

Wexford Joint Planning Commission

% Cherry Grove Township
4830 E. M-55
Cadillac, Michigan 49601

www.wexfordjpc.org

Email: planningandzoning@wexfordjpc.org
(231)775-1138x6

STAFF REPORT/Zoning Board of Appeals Case # ZBA-2018-02

1. Application

Applicant / Owners:	Wagner, David 1157 Northover Dr. Bloomfield Hills, Michigan
Site Address, And Proposed Location	709 E. Lake Mitchell Drive, Cadillac, Michigan 49601 Parcel ID# 2110-WHB-37
Zoned:	R2
Site Plan:	Attached

2. Development Proposal

- 2.1 Property Description – Parcel ID# 2110-WHB-37
LOT 37 PLAT OF WHITE BIRCH PARK CG. SEC. 1 T21N R10W -CAPS-
- 2.2 Action Report – The Applicant is requesting various dimensional variances from the Regulations and Standards listed in the R2 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 and has an existing small house which is currently nine (9.8") point eight inches from the northern side yard, and nine (9.37') and thirty-sevenths feet from the southern side yard.
- 2.4 Current Narrative:

1. The applicant (David Wagner) submitted the initial Land Use Application on August 9, 2018 by their Contractor, Mr. Ken Orshal of Orshal Construction. The accompanying plot plan did NOT meet the Tax ID description which was on the application. Staff copied off both Tax ID Assessment Role Discriptions. Still, with the current Site Plan, Staff noticed that the building envelope far exceeded the current Zoning Ordinance setbacks on both sides of the proposed building.
2. The applicant's builder, Ken Orshal communicated on August 15, 2018 with the Planning and Zoning Administrator Staff to discuss the available options to change the site plan to be more conforming to the ordinance. It was explained that the ordinance allowed side setbacks of ten feet (10'). The Zoning Board of Appeals application process and procedures were explained.
3. Application was made for a variance on August 22, 2018 and fee was paid. Mr. Orshal's secretary Sue came into the office with the ZBA Application and a completed record of narrative and letters from neighbors approving of their desire for granting the Applicant the variance. A newer third Site Plan was given showing proposed additions, which included razing the existing house and changing or adjusting the side setbacks on the southside of the property.
4. They were added to the September 26, 2018 ZBA Agenda.
5. On September 12, 2012, notices to all residences within 300 feet were sent out in accordance with the Michigan Zoning Enabling Act, PA 110 of 2006.

2.5 Important areas for ZBA consideration which are listed below in full Staff Report.

- **5,305 square feet of land. 2,692 square feet of impervious surface for house, garage, porch, driveway and patio. This fifty (50%) percent covering the impervious surface exceeds the 33% impervious surface allowed of section 4604.E.3 for R-2 and section 7208.A.1 for Lake Mitchell Overlay District.**
- **Setback from waterfront is great! It is more than the proposed fifty (50') feet. Of course, there is a park along the lake that takes up at least twenty-eight (28') feet of that area.**
- **Side setback for the house from north (where a park is located) is merely one and a half (1 ½') feet. It is merely nine (9") inches at the point of the porch.**
- **Side setback for the garage from the south is five (5') feet at its closest point. This is better than their first setback of thirteen (13") inches on their first site plan.**

3. **STANDARDS OF REVIEW** 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: There was no changes to the property after January 1, 2016.*
 3. It is documented by the applicant that contiguous land, or enough contiguous land, cannot be purchased, and
 - *Staff Comments and Recommendations: Due to the location of this property on the lake it is not viable for the Wagner's to purchase contiguous land. This property is located in a nonconforming properties area around Lake Mitchell. There is a public park directly adjoining this property to the north.*
 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: This property is in the jurisdiction of the Lake Mitchell Sewer Authority and enjoys sewer.*
 5. *Other standards for issuing a variance by the Appeals Board are met*
 - *Staff Comments and Recommendations: These standards are listed below with Staff Recommendations.*
4. **STANDARDS for ZBA** 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 parcel is nonconforming and a relatively small parcel even for the District. It is 5305 square feet, but the front property line along East Lake Mitchell Drive is only thirty-three and one half (33.57') feet. Even the WJZO only recognizes property as narrow as fifty (50') feet for the purpose of providing setbacks for ten (10') feet. Recommend ZBA take into consideration the peculiarity of the parcel in its narrowness. Even with proper setbacks in the Ordinance of ten (10') feet, it would allow a buildable area of only thirteen (13') feet*

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2. The parcel was not made smaller after January 1, 2016, and
 - *Staff Comments and Recommendations: There was no changes to the property after January 1, 2016.*
 3. It is documented by the applicant that contiguous land, or enough contiguous land, cannot be purchased, and
 - *Staff Comments and Recommendations: Due to the location of this property on the lake it is not viable for the Wagner's to purchase contiguous land. This property is located in a nonconforming properties area around Lake Mitchell. There is a public park directly adjoining this property to the north.*
 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
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APPLICATION FOR ZONING BOARD OF APPEALS [page 1 of 2]

[WARNING: THIS FORM IS NOT A LAND USE PERMIT]

Property Owner: Wagner DAVE Phone: 248-207-2990

Owner Address: 1157 Northover Dr. Bloomfield Hills MI

Project Address: 709 East Lake Mitchell Dr. Cadillac MI 49601

Parcel ID # 2110 - WHR - 06 Are property lines and building site staked? YES NO

WHRB-37 Improvement per Applicant [Circle one]

IF BEING REPRESENTED BY AGENT OR ATTORNEY PLEASE COMPLETE THIS SECTION

Agent / Attorney: Orshal Construction / Ken Orshal

Agent / Attorney Address: 1759 East Lake Mitchell Dr. Cadillac MI 49601

Agent / Attorney Phone: 231-920-1262 Email: kenorshal@gmail.com

ZONING BOARD OF APPEALS - ACTION BEING REQUESTED

(Check Only ONE)

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

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

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

Do Not Write Below This Line - For Administrative Use Only

Assigned ZBA Case # 2018-02 Date Application Received: 8 / 22 / 2018
Fee: \$ 590.00 Receipt # 301872 Date of ZBA Action: 9 / 26 / 2018

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: _____

Date: 2/20/18

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

WJPC Zoning Board of Appeals

Appeal Narrative

This dimensional variance request is regarding the 10 foot side lot line setback requirement.

Lake Side

On the lake side the design is more than 50 feet from the lake meeting the 50 foot setback requirement. We are not asking to move as close to the lake as our neighbors currently are. We will not in any way be interfering with their views of the lake.

Road Side

On the road side the design meets the 20 foot setback requirement. The corner of the garage will be no closer than 20 feet to the edge of the current road. Please note that the current road is actually on our property by three to four feet reducing the amount of land with which we have to work. The road was originally further from the lake (not crossing our property). Despite this our design will stay at least 20 feet from the edge of the current road.

North Side

When we had the lot surveyed this summer we learned the north side of the current house is 9 inches from the side lot line along the entire length of the side. We also learned that our tool shed and A/C unit actually cross the lot line. The land on the other side of the lot line is neighborhood park property and can never be built on therefore we do not and will not in the future have a neighbor on that side. We are requesting approval to continue the 9 inch setback on this side. This will actually be an improvement because the new design is at an angle to the lot line so while the corner of the house is 9 inches from the line the rest of the side veers further away from the line. Also, the tool shed will be removed because we will now have a garage.

South Side

The survey also revealed that the south side lot line is close to our current concrete front walk and light pole and crosses the end of our circular driveway. The sidewalk, light pole and circular driveway have been in place and in use for many decades. We are requesting approval for a 5 foot setback on the south side lot line. The neighbor's house is also 5 feet from the lot line at its closest point. Our new design complements the neighbor's house in that the new design is closest to the lot line at the roadside corner of the garage and then veers further from the line as it moves toward the lake. The neighbor's house is closest to the lot line at the lake side corner and veers further from the line as it moves toward the road. The two houses will actually be much further apart at the roadside end (with the requested 5 foot setback) than the lakeside end (where the neighbor is 5 feet from the line and we will be more than 10 feet).

Wagner 709 East Lake Mitchell, Cadillac, MI 49601 Parcel ID 2110-WHB-37 (Cherry Grove Township)

The new design includes a garage for the first time on this lot. This extends the structure closer to the road which puts it closer to the angled south side lot line. Hence a need for a reduced setback. An improvement created by adding a garage is that the driveway will extend straight to the street and not cross the lot line like the current circular driveway. The corner of the new garage with a 5 foot setback is very close to the existing light pole and concrete front walk. The access to the space between the two houses is basically unchanged.

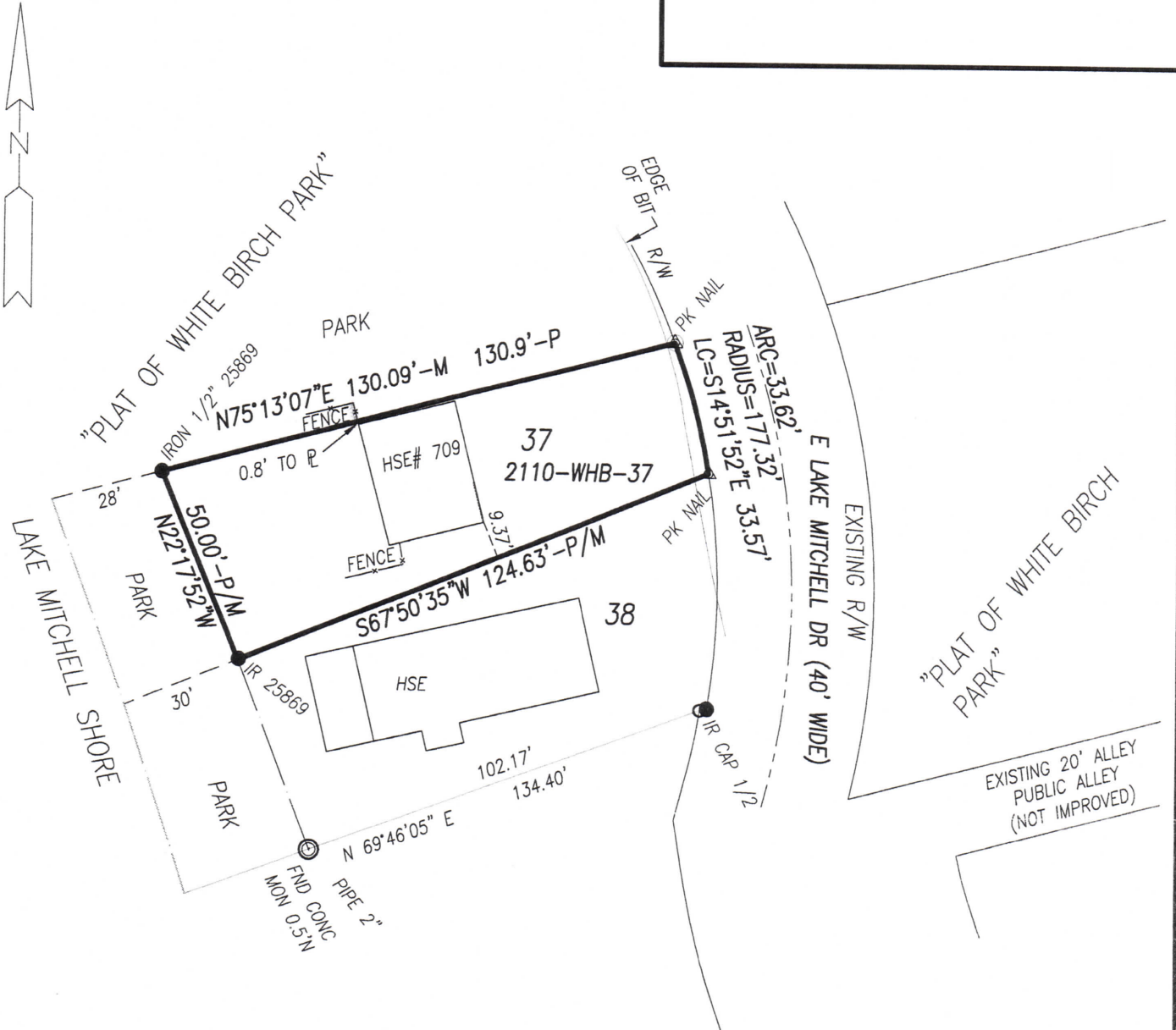
Summary

In summary, we are requesting approval of our site plan. This plan meets the lakeside and roadside setback requirements. We are requesting the setback on the north lot line match the existing house. The site plan would actually be a slight improvement because of the angle of the house to the lot line and the removal of the tool shed. We are requesting the setback on the south side match the neighbor's current setback. The actual space between the houses will actually be more than the setback lines because of the angles of the houses to the lot line. The new garage improves the driveway situation and does not change the access to the space between the two houses.

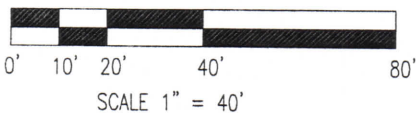
CERTIFICATE OF SURVEY

TAX ID#: 2110-WHB-37

LOT 37, PLAT OF WHITE BIRCH PARK, SECTION 1, T21N, R10W,
CHERRY GROVE TOWNSHIP, WEXFORD COUNTY, MICHIGAN.



- D = DEED
- P = PLAT MEASURE
- R = RECORD MEASURE
- M = MEASURED
- = FOUND CORNER
- = SET CORNER CAP #25869



NOTE: Bearings are based on
Michigan State Plane
Coordinates, NAD83 Central
Zone, International Feet.

I hereby certify that I have surveyed and mapped the land platted and/or described hereon, that the ratio