

# PENINSULA TOWNSHIP

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## PENINSULA TOWNSHIP ZONING BOARD OF APPEALS MINUTES

October 15, 2024  
7:00 p.m.

1. **Call to Order** by Dolton at 7:00 p.m.
2. **Pledge**
3. **Roll Call** Wahl, Dolton, Dloski, Prescott, Cowan, Cram-Director of Planning and Zoning, Wolever-Planning and Zoning Administrator, Summers-Beckett and Raeder
4. **Approval of Agenda** Dloski moved to approve the agenda with a second by Cowan.  
**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 (Tabled from August 20, 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

Cram represents the township for this variance request.

**Cram:** Peninsula Township is 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. The staff report shows the property is zoned R-1C-Suburban Residential, with properties to the north and south also zoned R-1C. The property to the west has dual zoning of R-1B and A-1. East Grand Traverse Bay is on the east side of the property. The minimum lot size for R-1C zoned lots is 20,000 square feet. The subject property is 299,693 square feet. The property was originally platted as the Old Mooring Place subdivision with 10 lots. The delineated wetland is fragmented due to the construction of Mooring Place Drive. The property is currently vacant except for electrical infrastructure and Mooring Place Drive. The DNR purchased the property in 2015. The

township leases the property from the DNR and is responsible for the planning and maintainance of the park. The township received a DNR Waterways Grant to construct a boat launch and parking lot at Kelley Park. There is a 0.32-acre delineated wetland on the property and to construct the proposed parking area 0.27-acres will be disturbed. Merjent, Inc. conducted a habitat evaluation in September 2024, and the wetland was found to be of low quality based on a monoculture of cattails. Impacts to low quality wetlands can be mitigated by purchasing mitigation credits to offset impacts.

The bottomland of Lake Michigan on the north side is deeper than on the south and would require less dredging, which makes this the most desirable location for the boat launch. The dredging of bottomlands cannot be mitigated, and again makes the north the best location for a boat launch.

Removing Mooring Place Drive and constructing the boat launch on the north side makes the south side of the property open for the revegetation of the meadow with native species. The township has applied for permits from EGLE and the Army Corp of Engineers to place fill in the wetland and dredge the bottomland of Lake Michigan. These permits are currently pending.

**Dolton:** how does this boat launch fit within the R-1C district for residential?

**Cram:** the R-1C zone district allows for public recreation and parks as a use by right within that district. The boat launch is a use associated with a public park or public recreation.

**Cowan:** were these low-grade wetlands always there or were these created with the subdivision project that was never finished?

**Cram:** while this cannot be confirmed, these wetlands were probably created by the proposed construction for the Old Mooring Place project. It is clear the land was disturbed by this activity.

**Dolton:** who determines the number of credits required?

**Cram:** EGLE determines how many credits are needed and are part of the permitting process.

**Prescott:** can these credits be used to mitigate the low-quality wetlands here or anywhere in the state?

**Cram:** EGLE determines where credits are needed. We need an active project where they are trying to rehabilitate or improve a wetland for it to be an easy transition.

**Christy Summers** Beckett and Raeder:

The way this works is we will have to purchase wetland mitigation credits from a bank. There is a database and EGLE makes credits available through a third party. The township would enter into an agreement to purchase those credits. EGLE likes for a purchase to be made as close to the beginning of a project as possible. EGLE prefers those credits to be used in the same region and ideally of the same type of emergent wetland. This is not a forested variety of wetland.

**Cram:** this project also requires a land use permit, a soil erosion and sedimentation control permit, a stormwater control permit, approval by EGLE, and the Army Corp of Engineers.

**Dloski:** when you refer to the R-1C designation, does this reference back to the R-1A or B, which states public recreation is a use allowed in these zoning districts?

**Cram:** yes, uses by right carry forward from R-1A to B and C.

**Dolton:** is there anyone who wishes to speak in favor of this request? Seeing and hearing none, is there anyone who wishes to speak against this request.

**Jeanne Rogow** 18673 Mission Road

What is going to happen on both the north and south side of the property?

Cram showed Rogow the site plan. The south side contains the proposed restored meadow, and

the north side is the parking lot.

**Summers:** the south side will be inundated with storm water from time to time: however, it will not be technically a wetland by EGLE. A storm water management feature cannot be considered a wetland mitigation technique, but it will be a wet area ecosystem.

**Ms. Rogow:** my concern is we live right across the street from the north branch of Mooring Place Drive. Next to the church and 2 doors north from the Old Mission Inn. We bought the property in 2016. We heard the proposed development was not going to be built. The DNR bought the property and Mr. Kelley threw in some money and it was named Kelley Park. We felt assured we would be looking out over the park onto that beautiful view and now we might be looking out on big pickup trucks and trailers. This changes the landscape tremendously. I do not think we would have bought the house if there was a boat launch there. We are self-motivated. Currently, there is a wetland with cattails. There are nesting birds and frogs there. It may not receive an A+ on the wetland scorecard, but the wetland is a live ecosystem. I have concerns as an amateur naturalist that the wetland is just going to be asphalted over. This is heart breaking to me. We go down to the water everyday and swim in fine weather, usually into October. In the summer there can be up to 30 boats in the little bay. This can have an impact on swimming. I do not know how the boat launch would affect other boats coming into the bay to anchor for the day. There is already an issue with traffic on summer holidays.

**Cram:** the plan was to make Haserot Beach the swim beach. Kelley Park was always planned for a boat launch.

**Lester Rogow** 18673 Mission Road

No one told us this was the plan, we would not have purchased the house.

**Cram:** the township is concerned with the safety and made the decision that Haserot Beach was not appropriate for a boat launch for many reasons, as such Haserot is the swimming beach and Kelley Park will include a boat launch.

**Mr. Rogow:** the engineering point of view is the north end is deep enough for a boat launch now but will always have to be dredged going forward. I am not sure what is driving this idea; is it the fishermen who would rather use Kelley Park instead of the East Bay boat launch? This boat launch would affect us 365 days a year.

**Ms. Rogow:** this affects our property in a negative way. I would like to be part of the landscaping decisions as this is our lake view.

**Cowan:** were there other objections to the boat launch, especially from people with homes to the north?

**Cram:** no, we received no public comments. The residents in the area did receive public notice about this meeting and project. The survey of the community in 2019 showed strong support for a boat launch at the north end of the peninsula. This launch is referenced many times in the master plan.

**Dolton:** I will close the public portion of the meeting and open it up to board discussion.

**Dloski:** the house directly to the north is close to where these boat launches are going to be placed. Do we know how many feet the property line is from the boat launch? Were they notified?

**Cram:** approximately 50 feet from the launch. Yes, all property owners within 300 feet were notified.

**Dloski:** what are the hours of operation for the launch? Would there be lights on all night?

**Cram:** like our other parks, this would close at dusk. Boaters do like to get out early in the

mornings. There would be no lighting at night.

**Dloski:** can the boat launch be built without a variance?

**Cram:** no. If we move the launch to the south side, EGLE may not support this location as there are no mitigation credits for disturbance to bottomlands. The south end is shallower and would require more dredging than the deeper north side. The wetland on the north side is a low-quality wetland, fragmented, and with a monoculture of cattails. You can purchase mitigation credits for wetlands.

**Dolton:** our zoning ordinance addresses setbacks, but not the environmental impacts of items such as dredging.

**Cram:** a variance would be needed from the 25 foot setback required for a wetland, whether built to the north or south.

**Wahl:** dredging is not something we are concerned with other than it makes it harder to gain approval from EGLE due to more disturbance to the lake bottomland to the south.

**Cowan:** I doubt there was a wetland before this subdivision disrupted the land. There are 2 huge retention drains down there at the bottom of the hill. That entire area has been dug up and reconfigured. At the shore, you can tell the ground area has been flattened and moved around. I consider this area a man-made ecosystem. It was used as a campground, a dock before any of us were alive, and the state has determined there is no harm to any endangered species there. I see this plan as the best alternative. The view from the hotel and your property will change; however, I see new vegetation being planted.

**Cram:** we are recommending something slightly higher than a vehicle, so we are screening the parking lot from view.

**Dloski:** we must treat every applicant the same. Financial consideration is no grounds for granting a variance.

**Cram:** there will be less disturbance to the north than to the south. Mitigation credits can be purchased for the wetland, but not the bottomland. If you look at condition C under 5.7.3, the strict compliance with the area setback, frontage, height, or bulk density will unreasonably prevent the owner from using the property for a permitted purpose. This property was planned for a boat launch, it is owned by the DNR and the DNR has awarded the township a grant for this boat launch. This is the best plan related to the natural resources present on this property.

**Dloski:** how many boat launches are going to be constructed.

**Cram:** there is one motorized boat launch and one non-motorized launch at the shoreline, for a total of two.

**Ms. Rogow:** we would like to participate in the dialogue regarding landscaping. This is not just about putting in trees. We have a lake view right now and a bigger lake view from our second story.

**Dolton:** the township wants to be good stewards to our residents. Could we move the boat launch just a little further south, so it is not so close to the house to the north? There has been no response from the property owner of that house.

**Summers:** we looked at several locations for the launch site and we arrived at this location for all the reasons previously stated. There is a decent screen of existing mature vegetation along the north property line.

**Cram:** the distance from the northern property line to the proposed boat launch is approximately 50 feet.

**Wahl:** our ordinance does not differentiate the types of wetlands. My understanding is if you

selected the south side of the property, you may not get permitting from EGLE.

**Cowan:** if we have any development on any piece of property with a wetland, in this instance, mitigation credits can be purchased.

**Wahl:** there would likely need to be a variance with either location.

**Dolton:** we cannot tell people how to configure their homes or place a driveway or a boat launch and development is generally unattractive to neighboring properties, which is highly unfortunate.

**Wahl:** I did grow up with Haserot Beach having a small boat launch and it caused a lot of chaos at that park. There is congestion at the 2 boat launches currently on the peninsula and the demand is only going to grow.

**Cram:** the township has been in discussions with the DNR since 2015, when the DNR purchased the property.

**Wahl:** would this be another outlet for the fire department?

**Cram:** yes.

**Cowan:** this was discussed in the master plan and in the community wide survey in 2019. This is nothing new.

**Cram:** there is a public benefit to the boat launch going into our community.

**Wahl:** our task is to determine location.

**Dolton:** we are not considering the need for the boat launch or the community's desire for the boat launch. With all the effort in making this happen, public safety is improved. One location is for swimming and the other for boat launching.

**Wahl:** this decision could potentially hinder or kill the boat launch from being built if EGLE denies the permit.

**Dloski:** then the township would end up back here.

**Cram:** a variance from the wetland setback will be needed if it is located to the south as well. This design creates less disturbance to the bottomland. If the launch is moved to the south, the proposed meadow also goes away. The natural topography and vegetation are replaced with a driveway. Our consultants Beckett and Raeder looked at many different options and this was the best alternative.

**Ms. Rogow:** when you said the people in the area have been notified by mail, the people in the house directly to the north are recently deceased. Their daughter does not live up here and just because you have not heard from people, does not mean they are in support of this project.

Dolton asked Cram to go through the 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- a variance is going to be needed no matter which location is selected. If a variance is not granted, the property would be rendered useless for a boat launch. The information in the staff report informs this decision as well.

Cowan: yes- I want to emphasize the bottom of the lake is driving this more than the wetland.

We cannot mitigate the impacts of dredging, but we can with the wetland. According to our zoning, this can be used for public use. This is a tough call.

Dloski: no- this can be done without a variance.

Dolton: yes- taking all things into consideration, this is what makes the most sense.

Unfortunately, it affects the properties to the north.

Prescott: yes- given we can get credits to mitigate the fragmented wetlands.

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

Dloski: no- for the reason we don't know.

Wahl: yes- because we do not have any definitive way of knowing the past.

Prescott: yes- much for the reason we just do not know the complete history.

Cowan: yes- we do not know how much this property has been impacted by all its previous uses. I wish there was a way to know, but we just cannot.

Dolton: yes- we really do not know the action of previous private property owners. I am giving this the benefit of the doubt.

(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: yes- strict compliance with this standard would be unnecessarily burdensome. The additional dredging, and the impact to the environment is a material factor here.

Wahl: yes- for reasons previously stated. There has been a lot of analysis on this property and we have a very thorough report. Careful consideration was done in terms of the placement of the boat launch. This would be the least burdensome on this property.

Prescott: yes- strict compliance would prevent the boat launch, which the community has expressed support.

Cowan: yes- for the reasons stated by Dolton.

Dloski: no- there is not enough evidence to evaluate this standard properly.

(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.

Cowan: yes- the 2019 community survey and the master plan supports this project. This will be a benefit to the township.

Dolton: yes- for reasons stated by Cowan.

Wahl: yes- for the reasons already stated.

Prescott: yes, for the reasons already stated.

Dloski: no- the fact it is mentioned in the master plan and the community survey does not mean it

complies with the zoning ordinance. This is a wish list, and this does not comply.

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

Dolton: yes- any development cause inconvenience to neighboring properties, and it is just a fact of development. The presence of the boat launch is what created this disturbance, and not the fact it needs a variance

Cowan: yes- it is a permitted use within this zoning category.

Wahl: yes- I understand, despite the concerns of the individuals who came in, I agree with Cowan and Dolton.

Dloski: no- I have not heard any concrete evidence as to how it is going to be managed or operated. I am not convinced this will cause no adverse impacts to the property to the north.

Prescott: yes- I have a question regarding this condition. This will affect the impacts to the surrounding properties in terms of property values to the north and south. This might be advantageous to the Inn. The variance is for the wetland and not for the boat launch.

With this understanding, I vote yes.

(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.

Prescott: yes, no change in use.

Dloski: yes, permitted use.

Wahl: yes-no change in use.

Cowan: yes- this is a permitted use.

Dolton: yes-no change in use.

Cram summarized the results.

Condition A Passed 4 yes votes and 1 no

Condition B Passed 4 yes votes and 1 no

Condition C Passed 4 yes votes and 1 no

Condition D Passed 4 yes votes and 1 no

Condition E Passed 4 yes votes and 1 no

Condition F Passed 5 yes votes

**Dolton:** the variance passes; however, do we want to put in some additional conditions? The requested variance as stated has been approved. We can add supplemental conditions if we feel they are important, but we cannot require the boat launch be moved to the south side of the property.

Do we want to make an additional condition that the property to the north have vegetative screening?

**Cram:** on the site plan, you can see there is already a mature vegetative screen to the north. There will be additional plantings added to the already existing screening. The variance runs with the land, and you are approving the variance based on this site plan. If anything were to change on the site plan, we would have to come back to the ZBA. This plan notes the existing

vegetation to the north will remain, with additional plantings, and the meadow to the south will be rehabilitated, and all of this is noted on the site plan you are approving. As the zoning administrator, when the township comes in for a land use permit, we are going to look at the approved site plan. Are they the same? In addition, you can only control your view if you own it. If this property is not used as a boat launch, a public park will probably be established. There will be more cars and people.

**Dolton:** as a condition of approval, the township needs to comply with all outside agency permitting requirements.

**Wahl makes a motion to approve Variance Request No. 920 with the condition the township complies with all outside agency permitting requirements with Cowen providing a second.**

**Roll call vote Yes- Cowan, Dolton, Wahl, Prescott  
No- Dolton**

The variance is granted.

**1. Election of Officers, Chair, Vice Chair and Secretary**

**Dloski moved to keep the officers the same with a second by Wahl. Approved by Consensus  
Dolton is the Chair, Dloski is Vice Chair and Wahl is the secretary.**

**8. Approval of Minutes from the September 17, 2024, Meeting**

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

**9. Citizen Comments**

**10. Board Comments**

**Dloski:** I am opposed to this conceptually, but I think there are parts of this variance we did not analyze, and we left these parts hanging. We need to treat the township like every single applicant coming before us. That is my concern.

**Ashley:** I agree; however, when it became clear to me the township would require a variance no matter what, even if you moved it to the south, they would still be within the 25 feet setback. The question is how much of a variance are we allowing and how much are we going to dictate? We are approving the site plan, but we are still granting a variance. Without a variance, this entire project would probably be shut down.

**11. Adjournment**

**Dloski moved to adjourn with a second by the entire board.**

**Approved by Consensus**

Adjournment at 8:18 p.m.