



Wexford Joint Zoning Board of Appeals

% Cherry Grove Township
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DRAFT Meeting Minutes

Time & Date: 6pm, Wednesday, June 23, 2021

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)
Ben Fleis, Secretary (Wexford)
Jack Prebay (Selma)

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

Absent: Carol Perrin (Selma)

B. Approval of Minutes for December 23, 2020 – Motion to approve Meeting Minutes made by Bill Swank seconded and approved unanimously.

C. Set / Amend Agenda - A motion to approve the Meeting Agenda as presented was made by Bill Swank seconded and passed unanimously by Board Members present.

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: (Claus Variance Request / Case # ZBA-2021-01)

Township Representative – Carol Perrin (absent)

a. The Chair shall declare the public hearing open – Chair Beverly Monroe declared the public hearing open

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 documents [zba-2021-01_2210-ps-12_staffreport](#))

c. Applicant Presentation – Applicant noted the following additional comments: Mr. Claus noted the drawings included that the setback is fifty (50) feet upon where the house has been placed. He is asking for eight (8) feet of the twenty (20) foot setback to place the addition with the least amount of intrusion into the twenty (20) foot setback with a driveway coming in from the east.

d. The Chair shall allow public comment – Chair Beverly Monroe opened the floor for public comment. No further comments were offered by the public present.

e. The Chair shall declare the public hearing closed – With no further comments, Chair Beverly Monroe declared the public hearing closed

2. Zoning Board of Appeals [Deliberations / Findings / Conclusions ZBA-2021-01]

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 Claus 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-2021-01**

Property Description – Lot 12 Peninsula Shores Sel. Sec. 35 T22 R10W

Action Report –

- A. The Applicant is requesting a dimensional variance of approximately five and one-quarter (5 ¼) feet from the required front yard setback of twenty (20) feet as per the Regulations and Standards listed in Article 46, Section 4604.D.1.a (R-2 Residential District) of the Wexford Joint Zoning Ordinance. Applicant wishes to place the proposed 18.5x32 addition 14ft8in from the front property line.
- B. Zoning Administrator would like a determination up front from the Board of Appeals to determine that the Administrator made the correct decision in originally denying the permit to the applicant based on the zoning ordinance.

Background:

1. This property is approximately **8007 (eight thousand seven) square feet**; more than the required minimum of 7000 (seven thousand) square feet.
2. The property is located in the R-2 Residential Zoning District

Current Narrative:

1. The Applicant via his Agent contacted the Zoning Administrator on April 22, 2021 with an application for a permit to place an attached garage to an existing house. This permit was denied by the Zoning Administrator on April 28, 2021.
2. The applicant's Agent was advised of the appeals procedure and provided a copy of Article 96; Appeals Board, from the Wexford Joint Zoning Ordinance. The Zoning Administrator applied the traditional application fee to the Zoning Board of Appeals application fee, as it was discovered in the conversation that the applicant desired to pursue a variance.
3. The applicant's Agent met with the Zoning Administrator on Friday, May 7, 2021 and filed an application and site plan seeking the requested variances regarding the proposed construction of the addition to the existing dwelling.
4. The Zoning Administrator made a site visit to the subject parcel on the afternoon of Wednesday, May 26 2021 to compare the specifications on the site plan to the physical layout of the property.
5. Public Hearing Notification was published in the Cadillac News on: June 8, 2021 in accordance with the Zoning Enabling Act; 15 days in advance of any required public hearing
6. 300 Foot Notices were sent out on June 7, 2021; 15 days in advance of any required public hearing.
7. Packets were sent out to the Zoning Board of Appeals members on June 16, 2021.

STANDARDS FOR GRANTING A DIMENSIONAL VARIANCE

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: *By virtue of the ordinance standards, the subject property does appear to exhibit unique circumstances. The property, although meeting the minimum parcel area requirement and buildable area, is very narrow at the road, merely fifty-four (54') feet wide. And although the minimum lot size is 7000', the principal lot is 8007'.*

(SIDE NOTE: *If it had been 7000 square feet, Administrator could have used 4604.D.1.a.(2) which states: "If the parcel is nonconforming, the front yard setback shall be the average setback of the existing dwellings on adjacent parcels on each side, or twenty (25) feet, whichever is greater." And parcel to the East has a setback of 14' from the front property line, while the parcel to the west has a setback of 12' from the front property line.)*

Applicant Comments: See Applicant Presentation

Board Comments: Discussion regarding uniqueness of property size and placement within the dead end

Does the Variance Request meet the Standard for Granting a Dimensional Variance - **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: *When the owner built his house, he stayed the requisite 50' from the water, thus not being able to have any more room on either side of the house nor the rear of the house large enough to place a garage or other building. The requested variance is not the result of the actions of the property owner and is not self-created.*

Applicant Comments: See Applicant Presentation

Board Comments: Discussion regarding length of time from build of home to now requested addition and most reasonable adherence to zoning with a partial encroachment of eight (8) feet versus requesting the entire encroachment into the entire twenty (20) foot setback

Does the Variance Request meet the Standard for Granting a Dimensional Variance – **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..." – the property is currently being utilized as a permitted use. The desires of the applicant are to add to their small house a one-car garage in the road side of the house.*

Applicant Comments: See Applicant Presentation

Board Comments: Discussion regarding other homes with garages like others in the neighborhood

Does the Variance Request meet the Standard for Granting a Dimensional Variance – **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 applicant is requesting a variance on the roadside to be approved, and while this encroaches upon the twenty (20') foot road-side setback by six (6') feet, it would also be consistent with the surrounding character of the neighborhood.*

Applicant Comments: See Applicant Presentation

Board Comments: Discussion regarding other homes with garages in the neighborhood.

Does the Variance Request meet the Standard for Granting a Dimensional Variance – **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: *The applicant has made conscious efforts to minimize the impact on the surrounding property by proposing a small one-car garage which will make the line of their house consistent with the setbacks of two properties to their direct west and one to their direct east. Also, this property is on a dead-end road in which the three houses to its direct west are the only houses that will have any kind of adverse impact (literally no adverse impact) on their property or property values, or their enjoyment of same.*

Applicant Comments: See Applicant Presentation

Board Comments: Balances out neighborhood with no adverse effect to neighbors

Does the Variance Request meet the Standard for Granting a Dimensional Variance – **YES**

Staff recommends that the Wexford Joint Zoning Board of Appeals make independent findings and conclusions that the Zoning Administrator made the correct denial from the Zoning Ordinance. Then the WJZBA should take into consideration the above report in order to make independent findings to support your decision whether to approve, approve with conditions, or deny the application.

The Recording Secretary was requested to read back the Standards, discussion and agreement or disagreement for the motion by Ben Fleis seconded by Jack Prebay to APPROVE the Dimensional Variance for ZBA-2021-01 as the request does meet all five (5) of the standards of review.

A Roll Call vote was taken:

Monroe – Approve

Fleis – Approve

Swank – Approve

Prebay – Approve

The motion to APPROVE the Dimensional Variance for ZBA-2021-01 as noted by above Roll Call vote.

- 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).
None offered
- G. **Public Comment** – No further comments/items were offered by members of the public present
- H. **Report / Comments from each member of the ZBA** regarding their respective participating municipality
- I. **Adjournment** – It was moved by Jack Prebay, and seconded to adjourn the meeting at 6:47 pm.

Prepared by Heather A. O'Connor, Recording Secretary, for Secretary