

PENINSULA TOWNSHIP

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Minutes Corrected By Lola Jackson April 9, 2024
Clerk's Office

PENINSULA TOWNSHIP ZONING BOARD OF APPEALS MINUTES

March 19, 2024 7:00 p.m.

1. **Call to Order** by Dolton at 7:00 p.m.
2. **Pledge**
3. **Roll Call** Present: Dunn, Wahl, Dolton, Serocki, Cowan, Cram – Director of Planning and Zoning
Absent: Dloski, excused
4. **Approval of Agenda**
Wahl moved to approve the agenda as presented with a second by Dunn. **Motion passed by consensus**
5. **Conflict of Interest: none**
6. **Brief Citizen Comments – (for items not on the Agenda): none**
7. **Business:**
 1. **Public Hearing for Request No. 915, Zoning = R-1B – Coastal Zone (Tabled from February 20, 2024)**
Applicant/Owner: William T and Janice J Beckett, 671 Hidden Ridge Drive, Traverse City, MI 49686 Property Address: Birch Drive, Traverse City, MI 49686
 1. Requesting a variance from Section 6.8 of the Zoning Ordinance to construct a new two (2) story single family residence with attached garage 12 feet from the front property line/edge of right-of-way, where 30 feet is required.
 2. Requesting a variance from Section 6.8 of the Zoning Ordinance to exceed the maximum lot coverage of 15% up to 17%.
 3. Requesting a variance from Section 7.4.7(A)(1) to construct a new two (2) story single-family residence with attached garage within a delineated wetland, or zero feet from the edge of a delineated wetland, where 25 feet is required.

Parcel Code # 28-11-560-017-00

Dolton: address item 3 first. If wetland does not get approved the other two are moot points.

Board Agreement

Cram: Birch Drive is zoned R1B coastal zone single and two family, as are the properties surrounding this one. The subject property is .33 acres or 14,374 square feet. The minimum lot size for the R1B zone district is 25,000 square feet. The lot is nonconforming with regard to minimum lot size. The Peninsula Township zoning ordinance was adopted in 1972. The lot was legally created in 1959 prior to the adoption of the zoning ordinance, thus the property is legally nonconforming regarding lot size. The subject property is currently vacant. There is a delineated wetland on the property. The property owners have applied for and received a permit from EGLE to place fill in the wetland to construct a 1,911 square foot single family residence. That is a different square footage than what is shown on the actual site plan and in the property owners' description.

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The site plan on page two in the packet notes the square footage for the home as 2,428.6 square feet. I believe they rounded up to 2,429 square feet. Would like the applicant to clarify that. I did include a complete copy of the EGLE permit, so you can see the conditions of the permit and other details including a cross section that gives additional detail about the proposed fill in the wetland. I conducted site visits with most of the ZBA either last Thursday or today. Last Thursday at the site visit we did notice there is a drainpipe that comes under Birch Drive that appears to be feeding this wetland. I did reach out to the applicant and let them know it was observed, and that the ZBA would likely have questions about drainage. When we went back out today, some additional work had been done on the property. There is now a black PVC pipe that runs the entire length of the property from the drainpipe down to the water covered with straw. It looks also like the drainage ditch on the opposite side of the street had also been cleared. The drainpipe that runs under the road is now visible on the opposite side and there is a drainage ditch running parallel to the Birch Drive. The eastern side of the road slopes upwards pretty quickly. Mr. Beckett let me know when he submitted the application that he was working with EGLE on the drainage related to the wetland there. I was aware there was some drainage challenges that they were trying to work through. Seeing the culvert, you can see water is draining onto the property and supporting the wetland in that location. I also reached out to Josh Crane with EGLE to ask him some questions about the drainage related to this property and unfortunately, I have not heard back from him. It will be helpful to understand how drainage will be addressed on the property.

I also reached out to Brent Wheat with Grand Traverse County Environmental Health. I asked about the location of the septic tank and holding tank that would be located within the wetland and he noted he had been working with Mr. Beckett on this project for the last two years. He's conducted multiple site visits with Mr. Beckett and worked to lay out a plan that his department could support. Grand Traverse County Health Department is prepared to issue a well and septic permit for the plan as submitted to the township, dated 7/5/23.

Janice Beckett: Bill and I have been residents of Peninsula Township for over 30 years. Owned the lot on Birch Drive since 1987. We love the quiet atmosphere, and we look forward to living on the water. After retiring four years ago we contracted with a design firm to help draw the plans for a home, keeping in mind we wanted to age in place there. The completed plans were ready to bid. We then requested a meeting with the county official to advise us on well and septic placement. While there he said it looked as if we might have wetlands. We contacted the township zoning administrator, at the time Christina Deeren. She said we should have EGLE determine if a wetland survey was needed, before coming in for further township review. After waiting for many months for a wetland survey and being shuffled through four different EGLE agents we finally got our wetland permit. This took two years. Unfortunately, it resulted in the building area of the lot being severely reduced. We have since created many different home plans actually redesigning down to inches to get a home that will meet our needs as we age. The lot was platted prior to the current 1972 ordinance and the 2018 wetland setback amendment. It's considered legal nonconforming. We have tried to ask for the least amount in regard to variance requests. Both the front yard setback and percentage of lot coverage variance requests are typical for the neighborhood and have been granted in the past. The variance of zero feet from the 25-foot wetland setback is necessary to build anything on the left. Frustrating process and taking a lot longer than we thought it would. I thought we'd be living there by now.

William Beckett: the home started off 68 feet wide. Down to 42 feet wide. Took two years of back and forth with EGLE and redesigning and starting from scratch several times on these plans to fit this space. Challenging lot. Lot itself has a plateau that is 10 feet below street level. The hill above it is probably 40 feet or so in elevation. A lot of groundwater comes through that hill and some of that water is conveyed through that drainage ditch on the far side of the road and through a culvert pipe that discharges onto this property. There's no known easement for that culvert pipe. However, in our discussions with EGLE, they told us we have a right to convey that water to the bay. We simply don't know the best way to do that at this time. What you witnessed the other day was done last fall. I put a temporary drainage pipe over the lot to try to collect the water from the pipe and discharge it to the bay. We did have the civil engineer work on a drainage plan. Submitted that to EGLE, created a kind of a swale, a sweeping designed to go from the drainage pipe back to a

cut that's in the in the rear drop off. There are two terraces on this lot. With the change in elevation, lot of difficulties we're dealing with. The size, the shape, the water. The wetlands prevent us from having a septic field there too. We'll be having a septic tank with the holding tanks and probably deal with that on a monthly basis. Between the township setbacks for side yards, front yard and the lakeside and with what EGLE imposed on us, we've packed a lot into a small space. Between the road and the house, we have our septic tank and two holding tanks. Our front porch is squeezed in there. In an effort to minimize our variances, we pulled the house forward. Redline is the site plan. What we did to eliminate Bayside setback variance, the black footprint of the house is what we designed. Once I staked the lot out, evident we designed it too close to the embankment. I moved everything towards the street five additional feet. That eliminated the lakeside variance we would have applied for but increased the same amount on the street side. Part of the wetlands delineation, the surface water coming down through the hill is collected in that ditch area. Private road so there's no maintenance association, everyone is taking care of their own maintenance. The groundwater comes through not only the culvert but along the front embankment at that plateau level, you'll see seepage coming through there as well. It's not simply the culvert but the culvert does runs 24/7. On the redline version the wetlands delineation is highlighted on that. In addition, there's a 25-foot wetland setback line. With required setbacks and wetland setback imposed, there's no building space left to be able to build a lawful permanent residence.

Wahl: yellow highlights, and the blue shows the wetland?

Cram: yellow shows the setbacks per section 6.8. Blue is the wetland delineation. I did not highlight the 25-foot setback from that delineation.

Wahl: think that's marked on the next page with the red.

Cram: red shows the adjusted location to meet the 60-feet from ordinary high water mark. These are the setbacks he is requesting.

Beckett: we did prepare a drainage plan and submitted to EGLE for approval. Created a swale from the culvert pipe, channelize it to control the water a bit better. They want to leave that area as is and did not approve our drainage plan. What we are hoping to do is add some wetland plantings in that area. Going to take a re-submittal. After tonight, know what I can do. From the township's perspective, drainage typically isn't addressed until we submit for a land use permit.

Cram: true for most properties coming through a variance. In this instance, because you have to meet the conditions of 7.5.3, one of the conditions is the ZBA has to believe there will be no negative impacts if the variance is granted. If the variance is granted, fill will be placed on the property. ZBA is going to want to have a level of comfort that the drainage from the additional storm water from your roof and what's already happening on the property isn't going to negatively impact the neighbors or the bay. Having that drainage plan now is important to meet that condition of approval. Up to the ZBA if they would like to see that in order to meet that condition of approval. Go to section 5.7.3, letter E; "the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood."

Beckett: EGLE does not want any drain ways installed in the 42 feet of our house and the south property line. The area near the street and the south property line is the wettest. Based on the clay layer. The natural drainage that EGLE is trying to maintain does make its way to the bay. On the existing conditions plan, some elevations noted on that. Existing conditions plan, see some elevations on that. [Blue and Yellow lines]. There are some contour lines on that. Shows the street at an elevation of 610 feet. The building area is at an elevation of about 600. As you go to the south and west, the lot drains to the back southwest corner. That's where the cut is for all this drainage. We did not survey or do wetlands delineation on the neighbor's lot to the south, but the closest elevations where the contour lines are, there are wetlands on the adjacent parcel as well. Not isolated to our lot. Southwest corner where the building plateau is, see contour lines coming onto her property and then back onto our property. That's where that little cut is, where the drainage is. We are taking some of her water on our lot at that spot. Up at the front the water is going wherever it's going because of the existing clay layer that underlies the site. Northwest corner of the site, what they called "The central area of the site", which is north and west of the wetlands boundary. All of that has good drainage. The soils are

not underlined with clay. The front elevation of the house shows two thirds of the roof is sloped to the north. That's where the best drainage is, the water will come off the roof. Have a little French drain or something in there and then it will travel eventually into the bay. We do have soil borings scheduled. The borings will give us a better idea on how to engineer foundations and possibly deal with the drainage. What I expect around the house foundation is that two feet of mucky soils will be excavated out. There will be in all likelihood some sort of a fabric mat put down on the clay with crushed concrete or some sort of large material that allows for drainage to go through it before we put engineered fill on top of that to support the house. I expect the drainage plan will have water flowing under the house. The finished floor of the basement will be about a foot above the ground elevation. The water off the roof on the south side will drain to a tile right around the house. EGLE requires them to not extend more than two feet from the outside wall. I think it's 12 inches tall. They want that water to come off the house and drain into the wetlands and let it find its way to the bay. A couple of retaining walls between the house and the property line. Drain tile on the inside of each of those retaining walls that would outlet into those wetlands. Look at those grades that's going to go south and west to the back corner.

Dunn: discrepancy between the square foot of the house and what was listed, 1,911 square feet for single family residence, how much is it now?

Cram: site plan notes 2,428.6. The plan that was included in the EGLE permit notes the house at 1,911 square feet.

Wahl: red line is that the house at 2,414. But with the retention wall an additional 14.6. Total of 2,428.6.

Cram: the verbiage in his application is 2,429. Noted in my staff report the 1,911 as noted on this plan.

Beckett: 2,414 is broken down by this; 1,596 square feet for the house, 411 for the garage, 154 for the rear porch, 43 for the front porch, 180 for the overhangs. EGLE submittal, the footprint is the same. A matter of a breakout into how things were calculated. Additional dealings with EGLE we can put that together. Didn't expect to be doing anything more with EGLE until we got through zoning and county and made a re-submittal, so everyone's on the same information.

Cram: square footage is important because there is a request to exceed the allowed maximum of 15 percent up to 17 percent. In my staff report and what was publicly noticed, I rounded up. Bill's plan noted the lot coverage was 16.9 percent. I bumped it up to 17 percent. I believe the square footage is important with regard to lot coverage.

Dolton: on some of these pages the house square footage is incorrect, but the footprint is correct. Just a matter of reallocating the square footage between components of the home so these are accurate with reflection to the setbacks, where the property is going to be located in the wetlands.

Beckett: I can go through the basic conditions.

Dolton: not necessary unless you want to.

Beckett: I think I told you 1986, but I looked up the deed it's 1987. The lot was platted in 1959 prior to zoning ordinance. When the zoning ordinance came in, there was no consideration taken for the size of lots in [this] neighborhood. Everybody's required to come here. Places a burden on not just us but everybody that's been here before us. The township adds an additional burden that's already regulated by the state. The condition that in our case cannot be met, because a 25-foot setback allows for no building. Technically I think we could put a 10 foot square foot deck out there. Have a great grouping of trees in that corner we're trying to save, part of the reason for moving the house a bit forward. The intent of EGLE is to have this naturally drain off the back like it does now. They felt comfortable with this. Hoping the temporary drainpipe out there will help dry up a little bit of this overtime. I certainly don't want that sitting there for a long time.

Dunn: working on number three here now. Who has jurisdiction? Looks like EGLE has the say on whether you can build on wetlands. According to EGLE, this is ok from their perspective.

Dolton: once they approve the drainage plan. Jenn, who is responsible for reviewing drainage plans, signing off on them? Just EGLE?

Cram: our engineer would also review and approve them. 7.4.7 of our zoning ordinance notes we don't allow fill in the wetland. However, EGLE has jurisdiction over that. If EGLE were to approve fill in the wetland as they

have, they would still be required to come to the ZBA to request a variance. If you're in the wetland, you're not meeting the setback. John [Dolton] and I had a discussion with our legal counsel prior to this to make sure we were following the ordinance. I included the entire EGLE permit, local zoning still applies. Our zoning can be more restrictive. We have to consider all things. The ZBA has the responsibility to make sure the conditions are met and there can be additional conditions of approval in order to satisfy section 5.7.3.

Dunn: one of those could be an approved drainage plan.

Cram: yes.

Wahl: there's nowhere to build on this lot without building in the wetland. If approved, we want to make sure you're getting what you need out of the land use permit process and not run into issues.

Cram: if they were coming in and not applying for a variance, but there was drainage related to a wetland, we would want to make sure that EGLE was comfortable with the drainage plan and that our engineer has reviewed it to make sure it meets our standards. Our zoning ordinance does not allow for stormwater to leave the property. We have water that's already draining on this property, but we're going to be building a structure so there's additional impervious surface. Considered with this particular application.

Dolton: what if our engineer disagrees or wants to supplement EGLE's plan? Who has control over that.

Cram: EGLE is going to have basic standards. Mr. Beckett has applied for and EGLE denied. Our engineer may ask for some additional things in order to address the additional stormwater. Our engineer is required to make sure the stormwater plan is consistent with the intent of our stormwater control ordinance. Our engineer would work closely with EGLE to make sure what they're approving is consistent with what EGLE would require and in addition meets our stormwater ordinance requirements.

Dolton: our engineers sign off show up on any permits?

Cram: yes. Normally, wetlands aside, no variances required, someone coming in to build a new single-family dwelling, if they are disturbing more than one acre or within 500 feet of the bay, we require they obtain a stormwater permit from our engineer. There is a stormwater control application and fee separate from the land use permit application fee they're required to submit as part of their land use permit application. We do not approve the land use permit until the stormwater permit has been issued by our engineer. The applicant will receive both a copy of a land use permit and a stormwater permit before they can go to Grand Traverse County Construction Code and obtain a building permit.

Wahl: do they need this first?

Cram: in this instance, because they're not meeting the setbacks for section 6.8, Schedule of Regulations, and they're not meeting the wetland setbacks, the first stop is the ZBA. ZBA requires you have a level of comfort the drainage is not going to negatively impact the neighbors, or you could address it with a condition of approval.

Cowan: observation about that property in general, if there's more than one culvert, means there's drainage problems on the whole road, and there certainly is new construction or relatively new construction. Were these issues brought up before, we don't know. That whole area may have been a wetland because of the seepage coming out of the hill. That 12-inch culvert also shows two six-inch drains on your property along the front, near the road. What's going to happen with those, I assume drainage tiles that are buried in the ground there?

Beckett: one goes down to the lake on the north side of the property, outlets at the bay.

Cram: forgot to mention in my presentation, I reached out to Andy Smits, the drain commissioner to see if he had any history about the drainage in this area and if he could be on site to look at it. He is out of office and hasn't responded. I did my best to get as much information about the drainage issue prior to this meeting.

Beckett: EGLE has reviewed and approved these plans. and if you look through their plans, there are a couple of cross sections which show the cuts and the fills. They're comfortable with it, they only require a grading plan. They don't require a drainage plan map that is something that comes after this. We've paid taxes on this since 1987. You created an ordinance in 2018 that has rendered our lot unbuildable without this variance.

Wahl: the position of the house, depicted with the red line, a result of the communications you've had with EGLE in terms of location of the home as well as where that wetland and the culvert run.

Cram: I believe Mr. Beckett proposed those changes after EGLE approved the permit. He submitted his application to come before the ZBA, went out and staked and realized he wanted to make a shift. Brought this in prior to coming before you. I also included along with the yellow and blue. I just didn't do the green line.

Beckett: pretty important one, what we're talking about tonight.

Cram: they can see where the setback is on their plan. They understand the 25-foot setback extends from the blue line.

Serocki: question about this drainage pipe. Talked to the county about moving that? It's their responsibility. Pouring drainage on your property.

Beckett: private road, we would be dealing with the county. Talking about the culvert pipe, spoke with my engineer, one thought is to go through the right-of-way, extend the culvert pipe to the north and then go down the north side of our house. Because that's where the soils can accept the drainage. Something we would design after the approvals. EGLE has looked at this, they're comfortable with this. You've created an ordinance that is putting us in a difficult spot and rendering this site unbuildable. That changes the value. There's a lot of liability with this going forward.

Serocki: question about location. Map that has the wetlands delineated with the blue highlight, seems like you have a lot of property in the back that is not in wetlands. I'd be more comfortable giving a variance for a side yard setback variation or closer to the bay, than putting fill in a wetland. Thought about putting the house back there? Even with a smaller footprint or two stories?

Beckett: this is a small house. Under 1,600 square feet. Look at the existing conditions plan, see there's another steep embankment back there. Honestly no it's not even entered our mind to try to build closer to the bay.

Wahl: I would be concerned, it's pretty steep.

Beckett: start excavating into that hill, opening up a whole can of worms.

Dunn: I think the home is where it needs to be.

Wahl: I agree.

Cram: EGLE did not approve the drainage plan as proposed, are they ok with the temporary drainage pipe you installed recently?

Beckett: they told me I have a right to do that. We stood there on site and did discuss that.

Serocki: is it legal to put drainage water into the bay? I thought we didn't allow that. People had to change how they were removing water from their property if it was going into the bay.

Cram: we generally don't allow someone to drain into the bay. Like to see it filtered. That would be addressed in a drainage plan. This is a different situation. There is already water going to the bay. Our engineer would look to make sure there wouldn't be an increase of water from the structure into the bay.

Wahl: if this gets approved, then go through drainage before going to the building department. Is there a scenario where they have to change their plans and come back before us?

Cram: small chance they will have to change a plan slightly. Designed a modest home, normally you can come up with measures, depending on options to resolve the drainage issues.

Wahl: drainage is a consideration, but really has to go after this.

Dolton: that's for board discussion. Members of the public who wish to speak in favor?

Don Braedon, 15839 Birch Drive: own property directly to the north. In favor of approval. They would enhance the subdivision.

Elizabeth Braedon, 15839 Birch Drive: in support of approval. All lots in this area have had to deal with the drainage. The homes that have been built there are not having problems that I know of.

Cram: observed with drainage, a property to the south had addressed the drainage creatively. Put a little creek in with a bridge across it. Clear that water is coming down the steep bluff on the east side of Birch Drive. Property owners are addressing the drainage differently.

Serocki: researched fill on a wetland and then building. Experts say water is going to move, either into the building or off the fill into the land, could cause problems. Read the letter from the lady who said there's

already water on her property from their property. Will the township have responsibility for that if we approve putting fill and then building a house?

Witte, Legal Counsel: standards are, the ZBA should approve plans that don't have an adverse impact on other properties. There's only so much you can foresee. At it's core, an engineering issue. You are approving set back variances. Wouldn't be concerned the township would have liability for approving the placement.

Dolton: anyone wishing to speak in opposition? Seeing none, note there was one letter of opposition in the packet.

Dolton closed public hearing.

Dolton: catch 22, does not want to go through the expense of developing a drainage plan only to have us not approve this. Both the Army Corps will be reviewing this plan as will our engineer to sign off on the water permit. I'm inclined to rely on the checks and balances that are already in place with respect to the Army Corps, EGLE, and our engineer.

Dunn: nothing we need to add because it's sort of self-fulfilling. Things that need to be done, are the things that need to be done, no matter what we say.

Dolton: we can have conditional approvals. If we can't give the applicant a fair hearing because we don't see a complete drainage plan, recommend they not proceed tonight.

Dunn: is there going to be a drainage analysis? Meaning we approve it, and then we're done.

Dolton: not from us. If we approve it, then the Army Corps.

Cram: approve with the condition that they provide a drainage plan that satisfies EGLE, the state, and our engineer.

Dolton: doesn't that go without saying? Does that have to be done?

Cram: as staff, would recommend you do a condition of approval. Puts on the record you thought about it. In the future if neighbors have concerns, can look back at this record and say the ZBA considered that. This way they could meet condition of D, to not create any negative impacts for neighbors. At land use permit they will provide a drainage plan that meets EGLE requirements and our stormwater requirements. My suggestion is to cleanly address with a condition of approval.

Witte: a breach in a condition of approval for a variance results in the automatic termination of the variance approval. Adding an automatic revocation of the variance if that condition is breached.

Dolton: does anyone feel that it is a deal killer if we don't have a full drainage plan now?

Board indicates no.

Wahl: I don't think they can put this house anywhere else on the property. If the drainage plan doesn't get approved, I don't know what is going to happen.

Dunn: done the best they can.

Dolton: compliment the applicant, enormous amount of due diligence on this.

Wahl: assume if they can't get a drainage plan, they can't build. Is that correct?

Cram: the plans might modify in order to meet drainage. There is flexibility with drainage options.

Wahl: want to make sure if we're making that condition, it is flexible.

Dunn: there are options.

Beckett: have Army Corps permit in hand. We did a drainage plan. It's labeled as a grading plan. The plan they disapproved is the plan with the swale on it, so that swale is gone. The plan you have is what they've reviewed and approved. That considered drainage. EGLE only requires the grading plan. All those sections, every page in that EGLE packet was required. From here, it's going back to my engineer, to county. Whatever changes we make, have to circle back with EGLE and submit those for one more review.

Section 5.7.3 (1) BASIC CONDITIONS: The applicant must meet ALL of the following 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.

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Yes- Dunn: based on the analysis in the report.

Yes- Wahl: property mostly wetland, limited area to put a residence. They've done their due diligence.

Yes- Dolton: condition has been met. Property is a wetland. Not a result of this owner or previous owners.

Yes- Serocki: minimum lot size is very small. Little place to build.

Yes- Cowan: due to the conditions of that entire street, every neighbor is dealing with the same problem. The applicants have gone beyond what their neighbors likely did.

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

Yes- Serocki: lot was created in 1959. Undersized.

Yes- Dolton: did not create the wetland conditions.

Yes- Wahl: for reasons already stated. The wetlands ordinance was adopted in 2018. Purchased the property before that.

Yes- Cowan: for the reasons already stated.

Yes- Dunn: property hardships were not self created.

(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- Cowan: for the reasons we've talked about. The lot is weird, small, if they want to build, they're going to have to ask for this variance.

Yes- Dolton: strict compliance would render the lot unbuildable for a single-family residence.

Yes- Serocki: for all the reasons mentioned.

Yes- Dunn: for reasons already stated.

Yes- Wahl: for reasons already stated.

(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- Serocki: everyone is allowed to have a residence on their property. Even though this is filling wetlands it's the only place to build.

Yes- Dolton: the applicant provided evidence that other property owners in the district had to deal with similar issues, they appear to have been addressed satisfactorily.

Yes- Dunn: agree with Dolton.

Yes- Wahl: for reasons already stated.

Yes- Cowan: for reasons already stated.

(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: believe will not cause adverse impacts if this is done how it's been proposed.

Yes- Cowan: agree with Dolton.

Yes- Serocki: agree if storm control ordinance is done correctly it will not cause adverse impacts.

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Yes- Dunn: agree it will not cause adverse impacts.
Yes- Wahl: agree with Dolton.

(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- Dunn: for reasons stated in your analysis.
Yes- Serocki: refer to your staff comment.
Yes- Wahl: use of the property is not changing.
Yes- Dolton: no change in use.
Yes- Cowan: agree with comments that have been made.

Dunn moved to approve variance request number 3 with the condition that all the requirements put forth by EGLE and our engineer are fully met with a second by Cowan.

Roll call vote: yes – Dunn, Wahl, Dolton, Serocki, Cowan.

Motion passed unan

First and Second variance combined condition approval.

Section 5.7.3 (1) BASIC CONDITIONS: The applicant must meet ALL of the following Basic Conditions.

(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- Dunn: unique circumstances and practical difficulty.
Yes- Wahl: recent set forth in staff comments regarding the lot size as well as the wetland on the property.
Yes- Dolton: for reasons already stated.
Yes- Serocki: for reasons already stated.
Yes- Cowan: for reasons already stated.

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

Yes- Serocki: the only place they can place the house. Need the variance from the road. Small house but small lot, need extra lot coverage.
Yes- Dolton: existing property owners and previous owners have not created the conditions which are requiring the variance.
Yes- Wahl: for reasons already stated as well as the staff comment.
Yes- Cowan: for reasons already stated.
Yes- Dunn: for reasons already stated.

(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- Cowan: without approval could not build on the lot.
Yes- Dolton: agree with comments previously stated.

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Yes- Serocki: agree with comments previously stated.
Yes- Dunn: agree with comments previously stated.
Yes- Wahl: agree with comments previously stated.

(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- Serocki: this will allow the property owners to construct a two-story home.
Yes- Dolton: applicant has done everything to minimize their encroachment into setbacks. Meets requirement for substantial justice.
Yes- Dunn: based on staff comments.
Yes- Wahl: for reasons previously stated.
Yes- Cowan: for reasons previously stated.

(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: for reasons previously stated.
Yes- Cowan: for reasons deviously stated.
Yes- Serocki: for reasons previously stated.
Yes- Dunn: would not cause adverse impact.
Yes- Wahl: for reasons previously stated as well as reasons addressed in our previous approval to the last variance request.

(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- Dunn: for reasons previously stated and the staff report.
Yes- Serocki: there is no new use.
Yes- Wahl: no change in use.
Yes- Dolton: no change in use.
Yes- Cowan: no change in use.

Dunn moved to approve request number 1 and number 2 with no conditions with a second by Wahl.

Roll call vote: yes – Cowan, Serocki, Dolton, Wahl, Dunn.

Passed unan

2. Public Hearing for Request No. 916, Zoning = R-1B – Coastal Zone (Tabled from February 20, 2024)

Applicant/Owner: Kenneth Pratt, Pratt Family Revocable Joint Trust, 12155 Bluff Road, Traverse City, MI 49686

Property Address: 12155 Bluff Road, Traverse City, MI 49686

1. Requesting a variance from Section 6.8 of the Zoning Ordinance to construct a two (2) story addition to an existing single-family residence 21 feet from the front property line/edge of right-of-way, where 30 feet is required.

Parcel Code # 28-11-445-009-00

Cram: requesting a variance from section 6.8 of the zoning ordinance to construct a two-story addition to an existing single-family residence, 21 feet from the front property line where 30 feet is required. The application materials have been included in your packet. Findings of facts noted in the staff report. The subject property is zoned R1B coastal, single and two family residential. The properties to the north and south are also zoned R1B.

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The property to the west is zoned R1A. East Grand Traverse Bay is located to the east. The subject property is 1.779 acres or 77,493 square feet. Property is divided by Bluff Road. The net lot area on the west side of Bluff Road is 67,554 square feet. Only calculate lot coverage on the side of the road where the proposed addition is located. The minimum lot size for the R1B zone district is 25,000 square feet. The Peninsula Township zoning ordinance was adopted in 1972. The existing residence was constructed in 1957 prior to the adoption of the zoning ordinance. The application includes a photo of the original residence constructed in 1957. The subject property contains an existing legally non-conforming dwelling regarding setbacks and a conforming detached garage. A variance was granted in 1989 that allowed an existing porch to be replaced that encroaches into the front yard setback, five feet at the south end of the existing structure and 2.5 feet at the north end of the existing structure. A copy of that variance request, #196, was attached in your packet as exhibit two. We have received public comments. Those were included in your packet under exhibit three. Neighbors are supportive of the requested variances.

Kenneth Pratt: I'd like to spend two minutes explaining how I arrived at this situation by introducing to you some of my family. Let's go back to the year 1917. Yes over 100 years ago when the United States entered World War One. Both of my grandfathers in their early 20s, enlisted in the United States Army and were shipped overseas to Europe. Following the war in the 1920s, they each got married and moved their families to this area. My dad grew up in Traverse City, and my mother was raised on a family farm about one mile north of here on Southern Hills Road. That was during the 1930s. After the US entered World War Two in 1941 Both of my grandfather's again answered the call to duty and re-enlisted in the army. My paternal grandfather, Waldo Hughart, is on one of the brass plaques affixed to the veteran's monument at Lighthouse Park. 1941 my dad graduated from Traverse City High School. Two years later, he too enlisted in the army and was assigned to duty in Europe. A generation later in 1971. I joined the military and served 30 years in the United States Air Force and the Michigan Air National Guard.

This brings us to the beginning of the history of my house. In 1957 my grandmother retired from a career in teaching, had this modest one bedroom house built on Bluff Road. She lived there for 30 years. In 1989 my parents, while maintaining the one-bedroom design, added a study on the right-hand side and enlarged the kitchen on the left to meet their retirement needs. They lived there for 30 years. Now it's my turn to be the conservator and caretaker of this piece of township property. My intent is to spend my retirement years living in this house. It is my desire to be able to host family and friends in my home. In a one-bedroom structure that's nearly impossible. When I embarked on this project to expand my living space over two years ago, I had envisioned adding a carriage house living quarters above the detached garage. Much like we see in other areas of the township. That plan was derailed when I learned that under the current 1972 township zoning ordinance, I'm not allowed to build an additional dwelling unit on my property. It's not that an ADU is expressly forbidden. It is simply that the zoning ordinance does not specifically address the topic of ADU use in areas zoned R1B. Therefore, any expansion to my living space is required to be attached to the existing structure.

I have considered the possibility of a ground level addition to the existing house. However, a ground level expansion to the north of the house, shown on the health department sketch, would overlay the existing septic field expansion. To the south, overlay the driveway and effectively block access to the detached garage. Similarly, expansion behind the house to the west would impinge on the two 800-gallon septic tanks located in the backyard. Address the environmental impact of a ground level addition. It takes considerably more energy to heat and cool a ground level structure as opposed to having the addition added above the existing house. A ground level addition introduces twice as much impervious surface area as a two-story structure of similar size. Therefore, the only practical and environmentally friendly option is to expand the structure upward by adding a second story. Along the front of the house the proposed addition would overlay the same area as the approved 1989 zoning variance. The proposed front porch extension would connect the existing porch with the study alcove to the north. The drip line for the new eaves would be at the location of the pink tape. The requested variance is for the closest corner of the eave line to be at 21 feet 4 inches from the front property

line. Whereas the current existing eave line is at 22 feet 9 inches from the front property line. That's a difference of 17 inches.

The need for the variance is not the result of actions taken by the property owner. The original house was built in 1957, well before the existence of the current zoning ordinance. At that time the front porch extended about five feet into what was later identified as the front setback line. The current front porch was built in accordance with the approved 1989 ZBA variance. The proposed new addition will be located in the area which was previously occupied by both the original front porch and the previously allowed variance plus an additional 17 inches. Item C: "Strict compliance with setback requirements will be unnecessarily burdensome." The only other alternative to render the proposed plan, including the extended front porch in compliance with current setback requirements, would be to either demolish and rebuild the structure or have it moved eight feet away from Bluff Road. Either of which would be unnecessarily burdensome. Item D: "The variance will do substantial justice to the applicant as well as to other property owners." The proposed construction principally falls within the footprint of the existing structure. End of the day, others will drive by and think, "That looks nice, hasn't it always been that way?" This variance, if approved, will not interfere with any other property owners' view of East Bay. Both of my closest neighbors to the north and the south have their own unobstructed water view. Each of these property owners has submitted a written statement endorsing my variance request. The property to the west behind my house adjoins my lot at the top of a very steep bluff. That property, at an elevation of 100 feet above my property, is currently zoned agricultural and is undeveloped. Item E: "The variance will not cause adverse impacts on surrounding properties." The only impact this variance will have on surrounding properties will be in a positive direction. My proposed addition will measurably improve the neighborhood and thus only serve to increase property values. It will also provide increased tax revenue for Peninsula Township. Item F: "The variance shall not permit the establishment within the district of any use which is not permitted." My property is zoned R1B, single and two-family residential. It is currently used exclusively for that purpose. The requested variance will in no way alter that use. In summary, I'm requesting that the front setback at the southeast corner of the house be at 21 feet 4 inches. That's only 17 inches different from the existing structure. Thank you for your attention. I'll be happy to answer any questions.

No public comment.

Closed public hearing.

Dolton: without getting a variance, they literally have to bulldoze the structure and move it. The alternative is a little unreasonable.

Cram: correct. When we're faced with an existing structure that is legally nonconforming with regard to setbacks, the original structure built in 1957 had setback issues. Once a variance is granted that setback then becomes legal. In order for them to add additional living space, Mr. Pratt has looked at alternatives. His first choice was to construct an accessory dwelling unit above the detached garage, but our zoning ordinance currently doesn't address that, and his property didn't meet the requirements for a guest house. Looked at all the alternatives. In order to go up, any addition then does not meet the required setbacks and requires the approval of a variance from the Zoning Board of Appeals.

Cowan: I don't see what else you can do than to go with the beautiful plan you have.

Wahl: hypothetically, we grant this, will that house now have two variances or does the new one replace the last one?

Cram: variances run with the land. Both will still be part of the record.

Wahl: basically the same as the last one.

Cram: slightly different configuration.

Dolton: if there was to be concerns about the additional 17 inches, it's in line with something that is at that point. I don't find that a concern.

Section 5.7.3 (1) BASIC CONDITIONS: The applicant must meet ALL of the following Basic Conditions.

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(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- Wahl: based on staff comments and applicant has exhausted other possibilities.

Yes- Serocki: agree with staff comments.

Yes- Dolton: property was built prior to existing ordinances.

Yes- Dunn: agree with staff comments.

Yes- Cowan: agree with previous comments.

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

Yes- Dolton: for reasons articulated in staff comments.

Yes- Cowan: agree with Dolton's comments.

Yes- Dunn: not self created.

Yes- Wahl: not self created.

Yes- Serocki: not self created.

(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- Dunn: agree with staff comments.

Yes- Wahl: buildable area on property is limited.

Yes- Serocki: agree with staff comments.

Yes- Dolton: strict compliance would make this unnecessarily burdensome on applicant.

Yes- Cowan: agree with previous comments.

(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- Wahl: agree with staff comments. They have also received several supportive letters.

Yes- Serocki: agree with staff comments.

Yes- Cowan: agree with previous comments.

Yes- Dolton: agree with previous comments.

Yes- Dunn: agree with staff comments.

(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- Serocki: will look nicer.

Yes- Cowan: neighbors have indicated they agree with this.

Yes- Dunn: will not cause adverse impacts.

Yes- Wahl: for reasons previously stated and staff comments.

Yes- Dolton: for reasons previously stated.

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(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: for reasons stated in staff comment.

Yes- Serocki: no new use.

Yes- Cowan: no new use.

Yes- Dunn: agree with staff comments.

Yes- Wahl: won't be a change in use.

Cowan moved to approve a variance request from Section 6.8 of the Zoning Ordinance to construct a two-story addition to an existing single-family residence 21 feet from the front property line where 30 feet is required with a second by Serocki.

Roll call vote: yes – Serocki, Cowan, Dolton, Wahl, Dunn.

Motion passed unan

8. Approval of Minutes from the February 20, 2024, Meeting

Serocki: under roll call, Wahl is down twice, and Dolton is missing. I'm down as being here, and I was not.

Cram: ok, roll call, Wahl should be Dolton, and excused absence Dunn and Serocki?

Serocki: didn't realize I was excused.

Wahl moved to approve minutes with corrections with a second by Dunn.

Motion passed by consensus

9. Citizen Comments: none

10. Board Comments: none

11. Adjournment: Serocki moved to adjourn at 8:56 p.m. with a second by Cowan.

Motion passed by consensus