

**PENINSULA TOWNSHIP
ZONING BOARD OF APPEALS**

AGENDA

13235 Center Road
Traverse City, MI 49686

November 10, 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 Comment**
8. **New Business**

9. **Old Business**
 - A. **Request No. 853, Zoning R-1C (*adjourned from October 13, 2016*)**
Applicant: Daniel & Margaret Casey, 7002 Peninsula Drive, Traverse City, MI 49686
Owner: Daniel & Margaret Casey, 7002 Peninsula Drive, Traverse City, MI 49686
Property Address: 7002 Peninsula Drive, Traverse City, MI 49686
Requests: (1) a variance of up to 6 feet from the 15 foot side yard setback requirement to allow for the construction of a 720 square foot attached garage.

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

10. **Approval of Minutes**
 - A. October 13, 2016 Regular Meeting
11. **Township Board Report (Witkop)**
12. **Planning Commission Report (Wunsch)**
13. **Public Comment**
14. **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
October 13, 2016**

Meeting called to Order at 7:00 PM

Present: **Soutar** –Chair; **Witkop**; **Elliott**-Alternate; **Wunsch**-Alternate. Also present were *Claire Herman*, Zoning & Planning; *Peter Wendling*, Township Attorney and *Mary Ann Abbott*, Recording Secretary.
Absent: **Vida**-Regular Chair (excused); Cowall (excused)

Approval of Agenda

MOTION: Witkop/Elliott to approve agenda

PASSED UNAN

Conflict of Interest

None

Communication Received

None

Public Input

None

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. 853 be adjourned to Thursday, November 10, 2016 at 7:00pm.**

Herman Applicant wishes the request to be adjourned until November 10, 2016 when a full board would be present

MOTION: Witkop/Wunsch to adjourn Request No. 853 to November 10, 2016.

PASSED UNAN

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

Herman states that the progress of the Planning Commission and Zoning Ordinance Rewrite continues. There are plans to address the private road standards.

Public Hearing opens at 7:10 PM

Gordon Hayward, 17777 Shitake Lane supports the request to grant the variance.

No comments in opposition. Public Hearing closes at 7:12 PM

Discussion by the Board and the Applicants representative resulted in the following Findings of Fact and Motion.

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).

MOTION: Wunsch/Witkop 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 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)

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 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)

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 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)

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 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)

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 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)

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 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)

This standard HAS been met.

VARIANCE REQUEST # 1 MOTION TO APPROVE

MOTION: Witkop/Elliott all the basic conditions have been met based on the Findings of Fact and to approve Variance Request #857.

ROLL CALL VOTE: Witkop – yes; Elliott – 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 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.

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 Minutes

A. September 8, 2016 Regular Meeting

Address on bottom of page 1 should read Daniel and Margaret Casey, ~~702~~ 7002 Peninsula

MOTION: Witkop/Wunsch to approve Minutes as amended.

PASSED UNAN

New Business

Township Board Report (Witkop)

The Town Board is working on a lot of things but the most pertinent to the Zoning Board is the Zoning Ordinance rewrite, which is mostly the Planning Commission at this point.

Planning Commission Report (Wunsch)

No major changes since the last report.

MOTION: Elliott/Witkop to adjourn at 7:17 PM.

Respectfully submitted by Mary Ann Abbott, 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 September 8, 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. 853, Zoning R-1C

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.

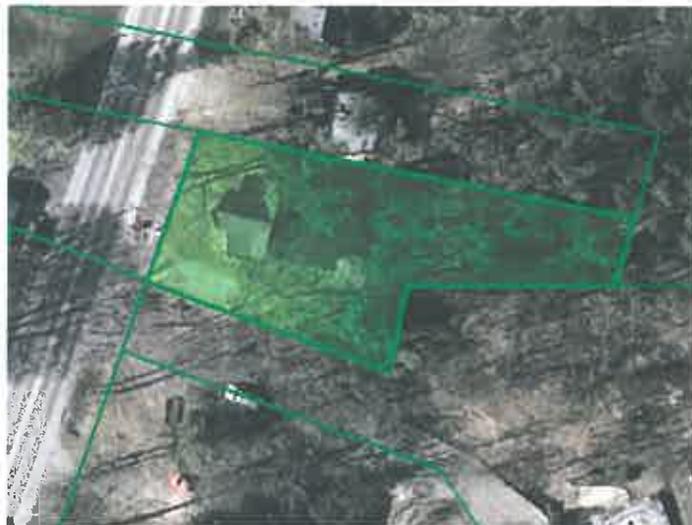
Parcel Code No. 28-11-325-085-00

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 #853 – 7002 Peninsula Drive
November 10, 2016

To: Peninsula Township Zoning Board of Appeals
From: Claire Schoolmaster, Planning & Zoning
RE: Request No. 853 – 7002 Peninsula Drive
Hearing Date: November 10, 2016 – 7:00 PM
Applicant: Daniel & Margaret Casey, 7002 Peninsula Drive, Traverse City, MI 49686
Site: 7002 Peninsula Drive, Traverse City, MI 49686
Tax IDs: 28-11-325-085-00

Information:

- Parcel 28-11-325-085-00 is approximately 0.3 acres in size.
- The property is zoned Suburban Residential Single and Two-Family (R-1C); the surrounding area is also zoned Suburban Residential Single and Two-Family (R-1C).
- The lot was created before the adoption of the Peninsula Township Zoning Ordinance, and is considered non-conforming.
- The property owner will execute a land swap of 915.95 square feet with the adjacent neighbor if the variance is approved.
- The lot approximately 13,050 square feet and the minimum area for a parcel in the R-1C zoning district is 20,000 square feet.
- The residential structure located on the property was built in 1900 and is conforming.
- There is a building envelope located on the lot.
- The proposed attached garage requires a side yard setback variance of up to 9 feet from the required 15 feet.

Action

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

Mailing: Twenty (20) surrounding property owners were notified. No comments were received as of September 1, 2016.

Applicant

Statement: Please see the enclosed application submitted by Daniel & Margaret Casey, property owners.

Staff Comments:

Request #1 & 2

The applicant is requesting variances for the construction of an attached two car garage.

Background

The existing single family residence was built in 1900. **After negotiating with the adjacent neighbor for a land swap, one variance is needed to construct an attached 2 car garage.**

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

R-1C Standards (Section 6.8)	Required	Proposed Garage	Variance	Conforms to Standard?
Minimum Front Setback	25'	68'	NA	Yes
Minimum South Side Setback	15'	9'	6'	No
Minimum North Side Setback	15'	47'	NA	Yes
Minimum Rear Setback	30'	30'	NA	Yes
Minimum OHWM Setback	NA	NA	NA	NA

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

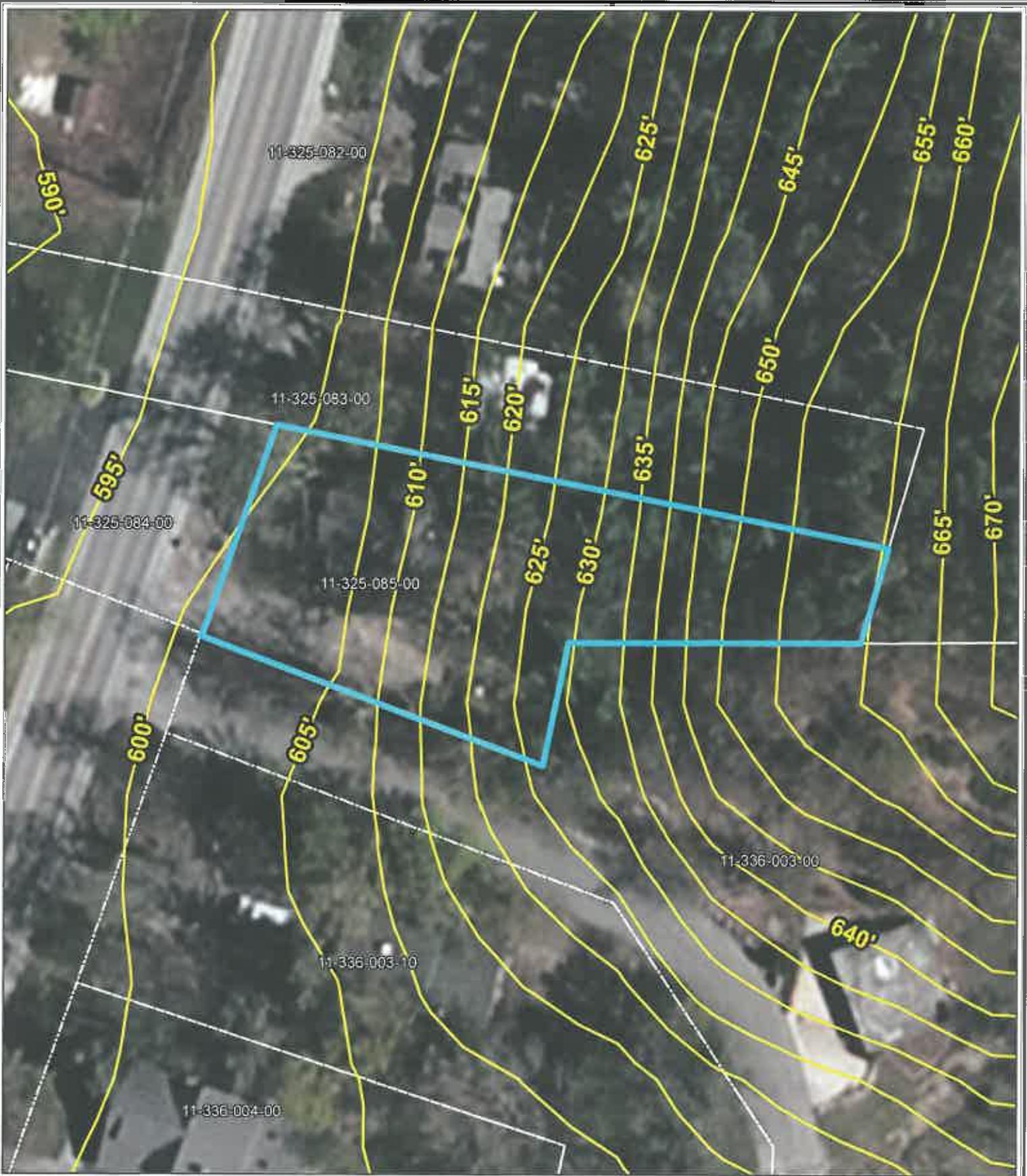
Basic Conditions: ALL of the Basic Conditions SHALL be clearly demonstrated.

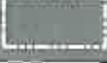
1. That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant’s personal or economic hardship.
2. The need for the variance is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

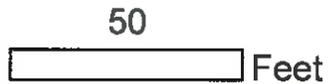
5. That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.
6. That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.

The subject property, zoned R-1C, was created before the effective date of the Ordinance and considered non-conforming. The width is approximately 71 feet and the length is approximately 192.5 feet.



-  Contour Lines
-  Parcel of Interest
-  Peninsula Twp Parcels

Topographic Overlay
PIN: 28-11-325-085-00



Peninsula Township
 Grand Traverse County
 Michigan



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Peninsula Township Planning & Zoning Department
FINDINGS OF FACT

ZBA Request #853 – 7002 Peninsula
November 10, 2016

DECISION AND ORDER

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

Hearing

Date: November 10, 2016

PROPERTY DESCRIPTION

The property of 7002 Peninsula Drive, Traverse City, MI 49686, Parcel No. 28-11-325-085-00 herein after referred to as the “property”.

APPLICATION

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

The Board having considered the Application, a public hearing having been held on November 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 four (4) 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 Suburban Residential Single and Two-Family (R-1C). (Exhibits 1, 2)
2. The Board finds that the lot was created before the adoption of the Zoning Ordinance and is non-conforming. (Exhibit 1, 2)
3. The Board finds that the lot approximately 13,050 square feet and the minimum area for a parcel in the R-1C zoning district is 20,000 square feet. (Exhibit 1, 2, 3)
4. The Board finds that the proposed attached garage does not conform to relevant zoning standards. (Exhibits 2, 3, 4)
5. The Board finds that there is a building envelope located on the property. (Exhibits 1, 2)
6. The Board finds that the applicant requests 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. (Exhibit 3)
7. The Board finds that if the variance is approved the property owner will execute a land swap of 915.95 square feet with the adjacent neighbor that would eliminate the rear yard setback encroachment of the proposed garage. (Exhibit 3)

Variance Request #1 A variance of up to 6 feet from the 15 foot side yard setback requirement to allow for the construction of a 720 square foot attached garage.

FINDINGS UNDER SECTION 5.7.3 VARIANCES OF THE ZONING ORDINANCE

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

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

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

The following findings may support this standard HAS been met.

- a. The Board finds that the parcel is has a unique shape and was created before the effective date of the Zoning Ordinance (Exhibit 4).
- b. The Board finds that the parcel is nonconforming. The total area is approximately 13,050 square feet, and the minimum area for a parcel in the R-1C zoning district is 20,000 square feet. (Exhibit 1, 2, 3)
- c. The Board finds that the property has unique topography with a steep slope in the rear yard. (Exhibit 3, 4)
- 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 Suburban Residential Single and Two-Family (R-1C). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1C zoning district, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)
- b. The Board finds that the proposed garage does not comply with the side yard setback restriction. (Exhibits 2, 3, 4)
- c. 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 the parcel is has a unique shape and was created before the effective date of the Zoning Ordinance (Exhibit 4).

- b. The Board finds that the parcel is nonconforming. The total area is approximately 13,050 square feet, and the minimum area for a parcel in the R-1C zoning district is 20,000 square feet. (Exhibit 1, 2, 3)
- c. The Board finds that the property has unique topography with a steep slope in the rear yard. (Exhibit 3, 4)
- 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 Suburban Residential Single and Two-Family (R-1C). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1C zoning district, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)
- b. The Board finds that the proposed garage does not comply with the side yard setback restriction. (Exhibits 2, 3, 4)
- c. 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 parcel is has a unique shape and was created before the effective date of the Zoning Ordinance (Exhibit 4).
- b. The Board finds that the parcel is nonconforming. The total area is approximately 13,050 square feet, and the minimum area for a parcel in the R-1C zoning district is 20,000 square feet. (Exhibit 1, 2, 3)
- c. The Board finds that the property has unique topography with a steep slope in the rear yard. (Exhibit 3, 4)
- 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 Suburban Residential Single and Two-Family (R-1C). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1C zoning district, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)

- b. The Board finds that the proposed garage does not comply with the side yard setback restriction. (Exhibits 2, 3, 4)
- c. 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 parcel is has a unique shape and was created before the effective date of the Zoning Ordinance (Exhibit 4).
- b. The Board finds that the parcel is nonconforming. The total area is approximately 13,050 square feet, and the minimum area for a parcel in the R-1C zoning district is 20,000 square feet. (Exhibit 1, 2, 3)
- c. The Board finds that the property has unique topography with a steep slope in the rear yard. (Exhibit 3, 4)
- 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 Suburban Residential Single and Two-Family (R-1C). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1C zoning district, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)
- b. The Board finds that the proposed garage does not comply with the side yard setback restriction. (Exhibits 2, 3, 4)
- c. 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 generally proposed garage is unlikely to cause adverse impacts 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.

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

The following findings may support this standard HAS been met.

- a. The Board finds that the property is zoned Suburban Residential Single and Two-Family (R-1C). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1C zoning district. (Exhibits 1, 2)
- 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 Suburban Residential Single and Two-Family (R-1C). According to Section 6.2.2(2)(a) an accessory structure is a use by right in the R-1C zoning district, provided however that the structure comply with the setback restrictions. (Exhibits 1, 2)
- b. The Board finds that the proposed garage does not comply with the side yard setback restriction. (Exhibits 2, 3, 4)
- c. 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 up to 6 feet from the 15 foot side yard setback requirement to allow for the construction of a 720 square foot attached garage.

CONDITIONS OF APPROVAL

- 1.
- 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 #853 – 7002 Peninsula Drive
November 10, 2016

EXHIBIT LIST

1. Peninsula Township Master Plan
2. Peninsula Township Zoning Ordinance
3. Request for Variance filed by Daniel Casey, property owner
4. Staff report from Peninsula Township Planning & Zoning Department

Variance Application

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

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 Dan and Peggy Casey
 Address Line 1 7002 Peninsula Drive
 Address Line 2 Traverse City, MI 49686
 Phone 517-282-8755 Cell 517-282-8755
 E-mail danpegcasey@gmail.com

Owner: Name Dan and Peggy Casey
 Address Line 1 7002 Peninsula Drive
 Address Line 2 Traverse City, MI 49686
 Phone 517-282-8755 Cell 517-282-8755
 E-mail danpegcasey@gmail.com

(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 28-11-325-085-00 Zoning R-1C
 Address Line 1 7002 Peninsula Drive
 Address Line 2 Traverse City, MI 49686

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:
We would like to replace the existing shed with a garage. Due to the unusual shape of our lot, the garage would require a variance from the set back requirements.

September 29, 2016

Peninsula Township
Zoning Board of Appeals
13235 Center Road
Traverse City, MI 49686

**RE: Proposed Garage and Variance Request
7002 Peninsula Dr. - Zoning District: R-1C**

The following responses to the Basic Conditions listed on the Peninsula Township Variance Application are provided for consideration of a variance request for dimensional relief from the prescribed side setback for a new garage in the R-1C zoning district.

Basic Conditions

(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.

RESPONSES:

- 1. The existing lot (Parcel 28-11-325-085-00) was created before the adoption of the Peninsula Township Zoning Ordinance (see the staff report for ZBA Request #853, dated 9/8/16). The adoption of the standards of the zoning ordinance made the existing lot non-conforming.**
- 2. The existing lot width of approximately 75' (measured at the front setback line) is 25' less than the required 100' lot width of the R-1C zoning district. Additionally, the existing lot size of roughly 12,134 square feet is significantly smaller than the 20,000 square foot minimum lot size of the R-1C zoning district. The dimensional constraints created by the application of the current zoning setbacks on this smaller, preexisting lot have created a situation where the slight relaxation of a side yard setback, along with a proposed lot line readjustment, would be necessary to allow the applicant to construct a typical garage as it would be allowed on other properties within the R-1C zoning district.**

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

RESPONSES:

- 1. The constraints on the existing parcel and need for the variance were not the result of the of actions of the property owner as the lot was created before the adoption of the Peninsula Township Zoning Ordinance (see the staff report for ZBA Request #853, dated 9/8/16). Additionally, the existing home was built around 1900. The location of the existing structure and the steep,**

wooded slopes to the rear of the house limit the size and shape of the reasonable construction area on the site.

(c) That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirements 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.)

RESPONSES:

- 1. The narrow width of the existing lot and the current side yard setback prevent the construction of a typical accessory structure (garage) that is allowed by right in the R-1C zoning district. Alternative locations for such a structure would negatively impact the site's natural features, namely the steep, wooded slopes to the rear of the existing house. Disturbing these vegetated slopes would increase the risk of erosion and the potential for damage to the parcel and adjoining properties.**

(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.

RESPONSES:

- 1. The requested variance will permit the construction of a typical accessory structure that is allowed by right within the R-1C zoning district, allowing the applicant to utilize their property in a logical and reasonable manner, consistent with that of neighboring R-1C zoned property owners.**

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

RESPONSES:

- 1. The requested variance will not cause adverse impacts on the surrounding property. The adjacent property to the south of the parcel, closest to the proposed garage, only has a driveway on it to access a vineyard to the south and east. The addition of the proposed garage will only serve to increase the value of the property.**

(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.

RESPONSES:

- 1. The proposed garage is allowed, by right, in the R-1C zoning district.**

October 19, 2016

Peninsula Township Zoning Board of Appeals

Grand Traverse County, Michigan

To Whom It May Concern:

I agree to the proposed land swap with Daniel and Margaret Casey as outlined in the 9/26/16 Garage, Land Swap and Setback Variance Site Plan created by Mansfield Land Use Consultants. This agreement is contingent upon approval of the variance request by the Zoning Board of Appeals.

Yours Truly,

A handwritten signature in black ink, appearing to read "Bill Janis", written over a horizontal line.

Bill Janis

2410 West Aero Park

Traverse City, MI 49686