



Wexford Joint Planning Commission

c/o 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-2023-02

1. Application

Owner(s): Tiseo, Nancy
 16155 Vista Woods Ct.
 Clinton Township, MI 48038

Site Address, 134 Quail Ct., Cadillac, MI 49601

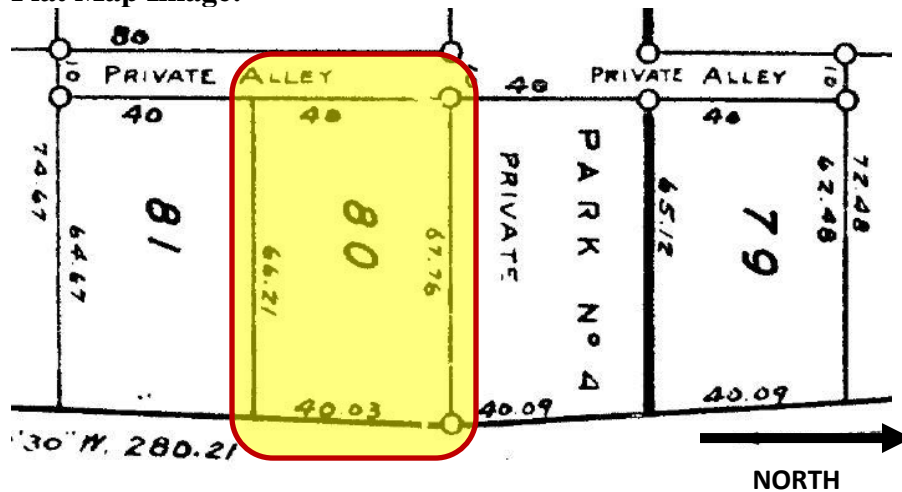
And Proposed Location Parcel ID# 2210-PW1080 - Selma Township

Zoned: R2

Site Plan: Staff and Applicant Provided [not required]

2. Development Proposal

2.1 Property Description – LOT 80 POTTER WOODS #1 SEL. SEC. 35 T22N R10W
Plat Map Image:



- 2.2 Action Report – The applicant desires to remove (demolish) the existing dwelling consisting of an older travel trailer / mobile home with an attached addition and carport and rebuild
- 2.3 Background:
1. This property is approximately 2,680 square feet in area. Thus, it is deemed a non-conforming lot as the minimum lot size required in the R-2 zoning district is 7,000 square feet with a minimum width requirement of 75'. The lot is located on a private road / alley and fronts both upon Lake Mitchell and a 10' wide platted alley. Potter Woods was platted in 1951, a full 17 years prior to the existence of zoning in Wexford County
 2. The property is located in the R-2 Residential Zoning District
- 2.4 Current Narrative:
1. The Owner / Applicant's engaged the ZA in conversations via phone, email, and in person to discuss possibilities for improving the property through demolition and the rebuilding of a dwelling.
 2. Through these communications, it was established by the WJPC staff that the property is a **Class A nonconformity** under Article 80, Section 8003.A. Additionally, it was determined that the applicant's proposal could not be administratively approved because front yard and waterfront setback requirements produce a negative building area. For your consideration, the WJZO only anticipates side yard setbacks for lots with a minimum width of 50' (fifty) feet. At this point, the applicant was informed that the application for a Land Use Permit would be a moot point and was advised of the ability to seek a variance for the Zoning Board of Appeals.
 3. The applicant was advised of the variance process and provided a copy of Article 96; Appeals Board, from the Wexford Joint Zoning Ordinance and asked to provide a brief narrative justifying the need for the requested variance.
 4. Public Hearing Notification was arranged to be published in the Cadillac News not later than June 12th, 2023; 16 days in advance of any required public hearing. The actual notice was published on May 27th, 2023 – 30days prior to the public hearing. This notice was also posted at the Wexford Joint Planning Commission office of record on May 31st, 2023.

Image of Public Notice:

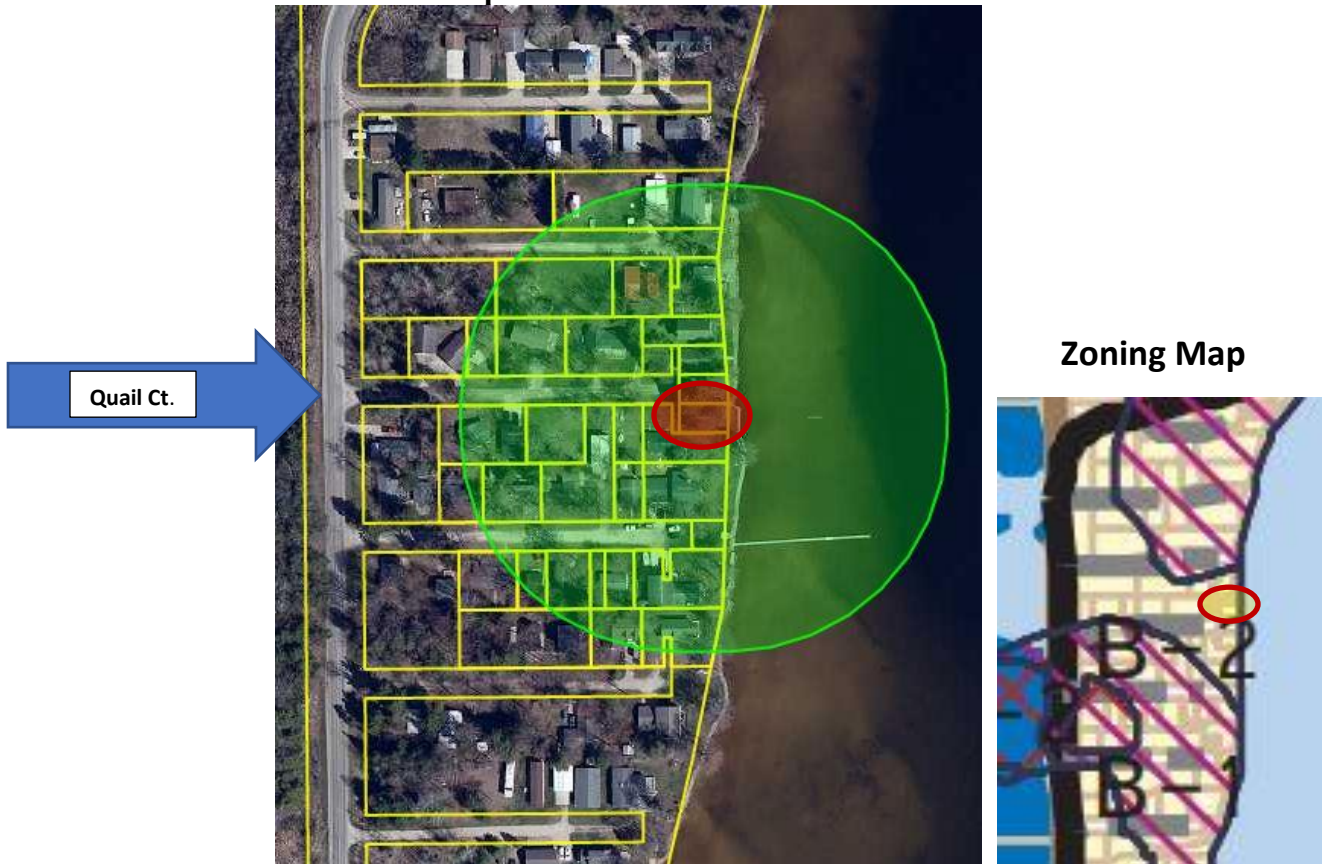
PUBLIC NOTICE

The Wexford Joint Zoning Board of Appeals has received an application requesting a variance from the terms and conditions of Article 46, Section 4604 of the Wexford Joint Zoning Ordinance regulating parcel and building area, coverage, and setbacks. The applicant is seeking a variance from the required waterfront, front yard, and side yard setbacks as listed in Section 4604. The subject property is parcel #2210-PW1080, a/k/a: 134 Quail Ct., Cadillac, Michigan 49601 in Selma Township. Copies of the application documents may be viewed / copied at the Cherry

Grove Township offices (Wexford Joint Planning Commission office of record) on Wednesday, Thursday or Friday during established office hours or may be viewed on line at: www.wexfordjpc.org, under the ZBA MTGS tab. A public hearing will be conducted at the regular June 28th 2023 meeting of the Wexford Joint Zoning Board of Appeals at 6:00 pm at the Wexford County Road Commission offices, 85 W. Highway M-115, Boon, MI 49618. Written comments may be sent to and will be received until 5 pm on June 28th, 2023 at: Wexford Joint Planning Commission, c/o Cherry Grove Township, 4830 E. M-55, Cadillac, MI 49601 or emailed to: planningandzoning@wexfordjpc.org

5. 300 Foot Notices were sent out on June 7th, 2023; 21 days in advance of any required public hearing.

300' Notice Map-GIS



6. Packets were sent out to the Zoning Board of Appeals members (and the Applicant) on June 16th, 2023.

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 required parcel area is: 7,000 (seven thousand) square feet;

The subject parcel where the current dwelling is located is approximately two thousand six hundred and eighty (2,680) square feet – or less than 40% of the required minimum lot size

2. The minimum buildable area is five thousand (5,000) square feet, which makes this parcel a non-conforming lot. In other words, it does NOT conform to what the ordinance states is the minimum area to build upon, among other dimensional issues such as width and road frontage.
3. The minimum parcel width required is: seventy-five (75) feet at the road. This property has approximately 40' on the platted easement / alley.

Wexford County GIS Image:



3. Setback requirements are as follows:

Front: 4604.D.1.a	the required setback is 20'
Side: 4604.D.1.b.(3) ¹	the required setback is 10'
Rear: 4604.D.1.b	the required setback is 50' [N/A]
Waterfront: 4604.D.1.c	the required setback is 50' ²

¹ Parcel is narrower than lowest limit for nonconforming parcel

² **1011. Water Protection** Notwithstanding anything to the contrary contained in this Ordinance, the following provisions shall apply: **A.** No structure shall be built, located or constructed closer to the water's edge than fifty (50) feet for buildings, or one hundred (100) feet for nutrient sources (such as but not limited to drain fields, highly fertilized areas, manure storage), measured on a horizontal plane to the water's edge. In the event the water's edge recedes (moves landward), the setback line shall also be construed as to have moved landward a distance equal to the water's edge recession. **In cases where parcels are smaller than the minimum parcel size allowed in the particular district so that applicable setbacks given here and in a particular district result in a building envelope less than 25 by 40 feet the Appeals Board shall grant a further reduction of side yard setback and/or a front yard setback prior to reducing the required water front setback.** This setback shall not apply to a dock, bridge, or stairs and path to the shore.

Staff Note to the Zoning Board of Appeals:

The applicant has proposed a basic building envelope of 900 (nine hundred) square feet. This would slightly exceed the maximum permissible impervious surface coverage of 33 (thirty-three) percent. The ZBA has the authority to exercise discretion when making quasi-judicial decisions that may result in more or less than what the applicant may be requesting. For example, the WJZO mandates that the ZBA ‘*shall*’ grant further reductions in side / front yard setbacks prior to reducing a waterfront setback³. There is nothing in the zoning ordinance that would prohibit the ZBA from granting a variance that would allow the construction of a dwelling that is ‘less’ than the required 800 (eight hundred) square feet⁴. Allowing (or requiring) the applicant to utilize a smaller footprint may allow the ZBA to achieve more cohesive harmony with the neighborhood characteristics while at the same time upholding the over-all spirit, purpose, and intent of the Wexford Joint Zoning Ordinance.

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: This particular parcel appears to present very unique topographical circumstances by virtue of its size, including the width, area, and overall length as it relates to the required minimum parcel size(s) in the subject zoning district⁵. In addition, Article 10, Section 1011.A appears to suggest that regardless of how small a parcel may be in comparison to the required minimum lot size, that the ZBA ‘shall’ grant a further reduction ... prior to reducing a water front setback, perhaps contemplating that most ‘all’ lots should be permitted to be built upon provided that certain protections (setbacks) are guaranteed.

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: The current landowner has not altered the property since the adoption of the Wexford Joint Zoning Ordinance or acted to create the need for the variance. The dwelling with attached living area and covered parking have been in existence. The applicant (by this very application) may be creating the need for ‘this’ requested variance [See Staff Note to Zoning Board of Appeals at the top of Page #5 of this report]

³ Article 10, Section 1011.A

⁴ Article 43, Section 4304.E.1

⁵ Article 43, Section 4304 requires a minimum width of 75’, and a minimum parcel area of 7,000 square feet.

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...” – this property is of such a an unusually small size that when the front and waterfront setbacks are observed, there is no land area remaining.

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: There are several variances being requested and others that should be considered by the ZBA in this application (the ZBA may wish to consider alternative options) in order to do substantial justice to bot the applicant ‘and’ other property owners in the area:

- ***Waterfront (to be considered last)⁶***
- ***Front Yard***
- ***Side Yard***
- ***Dwelling Size [minimum 800 square feet]***

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: It has been presented that the overall purpose of the WJZO is to ‘probably’ allow building and construction on all property lawfully in existence on the date that this ordinance came into effect. This particular situation involves a dwelling / trailer that was placed on the property prior to the existence of zoning. (please see email snip at top of Page #7 of this report) Now, some 60 plus years later the dwelling is for all intents and purposes, functionally obsolete. With proper safeguards in place, the ZBA can assure that any potential adverse impact is mitigated and that there will be no adverse impacts as a result of any pending approval.

⁶ Article 10, Section 1011.A

RE: 2210-PW1080



Joe Porterfield <jporterfield@wexfordcounty.org>
To Bob Hall



Bob attached is a record card from the late 70's showing the trailer, the addition and the porch. It does not show the carport. I checked the Assessors Database and it says the buildings were place around 1960. I hope this helps.
Joe

Joe Porterfield MMAO (4), CES, PPE
Wexford County Administrator/ Equalization Director
Assessor for the City of Cadillac, City of Manton,
Townships of Cherry Grove and Slagle.

Staff recommends: that the Zoning Board of Appeals make independent findings and conclusions that support a decision to either approve, approve with conditions, or denying the requested and any other applicable variances.

PROPERTY IMAGES / PHOTOGRAPHS





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

Robert (Bob) Hall
Zoning Administrator