

PENINSULA TOWNSHIP
REGULAR MEETING
ZONING BOARD OF APPEALS MINUTES
Virtual Meeting Via Zoom
March 16, 2021
7:00 p.m.

1. **Call to Order** Soutar called the meeting to order at 7:13 p.m.
2. **Pledge**
3. **Roll Call of Attendance** Dolton, Elliott, Rowlett, Serocki, Soutar, Meihn (Peninsula Township Attorney).
Note: Murazai from Land Information Access Associates (LIAA) conducted the virtual meeting. Members of the public could participate by raising their hand in zoom. Those calling in by phone could raise their hand by pressing *9.
4. **Approval of Agenda** Serocki moved to approve the agenda with a second by Dolton.
Roll call vote Yes: Dolton, Elliott, Serocki, Soutar, Rowlett **PASSED UNAM**
5. **Conflict of Interest** None
6. **Brief Citizen Comments – for items not on the Agenda** None
7. **Appoint new vice chairperson** Dolton agreed to be the Vice Chairperson of the Peninsula Township Zoning Board of Appeals.
Rowlett moved for Dolton to be appointed Vice Chair of the Peninsula Township Zoning Board of Appeals with a second by Serocki.
Roll call vote Yes: Dolton, Elliott, Rowlett, Serocki, Soutar **PASSED UNAM**
8. **Old Business Tabled from February 16, 2021:**

Elliott moved that Request 885 be taken off the table and placed back onto the agenda with a second by Serocki.
Roll call vote Yes: Dolton, Elliott, Rowlett, Serocki, Soutar **PASSED UNAM**

1. Request No. 885, Zoning R-1C

Applicant: Daniel J. Dingeman, 6559 Peninsula Drive, Traverse City, MI 49686

Owner: Daniel J. Dingeman, 6559 Peninsula Drive, Traverse City, MI 49686

Property Address: 6559 Peninsula Drive, Traverse City, MI 49686

1. Requesting a variance from the required sixty (60) foot setback from the ordinary high waterline to fifty-four (54) feet in order to construct a 750 square foot addition to the existing non-conforming structure.

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DRAFT

Parcel Code # 28-11-336-038-00

Daniel Dingeman 6559 Peninsula Drive

I am going through the chronological order accompanied by photos of the history of the property. The house was built in 1947, which pre-dates the ordinance laws. Additions to the home in 1986 and 1992 met all side yard setbacks and the ordinary high water mark and no variances were issued. The neighbor immediately to the south, the Pascoes, built their home in 1995 with no variances. We purchased the property from the Youngs in 2020. When our survey came back for our planned addition it showed set back non-conformities. We called up Mr. Young, who had provided us with a site plan at the time of our purchase of the property and he was surprised at this finding. He went back through his records and provided a copy of the site plan presented to the township for his additions, which required no variances. The ordinary high water mark is 581 above sea level and has been this way since 1955. Sea level is a fixed vertical dimension from which we make a horizontal measurement. When I met with the zoning administrator, she indicated the site plan was not done by a surveyor. Mr. Young is a licensed engineer. He did not seal the site plan. The township did provide him with a permit to build the home and which I accepted at the time of occupancy. The township showed him in full compliance with the zoning ordinance. At no time in the history of the property was there any variances issued. When we received the survey from Mr. Mitchell, this set us on a course to obtain a variance. If you look at the common north south corner shared property line our survey shows it takes 103 feet to get out to the ordinary high water mark. However, if you look at my neighbor's survey, it takes 132 feet to the high water mark. His house was built after mine. This is a difference of 29 feet and with this measurement we might not even need a variance. I debated whether to even pull this from your agenda, but I have spent \$1,000 on my fee, I have been trying to get in from of this board since November, 2020 and I understand that is COVID related and not anyone's fault here, plus the time and effort. I have bothered my neighbor and Mr. Young, who now lives in Florida, and they have both given generously of their time. I see there is an inequity between what was accepted in the past by the township and what is occurring today and I hope you correct this inequity. If you look at what people ask for in the way of variances, I am asking for only a 6 foot variance. No one can see these 6 feet and both my neighbors to the north and south have supported this variance. My lot coverage is 11.24% and the allowable amount is 25%. There is an incredible 100 year old willow tree that sets in the northwest corner of the property. If we were not to tilt the house, we would be looking straight into that willow tree. People pay big money to have water front property and be able to see the water. I do not want to cut down the willow tree. At the last meeting we talked about drainage. There is not a drainage easement, but there is a drainage pipe. There is a manhole cover on one side of the road that was put there by the township or the road commission and a culvert on the other side that drains onto my property. The highest part of the property is where we want to build. I would be happy to go through all of the material from the last meeting and go over how this request meets the 6 basic conditions for a variance. Mr. Dancer has some information he would like to share with you.

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Soutar: Before doing so I would like to thank you for providing the additional information and the 1984 survey of the house is the most important piece of information. The Pascoe information is regarding his property and does not pertain to this case. I would like to ask if members who were not present at the last meeting would like to ask any questions.

Deeren: I would like to clarify that this was a site plan from 1984 and not a survey.

Dingeman: This is a site plan drawn by a certified engineer and the scale is correct.

Dolton: It is difficult to scale a drawing that is a copy from the original. I would like to ask Meihn and Deeren if they have ever seen a survey that was done in 1995 and we have a 2020 survey that is varying by 29 feet.

Meihn: Many things were done in different municipalities at different times that were not enforced when they were required to be enforced. You are required to conform to the ordinances in force today. I would rather see this decided from a survey rather than a site plan. I do understand the discrepancy that was presented, but you can go forward without the survey of the adjoining property. You can decide this regarding the hardship factors and those set in the basic conditions for a variance.

Dolton: Mr. Dingeman, are you confident in the survey done by Mr. Mitchell?

Dingeman: I am confident in the location of the residence. I am baffled how the ordinary high water mark is subjective in the world of surveying. I appreciate the neighbors survey is not relevant. Do I just hire another company to do a new survey? I am sure if Mr. Mitchell were here he would defend his survey.

Meihn: I agree that I would have another survey done using the correct numbers and exactly how the numbers are calculated on your property regardless of what occurred on any other properties. I have seen the water mark change property by property.

John Dancer architect 12180 Peninsula Drive

I am screen sharing with you a map of the Dingeman property with the Pascoe survey and the site plan from 1984 marked in red. The Pascoe survey shows the high water mark at 132 feet and the Dingeman high water mark at 103 feet. Also regarding the scale, I printed from an 18x24 foot plan. I took from along the north property line and scaled from the road right-of-way out to where the concrete monument is, which is 105 feet and the same on the 1984 survey.

Soutar: The Pascoe survey is not relevant in deciding this case.

Serocki: Is the Bob Mitchell survey the most current?

Deeren: Yes.

Soutar: Is there anyone who wishes to speak in favor of this request? Hearing none is there anyone who wishes to speak against this request, hearing none I will bring it back to the board.

Soutar: This request does not make the house any more non-conforming. The side yard setbacks are in compliance. I understand wanting to have the addition match the interior of the

existing house.

Dolton: The high water mark may be different in other years given the shifting sands at the bottom of the bay. The variance request is not so great that I have concerns with safety or access.

Elliott: I did not see a floor plan where the addition ties into the existing house. I have not seen the letter from the Baykeepers. It appears it is how confident one is with the current survey and I would like to ask Meihn for his comment.

Meihn: The documents given are what are needed to decide this request. Place your focus on the 6 basic conditions for granting a variance.

Serocki: This appears to be the result of the applicant and I am not in favor of granting this variance.

Rowlett: We have still not seen the interior floor plan. Would the willow tree die during the construction? I do not think the setback is absolutely needed.

Meihn: You are being presented with two arguments. One is that we do not need a variance if we use the high water mark from the survey of the adjoining property and the other is this is a small variance of just 6 feet.

Deeren: We are working off the Mitchell survey submitted November 12, 2020. The property is mostly non-conforming outside of the building envelope.

Dingeman: If the board denies this and I am not allowed to come back for a year, I would just as soon pull it tonight. I would like to hear the attorney's comment.

Meihn: If you do not think the board will approve this request, you could pull the request, get another survey that you believe is accurate and if you are within the ordinary high water mark, you would not need a variance.

Soutar: If you think the survey is wrong, you can certainly come back to Deeren showing her a new survey and if it shows you are within the setback, then you would not need a variance. The issue is if this is an incorrect survey.

Dolton moved to approve the variance request from the required sixty (60) foot setback from the ordinary high waterline to fifty-four (54) feet in order to construct a 750 square foot addition to the existing structure if all 6 basic conditions are met with a second by Elliot.

Soutar: The Board will now go through the 6 Basic Conditions that must be met for each variance.

A. 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.

Yes: Dolton, Soutar

No: Rowlett, Elliott, Serocki

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

Yes: Dolton, Soutar

No: Rowlett, Elliott, Serocki

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.)

Yes: Dolton, Soutar

No: Rowlett, Elliott, Serocki

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.

Yes: Dolton, Soutar, Serocki, Elliott

No: Rowlett

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

Soutar, Elliott, Rowlett, Dolton, Serocki **all agree** the condition has been met.

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.

Soutar, Rowlett, Dolton, Serocki, Elliott **all agree** the condition has been met.

Deeren: The motion to approve based on meeting the 6 basic conditions for a variance did not pass.

Roll call vote No-Soutar, Dolton, Elliott, Serocki, Rowlett

PASSED UNAM

Serocki moved that request 885 be denied with a second by Elliott.

Roll call vote Yes-Serocki, Elliott, Soutar, Dolton, Rowlett

PASSED UNAM

Deeren: The variance has been denied.

Elliott moved that Request 886 be taken off the table and placed back onto the agenda with a second by Serocki.

Roll call vote Yes: Dolton, Elliott, Rowlett, Serocki, Soutar

PASSED UNAM

2. Request No. 886, Zoning R-1B

Applicant: Wayne M. Eaker, 12440 Bluff Rd., Traverse City, MI 49686

Owner: Wayne M. Eaker, 12440 Bluff Rd., Traverse City, MI 49686

Property: 12440 Bluff Rd., Traverse City, MI 49686

1. Requesting a variance from the required fifteen (15) foot side yard setback to ten (10) feet on the northerly property line in order to place a 160 square foot shed.

2. Requesting a variance from the required fifteen (15) foot side yard setback to ten (10) feet on the southerly property line in order to place a 160 square foot shed.
3. Requesting a variance from the Definition of Lot: The parcel of land having frontage along a street or right-of-way on which one principal building and its accessories are located or intended to be located together with any open spaces required by this Ordinance. Two (2) or more parcels, lots of legal record, or platted lots, when contiguous and when held in common ownership, may be treated together as a single lot for purposes of this Ordinance. Unless otherwise provided in this Ordinance; public and private streets and road rights-of-way, and easements for ingress and egress shall divided lots (including parcels and sites) for purposes of this Ordinance (**REVISED BY AMDEDNMENT 158**)

Parcel Code # 28-11-134-026-00

Deeren: This request was tabled at the last meeting due to a question regarding the legal definition of a lot. Our attorney Meihn is here.

Meihn: I would like the applicant to make his presentation and then we will proceed from there.

Wayne Eaker 12440 Bluff Road

We would like to build a 10X16 foot shed across the street from the cottage where we live. This would allow us to store tools to better care for the property. This property is definitely narrow and small and our cottage is 630 square feet. We have no garage, shed, or place to store even a push lawnmower. Last month we had a problem with the definition of a lot, so I am interested in hearing what the lawyer has to say.

Meihn: I did not see anything in the ordinance that would allow a structure to be built and this is why you are here requesting a variance. Would you please read the definition of a lot.

Deeren: The definition is embedded within the ordinance itself. The definition of a lot is “Unless otherwise provided in this ordinance; public and private streets and road right-of-way and easements for ingress and egress shall divide lots.” This prevents me from issuing a permit for a structure across the street from the residence.

Meihn: So, based upon this definition a variance in this case is needed. The conditions for granting a variance now apply.

Eaker: Now that a variance might be granted, I will go through the other points. There is no place on the property that a shed could be placed that would not be non-conforming.

Dolton: Is there a place where the shed could go on the residence side, even though you would need a variance for that as well?

Eaker: No, there is a slope in front of the house and we could not meet the side yard setbacks. There is no flat place to put the shed.

Dolton: The definition language has been cleaned up in the rewrite, but it means the same thing.

Serocki: Correct. The definition of a lot has not changed in the current zoning rewrite. My

concern is regarding item f of the basic conditions which states “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.” I am concerned granting this variance would create a precedent going forward.

Soutar: This is an unbuildable lot and I too have a concern about setting a precedent. There is a deck on the property that is pre-existing and there is nothing to stop you from placing a shed on that deck.

Is there anyone who wishes to speak in favor of this request? Hearing none is there anyone who wishes to speak against this request, hearing none I will bring it back to the board.

Dolton moved to approve building a 160 square foot shed based upon the definition of a lot (Request 3) and meeting the 6 basic conditions for a variance. Rowlett seconded.

Soutar: The Board will now go through the 6 Basic Conditions that must be met for each variance. This is for variance request number 3.

A. 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.

Soutar, Elliott, Rowlett, Dolton, Serocki **all agree** the condition has been met.

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

Soutar, Elliott, Rowlett, Dolton, Serocki **all agree** the condition has been met.

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.)

Yes: Dolton, Serocki

No: Rowlett, Elliott, Soutar

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.

Yes: Dolton, Soutar

No: Rowlett, Serocki, Elliott

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

Yes: Dolton, Soutar, Serocki

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No: Rowlett, Elliott

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.

Yes: Dolton, Soutar, Rowlett

No: Serocki, Elliott

Deeren: The motion to approve based upon the definition of a lot and meeting the 6 basic conditions for a variance did not pass.

Roll call vote No-Soutar, Dolton, Elliott, Serocki, Rowlett

PASSED UNAM

Elliott moved all 3 variance requests be denied as they presented in the record with a second by Serocki.

Roll call vote Yes Soutar, Dolton, Elliott, Serocki, Rowlett

PASSED UNAM

Deeren: The variance requests are denied.

9. New Business:

1. Request No. 889, Zoning R-1C

Applicant: Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686

Owner: Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686

Property: 7215 Peninsula Drive, Traverse City, MI 49686

1. Requesting a variance from the required sixty (60) foot setback from the ordinary high waterline to thirty-one (31) feet in order to construct a 112 square foot addition to the existing non-conforming garage structure.
2. Requesting a variance from the required twenty-five (25) foot front yard setback to a twelve (12) foot front yard setback in order to construct a 112 square foot addition to the existing non-conforming garage structure.
3. Requesting a variance from the required 25 percent of lot coverage to 26.42 percent in order to construct a 112 square foot addition to existing non-conforming garage structure.

Parcel Code # 28-11-325-036-00

Richard Frank 7215 Peninsula Drive

We were here last month and were going to do an extension to the south and the north. It was recommended to us to just go to the north and we have taken your suggestions. The high water mark calculation is from a survey by Michigan Geometrics with the expressed purpose of determining the ordinary high water mark. What first got us here was the need to rebuild the garage floor that is no longer structurally sound. The structure is 2 stories with the garage on the upper/street level and with the lower floor walk-out to the lake level. We want to turn this upper portion into a two car garage at the same time in making the floor repair. We are ready to answer any of your questions.

Serocki: In looking at the site plan that was previously requested and the new one, it appears that the cantilever over a portion of the garage has been deleted. Is this the case?

Frank: Yes.

Dolton, Soutar, Rowlett, Elliott had no questions.

Soutar: Is there anyone who wishes to speak in favor of this request? Hearing none is there anyone who wishes to speak against this request, hearing none I will bring it back to the board.

Elliott moved ZBA request 889 item 2 be approved for a variance from the required twenty-five (25) foot front yard setback to a twelve (12) foot front yard setback in order to construct a 112 square foot addition to the existing non-conforming garage structure providing all basic conditions are met with a second by Rowlett.

Soutar: The Board will now go through the 6 Basic Conditions that must be met for a variance. This is for variance request number 2.

A. 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.

Serocki, Rowlett, Dolton, Elliott, Soutar **all agree** the condition has been met.

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

Serocki, Rowlett, Dolton, Elliott, Soutar **all agree** the condition has been met.

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.)

Serocki, Rowlett, Dolton, Elliott, Soutar **all agree** the condition has been met.

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.

Serocki, Rowlett, Dolton, Elliott, Soutar **all agree** the condition has been met.

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

Serocki, Rowlett, Dolton, Elliott, Soutar **all agree** the condition has been met.

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.

Serocki, Rowlett, Dolton, Elliott, Soutar **all agree** the condition has been met.

Roll call vote-Yes Rowlett, McBride, Couture, Dolton, Soutar

PASSED UNAM

Deeren: Variance Request number 2 is approved.

Dolton moved to approve variance request 1 from the required sixty (60) foot setback from the ordinary high waterline to thirty-one (31) feet in order to construct a 112 square foot addition to the existing non-conforming garage structure. (The variance was corrected for the ordinary high waterline to be fifty-two (52) feet providing all basic conditions are met with a second by Rowlett.

Soutar: The Board will now go through the 6 Basic Conditions for variance request number 1.

A. 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.

Serocki, Rowlett, Dolton, Elliott, Soutar **all agree** the condition has been met.

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

Serocki, Rowlett, Dolton, Elliott, Soutar **all agree** the condition has been met.

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.)

Serocki, Rowlett, Dolton, Elliott, Soutar **all agree** the condition has been met.

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.

Serocki, Rowlett, Dolton, Elliott, Soutar **all agree** the condition has been met.

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

Serocki, Rowlett, Dolton, Elliott, Soutar **all agree** the condition has been met.

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.

Serocki, Rowlett, Dolton, Elliott, Soutar **all agree** the condition has been met.

Roll call vote-Yes Rowlett, McBride, Couture, Dolton, Soutar

PASSED UNAM

Deeren: Variance Request number 1 is approved.

Elliott moved to approve request 889 variance request 3 from the required 25 percent of lot coverage to 26.42 percent in order to construct a 112 square foot addition to existing non-conforming garage structure provided the basic conditions are met with a second by Rowlett.

Soutar: The Board will now go through the 6 Basic Conditions for variance request number 3.

A. 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.

Serocki, Rowlett, Dolton, Elliott, Soutar **all agree** the condition has been met.

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

Serocki, Rowlett, Dolton, Elliott, Soutar **all agree** the condition has been met.

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.)

Serocki, Rowlett, Dolton, Elliott, Soutar **all agree** the condition has been met.

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.

Serocki, Rowlett, Dolton, Elliott, Soutar **all agree** the condition has been met.

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

Serocki, Rowlett, Dolton, Elliott, Soutar **all agree** the condition has been met.

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.

Serocki, Rowlett, Dolton, Elliott, Soutar **all agree** the condition has been met.

Roll call vote Yes Rowlett, McBride, Couture, Dolton, Soutar

PASSED UNAM

Deeren: Variance Request number 3 is approved.

2. Request No. 890, R-1B

Applicant: Jessica Bachmann-Perez, 910 Sheridan Rd., Traverse City, MI 49686

Owner: Jessica Bachmann-Perez, 910 Sheridan Rd., Traverse City, MI 49686

Property: 910 Sheridan Rd., Traverse City, MI 49686

1. Requesting a variance from the required thirty (30) foot rear setback to seven (7) feet for a

1620 square foot deck, a 214 square foot shed and 693 square feet of six (6) foot tall walled fence that has been constructed & placed without the proper permits.

2. Requesting a variance from the required fifteen (15) foot side yard setback to four (4) foot side yard setback on the westerly property line for a 1620 square foot deck, a 214 square foot shed and 693 square feet of six (6) foot tall walled fence that has been constructed & placed without the proper permits.
3. Requesting a variance from the required 25 percent of lot coverage to 43.89percent for a 1620 square foot deck, a 214 square foot shed and 693 square feet of six (6) foot tall walled fence that has been constructed & placed without the proper permits.

Parcel Code # 28-11-595-038-00

Deeren: This case came about regarding a deck that was built during Covid without a land use permit. After having visited the site, they would have to remove the decking or apply for a variance. That is why they are here tonight.

Jessica Bachmann-Perez 910 Sheridan Road

We built this deck during Covid as we needed some place for our 4 children to play. The backyard has extremely poor drainage and we needed to put a deck there. During the Covid lockdown we were home schooling our children and both my husband and myself were working from home. We needed more space for the children.

Nick Perez 910 Sheridan Road

The backyard of our home is not useable when it rains. The neighbors are above us and when it rains, all of the water comes down onto our property. The water has nowhere to go and takes days to drain. The accumulation of water made it impossible to use pavers or cement on the ground, so we build an elevated deck. We are looking for a compromise to make the deck smaller. We have letters from Mark Zelinski and Deborah Hale in support of our project and hope they made it into the packet. The home was built in the late 1950s before the zoning ordinance and is a legal non-conforming property. Perez shares Exhibit 11 with the board.

Deeren: I must raise a point of order. The applicant has made specific variance requests and that is what the board is being asked to decide. Showing another set of parameters cannot be introduced for this specific request.

James Olson 420 E. Center Rd.

My interpretation of the ordinance is that the board can modify the request in any way that they want. Because the deck exists, it is my understanding that the board can make modifications or conditions for an approval. Exhibit 12 shows these potential modifications that could be made.

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Lola Jackson-Recording Secretary
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Soutar: We do not have this exhibit in our packet. When did this come into the zoning office?

Deeren: These came in yesterday afternoon. The case has already been published exactly as the parameters are stated in this request.

Soutar: We cannot proceed as we did not receive these documents in a timely fashion.

Dolton: As the applicant is looking to reduce the size of the decking, what is the best way to handle this?

Meihn: If the applicant wants to present new information that you do not have tonight, then the appropriate way to handle this is to have them present the new information at the next meeting.

Elliott moved to table ZBA request 890 to a date certain of April 20, 2021.

Roll call vote Yes Soutar, Rowlett, Serocki, Elliott, Dolton **PASSED UNAM**

Deeren: I just want to say there are 3 messages in the chat. The chat is not used in this meeting format as they cannot be seen by the viewing audience and will not be acknowledged.

10. Approval of Minutes from February 16, 2020 Regular Meeting

Dolton moved to approve the minutes as stated with a second by Rowlett.

Roll call vote Yes Soutar, Rowlett, Serocki, Elliott, Dolton **PASSED UNAM**

11. Citizen Comments

Deb Hale 918 Sheridan

I am a neighbor of the Bachmann-Perez's and I think their deck addition and fencing is great. I sent a letter in support.

12. Board Comments

Deeren: I would like to welcome Luke Miller to the board. He has been listening in to this meeting and will replace Rachael McBride on the board.

13. Adjournment Dolton moved to adjourn the meeting with a second by Elliott. **PASSED UNAM**

Meeting adjourned at 10:10 p.m.