



# Wexford Joint Planning Commission

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

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## STAFF REPORT/Zoning Board of Appeals Case # ZBA-2024-01

### 1. Application

Owner(s):	Lawrence, Rick and Chris 301 E. Lake Mitchell Dr. Cadillac, Michigan 49601
Site Address,	687 E. Lake Mitchell Dr., Cadillac, MI 49601
And Proposed Location	Parcel ID# 2110-WHB-39C -Cherry Grove Township
Zoned:	R2
Site Plan:	Attached

### 2. Development Proposal

- 2.1 Property Description – LOT 76 PLAT OF WHITE BIRCH PARK AMENDED CG. SEC. 1 T21N R10W -CAPS-
- 2.2 Action Report – The Applicants are requesting an L-shaped house between 33 to 36 feet of the waters edge for the house. If this does not work for the ZBA, then the request is to come closer to the roadside setback.
- 2.3 Background:
  - 1. This property is approximately 10,400 square feet in area. Thus, it does not qualify as a non-conforming lot or building as per ZO 4604.A.
  - 2. The property is located in the R-2 Residential Zoning District
  - 3. The property previously had a platted road going through the upper half of the property that has since been vacated by court order.

## 2.4 Current Narrative:

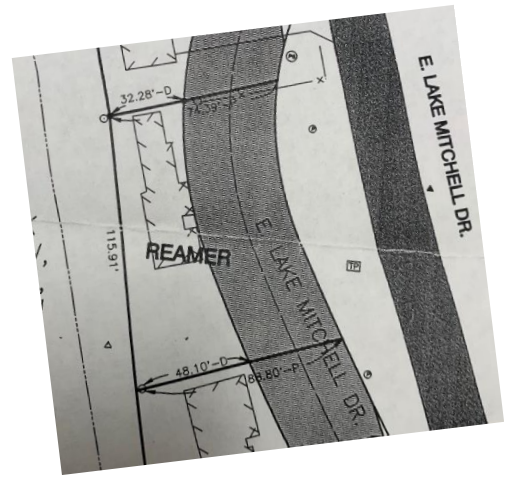
1. The Applicant first contacted the zoning office in July of 2021, asking what the setbacks were for a plot on Lake Mitchell. This was followed by a back and forth on the property address to check to see if it had septic or sewer. Setbacks were given two times in the emails as 50' from the water, 20' from the front road property line, and between 10' and 15' from the sides, depending on the width of the property.
2. Current email application for a zoning permit and house plans were submitted by a builder, Miles Builders, LLC, on Wednesday, November 29, 2023. On the same day, ZA Hall sent an email return to the builder stating that the waterfront setback "must not be less 50' (fifty feet)." This brought a reply of asking Hall to call the builder about questions. Mr. Hall did speak with the builder.
3. A letter of denial on December 20, 2023 was sent to Mr. and Ms. Lawrence by Mr. Hall, stating that the "required waterfront yard setback of 50' (fifty feet)" was to be followed.
3. The applicant was advised of the variance process and provided a copy of Article 96; Appeals Board, from the Wexford Joint Zoning Ordinance in person at the office and asked to provide a brief narrative justifying the need for the requested variance.
4. Public Hearing Notification was published in the Cadillac News on: January 5, 2024; 23 days in advance of any required public hearing
5. 300 Foot Notices were sent out on January 5, 2024; 19 days in advance of any required public hearing.
6. Packets were sent out to the Zoning Board of Appeals members (and the Applicant on January 17, 2024.

## 3. Article 43: 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 where the house is located is approximately ten-thousand four-hundred (10,400) square feet.
2. The minimum buildable area is four-thousand two-hundred (4,200) square feet, which makes this parcel not a non-conforming lot. In other words, it does conform to what the ordinance states is more than enough area to build upon.
3. The minimum parcel width is: one hundred four (104) feet at the road.
4. Setback requirements are as follows:

Front: 4604.D.1.a	the required setback is 20'
Side: 4604.D.1.b.(1)	the required setback is 15'
Waterfront: 4605.D.1.d	the required setback is 50'



300' notification area from property in middle. These property owners were sent letters of notification so that they could voice their opinion on the variance as a pro or con.

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 is the easiest reason for a zoning board of appeals to consider granting a variance in the zoning ordinance. The parcel involved in this appeal is wider than a normal parcel around Lake Mitchell and it is much deeper than a normal parcel. There was a small cottage that was very close to the water when it was demolished with a permit in 2019 with the*

***WJPC. This demolition was to make way for a new house to be built on the property farther away from the water than the previous house was.***



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 owners demolished the previous cottage which was very close to the water due to the platted roadway in order to build a larger house farther away from the water.***

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 good size to allow the applicant many variables for building the house in order to expand it to a size near to the applicant wishes.***

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 two variances that are asked here. The applicant has asked the ZBA to approve building into the frontwater yard setback of thirty-five (35') feet. He also has the option of moving the house fifteen (15') feet closer to the road, which retains the fifty (50') foot water setback, but***

*allows a two (2') foot distance from the road front property line, still with the garage being within twenty-two (22') feet of the road.*



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: No doubt the improvements as presented will cause no adverse effects on the surrounding properties, and undoubtedly it would raise all property values.*

***Staff recommends: That the Zoning Board of Appeals approves Applicant's Appeal by justifying the waterfront 35' which is an improvement of about 20' more than the previous cottage, or else approve moving the house back to the approximate 50' from the water and justifying the reason for the 2' from the front property line because there is still 22' from that point to the side of the road. Or the ZBA may approve any variation of the above as it sees fit.***

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

Dr. Ben Townsend  
Zoning Administrator