



Wexford Joint Zoning Board of Appeals

% Cherry Grove Township
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DRAFT Meeting Minutes

Time & Date: 6pm, Wednesday, June 22, 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, Secretary (Selma)

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

Absent: Peggy Benz (Hanover) Absent

B. **Approval of Minutes for April 27, 2022** – Motion to approve Meeting Minutes made by Jack Prebay supported by Beverly Monroe and adopted by Board Members present.

C. **Set / Amend Agenda** - A motion to approve the Meeting Agenda as amended (Dec 1, 2021 to April 27, 2022) was made by Beverly Monroe supported by Jack Prebay and Agenda was adopted.

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

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

1. Advertised Public Hearing: (Kroesing Variance Request / Case # ZBA-2022-02)

Hanover Township Representative – Peggy Benz (Absent)

a. The Chair shall declare the public hearing open – Chair Beverly Monroe declared the public hearing open at 6:06pm

b. Planning and Zoning Administrator - Staff Presentation – Mr. Robert Hall, Zoning Administrator delivered the Staff Report as mailed via USPS to the Board members (See [Staff Report; Applicant Materials](#))

c. Applicant Presentation – Applicant, Corey Kroesing, noted the following additional comments: proposed location to the left of the driveway is perfect location – cannot get to back of property. Will have wooden support box 18'x42' filled with gravel and crushed concrete to support the placement of the building. Farmer field to East and woods to West.

d. The Chair shall allow public comment – Chair Beverly Monroe opened the floor for public comment.

e. The Chair shall declare the public hearing closed – With no further comments, Chair Beverly Monroe declared the public hearing closed at 6:26pm

2. Zoning Board of Appeals [Deliberations / Findings / Conclusions ZBA-2022-02]

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 – COM 35 RDS E OF NW COR OF FRL SEC 6: E 10 RDS (165'); S 16 RDS; W 10 RDS (264'); N 16 RDS TO BEG. –1 a.—HNR. SEC. 6 T24N R11W

2.2 Action Report –

The Applicant is requesting a dimensional variance from the required side yard setbacks of thirty (30') feet as per the Regulations and Standards listed in Article 37 (Rural Residential District) of the Wexford Joint Zoning Ordinance. Applicant wishes to place a proposed 16' x 40' accessory building / structure five (5') from the west property line (in the front yard) requiring a 25' variance from the required 30' setback.

2.3 Background:

1. This property is approximately 43,560 square feet; meeting the required minimum of 43,560 (forty-three thousand five-hundred and sixty) square feet, thus classifying it as conforming under the Wexford Joint Zoning Ordinance.
2. The property is located in the Rural Residential Zoning District

2.4 Current Narrative:

1. The applicant visited the office on Wednesday, May 18th, 2022 to present a land use application. Through a lengthy discussion with the applicant and a review of the zoning ordinance, the applicant's proposal could not be administratively approved. Staff looked at several alternate ideas as to how the current buildings / structures were arranged on the property, as well as required setbacks and the physical characteristics seeking alternate proposed locations that would comply.
2. 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 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: May 26, 2022; 27 days in advance of any required public hearing
5. Three hundred (300) Foot Notices were sent out on June 3, 2022; 19 days in advance of any required public hearing.
6. Packets were sent out to the Zoning Board of Appeals members (and the applicant on June 15, 2022

3. Article 37: RURAL RESIDENTIAL DISTRICT

3.1 Section 3704 of Article 37 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: 43,560 (forty-three thousand five hundred sixty) square feet; the subject parcel is (according to the legal description), 43, 560 square feet — meeting the minimum parcel size.
2. The minimum buildable area is: twenty (20,000) thousand square feet — (see Image on top of page #3 — the current structures on the property occupy approximately 2,300 square feet of the buildable area.
3. The minimum parcel width is: 165 (one hundred and sixty-five) feet — the parcel is 165' wide, meeting the minimum requirement.
4. Setback requirements are as follows:

Front: 3704.D.1.a	the required setback is 50'
Side: 3704.D.1.b	the required setback is 30'
Rear: 3704.D.1.c	the required setback is 30'

2. STANDARDS FOR GRANTING A DIMENSIONAL VARIANCE

4.1 According to WJZO, Article 9607.F.2.a.(l) 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: Staff cannot determine that there are any 'unique' circumstances or 'physical' conditions of the property involved The property is a typical one-acre lot and within the specified 1:3 width to depth ratio of Article 10, Section 1041 (therefore there are no documented narrow /shallow issues of the Wexford Joint Zoning Ordinance); there are no nearby water bodies or wetlands, and the terrain is fairly level.

Applicant Comments: See Applicant Presentation

Board Comments: Discussion regarding manner that the house is situated. Standard 1 acre lot. Nothing unique about property. Trees are not unique.

Does the Variance Request meet the Standard for Granting a Dimensional Variance – **2 NO – 1 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: The existing improvements on the property have not been added to or expanded in any documented substantial manner that would qualify as being self-created, thus being the result of actions of the property owner(s).

Applicant Comments: See Applicant Presentation

Board Comments: Discussion regarding problem is existing. The applicant did not create the problem. He is asking for closer to property line which is a farm field. There are other options available.

Does the Variance Request meet the Standard for Granting a Dimensional Variance – **0 NO – 3 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 entire building wanting to be placed within the setback area. Applicant property is not in a subdivision – it is in the country. The neighbor has no issue with the proposed building being within five (5) feet of the farm field. Applicant has one garage presently.

Does the Variance Request meet the Standard for Granting a Dimensional Variance – **2 NO – 1 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: *staff finds that the applicant has already achieved substantial justice evidenced by the fact that the property is currently being used for a permitted purpose, similar to other situated properties being used for Rural Residential purposes.*

Applicant Comments: See Applicant Presentation

Board Comments: Discussion regarding the request not being a minimum variance – the entire building will be within the setback area of thirty feet.

Does the Variance Request meet the Standard for Granting a Dimensional Variance – **2 NO – 1 YES**

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: *Staff cannot determine whether the granting of the requested variance will cause an adverse effect on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district*

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 – **3 NO – 0 YES**

Staff recommends: that the Zoning Board of Appeals make independent findings and conclusions that support DENIAL of the request to place a 16x40 accessory building / structure within the 30' required front yard setback.

The Recording Secretary was requested to read back the Standards, discussion and agreement or disagreement for the motion by Beverly Monroe supported by Bill Swank to DENY the Dimensional Variance for ZBA-2022-02 as the request does meet the five (5) of the standards of review.

Roll Call vote as follows:

Monroe – Deny

Swank – Deny

Prebay - Approve

The motion to approve the Dimensional Variance for ZBA-2022-02 was denied

- F. **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. Staff Updates – the WJPC did approve accessory buildings in front yards, yet NOT within the setback areas

- G. **Public Comment** – Mr. Townsend offered that there are other remedies for the Applicant – if the proposed garage was in parallel with the existing garage – it provides another remedy. Also, if the neighbor agrees to a lot line adjustment. Another is to extend the garage to include the new building – connected by a breezeway or abutting to the existing garage.

- H. **Report / Comments from each member of the ZBA** regarding their respective participating municipality

- I. **Adjournment** – The meeting was adjourned at 7:03pm

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