



Wexford Joint Planning Commission

c/o Cherry Grove Township
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Cadillac, Michigan 49601

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

1. Application

Agent/Contractor:	Carlson, Kris 2318 Whitetail Drive Cadillac, Michigan 49601
Owner(s):	SAME
Site Address, And Proposed Location	164 Sunset Point, Cadillac, MI 49601 Parcel ID# 2110-10-1128 – Cherry Grove Township
Zoned:	R2 – in the B2 Lake Mitchell Overlay Area
Site Plan:	Attached

BRIEF OVERVIEW OF THE VARIANCE REQUEST

1. Applicant is asking to build off the left side of his house which is thirty-three (33) feet from Lake Mitchell, and extend the front of the house twenty (20) feet west, where the last point of the proposed addition is thirty-four (34) feet from the water.
2. Applicant is asking for a side variance of the same proposed addition of eight (8) feet from the side property line. This side property line currently belongs to his neighbor.
3. Applicant is asking for a variance from the same proposed addition of four (4) feet from the back corner of the proposed addition to the same side property line he is proposing to purchase from his neighbor.
4. NOTE: No further property can be purchased as the new property line will only be ten (10) feet from the neighbor’s permanent shed.
5. The ZBA must also deal with the fact of a small parcel with a larger impervious surface (house, garage, driveway) than is required by the Zoning Ordinance. It is currently 38% impervious. With the new purchase of adjacent property and new addition the impervious surface is still at 36%.

2. Development Proposal

- 2.1 Property Description – COM SE COR OF SEC 3; TH W 1037.42 FT TO POB; TH S 2D15'00"W 54.58 FT; TH N84D08'07"W 50.72 FT; TH N 30 FT; TH W 10 FT; N06D47M39S W 68.35 FT; TH N84D42'00"E 20 FT; TH S84D14'11"E 52.03 FT; TH S02D15'00"W 45.42 FT TO POB. -.14 A M/L- AKA PARCEL A
- 2.2 Action Report – The Applicant is requesting a dimensional variance from the required Waterfront Yard Setback of fifty (50) feet as per the Regulations and Standards listed in Article 46 (R-2 Residential District) of the Wexford Joint Zoning Ordinance. Applicant wishes to build a Residential Attachment twenty (20) feet along the same line of water setback that he currently has with his cottage. The water setback of his cottage is currently approximately thirty-three (33) feet from Lake Mitchell.



- 2.3 Background:
1. This property is approximately **5102 square feet**; less than the required minimum of 7,000 square feet. The Applicant is proposing that his neighbor on the west side will deed him a strip of land which would make the total **6032 square feet** if his neighbor sells him the strip which is contained on his site plan.
 2. The current impervious surface is approximately 1968 square feet, making the current impervious surface 38% of the property. The Ordinance calls for a 33% or more, making this not comply with the Ordinance. (4604.E.3)
 3. Adding the neighbor's proposed square footage to the present square footage of the lot (**6032 feet square**) and adding the proposed addition to the front of the house of **twelve (12) feet by twenty (20) feet** brings the total impervious surface area to 2208 square feet. This would make the future impervious surface at **36%**.

NOTE: A total of 6690 square feet of property would be needed for an impervious surface of 2208 square feet to make the 33% allowed by law.

4. The property is located in the R-2 Residential Zoning District, and the B2 Lake Mitchell Overlay Zone.

2.4 Current Narrative:

1. The Applicant and owner of the subject property contacted the WJPC on July 17, 2019, inquiring as to the specific zoning regulations to add a residential attachment to his cottage at 164 Sunset Point Rd.
2. The applicant met with the Zoning Administrator on Wednesday, July 17, 2019 to discuss the possibility of seeking a variance regarding the proposed addition onto his cottage. The Assistant Zoning Administrator advised the Applicant that his proposal of the addition could not be approved administratively as it conflicted with the Zoning Ordinance.
3. The applicant was advised of the appeals procedure and provided a copy of Article 96; Appeals Board, from the Wexford Joint Zoning Ordinance. After a brief discussion regarding the Zoning Board of Appeals nuances, the Applicant decided to apply for a variance. The Assistant 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.
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. Also to take pictures of the property. Measurements were taken at the site.
5. Public Hearing Notification was published in the Cadillac News on: August 2, 2019; 21 days in advance of any required public hearing
6. 300 Foot Notices were sent out on August 9, 2019.
7. Packets were sent out to the Zoning Board of Appeals members on August 16, 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: seven thousand (7,000) square feet; the subject Parcel is currently and approximately five-thousand one-hundred and two (5102) square feet. Applicant is adding an additional potential one-thousand twenty (1020) square feet by way of his neighbor to his direct West giving him an additional twenty (20) feet on the waterfront property line and ten (10) feet on the road side property line.
2. The minimum buildable area is: five thousand (5,000) square feet; the subject Parcel has a buildable area of approximately fourteen hundred and ten (1,410)

- Square feet. The current house has been “grandfathered” in as a nonconforming property.
3. The minimum parcel width is: 75’ (seventy-five) feet; the subject parcel has fifty (50) feet on the road and fifty (50) feet near the water.
 4. setback requirements are as follows:
 - Front: 4604.D.1.a.(2) average setback twenty (20) feet
 - Side: 4604.D.1.b.(3) ten (10’) feet / *eight (8) and four (4) feet proposed.*
 - Waterfront: 4604.D.1.d (referring to Section 1011) fifty (50) feet required / *thirty-four (34) feet proposed*



Current house, garage and property.

Proposed new side line with addition.

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 exhibit one unique circumstance. The property is narrower than the required 75' (seventy-five) feet.*

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: *Previous owners built more than is allowed per impervious surface in the current Zoning Ordinance, but it is not the Applicant's creation. However, the enlarging of the house would create a larger impervious surface than at present. This is somewhat alleviated with the purchase of a portion of his neighbor's property, but the impervious surface would still be at thirty-six (36) percent.*

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..." – Strict compliance will prevent the Applicant from building his Residential Addition which is why he is coming to the Zoning Board of Appeals seeking a variance for the project. However, the thirty-three (33%) percent impervious surface requirement is not a decision in the purview of the ZBA, as the WJZO states in section 7208.C.1 – "Impervious areas including Building, paved parking, and drives shall not exceed 33 percent of the total site."*

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 the variance while offering to purchase a section of land of his neighbor to the east of him, showing that he is attempting to purchase adjacent land to improve the setback of the new portion of the house. The Applicant, with this land purchase, does relieve his already close property lines to his house. Although with the land purchase Applicant still will not be in the proper side setbacks of ten (10) feet.*



Applicant is proposing to go within eight (8) feet of the "new" property line at the front corner of the Addition.



Applicant is proposing to go within four (4) feet of the line with the back corner of Addition

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 arrangements with his neighbor to his west to purchase additional property. This property cannot be expanded due to a permanent shed ten (10) feet from the proposed property line. However, the

*impervious surface has been addressed by the Wexford County Drain
Commissioner in a letter to the WJPC concerning going beyond the 33%.*

***Staff recommends that the Wexford Joint Zoning Board of Appeals review the standards in
Article 96, make a formal determination of the facts, derive conclusions from the facts, and
make a decision.***

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



Ben Townsend
Zoning Administrator