



Wexford Joint Zoning Board of Appeals

% Cherry Grove Township
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DRAFT Meeting Minutes

Time & Date: 6pm, Wednesday, December 23, 2020

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)

Secondary Meeting location: Zoom Virtual Conference Room Provided by River Bridge Technology, Inc
Details: <https://us02web.zoom.us/j/4220001116> or dial in 312.626.6799 ID#8324099351#

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

Present: Beverly Monroe, Chairman (Liberty)
Bill Swank, Vice Chairman (Antioch)
Ben Fleis, Secretary (Wexford)
Jack Prebay (Selma)
Peggy Benz (Hanover) Case ZBA-2020-01

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

- B. **Approval of Minutes for August 28, 2019** – Motion to approve Meeting Minutes as corrected (**Section C – strike out Fleis**) made by Ben Fleis seconded by Jack Prebay and approved unanimously.
- C. **Set / Amend Agenda** - With addition of Officers remain in place for 2020, a motion to approve the Meeting Agenda as amended was made by Jack Prebay 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: (Barodte Variance Request / Case # ZBA-2020-01)
Hanover Township Representative – Peggy Benz
 - 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-2020-01_staffreportdocs20201211_09335299**)
 - c. Applicant Presentation – Applicant noted the following additional comments: variance requested for the back 5ft and side 5ft of the property; a new modular unit (28x40) to be placed as noted in packet and associated specs; possibly a fence in the future; little to no view of the neighbors.

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. Peggy Benz (Hanover) offered there is no obstruction of view in the proposal; as a member of the association – there is no problem and a huge improvement to the area. Chairman Monroe asked if the structure can be moved closer to the garage. Applicant noted the optimal placement is as presented due to machinery having to go over the garage vs adjacent as presented.

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-2020-01]

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 four (4) of the board members present had personally visited the Barodte 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-2020-01**

Property Description – Lot 182 Lake Gitchegumee HNR. Sec. 8 T24N R11W – Hanover Township

Action Report - The Applicant is requesting a dimensional variance from the required side yard setbacks of 12' (twelve) as per the Regulations and Standards listed in Article 43 (R-I Residential District) of the Wexford Joint Zoning Ordinance. Applicant wishes to place a proposed 1,296 (one thousand, two-hundred and ninety-six) square foot dwelling encroaching at least 7' (seven) feet into the required side yard setbacks.

Background:

1. This property is approximately **8177 square feet**; far less than the required minimum of 15,000 (fifteen thousand) square feet, thus classifying it as nonconforming under the previous of the Wexford Joint Zoning Ordinance.
2. The property is located in the R-I Residential Zoning District

Current Narrative:

1. Through phone and email communication it was ascertained that the applicant's proposal could not be administratively approved. Staff offered alternate ideas as to how the shape of the property and required setbacks affected where building could take place, recognizing the location of the newer 24' X 24' garage in the approximate center of the lot.
2. The applicant met with the Zoning Administrator in the office on December 2, 2020 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: December 8, 2020; 16 days in advance of any required public hearing

5. 300 Foot Notices were sent out on December 9th; 15 days in advance of any required public hearing.
6. Packets were sent out to the Zoning Board of Appeals members (and the applicant on December 11, 2020).

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: *The previous zoning ordinance, Wexford County Zoning Ordinance No.5 zoned the subject property as FR /Forest Recreational} and required a minimum lot size of 43, 560 (forty-three thousand, jive hundred and sixty) square feet [1-acre} making it nonconforming. The Wexford Joint Zoning Ordinance rezoned the area (including the subject property) as R1 [Residential District]*

Applicant Comments: ***The existing garage's placement which is remaining and deep from road has restricted the options available for home placement.***

Board Comments: Discussion regarding the modular unit and placement on a concrete foundation. Modular noted as prefabricated and placed on site as a permanent structure with concrete foundation.

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: *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.*

Applicant Comments: ***A well that was grandfathered in (that is not on my property but in an easement on my neighbor's line) will be capped and new well will be drilled on my property as part of the new home project***

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 ... " - this property is barely half of the minimum size / area required and strict compliance may unreasonably prevent the property owner from using the property for a continuing permitted purpose – staff believes that the strict application of the ordinance standards would be unnecessarily burdensome.*

Applicant Comments: ***Due to the added costs involved with modifying the predetermined standard floor plans available, complying with existing setbacks to make the home smaller may create a home project that is not suitable or affordable***

Board Comments: Discussion regarding porches from specs, noted as being removed as part of current structure and not inclusive of new proposed structure

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: *This platted lot is larger than most in the immediate area within the platted subdivision. There exists a newer 24' X 24' garage (accessory building) almost right in the center of the property - clearly established 'after' the two existing older (60's?) travel trailers were melded together with a structural addition and roof-over. This property is clearly the oldest and most outdated structure in the immediate vicinity of newer established residences.*

Applicant Comments: *The completed proposed home project with minimal requested variance will allow the existing trailer structure and will be replaced with a new home, landscaping, and a look all will be proud of.*

Board Comments: There were two (2) letters from neighbors noting lack of favor, yet nothing substantial or factual for the lack of approval. Again noted the Association is in full approval of the proposal included in packet presented.

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: *This particular lot is one of the largest (and still nonconforming) lots in the immediate area within this subdivision platted in 1966 - prior to any Wexford County Zoning which was established in 1968*

Applicant Comments: *The only effect the proposed home project will have is to increase property values in the neighborhood. Neither of the two properties adjoining have structures near the property lines in question. I am certain that if this project can be completed as proposed the Homeowner Association, Hanover Township, and the neighbors will be very satisfied with the outcome.*

Board Comments: Peggy Benz reiterated the Homeowners Association approval of the proposal submitted by the applicant.

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

The Recording Secretary was requested to read back the Standards, discussion and agreement or disagreement for the motion by Ben Fleis seconded by Peggy Benz to APPROVE the Dimensional Variance for ZBA-2020-01 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

Benz – Approve

The motion to APPROVE the Dimensional Variance for ZBA-2020-01 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
Mr. Hall noted training for ZBA as in house or virtual is being pursued
- I. **Adjournment** – It was moved by Peggy Benz to adjourn the meeting at 6:36 pm.

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