

Wexford	Hanover	Greenwood	Liberty
Springville	Antioch	Coffax no zoning	Cedar Creek zoned
Slagle	Boon	Selma	Haring zoned
South Branch	Henderson no zoning	Cherry Grove	Clam Lake zoned

■ Planning and zoning by the Wexford Joint Planning Commission

# Wexford Joint Planning Commission

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## Proposed Minutes

### **Wexford Joint Planning Commission** **Zoning Board of Appeals** **June 28, 2017** **Wexford Road Commission Building**

- A. The meeting was called to order at 6:01 pm by Monroe
1. Roll Call:  
 Members Present: Chair Beverly Monroe, Benedict “Ben” Fleis, John “Jack” Prebay, Richard Draper (Alternate Member)  
 Members Absent: Carol Perrin (Selma Township), Bill Swank  
 Others Present: Robert Hall, Wexford Joint Planning Commission Planner/Zoning Administrator; Ben Townsend, Assistant Zoning Administrator  
 A quorum was present.
  2. Pledge of Allegiance
  3. Change to Agenda – Prebay Moved to approved agenda, support by Fleis, unanimous voice vote in favor.
- B. Approval of Minutes
1. Approved Minutes of 1-26-2017 Meeting – Prebay Moved to approve, support by Fleis, unanimous voice vote in favor.
  2. Approve Minutes of 4-24-2017 Meeting – Prebay Moved to approved, support by Fleis, unanimous voice vote in favor.
- C. Matters pertaining to Citizens at the Meeting:
1. Advertised Public Hearing #1 (Burch Variance Request/Case# ZBA-2017-02)
    - A. Chair declared open meeting at 6:07
    - B. Staff Presentation – Robert Hall: Explained his written report that Mr. Burch wanted to demolish a building currently on his land and totally rebuild a structure which would bring him under the current Zoning Ordinance. The pictures for deliberation are being circulated to the ZBA to help in deliberations later. Mr. Burch has a very irregular shaped lot, which makes his building very close to the property line. The survey in the ZBA packet shows the old building position and where the new building would be built over the top of that. He could not meet all of the setbacks that are in the ordinance, therefore he is seeking the variances that he

believes will fulfill his need. There is no zoning relief administratively that can be given. Mr. Burch has given the board a very good application and presentation as to what he is desiring to do. It is up to the board to ask questions of him to ascertain what relief, if any, can be given to him.

Question by Monroe: To clarify, if someone tears down a building, and builds another building, then the setbacks come into play?

Hall: That is correct. There is always myths that state “if I leave a wall standing I am grandfathered in,” or “if I have the same foundation I can build on the foundation.” But if you read the ordinance, if a building is removed and rebuilt it is subject to the ordinance. NOTE: Grandfathering is nothing more than a term that states that you had prior to an amendment of an ordinance that may not permit it, means that you can continue as long as it survives. But the minute you want to make a change, you now have to comply with the ordinance standards that are in place now.

Monroe: So the normal setbacks would be –

Hall: The normal setbacks would be fifteen (15’) feet on each side.

Fleis: Thought because of the lot size could be six (6’) feet.

Hall: The minimum the ordinance allows is ten (10’) feet.

Monroe: Asked if there were a setback from the water.

Hall: The waterfront setback is required to be fifty (50’) feet. It is currently showing as thirty (36’) feet.

Monroe: Asked if the setback from the road is okay.

Hall: In the affirmative. That setback is eighty-five (85’) feet.

Monroe: States that Mr. Burch wants to change the setbacks on one side from twenty-five (25’) feet to nine (9’) feet and on the other side from one and a half (1 ½’) feet to two (2’) feet. And change the water side from fifty (50’) feet to thirty-six (36’) feet.

Hall: Corrects that Burch is already at thirty-six (36’) feet currently, and is not proposing any change in waterfront setback from current.

C. Applicant Presentation – Brian Burch: Thanks the board for hearing the appeal. Thanks Mr. Hall for working with him and educating him in the process. Included a complete packet with soil tests and building plans. He highlighted his letter to the board. Does not intend to move any closer to lake. States his neighbors are both closer to the water than the current house is. Applicant asked for questions from the board.

D. Chair allowed Public Comments:

Gary Western, 3128 W Lake Mitchell Drive: States that there is not enough room on the lots along W Lake Mitchell Drive to go by the standards written in the code. Stated that most of the lots are 40’ wide and do not allow enough room to build a house with the current setbacks. Also stated that the homes that are existing are close enough together that the people have learned to co-exist with no problems. Stated that the variance with the proposed property is not objectionable with

himself or anyone else he has talked to who lives on that road. He did state that that property is a flood zone every few years and having a house there would raise the property.

Chair Monroe closed the Public Hearing

E. Deliberations

Hall: Applicant is proposing a 29% impervious surface and they are allowed up to 33%.

Mr. Fleis: The road setback is fine. The lake setback is fine. The only concern is the one side where it is a two foot setback for safety concern.

Mr. Draper: Suggested to address the criteria one at a time on the list. The first is a need for there being unique circumstances. Second, the need is not the result of the property owner or previous property owner. Third, the strict compliance governing the area setbacks, frontage, heights, density...will unreasonable keep the property owner from being able to enjoy the property. Only the one side setback is a problem in his mind. Draper asked Applicant if there are alternatives to what is going on the property.

Applicant: States that under these circumstances there are no alternatives except to shift the one side to three feet from the two feet.

Mr. Draper: Looks to turning the property to give more of a setback on the west side by turning the building slightly.

Findings:

After back and forth deliberations the ZBA determined that if the house was moved three feet closer to the water it would cause the east side setback to be closer to four feet instead of the two feet proposed. It would also cause the west side setback to go down to perhaps seven feet.

Conclusions:

The ZBA concluded that the west side setback would go from nine foot to eight foot, leaving a four foot east side setback, while going three feet closer to the lake to a thirty-three foot setback from the water.

Motion by Chair Monroe to approved property to requested variances to be as per the above conclusion – east side, eight foot, west side, four foot, and water side, 33 feet. Mr. Prebay supported the motion.

Roll Call Vote:

Mr. Prebay - Yes

Chair Monroe - Yes

Mr. Fleis - Yes

Mr. Draper - Yes

Unanimous in support of the conclusions given above.

D. Matters pertaining to Citizens at the meeting.

1. Advertised Public Hearing #2 (Dickerson Variance Request/Case# ZBA-2017-03)

A. Chair declared meeting open at 7:19

B. Staff Presentation – Dickerson’s originally applied for a land use permit to add on to their residence that currently has a single car garage and wants to add to it to become a two car garage. The variance would put the garage at a three feet setback on the west side. It is currently thirteen feet on one side and fourteen and a half feet on the other side. Because of the two car garage it would take the setback down from fourteen and a half feet to three feet on the one side. The size of the lot is approximately seventy five feet by two-hundred and twenty feet. The minimum lot width is only seventy-five feet wide in this district. Minimum parcel size is seventy-five hundred square feet and theirs is sixteen thousand five hundred square feet.

C. Applicant Presentation – Jeff Dickerson: Stated that he is wanting to building a new two car garage and turn the existing garage into a bathroom/extra kitchen area. The septic area is keeping Applicant from building the garage closer to it necessitating the garage be closer to the property line.

D. Chair opens the floor for public comment: There are none.

Chair closes public hearing and opened up for debate.

E. Deliberations:

Chair Monroe: Our debate is only to allow the setback to go from twelve feet on the one side to three feet.

Mr. Prebay: Visited the site last Saturday and noticed the three foot side and noticed the house next door is far away from this point where the garage will go. He suggested to cut the garage down from twenty-six feet to twenty-four feet to accommodate a better setback to five feet at least.

Mr. Draper: Went through the list again of the ZBA qualifications in order to grant or deny the Applicant. First, is there a practical difficulty existing on the property which was not caused by the Applicant? (Went through Applicant’s statement.) They are saying the septic system makes it a difficulty to build the garage. That would be the unique thing.

Chair Monroe: About number five, doesn’t think it would have any adverse impact on the neighbors. It was suggested to give a five feet variance and build a smaller garage which would be twenty-four feet instead of twenty-six feet.

Mr. Fleis: States that there would be no problem with the three foot setback except and unless the property owner on the left decides to also ask for a three foot setback, then everybody would be able to get a three foot setback which is why we have the Ordinance in the first place so that this could not happen.

Conclusions:

The ZBA concluded that they should vote on the proposed three foot setback and see how the vote goes before further discussion.

Mr. Prebay: Moves that the Applicant can have the twenty-six foot garage with the three foot setback.

Mr. Fleis: Seconded the motion.

Wexford Joint Zoning Board of Appeals  
Minutes, June 26, 2017

Page 5 of 5

Roll Call Vote:

Mr. Prebay -	Yes
Chair Monroe -	No
Mr. Fleis -	Yes
Mr. Draper -	No

Motion Fails with a two votes for to two votes against.

Chair Monroe: Moves that the Applicant go with the twenty-four foot garage and a five foot setback, and if he can get permission from the Health Department to go into the septic field that he can build his twenty-six foot garage.

Mr. Prebay: Seconded the motion.

Roll Call Vote:

Mr. Prebay -	Yes
Chair Monroe -	Yes
Mr. Fleis -	No
Mr. Draper -	Yes

Motion passes three votes for to one vote against.

E. Unfinished Business and Reports:

1. Discussion about Secretary / Recording Secretary: It was told that the Recording Secretary for the Joint Wexford Planning Commission, Marli Wendel would be the Secretary/Recording Secretary for the Zoning Board of Appeals in the future at the same rate she is paid by the JWPC.

F. New Business:

1. Zoning Board of Appeals Training. Warned the board about ex parte contact that it should be revealed to the board about the contact when doing site visits.

G. Public participation: There was none.

H. Adjournment:

Mr. Draper moved to adjourn. Mr. Prebay second. All in favor – four. All opposed – none. Meeting concluded at 8:23 pm.