



Wexford Joint Zoning Board of Appeals

% Cherry Grove Township
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DRAFT Meeting Minutes

Time & Date: 6pm, Wednesday, October 26, 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)
Judy Kowalski (Springville)
Carol Perrin (Selma)

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

B. **Approval of Minutes for August 24, 2022** – Motion to approve Meeting Minutes made by Jack Prebay supported by Bill Swank and passed via voice vote by Board Members present. See ([Proposed Minutes](#))

C. **Set / Amend Agenda** - A motion to approve the Meeting Agenda as presented made by Bill Swank supported by Beverly Monroe and Agenda was passed via voice vote. See ([Agenda](#))

D. **Public Comment** – One (1) member of the public was present. No comments were offered.

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

1. Advertised Public Hearing: (Griebe Variance Request / Case # ZBA-2022-04)

Springville Township Representative – Carol Perrin

a. The Chair shall declare the public hearing open – Chair Beverly Monroe declared the public hearing open at 6:04pm

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

c. Applicant Presentation – Applicant, Chris & Mary Griebe, noted the following additional comments: the neighbors do not use the platted road to enter the garage, they park on the other side of their property. The Applicant stated he has spoken with the neighbor who reported they do not use the platted road to access the garage, it is used primarily for storage. Their desire is to improve the property appearance with the requested shift of the new house built toward the middle of the property.

d. The Chair shall allow public comment – Chair Beverly Monroe opened the floor for public comment. Jillane Fenner – a neighbor within 300 feet, commented that the Applicant is trying to improve their property and said, "I think it's great". Mr. Hall noted the Applicant and Agent were proactive in the process and extremely communicative.

e. The Chair shall declare the public hearing closed – With no further comments, Chair Beverly Monroe declared the public hearing closed at 6:35pm

2. Zoning Board of Appeals [Deliberations / Findings / Conclusions ZBA-2022-04]

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 five (5) the board members present had personally visited the Griebe 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-2022-04

2.1 Property Description – LOT 2 Indian Springs Park, Sel. Sec. 25. T22N R10W

2.2 Action Report –

Action Report – The Applicant house is currently approximately two (2) feet from the west property line. The house is also approximately twenty-two (22) feet from the east property line. Applicant wants to raze the existing house and build a house which would be closer to the zoning ordinance setback standards than it currently is. The Applicant is asking for a dimensional variance to move the proposed house over twelve (12) feet to the east, making the side setback ten (10) feet or equal to the ordinance side setback. The Applicant is also desiring to place the western side setback to six (6) feet, or four (4) feet more than it currently is, but four (4) feet into the side setback. (NOTE: The Applicant also wishes to move the new house back toward the current road to within a proper twenty (20) feet setback. This setback infringes upon a platted road that ends at the west side of his property {see platted subdivision}.)

2.3 Background:

1. This property is approximately 3920 square feet; far less than the required minimum of 15,000 (fifteen thousand) square feet, thus classifying it as non-conforming under the Wexford Joint Zoning Ordinance.
2. The property is located in the R-2 Residential Zoning District

2.4 Current Narrative:

1. The applicant's agent first spoke with the Zoning Administrator on the phone on April 6, 2022 with a preliminary discussion on what a new house would look like in the place of the current house. Shortly after that, on the same day an email string started between the Zoning Administrator and the applicant's agent.
2. Through email communication it was ascertained that the applicant's proposal could not be administratively approved. Staff looked at several alternate ideas as to how the shape of the property and required setbacks affected where building could take place.
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 scheduled to be published in the Cadillac News on: October 3, 2022; 23 days in advance of any required public hearing.
5. 300 Foot Notices were sent out on October 5, 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's agent) on October 19 , 2022.

3. Article 43: R-2 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 where the house is located is approximately 3920 (three thousand nine hundred twenty) square feet.
2. The minimum buildable area is: 9400 (nine thousand four hundred) square feet. This non-conforming lot would have far less of a buildable area for a house, and takes creativity in order to even replace the existing house
3. The minimum parcel width is: 50 (fifty) feet wide where the house is located. It is 70 (seventy) feet long on the west side, and 86 (eighty-six) feet long on the east side
4. Setback requirements are as follows:
Front: 4604.D.1.a the required setback is 20'
Side: 4604.D.1.b(1) the required setback is 10'
Water: 1101 the required setback is 50'

4. STANDARDS FOR GRANTING A DIMENSIONAL VARIANCE

4.1 According to WJZO, Article 9607.F.2.a.(I) 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 for granting a variance in the zoning ordinance. This property is one of the smaller parcels around Lake Mitchell, at least the smallest this ZA has seen. The result of this small lot is because the original platted map showed a short road directly behind this house leading to the house of the adjacent property to the west of this house. Also when eight houses were built to the east of this subdivision, a new road was made farther to the north of this property which would reach those houses. The topography drops off drastically from the tree line to the platted road and the house.

Applicant Comments: See Applicant Presentation

Board Comments: Discussion regarding non-conforming presently and the presence of the platted road.

Does the Variance Request meet the Standard for Granting a Dimensional Variance – **0 NO – 5 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 current landowner has not altered the property since adoption of the Wexford Joint Zoning Ordinance or acted to create the need for the variance. Indian Springs subdivision was platted in 1923, so the road that was platted has not been used since then, The new road was built to reach the

eight homes to the east of the subdivision, and are not a part of the subdivision as their properties have meets and bounds description.

Applicant Comments: See Applicant Presentation

Board Comments: Discussion regarding the resulting existing structure is not the action of the property owner. The platted lot of record, was not created by the owner.

Does the Variance Request meet the Standard for Granting a Dimensional Variance – **0 NO – 5 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 of such small size that even the current small house could not be built upon this parcel. Specifically, the west side setback is currently two feet. Staff believes that the strict application of the ordinance standards would be unnecessarily burdensome. Also, the building of a new house as the applicant's agent has proposed does improve the west side setback by adding another four feet to that side, making that side setback six feet. It also brings the east side setback into conformity to the ordinance at ten feet.

Applicant Comments: See Applicant Presentation

Board Comments: Discussion regarding the platted road creates an unnecessary burden and the platted road is unused. The applicant is improving the property.

Does the Variance Request meet the Standard for Granting a Dimensional Variance – **0 NO – 5 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 also asked the ZBA to be within 7'9" of the back property line, which is that distance from the platted road, is almost fifty feet from the actual road.

Applicant Comments: See Applicant Presentation

Board Comments: Discussion regarding the Applicant has situated with improvements the new proposed build.

Does the Variance Request meet the Standard for Granting a Dimensional Variance – **0 NO – 5 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 eight (8) houses to the west are not affected by this change because their access is a road that is at least fifty feet from their property. The houses to the east are not affected because they have the regular road to access their properties. A newly built, modern house will only increase the property values in the neighborhood.

Applicant Comments: See Applicant Presentation

Board Comments: Discussion regarding no adverse effect on surrounding properties.

Will the Variance Request cause and adverse impact on the surrounding property or the property values?

– **5 NO – 0 YES**

Staff recommends: that the Zoning Board of Appeals make independent findings and conclusions that support an APPROVAL of the requested variance(s) which keeps the house more than fifty feet from the water, and improves the placement of the house to increase setbacks. Also the house still comes in less than the 33% (thirty-three percent) of the parcel.

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 APPROVE the Dimensional Variance for ZBA-2022-04 as the request does meet the five (5) of the standards of review.

Roll Call vote as follows:

Monroe – Approve

Swank – Approve

Prebay – Approve

Perrin – Approve

Kowalski - Approve

The motion to approve the Dimensional Variance for ZBA-2022-04 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 – Grant Resolution was approved by the WJPC for the ZA and AZA to pursue grants.

G. **Public Comment** – None offered

H. **Report / Comments from each member of the ZBA** regarding their respective participating municipality
- None

I. **Adjournment** – The meeting was adjourned at 6:49pm

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