WJPC
WEXFORD JOINT
PLANNING COMMISSION

Wexford Joint Planning Commission
c/o Cherry Grove Township
4830 E. M-55 Highway
Cadillac, Michigan 49601

231-775-1138 Ext. 6

www.wexfordjpc.org

planningandzoning@wexfordjpc.org

DRAFT Zoning Board of Appeals Meeting Minutes

Time & Date: 6pm, Wednesday, May 28, 2025
Meeting location: Wexford County Road Commission Meeting Room, 85 West Highway M-115, Boon, Michigan. Coordinates: 44° 19' 32.5" N, 85° 34' 53.4" W (44.325685, -85.581500)

A. **Call to Order, Roll Call of panel to hear case, Pledge of Allegiance**

Present: Bill Swank, (Antioch)
Richard Harvey, (Boon)
Carol Perrin (Selma)
Judy Kowalski (Springville)

Others Present: Robert Hall, Zoning Administrator
Ben Townsend, Assistant Zoning Administrator
Heather O'Connor, Recording Secretary via phone

B. **Approval of Minutes for October 23, 2024** – Motion to approve Meeting Minutes as presented made by Carol Perrin supported by Bill Swank and passed via voice vote. See (Proposed Minutes).

C. **Set / Amend Agenda** - A motion to approve the Agenda as presented made by Carol Perrin supported by Bill Swank and adopted as presented via voice vote.

D. **Public Comment** – Four (4) members of the public was present. No comment offered

E. **New Business**

1. Election of Officers motion by Carol Perrin to nominate the following, seconded by Richard Harvey and passed via voice vote
   a. Chair – Bill Swank
   b. Vice-Chair – Richard Harvey
   c. Secretary – Judy Kowalski

F. **Matters pertaining to citizens present at the meeting**, in the following order:

1. Advertised Public Hearing: (Variance Request / Case # ZBA-2025-02) Selma Township Parcel #2210-26-4407 (Selma Representative Carol Perrin)
   a. The Chair shall declare the public hearing open – Chair Bill Swank declared the public hearing open at 6:08pm
   b. Planning and Zoning Administrator - Staff Presentation – Bob Hall, Zoning Administrator delivered the Staff Report as mailed via USPS to the Board members (See ZBA Staff Report). New email stating most of the houses in the immediate area predate 1963, prior to zoning.
   c. Applicant Presentation – Applicant, Robert & Tish DeJaegher – improvements will remain on the property, plan to use as cottage, not planning for any type of short term rental

d. The Chair shall allow public comment – Chair Bill Swank opened the floor for public comment – One person commented about dirt road erosion and railroad as well as ownership of dirt road.
e. The Chair shall declare the public hearing closed – With no further comments, Chair Bill Swank declared the public hearing closed at 6:36pm

2. Zoning Board of Appeals [Deliberations / Findings / Conclusions ZBA-2025-02]

The Zoning Board of Appeals may ask additional 'fact-finding' questions of the applicant, staff, or members of the public – It was noted by discussion that the four (4) board members present had personally visited the DeJaegher property, noting the proposed location of the Variance Request. The Standards of Review were discussed and reviewed in accordance with the variance request as follows:

Case # **ZBA-2025-02**

2.1 Property Description – W 1/2 OF FOL: COM ON S R/W OF AA RR 875.45 FT S & 216.87 FT N80D 49'W OF NE COR OF SE 1/4 OF SE 1/4: N80D49'W 100 FT; S 43.6 FT TO LAKE; S72D16'E 103.64 FT; N TO BEG & PAR COM AT NE COR OF SE 1/4 OF SE/14 S 875.45 FT TO FORMER S ROW AARR; N80D49M W 266.87 FT TO POB: N80D49M W 50 FT; N 15.79 FT; S80D45M29S E 50 FT; S 15.74 FT TO POB. SEL. SEC. 26 T22N R10W - CAPS

2.2 Action Being Requested –
The applicant (owner of referenced parcel) is seeking dimensional variances in the north yard of the subject parcel to allow for the expansion of an existing nonconforming building (dwelling) on a nonconforming parcel by adding a 10' x 32' addition flush with the west end of the existing dwelling as per drawing(s) submitted by the applicant, as the Zoning Board of Appeals may find is appropriate.

2.3 Property Characteristics

A. The property (Tax #2210-26-4407) is nonconforming in size, having approximately 3,900 square feet LESS than the minimum 7,000 square feet required, resulting in approximately 3,100 square feet of parcel area.
B. There is an existing 10' x 40' (400 square feet) single wide trailer on the parcel with an 8' x 24' addition [all covered | half enclosed] on the waterfront side, providing 496 square feet of living area. [the required minimum dwelling size is 800 square feet]
   1. The existing trailer is positioned approximately 2.5' off the east side yard lot line and 7.5' off the west side yard lot line. [fence lines / man-made boundaries do not appear to correspond to what may be the actual property lines]
   2. The nearest part of the 'structure' to the water's edge is approximately 19' at the west end and 22' at the east end.
C. There are NO encroachments being proposed towards the water or further into the existing side yard setback areas.
D. Front (roadside | north) yard
   1. There is currently a detached 10' x 12' deck and a 6' x 7' storage shed (accessory building) in the 'yard' adjacent to the 'dogleg' of parcel #2210-26 4401 that is also labeled as N. Lake Mitchell Drive and used for access to multiple properties in the immediate vicinity. The accessory structures (shed and deck) constitute approximately 162' square feet of area.

2.4 Narrative:

1. The applicant has been communicating with the WJPZ staff for several months regarding the possibilities that exist on this parcel. Parcel size, existing improvements, expansion, setbacks, lack of road frontage, unique characteristics of the immediate area, minimum dwelling size, among other topics have all been discussed with the applicant.

2. The above discussion resulted in it being considered a moot action to have the applicant apply for a Land Use Permit and then have it denied prior to filing for a variance.
3. The applicant was advised that a variance could be applied for and be considered by the Zoning Board of Appeals. The applicant submitted their application for a variance to allow for the addition to the existing living area that will encroach into the required 'front' | (easement) 'side' yard setback area.
4. Payment of the requisite fee was received and recorded on May 2nd, 2025 – the notice of public hearing and notification to affected property owners were made on May 13th, 2025 – fifteen days in advance of this meeting. 5. 300 Foot Notices were sent out on October 2nd, 2024; 21 days in advance of any required public hearing.
5. Packets were sent out to the Zoning Board of Appeals members (and the applicant) on May 21st, 2025..

3. ZONING DISTRICT STANDARDS: R-2 RESIDENTIAL

- Minimum parcel area required is 7,000 square feet
  - **FACT**: The subject parcel is approximately 2,150 square feet or only 30% of the 'required' minimum parcel area, thus deemed to be nonconforming.
- Minimum buildable area required is 7,500 square feet
  - **FACT**: Total lot area is only 2,150 square feet
- Minimum parcel width required is 100' (one hundred) feet
  - **FACT**: The subject parcel is only 50' (fifty) feet wide
- Minimum Front Yard setback required is 20' (twenty) feet from the property line or 53' from the centerline of the road – whichever is greater1
  - **FACT**: There is no 'actual' road frontage – access is obtained from a private adjoining parcel via a dedicated easement – because the parcel is nonconforming, the front yard setback required is the average setback of existing dwellings on either side or 25' whichever is greater
- Minimum Side Yard setback required (based upon nonconforming lot) is 10'
  - **FACT**: The lot has an existing dwelling / trailer upon it and a survey is NOT available currently – it appears that the trailer is positioned approximately 1.5' off the east side yard lot line and 8.5' off the west side yard lot line. [fence lines / man made boundaries do not appear to correspond to what may be the actual property lines]
- Minimum Waterfront Yard setback required (per Article 10, Section 1011) is 50'
  - **FACT**: There are NO encroachments being proposed towards the water
- Minimum dwelling / principal building size required is 800 square feet
  - **FACT**: The existing dwelling area size is approximately 496 square feet, and the applicant is proposing to add 320 square feet [for a total of 816 square feet]

Based upon the above **FACTS**, the required 'front / side' yard (easement) setback and waterfront setback total approximately 60' (sixty) feet, creating a negative setback leaving no building envelope. The FACT that a dwelling exists on the parcel allows us to assign yards based up definitions in our zoning ordinance – the parcel is deemed to be nonconforming by reason of its size – the dwelling is nonconforming by reason of its size (square footage).

Zoning Administrator Comments and Observations: The subject parcel at approximately 2,150 square feet and less than the minimum required width presents unique challenges for development.3 The east (longest side) parcel line is approximately 51 feet long. The required waterfront setback in 'any' zoning district is 50 feet. Giving the benefit of doubt to the applicant and only requiring a side yard setback of 10', leaves a NEGATIVE building envelope with a 30' width (due to irregular shape of the parcel).

4. STANDARDS FOR GRANTING A DIMENSIONAL VARIANCE

The Appeals Board shall base its decisions on variances from the strict requirements of this Ordinance so that the spirit of the Ordinance is observed, public safety secured, and substantial justice done based on the following standards:

For Dimensional Variances: A dimensional variance may be granted by the Zoning Board of Appeals only in cases where the applicant demonstrates in the official record of the public hearing that practical difficulty exists by showing all of the following:

1. That the need for the requested variance due to unique circumstances or physical conditions of the property, such as narrowness, shallowness, shape, water, or topography and not due to the applicants personal or economic difficulty.

   Zoning Administrator FINDS: at a minimum, that there are unique and physical characteristics of the property involved due to the nonconforming size of the parcel and that these characteristics are not due to the applicants' personal or economic difficulty.

Board Comments:
The house was built when there was no zoning – applicant is not requesting addition to be closer to the water. Undersized lot, a small lot, a building in place currently.
YES - 4

2. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).

   Zoning Administrator FINDS: that the property owner has NOT taken any action that has resulted in the need for the requested variance(s).

Board Comments:
The owners did not create the situation – it was built before zoning and is not the owners fault
YES - 4

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.

   Zoning Administrator FINDS: that strict compliance with the regulations governing area, setback, frontage etc., will create a negative buildable area, thus reaffirming the severe nonconformities already existing on the parcel.

Board Comments:
Again the house was built before zoning and strict compliance would create a burden by not being able to use the property because there would be a negative building envelope. Wants to add-on to be more useable. Noting consistency with the recommendations as noted in the Zoning Administrators presentation.
YES - 4

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.

Zoning Administrator FINDS that multiple properties in the immediate area of the subject property were all created by an unusual land division of parcel #2210-26-4401 (see EXHIBIT-B) that resulted in multiple nonconforming parcels (by virtue of the parcel size) and based upon a survey dated August 6th, 1964 – prior to the establishment of zoning in Wexford County.

Board Comments:
The request does justice to the applicant and by not going closer to the water, the neighborhood integrity is maintained. Similar to others in district and others in similar situation
YES – 4

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.*

Zoning Administrator FINDS: that a distinct and determinable 'fact' cannot be ascertained as to whether the requested variance will have certain impacts on surrounding property. The Zoning Board of Appeals should form an independent finding regarding this standard.

Board Comments:
The request does justice to the applicant and by not going closer to the water, the neighborhood integrity is maintained. Further no negative responses were received from neighbors. Applicant is willing to put money into the property for improvement

Motion by Judy Kowalski supported by Richard Harvey to **APPROVE WITH CONDITIONS** the Dimensional Variance for ZBA-2025-02 as outlined specifically in the packet and as noted below:

1. Require a 'new' survey of the subject property, parcel #2210-26-4407 that shows 'all' existing improvements and proposed improvements upon the property (dimensioned) with setbacks from property lines and the water's edge.
2. Allow any new proposed building to be no closer to the water's edge than existing improvements shown on the 'new' survey and as verified by the zoning administrator.
3. Allow any new proposed building to be no closer to any side yard lot line than currently exists.
4. Allow any proposed new building to be no closer to the 'north' property line (adjacent to parcel #2210-26-4401) than 5' (five feet).
5. Allow all existing and proposed new improvements to cover the subject property with no more than 40% impervious surfaces provided the JPC staff cannot find another superimposing document that would restrict to the 33%.
6. Mandate that applicant coordinate any improvements with the Lake Mitchell sewer authority

Vote as follows:
Swank – In Favor
Harvey – In Favor
Kowalski – In Favor
Perrin – In Favor

The motion to approve the Dimensional Variance for ZBA-2025-02 was **APPROVED WITH CONDITIONS** as outlined specifically above in red

G. **Unfinished Business and Reports** (items considered here are taken up in the same order as established by the Appeals Board to fix a priority for consideration and work done in the planning office).
1. Training Opportunities / ZA Report – training available at new office located on Lake Street via extra computer for online course

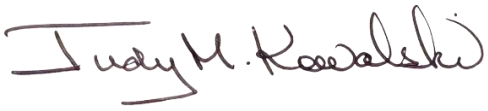
H. **Public Comment** – None offered

I. **Report / Comments from each member of the ZBA** regarding their respective participating municipality – None offered

J. **Adjournment** – Motion made by Richard Harvey, seconded and the meeting was adjourned at 7:11pm

Prepared by Heather A. O'Connor, Recording Secretary, for Secretary

Respectfully submitted:



_____

Judy Kowalski - Secretary, Elected