

Peninsula Township
Zoning Board of Appeals Regular Meeting
September 17, 2024, 7:00 p.m.
Lola Jackson Recording Secretary

PENINSULA TOWNSHIP
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**PENINSULA TOWNSHIP
ZONING BOARD OF APPEALS MINUTES**

September 17, 2024
7:00 p.m.

1. **Call to Order** by Dolton at 7:00 p.m.
2. **Pledge**
3. **Roll Call** Cowan, Dolton, Wahl, Cram-Director of Planning and Zoning, Westmoreland-Planning and Zoning Administrator, Excused-Dloski
4. **Approval of Agenda** Cowan moved to approve the amended agenda with a second by Wahl.

Approved by Consensus

5. **Conflict of Interest** None
6. **Brief Citizen Comments – (for items not on the Agenda)** None
7. **Business:**

1. Request No. 920, Zoning R-1C

Applicant: Peninsula Township, 13235 Center Road, Traverse City, MI 49686 (To be Tabled to October 15, 2024)

Owner: State of MI DNR, PO Box 30448, Lansing, MI 48909

Property Address: 4233 Mooring Place Drive, Traverse City, MI 49686

1. Requesting a variance from Section 7.4.7(A)(1) & (2) of the Zoning Ordinance to construct a public parking lot and boat launch within a delineated wetland, or zero feet from the edge of a delineated wetland where 25 feet is required.

Parcel Code # 28-11-587-001-00

Wahl moved to table request #920 to a date certain of October 15, 2024 with a second by Cowan.

Approved by Consensus

2. Request No. 922, Zoning R-1B

Applicant: Robert David Davis, 5280 Butler Road SW, South Boardman, MI 49680

Owner: Paul and Geri Bolen/Bolen Revocable Trust, 12091 Bluff Road, Traverse City, MI 49686

Property Address: 12091 Bluff Road, Traverse City, MI 49686

1. Requesting a variance from Section 6.8 of the Zoning Ordinance to construct a second story addition to an existing single-family residence with attached garage 6.4 feet from the side property line, where 15 feet is required.

Parcel Code # 28-11-445-006-00

Dolton: there are only 3 ZBA board members here tonight. Our ordinance requires a majority vote in the affirmative. This means since we have a 5 member ZBA, and only 3 are in attendance, all 3 would have to vote in the affirmative. The applicant can decide to request another meeting date, where more members may be present.

Bolen: we would like to go ahead.

Dolton: the public portion of the meeting is now open. Cram will present more information on this request.

Cram: the property is zoned R-1B, coastal zone single and two family. The properties to the north and south are also zoned R-1B. The property to the west is zoned R-1A, rural and hillside. East Bay is located to the east. Bluff Road divides the property. The total lot area is 0.453 acres or 19,732 square feet according to the site plan and survey. The minimum lot size for the R-1B zone district is 25,000 square feet. The lot is non-conforming with regard to minimum lot size. There is an existing residence with an attached garage, which was built in 1958, prior to the adoption of the zoning ordinance in 1972. The attached garage is 6.4 feet from the side property line, where 15 feet is required. The existing residence is 29.1 feet from the front property line, where 30 feet is required. The garage and house are legally non-conforming with regard to setbacks. There is a deck on the front of the property, which does not conform to the required front setback. There are no proposed changes to the deck or the existing residence. There is also an existing shed on the west side of the property and no changes are proposed. The second story would use the existing footprint of the existing garage. The topography of the property includes a steep grade, beginning 11 feet from the rear of the northwest corner of the house and about 17 feet from the southwest corner. The steep grade goes up and there are mature trees along the bluff. The onsite septic system is located on the north side of the property. There is one letter from a neighbor supporting the project in your packet. Other emails have come in after the packet was created and they are in support of the addition as well. The applicant is requesting a variance from Section 6.8 of the Zoning Ordinance to construct a second story addition to an existing single-family residence over the attached garage 6.4 feet from the side property line, where 15 feet is required.

Wahl: rather than building over the garage, if they built the addition over the house, would they need a variance?

Cram: because they are choosing to build over the garage, which does not meet the setback, they need a variance. If they were to build over the house, which does meet the required side yard setback they would not need a variance. The front yard setback is 11 inches shy of meeting the front yard requirement of 30 feet. The house has a large eave, which if removed would meet the front setback requirement.

Dolton: In order for a variance to be granted, all six basic conditions must be met. Failure of any one of the conditions requires denial of a variance request.

Dolton invites the applicant to present the variance request.

Robert David Davis, 5280 Butler Road SW, South Boardman, MI 49680

Mr. Boland has worked with an architect to create an architectural design matching the home. The Boland's want to age in place and this design meets their needs. Are there any questions I can answer for the board?

Dolton: have you considered building over the home instead of the garage?

Davis: Mr. Boland looked at that; however, that would be building more than what they need. Aesthetically, this would make the center of the house go up.

Paul Bolen 12091 Bluff Road, Traverse City, MI 49686

Initially, we did consider putting a second story over the home itself. The ground floor of the house is only 1,100 square feet. We decided we needed a modest addition and there is too much space to put on the house. We only need an additional 400 square feet for my wife and I. We would have to move the planned porch over and putting it on top does not give us the view we would like. We already need to put a support in the center of the house from the basement on up. Putting in a second story on the building could be fraught with structural concerns. Davis also said something about the walls.

Davis: the load bearing walls on the house are the east and the west, which are on the front and back of the house and they would need to be tied together with a beam to make it feasible from a building standpoint. Other questions?

Cowan: if you were to shift the addition over to the house itself, you would not need a variance.

Wahl: is the roof something requiring work now or are we just looking at you wanting to put this over the garage area?

Davis: both the roof over the house and garage are reaching the end of life and need to be replaced.

Bolen: one of the emails you did not receive in time, it was just sent 3-4 hours ago, was from the neighbor who would be most immediately affected, who has no problem with this addition.

Wahl: where are the overhangs?

Bolen: The overhang suggested on the addition is proper and within the setback requirements.

Cram: Mr. Davis (Dave) can you tell me the pitch of the existing roof?

Davis: it is 12 feet and then a 1 foot drop or a 1/12 roof, which is basically flat.

Dolton: are there any people here who are supporting the request? Hearing and seeing none, is there anyone who wishes to speak against the request. Hearing and seeing none, I will close the public portion of the meeting and bring it back to the board.

Cowan: I am wondering why you don't go straight up over the house and leave the garage alone. This could conform to the vibe of the 1950s architecture and still have a small bungalow feel plus you would have a great glass front. You would not need a variance. You would have to put a stairway in over a house addition, but you would have to put a stairway up to the garage anyway.

Wahl: this is an interesting case in that most people want to go big and this is a modest request.

Dolton: we are not here to consider aesthetics or economic difficulty. The board will now consider the 6 basic conditions.

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.

Wahl- yes, for the reasons listed in the staff comments. This is a legal, non-conforming property, which predates the adoption of the zoning ordinance.

Dolton- yes, I am on the fence regarding this condition, so I am going to say yes.

Cowan- yes, I agree with Wahl's (Ashley) analysis.

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

Cowan- yes, these are the cards they were dealt and they have to deal with it.

Dolton- yes, same as my reasons for condition number one.

Wahl- yes, for reasons stated in the staff report and what other members have said.

(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.)

Dolton- no, there is an alternative where a variance is not required.

Cowan- no, they could change the plans.

Wahl- no, for reasons 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.

Wahl- yes, neighbors have written support for the addition.

Dolton- no, we would be providing relief when it simply is not necessary.

Cowan- no, I agree with Dolton (John).

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

Cowan- yes, this would not damage property values at all. There is plenty of construction going on in your neighborhood.

Dolton- yes, there are property owners in your neighborhood who have shown support for this project. One cannot know down the road if a new property owner would be happy; none the less, I say yes.

Wahl- yes, for reasons previously stated.

(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.

Dolton- yes, the property is zoned residential and there is no change of use.

Cowan- yes, I agree with Dolton (John).

Wahl- yes, there is no change in use.

Cram summarized the results and conditions c and d were not met.

Dolton: unfortunately, we are not able to approve the variance, so I would entertain a motion to deny request number 922.

Cowan makes a motion to deny request #922 with Wahl providing a second.

Roll call vote: Wahl-yes, Dolton-yes, Cowan-yes

Motion passed

3. Staff Request for Interpretation of Section 7.5.4 Repair and Alteration of Non-Conforming Structure

Cram: this interpretation request came from the applicants for the Weiner residence. Their request #917 was denied on May 21, 2024. The Weiner's wanted to build a second story over a detached garage. The roof they wanted to install was a 12/12 pitched roof, which would allow for windows and a balcony to pass equipment up and over. The current roof is a flat roof in need of repair. The Weiner's submitted building plans for a new garage in a different location on the property. The plans were sent to Grand Traverse County on June 5, 2024, and they were told the new building location was in a floodplain. We spoke to Grand Traverse County regarding the construction code today. In order to use their building plans, they need to get a flood elevation certificate. The Weiner's were told this on June 11, 2024, and again on July 25, 2024. The Weiner's would need to go through a FEMA process and come back to the ZBA for a variance. Zoning ordinance section 7.5.4 reads "Nothing in the ordinance shall prevent the repair, alteration, reinforcement, improvement, or rehabilitation of a non-conforming building or structure or part thereof existing at the effective date of this ordinance that may be necessary to secure or ensure the continued advantageous use of the building or structure provided however that such repair or alteration repair, alteration, reinforcement, improvement, or rehabilitation proposes no change of use of the building or structure or any part thereof." I spoke with the Weiner's about repairing the flat roof and they do not want to do this. I asked the Grand Traverse County construction code what pitch would provide the best drainage in this area and they noted a 2/12 or a 4/12 pitched roof is sufficient. The Weiner's submitted new plans with the same 12/12 roof pitch and deleted the windows. I am asking for clarification from the ZBA.

Wahl: the term alteration is not defined in our zoning ordinance. From a legal standpoint, we have to look at the plain meaning of the term alteration from the dictionary. Alteration is defined as being altered. The term addition is defined as additional space in our zoning ordinance.

Dolton: the ordinance also says that such a change may be necessary to secure or ensure the continued advantageous use. A 12/12 pitched roof is not necessary to secure or ensure the continued advantageous use. If the Weiner's are going to have a continuing problem with that flat roof, a 2/12 or 4/12 pitch would be an acceptable outcome, and they would not need a variance.

Wahl: a change in height or area is an alteration. Alteration would be the expansion of a room. They are looking for additional space above the garage, which was not already in existence. This would be an addition under 7.5.5 and not an alteration under 7.5.4

Cowan: I agree with Wahl that they wanted more space and wanted to have an addition to the garage and not just to repair the roof.

Dolton: I am hearing that you want to know if the Weiner's could put a 2/12, 3/12 or a 4/12 pitched roof on the garage and not need a variance.

Cowan made a motion that a change to a roof pitch going from flat to a 1/12, 2/12, 3/12 or

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a 4/12 is not an addition and this is an acceptable alteration and not require a variance with a second by Wahl.

Roll call vote: Wahl-yes, Dolton-yes, Cowan-yes Motion Passed

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

Wahl moved to approve the minutes with a second by Cowan. Approved by Consensus

9. Citizen Comments None

10. Board Comments None

11. Adjournment Wahl moved to adjourn with a second by Cowan. Approved by Consensus

Adjourned at 7:58 p.m.