) The need for the requested variance is not the result of action taken by the property owner or previous property owners that was in violation of zoning regulations in effect at the time the action was taken (self-created).

The ZBA finds that this variance is not the result of action taken by the Alano Club or the previous property owner that was in violation of the zoning regulations in effect at the time. This variance is not self-created since the property and associated buildings were in the same size, shape, and proportion long before the City of Charlevoix enacted the zoning ordinance in 1978. The tax assessment records and title report indicate the lot and associated structures were created long before 1978.

- (c) The requested variance is the minimum variance necessary to grant substantial relief to the applicant while at the same time minimizing any adverse impacts to other property owners in the general neighborhood or zoning district.

The ZBA finds that the applicant is requesting the minimum variance necessary and will not create any adverse impacts to other properties in the neighborhood or zoning district. The applicant is requesting to build an addition that would bring the total building footprint to approximately 1500 square feet. As indicated by Exhibit 8, this footprint is, on average, smaller than other Alano Club facilities in northern Michigan. The building that was removed was over 1700 square feet without including the rear building which is noted in the appraisal. This building is much smaller than most buildings in the Central Business district so this variance does not cause any noticeable impact to neighboring properties. The need for this structure is primarily use for meetings on nights and weekend, outside of normal business hours, which is when there is higher demand for parking. In addition, a number of the individuals who attend the meetings do not have driver's licenses and are required to walk or ride bikes to the meetings. The large number of public parking spaces already available in the immediate area would prevent the need for other individuals to try and use other private parking spaces, which would have an adverse impact to other property owners.

- (6) Conditions of approval.

- (a) The Board may attach reasonable conditions with the approval of a variance. These conditions may include those necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:

1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
3. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

Chairman Withrow asked that the Board place a condition on approving the variance that the applicant (Alano Club) would have to comply with the landscaping plan (Exhibit 3) submitted with the variance application.

e. Motion

Motion made by Member Miller and seconded by Member Eveleigh that the Board approve project 09-01 ZBA with conditions, based on specific findings of fact included in this report. The applicant shall follow the landscape plan as outlined on Exhibit 3 (attached) as a condition of approval.

Motion was adopted by the following yeas and nays vote:

Yeas:	Members Miller, Eveleigh, Cross, Withrow and Sullivan
Nays:	None
Absent:	Member Anderson and Alternate VanMeter-Sanderson

Motion adopted.

2. Discussion Review of Proposed Changes to the Zoning Ordinance

Member Eveleigh reminded the Board that the ZBA by-laws need to be updated. She asked the Board to consider amending the Section 5.286(4) (a) variance general standards. A citizen has asked that this section be amended to remove the words "economic situation". The request was made because a sign variance was denied due to an economic benefit.

The Planner advised the Board that the Board's by-laws, that outline the board's membership and rules, can be amended by the Board. But an amendment of the Zoning Code and Section 5.286(4) (a) - variance general standards needs to be recommended by the Planning Commission and approved by the City Council. The Board of Appeals can make a recommendation to the Planning Commission that the section be changed. Planner Spencer advised the Board that the City Planning Commission has recommended that the wording in this section be changed, but that recommendation keeps the phrase "economic situation".

The Board discussed the ordinance's language. The Planner suggested that the ZBA make an interpretation of the Zoning Ordinance's review standards and findings of fact, as they relate to sign variances. Staff would be able to receive legal counsel's assistance in the preparation of the

Charles Robinson
Landscape Architect

Exhibit 3

