



Wexford Joint Zoning Board of Appeals

1/3 Cherry Grove Township
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DRAFT Meeting Minutes

Time & Date: 6pm, Wednesday, December 28, 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)
 Ron Vaughan (Cherry Grove)

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

B. **Approval of Minutes for October 26, 2022** – Motion to approve Meeting Minutes as amended made by Judy Kowalski supported by Bill Swank and passed via voice vote by Board Members present. See ([Proposed Minutes](#))

AMENDMENT

- 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
 Amend to **Selma** Township

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

D. **Public Comment** – Zero members 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: (Funke Variance Request / Case # ZBA-2022-05)
 Cherry Grove Township Representative – Ron Vaughan
 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 and Applicant's Narrative](#), [Existing Site Plan](#), [Proposed Site Plan](#), [Architectural Set](#), [PowerPoint](#)). Mr. Townsend read five (5) letters from neighbors within the 300ft area, all supporting the Applicants request.

c. Applicant Presentation – Applicant, Patrick & Corinne Funke, noted the following additional comments: Purchase of home was as a secondary home 15 years ago. They are looking to expand the cottage and make it their primary residence. Including an office, additional bath and overall larger living space. Mr. Funke noted his neighbors have been very supportive of the application.

d. The Chair shall allow public comment – Chair Beverly Monroe opened the floor for public comment – None offered

e. The Chair shall declare the public hearing closed – With no further comments, Chair Beverly Monroe declared the public hearing closed at 6:23pm

2. Zoning Board of Appeals [Deliberations / Findings / Conclusions ZBA-2022-05]

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 Funke 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-2022-05

2.1 Property Description

Property Description – PAR COM AT NE COR OF SEC; TH S 00D09M45S W 200 FT ALONG E LINE OF SEC; TH N 89D30M00S W 604.91 FT TO A PT ON E LINE OF LOT 25 OF UNRECORDED PLAT (C E STACKUS); TH S 00D09M45S W 63 FT TO SE'LY COR OF SAID LOT; TH S 00D09M45S W 189.67 FT; N 86D49M10S W 337.12 FT; TH N 88D16M22S W 105.40 FT TO E'LY R/W OF A 30 FT WIDE PUBLIC RD; TH N 01D06M18M W 143.21 FT TO POB; TH N 01D06M18S W 106.69 FT; TH S 82D26M05S E 13.52 FT; TH S 82D26M05S E 49.43 FT; TH S 73D34M00S E 45.87 FT; TH S 70D07M45S E 50.74 FT; TH S 77D17M30S E 62.28 FT; TH S 84D 28M57S E 27.17 FT; TH S 92.50 FT; TH N 80D22M12 S W 243.01 FT TO POB. AKA PARCEL A REC L02, PG 170 --.55 A M/L CG SEC 10 T21N R10W -CAPS-

2.2 Action Report –

Action Report – The Applicant attached garage is currently approximately three (3) feet into the setback from the east property line. The present house is well within the setbacks for the north, west, and south property lines. Applicant desires to add additions to the existing house which would encroach into the north setback and further into the east setback. The Applicant is asking for a dimensional variance to build the proposed house addition into the north setback of fifteen (15) feet to nine (9) feet, two (2) inches. The Applicant is also desiring to build an addition to the two-car garage into the eastern rear setback of twenty-five (25) feet to eight (8) feet, ten (10) inches on the north end of the building to ten (10) feet, four (4) inches on the south end of the building. Both the west (front yard) and the south (side yard) will be in compliance with the zoning ordinance setbacks.

2.3 Background:

1. This property is approximately 24026 square feet in area. Thus, it does not qualify as a non-conforming lot or building per ZO 4604-A.
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 November 23, 2022 with a preliminary discussion on what an addition to the current house would consist of. Shortly after that, on the same day, an email string started between the ZA and the Applicant.
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 be redone.
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: December 8, 2022; 23 days in advance of any required public hearing.
5. 300 Foot Notices were sent out on December 9, 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 November 14, 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 twenty-four thousand square feet (24000).
2. The minimum buildable area is: 9400 (nine thousand four hundred) square feet, which makes this parcel not a non-conforming lot. In other words, it does conform to what the ordinance states is more than enough area to build upon.
3. The minimum parcel width is: one hundred five point five (105.5) feet at the road and ninety-two point five (92.5) feet across the rear of the property.
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'



300' notification area from property in orange. These property owners were sent letters of notification so that they could voice their opinion on the variance as a pro or con.

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: This is the clearest reason for granting a variance in the zoning ordinance. The parcel involved in this appeal is wider than a normal parcel around Lake Mitchell and it is much deeper than a normal parcel.

Applicant Comments: See Applicant Presentation

Board Comments:

House:

The house addition does encroach into the setback. The situation is not unique – half of Lake Mitchell is based on lot lines, this is a meets and bounds property. This is typical of the area. With the encroachment the views are undisturbed. A bigger lot than most.

Garage: The entire proposed garage is within the setback area. Currently the area for proposed garage has a temporary canopy for pontoon boat.

Does this property have unique circumstances of physical conditions of property? –

House 5 NO – 0 YES Garage 5 NO – 0 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 the adoption of the Wexford Joint Zoning Ordinance or acted to create the need for the variance. The house is where it is with the rear garage already being a few feet into the rear yard setback.

Applicant Comments: See Applicant Presentation

Board Comments:

House: The home was present when the Funke's bought the property. Property is as purchased

Garage: The proposed garage is within the applicant's property. The applicant wants a permanent garage vs a canopy. There is one tree the applicant would need to remove.

Is this the result of actions by the property owner? –

House 5 NO – 0 YES Garage 5 NO – 0 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 a good size to allow the applicant many variables for adding on to the house in order to expand it to a size that the applicant wishes.

Applicant Comments: See Applicant Presentation

Board Comments:

House: There is no impact to current use of the house

Garage: They can use the property without the variance. The canopy is already encroaching the setback, and want a stick-built garage vs a canopy. The garage can, however, be built on another spot on the property.

Does this prevent the owner from using the property – building a garage on the property -

House 5 NO – 0 YES Garage 1 NO – 4 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: *There are two variances that are asked here. The applicant has asked the ZBA to approve building into the rear yard setback with a news addition to the garage for his boat. He has also asked the ZBA to be able to build north an addition onto the house to less than ten feet from a building that is from a neighbors encroachment onto his property. The applicant has a potential to go almost twenty feet closer to the south side property line also.*

Applicant Comments: See Applicant Presentation

Board Comments:

House: Discussion regarding the minimum requested variance. Also considering the other property owners. Trying to conserve trees, large areas.

Garage: The Applicant could have asked for a larger variance. Adding just what is existing to replace the canopy footprint.

Does this variance do substantial justice to the applicant –

House 1 NO – 4 YES Garage 1 NO – 4 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: *No doubt the improvements as presented will cause no adverse effects on the surrounding properties, and undoubtedly it would raise all property values.*

Applicant Comments: See Applicant Presentation

Board Comments:

House: Discussion regarding no adverse effect on surrounding properties. Referencing the five submitted letters from neighbors.

Garage: Discussion regarding no adverse effect on surrounding properties. Referencing the five submitted letters from neighbors. No adverse effect on other homeowners.

The Variance will not cause and adverse impact on the surrounding property or the property values? –

House 5 NO – 0 YES Garage 0 NO – 5 YES

Staff recommends: *that the Zoning Board of Appeals make independent findings and conclusions that come to either approving, approving with conditions, or denying.*

The Recording Secretary was requested to read back the Standards, discussion and agreement or disagreement for the motion by Bill Swank supported by Beverly Monroe to APPROVE the Dimensional Variance for ZBA-2022-05 **HOUSE** noted even with inconsistencies as noted above.

Roll Call vote as follows:

Monroe – Approve

Swank – Approve

Prebay – Approve

Kowalski – Approve

Vaughan - Approve

The motion to approve the Dimensional Variance for ZBA-2022-05 for the **HOUSE** was APPROVED

The Recording Secretary was requested to read back the Standards, discussion and agreement or disagreement for the motion by Jack Prebay supported by Ron Vaughan to APPROVE the Dimensional Variance for ZBA-2022-05 **GARAGE** eight feet from the property line.

Roll Call vote as follows:

Monroe – Approve

Swank – Approve

Prebay – Approve

Kowalski – Approve

Vaughan - Approve

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 – Payroll questions from Bill Swank regarding dates on stubs – Mr. Townsend to research.

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 7:28pm

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