

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-2021-01

1. Application

Agent/Contractor:	Claus, Richard 8049 Crestview Dr. Cadillac, Michigan 49601
Owner(s):	Agnew, Matt 4455 Lavender Lane Dewitt, MI 48826
Site Address, And Proposed Location	247 Peninsula Drive, Cadillac, MI 49601 Parcel ID# 2210-PS-12 – Selma Township
Zoned:	R2
Site Plan:	Attached

2. Development Proposal

2.1 Property Description – Lot 12 Peninsula Shores Sel. Sec. 35 T22 R10W

2.2 Action Report –

A. The Applicant is requesting a dimensional variance of approximately five and one quarter (5-1/4') feet from the required front yard setback of twenty (20') feet as per the Regulations and Standards listed in Article 46, Section 4604.D.1.a (R-2 Residential District) of the Wexford Joint Zoning Ordinance. Applicant wishes to place the proposed 18.5' X 32' addition 14'8" from the front property line.

- B Zoning Administrator would like a determination up front from the Board of Appeals to determine that the Administrator made the correct decision in originally denying the permit to the applicant based on the zoning ordinance.

2.3 Background:

1. This property is approximately 8007 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 via his Agent contacted the Zoning Administrator on April 22, 2021 with an application for a permit to place an attached garage to an existing house. This permit was denied by the Zoning Administrator on April 28, 2021.
2. The applicant's Agent 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.
3. The applicant's Agent met with the Zoning Administrator on Friday, May 7, 2021 and filed an application and site plan seeking the requested variances regarding the proposed construction of the addition to the existing dwelling.
4. The Zoning Administrator made a site visit to the subject parcel on the afternoon of Wednesday, May 26 2021 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: June 8, 2021 in accordance with the Zoning Enabling Act; 15 days in advance of any required public hearing
7. 300 Foot Notices were sent out on June 7, 2021; 15 days in advance of any required public hearing.
8. Packets were sent out to the Zoning Board of Appeals members on June 16, 2021.

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 (7000) square feet; the subject Parcel is approximately eight thousand and seven (8007 sq. ft.) square feet.
2. The minimum buildable area is: six thousand (6000 sq. ft.) square feet; the subject parcel(s) has a buildable area of approximately six thousand and three hundred (6300 sq. ft.) Square feet.

3. The minimum parcel width is: fifty-four (54') feet; the subject parcel(s) have a combined width of fifty-four (54') feet on the road and approximately eighty-nine (89') 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

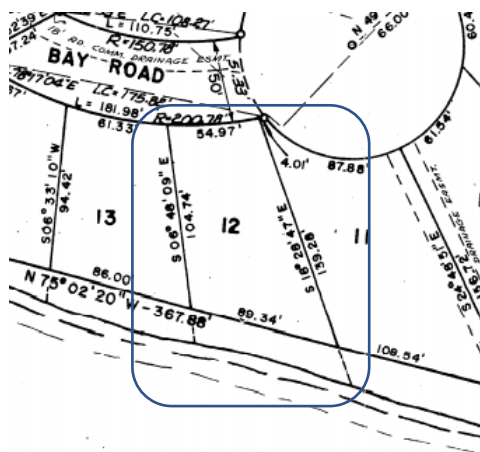
4. STANDARDS FOR GRANTING A DIMENSIONAL VARIANCE

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 appear to exhibit unique circumstances. The property, although meeting the minimum parcel area requirement and buildable area, is very narrow at the road, merely fifty-four (54') feet wide. And although the minimum lot size is 7000', the principal lot is 8007'.

(SIDE NOTE: If it had been 7000 square feet, Administrator could have used 4604.D.1.a.(2) which states: "If the parcel is nonconforming, the front yard setback shall be the average setback of the existing dwellings on adjacent parcels on each side, or twenty (25) feet, whichever is greater." And parcel to the East has a setback of 14' from the front property line, while the parcel to the west has a setback of 12' from the front property line.)



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: When the owner built his house, he stayed the requisite 50' from the water, thus not being able to have any more room on either side of the house nor the rear of the house large enough to place a garage or other building. The requested variance is not the result of the actions of the property owner and is not self-created.

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 add to their small house a one-car garage in the road side of the house.

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 a variance on the road side to be approved, and while this encroaches upon the twenty (20') foot road-side setback by six (6') feet, it would also be 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 a small one-car garage which will make the line of their house consistent with the setbacks of two properties to their direct west and one to their direct east. Also, this property is on a dead-end road in which the three houses to its direct west are the only houses that will have any kind of adverse impact (literally no adverse impact) on their property or property values, or their enjoyment of same.



Staff recommends that the Wexford Joint Zoning Board of Appeals make independent findings and conclusions that the Zoning Administrator made the correct denial from the Zoning Ordinance. Then the WJZBA should take into consideration the above report in order to make independent findings to support your decision whether to approve, approve with conditions, or deny the application.

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

Dr. Ben Townsend
Assistant Zoning Administrator