



Wexford Joint Zoning Board of Appeals

‰ Cherry Grove Township
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DRAFT Meeting Minutes

Time & Date: 6pm, Wednesday, August 24, 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
Heather O'Connor, Recording Secretary

Absent: No Representative (Springville)

B. Approval of Minutes for June 22, 2022 – Motion to approve Meeting Minutes made by Jack Prebay supported by Bill Swank and passed by Board Members present.

C. Set / Amend Agenda - A motion to approve the Meeting Agenda as presented made by Bill Swank supported by Jack Prebay and Agenda was adopted. See ([Agenda](#))

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: (Kowalski Variance Request / Case # ZBA-2022-03)

Springville Township Representative – (Absent)

a. The Chair shall declare the public hearing open – Chair Beverly Monroe declared the public hearing open at 6:02pm

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, Robert & Judy Kowalski, noted the following additional comments: No further commentary added.

d. The Chair shall allow public comment – Chair Beverly Monroe opened the floor for public comment. Noted zero members of the public present.

e. The Chair shall declare the public hearing closed – With no further comments, Chair Beverly Monroe declared the public hearing closed at 6:11pm

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-2022-03**

2.1 Property Description – LOTS 19 & 20 & E 93.57 FT OF LOT 17 FREEMAN'S PLAT #1 SP. SEC. 17 T23N R12W
– MESICK – 22989.9 sq ft

2.2 Action Report –

The Applicant is requesting a dimensional variance from the required front yard setbacks of forty (40') feet as per the Regulations and Standards listed in Article 43 (R1 – Residential District) of the Wexford Joint Zoning Ordinance. Applicant wishes to place a proposed 28' x 22' accessory building / structure within the required 40' setback to provide for enclosed shelter.

2.3 Background:

1. This property is approximately 22,989 square feet; meeting the required minimum of 15,000 (fifteen thousand) square feet, thus classifying it as conforming under the Wexford Joint Zoning Ordinance.
2. The property is located in the R-1 Residential Zoning District

2.4 Current Narrative:

1. The applicant visited the office on Wednesday, July 20th 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 scheduled to be published in the Cadillac News on: August 8th , 2022; 16 days in advance of any required public hearing.
5. 300 Foot Notices were sent out on August 3rd, 2022; 21 days in advance of any required public hearing.
6. Packets were sent out to the Zoning Board of Appeals members (and the applicant) on August 5th , 2022.

3. Article 43: 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 is (according to the legal description), twenty-two thousand nine hundred and eighty-nine (22,989) thousand square feet – exceeding the minimum parcel size.
2. The minimum buildable area is: 15,000 square feet.

3. The minimum parcel width is: 75 (seventy-five) feet – the parcel has frontage on three (3) sides, each meeting the minimum requirement.
 4. Setback requirements are as follows:
Front: 4304.D.1.a(1) the required setback is 40'
Side: 4304.D.1.b(4) the required setback is 15'
Rear: 4304.D.1.b.(1)1 the required setback is 25'
- Note: There are no applicable waterfront yard or wetland setbacks

4. **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: although the lot meets the minimum 'size' requirements of the specific zoning district, having frontage on three (sides) requires a 40' perimeter setback. Staff believes that the setbacks in and of themselves present a unique characteristic that demonstrates a practical difficulty in enjoying similar property rights that others in the 'area' enjoy - by having an accessory building / structure.

Applicant Comments: See Applicant Presentation

Board Comments: Discussion regarding three front yards on private roads is unique. The road is not plowed by the county. Proposed garage is further back from the road than the neighbors fence.

Does the Variance Request meet the Standard for Granting a Dimensional Variance – **0 NO – 3 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 again the dwelling sits surrounded by three private roads and not the "fault" of the applicant

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..." – although the property is currently being used for a permitted use (dwelling)

– there are characteristics that are unnecessarily burdensome when attempting to comply with the required setbacks

Applicant Comments: See Applicant Presentation

Board Comments: Discussion regarding unnecessary burden in setbacks and unique property of three front yards.

Does the Variance Request meet the Standard for Granting a Dimensional Variance – **0 NO – 3 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 has made very attempt to place the accessory building in the most appropriate location based on the position of the well, septic field, mature trees and vegetation, and taking into consideration the aesthetic character of the neighborhood.

Applicant Comments: See Applicant Presentation

Board Comments: Discussion regarding neighbors fence further forward than proposed structure and the applicant is not looking to overbuild. Drawings do not appear to scale. Is the proposed building 10ft from the house? Applicant shortened building size to accommodate a smaller variance. Noted no negative correspondence received nor visitors present for an objection.

Does the Variance Request meet the Standard for Granting a Dimensional Variance – **1 NO – 2 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 is of the opinion that the granting of the requested variance will not 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, applicant keeps property neat and in keeping with the neighborhood. Noted no negative correspondence received nor visitors present for an objection. Applicant by building the proposed building are adding to the area.

Does the Variance Request meet the Standard for Granting a Dimensional Variance – **0 NO – 3 YES**

Staff recommends: that the Zoning Board of Appeals make independent findings and conclusions that support an APPROVAL of the request to place a 28' x 22' accessory building / structure fully within the 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 Jack Prebay to APPROVE the Dimensional Variance for ZBA-2022-03 with keeping the building as far off the setback line as possible as the request does meet the five (5) of the standards of review.

Roll Call vote as follows:

Monroe – Approve

Swank – Approve

Prebay - Approve

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

- 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 – Reviewing Bylaws of WJPC noting training is key and the need to bring training to the members of the ZBA as well
- G. **Public Comment** – Zero (0) members of the public were present. No comments were offered.
- H. **Report / Comments from each member of the ZBA** regarding their respective participating municipality – nothing significant to report
- I. **Adjournment** – The meeting was adjourned at 6:43pm

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