

Peninsula Township
Zoning Board of Appeals
Regular Meeting
April 19, 2022 7:00
Lola Jackson Transcribing Secretary
MINUTES

**PENINSULA TOWNSHIP
REGULAR MEETING
ZONING BOARD OF APPEALS MINUTES
13235 Center Rd., Traverse City, MI 49686
April 19, 2022
7:00 p.m.**

1. **Call to Order** by Dolton at 7:00 p.m.
2. **Pledge**
3. **Roll Call of Attendance** Elliott, Dloski, Dolton, Wahl, Serocki
4. **Approval of Agenda**
Elliott moved to approve the agenda with a second by Dloski. **passed unam**
5. **Conflict of Interest** None
6. **Brief Citizen Comments – for items not on the Agenda** None
7. **Business:**

1. Request No. 900, Zoning R-1B

Owner: Nathan & Karley Elkins, 13024 Peninsula Drive, Traverse City, MI 49686

Applicant: Nathan & Karley Elkins, 13024 Peninsula Drive, Traverse City, MI 49686

Property Address: 13024 Peninsula Drive, Traverse City, MI 49686

1. Requesting a variance from the required fifteen (15) foot side yard setback to twelve (12) foot side setback on the southerly property line in order to construct a 60 square foot addition to the existing non-conforming structure. This was a prior approval in ZBA Case No. 888 from February 16, 2021.
2. Requesting a variance from the required fifteen (15) foot side yard setback to thirteen (13) foot side yard setback on the southerly property line in order to construct a 30'x37' detached garage or 1110 square foot detached garage.
3. Requesting a variance from the required fifteen (15) percent lot coverage to sixteen point six-eight percent (16.68%) in order to construct a 1110 square foot detached garage structure.

Parcel Code # 28-11-128-037-00

Deeren: Variance Request Number 1 was approved in ZBA Case No. 888 from February 16, 2021 and was never acted upon. The request is for the board to extend this variance, which expired February, 2022. The 6 conditions had been met and the request is for a variance extension by this board.

Dolton: this was issued by a different set of board members. Requested attorney Meihn to be called. The board moved on to the other requests while waiting for Meihn.

Deeren: Request 2 is for a variance from the required fifteen (15) foot side yard setback to thirteen (13) foot side yard setback on the southerly property line in order to construct a 30'x37'

detached garage or 1110 square foot detached garage. Request 3 is a moot point as the percentage lot coverage was recalculated as is shown in the packet addition to be 13.31%. This does not require a variance.

Nathan Elkins 13024 Peninsula Drive: this property was developed pre-zoning and the lot is much narrower than is what is currently allowed today. We have corrected the north side to be within the appropriate setback and we would like to build the new garage to architecturally align on the south side of the house. We are doing this for turnaround access, the aesthetics of the house, and making sure we fit in that back yard area. Any questions?

Serocki: I read the packet from February 16, 2021 and there was a mention of a shed. There is no mention of the shed here.

Elkins: the shed was there when we bought the house. It does not have any footings and is really old with a leaky roof; it will be there until we get the new garage.

Deeren: this was counted in the lot coverage calculation.

Dloski: why do you need a garage with 1110 square feet? That is a really large garage.

Elkins: this is a two car garage with storage, a work shop, and we are a family of 5 with 3 boys.

When you do the math with the kayaks, bikes, skis and given we live in a small house on a small lot, this creates good, additional storage.

Dloski: what type of workshop?

Elkins: place for tools, skill saw.

Wahl: if you moved the garage 2 feet in, you would not need a variance.

Deeren: the neighbors to the south of you have an even smaller lot, and her concern is this structure would over power her property. Your property was allowed a variance in 1980 to encroach 2 feet.

Elkins: she only is there a couple of weekends in the summertime. We are paying to have her utility lines buried along with ours.

Dolton: is there a structural reason for the garage to be located in this spot and not be moved within the setback? No variance would be required.

Elkins: there is no structural reason.

Dolton: I understand the aesthetic reason, but the garage is 20-30 feet away from the house.

Elkins: because the lot is so narrow, to get a proper vehicle turn around, this is the location.

Dloski: the bottom line is you can build this garage without a variance by moving it 2 feet.

Elkins: this would be a disaster for the turn around. I think we answered why in our application.

Elliott: the difference between 28 feet and 30 feet.

Elkins: it is not the size of the garage; it is can we build the garage within the setback?

Deeren: if you placed the garage 2 feet to the north, I could permit this.

Elliott: what is the depth of a standard garage?

Dolton: I did some basic research on a standard 3 car garage, which is 740 square feet. If you have an overhang, the number becomes 760 square feet. A four car garage is smaller than the request. We are not here to redesign the garage. A typical standard 2 car garage is 24x24.

Is there any one here who wishes to speak in favor of this request? Seeing none, anyone want to speak against this request. Hearing none, I will bring it back to the board.

Dolton: we should review the request number 1 again.

Elkin: we have already paid \$2,000 and now are you asking me to pay another \$1,000?

Dolton: the variance number 1 expired in February, 2022.

Deeren: if we are to go through the process again, I need to re-publish it, which is a real cost to the zoning office.

Meihn: an expired variance needs to be redone. There is some leeway, but the township should not bear additional costs. If it had not expired, there could have been an extension request. This is not the case here.

Dloski: does the zoning board of appeals in this township have the legal authority to grant a dimensional variance to a non-conforming structure?

Meihn: hypothetically, yes. Is it something easy to do, no it is not. All of the six conditions still have to be met.

Dolton: So let's start with request number 1: requesting a variance from the required fifteen (15) foot side yard setback to twelve (12) foot side setback on the southerly property line in order to construct a 60 square foot addition to the existing non-conforming structure.

Dloski: have you done any work since having this variance approved in 2021?

Elkin: no.

Wahl: while we do not have any formal paper work on this specific request, I would invite you to state your case for this variance.

Elkin: this was a small 60 foot expansion on an existing room.

Deeren: the room expansion is already calculated in the percentage of lot coverage.

Elliott: you have decreased the non-conformity on the north side.

Dloski: what are the unique circumstances or physical conditions of the property that require a variance?

Elkin: the lot width is 85 feet and does not meet the minimum for lot R1B, due to this narrowness the house is located on the south side yard setback, the attached garage is located in the north side setback, and the existing one car garage does not have a turn around. The proposal removes the existing garage and laundry room and a new garage is constructed in the back yard.

Dloski: when you purchased this property, you knew it was non-conforming, correct?

Elkins: no, I did not.

Dloski: I am not in favor of this. I would be more open if the variance that was approved had been acted upon in even some small way, but nothing was done and the variance has expired.

Dolton: my opinion carries no more weight than any other on the board, and I was here for the February, 2021 request. I voted in favor as part of the non-conformity was being removed and a smaller non-conformity was requested in terms of the garage.

Serocki: I agree with John; he has done a lot to reduce the non-conformity. He is removing that bay window and finishing off that wall. I think it is pretty minimal.

Elliott moved to evaluate Variance Request Number 1 using the 6 conditions with a second by Serocki.
passed unam

Dolton The Board will now go through the 6 Basic Conditions that must be met.

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

1. 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.

Vote Yes: Dolton, Serocki, Wahl, Elliott- Condition has been met

No: Dloski -Condition has not been met

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

Yes: Dolton, Serocki, Wahl, Elliott -Condition has been met

No: Dloski-Condition has not been met

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

Yes: Elliott, Dolton, Wahl- Condition has been met

No: Dloski, Serocki- Condition has not been met

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

Yes: Dolton, Serocki, Wahl, Elliott -Condition has been met

No: Dloski-Condition has not been met

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

Yes: Dolton, Serocki, Wahl, Elliott -Condition has been met

No: Dloski-Condition has not been met

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

Yes: Dolton, Serocki, Wahl, Elliott -Condition has been met

No: Dloski-Condition has not been met

Elliott moved to approve Variance Request 1 with a second by Wahl.

Roll call vote: Yes-Elliott, Wahl, Dolton, Serocki

No-Dloski

Deeren: Variance Request 1 is approved.

Dolton: is there anyone who wishes to speak for or against Variance Request 2. Seeing no one, opens for board discussion.

Elliott: I do not see a compelling reason for the garage to line up with the house, so I am opposed to Variance Request 2.

Serocki: I agree with Marilyn. If the garage was moved into the yard or 2 feet was taken off, there would be no need for a variance. It is a large encroachment into the setback.

Dolton: a variance is not an easy item to obtain. In looking at the 6 conditions, there are strict guidelines the board has to follow.

Dloski moved to evaluate variance request number 2 using the 6 conditions with a second by Elliott.
passed unam

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

1. 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.

No: Serocki, Dolton, Wahl, Elliott, Dloski- Condition has not been met

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

No: Serocki, Dolton, Wahl, Elliott, Dloski- Condition has not been met

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

No: Serocki, Dolton, Wahl, Elliott, Dloski- Condition has not been met

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

Yes: Serocki-Condition has been met

No: Dolton, Wahl, Elliott, Dloski- Condition has not been met

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

No: Serocki, Dolton, Wahl, Elliott, Dloski- Condition has not been met

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

No: Serocki, Dolton, Wahl, Elliott, Dloski- Condition has not been met

Dloski moved to deny Variance Request 2 with a second by Elliott.

Yes: Elliott, Dloski, Dolton, Wahl, Serocki **passed unam**

Deeren: Variance Request 2 is denied.

Dolton: is it ok that we do not go through the 6 basic conditions and just deny Variance Request 3?

Meihn: Yes.

Elliott moved to deny Variance Request 3 with a second by Serocki.

Roll call vote Yes: Serocki, Wahl, Dolton, Dloski, Elliott

Dloski: Under section 7.5.5 of the zoning ordinance, if the applicant came in tomorrow and moved that garage out of the setback, you could issue a permit, correct?

Deeren: yes.

8. Citizen Comments Elkins: when we approached the board last year with a placement of this garage at the rear of the property, it seemed the issue was the size. It was mentioned to move the garage to the side which is what we presented here. If we had come to you with a standard 2 car garage with no workshop, would you have approved it?

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Wahl: no, it is about encroaching on the setback.

Dloski: the problem is the legal standard. You can build the garage without a variance. If for some reason the topography such as sink holes would prevent you from putting the garage there, that is different.

Wahl: subjectively, I understand wanting the garage to line up with the house from an aesthetic perspective, 100%. However, this body is bound by the parameters of the zoning ordinance.

Elkins: I recommend you check out how Traverse City handles these types of zoning situations.

9. Board Comments Deeren: the recording secretary ended up in the hospital the day after our last meeting. She did the minutes, but I was not able to get them into this packet, so both this meeting and last month's minutes will be available for approval next month.

Dloski: we need to take a look at the variances regarding non-conforming structures. Elkins did not even know it was non-conforming.

Deeren: this is a buyer beware situation.

Wahl: as newer members to this board, we just need to stick to what the guidelines say.

Dolton: yes, we need to have a high standard when granting variances, and not just pass them out easily.

Deeren: yes, we just had a Freedom of Information Act request for all of the variances that were granted over the past 10 years. Some boards made it easier than others. If you want to, please come in and look over the past variances that have been approved.

**10. Adjournment Dloski moved to adjourn with a second by Elliott. passed unam
Meeting adjourned at 8:04 p.m.**