

# Wexford Joint Planning Commission

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

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## STAFF REPORT/Zoning Board of Appeals Case # ZBA-2019-06

### 1. Application

Agent/Contractor:	Bandeem, Roger and Nancy 1925 E. Lake Mitchell Drive Cadillac, Michigan 49601
Owner(s):	SAME
Site Address, And Proposed Location	SAME Parcel ID# 2210-HB-084 – Selma Township and #2210-HB-083
Zoned:	R2
Site Plan:	Attached

### 2. Development Proposal

2.1 Property Description – LOTS 84 & 85 HIAWATHA BEACH PARK SEL. SEC. 36 T22N R10W  
And: [2210-HB-083] COM AT SE COR LOT 83: W'LY ALONG LOT LINE 26 FT; N'LY PAR  
TO E-LINE 4 FT; E'LY TO A PT ON E-LINE 3 FT 2" N OF BEG; S'LY TO BEG. HIAWATHA  
BEACH PARK SEL. SEC. 36 T22N

2.2 Action Report –

A. The Applicant is requesting a dimensional variance of approximately 7-1/2' (seven and one half) feet from the required water-front yard setback of 50' (fifty) feet as per the Regulations and Standards listed in Article 46, Section 4604.D.1.d (R-2 Residential District) of the Wexford Joint Zoning Ordinance. Applicant wishes to place the proposed 416 square foot addition between the existing dwelling and the water.

B. The applicant is requesting to extend the existing structure along the same plane of an existing side-yard setback which is less than the minimum required of 15' (fifteen) feet. The current setback of the southwest corner of the existing dwelling is noted to be 8'-8" (eight feet and eight inches)

2.3 Background:

1. This property is approximately 12,516 square feet; more than the required minimum of 7,000 square feet.
2. The property is located in the R-2 Residential Zoning District

2.4 Current Narrative:

1. The Applicant and owner of the subject property made personal contact on at least two occasions with the Zoning Administrator prior to filing a request for a variance with the Zoning Board of Appeals. The Zoning Administrator responded in detail answering the questions presented by the applicant.
2. The applicant was advised of the appeals procedure and provided a copy of Article 96; Appeals Board, from the Wexford Joint Zoning Ordinance. The Zoning Administrator applied the traditional application fee to the Zoning Board of Appeals application fee, as it was discovered in the conversation that the applicant desired to pursue a variance in lieu of administrative approval.
3. The applicant met finally with the Zoning Administrator on Friday, August 2, 2019 and filed an application and site plan seeking the requested variances regarding the proposed construction of additions to the existing dwelling.
4. The Zoning Administrator made a site visit to the subject parcel on the afternoon of Wednesday, August 7 2019 to compare the specifications on the site plan to the physical layout of the property.
5. Public Hearing Notification was published in the Cadillac News on: August 2, 2019; 26 days in advance of any required public hearing
7. 300 Foot Notices were sent out on August 9, 2019; 19 days in advance of any required public hearing.
8. Packets were sent out to the Zoning Board of Appeals members on July 12, 2019.

3. Article 46: R-2 RESIDENTIAL DISTRICT

3.1 Section 4604 of Article 46 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: 7,000 (seven thousand) square feet; the subject Parcel is approximately 12,516 (twelve thousand, five-hundred and sixteen) square feet.
2. The minimum buildable area is: 5,000 (five thousand) square feet; the subject

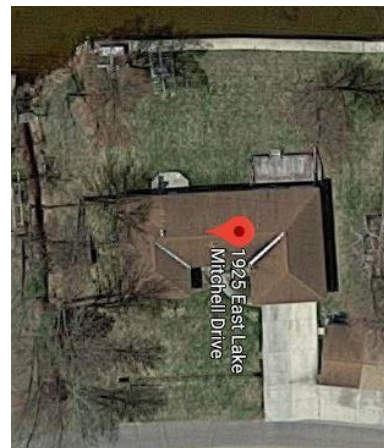
- Parcel(s) has a buildable area of approximately 5,300 (five thousand and three hundred) Square feet.
3. The minimum parcel width is: 75' (seventy-five) feet; the subject parcel(s) have a combined width of 90' (ninety) feet on the road and approximately 115' (one hundred and fifteen) feet across the water front.
  4. Setback requirements are as follows:
    - Front: 4604.D.1.a.(1) 20' (twenty) feet
    - Side: 4604.D.1.b.(1) 15' (fifteen) feet
    - Waterfront : 4604.D.1.d 50' (fifty) feet

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

4.1 According to 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:** *By virtue of the ordinance standards, the subject property does not appear to exhibit unique circumstances. The property (two lots combined) meet the minimum parcel area requirements as well as the buildable area minimum.*



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:** *This subdivision was originally platted in 1910. There is no record of the lot(s) having been altered and / or subdivided with the exception of*

***Parcel #2210-HB-083 that effects the garage in the northeast corner of the property.***

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..." – the property is currently being utilized as a permitted use. The desires of the applicant are to encroach farther into the waterfront yard setback at the northwest corner of the dwelling [see 2.2.A above] and to extend along the same plane of the nonconforming side yard setback at the southwest corner of the dwelling [see 2.2.B above].***

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 is requesting variances to be approved while simultaneously using the property in a permitted manner absent any variances being granted. The property is currently consistent with the surrounding 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: The applicant has made conscious efforts to minimize the impact on the surrounding property by proposing to demolish a substantial portion (all of that which lies on the two subject parcels related to this application) of the nonconforming accessory structure / building that straddles the property line(s) with the neighboring parcel to the north.***



***Staff recommends that the Wexford Joint Zoning Board of Appeals make independent findings and conclusions that deny the requested water front yard setback and the continuing nonconforming setback along the same plane on the southwest corner of the dwelling as demonstrated on the site plan, submitted by the applicant.***

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



Robert (Bob) Hall  
Zoning Administrator