

**PENINSULA TOWNSHIP
ZONING BOARD OF APPEALS
AGENDA
13235 Center Road
Traverse City, MI 49686
October 13, 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. 853, Zoning R-1C (*adjourned from September 8, 2016*)

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

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

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

Requests: (1) a variance of up to 22 feet from the 30 foot rear yard setback requirement to allow for the construction of a 720 square foot attached garage; and (2) a variance of up to 6 feet from the 15 foot side yard setback requirement to allow for the construction of a 720 square foot attached garage.

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

****Applicant Requests No. 847 be adjourned to Thursday, November 10, 2016 at 7:00pm.**

B. Request No. 857, Zoning R-1A & A-1

Applicant: Jessica V. Stroud, 607 W. Orchard Dr., Traverse City, MI 49686

Owner: Kramer Old Mission, LLC, 33 West Monroe St. Ste. 1900, Traverse City, MI 49685

Property Address: 17865 Whispering Trail, Traverse City, MI 49686

Request: (1) a variance to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately two tenths of a mile of Whispering Trail be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for the construction of an addition to a single family residence.

Parcel Code No. 28-11-104-003-00

9. Approval of Minutes

- A. September 8, 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.

**PENINSULATOWNSHIP
ZONING BOARD OF APPEALS
September 8, 2016**

1. **Call Meeting to Order:** Chair Vida called the meeting to order at 7:00pm at the Peninsula Township Hall, 13235 Center Road, Traverse City, MI 49686.

2. **Pledge of Allegiance**
After the pledge of allegiance was recited, Chair Vida called for a moment of silence to honor Pete Correia.

3. **Roll Call of Attendance:**
Present: Wendy Witkop, Matt Cowall, Bernie Soutar, Isaiah Wunsch, Rick Vida
Absent: None
Also Present: Michelle Reardon and Claire Schoolmaster

4. **Approval of Agenda**
Reardon explained that Request No. 855 did not require a variance and the applicant will be refunded the fee and the items will be struck from the agenda.

Staff requested to add Public Comments and Board Comments after New Business.

Witkop moved and Soutar seconded to approve the agenda as amended adding Public Comment and Board Comment after New Business and deleting request No. 855.

*Yeas: Witkop, Soutar, Cowall, Wunsch, Vida
Nays: None*

5. **Conflict of Interest**
None noted

6. **Communication Received**
All communication was received.

7. **Brief Citizens Comments – for items not on the Agenda**
None

8. **Scheduled Public Hearings**

A. Request No. 855, Zoning R-1C

Applicant Daniel and Margaret Casey, 7003 Peninsula Drive, Traverse City, MI 49686

Owner: Daniel and Margaret Casey, 702 Peninsula Drive, Traverse City, MI 49686

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

The applicant is requesting a variance of up to 22 feet from the 30 foot rear yard setback requirement to allow for the construction of a 720 square foot attached garage; and a variance of up to 6 feet from the 15 foot side yard setback requirement to allow for the construction of a 720 square foot attached garage. Staff indicated that the lot was non-conforming since it was created prior to zoning but the residential building located on the lot is conforming. The proposed 24 x 30 garage would need a rear yard setback variance of up to 9 feet from the required 30 feet and a side yard setback variance of up to 9 feet from the required 15 foot setback.

Applicant Dan Casey addressed the ZBA and said that his neighbors are in support of the proposed garage. He indicated that a steep hill on the rear of the property impedes his ability to build a conforming garage. Casey indicated that he bought the property with the knowledge that locating a garage on the property may be problematic but was hopeful it could be done without impacting others. Jason Shier with Simonis Constructon said that there is a clear hardship presented with the property shape and layout. There was no opposition or support from anyone in the audience.

Board members discussed the depth of the garage and the applicant indicated that he would store canoes and kayaks in the rear of the garage. Board members also discussed the topography of the lot as well as the setbacks of the existing shed. Vida explained the approval process to the applicant and that the ZBA needed to have standards for approval. Discussion took place on alternative sizes and locations for the proposed garage. A one car garage was mentioned by Cowall since no variance would be needed. Reardon suggested adjourning the request until the next regularly scheduled ZBA meeting so that the contractor and applicant can discuss the matter. She mentioned that if Casey asked for a special meeting, there may be fees involved, but if there was a reduction in the size of the variance, a published notice was not required.

Witkop moved to adjourn Request No. 853 to the next regularly scheduled ZBA meeting. Soutar seconded the motion.

Yeas: Witkop, Soutar, Wunsch, Cowall, Vida

Nays: None

B. Request No. 856, Zoning R-1B

Applicant: Michelle Amaly Recchia, 2630 Rawasi Ave., Traverse City, MI 49685

Owner: Michelle Amaly Recchia, 2630 Rawasi Ave., Traverse City, MI 49685

Property Address: 2755 Shore Wood Dr., Traverse City, MI 49686

The applicant is requesting a variance to eliminate the requirement under Section 7.10.11 of the zoning ordinance that approximately one half mile of Shore Wood Drive be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for the construction of a single family residence. Dino and Michelle Recchia addressed the ZBA and said that this issue was not a new one to the township and no one was required to have this type of variance to build their homes in the past. Soutar asked about efforts to

upgrade the road by the neighborhood association. Dave Berkey, Chair of Shore Wood Association, addressed the board and said that Shore Wood Drive has been there since 1948. Part of road is 33 feet wide and part of the road is 30 feet wide. The association self manages the road by grading each year and adding gravel. He said that there are many roads on the peninsula that are similar and the township needs to review the ordinance in the matter of its private non-conforming roads.

Reardon said that this is a legal non-conforming preexisting road on the books and that private road standards are being addressed at the present time. Board members asked if the road could be improved any further and Berkey replied that it was an option, but they would need to gain 23 feet of roadway on either side to make it a conforming road. Board members cautioned that the standards may not be relaxed even after reviewing it because of the Fire Code. There was no one in the audience speaking for or against the request.

Peninsula Township Planning & Zoning Department

FINDINGS OF FACT

ZBA Request #856 – 2755 Shore Wood Drive

September 8, 2016

DECISION AND ORDER

Applicant: Michelle Amaly Recchia, 2630 Rawasi Ave, Traverse City, MI 49685

Hearing

Date: September 8, 2016

PROPERTY DESCRIPTION

The property of 2755 Shore Wood Drive, Traverse City, MI 49686, Parcel No. 28-11-635-008-00 herein after referred to as the "property".

APPLICATION

Request: (1) a variance to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately one-half mile of Shore Wood Drive be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for the construction of a single family residence.

The Board having considered the Application, a public hearing having been held on September 8, 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 Coastal Zone Single and Two-Family (R-1B). (Exhibits 1, 2)
2. The Board finds that the lot was created in 1942, before the adoption of the Zoning Ordinance. (Exhibit 1, 2, 5)
3. The Board finds that Section 7.10.11 Existing Non-Conforming Frontage Roads requires that existing frontage roads are improved in terms of grade, roadbed, shoulder, and pavement requirements, and prior to the issuance of a Land Use Permit. (Exhibit 2)
4. The Board finds that there is a building envelope located on the property. (Exhibits 1, 2)
5. The Board finds that the applicant requests to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately one-half mile of Shore Wood Drive be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for the construction of a single family residence. (Exhibit 2)
6. The Board finds that the proposed single family residence meets all applicable zoning standards, including setbacks, lot coverage, and height. (Exhibits 2, 3, 4)

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

MOTION PASSED UNAN

Variance Request #1 A variance to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately one-half mile of Shore Wood Drive be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for the construction of a single family residence.

MOTION: Witkop/Wunsch all basic conditions have been based on the standards listed on the proposed Findings of Fact.

MOTION PASSED UNAN

FINDINGS UNDER SECTION 5.7.3 VARIANCES OF THE ZONING ORDINANCE

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

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

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

The following findings may support this standard HAS been met.

- a. The Board finds that the 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 Shore Wood Drive was established prior to the effective date of Section 7.10 Road Standards of the Zoning Ordinance. (Exhibit 2)
- c. The Board finds that the proposed structure is a single family residence which complies with the uses allowed in the R-1B zoning district. The Board further

finds that the proposed structure complies with all applicable zoning standards. (Exhibits 2, 3, 4)

- d. The Board finds that according to Section 4.1.3 a Land Use Permit is required to construct a structure of greater than twenty-five square feet. The Board further finds that according to Section 7.10.11 existing non-conforming frontage roads must meet the grade, roadbed, shoulder, and paving requirements prior to the issuance of a Land Use Permit. (Exhibit 2)
- e. The Board finds that Shore Wood is an existing legal non-conforming frontage road. The Board finds that given the property fronts Shore Wood Drive the ability to construct any structure is prohibited unless the frontage road is brought to Peninsula Township Zoning Ordinance standard or a variance granted. As such the Board finds that the requested variance is necessary for the owner to use the property for a permitted purpose. (Exhibit 2)

This standard HAS been met.

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

The following findings may support this standard HAS been met.

- a. The Board finds that Shore Wood Drive was established prior to the effective date of Section 7.10 Road Standards of the Zoning Ordinance. (Exhibits 2, 5)
- b. The Board finds that Shore Wood Drive is an existing non-conforming frontage road. The Board finds that given the property which fronts Shore Wood Drive the ability to construct any structure is prohibited unless the frontage road is brought to standard or a variance granted. (Exhibits 2, 3, 4, 5)

This standard HAS been met.

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

The following findings may support this standard HAS been met.

- a. The Board finds that the property is zoned Coastal Zone Single and Two Family (R-1B) and according to Section 6.2.2(2) a single family residence is a use by right in that zoning district. (Exhibits 2, 5)
- b. The Board finds that the construction of the proposed structure will result in residential use. (Exhibits 3, 4)

This standard HAS been met.

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

The following findings may support this standard HAS been met.

- a. The Board finds that the 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 Shore Wood Drive was established prior to the effective date of Section 7.10 Road Standards of the Zoning Ordinance. (Exhibit 2)
- c. The Board finds that the proposed structure is a single family residence which complies with the uses allowed in the R-1B zoning district. The Board further finds that the proposed structure complies with all applicable zoning standards. (Exhibits 2, 3, 4)
- d. The Board finds that according to Section 4.1.3 a Land Use Permit is required to construct a structure of greater than twenty-five square feet. The Board further finds that according to Section 7.10.11 existing non-conforming frontage roads must meet the grade, roadbed, shoulder, and paving requirements prior to the issuance of a Land Use Permit. (Exhibit 2)
- e. The Board finds that Shore Wood is an existing legal non-conforming frontage road. The Board finds that given the property fronts Shore Wood Drive the ability to construct any structure is prohibited unless the frontage road is brought to Peninsula Township Zoning Ordinance standard or a variance granted. As such the Board finds that the requested variance is necessary for the owner to use the property for a permitted purpose. (Exhibit 2, 5)

This standard HAS been met.

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

The following findings may support this standard HAS been met.

- a. The Board finds that the construction of a single family residence is an improvement which will likely increase the value of the subject property. The Board further finds that generally the construction of a single family residence is unlikely to decrease the values of any neighboring properties. (Exhibit 2, 3)

This standard HAS been met.

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

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) and according to Section 6.2.2(2) a single family residence a use by right in that zoning district. (Exhibits 2)
- b. The Board finds that the construction of the proposed structure will result in residential use. (Exhibits 3, 4)

This standard HAS been met.

VARIANCE REQUEST # 1 MOTION TO APPROVE

MOTION: Witkop/Cowall grant variance request #1 for case #856 as submitted.

ROLL CALL VOTE: Witkop – yes; Cowall – yes; Vida – yes; Soutar – yes; and Wunsch – yes.

MOTION PASSED UNAN

The Peninsula Township Board of Appeals has **APPROVED** your request for a variance to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately one-half mile of Shore Wood Drive be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for the construction of a single family residence.

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

9. Approval of Minutes

A. July 13, 2016 Special Meeting

Wunsch moved and Witkop seconded to adopt the minutes of the July 13, 2016 Special Meeting as presented.

Yeas: Wunsch, Witkop, Soutar, Cowall, Vida

Nays: None

B. August 11, 2016 Meeting

Soutar moved and Wunsch seconded to approve the minutes of August 11, 2016 as amended noting that on the bottom of page 19, the second to last sentence in the comment made by Dalese shall read "Past that there".

Yeas: Soutar, Wunsch, Cowall, Witkop, Vida

Nays: None

10. New Business

A. Township Board Report (Witkop)

Witkop reported that it has been very busy since Correia died. The Board appointed Rob Manigold as Acting Supervisor. The Township Clerk resigned and Joanne Westphal has assumed that position. No zoning has been discussed at the board level.

B. Planning Commission Report (Wunsch)

The review of 81 Plat has been completed. Public Hearing and comment is wrapped up and the board will accept the report. It will now go to the developer and developer will need to submit more detailed plans to the township. Officials met with representatives from Vineyard Ridge and sent them away with more questions. Amendment 191 will also be discussed allowing for two different permits on one plat of land. Vida said that the entire board will miss Reardon and he has enjoyed working with her. Reardon replied that she enjoyed working with all the boards in the township. Soutar will serve as chair at the next meeting. Reardon said once the new zoning board of appeals is in place, they will need to appoint a new chairperson and may need to appoint for a board vacancy.

11. Public Comments

Marilyn Elliott of Whispering Trail thanked Michelle Reardon for a fabulous job and thanked Wendy Witkop for her service as well.

12. Adjournment 8:10pm.

Witkop moved and Wunsch seconded to adjourn at 8:10pm.

Respectfully submitted by Anne Wendling, 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 October 13, 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. 857, Zoning R-1A & A-1

Applicant: Jessica V. Stroud, 607 W. Orchard Dr., Traverse City, MI 49686

Owner: Kramer Old Mission, LLC, 33 West Monroe St. Ste. 1900, Traverse City, MI 49685

Property Address: 17865 Whispering Trail, Traverse City, MI 49686

Request: (1) a variance to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately two tenths of a mile of Whispering Trail be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for the construction of an addition to a single family residence.

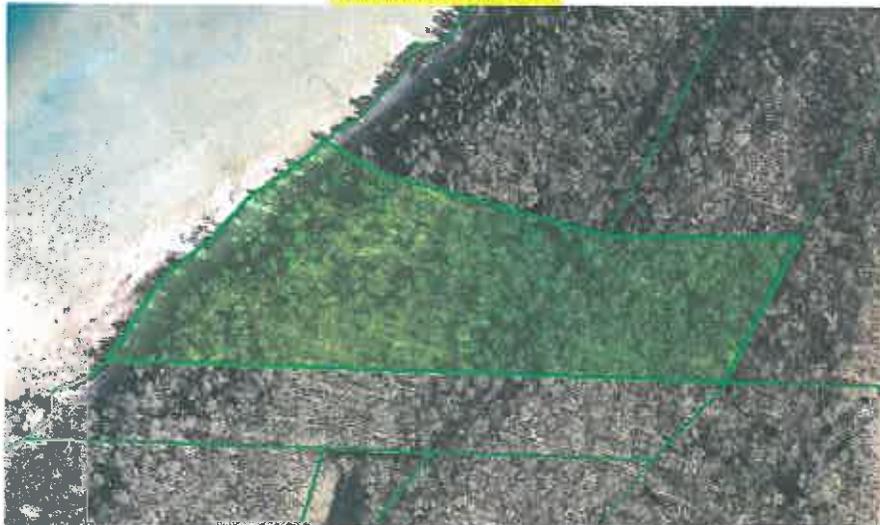
Parcel Code No. 28-11-104-003-00

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 #857 – 17865 Whispering Trail
October 13, 2016

To: Peninsula Township Zoning Board of Appeals

From: Claire Schoolmaster, Planning & Zoning

RE: Request No. 857 – 17865 Whispering Trail

Hearing

Date: October 13, 2016 – 7:00 PM

Applicant: Jessica V. Stroud, 607 W. Orchard Dr., Traverse City, MI 49686

Site: 17865 Whispering Trail, Traverse City, MI 49686

Tax IDs: 28-11-104-003-00

Information:

- Parcel 28-11-104-003-00 is approximately 8.03 acres in size.
- The property is dual zoned Rural & Hillside (R-1A) and Agricultural (A-1); the surrounding areas are also zoned Rural & Hillside (R-1A) and Agricultural (A-1).
- The proposed residential addition is located on the section of property that is zoned Rural & Hillside (R-1A).
- The proposed residential addition conforms to all applicable zoning standards, including setbacks, lot coverage, and height.
- The property fronts Whispering Trail, a non-conforming private road.
- The variance requested is for the construction of a residential addition. This requires the elimination of the requirement under Section 7.10.11 of the Zoning Ordinance that approximately two tenths of a mile of Whispering Trail be improved in terms of grade, roadbed, and shoulder, and paving requirements.

Action

Requested: (1) a variance to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately two tenths of a mile of Whispering Trail be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for the construction of an addition to a single family residence.

Mailing: Twenty (13) surrounding property owners were notified. No comments were received as of October 6, 2016.

Applicant

Statement: Please see the enclosed application submitted by Jessica V. Stroud, appointed representative.

Staff Comments:

Request #1

The variance requested is for the construction of a single family residence. This requires the elimination of the requirement under Section 7.10.11 of the Zoning Ordinance that approximately two tenths of a mile of Whispering Trail be improved in terms of grade, roadbed, and shoulder, and paving requirements.

Background

The proposed residential addition conforms to relevant zoning standards for minimum lot setbacks, lot coverage, and height.

The applicant requests (1) a variance to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately two tenths of a mile of Whispering Trail be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for the construction of an addition to a single family residence. The requested variance must meet the following standards in order to be granted. Specific staff comments follow the standards.

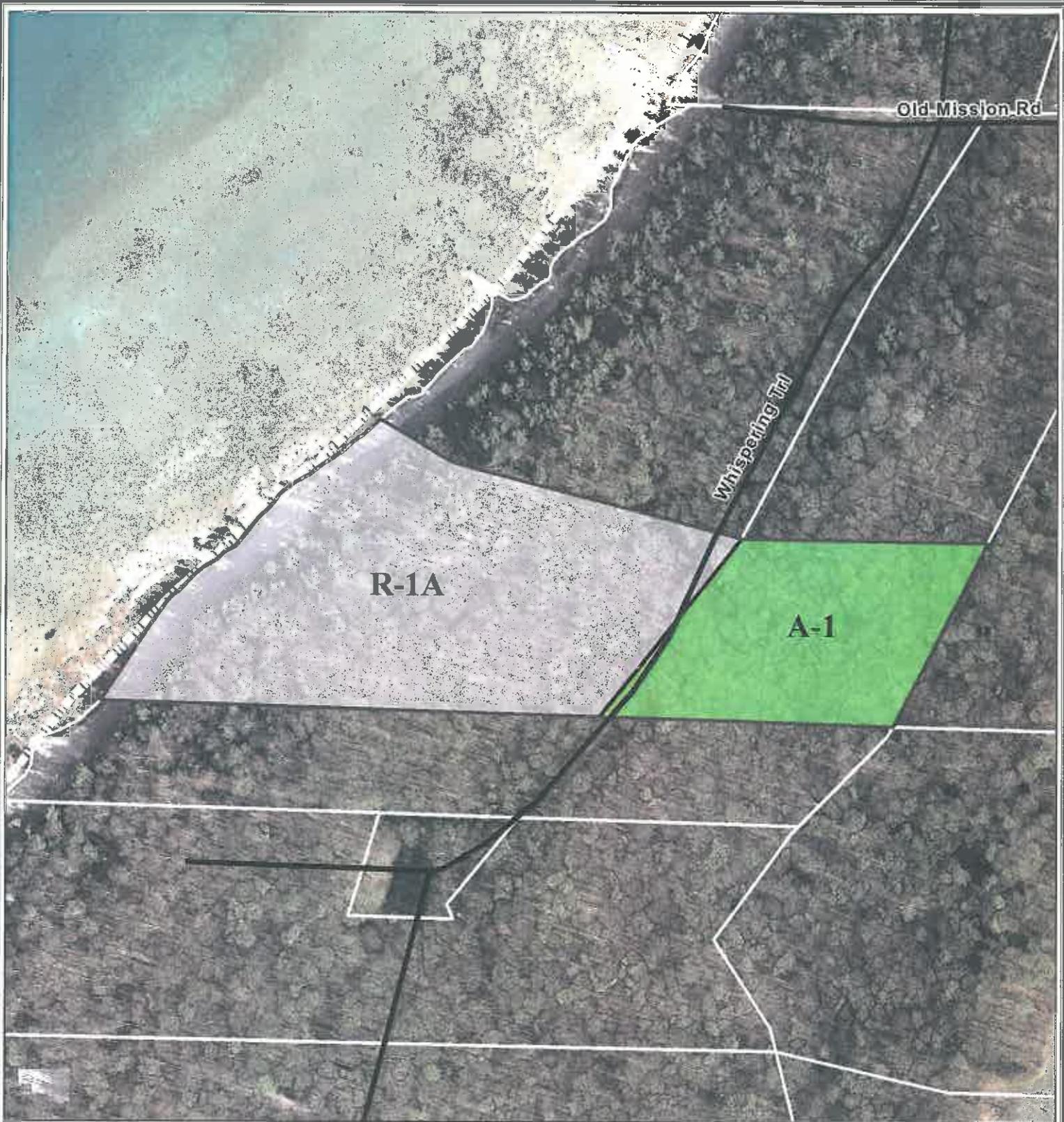
FINDINGS UNDER SECTION 5.7.3 VARIANCES OF THE ZONING ORDINANCE

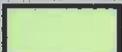
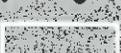
The Board makes the following findings of fact as required by Section 5.7.3 Variances of the Zoning Ordinance for each of the following standards listed in that section:

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

1. That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.
2. The need for the variance is not the result of actions of the property owner (self-created) or previous property owners.
3. That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)
4. That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
5. That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.
6. That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.

The subject property, zoned R-1A & A-1. The width is approximately 300 feet and the length is approximately 1,160 feet.



	Major Highways		Twp Boundary
	Major Roads	Zoning Category	
	Local Roads		A-1
	Twp Parcels		R-1A

**Zoning Boundaries
17865 Whispering Trail**

Peninsula Township
Grand Traverse County
Michigan

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Peninsula Township Planning & Zoning Department
FINDINGS OF FACT

ZBA Request #857 – 17865 Whispering Trail
October 13, 2016

DECISION AND ORDER

Applicant: Jessica V. Stroud, 607 W. Orchard Dr., Traverse City, MI 49686

Hearing

Date: October 13, 2016

PROPERTY DESCRIPTION

The property of 17865 Whispering Trail, Traverse City, MI 49686, Parcel No. 28-11-104-003-00 herein after referred to as the “property”.

APPLICATION

Request: (1) a variance to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately two tenths of a mile of Whispering Trail be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for the construction of an addition to a single family residence.

The Board having considered the Application, a public hearing having been held on October 13, 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 dual zoned Rural & Hillside (R-1A) and Agricultural (A-1). (Exhibits 1, 2)
2. The Board finds that the proposed residential addition is located on the portion of the property that is zoned Rural & Hillside (R-1A). (Exhibits 1, 2, 5)
3. The Board finds that the proposed single family residence meets all applicable zoning standards, including setbacks, lot coverage, and height. (Exhibits 2, 3, 4)
4. The Board finds that Section 7.10.11 Existing Non-Conforming Frontage Roads requires that existing frontage roads are improved in terms of grade, roadbed, shoulder, and pavement requirements, and prior to the issuance of a Land Use Permit. (Exhibit 2)
5. The Board finds that the applicant requests a variance to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately two tenths of a mile of Whispering Trail be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for the construction of an addition to a single family residence. (Exhibit 2)

Variance Request #1 A variance to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately two tenths of a mile of Whispering Trail be improved in terms of grade, roadbed, and

shoulder, and paving requirements. The variance requested is for the construction of an addition to a single family residence.

FINDINGS UNDER SECTION 5.7.3 VARIANCES OF THE ZONING ORDINANCE

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

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

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

The following findings may support this standard HAS been met.

- a. The Board finds that the applicable portion of the property is zoned Rural & Hillside (R-1A). According to Section 6.2.2(2)(a) a single family residence is a use by right in the R-1A zoning district. (Exhibits 1, 2)
- b. The Board finds that Whispering Trail was established prior to the effective date of Section 7.10 Road Standards of the Zoning Ordinance. (Exhibit 2, 5)
- c. The Board finds that the proposed structure is an addition to a single family residence which complies with the uses allowed in the R-1A zoning district. The Board further finds that the proposed structure complies with all applicable zoning standards. (Exhibits 2, 3, 4)
- d. The Board finds that according to Section 4.1.3, a Land Use Permit is required to construct a structure of greater than twenty-five square feet. The Board further finds that according to Section 7.10.11 existing non-conforming frontage roads must meet the grade, roadbed, shoulder, and paving requirements prior to the issuance of a Land Use Permit. (Exhibit 2)
- e. The Board finds that Whispering Trail is an existing legal non-conforming frontage road. The Board finds that given the property fronts Whispering Trail the ability to construct any structure is prohibited unless the frontage road is brought to Peninsula Township Zoning Ordinance standard or a variance granted. As such the Board finds that the requested variance is necessary for the owner to use the property for a permitted purpose. (Exhibit 2, 5)
- f. 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.

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

The following findings may support this standard HAS been met.

- a. The Board finds that Whispering Trail was established prior to the effective date of Section 7.10 Road Standards of the Zoning Ordinance. (Exhibits 2, 5)
- b. The Board finds that Whispering Trail is an existing non-conforming frontage road. The Board finds that given the property which fronts Whispering Trail the ability to construct any structure is prohibited unless the frontage road is brought to standard or a variance granted. (Exhibits 2, 3, 4, 5)
- c. 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.

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

The following findings may support this standard HAS been met.

- a. The Board finds that the applicable portion of the property is zoned Rural & Hillside (R-1A). According to Section 6.2.2(2)(a) a single family residence is a use by right in the R-1A zoning district. (Exhibits 1, 2)
- b. The Board finds that the construction of the proposed structure will result in residential use. (Exhibits 3, 4)
- c. 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. That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

The following findings may support this standard HAS been met.

- a. The Board finds that the applicable portion of the property is zoned Rural & Hillside (R-1A). According to Section 6.2.2(2)(a) a single family residence is a use by right in the R-1A zoning district. (Exhibits 1, 2)
- b. The Board finds that Whispering Trail was established prior to the effective date of Section 7.10 Road Standards of the Zoning Ordinance. (Exhibit 2)
- c. The Board finds that the proposed structure is an addition to a single family residence which complies with the uses allowed in the R-1A zoning district. The Board further finds that the proposed structure complies with all applicable zoning standards. (Exhibits 2, 3, 4)
- d. The Board finds that according to Section 4.1.3 a Land Use Permit is required to construct a structure of greater than twenty-five square feet. The Board further finds that according to Section 7.10.11 existing non-conforming frontage roads must meet the grade, roadbed, shoulder, and paving requirements prior to the issuance of a Land Use Permit. (Exhibit 2)
- e. The Board finds that Whispering Trail is an existing legal non-conforming frontage road. The Board finds that given the property fronts Whispering Trail the ability to construct any structure is prohibited unless the frontage road is brought to Peninsula Township Zoning Ordinance standard or a variance granted. As such the Board finds that the requested variance is necessary for the owner to use the property for a permitted purpose. (Exhibit 2)
- f. 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.

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

The following findings may support this standard HAS been met.

- a. The Board finds that the construction of an addition to a single family residence is an improvement which will likely increase the value of the subject property. The Board further finds that generally the construction of residential addition is unlikely to decrease the values of any neighboring properties. (Exhibit 2, 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.

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

The following findings may support this standard HAS been met.

- a. The Board finds that the applicable portion of the property is zoned Rural & Hillside (R-1A). According to Section 6.2.2(2)(a) a single family residence is a use by right in the R-1A zoning district. (Exhibits 1, 2)
- b. The Board finds that the construction of the proposed structure will result in residential use. (Exhibits 3, 4)
- c. 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.

VARIANCE REQUEST # 1 MOTION TO APPROVE / DENY

The Peninsula Township Board of Appeals has **APPROVED / DENIED** your request for a variance to eliminate the requirement under Section 7.10.11 of the Zoning Ordinance that approximately two tenths of a mile of Whispering Trail be improved in terms of grade, roadbed, and shoulder, and paving requirements. The variance requested is for the construction of an addition to a single family residence.

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**.

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 #856 – 2755 Shore Wood Drive
September 8, 2016

EXHIBIT LIST

1. Peninsula Township Master Plan
2. Peninsula Township Zoning Ordinance
3. Request for Variance filed by Jessica V. Stroud, appointed representative.
4. Staff report from Peninsula Township Planning & Zoning Department
5. Whispering Trail Easement Agreement (Book 574 Page 189)

AGREEMENT MADE this 29th day of July, 1981 by and between the parties whose signatures appear on this document.

WITNESSETH:

WHEREAS, the parties hereto are the owners of certain property described in the documents attached hereto and now wish to create certain easements for mutual enjoyment.

NOW THEREFORE in consideration of the mutual promises and the mutual grants of easements here and after set forth, it is agreed as follows:

1) The parties hereby create and grant a valid and perpetual easement over and across the property described as easement and attached hereto. Said easement shall be used for the following purposes: (a) For vehicle and pedestrian ingress and egress from and between the public road lying on the north boundary of the easement and the various homes owned along the easement; and (b) For the installation and maintenance of electrical and other utilities serving the various properties located along the easement and described in the attachments hereto.

The easements specifically granted herein shall be 30 feet in width. In the event that the utility companies require an easement of such width that 30 feet is not sufficient for both utility and roadway easements, the easement created hereunder shall be widened to accommodate both such purposes, provided that in no event shall they be wider than 50 feet.

2) The respective owners of the properties shall pay the cost of construction and maintenance, incurred during their ownership, of that portion of the road built upon such roadway which is contained within their respective lot lines.

3) Said roadway and utility easements shall run with the land and shall be for the joint and mutual use of the owners from time to time of the various properties and the respect of tenants, guests, licensees and invitees.

4) All of the covenants and agreements herein contained shall inure to the benefit of and be binding upon the respective parties hereto and their legal representatives, heirs, devisees, successors, assigns and grantees and any and all persons claiming by, through or under any of them.

5) As further consideration for the granting of said easement, the owners hereby place the following restrictions upon the use and occupancy of said property, said restrictions shall be perpetual covenants running with the land, but without forfeiture or reverter, and shall be as follows:

3774 Douglas S. Bickel, Trust
Jg. End

104-004-00
* 104-002-10

* = Part of - usually bearing that part of the property lying west of Whispering Trail

104-009-00
* 104-009-10
* 104-006-00
* 104-005-00
* 104-003-00

104-018-00
104-011-10
104-011-00
104-010-00
* 104-009-20

THOMPSON, ZIRNHELT,
BOWRON, BINGER
& ROSE, P. C.
288 LAKE AVENUE
P. O. BOX 1087
TRAVERSE CITY, MICHIGAN
49604
(616) 944-0000

- (a) The property shall be used and occupied for single family residential purposes only, together with such accessory buildings and uses as are customarily incidental thereto;
- (b) No commercial enterprises of any kind shall be conducted thereon;
- (c) All sewage shall be disposed of into septic tanks to be constructed in conformity with the sanitary code of the department of public health of the State of Michigan;
- (d) All buildings other than docks, boat wells and bath houses shall be erected east of the timber line as the same shall be from time to time;
- (e) Each single family dwelling sight shall contain not less than 200 feet of frontage on Grand Traverse Bay;
- (f) All main residential buildings shall be separated from each other by at least 100 feet; this restriction shall not apply to garages or other accessory structures;
- (g) Trees and native shrubbery now standing upon property shall be maintained in native state as recommended from time to time by the State of Michigan Conservation Department, except that the same may be removed for easements, driveways, and building areas, including lawns around the same; provided, however, that the restrictions contained in this paragraph "g" may be removed at any time upon the consent in writing to such removal by the then owners of not less than three-quarters of the property legally described in the attachments hereto.

IN WITNESS WHEREOF we the respective property owners hereunto set our hands and seals this 29th day of July, 1981.

STATE OF MICHIGAN
GRAND TRAVERSE CO. MI
RECEIVED FOR RECORD
JUN 29 12 10 PM '81
REGISTER OF DEEDS

WITNESSES:

Jewell A. Ferris
Jewell A. Ferris

Tomlin C. Rosi
Tomlin C. Rosi

Sharon K. Martin
Sharon K. Martin

A Married Man of
Box 411
Grayling, MI 49738

Jewell A. Ferris
Jewell A. Ferris

Marilyn Rosi
Marilyn Rosi

Sharon K. Martin
Sharon K. Martin

Wife of Tomlin C. Rosi, of
Box 411
Grayling, MI 49738

Jewell A. Ferris
Jewell A. Ferris

Philip R. Rosi
Philip R. Rosi

Sharon K. Martin
Sharon K. Martin

A Married Man
17421 Whispering Trail
Traverse City, MI 49684

Jewell A. Ferris
Jewell A. Ferris

Joann D. Rosi
Joann D. Rosi, Wife of Philip R. Rosi
17421 Whispering Trail
Traverse City, MI 49684

Sharon K. Martin
Sharon K. Martin

THOMPSON, ZINNHELT,
BOWRON, SENGEL
& ROSE, P. C.
222 LAKE AVENUE
P. O. BOX 1067
TRAVERSE CITY, MICHIGAN
49684
(616) 845-9220

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 Jessica V. Stroud, RA LEEDAP
Address Line 1 607 W. Orchard Dr.
Address Line 2 Traverse City, MI 49686
Phone 231-631-4376 Cell _____
E-mail jvanhou@gmail.com

Owner: Name Anthony Kramer and Barbara Bailey
Address Line 1 17865 Whispering Trail
Address Line 2 Traverse City, MI 49686
Phone _____ Cell _____
E-mail 3bkd Bailey@comcast.net

(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 28-11-104-003-00 Zoning R-1A
Address Line 1 17865 Whispering Trail
Address Line 2 Traverse City, MI 49686

Type of Request

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

- | | | |
|---|--|---|
| <input type="checkbox"/> Front Yard Setback | <input type="checkbox"/> Side Yard Setback | <input type="checkbox"/> Rear Yard Setback |
| <input type="checkbox"/> Width to Depth Ratio | <input type="checkbox"/> Lot Coverage | <input type="checkbox"/> Off-Street Parking |
| <input type="checkbox"/> Signage | <input type="checkbox"/> Height/Width | <input type="checkbox"/> Non-Conformity Expansion |
| <input checked="" type="checkbox"/> Other: Please Describe: <u>Road Standards</u> | | |

Attachments

- \$375 Fee
- Basic Conditions Worksheet
- 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

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

Is this condition met? Please explain: The existing structures on the property that are being added on to are fully within the setbacks. The new addition is fully within the setbacks. All aspects of the project meet the zoning requirements, except the existing road right of way. The owner has no control over this right of way which was set in place before the road standards were adopted as part of the ordinance.

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

Is this condition met? Please explain: Neither the owner or previous owners set up the existing road right of way or have had any control over it.

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

Is this condition met? Please explain: Yes, the owner cannot change the

existing road right of way width and should not be prevented from making improvements to his/her property that fully meet the zoning requirements.

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

Is this condition met? Please explain: Yes, all property owners should be able to make improvements to their properties on this road. None of them have control over the road right of way width

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

Is this condition met? Please explain: Yes. It will not affect other property values, etc.

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

Is this condition met? Please explain: Yes. The property use is one already permitted by right.

September 13, 2016

Jessica VanHouzen Stroud
607 West Orchard Drive
Traverse City, Michigan

Re: **Kramer Old Mission LLC**
17865 Whispering Trail

Property Tax I.D. #28-11-104-003-00

Dear Jessica:

I hereby give you permission to apply for a Variance in conjunction with the addition to be build on the home at 17865 Whispering Trail.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anthony F. Kramer', written in a cursive style.

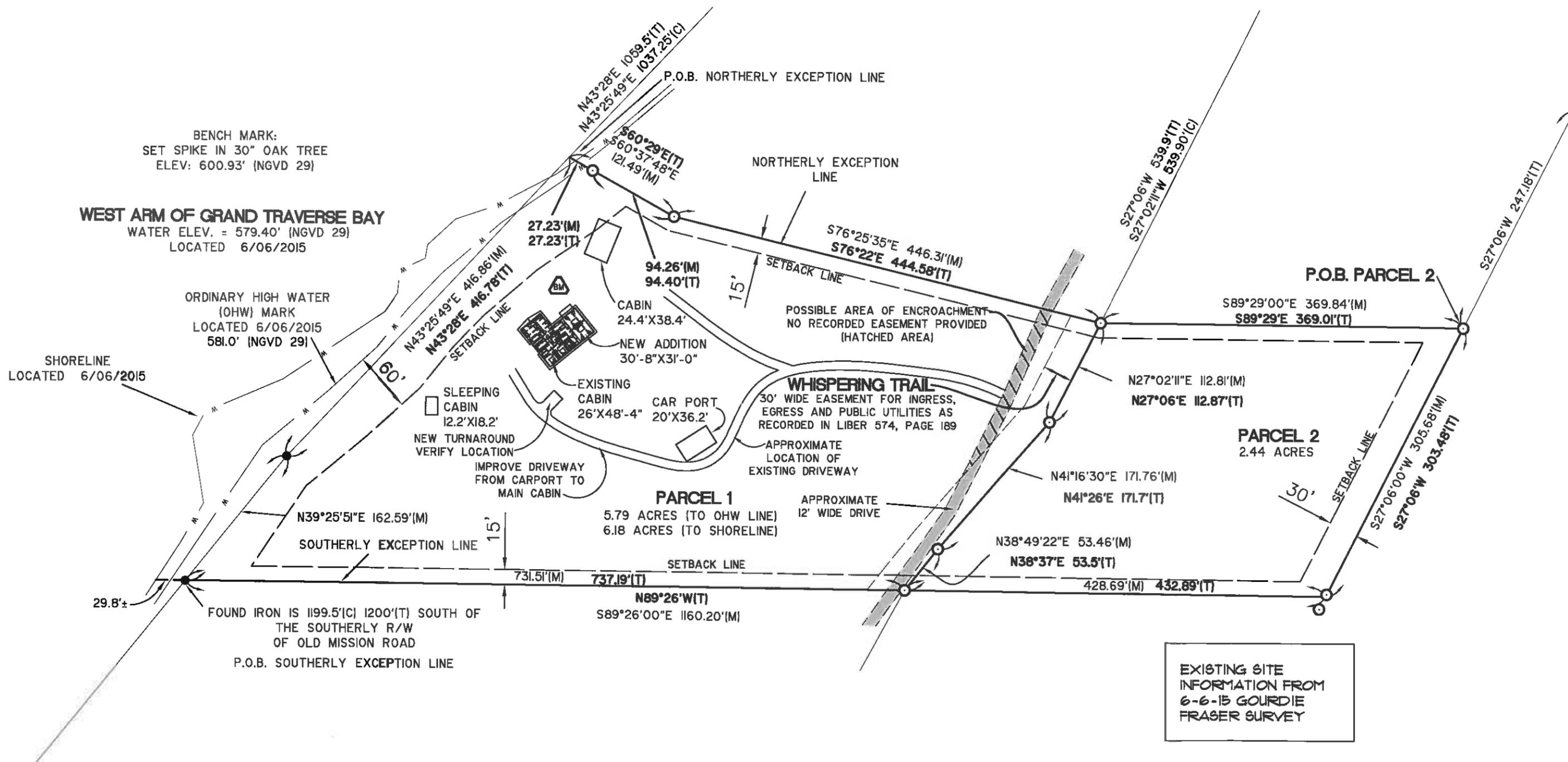
Anthony F. Kramer
Kramer Old Mission, LLC

BENCH MARK:
SET SPIKE IN 30" OAK TREE
ELEV: 600.93' (NGVD 29)

WEST ARM OF GRAND TRAVERSE BAY
WATER ELEV. = 579.40' (NGVD 29)
LOCATED 6/06/2015

ORDINARY HIGH WATER
(OHW) MARK
LOCATED 6/06/2015
581.0' (NGVD 29)

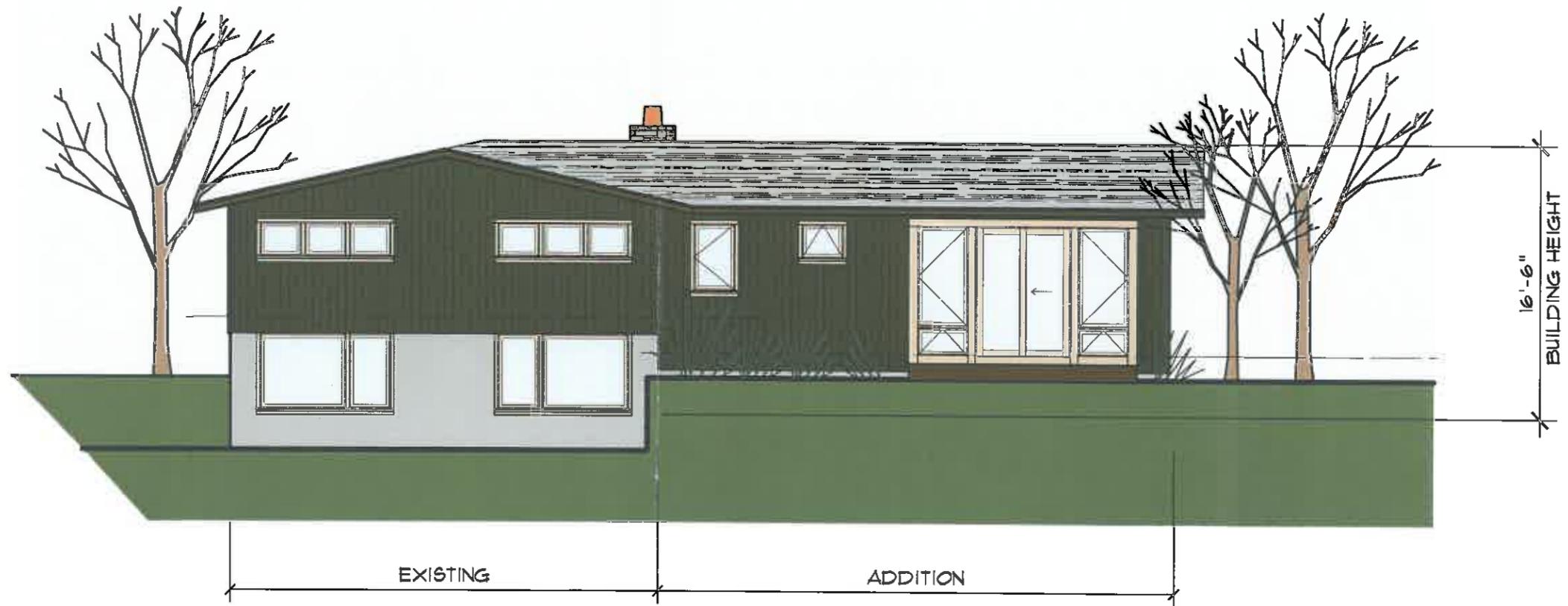
SHORELINE
LOCATED 6/06/2015



ADDITION TO AN EXISTING CABIN
FOR THE KRAMER & BAILEY FAMILIES
SITE PLAN

SCALE: 1" = 100'

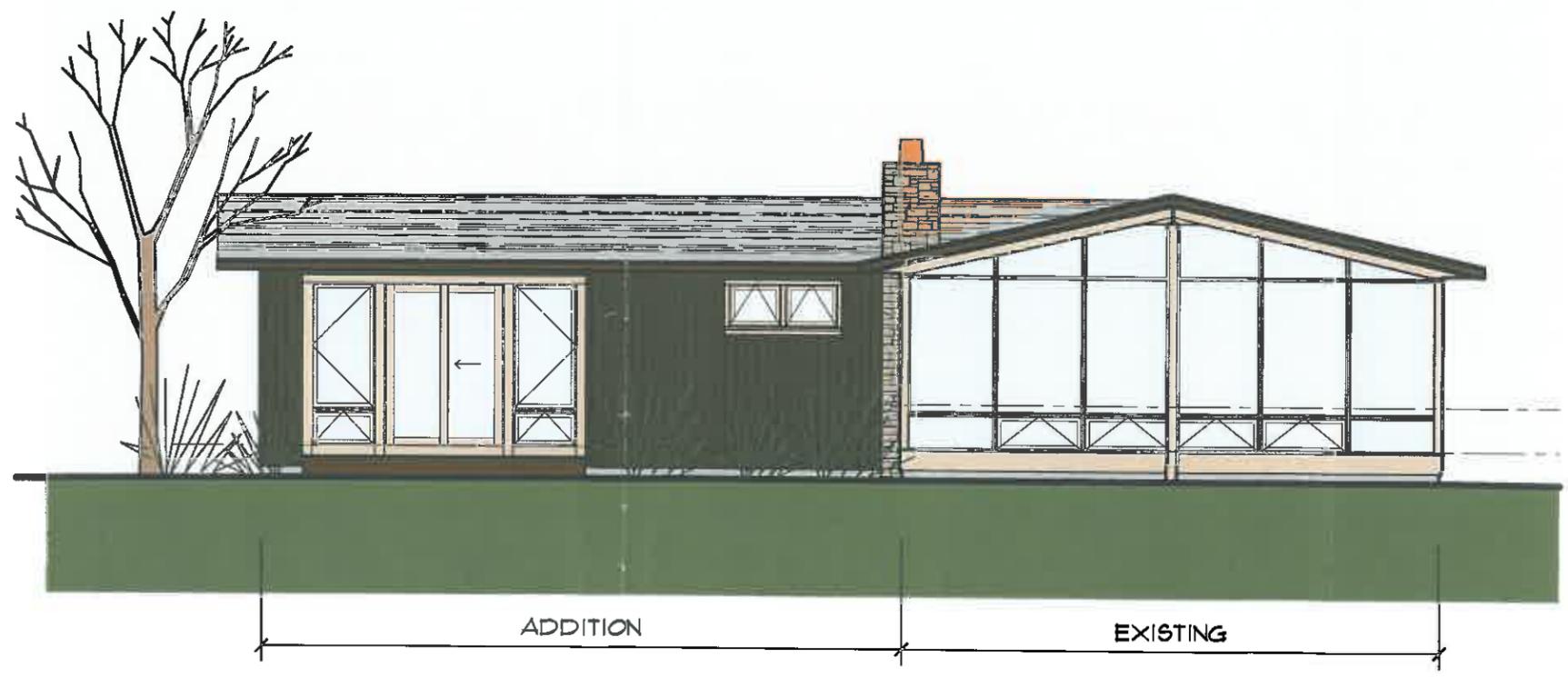
9-14-16



ADDITION TO AN EXISTING CABIN
FOR THE KRAMER & BAILEY FAMILIES
EAST ELEVATION

SCALE: 1/8" = 1'-0"

9-14-16



ADDITION TO AN EXISTING CABIN
FOR THE KRAMER & BAILEY FAMILIES
WEST ELEVATION

SCALE: 1/8" = 1'-0"

9-14-16