

**PENINSULA TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES
NOVEMBER 10, 2016**

Meeting called to order at 7:03 PM

Present: **Vida**-Chair; **Cowall**; **Soutar**; **Witkop**. Also present were Claire Herman, Township Zoning and Planning, Nicole Essad, Township Attorney and Mary Ann Abbott, Recording Secretary.

Absent: Wunsch (excused)

Vida began meeting with thanking Claire Herman and Wendy Witkop for their service to Peninsula Township and the Zoning Board of Appeals.

Approval of Agenda

MOTION: Soutar/Cowall to approve agenda as presented.

PASSED UNAN

Conflict of Interest

None

Communication Received

None

Public Comment

None

New Business

None

Old Business

A. Request No. 853, Zoning R-1C (*adjourned from October 13, 2016*)

Applicant: Daniel & Margaret Casey, 7002 Peninsula Drive, Traverse City, MI 49686

Owner: Daniel & Margaret Casey, 7002 Peninsula Drive, Traverse City, MI 49686

Property Address: 7002 Peninsula Drive, Traverse City, MI 49686

Requests: (1) a variance of up to 6 feet from the 15 foot side yard setback requirement to allow for the construction of a 720 square foot attached garage.

Parcel Code No. 28-11-325-085-00

MOTION: Witkop/Cowall to reopen the September 8, 2016 Public Hearing for the Variance Request No. 853 which was adjourned to October 13, 2016, which was again adjourned, at the applicant's request to November 10, 2016.

PASSED UNAN

Herman presented a review of Request No. 853 that is requesting to build an attached garage. A land swap has been arranged by the applicant that would eliminate the original rear yard variance request. The request for a side yard setback of up to 6 feet from the 15-foot side yard setback requirement remains.

Applicant *Daniel Casey and Dusty Christensen* of Mansfield Land Use Consultants discussed the land swap and dimensions of the proposed garage. There is an existing shed that will be removed from the side yard.

Witkop notes letter of support from Bill Janis.

Vida asks for any comments from the public for or against this variance request. Hearing none **Vida** closes the Public Hearing at 7:14 PM.

Further discussion of the board expressed appreciation for the land swap, concern that the swap takes place before building begins and questions on the size and location of the garage. Concern is that a single car garage would eliminate the need of a

of a 720 square foot attached garage.

FINDINGS UNDER SECTION 5.7.3 VARIANCES OF THE ZONING ORDINANCE

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

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

1. 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.

The following findings may support this standard HAS been met.

- a. The Board finds that the parcel is has a unique shape and was created before the effective date of the Zoning Ordinance (Exhibit 4).
- b. The Board finds that the parcel is nonconforming. The total area is approximately 13,050 square feet, and the minimum area for a parcel in the R-1C zoning district is 20,000 square feet. (Exhibit 1, 2, 3)
- c. The Board finds that the property has unique topography with a steep slope in the rear yard. (Exhibit 3, 4)

This standard HAS been met.

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

MOTION PASSED 3-1 (Soutar)

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

The following findings may support this standard HAS been met.

- a. The Board finds that the parcel is has a unique shape and was created before the effective date of the Zoning Ordinance (Exhibit 4).
- b. The Board finds that the parcel is nonconforming. The total area is approximately 13,050 square feet, and the minimum area for a parcel in the R-1C zoning district is 20,000 square feet. (Exhibit 1, 2, 3)
- c. The Board finds that the property has unique topography with a steep slope in the rear yard. (Exhibit 3, 4)

This standard HAS been met.

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

MOTION PASSED UNAN

3. 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.)

The following findings may support this standard HAS been met.

- a. The Board finds that the parcel is has a unique shape and was created before the effective date of the Zoning Ordinance (Exhibit 4).
- b. The Board finds that the parcel is nonconforming. The total area is approximately 13,050 square feet, and the minimum area for a parcel in the R-1C zoning district is 20,000 square feet. (Exhibit 1, 2, 3)
- c. The Board finds that the property has unique topography with a steep slope in the rear yard. (Exhibit 3, 4)

This standard HAS been met.

MOTION: Witkop/Vida basic condition number three has been met.

MOTION PASSED 3-1 (Soutar)

4. 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.

The following findings may support this standard HAS been met.

- a. The Board finds that the parcel is has a unique shape and was created before the effective date of the Zoning Ordinance (Exhibit 4).
- b. The Board finds that the parcel is nonconforming. The total area is approximately 13,050 square feet, and the minimum area for a parcel in the R-1C zoning district is 20,000 square feet. (Exhibit 1, 2, 3)
- c. The Board finds that the property has unique topography with a steep slope in the rear yard. (Exhibit 3, 4)

This standard HAS been met.

MOTION: Witkop/Cowall basic condition number four has been met.

MOTION PASSED 3-1 (Soutar)

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

The following findings may support this standard HAS been met.

- a. The Board finds that generally proposed garage is unlikely to cause adverse impacts of the subject property or that of any neighboring properties. (Exhibits 3, 4)

This standard HAS been met.

MOTION: Vida/Soutar basic condition number five has been met.

MOTION PASSED UNAN

- 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.

The following findings may support this standard HAS been met.

- a. The Board finds that the property is zoned Suburban Residential Single and Two-Family (R-1C). 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)

This standard HAS been met.

MOTION: Witkop/Cowall basic condition number six has been met.

MOTION PASSED 3-1 (Soutar)

VARIANCE REQUEST # 1 MOTION TO APPROVE

The Peninsula Township Board of Appeals has **APPROVED** your request for a variance of up to 6 feet from the 15 foot side yard setback requirement to allow for the construction of a 720 square foot attached garage.

CONDITIONS OF APPROVAL

- 1. Execution of the land swap as depicted on the Exhibit #3 site plan.

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

MOTION PASSED 3-1

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

Approval of the Minutes

A. October 13, 2016

Correction to minutes showing Wunsch as alternate.

MOTION: Soutar/Witkop to approve minutes with correction.

PASSED UNAN

Township Board Report (Witkop)

Witkop reported that most of the work being done is on the Zoning Ordinance.

Planning Commission (Wunsch)

No report

Public Comment

Marilyn Elliott, 18111 Whispering Trail expressed that she will miss both Claire Herman and Wendy Witkop and hopes that the two of them will continue to stay involved with Peninsula Township.

MOTION: Witkop/Cowall to adjourn at 7:32PM.

Respectfully submitted by Mary Ann Abbott, Recording Secretary.