

**PENINSULA TOWNSHIP
ZONING BOARD OF APPEALS**

AGENDA

13235 Center Road
Traverse City, MI 49686

May 12, 2016

7:00 p.m.

1. **Call to Order**
2. **Pledge**
3. **Roll Call of Attendance**
4. **Approval of Agenda**
5. **Conflict of Interest**
6. **Communication Received**
7. **Public Input**
8. **Scheduled Public Hearings**

A. Request No. 846, Zoning R-1B

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

B. Request No. 847, Interpretation

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?

C. Request No. 848, Interpretation

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?

9. Approval of Minutes

- A. March 10, 2016 Regular Meeting

10. New Business

- A. Township Board Report (Witkop)
- B. Planning Commission Report (Wunsch)

11. Adjournment

Peninsula Township has several portable hearing devices available for audience members. If you would like to use one, please ask the Clerk.

PENINSULA TOWNSHIP
Zoning Board of Appeals
March 10, 2016

Meeting called to order at 7:00 p.m.

Roll Call

Present: Cowall, Wunsch, Soutar (Chair), Witkop and Elliott

Absent: Vida (excused)

Also Present: **Michelle Reardon**, Director of Planning and Zoning, **Claire Schoolmaster**, Planning and Zoning Coordinator and **Deb Hamilton**, Recording Secretary

Approve Agenda

MOTION: Cowall/Wunsch to approve the agenda as presented. **MOTION PASSED**

Conflict of Interest

None

Communication Received

None

Public Input

None

Scheduled Public Hearings

A. Request No. 842, Zoning R-1B

Applicant: Ted M. Price, 812 S. Garfield, Suite K, Traverse City, MI 49686

Owner: John F. & Susan K. Boles, 25111 Waterstone Estates Cir E., Tomball, TX 77375

Property Address: 9064 Peninsula Dr., Traverse City, MI 49686

Request: (1) a variance of 5 feet and 11 inches (5' 11'') from the required 15 feet (15') side yard setback to allow for the construction of a 131 square foot covered deck addition.

Parcel Code No. 28-11-690-006-00

Reardon reviewed the request. *Ted Price, 812 S Garfield Suite K, Traverse City*, said when the house was built in 1948 it was set on a non-conforming angle. They are trying to improve on the aesthetics of the home. When the trees came down last August they began exploring covering the deck. There are dormers in the roof line. The roof lines will look nicer without having roof line that is part way through a dormer. That is why there is an additional 2 feet 11 inches beyond the current encroachment.

Soutar opened Public Hearing at 7:08 p.m.

Pete Erickson, 9040 Peninsula Dr., said he lives in the house to the south. Peninsula Drive is one of the most scenic drives in the country. The house directly to the north of Boles is dilapidated. Aesthetics as one drives out Peninsula Drive is important. The house is symmetrical house. In order to maintain that aesthetic value he thinks what the Boles and Mr. Price have come up with is aesthetically

pleasing. If the request is not approved it would not be in keeping with symmetric design of the house that is currently there.

Soutar closed Public Hearing at 7:10 p.m.

Cowall said appreciates the desire for a certain aesthetic but does not find any redeeming quality in this request as it pertains to the ordinance itself. It is difficult to work through the basic and special conditions and not find multiple opportunities to deny the request. There is room on the lot to design something that would completely fall within the ordinance. It would be personally difficult to accept a variance on this. **Elliot** said aesthetics does not support the code but does not have an objection going another 2 feet 11 inches. **Soutar** said to would be nice to find a way to make this aesthetically pleasing but the request is against the specifics of the ordinance. **Witkop** said agrees the standards in this township are tough but the standards are that way for a reason. Aesthetically this would look great but will have a hard time finding anything to approve it. **Wunsch** agrees largely with what has been said. On the face of it he likes the proposal but he does not see how he could rationalize approving this request.

Ted Price said he appreciates what the Board is saying but go back to the fact the house was built in 1948 at a goofy angle. The house is already non-conforming as it is. The Boles are playing the hand they were dealt but playing the best way they can. There are other ways of doing it but will probably not look good or manage the water as it comes off the roof. We feel have picked best choice from a construction, water management and aesthetic perspective. Price asked the Board to reconsider.

Soutar said the Board has to look at the law, how it needs to be applied and whether this would set a precedent. **Witkop** said the applicant mentioned other options. There is the option to not do anything at all.

Peninsula Township Planning & Zoning Department
FINDINGS OF FACT

ZBA Request #842 – 9064 Peninsula Dr.
March 10, 2016

DECISION AND ORDER

Applicant: Ted Price, appointed representative of property owner

Hearing

Date: March 10, 2016

PROPERTY DESCRIPTION

The property of 9064 Peninsula Dr., Traverse City, MI 49686, Parcel No. 28-11-690-006-00, herein after referred to as the "property".

APPLICATION

Request: (1) a variance of 5 feet 11 inches (5'11") from the required 15 feet side yard setback for a 131 square foot covered deck addition.

The Board having considered the Application, a public hearing having been held on March 10, 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 six (6) exhibits, and the Board having reached a decision on this matter, states as follows:

GENERAL FINDINGS OF FACT

1. The Board finds that the property is currently zoned Coastal Zone Single and Two-Family (R-1B). (Exhibits 1, 2)
2. The Board finds that the lot was platted and the residential structure was built in 1948. Both are legally nonconforming. (Exhibit 5)
3. The Board finds that the existing deck was permitted in error in 1985 due to an incorrect site plan, and is therefore a legally non-conforming structure. (Exhibits 2, 6)
4. The Board finds that the proposed covered deck addition does not conform to relevant zoning standards. (Exhibits 2, 3, 4)
5. The Board finds that the applicant requests (1) a variance of 5 feet 11 inches (5'11") from the required 15 feet side yard setback for a 131 square foot covered deck addition.

MOTION: Wunsch/Cowall to approve the general Findings of Fact. **MOTION PASSED**

Variance Request #1 A variance of 5 feet 11 inches (5'11") from the required 15 feet side yard setback for a 131 square foot covered deck addition.

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 NOT 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 an attached deck is a customary accessory structure to a primary structure and is a use by right in the R-1B zoning district, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)
- b. The Board finds that there is an existing attached deck currently in use. (Exhibits 3,4)
- c. The Board finds that the proposed addition does not comply with the side yard setback requirement. (Exhibits 2, 3, 4)
- d. The Board finds that according to Section 7.5.4 a variance would not be needed to construct a roof structure for the existing nonconforming attached deck. (Exhibit 2)

This standard HAS NOT 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 NOT 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 an attached deck is a customary accessory structure to a primary structure and is a use by right in the R-1B zoning district, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)
- b. The Board finds that there is an existing attached deck currently in use. (Exhibits 3,4)
- c. The Board finds that the proposed addition does not comply with the side yard setback requirement. (Exhibits 2, 3, 4)
- d. The Board finds that according to Section 7.5.4 a variance would not be needed to construct a roof structure for the existing nonconforming attached deck. (Exhibit 2)

This standard HAS NOT 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 NOT 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 an attached deck is a customary accessory structure to a primary structure and is a use by right in the R-1B zoning district, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)
- b. The Board finds that there is an existing attached deck currently in use. (Exhibits 3,4)
- c. The Board finds that the proposed addition does not comply with the side yard setback requirement. (Exhibits 2, 3, 4)
- d. The Board finds that according to Section 7.5.4 a variance would not be needed to construct a roof structure for the existing nonconforming attached deck. (Exhibit 2)

This standard HAS NOT been met.

MOTION: Witkop/Cowall all three of the practical difficulties have not been met.

Roll Call Vote: Elliott-yes, Soutar-yes, Witkop-yes, Wunsch-yes and Cowall-yes **MOTION PASSED**

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 NOT 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 an attached deck is a customary accessory structure to a primary structure and is a use by right in the R-1B zoning district, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)
- b. The Board finds that there is an existing attached deck currently in use. (Exhibits 3,4)
- c. The Board finds that the proposed addition does not comply with the side yard setback requirement. (Exhibits 2, 3, 4)
- d. The Board finds that according to Section 7.5.4 a variance would not be needed to construct a roof structure for the existing nonconforming attached deck. (Exhibit 2)

This standard HAS NOT 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 NOT 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 an attached deck is a customary accessory structure to a primary structure and is a use by right in the R-1B zoning district, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)
- b. The Board finds that there is an existing attached deck currently in use. (Exhibits 3,4)
- c. The Board finds that the proposed addition does not comply with the side yard setback requirement. (Exhibits 2, 3, 4)
- d. The Board finds that according to Section 7.5.4 a variance would not be needed to construct a roof structure for the existing nonconforming attached deck. (Exhibit 2)

This standard HAS NOT 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 deck 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 NOT 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 an attached deck is a customary accessory structure to a primary structure and is a use by right in the R-1B zoning district, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)
- b. The Board finds that there is an existing attached deck currently in use. (Exhibits 3,4)
- c. The Board finds that the proposed addition **does** not comply with the side yard setback requirement. (Exhibits 2, 3, 4)
- d. The Board finds that according to Section 7.5.4 a variance would not be needed to construct a roof structure for the existing nonconforming attached deck. (Exhibit 2)

This standard HAS NOT 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 applicant is the appointed representative of the property owner and the variance is specific to the property owners' parcel. (Exhibit 3)

This standard HAS been met.

MOTION: Wunsch/Cowall Basic Conditions 1, 2 and 4 have not been met.

Roll Call Vote: Soutar-yes, Witkop-yes, Wunsch-yes, Cowall-yes and Elliott-yes **MOTION PASSED**

MOTION: Witkop/Wunsch Basic Conditions 3 and 5 have been met.

Roll Call Vote: Witkop-yes, Wunsch-yes, Cowall-yes, Elliott-yes and Soutar-yes **MOTION PASSED**

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

This standard HAS been met.

MOTION: Witkop/Wunsch Special Condition 3 - the standard has been met.

Roll Call Vote: Cowall-yes, Elliot-yes, Soutar-yes, Witkop-yes and Wunsch-yes **MOTION PASSED**

VARIANCE REQUEST # 1 MOTION TO APPROVE / DENY

MOTION: Elliott/Witkop The Peninsula Township Board of Appeals has **DENIED** your request for a variance of 5 feet 11 inches (5'11") from the required 15 feet side yard setback for a 131 square foot covered deck addition.

Roll Call Vote: Elliott-yes, Soutar-yes, Witkop-yes, Wunsch-yes and Cowall-yes **MOTION PASSED**

CONDITIONS OF APPROVAL

- 1.
- 2.
- 3.

DECISION

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

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

B. Request No. 844, Zoning A1

Applicant: Josh & Lesli Humphrey, 1101 Elmer Dr., Traverse City, MI 49686

Owner: Josh & Lesli Humphrey, 1101 Elmer Dr., Traverse City, MI 49686

Property Address: 1101 Elmer Dr., Traverse City, MI 49686

Request: (1) a variance of 14 feet (14') from the required 35 feet (35') front yard setback to allow for the construction of a covered porch addition.

Parcel Code No. 28-11-008-021-55

Reardon reviewed request. *Lesli Humphrey, 1101 Elmer Dr.*, said it is an interesting lot. 10 acres with an existing home built in 1974. The parcel originally was larger. The two adjacent parcels were part of the parent parcel. When the house was built it was conforming. When the original lot owner sold off the

adjacent parcels it became legal non-conforming. Applicant is proposing a small non-conforming portion in the front with an overhang and bringing out the front porch so it is not a little sliver. The applicant did remove the decking on west side that was non-conforming which lessens the non-conformity. Adding the overhang and covering the porch will help preserve the foundation. *Josh Humphrey, 1101 Elmer Dr.*, said there is some water seepage into basement because the water drains directly off the surface of the house. This roof will help shed that water out further and help preserve the foundation. They want to improve the home and the functionality. *Lesli Humphrey* said the majority is conforming.

Elliott said the word she heard that interested her was “foundation”. She notices serious challenges with the foundation. **Witkop** asked how the little corner portion helps. *Lesli Humphrey* said there are two roof lines there. **Witkop** said so the roof line is diverting the water. *Lesli Humphrey* said yes. **Cowall** asked if any other design was looked at that was totally conforming. *Lesli Humphrey* said the house is non-conforming any roof overhang will be non-conforming. *Josh Humphrey* said looked at moving the door further but it restricts the functionality of the home. *Lesli Humphrey* said the retaining wall slopes down and moving the door down gets into the grade. **Soutar** said removing the deck (a non-conforming structure) helps the application and supported it by structural improvement. Soutar also commented on driveway and the agricultural zoning.

Soutar opened the Public Hearing at 7:43 p.m.

David Clark, 11522 Peninsula Dr., said looks like a minor thing and approves.

Soutar closed the Public Hearing at 7:44 p.m.

Soutar said the applicant has given the Board reasons why it could be approved. From a structural standpoint this would be positive for community. Soutar is in favor of variance. **Witkop** said overhangs are important in Michigan. She was concerned about adding on the other area but it makes sense with the door placement. Witkop feels the applicant has done everything they could have done and attempted to meet the ordinance. **Wunsch** said considering structural challenges and the property he can see reasons to grant the variance. **Cowall** said appreciates the request and feel the applicant is operating in good faith. Cowall asked staff how that side is the front. **Reardon** said the ordinance defines the lot line which is or contains the road line of the principle road or right-of-way providing access to the lot. **Elliott** said applicant has had difficulties and made a good faith effort to address with as compliant solution as they could.

Peninsula Township Planning & Zoning Department
FINDINGS OF FACT

ZBA Request #844 – 1101 Elmer Dr.
March 10, 2016

DECISION AND ORDER

Applicant: Josh & Lesli Humphrey, property owners

Hearing

Date: March 10, 2016

PROPERTY DESCRIPTION

The property of 1101 Elmer Dr., Traverse City, MI 49686, Parcel No. 28-11-008-021-55, herein after referred to as the "property".

APPLICATION

Request: (1) a variance of 14 feet (14') from the required 35 feet (35') front yard setback to allow for the construction of a covered porch addition.

The Board having considered the Application, a public hearing having been held on March 10, 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 property is currently zoned Agricultural (A-1). (Exhibits 1, 2)
2. The Board finds that the lot and structure were both created in 1974. (Exhibit 3)
3. The Board finds that the existing residential structure is legally non-conforming. (Exhibits 2, 5)
4. The Board finds that the proposed covered porch addition does not conform to relevant zoning standards. (Exhibits 2, 3, 4, 5)
5. The Board finds that the applicant requests (1) a variance of 14 feet (14') from the required 35 feet (35') front yard setback to allow for the construction of a covered porch addition. (Exhibit 3)

MOTION: Witkop/Wunsch to approve the general Findings of Fact. **MOTION PASSED**

Variance Request #1 a variance of 14 feet (14') from the required 35 feet (35') front yard setback to allow for the construction of a covered porch addition.

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 strict compliance with the ordinance would result in further damage to the legal non-conforming residential structure. (Exhibit 3, 5)

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 a letter relaxation would result in further damage to a legal non-conforming structure. (Exhibit 3, 5)

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 plight of the owner is due to unique circumstances; specifically the existing roof line is causing damage to the foundation of the legal non-conforming structure and the topography of the site. (Exhibit 3, 5)

This standard HAS been met.

MOTION: Wunsch/Witkop to approve the findings of fact supporting the standard for items 1, 2 & 3.
Roll Call Vote: Witkop-yes, Wunsch-yes, Cowall-yes, Elliott-yes and Soutar-yes **MOTION PASSED**

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 zoning Agricultural (A-1). According to Section 6.2.2 an attached porch is a customary accessory structure to a primary structure and is a use by right in the A-1 zoning district. (Exhibit 2)
- b. The Board finds that the altered roof line and overhangs are necessary to protect a legal non-conforming residential structure. (Exhibit 3, 5)

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 zoning Agricultural (A-1). According to Section 6.2.2 an attached porch is a customary accessory structure to a primary structure and is a use by right in the A-1 zoning district. (Exhibit 2)
- b. The Board finds that the altered roof line and overhangs are necessary to protect a legal non-conforming residential structure. (Exhibit 3, 5)

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 covered porch 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 conditions relating to the property are special and unique; specifically the existing roof line is causing damage to the foundation of the legal non-conforming structure and the topography of the site. (Exhibit 3, 5)

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 applicant is the property owner and the variance is specific to the property owners' parcel. (Exhibit 3)

This standard HAS been met.

MOTION: Witkop/Elliott the Basic Conditions have been met.

Roll Call Vote: Wunsch-yes, Cowall-yes, Elliott-yes, Soutar-yes and Witkop-yes **MOTION PASSED**

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 existing roof line is causing damage to the legal non-conforming residential structure and the topography of this site is such that the altered roof lines and overhangs are necessary to protect the structure from further damage. (Exhibit 3, 5)

This standard HAS been met.

MOTION: Elliott/Witkop Special Condition #1 has been met.

Roll Call Vote: Cowall-yes, Elliott-yes, Soutar-yes, Witkop-yes and Wunsch-yes **MOTION PASSED**

VARIANCE REQUEST # 1 MOTION TO APPROVE

MOTION: Witkop/Wunsch The Peninsula Township Board of Appeals has **APPROVED** your request for a variance of 14 feet (14') from the required 35 feet (35') front yard setback to allow for the construction of a covered porch addition.

Roll Call Vote: Elliott-yes, Soutar-yes Witkop-yes, Wunsch-yes and Cowall-yes **MOTION PASSED**

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

Reardon informed the applicant they will need to apply for a Land Use Permit.

C. Request No. 845, Zoning R-1B

Applicant: David J. Clark, 11522 Peninsula Dr., Traverse City, MI 49686

Owner: David J. Clark, 11522 Peninsula Dr., Traverse City, MI 49686

Property Address: 11522 Peninsula Dr., Traverse City, MI 49686

Requests: (1) a variance of 6 feet (6') from the required 30 feet (30') front yard setback to allow for the construction of a 132 square foot residential addition; (2) a variance of 9 feet (9') from the required 30 feet (30') front yard setback to allow for the construction of an 888 square foot attached garage; (3) a variance of 2.7% from the required 15% maximum area coverage to allow for the construction of a residential addition and attached garage.

Parcel Code No. 28-11-467-022-00

Reardon reviewed request. **Elliott** asked on the third variance would it be appropriate to request a minor storm water review to insure drainage. **Reardon** said that could be a condition to have engineer look at this.

David Clark, 11522 Peninsula Dr., explained the history about front setback. The applicant thought Peninsula Dr. was the front yard but learned that Chimney Ridge is the front yard. Clark said he is a C5 Quadriplegic since 1972. His wife was his sole caregiver from 1977 until 2010-11. Daughter and son-in-law moved in about 2 years ago to take care of Mr. Clark and Mrs. Clark until she passed away. For them to be able to take care of Mr. Clark they need private space. It has gotten to the point if they do not have separate space they will move on. If they move on Mr. Clark will have to have Comfort Keepers come in everyday which will cost \$15,000 a month. He cannot afford this. He would have to move out of his own home that he has lived in since 2001 and go to a nursing home. Variance would allow him to stay in his own home and with his family. He needs to be accommodated by necessary and reasonable accommodations. He feels his request is a reasonable request and necessary addition to stay in home. The Board would have to find that the modification would fundamentally and unreasonably alter that matter or purpose of the zoning ordinance to deny the request. The burden is on the municipality to prove that occurred. Mr. Clark's daughter said this is an emotional situation. They have done a lot of research to find viable options to make this work. It is not reasonable to have her dad move into a nursing home. We need separate spaces to maintain a healthy functional family life. Mr. Clark's son-in-law said his wife and three kids are upstairs in a 600 sq ft, 3 bedrooms, one bath apartment. It is stressful. It is difficult to be a care giver with the stress and anxiety. This will not solve all their problems but will take care of a good majority of them.

Cowall asked if the design as proposed was based on Peninsula Dr. being the front. *Clark* said yes. *Son-in-law* said this will allow a separate entrance for Mr. Clark's space. **Elliott** said ADA requirements eat up square footage. The design is reasonable. **Cowall** asked would there be any modifications that would fit the building envelope like moving the garage to the north. **Clark** said moving the garage causes problems with the design of the ramps into his living space. **Clark** said in regards to the drainage. His yard stays dry. Drainage coming down Chimney Ridge goes to other side of road into a retaining pond.

Soutar opened Public Hearing at 8:39 p.m.

No comments

Soutar closed Public Hearing at 8:39 p.m.

Soutar said ADA applies here. **Witkop** said agrees and should move forward. **Wunsch** said a case for approval has been made. **Cowall** concurs. **Elliott** agrees and defers to staff regarding the minor storm water report. **Reardon** said separate from the Great Lake with right-of-way may be subject to minor. **Reardon** does not have a problem of going without storm water review. **Elliott** said she is okay with that.

FINDINGS OF FACT

ZBA Request #845 – 11522 Peninsula Dr.
March 10, 2016

DECISION AND ORDER

Applicant: David J. Clark, property owner

Hearing

Date: March 10, 2016

PROPERTY DESCRIPTION

The property of 11522 Peninsula Dr., Traverse City, MI 49686, Parcel No. 28-11-467-022-00, herein after referred to as the "property".

APPLICATION

Requests: (1) a variance of 6 feet (6') from the required 30 feet (30') front yard setback to allow for the construction of a 132 square foot first floor residential addition; (2) a variance of 9 feet (9') from the required 30 feet (30') front yard setback to allow for the construction of an 888 square foot attached garage; (3) a variance of 2.7% from the required 15% maximum area coverage to allow for the construction of a residential addition and attached garage to provide first floor living accommodations for a disabled resident.

The Board having considered the Application, a public hearing having been held on March 10, 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 property is currently zoned Costal Zone Single and Two-family (R-1B). (Exhibits 1, 2)
2. The Board finds that a single family dwelling and attached garage are use by right in the R-1B district. (Exhibit 2)
3. The Board finds that the property is Lot 22 of the Chimney Ridge Subdivision which was recorded in 1975, after the adoption of the Zoning Ordinance. (Exhibit 5)
4. The board finds that the existing residential structure is legally non-conforming due to an error in permitting. (Exhibit 2)
5. The Board finds that the Applicant requests (1) a variance of 6 feet (6') from the required 30 feet (30') front yard setback to allow for the construction of a 132 square foot residential addition; (2) a variance of 9 feet (9') from the required 30 feet (30') front yard setback to allow for the construction of an 888 square foot attached garage; (3) a variance of 2.7% from the required 15% maximum area coverage to allow for the construction of a residential addition and attached garage.

MOTION: Wunsch/Cowall to approve the General Findings of Fact. **MOTION PASSED**

Variance Request #1: a variance of 6 feet (6') from the required 30 feet (30') front yard setback to allow for the construction of a 132 square foot first floor residential addition to accommodate a disabled resident.

FINDINGS UNDER THE AMERICANS WITH DISABILITIES ACT (ADA)

The Board makes the following findings of fact as required by the ADA for each of the following standards:

1. The requested variance relates to an individual with a physical or mental impairment that substantially limits one or more of the major life activities of that individual.

The following findings may support this standard HAS been met.

- a. The Board finds that the applicant is proposing to build an addition to provide first floor living accommodations and garage for a disabled resident who cannot walk, uses a wheelchair, and requires 24 hour assistance. (Exhibit 3)
- b. The Board finds that because this resident cannot walk and therefore uses a wheelchair, this impairment limits a major life activity, i.e. walking. (Exhibits 3, 4)
- c. The Board finds that this impairment of a major life activity is substantial because the impairment is permanent in nature for this individual. (Exhibit 4)

This standard HAS been met.

2. The requested variance is reasonable and necessary to afford the disabled resident the equal opportunity to use and enjoy their property.

The following findings may support this standard HAS been met.

- a. The Board finds that the applicant is proposing to build an addition to provide first floor living accommodations and garage for a disabled resident who cannot walk, uses a wheelchair, and requires 24 hour assistance. (Exhibit 3)
- b. The Board finds that because this resident cannot walk and therefore uses a wheelchair, this impairment limits a major life activity, i.e. walking. (Exhibits 3, 4)
- c. The Board finds that according to Section 6.2.2(1) a single-family dwelling is a use by right in the R-1B district. (Exhibit 2)
- d. The Board finds that the applicant proposes to build first floor ADA compliant living and bathroom facilities (Exhibit 3).

This standard HAS been met.

VARIANCE REQUEST #1 MOTION TO APPROVE / DENY

MOTION: Witkop/Cowall the two standards have been met and The Peninsula Township Board of Appeals has **APPROVED** your request for a variance of 6 feet (6') from the required 30 feet (30') front yard setback to allow for the construction of a 132 square foot first floor residential addition to accommodate a disabled resident.

Roll Call Vote: Witkop-yes, Wunsch-yes, Cowall-yes, Elliott-yes and Soutar-yes **MOTION PASSED**

CONDITIONS OF APPROVAL

- 1.
- 2.
- 3.

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.

Variance Request #2: a variance of 9 feet (9') from the required 30 feet (30') front yard setback to allow for the construction of an 888 square foot attached garage to accommodate a disabled resident.

FINDINGS UNDER THE AMERICANS WITH DISABILITIES ACT (ADA)

The Board makes the following findings of fact as required by the ADA for each of the following standards:

1. The requested variance relates to an individual with a physical or mental impairment that substantially limits one or more of the major life activities of that individual.

The following findings may support this standard HAS been met.

- a. The Board finds that the applicant is proposing to build an addition to provide first floor living accommodations and garage for a disabled resident who cannot walk, uses a wheelchair, and requires 24 hour assistance. (Exhibit 3)
- b. The Board finds that because this resident cannot walk and therefore uses a wheelchair, this impairment limits a major life activity, i.e. walking. (Exhibits 3, 4)
- c. The Board finds that this impairment of a major life activity is substantial because the impairment is permanent in nature for this individual. (Exhibit 4)

This standard HAS been met.

2. The requested variance is reasonable and necessary to afford the disabled resident the equal opportunity to use and enjoy their property.

The following findings may support this standard HAS been met.

- a. The Board finds that the applicant is proposing to build an addition to provide first floor living accommodations and garage for a disabled resident who cannot walk, uses a wheelchair, and requires 24 hour assistance. (Exhibit 3)
- b. The Board finds that because this resident cannot walk and therefore uses a wheelchair, this impairment limits a major life activity, i.e. walking. (Exhibits 3, 4)
- c. The Board finds that according to Section 6.2.2(1) an attached garage is a customary accessory structure to a primary structure and is a use by right in the R-1B zoning district. (Exhibit 2)
- d. The Board finds that the resident requires an extended garage to accommodate a wheelchair accessible minivan for the disabled resident, as well as space for the 24 hour caretakers' vehicles (Exhibit 3).

This standard HAS been met.

VARIANCE REQUEST #2 MOTION TO APPROVE / DENY

MOTION: Cowall/Wunsch both standards under the Americans with Disabilities Act have been met and The Peninsula Township Board of Appeals has **APPROVED** your request for a variance of 9 feet (9') from the required 30 feet (30') front yard setback to allow for the construction of an 888 square foot attached garage to accommodate a disabled resident.

Roll Call Vote: Wunsch-yes, Cowall-yes, Elliott-yes, Soutar-yes and Witkop-yes **MOTION PASSED**

CONDITIONS OF APPROVAL

- 1.
- 2.
- 3.

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.

Variance Request #3: a variance of 2.7% from the required 15% maximum area coverage to allow for the construction of a residential addition and attached garage to provide first floor living accommodations for a disabled resident.

FINDINGS UNDER THE AMERICANS WITH DISABILITIES ACT (ADA)

The Board makes the following findings of fact as required by the ADA for each of the following standards:

1. The requested variance relates to an individual with a physical or mental impairment that substantially limits one or more of the major life activities of that individual.

The following findings may support this standard HAS been met.

- a. The Board finds that the applicant is proposing to build an addition to provide first floor living accommodations and garage for a disabled resident who cannot walk, uses a wheelchair, and requires 24 hour assistance. (Exhibit 3)
- b. The Board finds that because this resident cannot walk and therefore uses a wheelchair, this impairment limits a major life activity, i.e. walking. (Exhibits 3, 4)
- c. The Board finds that this impairment of a major life activity is substantial because the impairment is permanent in nature for this individual. (Exhibit 4)

This standard HAS been met.

2. The requested variance is reasonable and necessary to afford the disabled resident the equal opportunity to use and enjoy their property.

The following findings may support this standard HAS been met.

- a. The Board finds that the applicant is proposing to build an addition to provide first floor living accommodations and a garage for a disabled resident who cannot walk, uses a wheelchair, and requires 24 hour assistance. (Exhibit 3)
- b. The Board finds that because this resident cannot walk and therefore uses a wheelchair, this impairment limits a major life activity, i.e. walking. (Exhibits 3, 4)
- c. The Board finds that according to Section 6.2.2(1) a single-family dwelling and attached garage are use by right in the R-1B district. (Exhibit 2)
- d. The Board finds that the applicant proposes to build first floor ADA compliant living and bathroom facilities (Exhibit 3).
- e. The Board finds that the resident requires an extended garage to accommodate a wheelchair accessible minivan for the disabled resident, as well as space for the 24 hour caretakers' vehicles (Exhibit 3).

This standard HAS been met.

VARIANCE REQUEST #3 MOTION TO APPROVE / DENY

MOTION: Witkop/Wunsch Both findings have been met and The Peninsula Township Board of Appeals has **APPROVED** your request for a variance of 2.7% from the required 15% maximum area

coverage to allow for the construction of a residential addition and attached garage to provide first floor living accommodations for a disabled resident.

Roll Call Vote: Cowall-yes, Elliott-yes, Soutar-yes, Witkop-yes & Wunsch-yes **MOTION PASSED**

CONDITIONS OF APPROVAL

- 1.
- 2.
- 3.

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 meetings

MOTION: Elliott/Wunsch to approve the November 12, 2016 minutes. **MOTION PASSED**

MOTION: Cowall/Wunsch to approve the January 14, 2016 minutes. **MOTION PASSED**

New Business

Witkop gave Township Board report.

Wunsch gave Planning Commission report

Reardon asked the Board to review the proposed meeting dates.

Adjournment

MOTION: Cowall/Witkop to adjourn at 8:53p.m. **MOTION PASSED**

Respectfully submitted by Deb Hamilton, Recording Secretary

LEGAL NOTICE

PENINSULA TOWNSHIP
ZONING BOARD OF APPEALS
NOTICE OF HEARING

PLEASE TAKE NOTICE that the Peninsula Township Zoning Board of Appeals will hold a regular meeting on May 12, 2016 at 7:00 PM at the Peninsula Township Hall, 13235 Center Road, Traverse City, MI 49686, (231) 223-7322. The following applicants will be heard:

1. Request No. 846, Zoning R-1B

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

Owner: Brian, Cheri, Dan, & Beth Stanforth, 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

Please be advised that the public may appear at the public hearing in person or by council.

Written comment may be submitted to Peninsula Township Planning & Zoning Department at 13235 Center Rd., Traverse City, MI 49686 no later than 4:30 PM on the date of the hearing.

If you are planning to attend the meeting and are disabled requiring any special assistance, please so notify the Planning & Zoning Department at (231) 223-7322 or call TDD at (231) 922-4766.

SUBJECT PROPERTY



Peninsula Township Planning & Zoning Department
STAFF REPORT

ZBA Request #846 – 13091 Bluff Rd. & 13083 Bluff Rd.
May 12, 2016

To: Peninsula Township Zoning Board of Appeals
From: Claire Schoolmaster, Planning & Zoning
RE: Request No. 846 – 13091 Bluff Rd. & 13083 Bluff Rd.
Hearing Date: May 12, 2016 – 7:00 PM
Applicant: Brian, Cheri, Dan, & Beth Stainforth, 8818 Mandy Ln., Frankenmuth, MI 48734
Site: 13091 Bluff Rd., Traverse City, MI 49686 & 13083 Bluff Rd., Traverse City, MI 49686
Tax IDs: 28-11-127-031-00 & 28-11-127-030-00

Information:

- Parcel 28-11-127-030-00 is approximately 0.187 acres in size.
- Parcel 28-11-127-031-00 is approximately 0.183 acres in size.
- The property is zoned Coastal Zone Single and Two-Family (R-1B); the surrounding area is zoned Coastal Zone Single and Two-Family (R-1B) and Rural & Hillside (R-1A).
- The lots were created in or before 1965 and are legally non-conforming, after to the adoption of the Peninsula Township Zoning Ordinance in 1972.
- There are building envelopes located on the lots.
- 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.
- 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.
- The existing front yard setback is eleven feet (11') from the legal non-conforming residential structure located on 13083 Bluff Rd.
- The proposed covered porch requires a front yard setback variance of 14 feet.

Action

Requested: (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.

Mailing: Fourteen (14) surrounding property owners were notified. No comments were received as of May 5, 2016.

Applicant Statement:

Please see the enclosed application submitted by Brian, Cheri, Dan, & Beth Stainforth, property owners.

Staff Comments:

Requests #1 & 2

The applicant is requesting variances for an addition to a legal non-conforming structure.

Background

The applicant owns two adjacent lots, each containing a single family residence. If the appropriate variances are granted, they propose to combine the lots, demolish the structure on 13083 Bluff Rd., and construct a residential addition onto the residence at 13091 Bluff Road.

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. The existing single family residence located at 13083 Bluff Rd. was built in 1965 and is a legal non-conforming structure due to front yard setback encroachment.

The proposed residential addition conforms to relevant zoning standards for minimum lot setbacks of the rear, and side yards, but does not conform to the minimum front yard setback restriction or maximum lot coverage restriction as demonstrated in the following table:

R-1B Standards (Section 6.8)	Required	Proposed Res. Addition	Conforms to Standard?
Maximum Height	35'	20.5'	Yes
Minimum Front Setback	30'	26'	No
Minimum North Side Setback	15'	33'	Yes
Minimum South Side Setback	15'	26.5'	Yes
Minimum Rear Setback	30'	35'	Yes
Minimum OHWM Setback	NA	NA	NA
Maximum Lot Coverage	15%	24%	No

The applicant requests (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. The requested variance must meet the following standards in order to be granted. Specific staff comments follow the standards.

A. Section 3.2 Definition of Practical Difficulty

To obtain a dimensional variance, the applicant must show *practical difficulty* by demonstrating all of the following:

- a) 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.
- b) 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.

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

B. Section 5.7.3 Variances

The Board shall have the power to authorize, upon an appeal, specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements, PROVIDED ALL of the BASIC conditions listed herein and any ONE of the SPECIAL conditions listed thereafter can be satisfied.

- 1) Basic Conditions: That any variance from this Ordinance:
 - a. Will not be contrary to the public interest or to the intent and purpose of this Ordinance.
 - b. 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.
 - c. 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.
 - d. 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.
 - e. Will relate only to the property that is under control of the applicant.
- 2) Special Conditions: When ALL of the foregoing basic conditions can be clearly demonstrated:
 - a. 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.
 - b. 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.
 - c. 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.
 - d. Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

The subject properties, both zoned R-1B, were created prior the effective date of the Ordinance and considered legally nonconforming. The width of 127-030-00 is approximately 43 feet and the length is approximately 189 feet. The width of 127-031-00 is approximately 43 feet and the length is approximately 185 feet.

Peninsula Township Planning & Zoning Department
FINDINGS OF FACT

ZBA Request #846 – 13091 Bluff Rd. & 13083 Bluff Rd.
May 12, 2016

DECISION AND ORDER

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

**Hearing
Date:** May 12, 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 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.

The Board having considered the Application, a public hearing having been held on May 12, 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 seven (7) 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 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. (Exhibit 3)
8. The Board finds that the applicant requests a variance of up to 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. (Exhibit 3)

Variance 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.

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)
- b. The Board finds that

The following findings may support this standard HAS NOT 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, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)
- b. The Board finds that the proposed structure does not comply with the front yard setback restrictions. (Exhibits 2, 3, 4)
- c. The Board finds that there is a building envelope located on the combined lots to allow for a single family residence to be constructed with a footprint of up to 1,354.5 square feet. (Exhibits 3, 4)
- d. The Board finds that

This standard HAS / HAS NOT 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 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. (Exhibits 2, 5)
- c. The Board finds that lot density will be reduced by combining two adjacent lots and constructing one residential structure. (Exhibit 3)
- d. The Board finds that the front yard setback encroachment of the existing single family residence located at 13083 Bluff Road is 19 feet. By demolishing the existing structure and constructing an addition onto the single family residence on 13091 Bluff Road, the front yard setback encroachment will be reduced to 4 feet. (Exhibit 3)
- e. The Board finds that

The following findings may support this standard HAS NOT 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, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)
- b. The Board finds that the proposed structure does not comply with the front yard setback restrictions. (Exhibits 2, 3, 4)
- c. The Board finds that there is a building envelope located on the combined lots to allow for a single family residence to be constructed with a footprint of up to 1,354.5 square feet. (Exhibits 3, 4)
- d. The Board finds that

This standard HAS / HAS NOT 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 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. (Exhibit 2, 5)
- d. The Board finds that

The following findings may support this standard HAS NOT 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, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)
- b. The Board finds that the proposed structure does not comply with the front yard setback restrictions. (Exhibits 2, 3, 4)
- c. The Board finds that there is a building envelope located on the combined lots to allow for a single family residence to be constructed with a footprint of up to 1,354.5 square feet. (Exhibits 3, 4)
- d. The Board finds that

This standard HAS / HAS NOT 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 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. (Exhibits 2, 5)
- c. The Board finds that lot density will be reduced by combining two adjacent lots and constructing one residential structure. (Exhibit 3)
- d. The Board finds that the front yard setback encroachment of the existing single family residence located at 13083 Bluff Road is 19 feet. By demolishing the existing structure and constructing an addition onto the single family residence on 13091 Bluff Road, the front yard setback encroachment will be reduced to 4 feet. (Exhibit 3)
- e. The Board finds that

The following findings may support this standard HAS NOT 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, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)
- b. The Board finds that the proposed structure does not comply with the front yard setback restrictions. (Exhibits 2, 3, 4)
- c. The Board finds that there is a building envelope located on the combined lots to allow for a single family residence to be constructed with a footprint of up to 1,354.5 square feet. (Exhibits 3, 4)
- d. The Board finds that

This standard HAS / HAS NOT 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 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

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- 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, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)

- b. The Board finds that the proposed structure does not comply with the front yard setback requirement. (Exhibits 2, 3, 4)
- c. The Board finds that

This standard HAS / HAS NOT 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 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 following findings may support this standard HAS NOT been met.

- a. The Board finds that

This standard HAS / HAS NOT 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 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 following findings may support this standard HAS NOT 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, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)
- b. The Board finds that the proposed structure does not comply with the front yard setback restrictions. (Exhibits 2, 3, 4)
- c. The Board finds that there is a building envelope located on the combined lots to allow for a single family residence to be constructed with a footprint of up to 1,354.5 square feet. (Exhibits 3, 4)
- d. The Board finds that

This standard HAS / HAS NOT 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)
- b. The Board finds that

The following findings may support this standard HAS NOT been met.

- a. The Board finds that

This standard HAS / HAS NOT 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 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. (Exhibits 2, 5)
- c. The Board finds that

The following findings may support this standard HAS NOT 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, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)
- b. The Board finds that the proposed structure does not comply with the front yard setback restrictions. (Exhibits 2, 3, 4)
- c. The Board finds that there is a building envelope located on the combined lots to allow for a single family residence to be constructed with a footprint of up to 1,354.5 square feet. (Exhibits 3, 4)
- d. The Board finds that

This standard HAS / HAS NOT 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 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 following findings may support this standard HAS NOT 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, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)
- b. The Board finds that the proposed structure does not comply with the front yard setback restrictions. (Exhibits 2, 3, 4)

- c. The Board finds that there is a building envelope located on the combined lots to allow for a single family residence to be constructed with a footprint of up to 1,354.5 square feet. (Exhibits 3, 4)
- d. The Board finds that

This standard HAS / HAS NOT been met.

- 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)
- b. The Board finds that

The following findings may support this standard HAS NOT been met.

- a. The Board finds that

This standard HAS / HAS NOT been met.

- 4. Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

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 following findings may support this standard HAS NOT 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, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)

- b. The Board finds that the proposed structure does not comply with the front yard setback restrictions. (Exhibits 2, 3, 4)
- c. The Board finds that there is a building envelope located on the combined lots to allow for a single family residence to be constructed with a footprint of up to 1,354.5 square feet. (Exhibits 3, 4)
- d. The Board finds that

This standard HAS /HAS NOT been met.

VARIANCE REQUEST # 1 MOTION TO APPROVE / DENY

The Peninsula Township Board of Appeals has **APPROVED / DENIED** your request for 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.

CONDITIONS OF APPROVAL

- 1.
- 2.
- 3.

DECISION

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

Variance Request #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.

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)

- b. The Board finds that

The following findings may support this standard HAS NOT 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, provided however that the structure comply with the maximum coverage restrictions. (Exhibits 1, 2)
- b. The Board finds that the proposed structure does not comply with the maximum coverage restrictions. (Exhibits 2, 3, 4)
- c. The Board finds that there is a building envelope located on the combined lots to allow for a single family residence to be constructed with a footprint of up to 1,354.5 square feet. (Exhibits 3, 4)
- d. The Board finds that

This standard HAS / HAS NOT 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 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 following findings may support this standard HAS NOT 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, provided however that the structure comply with the maximum coverage restrictions. (Exhibits 1, 2)

- b. The Board finds that the proposed structure does not comply with the maximum coverage restrictions. (Exhibits 2, 3, 4)
- c. The Board finds that there is a building envelope located on the combined lots to allow for a single family residence to be constructed with a footprint of up to 1,354.5 square feet. (Exhibits 3, 4)
- d. The Board finds that

This standard HAS / HAS NOT 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 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 following findings may support this standard HAS NOT 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, provided however that the structure comply with the maximum coverage restrictions. (Exhibits 1, 2)
- b. The Board finds that the proposed structure does not comply with the maximum coverage restrictions. (Exhibits 2, 3, 4)
- c. The Board finds that there is a building envelope located on the combined lots to allow for a single family residence to be constructed with a footprint of up to 1,354.5 square feet. (Exhibits 3, 4)
- d. The Board finds that

This standard HAS / HAS NOT 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 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

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- 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, provided however that the structure comply with the maximum coverage restrictions. (Exhibits 1, 2)
- b. The Board finds that the proposed structure does not comply with the maximum coverage restrictions. (Exhibits 2, 3, 4)
- c. The Board finds that there is a building envelope located on the combined lots to allow for a single family residence to be constructed with a footprint of up to 1,354.5 square feet. (Exhibits 3, 4)
- d. The Board finds that

This standard HAS / HAS NOT 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 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)
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- b. The Board finds that the proposed structure does not comply with the maximum coverage restrictions. (Exhibits 2, 3, 4)
- c. The Board finds that

This standard HAS / HAS NOT 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 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 following findings may support this standard HAS NOT been met.

- a. The Board finds that

This standard HAS / HAS NOT 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 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)
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- b. The Board finds that the proposed structure does not comply with the maximum coverage restrictions. (Exhibits 2, 3, 4)
- c. The Board finds that there is a building envelope located on the combined lots to allow for a single family residence to be constructed with a footprint of up to 1,354.5 square feet. (Exhibits 3, 4)
- d. The Board finds that

This standard HAS / HAS NOT 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)
- b. The Board finds that

The following findings may support this standard HAS NOT been met.

- a. The Board finds that

This standard HAS / HAS NOT 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 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)
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- b. The Board finds that the proposed structure does not comply with the maximum coverage restrictions. (Exhibits 2, 3, 4)
- c. The Board finds that there is a building envelope located on the combined lots to allow for a single family residence to be constructed with a footprint of up to 1,354.5 square feet. (Exhibits 3, 4)
- d. The Board finds that

This standard HAS / HAS NOT 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 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

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- 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, provided however that the structure comply with the maximum coverage restrictions. (Exhibits 1, 2)
- b. The Board finds that the proposed structure does not comply with the maximum coverage restrictions. (Exhibits 2, 3, 4)
- c. The Board finds that there is a building envelope located on the combined lots to allow for a single family residence to be constructed with a footprint of up to 1,354.5 square feet. (Exhibits 3, 4)
- d. The Board finds that

This standard HAS / HAS NOT been met.

- 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)
- b. The Board finds that

The following findings may support this standard HAS NOT been met.

- a. The Board finds that

This standard HAS / HAS NOT been met.

- 4. Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

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 following findings may support this standard HAS NOT 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, provided however that the structure comply with the maximum coverage restrictions. (Exhibits 1, 2)
- b. The Board finds that the proposed structure does not comply with the maximum coverage restrictions. (Exhibits 2, 3, 4)
- c. The Board finds that there is a building envelope located on the combined lots to allow for a single family residence to be constructed with a footprint of up to 1,354.5 square feet. (Exhibits 3, 4)
- d. The Board finds that

This standard HAS /HAS NOT been met.

VARIANCE REQUEST # 2 MOTION TO APPROVE / DENY

The Peninsula Township Board of Appeals has **APPROVED / DENIED** your request for 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

CONDITIONS OF APPROVAL

- 1.
- 2.
- 3.

DECISION

Upon motion, seconded and passed the Board ruled that the Applicant's variance request #2 be **APPROVED / DENIED**.

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

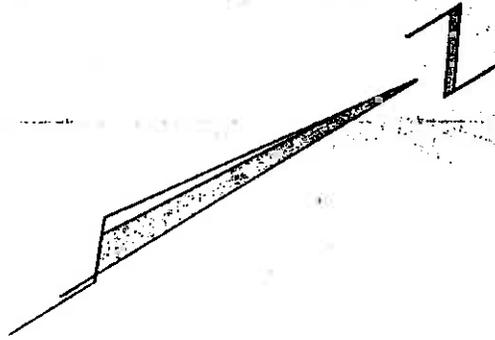
Secretary

Peninsula Township Planning & Zoning Department
EXHIBIT LIST

ZBA Request No. 846 – 13091 Bluff Rd. & 13083 Bluff Rd.
May 12, 2016

EXHIBIT LIST

1. Peninsula Township Master Plan
2. Peninsula Township Zoning Ordinance
3. Request for Variance filed by Brian, Cheri, Dan & Beth Stainforth
4. Staff report from Peninsula Township Planning & Zoning Department
5. 1965 Property Survey by registered surveyor
6. Aerial Map of Existing Properties prepared by Staff
7. Proposed Site Plan with Staff Notes



DESCRIPTION

That part of Government Lot 2, Section 27 Town 29 North, Range 10 West, described as: Commencing at the meander post on the South side thereof, thence North $32^{\circ}58'$ East 450 feet to a point of beginning; thence North $57^{\circ}2'$ West 203.1 feet; thence North $32^{\circ}58'$ East 214.5 feet; thence South $57^{\circ}2'$ East 225 feet, more or less to waters edge of Grand Traverse Bay; thence South-westerly along waters edge to a point South $57^{\circ}2'$ East of point of beginning, thence North $57^{\circ}2'$ West to point of beginning.

LEGEND

- - Iron found
- - Iron set

Property Survey
for

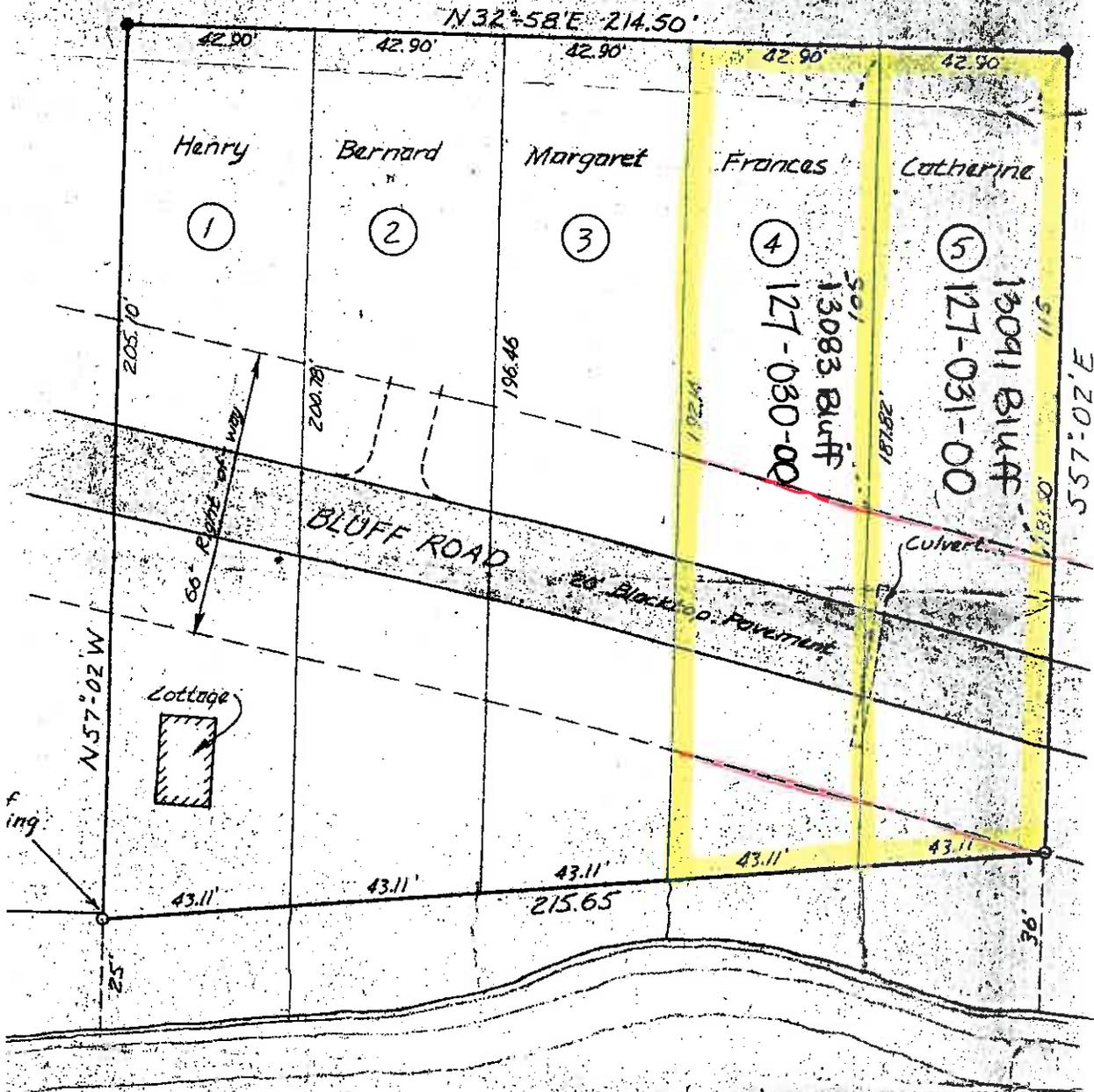
JOSEPH KROUPA ESTATE

Part of Government Lot 2
Sec. 27, T 29N, R 10W, Peninsula
Twp., Grand Traverse County, Mich.

Scale: 1" = 30 feet
Date: May 20, 1965

PETER G. PERLA
Registered Land Surveyor

S-056550



EAST BAY



13091 Bluff Rd.
127-031-00

13083 Bluff Rd.
127-030-00

BLUFF RD

- Roads/Streets
- Pen Twp Parcels
- Parcels of Interest

50 Feet

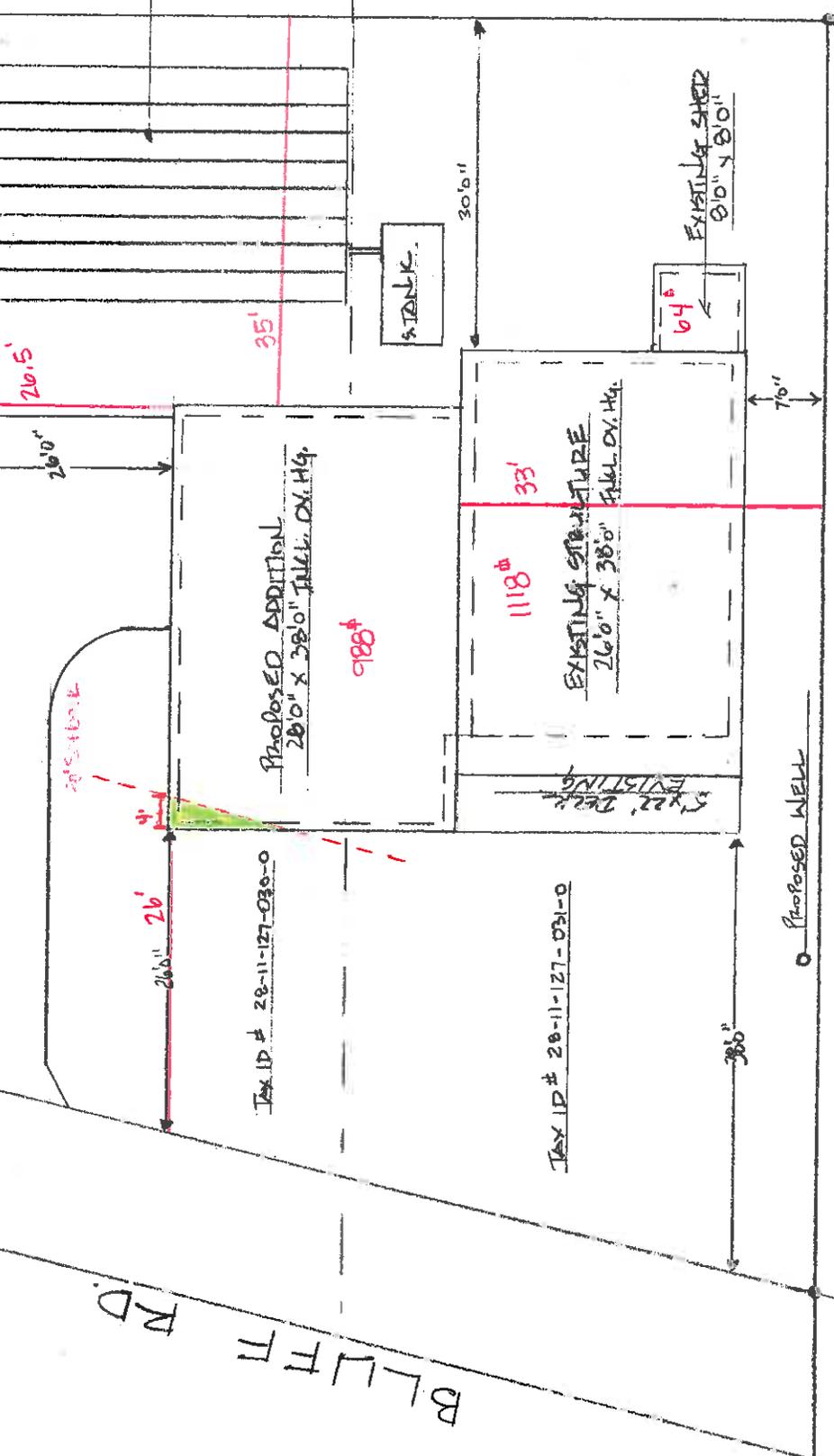
Peninsula Township
Grand Traverse County
Michigan

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N

94.31'

PROPOSED DRIVEWAY



Combined Total Lot Area
8226#
+ 774#
9030#

PROPOSED SEPTIC

Total
42.89'
Structural Area
988 - Proposed
1118 Existing
64
2170# Total

2170# / 9030# = 24% (over max proposed)

42.95'

9030# * 0.15 = 1354.5#
15% Lot Coverage = 1354.5#

STAINFORTH RES.
13091 BLUFF RD.
1" = 30' SCALE
1" = 10'

Tax ID # 28-11-127-0280-0

Tax ID # 28-11-127-0291-0

114.97'

BLUFF RD.

Peninsula Township Variance Application

Application Guidelines

13235 Center Road, Traverse City MI 49686

Ph: 231.223.7322 Fax: 231.223.7117

www.peninsulatownship.com

1. Zoning Board of Appeals (ZBA) applications are available from the Peninsula Township Planning & Zoning Department, 7:30 a.m. to 6:30 p.m., Monday, and 7:30 a.m. to 5:00 p.m. Tuesday through Thursday, or online at www.peninsulatownship.com/zoning.
2. Applications must be submitted to the Planning & Zoning Department at least four (4) weeks prior to the ZBA meeting. **Ten (10) copies must be submitted.**
3. If the applicant is not the property owner, a letter signed by the owner agreeing to the variance must be included with the application.
4. It is the applicant's responsibility to review and address the appropriate sections of the Zoning Ordinance prior to submission.
5. It is the applicant's responsibility to ensure that the application is complete upon submission. **Planning and Zoning Department staff will determine and confirm with the applicant that the application is complete.** An incomplete application will not be considered for review by the ZBA.
6. The application will be forwarded to members of the ZBA for a public hearing.
7. A notice of the public hearing must be mailed to the property owners and occupants within three hundred (300) feet of the subject property not less than fifteen (15) days before the public hearing.
8. The applicant will receive a notice of the public hearing in the mail, and is expected to attend the meeting.
9. ZBA meetings are held on the second Thursday of every month, beginning at 7:00 p.m. in the Township Hall, 13235 Center Road, Traverse City, MI 49686.
10. If the variance(s) are granted, **construction authorized by such variance(s) must begin within six (6) months after the granting of the variance, and the occupancy of land, premises, or buildings authorized by the variance must take place within one (1) year after the granting of the variance.**
11. If the variance(s) are granted, construction authorized by such variance(s) must comply with all other necessary permits. **A variance is independent from, and does not substitute for, all other permits.**
12. No application for a variance which has been denied wholly or in part by the Board shall be resubmitted for a period of one (1) year from the date of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid.

OFFICE USE ONLY		
Date Received:	Fee Received:	Board Action:
Date Complete:	Meeting Date:	

Peninsula Township Variance Application

General Information

A fully completed application form, fee, and all related documents must be submitted to the Planning & Zoning Department at least four (4) weeks prior to the Zoning Board of Appeals meeting. **10 copies are required.**

Applicant Information

Applicant: Name BRIAN/CHERI + DAN/BETH STANFORTH
Address Line 1 8188 MANDY LN
Address Line 2 FRANKENMUTH MI 48734
Phone _____ Cell (989) 274-5951
E-mail bdstain@gmail.com

Owner: Name SAME
Address Line 1 _____
Address Line 2 _____
Phone _____ Cell _____
E-mail _____

(If the applicant is not the property owner, a letter signed by the owner agreeing to the variance must be included with the application.)

Property Information

Parcel ID _____ Zoning R1-B COASTAL
Address Line 1 13091 BLUFF RD (28-11-127-031-00)
Address Line 2 13083 BLUFF RD (28-11-127-030-00)

Type of Request

Indicate which Ordinance requirement(s) are the subject of the variance request:

- Front Yard Setback Side Yard Setback Rear Yard Setback
 Width to Depth Ratio Lot Coverage Off-Street Parking
 Signage Height/Width Non-Conformity Expansion
 Other: Please Describe: _____

Attachments

- \$375 Fee
 Practical Difficulty Worksheet (Found on Page 3 of Application)
 Basic and Special Conditions Worksheets (Found on Pages 4-5 of Application)
 Site plan drawn to scale showing the following:
 a. Property boundaries; Shoreline properties must show the Ordinary High Water Mark on a certified survey, and the Flood Elevation Line (3 feet above OHWM) if any;
 b. All existing and proposed structures including decks and roof overhangs;
 c. Setbacks for existing and proposed structures (varies by zoning district).
 Front elevation diagram drawn to scale.

Peninsula Township Variance Application

Practical Difficulty Worksheet

In order for a variance to be justified, the applicant must demonstrate that strict application of the provisions of the Peninsula Township Zoning Ordinance to petitioned property would result in **Practical Difficulty** (defined in Article III of the Ordinance) inconsistent with the general purpose and intent of the Ordinance.

The Applicant must answer the following questions pertaining to practical difficulty in detail. Please attach a separate sheet if necessary and label comments on the attached sheet with corresponding number/letter on application.

Section 3.2, Practical Difficulty: To obtain a dimensional variance, the applicant must show *practical difficulty* by demonstrating **all** of the following:

- 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.**

Is this condition met? Please explain: YES - PLEASE SEE ATTACHED

- 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.**

Is this condition met? Please explain: YES - PLEASE SEE ATTACHED

- 3. The plight of the owner is due to unique circumstances of the property.**

Is this condition met? Please explain: YES - PLEASE SEE ATTACHED

- 4. The problem was not self-created.**

Is this condition met? Please explain: YES - PLEASE SEE ATTACHED

Peninsula Township Variance Application

Basic Conditions Worksheet

In order for a variance to be justified, the Applicant must meet **all of the Basic Conditions**, as defined in Section 5.7.3(1) of the Peninsula Township Zoning Ordinance. The Applicant must answer the following questions pertaining to the Basic Conditions in detail. Please attach a separate sheet if necessary and label comments on the attached sheet with corresponding number/letter on application.

Section 5.7.3(1) Basic Conditions: The Board shall have the power to authorize, upon an appeal specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements, **provided all of the Basic Conditions listed herein can be satisfied.**

(1) **BASIC CONDITIONS:** The applicant must meet ALL of the following Basic Conditions. That any variance from this Ordinance:

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

Is this condition met? Please explain: YES - PLEASE SEE ATTACHED

b. **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.**

Is this condition met? Please explain: YES - PLEASE SEE ATTACHED

c. **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.**

Is this condition met? Please explain: YES - PLEASE SEE ATTACHED

d. **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.**

Is this condition met? Please explain: YES - PLEASE SEE ATTACHED

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

Is this condition met? Please explain: YES - PLEASE SEE ATTACHED

Peninsula Township Variance Application

Special Conditions Worksheet

In order for a variance to be justified, the applicant must meet **at least one of the Special Conditions**, as defined in Section 5.7.3(2) of the Peninsula Township Zoning Ordinance. The applicant must answer the following questions pertaining to the Special Conditions in detail. Please attach a separate sheet if necessary and label comments on the attached sheet with corresponding number/letter on application.

Section 5.7.3(2) Special Conditions: The Board shall have the power to authorize, upon an appeal specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements, **provided at least one of the Special Conditions listed herein can be satisfied.**

(2) **SPECIAL CONDITIONS:** When ALL of the foregoing Basic Conditions can be clearly demonstrated, the applicant must meet at least ONE of the following Special Conditions:

a. **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.**

Is this condition met? Please explain: YES - PLEASE SEE ATTACHED

b. **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 for any act of the applicant subsequent to the adoption of this Ordinance.**

Is this condition met? Please explain: _____

c. **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.**

Is this condition met? Please explain: YES - PLEASE SEE ATTACHED

d. **Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.**

Is this condition met? Please explain: YES - PLEASE SEE ATTACHED

Variance Request from Peninsula Township – Stainforth, 13091 Bluff Rd

We are submitting this request for the purpose of creating a year round, single family residence on the adjacent properties at 13083 Bluff Rd and 13091 Bluff Rd. We are requesting variance of 8.4% of total lot coverage (from 15% allowable to a total of 23.4%), and a variance request to build an addition on a legally non-conforming lot. We are also requesting a variance of 5 feet for the front setback. This proposal resolves 3 of the 5 non-conforming setbacks that exist today and substantially improves the front setback compared to current. Because of the lesser depth of the lot on the south (the lot is not square to Bluff Rd), an offset is required to allow sufficient space for efficient septic configuration in the back. The two homes south of our lots have larger approved frontal setbacks for the same reason.

Current Situation:

- we own two adjacent 43’ wide non-conforming lots, each has a summer / weekend cottage with external sheds. Our goal is to move / retire and make OMP our permanent year round residence.
- 13083 Bluff Rd was built by Henry & Frances Rokos in 1965: 20x24 cabin, 480 ft²...1 BR, tiny bath, tiny K, no heat, no storage, closed 800 gal septic tank...per builder not able to be built “up” due to overhead truss support or feasible to use as an “addition”
- 13091 Bluff Rd > built late 1980s by previous owners; we purchased in 2013: 24 x 34, 1296 ft² (760 ft² on main floor)...1.5 story 3 BR, 2 BA, fireplace and baseboard heat, small K, no laundry room, no garage, 2 enclosed 1200 gal septic tanks.

Proposal: We have worked with OMP resident and builder Terry Farrugia to develop the following:

- remove/donate cabin on 13083 & combine lots 13083 and 13091 into a single 86’ lot. The result is still non-conforming, but significantly closer to the current ordinance and zoning intent. The combination of lots is contingent on gaining zoning approval for the construction of the proposed addition.
- build a 24x36 addition on south wall of the existing 13091 cottage; this allows a full size Kitchen/Dining Room, a family size laundry room, and a 2-car garage. The result is ~1550 ft² year round residence with storage for truck, boat, and other summer and winter equipment currently stored in external sheds (bikes, lawn mower, snow blower, beach equipment, tools, etc). We hope to begin construction as early as fall 2016.

Chart showing the Current requirements, current situation today, and proposed situation:

	Lot Size	Lot Width	Front SB	Side SB	Rear SB	Lot %
Zone R-1B ¹ Reqt	25,000 min	100 min	30 min	15 / 15 min	30 min	15 max
13083 Bluff Rd	4252.7 ²	43	11	3.7 / 12.8	30	14
13091 Bluff Rd	4721 ²	43	30	8 / 7 ³	30	25.6
Proposal	8974 ²	86	25	26 / 7 ³	30	23.4

- 1 - From Zoning Ordinance Section 6.8 Schedule of Regulations
- 2 - Area NW of Bluff Rd, on building side of road, doesn’t include ROW or beach
- 3 – existing setback on north side is 7’, for reference it is 80’ to the next house to the north.

If Approved, a Summary of Improvements from our Proposal:

- 1) Water waste / usage – replaces the existing closed septic tanks with a septic field
 - Health Department perk test and neighbor encroachment agreement already completed
 - eliminates 3 separate closed tanks that are immediately adjacent to the ROW and moves the septic / waste field to the back SW corner of the property, much further away from the road and the GT East Bay.
 - New more efficient and safer well replaces two older, outdated wells.
- 2) Combines two small non-conforming 43' lots into a single lot. The result is still a non-conforming lot, but much closer to the intent of the current zoning ordinances. Improves value of neighborhood and creates more "space" between houses. Reduces the "population density" / # of families accessing the road and the water along this stretch of Bluff Rd. Safety is also improved as the proposed garage is set behind the home on the south side, and garage activity would be sheltered from the busy road, improving visibility along the road for drivers, pedestrians, and cyclists. In addition, replacing 1965 vintage cabin with a new addition will incorporate safer and more efficient electrical and well.
- 3) Eliminates 3 of the 5 existing setback discrepancies on the 2 properties and significantly improves a 4th setback non-conformance (the front setback improves from 11 feet today to 25 feet in the proposal). The north side of the existing structure on 13091 is not being altered, that setback would remain as current.
- 4) Enhances the peninsula environment, provides a year round residence for our family, improves property values and neighborhood green space, and finally allows this property to continue to be enjoyed by our family for future generations – this is a very important point for us as these lots were originally owned by our grandfather/great-grandfather Joseph Kroupa.

We believe we meet the Practical Difficulty, all Basic Conditions, and multiple Special Conditions, and we ask the ZBA to approve our variance request. We have worked to develop a proposal that allows us to establish a full year residence on OMP, but still remains within the spirit and intent of the zoning ordinances. Hopefully we have communicated that desire effectively in this proposal, but please don't hesitate to contact us with any questions or clarifications. Thank you for your consideration of our request.

Sincerely,

The Stainforth family

Variance Application Section 3.2 – Practical Difficulty:

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 > Since the lots in question are currently non-conforming (the cottage at 13091 Bluff Rd is already over 25% lot coverage), strict compliance would eliminate any proposed addition. Neither of the current existing structures is suitable for a year round residence; lacking family laundry facilities, waste water drain field, and garage / storage options. Therefore, strict compliance would eliminate any possibility for a year round residence on these lots which would be a substantial injustice to the current owners relative to the surrounding neighborhood parcels.

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. >

A variance on the lot coverage to allow the proposed addition would do substantial justice for us as owners as it would allow for a year round single family home consistent with the majority of the neighboring lots. In addition, it would give justice to the other property owners with less density / more spacing and improved property values and improved safety. The variances for lot coverage and the front setback are consistent (and less than in most cases) within the immediate Bluff Rd neighborhood and recent construction in this area.

3) The plight of the owner is due to unique circumstances of the property. > The existing lots on 13083 and 13091 Bluff Rd were defined in the 1960s, long before the current zoning definitions, and are both legally non-conforming today. The two lots combined still constitute a non-conforming lot, and we believe that our proposal is a reasonable attempt to establish a permanent residence for a single family that is comparable with the neighborhood homes and in line with the intent of the zoning requirements. The requested structure on a minimum conforming buildable lot would be roughly 8% (suggesting our proposed home is consistent with the spirit of the ordinance without the hardship of the existing small lots that were sectioned off long before the current ordinance)

4) The problem was not self-created > both lots were created and built by previous owners, before we purchased the property and before current zoning ordinances.

Variance Application Section 5.7.3 (1) Basic Conditions:

We submit that this proposal meets all Basic Conditions from Section 5.7.3(1) Variances of the Township Ordinance:

1a) Will not be contrary to the public interest or the intent of the ordinance > Ordinance intent for R1-B (Section 6.3.1) is to regulate “development would deteriorate the Peninsula environment”. Our requested addition eliminates 2 small unbuildable lots, improves green spacing between residential homes, and reduces the population density of “families” from 2 to 1 using the lots currently known as 13083 and 13091 Bluff Rd. In addition, the proposal allows for the elimination of 3 enclosed septic tanks and moves septic waste further away from Bluff Rd / East Bay. Our proposal does not request significant increase to the amount of structural footprint relative to the existing footprint across both lots today. We are proposing 1 residence to replace 2 cottages and 2 sheds. We believe that is exactly in the spirit of the ordinance and the public interest.

1b) 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 > Our proposal is for a single family residence which is consistent with the R1-B zoning regulations. We are not requesting a change of use for the property

1c) 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 > This proposal should improve value of adjacent properties in the immediate area of this proposed residence: Replaces 3 closed septic tanks with a modern septic drain field moved away from Bluff Rd and East Bay. Combines two small “non-compliant” 43’ lots into a single lot; still a non-conforming lot but much closer to the intent of the current zoning ordinances. Improves value of neighborhood and creates more “space” between houses. Reduces the “population density” / # of families accessing the road and the water along this stretch of Bluff Rd. Safety is also improved as the proposed garage is set behind the home on the south side, and garage activity would be sheltered from the busy road, improving visibility along the road for drivers, pedestrians, and cyclists.

1d) 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 > We are asking for specific variances to allow a defined construction proposal. We are not requesting any vague or general allowances.

1e) Will relate only to property that is under control of the applicant > The proposal is based on the combined property lots at 13083 and 13091. Both lots are currently owned by the applicants; Brian, Beth & Dan Stainforth. The lots will be combined once the project is approved and implemented.

Variance Application Section 5.7.3(2) Special Conditions

We submit that this proposal meets items 2a, 2c and 2d of the Special Conditions of Section 5.7.3(2) of the Township ordinances:

2a) 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 > A practical difficulty or hardship exists due to the existing lot sizes and the structure located at 13091 Bluff Rd. The lots were parceled out in 1964 and are substantially smaller than the minimum current zoning area. None of the current applicants were involved in any way in the construction of the existing structures. We submit that the structure on 13091 was built using over 25% of its allowable footprint. Our proposal requests a variance to consolidate the structures and uses essentially the same footprint percentage that the separate structures on 13083 and 13091 use today. (Today combined 20.6% - we are requesting less than 3% increase to 23.4%). Although our proposal requests a slightly higher footprint percentage, it does offer a solution that resolves and improves many of the existing setback non conformances. The proposed construction meets setback requirements to the rear, and south side and substantially improves the front setback from 11 feet to 25 feet. (The north side remains as the current structure on 13091 will remain as it is today). In addition, the current location of the existing structures creates a water waste hardship as there is no possible land available for use as a septic drain field. By combining the property lots and consolidating the living space into a single residence, a modern septic field solution can replace the three enclosed tanks along Bluff Rd today.

2c) 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 > both lots were of legal record prior to the effective date of this ordinance, dating back to 1964 when they were created by the estate of Joseph Kroupa.

2d) Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district > We submit that this variance request is consistent with property rights granted to other properties in the same zoning district; cursory research suggests that many recent home construction projects in our immediate neighborhood and also in Peninsula Township were based on variance to footprint usage of 5% - 13%. In addition, many variance requests also included significant setback exceptions. Our request for an 8.5% variance (23.4 % total footprint) is consistent; and our proposal does have a solution that resolves 3 current non-conforming setbacks and substantially improves another setback non-conformance. The two lots combined still result in an "unbuildable" lot so we feel that our proposal is a reasonable attempt to establish a permanent residence for a single family that is comparable with the neighborhood homes and in the spirit of the zoning ordinance. Our proposed structure would meet footprint ordinances if it was located on a minimum size regulation lot.

Section 7.5.5 Addition to Non-Conforming Structure

a) increased safety: one residence replaces two resulting in reduced people / vehicle density in same stretch along Bluff Rd. In addition, we are moving vehicle parking from the ROW (current 13083 situation) to the garage area located behind the house would also improve safety by eliminating blind spots along Bluff Rd. The proposed drain field improvements also improve safety with the elimination of frequent septic tank maintenance along Bluff Rd.

b) the proposed addition does not make the existing legally non-conforming residence more non-conforming; in fact the proposal results in a structure that is significantly closer to the zoning requirements than the current situation today (re. lot size, setbacks). The requested variances are necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

c) Does not apply

d) Met Basic and Special considerations as outlined above