



301 East Main Street
Lowell, Michigan 49331
Phone (616) 897-8457
Fax (616) 897-4085

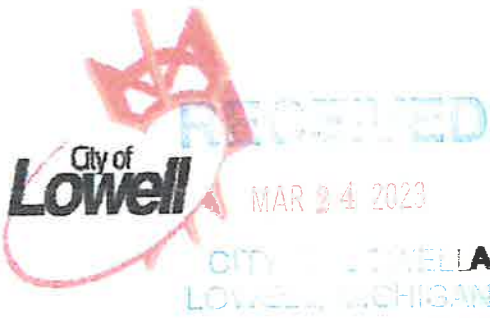
CITY OF LOWELL
ZONING BOARD OF APPEALS AGENDA
MONDAY, MAY 1, 2023 AT 7:00 P.M.

1. CALL TO ORDER; PLEDGE OF ALLEGIANCE; ROLL CALL
2. APPROVAL OF AGENDA
3. CITIZEN COMMENTS FOR ITEMS NOT ON THE AGENDA

IF YOU WISH TO ADDRESS AN AGENDA ITEM, PUBLIC COMMENT FOR EACH ITEM WILL OCCUR AFTER THE INITIAL INFORMATION IS SHARED ON THE MATTER AND INITIAL DELIBERATIONS BY THE PUBLIC BODY. PUBLIC COMMENT WILL OCCUR BEFORE A VOTE ON THE AGENDA ITEM OCCURS.

4. NEW BUSINESS
 - a. Public Hearing – Variance Request – 2212 Gee Drive
5. BOARD/COMMISSION REPORTS
6. COUNCIL COMMENTS
7. ADJOURNMENT

NOTE: Any person who wishes to speak on an item included on the printed meeting agenda may do so. Speakers will be recognized by the Chair, at which time they will be allowed five (5) minutes maximum to address the Council. A speaker representing a subdivision association or group will be allowed ten (10) minutes to address the Council.



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**APPLICATION FOR VARIANCES(S)
AND/OR
APPEAL OF ADMINISTRATIVE DECISION**

Variance Number: _____ Filing Fee: _____

1. Street Address and/or Location of Request: 2212 Gee Dr. SE, Lowell, MI 49331

2. Applicant's Name: Bernie & Carolyn Diekevers

Address: 2212 Gee Dr. SE, Lowell, MI 49331
Street City of Lowell State Zip

Daytime Phone Number: 616-293-3721 - Carolyn

Are You: Property Owner Owner's Agent
 Contract Purchaser Option Holder

3. Applicant is being represented by: n/a

Address: _____

Phone Number: _____

4. Legal Description of the Property: see attached

or just attach if it is too long.

5. Parcel Identification Number (Tax I.D. No.): #41-20-03-326-033

6. Current Zoning of Parcel: 401-Residential

7. Present Use of the Parcel: Residential

8. Check Below For The Item Which A Variance Is Being Requested:

- Lot Coverage _____ Lot Size _____ Sign _____
- Lot Width _____ Parking _____ Setbacks _____
- Fence _____ Landscaping _____ Other _____
- Height Requirements _____
- Area Requirements _____
- Nonconforming Residential Use _____
- Nonconforming Commercial Use _____
- Accessory Building Use _____

9. Your Request is: (check only one)
- An Appeal of an Administrative Decision
- A Temporary Use
- A Variance from Zoning Ordinance Requirements

10. If an appeal is being requested, state the administrative decision being appealed: n/a

10(a). If a variance is being requested, state the reason(s) for the request and your intended uses:
We would like to build an accessory building not exceeding 2000 Sq. Ft. It will be used for an indoor basketball court, pool equipment and storage of a 34' boat. We don't want it in our driveway when not in use. We'd like to keep our property free of "clutter" and a regulation 1/2 court w/3Pt. line will not fit in the 1200 Sq. Ft. currently allowed.

The following provisions of the City of Lowell Zoning Ordinance (Section 21.04 B) must be met in total before a variance can be granted. Respond to each of the six criteria as it pertains to the request.

- A. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district:

Exceptional or extraordinary circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in questions, the literal enforcement of the requirements of this Ordinance would involve practical difficulties;

We are situated on 11.6 acres on Gee Dr. This is larger than a typical city lot and not in a typical city neighborhood where most lots are less than an acre.

- B. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.

This area of Gee Dr. has multiple parcels that are larger than 5 acres. our neighbors to the west have 13 acres etc. We are on the edge of city limits, not in downtown where the houses are close together and space is limited.

C. That 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.

Several neighbors have accessory building, see attached images. Ours will be consistant with the neighborhood and hidden down the hill and behind our home.

D. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.

The structure will be stick built with hardy board siding and only electrical ran to it, no plumbing. No trees will need to be removed to build it. This will be strictly for storage and personal use and no detrement to the land.

E. The variance will not impair the intent and purpose of this Ordinance.

It will not affect adjacent lots. It will be far enough from lot lines and hidden behind our house. see attached images.

F. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.

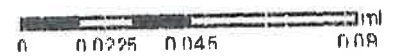
We have done no actions to create this need. We are requesting a variance to allow for enough space to store a 34' boat, pool equipment, yard equipment and play basketball. A regulation 1/2 court with 3Pt. line will not fit in a 1200 Sq. Ft. structure. We just want to keep our property and driveway free of "clutter" and keep the neighborhood asethically pleasing

The facts presented above are true and correct to the best of my knowledge.

Signature: _____

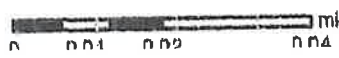
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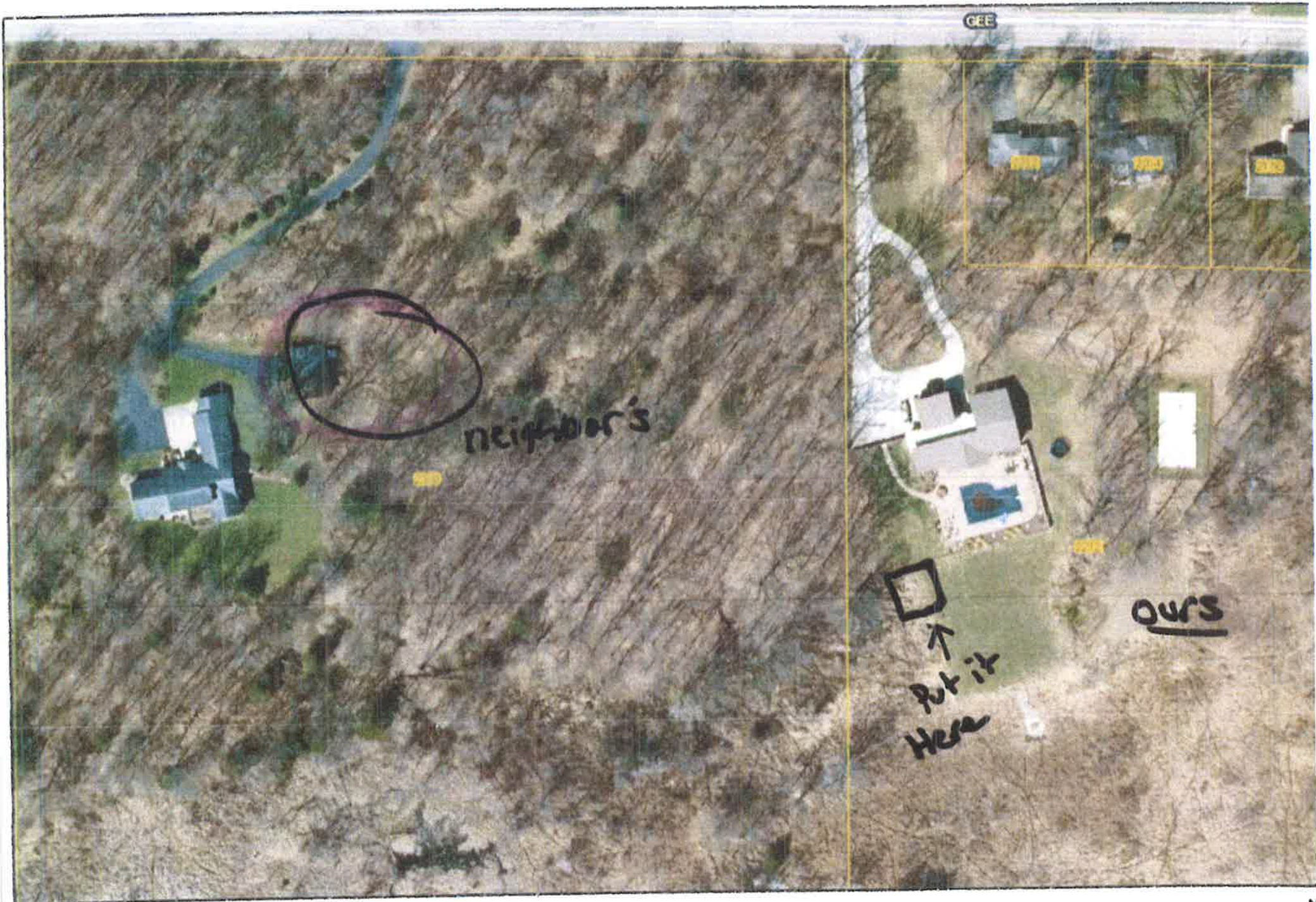
Type or Print Your Name Here: _____





Neighbors





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MEMORANDUM

To: City of Lowell Board of Zoning Appeals
Date: April 27, 2023
From: Andy Moore, AICP
RE: Variance Application – 2212 Gee Dr

Bernie and Carolyn Diekevers have applied for a variance to allow for an accessory building on their property located at 2212 Gee Drive. Section 4.08 of the Zoning Ordinance limits the size of detached accessory buildings to 1,200 square feet in area for lots with greater than 9,000 square feet and the applicant is seeking to build an accessory building of 2,000 square feet in area. Variances can only be approved where the Board of Zoning Appeals finds that the standards of Section 21.04, B. of the Zoning Ordinance are met. This report presents the circumstances surrounding the variance request and presents the standards of Section 21.04, B. for the Board's consideration.

Background. The applicant is seeking to construct a new detached accessory building on the property. According to the application, the building would be used to house a boat, equipment storage, and a regulation basketball ½ court for presumably personal recreational purposes.

Section 21.04, B. To approve a variance, the Board of Zoning Appeals must find that all of the standards presented in Section 21.04, B. are met. Following presents each of those standards and our remarks on each as they pertain to the request.

1. *That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district:*

Exceptional or extraordinary circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of this requirements of this ordinance would involve practical difficulties.

Remarks: The applicant states that they are situated on 11.6 acres of land which is larger than a typical city lot. While we agree that the property is larger than most city lots and the imposition of the same 1,200 square foot limitation for accessory buildings on 0.5 acres as 15 acres seems illogical. However, this standard also states that the property must have a physical characteristic that makes the "literal enforcement" of the zoning ordinance practically difficult. This may be a difficult standard to prove since the

applicant is likely capable of constructing a smaller building. To find that this standard is met, the ZBA would need to find that compliance with the maximum of 1,200 square feet would be so difficult that it would be rendered impractical. This should be discussed.

2. *That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.*

Remarks: This standard tests if the City would be better off amending the Ordinance to address a common request that frequently appears at the City, instead of granting a variance. In the last few years, there have been few variances related to accessory buildings, so this does not seem to be a recurring issue. However, the City could consider an amendment to the zoning ordinance that would allow for larger accessory buildings on the larger properties in the City (say, 1-2 acres or more). This should also be discussed.

3. *That 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.*

Remarks: The applicant provided maps with neighboring properties that all appear to have accessory buildings. The approximate area of those buildings is listed below:

Address	Accessory building area (approximate)
2360 Gee Dr	1,200 sq ft
2420 Gee Dr	1,200 sq ft
315 Alden Nash	1,800 sq ft and 528 sq ft
368 Alden Nash	768 sq ft
325 Alden Nash	960 sq ft
2588 Gee Dr	1,200 sq ft

As can be observed by the above table, there is at least one property in the vicinity with a similarly large accessory building, but many others appear to comply. There are likely others in the city with larger accessory buildings, but we are not sure that this would rise to the level of depriving the applicant of a substantial property right enjoyed by others in the same district.

4. *The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.*

Remarks: A newly-constructed accessory building would likely not cause a significant detriment to adjacent properties or the surrounding neighborhood. The property is larger than most (although it is also mostly unbuildable due to wetlands in the south) and

wooded. There would likely be little negative community impact from the construction of the proposed building.

5. *The variance will not impair the intent and purpose of this ordinance.*

Remarks: The applicant states in the application that granting the variance would not impair the intent of the Ordinance. We generally agree, except that granting exceptions to the zoning ordinance absent adequate justification, in our view, harms the purpose and intent of the Zoning Ordinance and hampers the City's ability to regulate land use effectively. This should be considered.

6. *That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.*

Remarks: The applicant is seeking a variance to have a larger accessory building than permitted. The application does not identify a particular hardship, but instead refers to the removal of clutter, convenience, and other issues as justification. While these may be adequate reasons to construct an accessory building, it is difficult to ascertain a self-created hardship when it is questionable that a hardship exists in the first place.

Conclusion. The Board of Zoning Appeals should contemplate the circumstances behind the application and determine whether the request meets each of the standards in Section 21.04(B) as it applies to all variance requests. If it determines that the conditions are met, the Board may approve the variance request with or without conditions. If the Board opts to grant the variance, we suggest that the Board (1) limit the size of the building to 2,000 square feet (or less, if preferred). The discussion in this memorandum may be cited as a basis for the decision.

As always, feel free to contact us if there are any questions.