



# Wexford Joint Planning Commission

c/o Cherry Grove Township  
 4830 E. M-55  
 Cadillac, Michigan 49601

[www.wexfordjpc.org](http://www.wexfordjpc.org)

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 (231)775-1138x6

## STAFF REPORT/Zoning Board of Appeals Case # ZBA-2022-2

### 1. Application

Owner(s):	Kowalski, Robert and Judy 10602 Clyde Road Mesick Michigan 49668		
Site Address, And Proposed Location	Same as Above Parcel ID# 2312-FP1-19	-	Springville Township
Zoned:	R-1 Residential District		
Site Plan:	Attached (not to scale)		

### 2. Development Proposal

2.1 Property Description – LOTS 19 & 20 & E 93.57 FT OF LOT 17 FREEMAN'S PLAT #1 SP. SEC. 17 T23N R12W - MESICK	<b>Property Square Feet:</b>	22989.9018688 Sq Ft
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2.2 Action Report –The Applicant is requesting a dimensional variance from the required front yard setbacks of thirty (40') feet as per the Regulations and Standards listed in Article 43 (R-1Residential 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 20<sup>th</sup> 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 8<sup>th</sup>, 2022; 16 days in advance of any required public hearing.
5. 300 Foot Notices were sent out on August 3<sup>rd</sup>, 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 5<sup>th</sup>, 2022.

3. Article 43: RESIDENTIAL DISTRICT

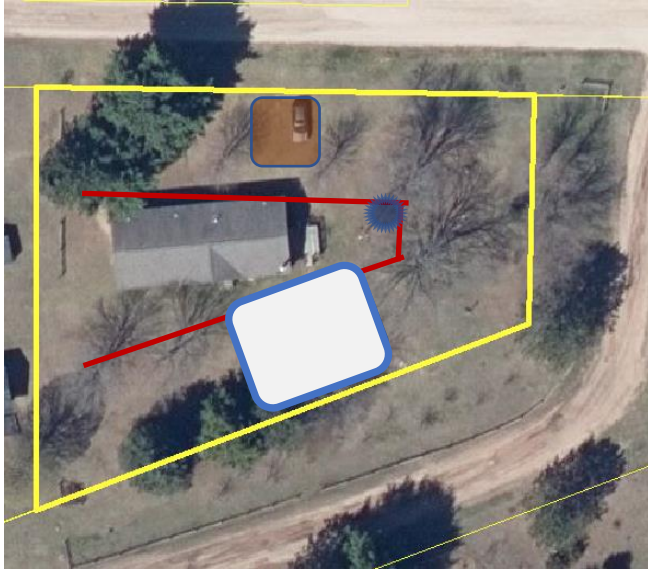
3.1 Section 4304 of Article 43 describes the regulations applicable to the specific zoning district – the following is presented for review by the Zoning Board of Appeals:

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)  
Rear: 4304.D.1.b.(1)<sup>1</sup>

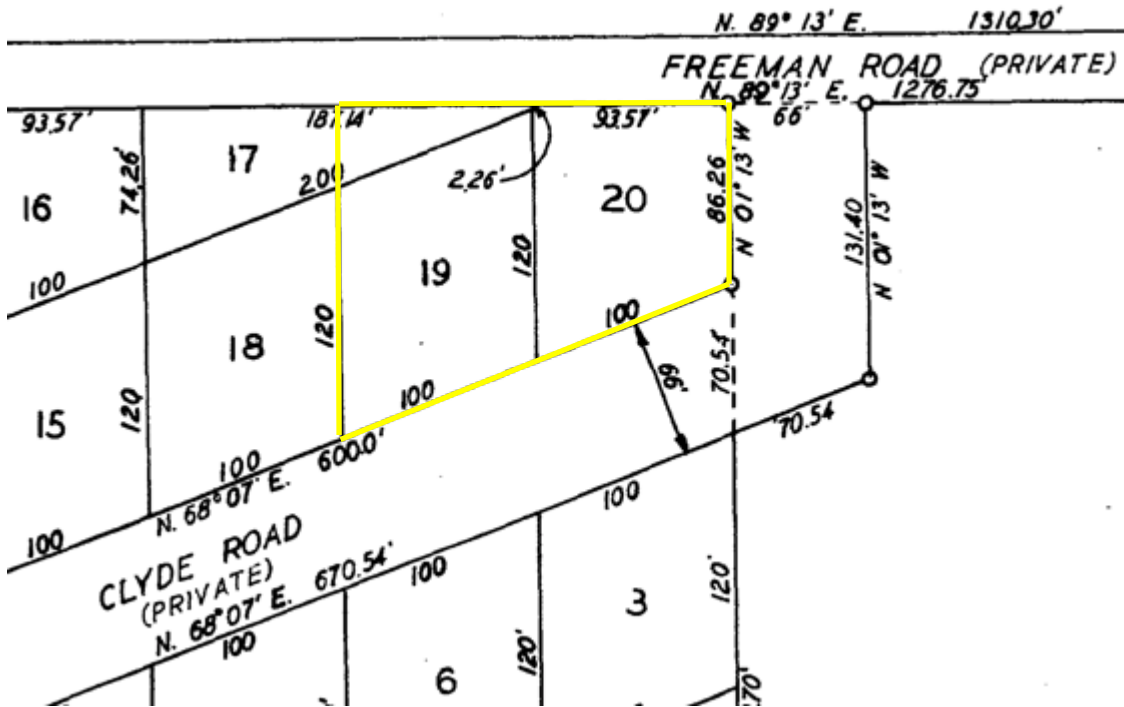
the required setback is 15'  
the required setback is 25'

Note: There are no applicable waterfront yard or wetland setbacks



**LEGEND**

-  Building Envelope
-  Proposed Building
-  Septic / Drainfield



<sup>1</sup> 'TYPO' in this section duplicates this sequence – Rear yard is clearly denoted

#### 4. STANDARDS FOR GRANTING A DIMENSIONAL VARIANCE

4.1 According to the WJZO, Article 9607.F.2.a.(1) 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.*

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).*

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.*

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.*

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.*

***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.***



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2312-FP1-19 Staff Report Exhibits:



**PROPOSED GARAGE**



**FRONT SETBACKS ON THREE SIDES (FRONTS)**



**WELL AREA**

**SEPTIC AREA**



Respectfully submitted for consideration by the Wexford Joint Zoning Board of Appeals,

*Robert Hall*

Robert Hall  
Planning and Zoning Director

Wexford Joint Planning Commission