

Peninsula Township
Zoning Board of Appeals
Regular Meeting
June 9, 2016

Meeting called to order at 7:02 P.M.

Present: **Vida**-Chair, **Soutar**; **Witkop**; **Snow** (alternate); **Cowall**; Elliott (alternate) Also present were *Michelle Reardon*, Director of Zoning and Planning; *Claire Schoolmaster*, Planning & Zoning Coordinator and *Mary Ann Abbott*, Recording Secretary.

Absent: None

Approval of Agenda

MOTION: Wunsch/Witkop to approve agenda as presented.

PASSED UNAN

Conflict of Interest

Wunsch feels he may now have a potential conflict with Request No. 846. Between the first hearing last month and today's hearing his father accepted the small building on this property that was going to be removed. **Wunsch** now feels he should recuse himself on this matter. Marilyn Elliott is present and will serve as an alternate for request No. 846. She had been in audience last month and is up to date on this request.

Communications Received

Schoolmaster received a drawing for Request 846, which has been placed at each member's station.

Brief Citizens Comments – for items not on the Agenda

None

Scheduled Public Hearings

A. Request No. 846, Zoning R-1B (Adjourned from May 12, 2016)

Applicant: Brian, Cheri, Dan, & Beth Stainforth, 8188 Mandy Ln., Frankenmuth, MI 48734

Owner: Brian, Cheri, Dan, & Beth Stainforth, 8188 Mandy Ln., Frankenmuth, MI 48734

Property Address: 13091 Bluff Rd., Traverse City, MI 49686 & 13083 Bluff Rd., Traverse City, MI 49686

Request: (1) a variance of 4 feet (4') from the required 30 foot (30') front yard setback to allow for the construction of a 988 square foot non-conforming addition to an existing legal non-conforming structure; and (2) a variance of 9% from the required maximum 15% lot coverage to allow for the demolition of an existing non-conforming structure and the construction of a 988 square foot non-conforming addition to an existing legal non-conforming structure on the combination of two legal non-conforming lots.

Parcel Code Nos. 28-11-127-030-00 & 28-11-127-031-00

MOTION: Witkop/Snow to recuse Wunsch due to a conflict of interest on Request 846.

PASSED UNAN

Soutar steps down, as Alternate Snow will complete the hearing of this request.

MOTION: Witkop/Vida to accept Marilyn Elliott as alternate for Wunsch on Request No. 846.

PASSED UNAN

Wunsch steps down due to potential conflict of interest and Alternate Elliott is seated.

Schoolmaster presents staff report. This Request was adjourned from last month and a new proposal has been submitted. Dan Stainforth 8188 Mandy Lane, Frankenmuth, Michigan is present to represent his son Brian who could not be present tonight. Stainforth indicated that they listened to the comments from last month's meeting. Changes in the plan reflect changes in the overhang, elimination of the attached shed and repositioning to limit setback. Driveway space was added with parking and

turn around space to allow for a forward exit into traffic. Current living space is useable and would not be realistic to tear it down and reposition.

Vida asks for Public Comment For and Against Request No. 846. No Comments. Public Hearing closed at 7:21 P.M.

Further discussion from the board included questions on amount of living space vs. garage space to be added, reduction in lot coverage, reasonableness of the request. This discussion resulted in the following decisions:

Peninsula Township Planning & Zoning Department
FINDINGS OF FACT

ZBA Request #846 – 13091 Bluff Rd. & 13083 Bluff Rd.
June 9, 2016

DECISION AND ORDER

Applicant: Brian, Cheri, Dan & Beth Stainforth, property owners

Hearing

Date: June 9, 2016

PROPERTY DESCRIPTION

The property of 13091 Bluff Rd., Traverse City, MI 49686 & 13083 Bluff Rd., Traverse City, MI 49686, Parcel No. 28-11-127-030-00 & 28-11-127-031-00, herein after referred to as the “property”.

APPLICATION

Requests: (1) a variance of 5.5% from the required maximum 15% lot coverage to allow for the demolition of an existing non-conforming structure and the construction of an 859 square foot non-conforming addition to an existing legal non-conforming structure on the combination of two legal non-conforming lots.

The Board having considered the Application, a public hearing having been held on June 9, 2016, after giving due notice as required by law, the Board having heard the statements of the Applicant and agents, the Board after having considered letters submitted by members of the public and comments by members of the public, the Board having considered five (5) exhibits, and the Board having reached a decision on this matter, states as follows:

GENERAL FINDINGS OF FACT

1. The Board finds that the properties are currently zoned Coastal Zone Single and Two-Family (R-1B). (Exhibits 1, 2)
2. The Board finds that the lots were created in or before 1965 and are legally non-conforming. (Exhibit 5)
3. The Board finds that the existing single family residence located at 13091 Bluff Road is legally non-conforming and was built in 1986 after being granted variances for max coverage and setbacks. (Exhibit 2)
4. The Board finds that the existing single family residence located at 13083 Bluff Rd. (127-030-00) was built in 1965 and is a legal non-conforming structure due to front yard setback encroachment. (Exhibit 2)
5. The Board finds that the single family residence located at 13083 Bluff Rd. is proposed to be demolished. (Exhibit 3)
6. The Board finds that the proposed additions to the structure located at 13091 Bluff Rd. do not conform to relevant zoning standards. (Exhibits 2, 3, 4)
7. The Board finds that the applicant requests a variance of up to 5.5% from the required maximum 15% lot coverage to allow for the demolition of an existing non-conforming structure and the construction of

an 859 square foot non-conforming addition to an existing legal non-conforming structure on the combination of two legal non-conforming lots. (Exhibit 3)

MOTION: Witkop/Vida to approve the general findings of fact

ROLL CALL VOTE: Witkop – yes; Cowall – yes; Vida – yes; Snow – yes and Elliott – yes.

MOTION PASSED UNAN

Variance Request #1 A variance of 5.5% from the required maximum 15% lot coverage to allow for the demolition of an existing non-conforming structure and the construction of an 859 square foot non-conforming addition to an existing legal non-conforming structure on the combination of two legal non-conforming lots.

FINDINGS UNDER SECTION 3.2 – DEFINITIONS – PRACTICAL DIFFICULTY OF THE ZONING ORDINANCE

The Board makes the following findings of fact as required by Section 3.2 definition of Practical Difficulty of the Ordinance for each of the following standards listed in that section:

1. Strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for any permitted purpose, or would render conformity unnecessarily burdensome;

The following findings may support this standard HAS been met.

- a. The Board finds that according to Section 6.8 Schedule of Regulations the lots are legally non-conforming because they were created before the adoption of the Zoning Ordinance and do not meet the 25,000 square foot area minimum. (Exhibit 2, 5)

Consensus is this standard HAS been met (unanimous).

2. A variance would do substantial justice to the applicant as well as to other property owners in the district, and that a lesser relaxation would not give substantial relief and be more consistent with justice to others;

The following findings may support this standard HAS been met.

- a. The Board finds that the property is zoned Coastal Zone Single and Two-Family (R-1B). According to Section 6.2.2(2)(a) a single family residence is a use by right in the R-1B zoning district. (Exhibits 1, 2)
- b. The Board finds that according to Section 6.8 Schedule of Regulations the lots are legally non-conforming because they were created before the adoption of the Zoning Ordinance and do not meet the 25,000 square foot area minimum. (Exhibit 2, 5)
- c. The Board finds that the applicant proposes to reduce lot density by combining two adjacent lots and constructing one structure. (Exhibit 3)
- d. The Board finds that the applicant proposes to create a driveway and garage to ensure the safe operation of motor vehicles. (Exhibit 3)

Consensus is this standard HAS been met (unanimous).

3. The plight of the owner is due to unique circumstances of the property and the problem was not self-created.

The following findings may support this standard HAS been met.

- a. The Board finds that the property is zoned Coastal Zone Single and Two-Family (R-1B). According to Section 6.2.2(2)(a) a single family residence is a use by right in the R-1B zoning district. (Exhibits 1, 2)
- b. The Board finds that the existing single family residence located at 13091 Bluff Road is legally non-conforming and was built in 1986 after being granted variances for max coverage and setbacks. (Exhibit 2)
- c. The Board finds that according to Section 6.8 Schedule of Regulations the lots are legally non-conforming because they were created before the adoption of the Zoning Ordinance and do not meet the 25,000 square foot area minimum. (Exhibits 2, 5)

Consensus is this standard HAS been met (4 - 1 Cowall).

FINDINGS UNDER SECTION 5.7.3 VARIANCE OF THE ZONING ORDINANCE

The Board makes the following findings of fact as required by Section 5.7.3 of the Ordinance for each of the following standards listed in that section:

Basic Conditions: ALL of the Basic Conditions SHALL be clearly demonstrated.

1. Will not be contrary to the public interest or to the intent and purpose of this Ordinance.

The following findings may support this standard HAS been met.

- a. The Board finds that the property is zoned Coastal Zone Single and Two-Family (R-1B). According to Section 6.2.2(2)(a) a single family residence is a use by right in the R-1B zoning district. (Exhibits 1, 2)
- b. The Board finds that according to Section 6.8 Schedule of Regulations the lots are legally non-conforming because they were created before the adoption of the Zoning Ordinance and do not meet the 25,000 square foot area minimum. (Exhibit 2, 5)
- c. The Board finds that the applicant proposes to reduce lot density by combining two adjacent lots and constructing one structure. (Exhibit 3)
- d. The Board finds that the applicant proposes to create a driveway and garage to ensure the safe operation of motor vehicles. (Exhibit 3)

Consensus is this standard HAS been met (4 - 1 Cowall).

2. Shall not permit the establishment within a district any use which is not permitted by right, under special conditions, or by special use permit within that zone district, or any use or dimensional variance for which a conditional use permit is required.

The following findings may support this standard HAS been met.

- a. The Board finds that the property is zoned Coastal Zone Single and Two-Family (R-1B). According to Section 6.2.2(2)(a) a single family residence is a use by right in the R-1B zoning district. (Exhibits 1, 2)

Consensus is this standard HAS been met (unanimous).

3. Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.

The following findings may support this standard HAS been met.

- a. The Board finds that generally the proposed single family residence is unlikely to decrease the value of the subject property or that of any neighboring properties. (Exhibits 3, 4)
- b. The Board finds that the applicant proposes to reduce lot density by combining two adjacent lots and constructing one structure. (Exhibit 3)
- c. The Board finds that the applicant proposes to create a driveway and garage to ensure the safe operation of motor vehicles. (Exhibit 3)

Consensus is this standard HAS been met (unanimous).

4. Is not where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical.

The following findings may support this standard HAS been met.

- a. The Board finds that the property is zoned Coastal Zone Single and Two-Family (R-1B). According to Section 6.2.2(2)(a) a single family residence is a use by right in the R-1B zoning district. (Exhibits 1, 2)
- b. The Board finds that the existing single family residence located at 13091 Bluff Road is legally non-conforming and was built in 1986 after being granted variances for max coverage and setbacks. (Exhibit 2)
- c. The Board finds that according to Section 6.8 Schedule of Regulations the lots are legally non-conforming because they were created before the adoption of the Zoning Ordinance and do not meet the 25,000 square foot area minimum. (Exhibits 2, 5)
- d. The Board finds that the applicant proposes to reduce lot density by combining two adjacent lots and constructing one structure. (Exhibit 3)
- e. The Board finds that the applicant proposes to create a driveway and garage to ensure the safe operation of motor vehicles. (Exhibit 3)

Consensus is this standard HAS been met (4 - 1 Cowall).

5. Will relate only to the property that is under control of the applicant.

The following findings may support this standard HAS been met.

- a. The Board finds that the variance is specific to the applicant and property owners' parcel. (Exhibit 3)

Consensus is this standard HAS been met (unanimous).

Special Conditions: At least one shall be clearly demonstrated.

- 3. Where the lot or parcel of land was of legal record or had been laid out by a registered surveyor prior to the effective date of this Ordinance.

The following findings may support this standard HAS been met.

- a. The Board finds that the lot was created prior to the effective date of the Ordinance. (Exhibit 5)

Consensus is this standard HAS been met (unanimous).

VARIANCE REQUEST # 1 MOTION TO APPROVE

MOTION: Witkop/Snow to approve Variance Request #846 based on the findings of fact as discussed.

ROLL CALL VOTE: Elliott – yes; Snow – yes; Vida – yes; Cowall – no; and Witkop – yes.

MOTION PASSED 4-1 (Cowall)

The Peninsula Township Board of Appeals has **APPROVED** your request for a variance of 5.5% from the required maximum 15% lot coverage to allow for the demolition of an existing non-conforming structure and the construction of an 859 square foot non-conforming addition to an existing legal non-conforming structure on the combination of two legal non-conforming lots.

DECISION

Upon motion, seconded and passed the Board ruled that the Applicant’s variance request #1 be **APPROVED**.

TIME PERIOD FOR JUDICIAL REVIEW

Mcl 125.3606 provides that any party aggrieved by a decision of the Zoning Board of Appeals may appeal that decision to the Circuit Court within thirty (30) days after the Zoning Board of Appeals issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the ZBA, if there is no chairperson, or within twenty-one (21) days after the Zoning Board of Appeals approves the minutes of the meeting at which the decision was made.

DATE DECISION AND ORDER ADOPTED

Date

Chairperson

Date

Vice Chairperson

Secretary

MOTION: Cowall/Witkop to excuse Elliott and invite Wunsch back to the Board.

PASSED UNAN

B. Request No. 847, Interpretation (Adjourned from May 12, 2016)

Peninsula Township Zoning Administrator requests interpretation of Section 8.7.3 (10) (u) – What constitutes a “guest activity use” as opposed to what is allowed in the tasting room of a Winery Chateau without a guest activity use permit?

**Staff requests No. 847 be adjourned to Thursday, June 23, 2016 at 7:00pm.*

MOTION: Witkop/Cowall to move Request No. 847 to the June 23, 2016 meeting.

PASSED UNAN

C. Request No. 848, Interpretation (Adjourned from May 12, 2016)

Peninsula Township Zoning Administrator requests interpretation of Section 8.7.2 (3) and Section 8.7.3 (3) – What uses/activities are allowed as part of a special open space use as provided under the Ordinance?

**Staff requests No. 848 be adjourned to Thursday, June 23, 2016 at 7:00pm.*

MOTION: Cowall/Wunsch to move Request No. 848 to the June 23, 2016 meeting.

PASSED UNAN

MOTION: Cowall/Wunsch to excuse Snow and invite Soutar back to the Board.

PASSED UNAN

Alternate Snow steps down and Soutar is seated.

D. Request No. 849, Zoning A-1

Applicant: Nathan Schultz and Stephanie Woodfin, 10621 Craig Rd., Traverse City, MI 49686 Owner: Nathan Schultz and Stephanie Woodfin, 10621 Craig Rd., Traverse City, MI 49686 Property Address: 10621 Craig Rd., Traverse City, MI 49686 Request: (1) a variance of 124.65 feet from the required 330 foot lot width (Section 6.8 of the Peninsula Township Zoning Ordinance #2) for Parcel “A” and (2) a variance of 180 feet from the required 330 foot lot width (Section 6.8 of the Peninsula Township Zoning Ordinance #2) for the remainder parcel and (3) a variance from the depth to width requirement (Section 6 (d) of the Peninsula Township Land Division Ordinance #49 of 2012) to allow for a lot line adjustment.

Parcel Code Nos. 28-11-008-003-00 and 28-11-008-016-55

Reardon presents Staff Report.

Nathan Schultz, 10621 Craig Road spoke as the applicant of this request #849. He provided a background of the parcel ownership and the desire to obtain the variances and lot line adjustments. He felt that the property that is not well suited to Ag could be under pressure to be developed and that his solution to obtain the variances and lot line adjustments would provide the solution which would allow him to sell 5 acres and finalize conservation easement on a portion of this property.

Vida asks for Public Comment For and Against Request No. 849. No Comments. Public Hearing closed at 7:58 P.M.

Further discussion by the board resulted in the following decision.

Peninsula Township Planning & Zoning Department

FINDINGS OF FACT

ZBA Request #849 – 10621 Craig Rd.

June 9, 2016

DECISION AND ORDER

Applicant: Nathan Schultz & Stephanie Woodfin, property owners

Peninsula Township
Zoning Board of Appeals

Hearing

Date: June 9, 2016

PROPERTY DESCRIPTION

The property of 10621 Craig Rd. Traverse City, MI 49686 and inclusive of Parcel Nos. 28-11-008-003-00 & 28-11-008-016-55, herein after referred to as the "property".

APPLICATION

Requests: (1) a variance of 124.65 feet from the required 330 foot lot width (Section 6.8 of the Peninsula Township Zoning Ordinance #2) for Parcel "A" and (2) a variance of 180 feet from the required 330 foot lot width (Section 6.8 of the Peninsula Township Zoning Ordinance #2) for the remainder parcel and (3) a variance from the depth to width requirement (Section 6 (d) of the Peninsula Township Land Division Ordinance #49 of 2012) to allow for a lot line adjustment.

The Board having considered the Application, a public hearing having been held on June 9, 2016, after giving due notice as required by law, the Board having heard the statements of the Applicant and agents, the Board after having considered letters submitted by members of the public and comments by members of the public, the Board having considered five (5) exhibits, and the Board having reached a decision on this matter, states as follows:

GENERAL FINDINGS OF FACT

8. The Board finds that the properties are currently zoned Agriculture (A-1). (Exhibits 1, 2)
9. The Board finds that the surrounding properties are zoned Agriculture (A-1). (Exhibit 1, 2)
10. The Board finds that the existing single family residence located at 10621 Craig Road is a legal conforming structure built in 2011. (Exhibit 2)
11. The Board finds the properties are metes and bounds parcels and are legally nonconforming. (Exhibit 2, 5)
12. The Board finds that the proposed lot line adjustment will result in two (2) parcels that do not conform to Peninsula Township Zoning Ordinance requirements; specifically lot width. (Exhibits 2, 3, 4)
13. The Board finds that the applicant requests a variance of 124.65 feet from the required 330 foot lot width to allow for a lot line adjustment for Parcel "A". (Exhibit 3)
14. The Board finds that the applicant requests a variance of 180 feet from the required 330 foot lot width to allow for a lot line adjustment the remainder parcel. (Exhibit 3)
15. The Board finds that the proposed lot line adjustment will result in one parcel (Parcel "A") that will exceed the maximum 3 to 1 depth to width requirement of the Peninsula Township Land Division Ordinance. (Exhibit 3)

MOTION: Soutar/Vida to approve the general findings of fact

MOTION PASSED (unanimous)

Variance Request #1 a variance of 124.65 feet from the required 330 foot lot width (Section 6.8 of the Peninsula Township Zoning Ordinance #2) for Parcel "A" to allow for a lot line adjustment.

FINDINGS UNDER SECTION 3.2 – DEFINITIONS – PRACTICAL DIFFICULTY OF THE ZONING ORDINANCE

The Board makes the following findings of fact as required by Section 3.2 definition of Practical Difficulty of the Ordinance for each of the following standards listed in that section:

1. Strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for any permitted purpose, or would render conformity unnecessarily burdensome;

The following findings may support this standard HAS been met.

- a. The Board finds that the property is zoned Agriculture (A-1). According to Section 6.7.2 (1) a single family residence is a use by right in the A-1 zoning district. (Exhibits 1, 2)
- b. The Board finds that the existing lot layout requires the placement of a residential structure in an area of Parcel "A" that is difficult to access due to topography and the public road frontage deficiency. (Exhibit 2, 3)

This standard HAS been met.

2. A variance would do substantial justice to the applicant as well as to other property owners in the district, and that a lesser relaxation would not give substantial relief and be more consistent with justice to others;

The following findings may support this standard HAS been met.

- a. The Board finds that the property is zoned Agriculture (A-1). According to Section 6.7.2 (1) a single family residence is a use by right in the A-1 zoning district. (Exhibits 1, 2)
- b. The Board finds that the existing lot layout requires the placement of a residential structure in an area of Parcel "A" that is difficult to access due to topography and the public road frontage deficiency. (Exhibit 2, 3)
- c. The Board finds that the lot line adjustment will allow increased safety for the proposed residential use on Parcel "A" by allowing the structure to be closer to the public right-of-way and in an area more readily accessed by emergency response. (Exhibit 3)
- d. The Board finds that residential density will be reduced by allowing the lot line adjustment and the placement of a conservation easement on the remainder parcel. (Exhibit 3)

This standard HAS been met.

3. The plight of the owner is due to unique circumstances of the property and the problem was not self-created.

The following findings may support this standard HAS been met.

- a. The Board finds that the property is zoned Agriculture (A-1). According to Section 6.7.2 (1) a single family residence is a use by right in the A-1 zoning district. (Exhibits 1, 2)
- b. The Board finds that the existing lot layout requires the placement of a residential structure in an area of Parcel "A" that is difficult to access due to topography and the public road frontage deficiency. (Exhibit 2, 3)

This standard HAS been met.

MOTION: Soutar/Vida all three standards of practical difficulty have been met.

MOTION PASSED (unanimous)

FINDINGS UNDER SECTION 5.7.3 VARIANCE OF THE ZONING ORDINANCE

The Board makes the following findings of fact as required by Section 5.7.3 of the Ordinance for each of the following standards listed in that section:

Basic Conditions: ALL of the Basic Conditions SHALL be clearly demonstrated.

1. Will not be contrary to the public interest or to the intent and purpose of this Ordinance.

The following findings may support this standard HAS been met.

- a. The Board finds that the property is zoned Agriculture (A-1). According to Section 6.7.2 (1) a single family residence is a use by right in the A-1 zoning district. (Exhibits 1, 2)
- b. The Board finds that the existing lot layout requires the placement of a residential structure in an area of Parcel "A" that is difficult to access due to topography and the public road frontage deficiency. (Exhibit 2, 3)
- c. The Board finds that the lot line adjustment will allow increased safety for the proposed residential use on Parcel "A" by allowing the structure to be closer to the public right-of-way and in an area more readily accessed by emergency response. (Exhibit 3)
- d. The Board finds that residential density will be reduced by allowing the lot line adjustment and the placement of a conservation easement on the remainder parcel. (Exhibit 3)

This standard HAS been met.

2. Shall not permit the establishment within a district any use which is not permitted by right, under special conditions, or by special use permit within that zone district, or any use or dimensional variance for which a conditional use permit is required.

The following findings may support this standard HAS been met.

- a. The Board finds that the property is zoned Agriculture (A-1). According to Section 6.7.2 (1) a single family residence is a use by right in the A-1 zoning district. (Exhibits 1, 2)

This standard HAS been met.

3. Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.

The following findings may support this standard HAS been met.

- a. The Board finds that generally the proposed lot line adjustment is unlikely to decrease the value of the subject property or that of any neighboring properties. (Exhibits 3)

This standard HAS been met.

4. Is not where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical.

The following findings may support this standard HAS been met.

- a. The Board finds that the property is zoned Agriculture (A-1). According to Section 6.7.2 (1) a single family residence is a use by right in the A-1 zoning district. (Exhibits 1, 2)
- b. The Board finds that the existing lot layout requires the placement of a residential structure in an area of Parcel "A" that is difficult to access due to topography and the public road frontage deficiency. (Exhibit 2, 3)
- c. The Board finds that the lot line adjustment will allow increased safety for the proposed residential use on Parcel "A" by allowing the structure to be closer to the public right-of-way and in an area more readily accessed by emergency response. (Exhibit 3)
- d. The Board finds that residential density will be reduced by allowing the lot line adjustment and the placement of a conservation easement on the remainder parcel. (Exhibit 3)

This standard HAS been met.

- 5. Will relate only to the property that is under control of the applicant.

The following findings may support this standard HAS been met.

- a. The Board finds that the variance is specific to the applicant and property owners' parcel. (Exhibit 3)

This standard HAS been met.

MOTION: Sutar/Vida all five basic conditions have been met.

MOTION PASSED (unanimous)

Special Conditions: At least one shall be clearly demonstrated.

- 1. Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this Ordinance, these hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.

The following findings may support this standard HAS been met.

- a. The Board finds that the property is zoned Agriculture (A-1). According to Section 6.7.2 (1) a single family residence is a use by right in the A-1 zoning district. (Exhibits 1, 2)
- b. The Board finds that the existing lot layout requires the placement of a residential structure in an area of Parcel "A" that is difficult to access due to topography and the public road frontage deficiency. (Exhibit 2, 3)
- c. The Board finds that the lot line adjustment will allow increased safety for the proposed residential use on Parcel "A" by allowing the structure to be closer to the public right-of-way and in an area more readily accessed by emergency response. (Exhibit 3)
- d. The Board finds that residential density will be reduced by allowing the lot line adjustment and the placement of a conservation easement on the remainder parcel. (Exhibit 3)

This standard HAS been met.

2. Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness shape, or topography of the property involved, or to the intended use of the property that do not generally apply to other property or uses in the same zoning district. Such circumstances or conditions shall not have resulted from any act of the applicant subsequent to the adoption of this Ordinance.

The following findings may support this standard HAS been met.

- a. The Board finds that the property is zoned Agriculture (A-1). According to Section 6.7.2 (1) a single family residence is a use by right in the A-1 zoning district. (Exhibits 1, 2)
- b. The Board finds that the existing lot layout requires the placement of a residential structure in an area of Parcel "A" that is difficult to access due to topography and the public road frontage deficiency. (Exhibit 2, 3)
- c. The Board finds that the lot line adjustment will allow increased safety for the proposed residential use on Parcel "A" by allowing the structure to be closer to the public right-of-way and in an area more readily accessed by emergency response. (Exhibit 3)
- d. The Board finds that residential density will be reduced by allowing the lot line adjustment and the placement of a conservation easement on the remainder parcel. (Exhibit 3)

This standard HAS been met.

MOTION: Soutar/Witkop special conditions 1 & 2 have been met.

MOTION PASSED (unanimous)

VARIANCE REQUEST # 1 MOTION TO APPROVE

MOTION: Wunsch/Soutar approval of variance request #1 with the condition of approval of the successful execution of the proposed conservation easement by the Grand Traverse Regional Land Conservancy.

MOTION PASSED (unanimous)

The Peninsula Township Board of Appeals has **APPROVED** your request for a variance of 124.65 feet from the required 330 foot lot width (Section 6.8 of the Peninsula Township Zoning Ordinance #2) for Parcel "A" to allow for a lot line adjustment.

CONDITIONS OF APPROVAL

1. Successful execution of the proposed conservation easement by the Grand Traverse Regional Land Conservancy.

DECISION

Upon motion, seconded and passed the Board ruled that the Applicant's variance request #1 be **APPROVED**.

Variance Request #2 a variance of 180 feet from the required 330 foot lot width (Section 6.8 of the Peninsula Township Zoning Ordinance #2) for the remainder parcel to allow for a lot line adjustment.

FINDINGS UNDER SECTION 3.2 – DEFINITIONS – PRACTICAL DIFFICULTY OF THE ZONING ORDINANCE

The Board makes the following findings of fact as required by Section 3.2 definition of Practical Difficulty of the Ordinance for each of the following standards listed in that section:

1. Strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for any permitted purpose, or would render conformity unnecessarily burdensome;

The following findings may support this standard HAS been met.

- a. The Board finds that the property is zoned Agriculture (A-1). According to Section 6.7.2 (1) a single family residence is a use by right in the A-1 zoning district. (Exhibits 1, 2)
- b. The Board finds that the existing lot layout requires the placement of a residential structure in an area on Parcel "A" that is difficult to access due to topography and the public road frontage deficiency. (Exhibit 2, 3)

This standard HAS been met.

2. A variance would do substantial justice to the applicant as well as to other property owners in the district, and that a lesser relaxation would not give substantial relief and be more consistent with justice to others;

The following findings may support this standard HAS been met.

- a. The Board finds that the property is zoned Agriculture (A-1). According to Section 6.7.2 (1) a single family residence is a use by right in the A-1 zoning district. (Exhibits 1, 2)
- b. The Board finds that the existing lot layout requires the placement of a residential structure in an area of Parcel "A" that is difficult to access due to topography and the public road frontage deficiency. (Exhibit 2, 3)
- c. The Board finds that the lot line adjustment will allow increased safety for the proposed residential use on Parcel "A" by allowing the structure to be closer to the public right-of-way and in an area more readily accessed by emergency response. (Exhibit 3)
- d. The Board finds that residential density will be reduced by allowing the lot line adjustment and the placement of a conservation easement on the remainder parcel. (Exhibit 3)

This standard HAS been met.

3. The plight of the owner is due to unique circumstances of the property and the problem was not self-created.

The following findings may support this standard HAS been met.

- c. The Board finds that the property is zoned Agriculture (A-1). According to Section 6.7.2 (1) a single family residence is a use by right in the A-1 zoning district. (Exhibits 1, 2)
- d. The Board finds that the existing lot layout requires the placement of a residential structure in an area of Parcel "A" that is difficult to access due to topography and the public road frontage deficiency. (Exhibit 2, 3)

This standard HAS been met.

FINDINGS UNDER SECTION 5.7.3 VARIANCE OF THE ZONING ORDINANCE

The Board makes the following findings of fact as required by Section 5.7.3 of the Ordinance for each of the following standards listed in that section:

Basic Conditions: ALL of the Basic Conditions SHALL be clearly demonstrated.

1. Will not be contrary to the public interest or to the intent and purpose of this Ordinance.

The following findings may support this standard HAS been met.

- a. The Board finds that the property is zoned Agriculture (A-1). According to Section 6.7.2 (1) a single family residence is a use by right in the A-1 zoning district. (Exhibits 1, 2)
- b. The Board finds that the existing lot layout requires the placement of a residential structure in an area of Parcel "A" that is difficult to access due to topography and the public road frontage deficiency. (Exhibit 2, 3)
- c. The Board finds that the lot line adjustment will allow increased safety for the proposed residential use on Parcel "A" by allowing the structure to be closer to the public right-of-way and in an area more readily accessed by emergency response. (Exhibit 3)
- d. The Board finds that residential density will be reduced by allowing the lot line adjustment and the placement of a conservation easement on the remainder parcel. (Exhibit 3)

This standard HAS been met.

2. Shall not permit the establishment within a district any use which is not permitted by right, under special conditions, or by special use permit within that zone district, or any use or dimensional variance for which a conditional use permit is required.

The following findings may support this standard HAS been met.

- a. The Board finds that the property is zoned Agriculture (A-1). According to Section 6.7.2 (1) a single family residence is a use by right in the A-1 zoning district. (Exhibits 1, 2)

This standard HAS been met.

3. Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.

The following findings may support this standard HAS been met.

- a. The Board finds that generally the proposed lot line adjustment is unlikely to decrease the value of the subject property or that of any neighboring properties. (Exhibits 3, 4)

This standard HAS been met.

4. Is not where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical.

The following findings may support this standard HAS been met.

- a. The Board finds that the property is zoned Agriculture (A-1). According to Section 6.7.2 (1) a single family residence is a use by right in the A-1 zoning district. (Exhibits 1, 2)
- b. The Board finds that the existing lot layout requires the placement of a residential structure in an area of Parcel "A" that is difficult to access due to topography and the public road frontage deficiency. (Exhibit 2, 3)
- c. The Board finds that the lot line adjustment will allow increased safety for the proposed residential use on Parcel "A" by allowing the structure to be closer to the public right-of-way and in an area more readily accessed by emergency response. (Exhibit 3)
- d. The Board finds that residential density will be reduced by allowing the lot line adjustment and the placement of a conservation easement on the remainder parcel. (Exhibit 3)

This standard HAS been met.

5. Will relate only to the property that is under control of the applicant.

The following findings may support this standard HAS been met.

- a. The Board finds that the variance is specific to the applicant and property owners' parcel. (Exhibit 3)

This standard HAS been met.

Special Conditions: At least one shall be clearly demonstrated.

1. Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this Ordinance, these hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.

The following findings may support this standard HAS been met.

- a. The Board finds that the property is zoned Agriculture (A-1). According to Section 6.7.2 (1) a single family residence is a use by right in the A-1 zoning district. (Exhibits 1, 2)
- b. The Board finds that the existing lot layout requires the placement of a residential structure in an area of Parcel "A" that is difficult to access due to topography and the public road frontage deficiency. (Exhibit 2, 3)
- c. The Board finds that the lot line adjustment will allow increased safety for the proposed residential use on Parcel "A" by allowing the structure to be closer to the public right-of-way and in an area more readily accessed by emergency response. (Exhibit 3)
- d. The Board finds that residential density will be reduced by allowing the lot line adjustment and the placement of a conservation easement on the remainder parcel. (Exhibit 3)

This standard HAS been met.

2. Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness shape, or topography of the property involved, or to the intended use of the property that do not generally apply to other property or uses in the same zoning district. Such circumstances or

conditions shall not have resulted from any act of the applicant subsequent to the adoption of this Ordinance.

The following findings may support this standard HAS been met.

- a. The Board finds that the property is zoned Agriculture (A-1). According to Section 6.7.2 (1) a single family residence is a use by right in the A-1 zoning district. (Exhibits 1, 2)
- b. The Board finds that the existing lot layout requires the placement of a residential structure in an area of Parcel "A" that is difficult to access due to topography and the public road frontage deficiency. (Exhibit 2, 3)
- c. The Board finds that the lot line adjustment will allow increased safety for the proposed residential use on Parcel "A" by allowing the structure to be closer to the public right-of-way and in an area more readily accessed by emergency response. (Exhibit 3)
- d. The Board finds that residential density will be reduced by allowing the lot line adjustment and the placement of a conservation easement on the remainder parcel. (Exhibit 3)

This standard HAS been met.

VARIANCE REQUEST # 2 MOTION TO APPROVE

MOTION: Soutar/Wunsch to approve the standards have been met for practical difficulty, basic conditions, and special conditions 1 & 2, as well as to approve variance request #2 with the condition of approval of the successful execution of the proposed conservation easement by the Grand Traverse Regional Land Conservancy.

MOTION PASSED (unanimous)

The Peninsula Township Board of Appeals has **APPROVED** your request for a variance of 180 feet from the required 330 foot lot width (Section 6.8 of the Peninsula Township Zoning Ordinance #2) for the remainder parcel to allow for a lot line adjustment.

CONDITIONS OF APPROVAL

1. The successful execution of the proposed conservation easement by the Grand Traverse Regional Land Conservancy

DECISION

Upon motion, seconded and passed the Board ruled that the Applicant's variance request #1 be **APPROVED**.

Variance Request # 3 a variance of 224.13 feet from the required 3:1 width to depth ratio (Section 6(d) of the Peninsula Township Land Division Ordinance) for Parcel "A".

FINDINGS UNDER SECTION 7(C) OF THE PENINSULA TOWNSHIP LAND DIVISION ORDINANCE—ZONING BOARD OF APPEALS—GRANTING OF VARIANCES

The board makes the following findings of fact as required by Section 7(c) for each of the following standards listed in that section:

1. Exceptional or extraordinary circumstances or conditions exist on the parent parcel, including exceptional topographic or physical conditions that do not generally apply to other lots, parcels, or tracts of land in the township.

The following findings may support this standard HAS been met

- a. The Board finds that currently there are exceptional topographical challenges at both parent parcel road frontages, as the properties have significant slopes that rise westerly and are heavily wooded. (Exhibit 3)
- b. The Board finds that the existing 68 feet of road frontage at the remainder parcel is significantly less frontage than typical agriculturally zoned properties. (Exhibit 2, 3)
- c. The Board finds the small frontage significantly compromises access as a 70 foot wide corridor is maintained into the property for a depth of over 700 feet. (Exhibit3)

This standard HAS been met.

2. The exceptional or extraordinary circumstances or conditions existing on the parent parcels are not the result of any act or omission by the Applicant or his or her predecessors in title.

The following findings may support this standard HAS been met

- a. The Board finds that the exceptional or extraordinary circumstances or conditions are not the result of any act or omission by the Applicant or his or her predecessors in title. (Exhibit 3)

This standard HAS been met.

3. The granting of the variance shall not be injurious or otherwise detrimental to adjoining lots, parcels, or tracts of land or to the general health, safety and general welfare of the township.

The following findings may support this standard HAS been met

- a. The Board finds that the applicant request is not creating greater density, as the applicant is not creating any additional building sites. (Exhibit 3)
- b. The Board finds that significant earth changing and tree removal will be avoided, as the 68 foot by 700+ foot entry point for the remainder parcel will not need to be cleared for access. (Exhibit 3)
- c. The Board finds that the number of driveways along Craig Rd may be reduced, as the new lot line configuration will allow a shared entry point for both parcels. (Exhibit 3)
- d. The Board finds that general health and safety is improved by avoiding the installation of a 68 foot driveway up treacherous slopes for a 700+ depth into the property. (Exhibit 3)

This standard HAS been met.

4. The resulting lots, parcels, or tracts of land with the variance granted shall be compatible with surrounding lots, parcels, or tracts of land.

The following findings may support this standard HAS been met

- a. The Board finds that the parcels shall be compatible with surrounding parcels as the majority of the contiguous acreage is also heavily wooded. (Exhibit 3)
- b. The Board finds that the request is not creating any additional density. (Exhibit 3)

This standard HAS been met.

5. The variance granted shall be the minimum variance that will make possible the reasonable use of the parent parcel.

The following findings may support this standard HAS been met

- a. The Board finds that preserving the required 330 foot frontage standard for one parcel to be impractical, as it perpetuates a serious deficiency in frontage for the remaining site. (Exhibit 3)
- b. The Board finds that the resulting parcel configuration to be more suitably conducive to two resulting building sites. (Exhibit 3)

This standard HAS been met.

MOTION: Wunsch/Soutar to approve all five standards have been met.

MOTION PASSED (unanimous)

VARIANCE REQUEST #3 MOTION TO APPROVE

MOTION: Wunsch/Soutar to approve variance request #3 with the condition of approval of the successful execution of the proposed conservation easement by the Grand Traverse Regional Land Conservancy.

MOTION PASSED (unanimous)

The Peninsula Township Board of Appeals has **APPROVED** your request for a variance of 224.13 feet from the required 3:1 width to depth ratio (Section 6(d) of the Peninsula Township Land Division Ordinance) for Parcel "A".

CONDITIONS FOR APPROVAL

1. The successful execution of the proposed conservation easement by the Grand Traverse Regional Land Conservancy

DECISION

Upon motion, seconded and passed the Board ruled that the Applicant's variance request #3 be **APPROVED.**

TIME PERIOD FOR JUDICIAL REVIEW

Mcl 125.3606 provides that any party aggrieved by a decision of the Zoning Board of Appeals may appeal that decision to the Circuit Court within thirty (30) days after the Zoning Board of Appeals issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the ZBA, if there is no chairperson, or within twenty-one (21) days after the Zoning Board of Appeals approves the minutes of the meeting at which the decision was made.

DATE DECISION AND ORDER ADOPTED

Date

Chairperson

Date

Vice Chairperson

Secretary

E. Request No. 850, Zoning R-1C

Applicant: Rembrandt Construction Inc. c/o Jeff Black, 10667 Candleton, Traverse City, MI 49684
Owner: George & Donna L. Schuhmacher, 307 Davis St. Apt 4, Traverse City, MI 49686
Property Address: 658 Walnut Ridge, Traverse City, MI 49686

Request: (1) a variance of 12 feet (12') from the required 15 foot (15') side yard setback to allow for the construction of a retaining wall to support a drain and paved driveway.

Parcel Code Nos. 28-11-687-006-00

Schoolmaster presented Staff Report which requests a variance of the 12-foot variance from the required 15-foot side yard setback to allow for construction of a retaining wall.

Jeff Black, Rembrandt Construction, 10677 Candleton spoke on behalf of the owners. Mr. Black spoke of the need to hold the water runoff from the driveway and the desire provide a solution that would have the least impact on the neighbor.

Questions from the Board over the zoning code and the fact that once a retaining wall exceeds grade it becomes a structure. Applicant stated that he was aware that he needed to take care of the runoff but did not realize that the retaining wall would require a variance.

Vida asks for Public Comment For and Against Request No. 850.

John Boyton, 1719 Comanche, owns the property to the west. He appreciates the candor of the applicant but he is concerned about what the retaining wall will look like. He has not seen the plan and he does not know what the finished surface will be.

Applicant Black indicated that the wall would be 5 feet with 2 feet in the ground. It could be buried or could be planted with trees already purchased. He is open to discussion on this.

No further comments from the audience. Public Hearing closed at 8:31 p.m.

Discussion by the Board included comments that the contractor is working to minimize the effect of the runoff. Consensus of the Board was that they would hope the contractor would work with the neighbor to provide the most pleasing surface and plantings for the neighbors. The following decision was made:

Peninsula Township Planning & Zoning Department
FINDINGS OF FACT

ZBA Request #850 – 658 Walnut Ridge
June 9, 2016

DECISION AND ORDER

Applicant: Rembrandt Construction Inc. c/o Jeff Black, 10667 Candleton, Traverse City, MI 49684
Hearing Date: June 9, 2016

PROPERTY DESCRIPTION

The property of 658 Walnut Ridge Traverse City, MI 49686, Parcel No. 28-11-687-006-00 herein after referred to as the “property”.

APPLICATION

Requests: (1) a variance of 12 feet (12’) from the required 15 foot (15’) side yard setback to allow for the construction of a retaining wall to support a drain and paved driveway.

The Board having considered the Application, a public hearing having been held on June 9, 2016, after giving due notice as required by law, the Board having heard the statements of the Applicant and agents, the Board after having considered letters submitted by members of the public and comments by members of the public, the Board having considered five (5) exhibits, and the Board having reached a decision on this matter, states as follows:

GENERAL FINDINGS OF FACT

16. The Board finds that the property is currently zoned Suburban Residential Single and Two-Family (R-1C). (Exhibits 1, 2)
17. The Board finds that the lot was created in 2005 and is conforming. (Exhibit 5)
18. The Board finds that the existing single family residence is conforming and was built in 2015. (Exhibit 2)
19. The Board finds that the proposed retaining wall does not conform to relevant zoning standards. (Exhibits 2, 3, 4)
20. The Board finds that the applicant requests a variance of 12 feet (12’) from the required 15 foot (15’) side yard setback to allow for the construction of a retaining wall to support a drain and paved driveway. (Exhibit 3)

MOTION: Cowall/Soutar to approve the general findings of fact

MOTION PASSED (unanimous)

Variance Request #1 A variance of 12 feet (12’) from the required 15 foot (15’) side yard setback to allow for the construction of a retaining wall to support a drain and paved driveway

FINDINGS UNDER SECTION 3.2 – DEFINITIONS – PRACTICAL DIFFICULTY OF THE ZONING ORDINANCE

The Board makes the following findings of fact as required by Section 3.2 definition of Practical Difficulty of the Ordinance for each of the following standards listed in that section:

4. Strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for any permitted purpose, or would render conformity unnecessarily burdensome;

The following findings may support this standard HAS been met.

- c. The Board finds that the property has unique topography that slopes from east to west. (Exhibit 2, 5)
- d. The Board finds that the driveway requires a retaining wall and drain prevent long term washout and to protect the adjacent property owner's parcel. (Exhibit 3)
- e. The Board finds that a typical driveway turnaround requires a minimum 20 foot clearance from the garage door to ensure the safe operation of motor vehicles and drainage structure. (Exhibit 3)
- f. The Board finds that the existing driveway provides a 25 foot clearance from the garage door. (Exhibit 3)

This standard HAS been met.

5. A variance would do substantial justice to the applicant as well as to other property owners in the district, and that a lesser relaxation would not give substantial relief and be more consistent with justice to others;

The following findings may support this standard HAS been met.

- a. The Board finds that the property has unique topography that slopes from east to west. (Exhibit 2, 5)
- b. The Board finds that the driveway requires a retaining wall and drain prevent long term washout and to protect the adjacent property owner's parcel. (Exhibit 3)
- c. The Board finds that a typical driveway turnaround requires a minimum 20 foot clearance from the garage door to ensure the safe operation of motor vehicles and drainage structure. (Exhibit 3)
- d. The Board finds that the existing driveway provides a 25 foot clearance from the garage door. (Exhibit 3)

This standard HAS been met.

6. The plight of the owner is due to unique circumstances of the property and the problem was not self-created.

The following findings may support this standard HAS been met.

- a. The Board finds that the property has unique topography that slopes from east to west. (Exhibit 2, 5)

- b. The Board finds that the driveway requires a retaining wall and drain prevent long term washout and to protect the adjacent property owner's parcel. (Exhibit 3)
- c. The Board finds that a typical driveway turnaround requires a minimum 20 foot clearance from the garage door to ensure the safe operation of motor vehicles and drainage structure. (Exhibit 3)
- d. The Board finds that the existing driveway provides a 25 foot clearance from the garage door. (Exhibit 3)

This standard HAS been met.

MOTION: Vida/Soutar all three standards of practical difficulty have been met.

MOTION PASSED (unanimous)

FINDINGS UNDER SECTION 5.7.3 VARIANCE OF THE ZONING ORDINANCE

The Board makes the following findings of fact as required by Section 5.7.3 of the Ordinance for each of the following standards listed in that section:

Basic Conditions: ALL of the Basic Conditions SHALL be clearly demonstrated.

- 6. Will not be contrary to the public interest or to the intent and purpose of this Ordinance.

The following findings may support this standard HAS been met.

- a. The Board finds that the property has unique topography that slopes from east to west. (Exhibit 2, 5)
- b. The Board finds that the driveway requires a retaining wall and drain prevent long term washout and to protect the adjacent property owner's parcel. (Exhibit 3)
- c. The Board finds that a typical driveway turnaround requires a minimum 20 foot clearance from the garage door to ensure the safe operation of motor vehicles and drainage structure. (Exhibit 3)
- d. The Board finds that the existing driveway provides a 25 foot clearance from the garage door. (Exhibit 3)

This standard HAS been met.

MOTION: Vida/Cowall basic condition number one has been met.

MOTION PASSED (unanimous)

- 7. Shall not permit the establishment within a district any use which is not permitted by right, under special conditions, or by special use permit within that zone district, or any use or dimensional variance for which a conditional use permit is required.

The following findings may support this standard HAS been met.

- b. The Board finds that the property is zoned Coastal Zone Single and Two-Family (R-1B). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1C zoning district. (Exhibits 1, 2)

- c. The Board finds that the driveway requires a retaining wall and drain prevent long term washout and to protect the adjacent property owner's parcel. (Exhibit 3)

This standard HAS been met.

MOTION: Wunsch/Soutar basic condition number two has been met.

MOTION PASSED (unanimous)

- 8. Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.

The following findings may support this standard HAS been met.

- b. The Board finds that generally the proposed retaining wall is unlikely to decrease the value of the subject property or that of any neighboring properties. (Exhibits 3, 4)
- c. The Board finds that the driveway requires a retaining wall and drain prevent long term washout and to protect the adjacent property owner's parcel. (Exhibit 3)

This standard HAS been met.

MOTION: Wunsch/Soutar basic condition number three has been met.

MOTION PASSED (unanimous)

- 9. Is not where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical.

The following findings may support this standard HAS been met.

- a. The Board finds that the property has unique topography that slopes from east to west. (Exhibit 2, 5)
- b. The Board finds that the driveway requires a retaining wall and drain prevent long term washout and to protect the adjacent property owner's parcel. (Exhibit 3)
- c. The Board finds that a typical driveway turnaround requires a minimum 20 foot clearance from the garage door to ensure the safe operation of motor vehicles and drainage structure. (Exhibit 3)
- d. The Board finds that the existing driveway provides a 25 foot clearance from the garage door. (Exhibit 3)

Consensus is this standard HAS been met (unanimous).

- 10. Will relate only to the property that is under control of the applicant.

The following findings may support this standard HAS been met.

- b. The Board finds that the applicant is the appointed representative for the property owner and the variance is specific to the property owner's parcel. (Exhibit 3)

Consensus is this standard HAS been met (unanimous).

Special Conditions: At least one shall be clearly demonstrated.

3. Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this Ordinance, these hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.

The following findings may support this standard HAS been met.

- a. The Board finds that the property has unique topography that slopes from east to west. (Exhibit 2, 5)
- b. The Board finds that the driveway requires a retaining wall and drain prevent long term washout and to protect the adjacent property owner's parcel. (Exhibit 3)
- c. The Board finds that a typical driveway turnaround requires a minimum 20 foot clearance from the garage door to ensure the safe operation of motor vehicles and drainage structure. (Exhibit 3)
- d. The Board finds that the existing driveway provides a 25 foot clearance from the garage door. (Exhibit 3)

This standard HAS been met.

MOTION: Wunsch/Soutar basic condition number three has been met.

MOTION PASSED (unanimous)

VARIANCE REQUEST # 1 MOTION TO APPROVE

MOTION: Soutar/Wunsch to approve Variance Request #850 based on the findings of fact as discussed.

MOTION PASSED (unanimous)

The Peninsula Township Board of Appeals has **APPROVED** your request for a variance of 12 feet (12') from the required 15 foot (15') side yard setback to allow for the construction of a retaining wall to support a drain and paved driveway structure.

DECISION

Upon motion, seconded and passed the Board ruled that the Applicant's variance request #1 be **APPROVED**.

TIME PERIOD FOR JUDICIAL REVIEW

Mcl 125.3606 provides that any party aggrieved by a decision of the Zoning Board of Appeals may appeal that decision to the Circuit Court within thirty (30) days after the Zoning Board of Appeals issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the ZBA, if there is no chairperson, or within twenty-one (21) days after the Zoning Board of Appeals approves the minutes of the meeting at which the decision was made.

DATE DECISION AND ORDER ADOPTED

Date

Chairperson

Date

Vice Chairperson

Secretary

F. Request No. 851, Zoning A-1

Applicant: Burkholder Construction c/o Scott Wright, 2206 Cass Rd., Traverse City, MI 49684
Owner: Mary Ann & Mario Tabone, 379 Red Ryder Dr., Plymouth, MI 48170
Property Address: 14998 Peninsula Dr., Traverse City, MI 49686

Request: (1) a variance of 11 feet 2 inches (11' 2") from the required 100 foot (100') side yard setback to allow for the construction of a farm processing facility structure.

Parcel Code Nos. 28-11-122-010-00

Schoolmaster presented the staff report on this request. There was discussion that this original property had a permit as a food processing plant but was now requesting a farm processing facility. Board consensus was that the issue was not the fact that the building had burned but that there was not an 11'2" variance due to the loading dock.

Maria Tabone, 14998 Peninsula Drive was present. Tabone presented background on previous approval given to the structure. Contractor Scott Wright, 2206 Cass also present to discuss current plan and the belief that a tasting room was always the intent of this site.

Discussion continued by the Board with the consensus that it maybe worthwhile to look at the history of this property and that the history could be relevant to the current situation. Discussion also was held on the lot line variance and the fact that if there was the ability to purchase the additional 11'2" that the variance would not be necessary.

Staff to look into history of this property. Applicant to speak with adjoining property owner.

Vida asks for Public Comment For and Against Request No. 851. No Comments. Public Hearing closed at 9:16 P.M.

MOTION: Wunsch/Soutar to adjourn Request No. 851 to the June 23, 2016 meeting.

PASSED UNAN

Approval of Minutes

A. May 12, 2016 Regular Meeting

Typographical error noted in the spelling of Cowall last name.

MOTION: Cowall/Wunsch to approve minutes of May 12, 2016 as amended.

PASSED UNAN

New Business

A. Township Board Report (Witkop)

Witkop reported that the Town Board has been working with the Planning Commission on the Zoning Ordinance re-write.

B. Planning Commission Report (Wunsch)

Wunsch reported that Planning Commission is also working on Zoning Ordinance re-write.

MOTION: Cowall/Wunsch to adjourn at 9:19 P.M.

Respectfully submitted by Mary Ann Abbott, Recording Secretary