

**PENINSULA TOWNSHIP  
REGULAR MEETING  
ZONING BOARD OF APPEALS  
MEETING MINUTES**

13235 Center Road  
Traverse City, MI 49686

May 21, 2019

7:00 p.m.

1. **Call to Order** Soutar called the meeting to order at 7:00 p.m.
2. **Pledge**
3. **Roll Call of Attendance** Soutar, McBride, Dolton, Couture, Wahl
4. **Approval of Agenda** McBride moved that the agenda be approved, seconded by Dolton.

**PASSED UNAN**

5. **Conflict of Interest** None
6. **Brief Citizen Comments – for items not on the Agenda** None
7. **Business**

**A. Request No. 874, Zoning R-1C**

Applicant: John Kerridge, Paul Maurer General Contract, 10167 E. Cherry Bend Rd., Traverse City, MI 49684

Owner: Marcos Rodriguez, 115 East Putnam Ave., Greenwich, CT 06830

Property Address: 7307 Peninsula Drive, Traverse City, MI 49686

1. Requesting a variance to encroach in the side yard setback from 15 feet to 11 feet on the southerly property line in order to construct a 4 foot by 10 foot stair well for egress to an existing confined balcony on a legal non-conforming structure.
2. Requesting a variance from the required 60 foot setback from the ordinary high water line to 29 feet in order to construct a 4 foot by 10 foot stair well for egress to an existing confined balcony on a legal non-conforming structure.

Parcel Code: #28-11-325-065-00

John Kerridge 8140 Bel Cherrie Drive

I represent Marcos Rodriguez. The Rodriguez home has an existing deck with no means of getting off the deck. We developed drawings for an egress stair. The egress stair serves several purposes. The stairs are for safety of people on the deck and would go out to the beach side. They have a young child who now has young friends who now play at the beach and in the water. The owner now has to go out and around the house to reach the beach. We look at this as improving overall lifesaving capability for the house. We have developed some designs. We would include a roof structure over the deck, which one of the purposes is to keep snow off the deck. The packet provided contains several renderings of what we

intend to do. To have the stair going any other way would have the stair encroaching into the front yard, so we kept it tight to the house. We tried to do the least encroachment and that was off to the side of the deck. If you have any situation in the house, people could be trapped on that deck; these stairs would allow egress off the deck.

**Soutar:** Are there any questions for the applicant from the board?

**Dolton:** Did you look at having the stairs go in a different direction.

Kerridge: There is no way to get a stair in there and have it fit within that footprint. We looked at this in a variety of different ways and this made the most sense.

**Soutar:** So there is no access to the beach except through the front of the house? There is not a door onto the beach?

Kerridge: If you are in the kitchen and needed to get to the beach, you need to go down into the basement and out that door.

**Soutar:** So there is a door from the basement toward the beach side of the house?

Kerridge: Yes

**Soutar:** How old is the child?

Rodriguez: The child is 10.

**Soutar:** So we are not dealing with a toddler, but someone who is approaching the teenage years.

Kerridge: There is the additional safety issue as other children visit as well.

**Couture:** Why can't the stairs just come off the front of the deck? Why do we need to encroach deeper into the setback area?

Kerridge: If it goes in front of the deck, it would be encroaching more. If it goes off the side, we are talking about six to seven steps due to the grade on that side. A staircase off the front would require 12 to 14 steps.

**Soutar:** Thank you for your time. We will now open up the public portion of the meeting. Is there anyone who wishes to speak for the applicant? Seeing and hearing none, is there anyone who wants to speak against the application. Having none, this closes the public portion of the meeting. I will now bring it back to the board for discussion.

**Dolton:** There are many homes with decks like this around the peninsula. I am sympathetic toward the safety issue, which is why I asked the question about other potential ways the stairs could go in a different direction.

**Deeren:** There was a variance to build the deck. The Rodriguezs were not the owners at the time.

**McBride:** This action would make something that is already non-conforming more non-conforming. I do not see a reason that this has to be done based upon our zoning laws.

**Soutar:** Putting the stairs out to the bay cuts into the yard. It is a fairly steep staircase.

**Soutar:** The Board goes through the 6 Basic Conditions that must be met. The two variance requests were decided separately. 1. Requesting a variance to encroach in the side yard setback from 15 feet to 11 feet on the southerly property line in order to construct a 4 foot by 10 foot stair well for egress to an existing confined balcony on a legal non-conforming structure.

**Deeren:** Each variance request (1 and 2) must be voted on separately.

Section 5.7.3 (1) BASIC CONDITIONS: The applicant must meet ALL of the following Basic Conditions.

a. That any variance from this Ordinance: a) That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.

Soutar, McBride, Dolton, Couture, Wahl **all agree condition has not been met.**

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

Soutar, McBride, Dolton, Couture, Wahl **all agree condition has not been met.**

c. That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)

Soutar, McBride, Dolton, Couture, Wahl **all agree condition has not been met.**

d. That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

Soutar, McBride, Dolton, Couture, Wahl **all agree condition has not been met.**

e. That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.

Soutar, McBride, Dolton, Couture, Wahl **all agree condition has not been met.**

6. That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.

Soutar, McBride, Dolton, Couture, Wahl **all agree condition have been met.**

2. Requesting a variance from the required 60 foot setback from the ordinary high water line to 29 feet in order to construct a 4 foot by 10 foot stair well for egress to an existing confined balcony on a legal non-conforming structure.

**Soutar:** The Board goes through the 6 Basic Conditions that must be met.

Section 5.7.3 (1) BASIC CONDITIONS: The applicant must meet ALL of the following Basic Conditions.

a. That any variance from this Ordinance: a) That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.

Soutar, McBride, Dolton, Couture, Wahl **all agree the condition has been met.**

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

Soutar, Wahl **agree condition has been met.**

Couture, Dolton, McBride **agree condition has not been met.**

**Soutar:** The vote is 3-2 so this would be **no.**

c. That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)

Dolton, Soutar, Wahl **agree condition has been met.**

McBride, Couture **agree condition has not been met.**

**Soutar:** The vote is 3-2 so this would be **yes.**

d. That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

Dolton, Soutar, Wahl **agree condition has been met.**

McBride, Couture **agree condition has not been met.**

**Soutar:** The vote is 3-2 so this would be **yes.**

e. That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.

Dolton, Soutar, Wahl, Couture **agree condition has been met.**

McBride **votes condition has not been met.**

**Soutar:** The vote is 4-1 so this would be **yes.**

6. That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.

Soutar, McBride, Dolton, Couture, Wahl **all agree condition has been met.**

**Soutar:** All 6 conditions must be met for us to approve this request. Item B was not met.

**Action-Motion** Wahl moves that that Request No.874 Item 1 be denied, second by Couture.

Ayes Soutar, McBride, Dolton, Couture, Wahl

Nays 0

**PASSED UNAN**

**Action-Motion** Wahl moves that that Request No.874 Item 2 be denied, second by Couture.

Ayes Soutar, McBride, Dolton, Couture, Wahl

Nays 0

**PASSED UNAN**

**8. Approval of Minutes from April 11, 2019** Two corrections to be made.

**PASSED UNAN**

**Action-Motion** Wahl moves to approve the minutes. Couture seconds

**9. Citizen Comments** None

**10. Board Comments**

**Deeren:** No applications for June are scheduled. The next meeting will be on July 2, 2019.

**11. Adjournment** Moved by Wahl to adjourn, seconded by Couture.

**PASSED UNAN**

Adjournment: 7:36 p.m.