



Wexford Joint Zoning Board of Appeals

% Cherry Grove Township
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DRAFT Meeting Minutes

Time & Date: 6pm, Wednesday, April 27, 2022

Meeting location: Wexford County Road Commission Meeting Room, 85 West Highway M-115, Boon, Michigan. Coordinates: 44° 19' 32.5" N, 85° 34' 53.4" W (44.325685, -85.581500)

A. Call to Order, Pledge of Allegiance, Roll Call

Present: Beverly Monroe, Chairman (Liberty)
Bill Swank, Vice Chairman (Antioch)
Jack Prebay (Selma)
Carol Perrin (Selma)

Others Present: Ben Townsend, Assistant Zoning Administrator
Heather O'Connor, Recording Secretary

Absent: Vacancy, Secretary (at Large)

B. Approval of Minutes for December 01, 2021 – Motion to approve Meeting Minutes made by Carol Perrin supported by Jack Prebay and adopted by Board Members present.

C. Set / Amend Agenda - A motion to approve the Meeting Agenda was made by Bill Swank supported by Jack Prebay and Agenda was adopted.

D. Public Comment – Zero (0) members of the public were present. No comments were offered.

E. Election of Officers (Rules of procedure Section 5.A)

1. Chair
2. Vice Chair
3. Secretary
4. Deputy Secretary

Motion to maintain current Chair Beverly Monroe & Vice Chair Bill Swank and Secretary as Jack Prebay made by Jack Prebay, supported by Carol Perrin and adopted.

(excerpt) The Appeals Board or Secretary may also designate another person who is not a member of the Appeals Board to be the Recording Secretary. Motion to approve Heather O'Connor as Recording Secretary made by Carol Perrin, supported by Jack Prebay and adopted.

F. Matters pertaining to citizens present at the meeting, in the following order:

1. Advertised Public Hearing: (Bassett Variance Request / Case # ZBA-2022-01)

Selma Township Representative – Carol Perrin (present)

a. The Chair shall declare the public hearing open – Chair Beverly Monroe declared the public hearing open at 6:07pm

b. Planning and Zoning Administrator - Staff Presentation – Mr. Ben Townsend, Assistant Zoning Administrator delivered the Staff Report as mailed via USPS to the Board members (see http://www.wexfordjpc.org/uploads/9/7/9/9/97992734/bassett_zba_2022-01_packet.pdf)

c. Applicant Presentation – Applicants, Kenneth Bassett, noted the following additional comments: started working with EGLE in September 2021 and continued with the process

d. The Chair shall allow public comment – Chair Beverly Monroe opened the floor for public comment. The only Public Comment offered was via telephone from a neighbor of Mr. Bassett with Mr. Townsend, ultimately in favor of the proposed dimensional variance request. An additional neighbor who spoke with Mr. Prebay was also in favor.

e. The Chair shall declare the public hearing closed – With no further comments, Chair Beverly Monroe declared the public hearing closed at 6:19pm

2. Zoning Board of Appeals [Deliberations / Findings / Conclusions ZBA-2022-01]

The Zoning Board of Appeals may ask additional ‘fact-finding’ questions of the applicant, staff, or members of the public – It was noted by discussion that three (3) of the board members present had personally visited the Bassett property, noting the proposed location of the Variance Request. The Standards of Review were discussed and reviewed in accordance with the variance request as follows:

Case # ZBA-2022-01

2.1 Property Description – FT of LOT 13 BLK. S FLOWING WELL PARK SEL. SEC. 35 T22N R10W

2.2 Action Report –

NOTE: The property on which the accessory building is proposed is a heavily regarded as WETLANDS by EGLE. The Applicant is requesting a dimensional variance from the required side yard setbacks of twelve (12’) feet as per the Regulations and Standards listed in Article 43 (R-1 Residential District) of the Wexford Joint Zoning Ordinance. Applicant wishes to place a proposed 24 x 32 ' garage on an adjoining parcel which he owns and is requesting to be only seven (7 ') from the house and ten (10) from the rear property line.

2.3 Background:

1. This property is approximately 8,400 square feet; far less than the required minimum of 15,000 (fifteen thousand) square feet, thus classifying it as nonconforming under the Wexford Joint Zoning Ordinance. Whereas both properties together are admittedly 16,000 square feet, the only portion of the second property without wetlands measures about 1,024 square feet
2. The property is located in the R-1 Residential Zoning District

2.4 Current Narrative:

1. Through phone and email communication it was ascertained that the applicant's proposal could not be administratively approved. Staff looked at ~~and~~ alternate ideas as to how the shape of the property and required setbacks affected where building could take place, recognizing the wetlands aspect of the adjacent lot where applicant desired the building be placed
2. The applicant met with the Zoning Administrator in the office shortly after their first email on 3/18/2022 and presented an application and the appropriate fee to seek a variance from the Zoning Board of Appeals. The applicant was advised that because of the preliminary discussion / communication that the submission of a Land Use (zoning) Permit application would be moot; therefore, the preliminary fee of \$70.00 was waived.
3. The applicant was advised of the variance process and provided a copy of Article 96; Appeals Board, from the Wexford Joint Zoning Ordinance via email and asked to provide a brief narrative justifying the need for the requested variance

4. Public Hearing Notification was published in the Cadillac News on: April 11, 2022; 16 days in advance of any required public hearing
5. Three hundred (300) Foot Notices were sent out on April 8, 2022; 18 days in advance of any required public hearing.
6. Packets were sent out to the Zoning Board of Appeals members (and the applicant on April 20, 2022

3. Article 43: R-I RESIDENTIAL DISTRICT

3.1 Section 4304 of Article 43 describes the regulations applicable to the specific zoning district - the following is presented for review by the Zoning Board of Appeals:

1. The minimum parcel area is: 15,000 (fifteen thousand) square feet; the subject parcel where the house is located is approximately 8,400 (eight thousand, four hundred) square feet, whereas the adjoining parcel of 7200 (seventy-two thousand) square feet has roughly 1,000 (one thousand) square feet of buildable area on it on the north side of the property closest to the house.
2. The minimum buildable area is: nine (9400) thousand square feet; the first parcel has a negative (non-existent) buildable area of by virtue of having a house on it. The second has a negative (non-existent) buildable area by virtue of a little more than ten (10%) percent buildable area because of already described wetlands.
3. The minimum parcel width is: 70 (seventy) feet where the house is located, whereas the adjoining parcel of 70 (seventy) feet has only seventeen (17') feet of non-wetlands access from the street.

4. STANDARDS FOR GRANTING A DIMENSIONAL VARIANCE

4.1 According to WJZO, Article 9607.F.2.a.(1) thru (5) - The following standards **shall** be used by the Zoning Board of Appeals when considering a variance request.

1. That 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 applicants personal or economic difficulty

Staff Comments: This is the clearest reason/or granting a variance in the Zoning ordinance. This property is nearly all wetlands as recorded by the EGLE Department. Client has entire documentation stating where the wetlands is located and how to execute filling a portion of the corner of the property for the purpose of erecting a 16' x 32' garage

Applicant Comments: See Applicant Presentation

Board Comments: Discussion regarding the EGLE proposed filling being positive. Would like to have seen markers. The green building shows up on some, not all drawings for consistency. The reason for this meeting is for the setback nearest the neighbor – a 2.5ft request, and since EGLE gave conditional approval, we are looking at a property line issue.

Does the Variance Request meet the Standard for Granting a Dimensional Variance – 0 NO – 4 YES

2. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).

Staff Comments: *Neither the current landowner or predecessor in title has altered the property since the adoption of the Wexford Joint Zoning Ordinance or acted to create the need for the variance. The wetlands have always been there.*

Applicant Comments: See Applicant Presentation

Board Comments: Discussion regarding rectifying his property for use as wetlands – thus not the landowners fault

Does the Variance Request meet the Standard for Granting a Dimensional Variance – 0 NO – 4 YES

3. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome.

Staff Comments: *One of the primary purposes of the Zoning board of Appeals is to ensure that: "...the spirit of the Ordinance is observed. public safety secured and substantial justice done." this property is barely a portion of what is needed to build a small garage of this size. Staff believes that the strict application of the ordinance standards would be unnecessarily burdensome.*

Applicant Comments: See Applicant Presentation

Board Comments: Discussion regarding necessity of a garage versus as an accessory building.

Does the Variance Request meet the Standard for Granting a Dimensional Variance – 0 NO – 4 YES

4. That the requested variance is the minimum variance necessary to do substantial justice to the applicant as well as to other property owners in the district.

Staff Comments: *The client has asked the ZBA to be within 10' of the back property line, thus encroaching 011 the regular 25' for the R-1 zoning district. However, with the new Planning Commission's directions, the Zoning administrator can allow to go up to 50% of the setback in the rear of the property. Thus, had it been asked by the client to only go 12 ½ feet from the property line, this administrator could have allowed this. So, the client is asking for a mere 2 ½ foot adjustment in the rear property line. Also, the client is proposing being within 8' of the house. The ordinance allows for 10' between structures. However, with the closer distance, client can use additional fire protective building materials at that end of the garage if the building department decides he should do that.*

Applicant Comments: See Applicant Presentation

Board Comments: Discussion regarding the possibility that the building will be between 30-32 and no longer

Does the Variance Request meet the Standard for Granting a Dimensional Variance – 4 YES -0 NO

5. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district

Staff Comments: *Filling in a part of the wetlands and putting a garage on the property will actually raise this property's values for the client and the township. Surrounding neighbors will not be affected adversely by this proposed garage*

Applicant Comments: See Applicant Presentation

Board Comments: Discussion regarding no adverse effect on surrounding properties

Does the Variance Request meet the Standard for Granting a Dimensional Variance – 4 YES - 0 NO

Staff recommends: *that the Zoning Board of Appeals make independent findings and conclusions that support an approval of the requested variance(s) allowing the placement of the garage within 10' of the rear property line and within 8' of the existing house.*

The Recording Secretary was requested to read back the Standards, discussion and agreement or disagreement for the motion by Bill Swank supported by Jack Prebay to **APPROVE** the Dimensional Variance for ZBA-2022-01 as the request does meet the five (5) of the standards of review.

The motion to approve the Dimensional Variance for ZBA-2022-01 passed as unanimous

- G. **Unfinished Business and Reports** (items considered here are taken up in the same order as established by the Appeals Board to fix a priority for consideration and work done in the planning office).
 - 1. Training last Wednesday, April 20, 2022 – link will be provided by Recording Secretary
 - 2. Chair requested the continued search for an additional member of the ZBA
- H. **Public Comment** – No further comments/items were offered
- I. **Report / Comments from each member of the ZBA** regarding their respective participating municipality
- J. **Adjournment** – The meeting was adjourned at 6:36pm

Prepared by Heather A. O'Connor, Recording Secretary, for Board members of the Zoning Board of Appeals.