

Wexford Joint Planning Commission

c/o Cherry Grove Township

4830 E. M-55

Cadillac, Michigan 49601

231-775-1138x6

planningandzoning@wexfordjpc.orgwww.wexfordjpc.org**APPLICATION FOR ZONING BOARD OF APPEALS** [page 1 of 2]**[WARNING: THIS FORM IS NOT A LAND USE PERMIT]**

Property Owner: Porter Eugene Phone: (270)-604-1868
Last Name First Name

Owner Address: P.O. Box 35 Boon MI 49618
Street # or P.O. Box City State Zip

Project Address: 121 S Haskins Boon MI 49618
Street # or P.O. Box City State Zip

Parcel ID # 2211 - B - 0103 Are property lines and building site staked? YES NO
[Circle one]

IF BEING REPRESENTED BY AGENT OR ATTORNEY PLEASE COMPLETE THIS SECTION

Agent / Attorney: _____ / _____
Company Name Individual NameAgent / Attorney Address: _____
Street # or P.O. Box City State Zip

Agent / Attorney Phone: (____)-____-____ Email: _____

ZONING BOARD OF APPEALS - ACTION BEING REQUESTED

(Check Only ONE)

- ☐ Administrative Appeal / Decision
- ☒ Dimensional Variance Request
- ☐ Ordinance Text / Map Interpretation

2/R

SITE PLAN: When applicable, the Zoning Administrator (on behalf of the Zoning Board of Appeals) may require that this application be accompanied by a legible site plan drawn to scale in accordance with Article 94 of the Wexford Joint Zoning Ordinance.

Please describe (*in detail*) the current use(s) of the buildings, structures, and / or land as applicable: [do not leave blank]

Property is vacant lot after original building burned. still one 2 car brick garage in place.

The project address / property is located in the RR Zoning District.

Do Not Write Below This Line - For Administrative Use OnlyAssigned ZBA Case # ZBA-2017-04 Date Application Received: 06 / 28 / 2017Fee: \$ 125.00 Receipt # 975262 Date of ZBA Action: ____ / ____ / ____

CREDIT GIVEN FOR PMT OF \$170.00
2 CASES

APPLICATION FOR ZONING BOARD OF APPEALS [page 2 of 2]

DEMONSTRATING PRACTICAL DIFFICULTY

The Zoning Board of Appeals must find that very specific standards can be demonstrated or 'proven' that apply to your particular situation in order to grant a 'variance' from the zoning ordinance. You are encouraged to arrange a pre-application conference with the Zoning Administrator so that you can be presented with information that will assist you in submitting a complete application. **An application to appear before the Zoning Board of Appeals will not be considered complete unless accompanied by the appropriate fee, a site plan (as required), and a narrative that addresses all of the standards that the Zoning Board of Appeals is required to consider.**

AFFIDAVIT: I agree the statements and representations made herein and attached to this application are true and if found not to be true, any zoning (Land Use) permit that may be issued in reliance upon this application may be void. Further, I agree to comply with any conditions and regulations provided with any permit that may be issued in connection with this application. Further, I agree the permit that may be issued is with the understanding all applicable sections of the Wexford Joint Zoning Ordinance (and all conditions attached) will be complied with. Further, I agree to notify the Planning and Zoning Administrator for inspection before the start of construction and when locations of proposed uses are marked on the ground. ***Further, I agree to give permission for the Wexford Joint Zoning Board of Appeals / Planning and Zoning Administrator, the County and the State of Michigan to enter the property subject to this permit application for purposes of inspection.*** Finally, I understand this is an application to appear before the Wexford Joint Zoning Board of Appeals, (not a permit), and that a Land Use Permit, if issued, conveys only land use rights and does not include any representation or conveyance of rights in any other statute, building code, deed restriction or other property rights.

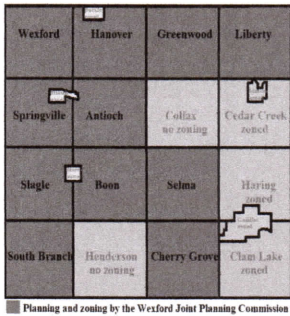
Signed: _____

Theresa A. Conservator

Date: _____

6/28/17

Please see Article 94 of the Wexford Joint Zoning Ordinance for Site Plan requirements related to any matter before the Zoning Board of Appeals:



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STAFF REPORT/Zoning Board of Appeals Case # ZBA-2017-04

1. Application

Applicant / Conservator:	Porter, Eugene P.O. Box 35 Boon, Michigan 49618
Owner(s):	Porter, Eugene, Jr. 121 S. Haskins Street Boon, Michigan 49618
Site Address, And Proposed Location	121 S. Haskins Street, Boone Michigan 49618 Parcel ID# 2211-B-0103 – Boon Township
Zoned:	Rural Residential
Site Plan:	Attached

2. Development Proposal

- 2.1 Property Description – Parcel ID# 2211-B-0103
LOTS 3 & 4, BLK. 1 Village of Boon BN. SEC. 23 T22N R11W
- 2.2 Action Report – The Applicant is requesting various dimensional variances from the Regulations and Standards listed in the Rural Residential District of the Wexford Joint Zoning Ordinance.
- 2.3 Background:
 1. This property has historically been used for the purpose of a single family

dwelling – it is now vacant and has an existing 24’ (feet) X 24’ (feet) garage foundation only located on the property.

2. When 2 lots are noted in a single legal description, they have been ‘combined’ for tax purposes ONLY. Essentially there are two contiguous 65’ (feet) wide lots, as demonstrated by the Applicant, in a subdivision zoned as Rural Residential and could be treated separately.

2.4 Current Narrative:

1. The applicant (Eugene Porter) submitted the initial Land Use Application on June 21, 2017. The accompanying plot plan did NOT demonstrate compliance and a denial letter was sent to the applicant on June 23, 2017.
 2. The applicant communicated with and visited with the Planning and Zoning Administrator to discuss the available options. The Zoning Board of Appeals application process and procedures were explained.
 3. A letter of DENIAL was sent to Applicant on June 23, 2017, explaining that the parcel would not meet the setbacks in the front yard, the back yard, or both side yards. The DENIAL was given because of the Non-conforming Standards 8003 state that “a nonconforming parcel may not be used or built upon” unless there are exceptions in the ordinance.
 4. Application for a variance was made on June 28, 2017.
 5. A Public Notice was placed in the Cadillac News on or about July 10 in accordance with the zoning ordinance.
 6. On July 7, 2017, notices to all residences within 300 feet were sent out in accordance with the Michigan Zoning Enabling Act, PA 110 of 2006.
NOTE: Applicant states and signifies on his site plan that there is an existing 24’x24’ garage already on the property 33’ from the centerline Haskins Street. Actually, this garage is now rubble down to the foundation, so it would have to be rebuilt according to the standards of this ordinance. If the garage were still standing and intact, that might have granted the ZBA a consideration for using this as a setback for a dwelling.
3. Standards for consideration by the Zoning Board of Appeals under the provisions of Article 80, Section 8003.C [Class A Extensions] with Staff Comment and Recommendations
- 3.1 According to WJZO Article 8003.C – The following standards shall be used by the Zoning Board of Appeals to review requests for variances under this Article.
 1. It is documented by the applicant the parcel existed prior to January 1, 2016, and
Staff Comment and Recommendations: This is true concerning this property that it did exist prior to January 1, 2016.
 2. The parcel was not made smaller after January 1, 2016, and

Staff Comments and Recommendations: This property is made up of two platted lots which are restricted land by the road in the front and the railroad in the back. Thus, the land cannot be added to in such a way to make it conforming.

3. It is documented by the applicant that contiguous land, or enough contiguous land, cannot be purchased, and

Staff Comments and Recommendations: It would not matter if the applicant purchased contiguous lands in that the main problem is the setback caused by the railroad running parallel to Haskins Street.

4. The parcel is large enough to accommodate required on-site sewage, if needed; well, with proper isolation; as determined by the District Health Department, and

Staff Comments and Recommendations: A septic is already located on the property as this was present before the original house on the property burned down. A well is also already located on the property, along with electric.

5. Other standards for issuing a variance by the Appeals Board are met

Staff Comments and Recommendations: See Staff comments and Recommendations in number 4.

4. Standards for granting a variance with Staff Comments and Recommendations

- 4.1 According to WJZO Article 9604 – The following standards shall be used by the Zoning Board of Appeals when considering a variance request.

1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.

*Staff Comment and Recommendations: This property is the result of the Railroad coming through in the 1870s when there were no zoning requirements except to be 150' from a road. Then through the years people who owned this parcel built a small house with a garage. The size and placement of the parcel do make it peculiar to the land which are not applicable to other lands. **Recommend ZBA** take into consideration the peculiarity of the parcel.*

2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.

*Staff Comment and Recommendations: Staff **NOTES** that the requested land is along a strip in Boon (still Rural Residential though) which is along the west side of the railroad which passes east of the town. The strip of land where this parcel is located is a very narrow strip which goes between Haskins Street and the previous*

Ann Arbor Railroad. Two properties north above Huston Street are a Commercial Improved and a Commercial Vacant property, both owned by John F. Okoren. To the immediate north of the Porter parcel are two more properties owned by John F. Okoren, a Residential Improved with a house and a contiguous Residential Vacant property. Directly to the south are five Residential Vacant properties which have no buildings on the properties. The one contiguous south property has a destroyed garage which has tumbled onto the Porter property. In other words, other than the current residence at the corner of Huston and Haskins, there are no other dwellings along this strip. Only one other property along this trip "enjoys the common right that this owner would enjoy," and this owner would also not be able to rebuild upon his property should his house burn down.

3. That the special conditions and circumstances do not result from the actions of the applicant.

Staff Comment and Recommendations: Applicant did nothing which resulted in the property being nonconforming. This resulted from the actions of the Ann Arbor Railroad many years ago.

4. That granting the variance will not alter the essential character of the area.

Staff Comments: There was a house and garage there once upon a time. The modernization of the highway going through with an extra driveway may be a concern. Knowing that granting a variance for this small restricted land property to build a house larger than any setbacks allow may bring all other nonconforming properties along this strip to do the same in the future should be considered. One house, one driveway may not alter the essential character of the area, but seven houses and seven driveways on properties with little setback MAY alter the essential character of the area.

*Final Staff Comment and Recommendations: **Recommend** that the Zoning Board of Appeals DENY the variance until the Applicant obtain a survey for their own understanding of what the railroad right of way (ROW) is pertaining to their property. Normal railroad ROW is 50' to 100', depending upon where it is located, with 50' being normal in a residential district like this. The ZBA needs to respect the current Railroad's ROW. The ZBA cannot determine the future of the railway use. There is no way to know exactly where the setbacks should be or could be without an actual survey of the property. In Zoning, guessing where it **might be** should not be relied upon for building setbacks.*

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

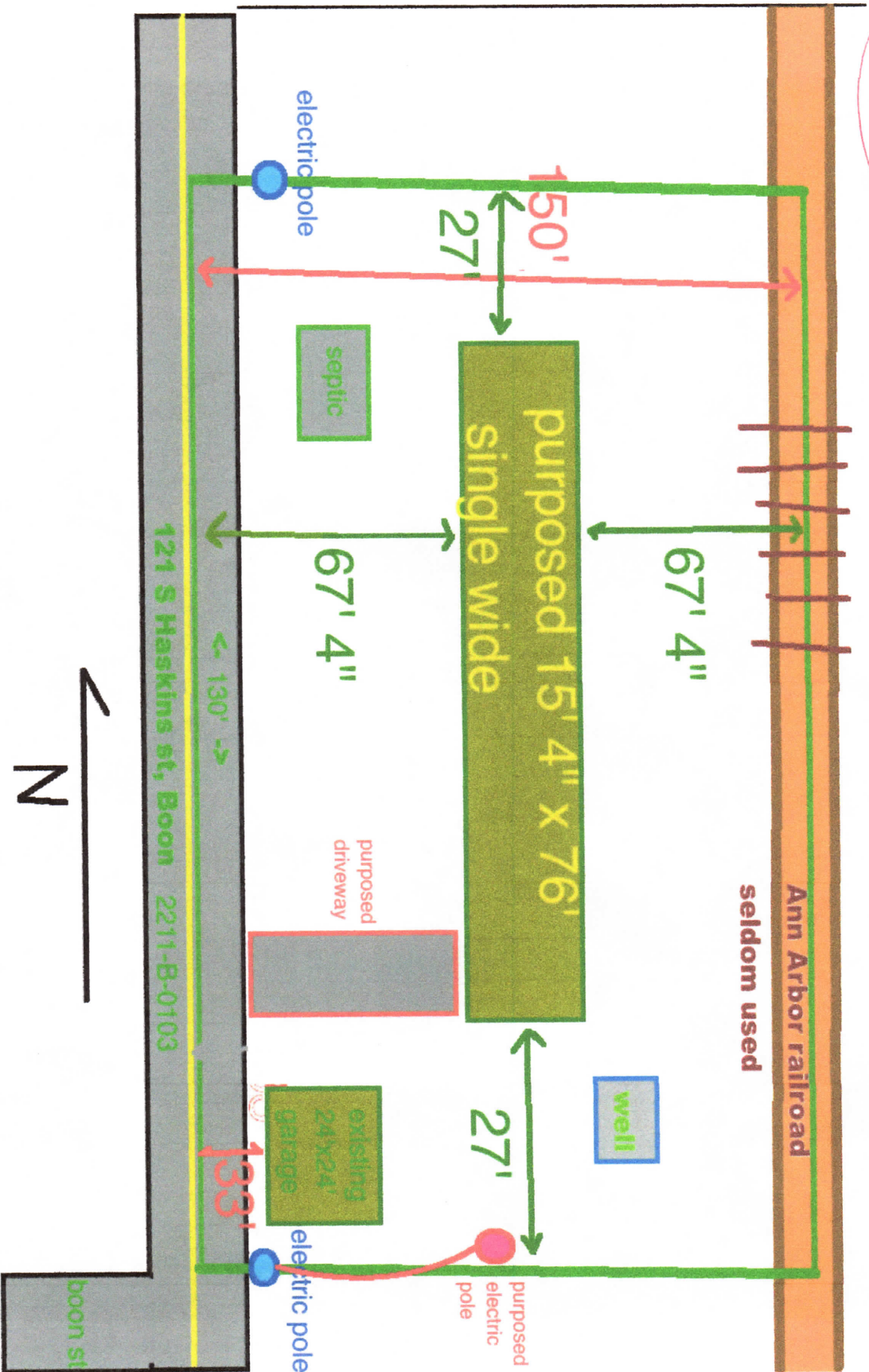


Robert (Bob) Hall
Planning and Zoning Administrator

← N

121 S Hastings

2211-B-0103



Dear Board of appeals,

My name is Tim Porter. I left Boon 30 years ago when I joined the Army. I did not plan on returning, but my father Eugene Porter had an aneurism rupture in his frontal lobe, causing him severe brain damage. My family and I decided I would retire and we would return to Boon to take care of him. To do this we hope to build a home suitable for him to live with us so that he can live out his remaining years in familiar surroundings. To accomplish this we will need housing until we can build a suitable home.

As to the property on 121 S Haskins, Boon, MI 49618 Parcel number 2211-B-0103; which is 2 lots combined.

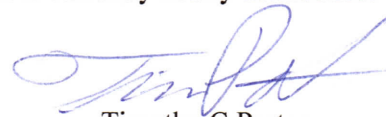
Variance

1. During the original Township planning the railroad and the main road (Haskins) were placed 150 feet apart, as was the custom at the time, and lots were just 60-65' wide, 130' in this case. However with todays zoning there is no allowance to build anything on this property.
2. The ordinance requires 83 feet setback from the center of the road as well as 83 feet from the center of the railroad; this is 163' where only 150' exist. This alone allows 0 room to build. The side distance allowed is 30 feet. Today a brand new mobile home is 15' 4" by 76'. If placed in the center of this parcel it would have 27' side yards, and 67' 4" front and back yard.
3. This property was purchased before current zoning existed. It had a home, a well, a septic, and a 2-car block garage. The garage is still present on the property. The proposed home is the smallest new home that we could locate.
4. Boon Township and the actual village of Boon are not high-income locations. There are many abandoned and unmaintained buildings and properties in the immediate area. Granting this variance would not alter the essence of the community in a bad way. The opposite would occur. Placing a home here would improve the appearance of the property and the community as a whole.

Hearing

1. This property is too shallow to place or construct a building of any size, it is 150' but requires a total of 163' in setbacks front and rear. The side yard requirement is 30'. A reasonable size new mobile home is 76'. The parcel is 130' wide which only allows for a 27' side yard.
2. No actions of the landowner restrict its use. A 15' 4" by 76' mobile home is the smallest home that would allow fair use of the property.
3. Compliance with the current zoning requirements would prevent a building of any size to be constructed on this property. There is already a small block garage located in the corner just 33' from the road centerline.
4. The requested variance is requested to place the smallest reasonable new home on this property.
5. Granting this variance improves the parcel and the community, by cleaning this up and turning the parcel into a livable property, where it is currently nearly abandoned.

Thank you for your consideration,


Timothy C Porter
Conservator for
Eugene G Porter JR



2211-B-0103

ROW

Garage location

Neighbor Garage destroyed and on property now.

Railroad Split for extra cars.

There are still existing rail lines to Yuma for Sand Plant. Note: Sand Plant Closed in 2016.