

**PENINSULA TOWNSHIP  
REGULAR MEETING  
ZONING BOARD OF APPEALS  
13235 Center Rd., Traverse City, MI 49686**

October 18, 2022

7:00 p.m.

**MINUTES**

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

**1. Request No. 903, Zoning R-1A**

Applicant: John C. Ansted Sr. Trust, 10215 Peninsula Drive, Traverse City, MI 49686

Owner: John C. Ansted Sr. Trust, 10215 Peninsula Drive, Traverse City, MI 49686

Property Address: Kroupa Rd., Traverse City, MI 49686

No additional information was submitted – Request to re-table to next Regular Zoning Board of Appeals meeting on November 15, 2022.

Parcel Code # 28-11-108-001-02

**Deeren:** I have received a few emails, but nothing substantial. Until there is a submittal of information to help make a decision on this request, this is where we stand. Ansted stated to me he is confident he will have the information ready for the November, 2022 meeting.

**Dloski:** I move to table this and it should be clear this is requested by the applicant with a second by Ammerman. **approved by consensus**

**2. Request No. 907, Zoning R-1B**

Applicant: Alan and Holly Ann Houtman, 12341 Bluff Rd., Traverse City, MI 49686

Owner: Alan and Holly Ann Houtman, 12341 Bluff Rd., Traverse City, MI 49686

Property Address: 12341 Bluff Rd., Traverse City, MI 49686

1. Requesting a variance from the required thirty (30) foot front yard setback to twenty-nine (29) foot front yard setback in order to construct an eight (8) foot by eighteen (18) foot or 144 square foot two story addition to a non-conforming structure.
2. Requesting a variance from the required thirty (30) foot front yard setback to a nineteen (19)

foot front yard setback in order to construct an eight (8) foot by ten (10) foot wood deck to a non-conforming structure.

3. Requesting a variance from the required thirty (30) foot front yard setback to a nineteen (19) foot front yard setback in order to construct a ten (10) foot by twenty-four (24) foot steel roof covering over a portion of the existing wood deck and eight (8) feet of the new proposed wood deck.

Parcel Code # 28-11-445-017-00

**Alan Houtman 12341 Bluff Road:** we have owned the home since 2005. The house was built in 1954. As we are getting ready to retire, we are looking at the deficiencies in the house. We would be creating some space inside the house for another entry way, updating the kitchen, and a few other projects. We could not find a way to do this without adding to the home a little bit. If you have visited the house on Bluff Road you can see the terrain behind the house is forcing the house forward. The original building was built before the zoning ordinance even existed. Everything pertains to where the original house was built. In 1994 a second story was added to the house and was conforming except for the overhang on the front. In 1983, a variance was granted for a deck due to the proximity to the road and was supplementing a new addition. We are adding 8 feet to the north of the house to make the living room bigger and add a closet onto the second story. In doing so we would like to extend the deck currently in front of the house an additional 8 feet. The addition to the house is fully conforming with the exception of the front overhang. We are not with any of these requests imposing on the north side yard setbacks. We maintained the 15 feet everywhere. We will actually remove some of the deck at the south end of the house, so there will be some offset. We are trying to keep this as minimal as possible. We are requesting the overhang on the 8 foot addition, the extension of the deck which is 8'x10', and then the covering of the 24'x10' deck. We are trying to upgrade the house, it is looking tired, and it has not been upgraded since 1994. This is an improvement to the neighborhood and we are doing a service to our neighbors. I know there was one letter from our neighbor next door regarding sightlines. To be fair, both of our houses were built one in 1953 and one in 1954; both are non-conforming. Theirs does not conform to their south lot line, which is our north lot line, so I feel their concern and I am sympathetic, but I don't believe if they were conforming they would have the same concerns. Personally, I think it is unreasonable for us to not inhibit their view given the concern is largely generated by where their house is placed. Ours is fully conforming to the north lot line. We may remove some overgrown trees as part of the project, which may improve their sightline in a slightly different space. We are doing what we can to minimize the impact and at the same time improve the house.

**Holly Houtman 12341 Bluff Road:** we are working to make the house as aesthetically pleasing as possible. We want the new 8' section not to look like it was slapped on or added on funny. We want to be good neighbors and have tried to think of alternatives. We have struggled with this.

**A. Houtman:** we did not talk about the other hindrances we have. Right behind our house at an angle is our drain field and it is roughly at the 10' setback, and we cannot move the septic. On the south side, the driveway is right adjacent to the existing entrance. We would not be able to negotiate getting into the garage.

**H. Houtman:** to be honest, putting a covered porch in the backyard does not make sense as we want to view the water.

**Deeren:** your lot is fairly deep, but you are encumbered by the bluff behind you.

Dolton opens it up for questions from the board to the applicant.

**Dolton:** how many feet of deck are you removing from the south side of the house?

**H. Houtman:** it would not be as much as the 80' we are requesting. It is at a funny angle going around the side of the house.

**Wahl:** just for specifications, you said it is going to be in line with the house.

**H. Houtman:** the overhang is going to extend about 5".

**Deeren:** they are within the 15' side yard setback to the north and then everything is conforming except for the front yard.

Dolton asks if there is anyone who wishes to speak in favor of the applicant. Hearing and seeing none

Dolton asks if there is anyone who wishes to speak against the applicant. Hearing and seeing none, Dolton makes reference to the letter included in the packet from the neighbor, which is opposed to variance requests 2 and 3. Dolton closes the public hearing portion of the meeting and opens it up to board discussion.

**Dloski:** my question is for Christina (Deeren) is the first request is for a variance from the required 30' setbacks to 29 feet in order to construct this 144 square foot addition. The real issue here is the 1' overhang?

**Deeren:** yes, it is actually 5", but unfortunately we round up.

**Dloski:** request number 3 asks for a steel roof and where is this on the plan?

Deeren shows where it is on the plan to members of the board.

**Dloski:** part of the deck they want to cover is already there.

**Deeren:** correct.

**Dloski:** as we have discussed before under 7.5.1 the intent and purpose of a variance is not to allow significantly increases to intensity of use.

**Ammerman:** with complete candor I live just to the north of you and the presentation for the request was extraordinarily eloquent and detailed. I do empathize with the Mr. and Mrs. Patrick J. Kealy (see letter under Exhibit 9, Correspondence) and their letter in the packet. If this was my situation, I would have difficulty with this. I have a 180 degree of the bay and if this was cut substantially, I would find it really disconcerting and hard to accept. This is a palatable request, but I struggle with this piece of the request.

**Dolton:** I think a broader discussion of each request would be helpful. The request number 1 is a relatively modest expansion of the non-conformity. In round numbers we are talking less than 8 square feet. Request 2 is an expansion of an existing deck with some deck removed on the south side. I do believe request 3 is more problematic for a building expansion.

**Dloski:** is the purpose of the covering for the deck due to weather? Is it so they can sit on the front porch and not get rained on?

**A. Houtman:** it is for cleanliness from tree debris and being able to sit out there and enjoy it more than we have currently been doing. We would be able to leave our seat cushions out there.

**H. Houtman:** we could put a temporary gazebo out there, but this would probably impinge on the view

**Dloski:** so is it the deck roof causing the problem in blocking the view.

**Wahl:** do they need a variance to put up a gazebo?

**Deeren:** once a gazebo goes in, it is not a temporary structure. Once you put a covering over a deck, you are changing that structure.

**Dolton:** there are alternative. We have a retractable awning, but you cannot leave it open in inclement weather or when it is windy.

The board was ready to vote on variance request 1.

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.

Dolton: Yes-

Wahl: Yes-this is a legally non-conforming house.

Dloski: Yes-the septic and the 150' bluff behind their house create an unusual circumstance. Also under section 7.5.1, this will not increase the intensity of use. We are talking about an approximately 5" overhang.

**Ammerman:** 1 and 2 are interesting to me. I view them as being a function of 3, 4, 5, 6. I need some help here with context: Is a variance a set of unique circumstances and segue into is this a result of the property owner? They live in a legally non-conforming structure and this initiative is a function of wanting a variance. What is it that allows 1a as the basic condition to be passable when it is actually about expanding the property.

**Elliott:** I have an answer for myself for that because the entirety of the portion of the addition is entirely conforming and is within all of the setbacks. The unique circumstance for me is the septic field, which does not allow them to go back. We are not an architectural review board, but we are here to use the zoning ordinance the best we can, but to allow variances when appropriate. For me that 1' is not a problem as the addition could not really go anywhere else.

**Ammerman:** super compelling? The magnitude of the variance is small and the most palatable to me, so I now understand the issue regarding the septic and the bluff behind the house.

**Elliott:** for the reasons I just stated.

**Ammerman:** yes.

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

Dolton: Yes, they did not create the bluff and they did not create the shape of the lot or where the home was initially placed.

Wahl: Yes-

Dloski: Yes, there is not an increase in intensity under 7.5.1.

Elliott: Yes.

**Ammerman:** Yes.

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.)

Dolton: Yes, the structure is legally non-conforming.

Wahl: Yes, the fact it is a legally non-conforming house and the topography was not caused by the applicant. We are talking about a 5" overhang.

Dloski: Yes.

Elliott: Yes, for the reasons Wahl stated.

**Ammerman:** Yes.

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.

Dolton: Yes.

Wahl: Yes, the addition will increase the value of the home which, can impact the surrounding property owners.

Dloski: Yes, for all the reasons already stated.

Elliott: Yes, for reasons already stated.

Ammerman: Yes, this small increase will do substantial justice to the property owners.

5. 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, this expansion enhances the value of the property and properties surrounding this home.

Wahl: Yes.

Dloski: Yes, I agree with Ammerman that this is something the town board needs to look into, especially the properties along Bluff and other areas that may deserve some attention.

Elliott: Yes.

Ammerman: Yes, I think this is something we are going to see more of as people want to expand toward the bay with their front lot line.

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.

Dolton: Yes, there is no change in use.

Wahl: Yes.

Dloski: Yes, there is no change in residential use.

Elliott: Yes.

Ammerman: Yes

**Deeren:** all 6 condition pass.

**Dolton:** I will entertain a motion for Variance Request Number 1 under case 906 to pass.

**Wahl moved to approved Variance Request Number 1 under case 906 with a second from Dloski.**

**Roll call: Yes-Dolton, Ammerman, Elliott, Wahl, Dloski**      passed unan

**Wahl:** I would like to open up the discussion of the deck because this is a little tougher. When we look at approving a structure is anything above ground. The roof is tripping me up because it is a structure that will be attached to the structure. So if they want the roof to go on what is already there, would they have to come back for another variance to cover the new portion of the deck once this is completed?

**Deeren:** this is going to be a separate structure and you have to remember a portion of the deck already exists and they want to cover a portion of the deck. This would be a deck expansion.

**Dolton:** if this was only going to cover the existing portion of the deck, this could have been rolled into one variance. Because the roof over the new portion, this requires a separate

variance.

**Deeren:** when you put a roof over the deck, there is the potential to put up walls and create more living space and we have had this happen. It is not legal under the zoning ordinance.

**Dloski:** so this would just be changing the length of the deck and not the width.

**A. Houghton:** could I just say a few words?

Dolton reopens the public portion of the meeting.

**A. Houghton:** we are not moving any line that was not previously allowed going back to the first variants in 1983. None of our requests move us nearer to the road or the water.

**Wahl:** so we are talking about 10' of deck.

**Deeren:** and they are removing a portion of the deck on the other side.

**Dolton:** so we are closing the public portion of the meeting.

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.

Ammerman: No- this is a deck expansion

Wahl: No- a deck expansion is not due to unique circumstances in this case

Dloski: No- they just want to put in a bigger deck. There is no topographical issue here.

Elliott: No- not due to circumstances or physical conditions.

Dolton: Yes- they are working with the existing deck and removing a portion to the south.

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

Ammerman: No.

Wahl: No.

Dloski: No.

Elliott: No- I am going to restate something Dloski said earlier. This is just an expansion of a non-conformity that is not necessitated by anything other than the homeowners wish to do so.

Dolton: Yes-again they are removing a portion of the deck to offset the new addition to the deck.

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.)

Ammerman: No- self-imposed design choices are not a reason to grant a variance.

Wahl: No-for reasons already stated.

Dloski: No.

Elliott: No-we are not an architectural review board. The aesthetics are not what this board is for. We have to stay with what we are allowed to do. To vary from strict performance to the code requires a reason and this is not a compelling reason.

Dolton: No-I am agreement with Elliott's comments.

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.

Ammerman: No.

Wahl: No, we do know renovations may improve property values, but we know of a neighbor opposed and we really need to take into consideration non-conforming structures moving closer to the bay.

Dloski: No.

Elliott: No- again aesthetics and functionality. Substantial justice flows from a compelling reason and this is not enough for me.

Dolton: Yes- the offset of the deck is enough for me.

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

Ammerman: No- based on Kealy's letter.

Wahl: Yes- the deck itself is not going to obstruct the views.

Dloski: Yes.

Elliott: Yes-same as Dolton.

Dolton: Yes-this structure is barely above grade.

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.

Ammerman: No.

Wahl: Yes, there is no change in use.

Dloski: Yes.

Elliott: Yes.

Dolton: Yes- for reasons already stated.

**Dloski makes a motion that Variance Request No. 2 is not granted with Elliott providing a second.**

**Roll call: Yes-Dolton, Ammerman, Elliott, Wahl, Dloski passed unan**

**Dolton:** given the failure of the deck expansion request number 3 is to cover the entire structure. Could we just consider covering the portion of the deck that exists now?

**Elliott:** it has not been published in that manner.

**Dolton:** we can grant a lesser variance.

Dolton opens up the public portion for the applicant to address the board.

**A. Houtman:** given the failure of request number 2, if we just covered the existing deck, this would reduce the sight lines and address the Kealy's concerns. We would now request instead of the deck being 24' long, it would be reduced to 16' long.

Dolton now closes the public portion of the meeting.

**Wahl:** given they are covering what is already there and are within the existing footprint...

**Elliott:** do they even need a variance for this?

**Deeren:** what was applied for was a deck covering and now it has become a wood covered porch. She asks the attorney for an opinion.

**Witte:** Yes, I agree with you.

**Deeren:** you can change the request to a lesser variance.

**Dolton:** so we can change the request from the required 30 foot side yard setback to a 19' side yard setback in order to construct a 10' x 16' steel roof covering over an existing deck.

**Deeren:** so you would be voting on a less variance request.

**Wahl:** the problem I am having with this is the term structure.

**Deeren:** if you look at the beginning of the ordinance there are all of the definitions.

**Elliott:** the reasons you stated are just not compelling enough for us not to apply strict adherence and compliance with the zoning ordinance. It's an increase in the non-conformity in a very sensitive area and I am not comfortable with this. If we were an architectural board, this would be different, but we are not. It is not my job to make your home functional.

Dolton opens up the public portion again.

**A. Houtman:** I am just trying to understand the terminology that you are looking at. Not being able to put a roof over the deck does impact our ability to use our property. I do not see this as an expansion of non-conformity.

**Dolton:** thank you for that perspective. Dolton closes the public portion and returns the discussion to the board.

**Ammerman:** I agree that defending the front yard setback along Bluff Road is important and I agree with Elliott's comments. The deck is there and all we are doing is covering the deck.

Dolton: we are deciding to reduce the deck from 24' to 16' with the same width of 10' wide.

Deeren: so you are deciding to change the 30' front yard setback to a 19' side yard setback to cover a portion of an existing deck

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.

Ammerman: Yes- by eliminating the deck extension, the sight line for the Kealey's sounds like it would not block their view

Wahl: Yes- it is not significantly increasing non-conformity.

Dloski: Yes.

Elliott: No- this is an expansion in non-conformity

Dolton: Yes- this is covering a deck that has already been approved

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

Ammerman: Yes



Wahl: Yes.

Dloski: Yes.

Elliott: No.

Dolton: Yes- the structure is already in place.

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.)

Ammerman: Yes-there is no reason why they cannot cover an existing deck that is already in place.

Wahl: Yes- it is covering something that already is there.

Dloski: No-it is more or less aesthetics and it is something they want. There is nothing about health, safety, or welfare.

Elliott: No-my reasoning has already been stated and I do not believe that strict compliance will prevent them from using the property for a committed purpose.

Dolton: Yes.

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.

Ammerman: Yes.

Wahl: Yes.

Dloski: Yes- they have already reduced the size of the deck.

Elliott: Yes.

Dolton: Yes.

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

Ammerman: Yes.

Wahl: Yes.

Dloski: Yes- this handles the neighbor's concerns.

Elliott: Yes.

Dolton: Yes.

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.

Ammerman: Yes- there is no change of use.

Wahl: Yes.

Dloski: Yes.

Elliott: Yes.

Dolton: Yes.

Dolton: just to be clear the board is approving from a 30' front yard setback to a 19' side yard setback in order to construct a 10' by 16' steel roof covering over a portion of an existing wood deck.

**Ashley made a motion that the lesser Variance Request 3 be approved with Elliott providing a second.**

**Roll call: Yes-Dolton, Ammerman, Elliott, Wahl, Dloski passed unan**

**8. Approval of Minutes from September 20, 2022 Regular Meeting: Wahl moved to approve the minutes with a second by Dloski. passed unan**

**9. Citizen Comments None.**

**10. Board Comments:**

**Wahl:** these last few meeting have been interesting when we are talking about existing footprints and just placing additions onto existing additions. Are these called improvements? I am not in favor of expanding non-conformity, but the ordinances make it almost that it has to be significant. You are adding to what is already there.

**Deeren:** this sometimes makes it hard for me to justify a variance.

**Wahl:** we need better definitions, especially with the word structure.

**Deeren:** we are working on them. That is why this process gives the applicant due justice. It is how this 5 member board individually views each of these requests. You are not all like-minded in thinking.

**Dolton:** my thinking on request 2 is if it did pass, I would have had trouble with them covering it with a roof.

**Deeren:** you are an approving body and you have done your due diligence and heard each case individually and independently.

**11. Adjournment: Dloski moved to adjourn the meeting with a second by Wahl. passed unan**

Meeting adjourned at 8:20 p.m.

Mr. and Mrs. Patrick J. Kealy  
12361 Bluff Rd.  
Traverse City, MI 49686

September 26, 2022

Peninsula Township Zoning Board of Appeals

RE: Notice of Zoning Variance Request (Parcel 11-445-017-00)  
Alan J and Holly Ann Houtman  
12341 Bluff Road  
Traverse City, MI 49686

Dear Peninsula Township Zoning Board of Appeals:

We will not be able to attend the Township Zoning Board of Appeals Meeting in person in October as we are traveling out of the country, so we are submitting our comments via this written response. We have received a copy of the Variance Application that was submitted for 12341 Bluff Road from Holly Houtman.

For reference, our home is directly to the north of the Houtman's home and the proposed variances extend directly towards our house (specifically towards our kitchen and living/great room). We have reviewed the three requested variances. We do not support request #2 (deck extension) or #3 (addition of steel roof) and ask that they be denied, for the following reasons.

1. Relative to Basic Condition A from variance application (Need for variance is due to unique circumstances or physical conditions, etc): Variance Request #2 (deck) and #3 (roof over deck) could be executed on the rear of the house, or the roof could be executed on the South portion of the existing deck. There are alternatives to have a covered deck and even the house extension itself that would not impact the Front Setback.
2. Relative to Basic Condition B from application (the need for the variance is not the result of actions of the previous property owner): Variance request #2 is driven by the desire to extend the existing deck that was allowed under a previous variance request as noted in the application (action from previous owner). If the current deck was not allowed under a previous variance request, we would think this request would not be considered because generally there are no other variances of this nature in the immediate surrounding area. Extending the deck further to the North (towards our property) into the front setback has a direct impact on the view of the surrounding area (East Bay and

Bluff Road to the South) from our residence (kitchen, dining and living/great rooms). The house addition as proposed can be executed without extending the deck.

3. Relative to Basic Condition F from application (variance will not cause adverse impact on surrounding property, property values or the use and enjoyment of property in the neighborhood): The variance requests #2 and #3 have a direct adverse impact for our property. It has a very adverse impact on the use and enjoyment of our property in that a deck extension and steel roof would eliminate a good portion of our view of the surrounding area (East Bay and Bluff Road to the South) from our kitchen, dining room and family/great room, where we spend a substantial amount of time. The proposed house addition can be executed without extending the deck or adding the steel roof.

Additional Note: Variance Request #3 states the Steel Roof is 24' X 1' for a max area of 24 ft<sup>2</sup>. I believe this is an error and should be stated as 24' X 10' for a max area of 240 ft<sup>2</sup> that would extend into the Front Setback (1' would not cover the proposed deck and does not correspond to the drawings provided).

Please consider our request to deny Variance Request #2 and #3. Approval of this variance request can set a precedent for the surrounding neighborhood which would also have an adverse impact. I can be reached at (248) 891-4006 if you have any questions

Sincerely,



Patrick J. Kealy