

PENINSULA TOWNSHIP

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PENINSULA TOWNSHIP ZONING BOARD OF APPEALS AGENDA

April 18, 2023

7:00 p.m.

1. **Call to Order**
2. **Pledge**
3. **Roll Call**
4. **Approval of Agenda**
5. **Conflict of Interest**
6. **Brief Citizen Comments – (for items not on the Agenda)**
7. **Business:**
 - a. Approval of Minutes from the March 21, 2023, Regular Meeting
8. **Reports and Updates:**
 - a. Training Opportunities and Preferences
9. **Citizen Comments**
10. **Board Comments**
11. **Adjournment**

Peninsula Township has several portable hearing devices available for audience members. If you would like to use one, please ask the clerk @ 231-223-7321 or clerk@peninsulatownship.com.

Minutes

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PENINSULA TOWNSHIP ZONING BOARD OF APPEALS MINUTES

March 21, 2023
7:00 p.m.

1. **Call to Order** by Dolton at 7:04 p.m.
2. **Pledge**
3. **Roll Call** Dolton, Wahl, Vida, Couture, Ammerman, Cram Director of Zoning, Jacob Witte attorney by teleconference.
4. **Approval of Agenda** Wahl moved to approve the agenda with a second by Vida. **Passed Unan**
5. **Conflict of Interest** None
6. **Brief Citizen Comments – (for items not on the Agenda)** None
7. **Business:**

1. Public Hearing for Request No. 909, Zoning = R-1B – Coastal Zone

Applicant: Anita Burke, 6294 Lindsay Court, West Bloomfield, MI 48322

Owner: Anita Burke, 6294 Lindsay Court, West Bloomfield, MI 48322

Property Address: 12051 Bluff Road, Traverse City, MI 49686

Requesting a variance from Section 6.8 – Schedule of Regulations to exceed the maximum fifteen (15) percent lot coverage up to twenty-one (21) percent in order to add an approximately 15 ft. by 13 ft. one story addition for a laundry and mud room, an approximately 16 ft. by 13 ft. one story addition for a closet and bathroom, and an approximately 8 ft. by 9 ft. covered entryway to the existing residential structure and remove a non-conforming deck.
Parcel Code # 28-11-445-004-00

Cram: this property was granted a variance in 1999 allowing the property to increase the lot coverage requirement from 15% to 18.6%. There was a garage installed that went into the hillside. For those of you who did the site visit, you were able to look at this. Sometime after the variance was granted, there was a deck put on the front of the house that is non-conforming with regard to setbacks. I believe the existing deck from 1999 was about 271 square feet and right now it exists at 450 square feet. The deck is non-conforming in regard to the front yard setback. The applicant is willing to take off the deck and add these 2 additions and the covered porch to maintain the 21% lot coverage that exists today. We need to review this based upon the past approval as well as the current standards for approval. Ms. Burke could let us know why the square footage of the parcel in 1999 was estimated at 12,412 square feet and for this application it is 12,184 square feet.

Dolton: just to be clear the 1999 variances pushed it from 15% to 18.6%.

Wahl: just to be clear the current lot coverage is 21%.

Cram: this is what the applicant estimated with the existing larger deck at 450 square feet. So, they are at 21% and they are willing to remove the deck with the two additions to maintain the 21%.

Couture: there are 2 additions being proposed. I am wondering about the laundry room. If we took out the 15X13 foot laundry room, which is a proposed coverage less the change to the front deck, what kind of lot coverage are we looking at? If we are inclined just to allow the bathroom addition minus the front deck, they are below 18.6%. They currently have approval for a 217 square foot deck, and they would not need a variance. The application itself explained the need for the bathroom as a person gets older; that I can certainly understand. I could not glean from the application the need for the laundry room.

Dolton: they want 3 proposed additions. They can take the 217 square feet and apply this wherever they want.

Cram: that would keep them at 18.6% or a little under.

Couture: I think the bathroom is a little under 217.

Dolton: it is not exceeding the lot coverage they already have. They are not expanding the non-conformity.

Cram: the variance granted in 1999 increased the lot coverage from 15% to 18.6% including the roof overhangs. Because the road divides the lot, we are only calculating the 15% of the property that is on the west side and that is just where the building is located.

Vida: on my site visit today could you clarify if the entire deck is being eliminated? I am looking at the plan for the covered entry into the existing door to the north of the garage. Is that at grade?

Dolton: let us hear from the applicant by opening the public portion of the meeting.

Anita Burke 12051 Bluff Road: Jenn (Cram) gave a good presentation of my request. One question I have is the numbers used by the prior owners in the 1999 variance approval. The last size area is 2% greater than mine. My number is from a survey taken in December 2021, so that is why I used that number. I did not have visibility to the prior variance approval until this packet was developed after my application, so I could not explain it. The deck size that is included in the 1999 variance is 217 square feet. I also wish I could explain that. I purchased the home in 2012 with the existing deck in place. If you looked at the drawing, it does not make sense. There are 2 doors in the house as you observe it today. The deck of 217 square feet is in the location nearest the front face of the house. Regarding the exit door nearest to the driveway, the drawing does not have the deck that was there when I purchased the house. The entry door was there. I do not think they were leaping up several feet to get to enter that door. There was a structure there, but it is not included in that variance application drawing. By maintaining the 21% square footage I will remove roughly 411 square feet of the current deck maintaining roughly 80 square feet in front of the entry door nearest the driveway. That will be the entry that I will use to the house. The rest of the side of the house will be a patio at grade with additional landscaping. Roughly 330 square feet at the rear of the house on the left side

will be the master or the first-floor bedroom/bathroom. The additional square footage that is noted as a laundry room area can only be accessed through the garage that exists today as approved back in 1999. I want to convert that into more living space and the laundry room's additional square footage is used to connect those 2 spaces. This allows them again to be used with first floor access; again, thinking about aging in place.

Couture: where is the laundry room now?

Burke: it is on the first floor. It is awkward to access, and mobility can become compromised as we get older. Unfortunately, I had experience with a fracture, and I did experience the limitations. That is when I began reviewing the possibilities of remodeling the house.

Dolton: any questions for the applicant.

Ammerman: about the laundry room being a point of access from the reconfigured garage, help me with the diagram where the entry actually joins the garage.

Burke: so right now the garage addition is only accessible through the garage. It is offset from the breeze way. The additional square footage on the drawing is a laundry room that can be accessed from the garage and I want to turn this into living space from the existing breeze way to the house.

Wahl: so basically, where the exercise room is, there is a wall there with no doorway. You must go outside to the exercise room.

Burke: that is correct.

Dolton: what is the square footage of the house now?

Burke: the current house and garage are 2,120 square feet and this includes the overhangs. The coverage of the deck is 411 for a total of 2,532 square feet, which equates to 21%.

Dolton: so in terms of livable square footage you have 1,889 square feet of the house and garage.

Burke: that sounds about right.

Dolton: these are small lots. If you look at the adjacent lots, yours is not among the smaller homes.

Wahl: so, the current lot coverage is 2,531 square feet including overhangs?

Burke: yes.

Ammerman: in regard to doing substantial justice to neighboring property owners in the district, have you taken the temperature of the neighbors on the north and south sides of your property? Do they have a perspective on this expansion?

Burke: they are not opposed at all. This addition does not affect visibility as it is in the back of the house and against the bluff. The front of the house, which is more visible, will have a much more aesthetically pleasing look with the patio on grade and additional landscaping. This creates more curb appeal along Bluff Road.

Cram: how do you address the grade change to the front door if the deck is removed?

Burke: so, if you look at the drawing that door will go away and become a window. That is not going to be an access point into the house. The reason the other door has this access is to make it easier to open the screen door if I have packages in my hand and there is not a chance of falling off too small a deck or if I need canes or walkers as I get older.

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Lola Jackson Recording Secretary

Wahl: I just want to confirm you are not cutting into the back hillside at all?

Burke: there may be minimal cutting into the bluff and the contractor will meet all the building requirements.

Couture: the additions you are putting on are basically invisible to the neighbors.

Burke: yes, that is basically correct. The one home to the side of me is a summer home only.

Ammerman: how close is the bluff to the new additions and what would you do in respect to its slope and how will it look?

Burke: we are not going as deep as the existing garage addition.

Wahl: in terms of the walk outs on either of those additions, the one access point is going to be converted into windows.

Burke: yes.

Dolton: is there anyone who wishes to speak in favor of the applicate?

Nancy R. Heller 3091 Bluewater Road: this is an overall question; in this request we are dealing with exact numbers. The request uses the word "approximately" 3 times. I think I would eliminate the wording of approximately.

Cram: when Deeren originally created this staff report, she noted it was exact and those are not the exact numbers on the plan, but this was included in the public notice. The variance request is specific, and they are asking for 21% based on the plan in the packet. This is presented in round numbers, so you get an idea about how large those are. 21% is accurate. All the measurements are on the plan.

Heller: how does one protect themselves as far as enforcement?

Dolton: to be clear any approval will have a precise number; we will not approve an approximate percentage number. If this is approved, it will be 21% and they cannot go over that number. They can go under 21%.

Heller: it is important people have the capabilities and ability to determine if they are within what was granted.

Cram: we are concerned with what is there, what is proposed, and what those measurements are.

Dolton: is there anyone who wishes to speak against this application? Hearing and seeing none, I will bring it back to the board for more discussion.

Couture: so, the percentage of 18.6 was approved based on the prior zoning variance request and now the request is for 21%. I understand that is what exists now and find this a little troubling. It is 18.6 % and somehow the previous landowners expanded to 21%. Now we are being asked to make that official and on the other hand I do think the applicant has demonstrated some good reasons to do what she is doing here. I like the fact the ugly deck in front is being removed and it will be much more aesthetically pleasing. The additions in back are really invisible to the neighbors. All things considered; I am leaning toward granting this.

Ammerman: I wonder about precedent here and I wonder about the degree to which we are allowing people to effectively come in and say they want to expand their coverage from 15% to

20%. As Dolton pointed out it is plenty of house on one of those lots along Bluff Road where I live as well. These are my concerns, and I would like to hear what other members have to say.

Wahl: I am always concerned when we have structures within the sub-X and we have a front yard setback we do not know, and we do not know if it is within the ordinary high. I doubt it is within the ordinary high. Bluff Road is close and there is heavy traffic on Bluff Road. We often talk about non-conforming when a variance request is made. We are also looking at making the structure more conforming in a way and it would be within the setback. My main concern is you can do most of what you want without needing a variance here. This property is 21% and it could have been 21% when she purchased the home.

Vida: this is probably the cleanest request in my 11 years I served on this board. The application is actually making an improvement on the lot coverage which is a bonus, even though it is a small percentage. All the basic conditions in my mind have been met.

Dolton: My concern is giving a pass to the 21% lot coverage that was never approved. Not to take an overly hard line about it, but technically could we require the existing homeowner to remove the deck because it is non-conforming and never approved irrespective of the fact it may have been there for 20 years? The plan approved in 1999 had an existing deck of 217 square feet. Do we suppose that the entryway was then off that existing deck or would there have been another way into the house, where it was not shown on the approval in 1999?

Cram: based on the elevations from 1999 and what exists today, that was the main entrance and the front door.

Wahl: did you run the math for this based on the area of the lot when they did the survey? The lot coverage shows 12,412. Now with the new survey it is reduced to 12,184.

Dolton: my final comment is they have 217 square feet available without requiring any variance.

Wahl: can we do the math on this? We need to divide 2,319 by 12,184 and we get 19%.

Dolton: they have existing approvals for the existing structure that includes a 217 square foot deck. This leaves 217 square feet they can use without a variance. I have a question for the applicant. Is that a covered breezeway? Is it what exists between the existing garage and the existing house?

Burke: yes, that is what exists today. It is not part of the request.

Dolton: so what part of the structure does not have any entry to the house?

Burke: there is no entry from the third garage. There is a block wall. We are turning this into living space.

Dolton: there is nothing in the ordinance to keep you from building up.

Burke: that is true, but given I am looking at increasing the ease of aging in place and having the first floor works best for my purposes. Steps become more difficult with age.

Dolton: for a variance to be granted, the request must meet all 6 conditions. The failure of any one condition to pass results in the variance being denied. This is a high bar. Each board member will give a reason for their vote and Cram will read each condition.

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

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Zoning Board of Appeals
March 21, 2023, 7:00 p.m.
Lola Jackson Recording Secretary

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.

Vida: Yes, there are a lot of sites and this is a classic one where the site itself is difficult. The thing I like is there are no setback issues to deal with.

Wahl: Yes, for reasons that have already been stated.

Couture: Yes, there are unique circumstances or physical conditions of the property, especially on Bluff Road.

Dolton: Yes, the application is not due to the applicant's personal hardship. The applicant stated they do not want to build up as this is an age in place design. It is an unusually small lot and that makes one unable to build a house that would be typical for the other lots.

Ammerman: No, there is a coverage ratio and there is an interest in exceeding it and it is binary.

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

Vida: Yes, she certainly did not cause this herself and the requests for the 2 expansions make logical sense. With the deck coming out, there is a small improvement with the overall lot coverage.

Wahl: Yes, for reasons that have already been stated on the record.

Couture: Yes, and I concur with what has been stated so far.

Dolton: Yes, the property owner did not create the size of the lot or any other factor. This is also consistent with my reasoning on condition A

Ammerman No: the lot coverage expansion is exceeded and is based on applicant preference.

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.)

Vida: Yes, again I go back to the condition of the site, and the uses are just logical.

Wahl: Yes, there is an old survey where the lot coverage is larger than what the new survey shows. We may have been around 19% instead of 18%. I think removing the front deck and making it more conforming warrants a yes vote. I think she will not be able to do what she wants with strict compliance.

Couture: Yes, having to access that third garage which she is going to make into a living space through the other garage is unnecessarily burdensome. The addition she is asking for would remedy that.

Dolton: No, there is nothing unreasonable about the property owner using the 217 square feet and then does not need a variance.

Ammerman: Yes, the age in place concept does potentially represent a burden and unnecessary restrictions on the home as one ages.

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.

Wahl: Yes, reducing the size of the deck makes it more non-conforming. This does substantial justice to the property owner and the surrounding property owners. I do not know if a lesser relaxation would give substantial relief to the owner. The applicant has provided compelling reasons for those 2 additions.

Couture: Yes, this refers to providing substantial justice to the other property owners. We have heard nothing from the surrounding property owners that this would bother them in any way, so I am inclined to vote yes.

Vida: Yes, for reasons already stated.

Dolton: No, I believe a lesser relaxation would not give substantial relief to the property owner.

Ammerman: No, the way this is worded it includes the word "and" and this implies it provides substantial relief to both parties.

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

Wahl: Yes, the additions are on the back of the house and do not impinge on the neighbor's view.

Ammerman: Yes, this does not cause adverse impacts on the surrounding property owners, does not impact surrounding property owner values and the enjoyment and use of the property.

Couture: Yes, for the reasons already stated.

Dolton: Yes, there are no adverse impacts on the surrounding property owners.

Vida: Yes, I concur with the other comments.

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.

Vida: Yes, pretty self-evident.

Wahl: Yes, for reasons already stated on the record.

Couture: Yes, there is no change by right here.

Dolton: Yes, there is no change by right here.

Ammerman: Yes, there is no change by right.

Dolton: all six conditions have been met. I would entertain a motion to approve the variance request to increase the lot coverage from the existing approval that was adopted in 1999 to 21%.

Cram: I would like to ask our attorney on the teleconference if there is anything we can do as far as condition of approval that talks about the livability of the residents that want to age in place.

Witte: Yes, that kind of context is valuable and the fact you said those comments were echoed by the various board members; it is already on the record. I would also note that each request has its own merits and unless the Zoning Board of Appeals is presented with the actual identical requests. I would become overly concerned about worrying about the kind of precedent that we are sending given all these requests are so inherently fact driven and each case is unique. It presents you with your own considerations.

Cram: could you restate the motion.

Dolton: the motion is to grant the variance request from the allowed 15% (let me restate the motion)

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Lola Jackson Recording Secretary

We are granting a variance from the formally approved lot coverage ratio that was adopted and approved in 1999 and increasing that approved lot coverage to 21%.

Moved by Couture and seconded by Wahl.

Roll call vote: all yes-Couture, Vida, Ammerman, Dolton, Wahl Approved Unan

Request 909 is approved.

Cram: for the record you have 6 months to take action such as getting your building plans approved, obtaining your land use permit, and 1 year to complete the construction. If it is not completed in 1 year, the variance expires. It is important you come in before the variance expires to ask for an extension. In looking through the staff report there are no conditions for approval, such as letting people know when their variance expires.

Dolton: one of the reasons we have not been as formal is those are standing conditions in the ordinance. It is not as if everyone is reading the ordinance and the basic conditions. A good place to start would be to put that language in the application. Whatever document they receive from us should contain the time frames as well. We might discuss it at a future date if this is reasonable timing going forward.

Cram: yes, if a person is applying for a special land use permit, a year may not be enough. These are considerations as we rewrite the zoning ordinance.

8. Approval of Minutes from the November 15, 2022, Regular Meeting: Wahl moved to approve the minutes with a second by Vida Approved by consensus

9. Citizen Comments None

10. Board Comments None

11. Adjournment: Wahl moved to adjourn with a second by Vida. Approved by consensus.

Meeting adjourned at 8:20 p.m.