

**PENINSULA TOWNSHIP
REGULAR MEETING
ZONING BOARD OF APPEALS AGENDA
13235 Center Rd., Traverse City, MI 49686
November 15, 2022
7:00 p.m.**

- 1. Call to Order**
- 2. Pledge**
- 3. Roll Call of Attendance**
- 4. Approval of Agenda**
- 5. Conflict of Interest**
- 6. Brief Citizen Comments – for items not on the Agenda**
- 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 December 20, 2022.

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

2. Request No. 908, Zoning R-1C

Applicant: Shawn Smith, 6637 Peninsula Drive, Traverse City, MI 49686

Owner: Shawn Smith, 6637 Peninsula Drive, Traverse City, MI 49686

Property Address: 6637 Peninsula Drive, Traverse City, MI 49686

1. Requesting a variance from the required fifteen (15) foot side yard setback on the northerly property line to a nine (9) foot side yard setback in order to construct an attached 16 foot by 24 foot garage to the existing residential building on an existing legal non-conforming lot of record.

Parcel Code #28-11-336-032-00

- 8. Approval of Minutes from October 12, 2022 Special Meeting and October 18, 2022 Regular Meeting**
- 9. Citizen Comments**
- 10. Board Comments**
- 11. Adjournment**

Peninsula Township Planning & Zoning Department

EXHIBIT LIST
ZBA Request # 908

Owner: Shawn Smith

Physical Address of Subject Property: 6637 Peninsula Drive., Traverse City, MI 49686

Hearing date: November 15, 2022

EXHIBIT LIST

1. Application for variance request from the applicant
2. Conceptual construction plans and survey
3. Variance Request No. 221 from June 4, 1990
4. Staff report from Peninsula Township Director of Zoning.
5. Public Notice for properties within 300 feet of subject site
6. Public Notice – Record Eagle
7. Certificate of Notification
8. Correspondence

Exhibit

No. 1

Peninsula Township Variance Application

Application Guidelines

13235 Center Road, Traverse City MI 49686

Ph: 231.223.7322 Fax: 231.223.7117

www.peninsulatownship.com

1. Zoning Board of Appeals (ZBA) applications are available from the Peninsula Township Planning & Zoning Department, 7:30 a.m. to 6:30 p.m., Monday, and 7:30 a.m. to 5:00 p.m. Tuesday through Thursday, or online at www.peninsulatownship.com/zoning.
2. **Applications must be submitted to the Planning & Zoning Department at least four (4) weeks prior to the ZBA meeting. Twelve (12) copies must be submitted.**
3. If the applicant is not the property owner, a letter signed by the owner agreeing to the variance must be included with the application.
4. It is the applicant's responsibility to review and address the appropriate sections of the Zoning Ordinance prior to submission.
5. It is the applicant's responsibility to ensure that the application is complete upon submission. **Planning and Zoning Department staff will determine and confirm with the applicant that the application is complete.** An incomplete application will not be considered for review by the ZBA.
6. The application will be forwarded to members of the ZBA for a public hearing.
7. A notice of the public hearing must be mailed to the property owners and occupants within three hundred (300) feet of the subject property not less than fifteen (15) days before the public hearing.
8. The applicant will receive a notice of the public hearing in the mail, and is expected to attend the meeting.
9. ZBA meetings are held on the third Tuesday of every month, beginning at 7:00 p.m. in the Township Hall, 13235 Center Road, Traverse City, MI 49686.
10. If the variance(s) are granted, **construction authorized by such variance(s) must begin within six (6) months after the granting of the variance, and the occupancy of land, premises, or buildings authorized by the variance must take place within one (1) year after the granting of the variance.**
11. If the variance(s) are granted, construction authorized by such variance(s) must comply with all other necessary permits. **A variance is independent from, and does not substitute for, all other permits.**
12. No application for a variance which has been denied wholly or in part by the Board shall be resubmitted for a period of one (1) year from the date of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid.

OFFICE USE ONLY		
Date Received:	Fee Received:	Board Action:
Date Complete:	Meeting Date:	

Peninsula Township Variance Application

General Information

A fully completed application form, fee, and all related documents must be submitted to the Planning & Zoning Department at least four (4) weeks prior to the Zoning Board of Appeals meeting. **12 copies are required.**

Applicant Information

Applicant: Name Tributary Construction LLC
Address Line 1 7485 Sparling Rd
Address Line 2 Kingsley, MI 49649
Phone _____ Cell 231-330-6904
E-mail Jake@TributaryConstructionLLC.com

Owner: Name Shawn Smith
Address Line 1 6637 Peninsula Dr.
Address Line 2 Traverse City, MI 49686
Phone _____ Cell 231-499-1990
E-mail shawns2@gmail.com

(If the applicant is not the property owner, a letter signed by the owner agreeing to the variance must be included with the application.)

Property Information

Parcel ID 28-11-336-032-00 Zoning R-1C
Address Line 1 6637 Peninsula Dr.
Address Line 2 Traverse City, MI 49686

Type of Request

Indicate which Ordinance requirement(s) are the subject of the variance request:

- | | | |
|--|---|---|
| <input type="checkbox"/> Front Yard Setback | <input checked="" type="checkbox"/> Side Yard Setback | <input type="checkbox"/> Rear Yard Setback |
| <input type="checkbox"/> Width to Depth Ratio | <input type="checkbox"/> Lot Coverage | <input type="checkbox"/> Off-Street Parking |
| <input type="checkbox"/> Signage | <input type="checkbox"/> Height/Width | <input type="checkbox"/> Non-Conformity Expansion |
| <input type="checkbox"/> Other: Please Describe: _____ | | |

Attachments

- ☒ \$1,000.00 application fee
- ☒ Basic Conditions Worksheet
- ☒ Site plan drawn to scale showing the following:
 - a. Property boundaries; Shoreline properties must show the Ordinary High Water Mark on a certified survey, and the Flood Elevation Line (3 feet above OHWM) if any;
 - b. All existing and proposed structures including decks and roof overhangs;
 - c. Setbacks for existing and proposed structures (varies by zoning district).
- ☒ Front elevation diagram drawn to scale.

Peninsula Township Variance Application

Basic Conditions Worksheet

In order for a variance to be justified, the Applicant must meet **all of the Basic Conditions**, as defined in Section 5.7.3(1) of the Peninsula Township Zoning Ordinance. The Applicant must answer the following questions pertaining to the Basic Conditions in detail. Please attach a separate sheet if necessary and label comments on the attached sheet with corresponding number/letter on application.

Section 5.7.3(1) Basic Conditions: The Board shall have the power to authorize, upon an appeal specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements, **provided all of the Basic Conditions listed herein can be satisfied.**

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

Is this condition met? Please explain: Yes, due to the narrowness of the lot and the existing home not conforming to current set back regulations, it makes it difficult to practically add an attached garage within the current set back regulations. To move the garage within the current setbacks would require more fill-dirt to raise the existing elevation and cause more disturbance to the existing soil, which we are trying to prevent for water drainage purposes.

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

Is this condition met? Please explain: Yes, because of the topography of the lot and surrounding lots, water rushes down the driveway during a rain event and eventually gets absorbed into the yard. The location we would like to put the garage is a higher elevation than the rest of the yard and would not see as much water as it would if we had to build within the setbacks and we won't need to disturb near as much vegetation.

- 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.)**

Is this condition met? Please explain: Yes, moving the garage to comply with the setbacks

would burden the homeowner because it would narrow the space water has to dissipate naturally and it would direct more water towards the foundation of the home, potentially causing future problems.

- 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.**

Is this condition met? Please explain: Yes because it would increase the value of the home which would benefit all the neighbors and the in the surrounding area. It would also create a privacy barrier to the neighbors on the North side.

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


Is this condition met? Please explain: Yes, currently the existing house and the existing detached garage are not in compliance with the setback regulations, the proposed garage would be further away from the property line than those mentioned. The proposed garage will also not hinder any of the neighboring properties views.

- 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.**

Is this condition met? Please explain: Yes, the garage addition would still fall under the R-1C zoning district and is intended for residential use.

Shawn Smith
6637 Peninsula Dr.
Traverse City, MI 49686
231-499-1990

I, Shawn Smith give Jake Schmalzried with Tributary Construction LLC, permission to apply for a setback variance for a 1 car attached garage at my address listed above.

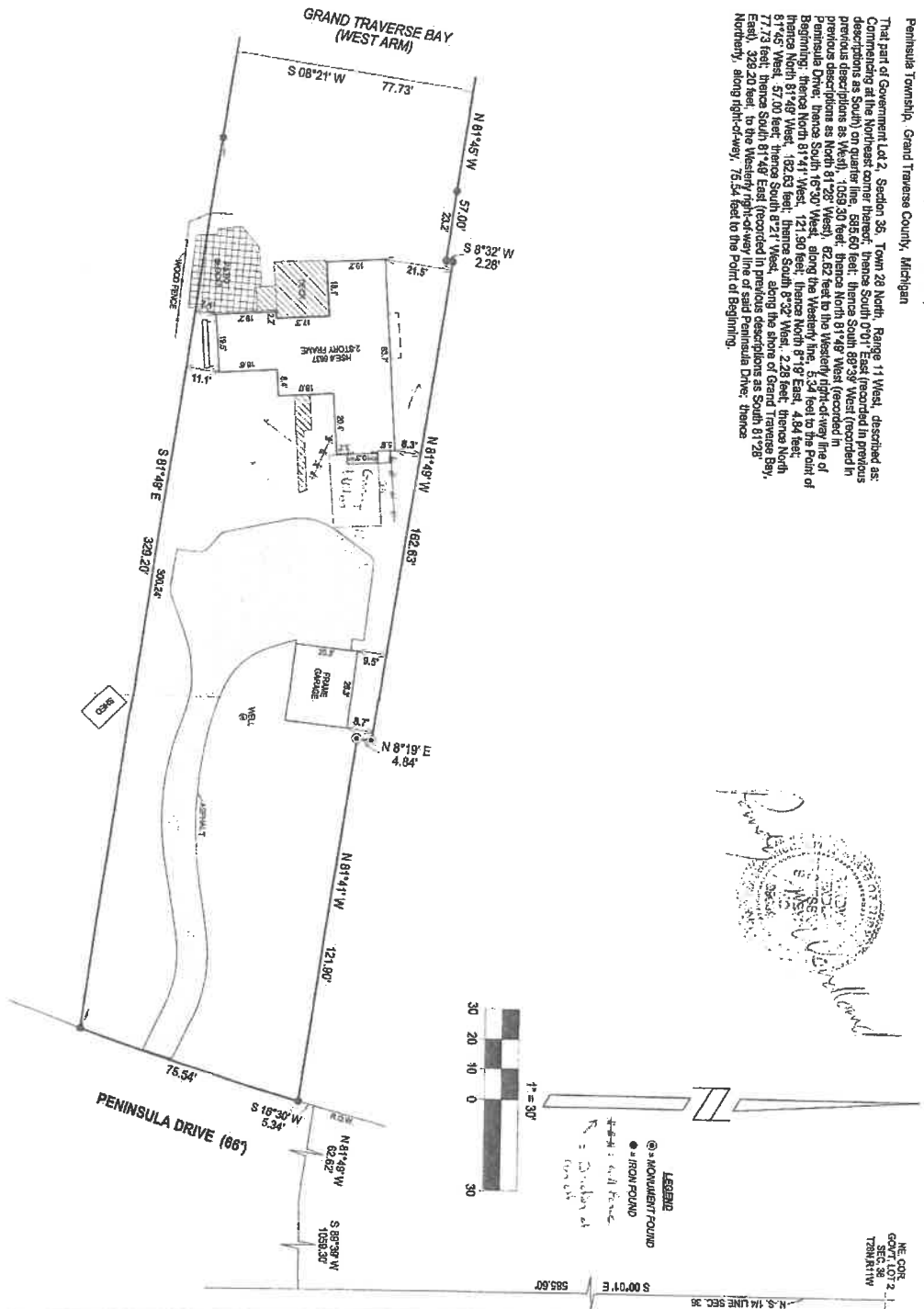
A handwritten signature in cursive script that reads "Shawn Smith". The ink is dark and the signature is fluid.

Shawn Smith. 9/28/2022

Exhibit No. 2

Peninsula Township, Grand Traverse County, Michigan

voluntarily, along right-of-way, 75.24 feet to the Point of Beginning.



P.O. Box 7149
Traverse City, Michigan 49696-7149

Phone: (231) 933-9126
Fax: (231) 933-9127

Date: 11-25-13
File No. 13227
Sheet 1 of 1

Exhibit No. 3

Orig.

REQUEST FOR VARIANCE 221

PENINSULA TOWNSHIP
Board of Zoning Appeals
13235 Center Rd.
Traverse City, MI 49684

Parcel Code # 28-11-336-032-00
From Pat Noland
Address 6637 Peninsula Drive
Phone 947-6896 or 941-0384
Date June 4, 1990

ZONING ORDINANCE REFERENCE OR ZONING ADMINISTRATOR'S DECISION

Section 6.8.1 requires a 15' side yard setback. Section 7.5.5 - Addition to a non-conforming structure requires Zoning Board of Appeals Approval.

Basis for Variance Request

House needs a new roof. Wish to update the home by adding a family room and having the bedrooms tied together.

Specific Request (Office Use Only)

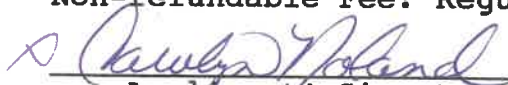
Allow addition to the existing home inside the 15 foot sideyard setback.

July 12, 1990
8/9/90

APPEAL BOARD ACTION

Farris	yes
Verhage	yes
Roach	yes
Sulmer	yes

Non-refundable Fee: Regular \$60.00 Special \$320.00


Applicant's Signature

Check No. 6473
Date 6/4/90

Ted Andrus
REAL ESTATE

6607 Peninsula Drive
Traverse City, MI 49684

Telephone:
(616) 947-4104

April 9, 1989

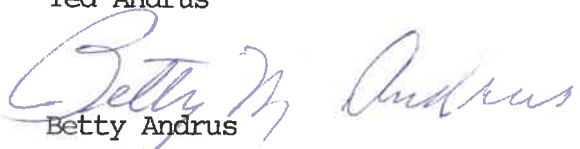
Board of Zoning Appeals
Peninsula Township

Re: Pat Noland
6637 Peninsula Dr.

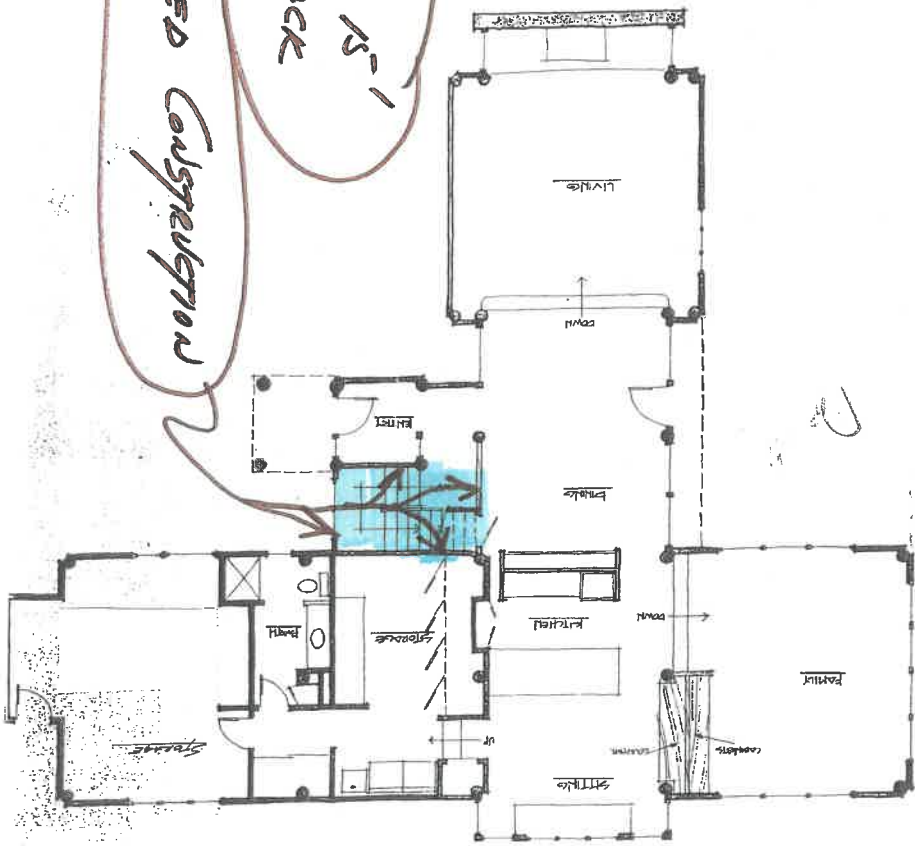
Dear Sirs & Madam:

We wish to be on record as havening no objections to Pats contemplated addition and hope you will look with favor on his application.


Ted Andrus

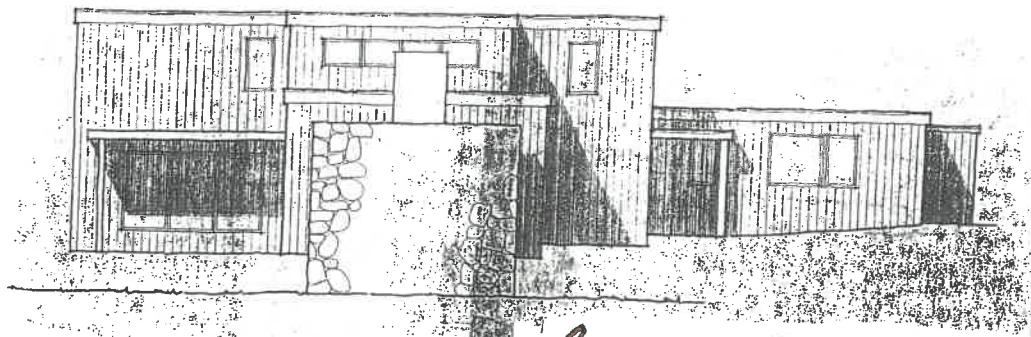

Betty Andrus

Jaycee Norand
6637 Peninsula Dr.
T.C. 949-6896
3-20-89



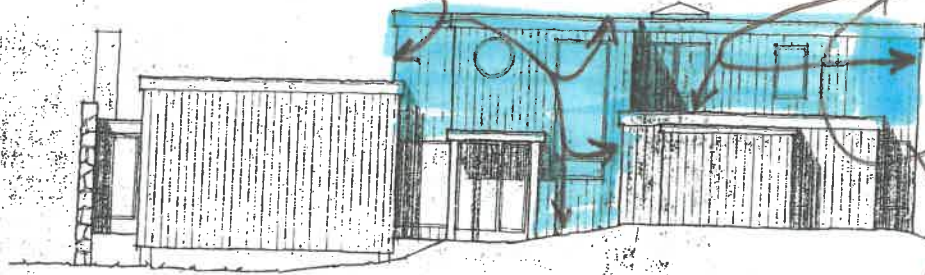
INSIDE IS
SEYBACK
Proposed Construction



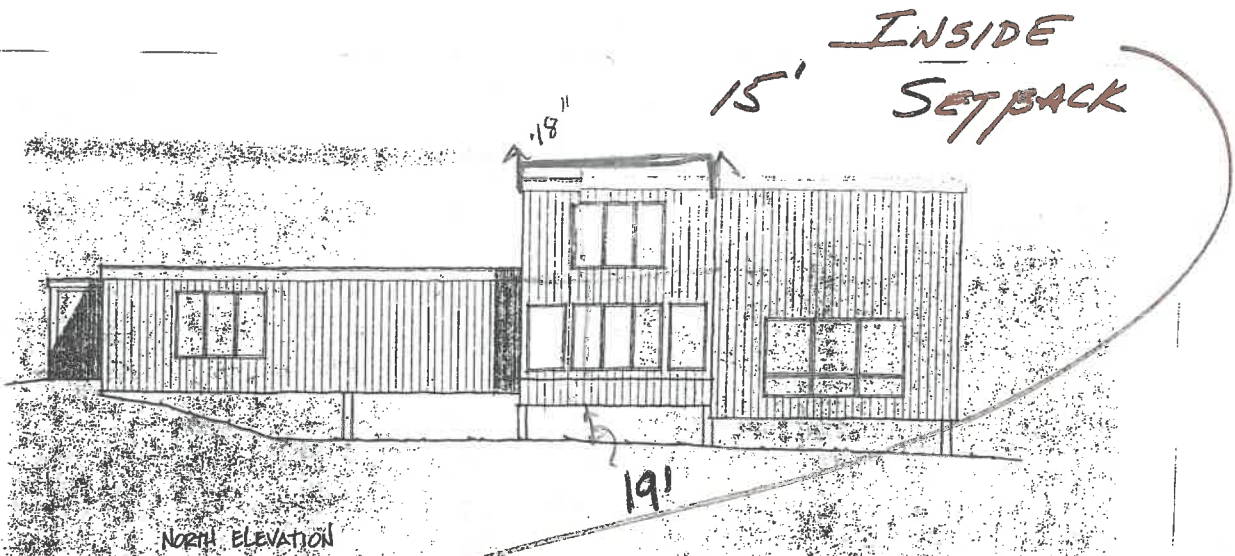


SOUTH ELEVATION

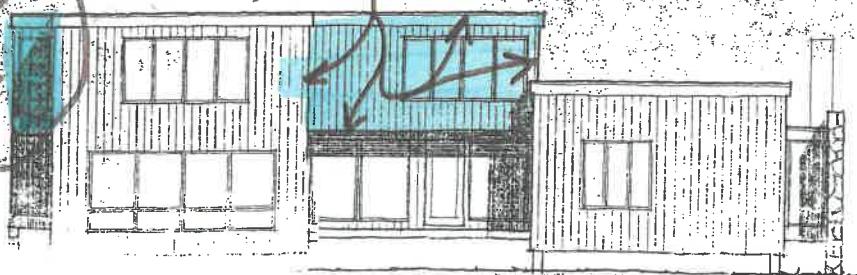
Proposed Construction



EAST ELEVATION



Proposed Construction



MORTGAGE REPORT

Description

Liber 1, Page 818

That part of Government Lot 2, Section 36, Town 28 North, Range 11 West, described as: Commencing at the Northeast corner thereof; thence South 0°01' East (recorded in previous descriptions as South) on quarter line, 585.60 feet; thence South 89°39' West (recorded in previous descriptions as West), 1059.30 feet; thence North 81°49' West (recorded in previous descriptions as North 81°28' West), 62.62 feet to the Westerly right-of-way line of Peninsula Drive; thence South 16°30' West, along the Westerly line, 5.34 feet, to the Point of Beginning; thence 81°41' West, 121.90 feet; thence North 8°19' East, 4.84 feet; thence North 81°49' West, 162.63 feet; thence South 8°32' West, 2.28 feet; thence North 81°45' West, 57.00 feet; thence South 8°21' West, along the shore of Grand Traverse Bay, 77.73 feet; thence South 81°49' East (recorded in previous descriptions as South 81°28' East), 329.20 feet, to the Westerly right-of-way line of said Peninsula Drive; thence Northerly, along right-of-way, 75.54 feet to the Point of Beginning.

LEGEND

⊕=MONUMENT, F.D.

●=IRON, F.D.

R=RECORD

CERTIFICATE

I hereby certify that I have inspected the property hereon described; that the improvements are located as shown; that said improvements are within the property lines; and that there are no existing encroachments upon the land and property described, unless shown above.

R.L.S. NO.

PERLA STOUT ASSOCIATES, P.C. • ENGINEERS • SURVEYORS

525 WEST 14TH STREET TRAVERSE CITY MI 49684

FOR:

Pat Noland

First Savings and Loan Association

DESCRIPTION:

DATE: 7/16/80

SHEET 2 OF 2

PARCEL CODE

NAME

Pat Noland Var.

ADDRESS

336-032-00 ✓
336-026-00 ✓
336-024-00 ✓
336-027-00 ✓
336-029-00 ✓
336-026-50 ✓
336-030-00 ✓
336-030-10 ✓
336-031-00 ✓
336-040-00 ✓
336-036-00 ✓
336-035-00 ✓
336-034-00 ✓
336-037-00 ✓

Patrick & Carolyn Noland
Mary H. Long
James & Barbara Burkholder
Kenneth Aldrich
Same as 336-024-00
Horse Enterprises
Diane M. Brown
Robert M. Rottner
Betty M. Andrus
C Everett & Helen Burkholder
Diane Brown
Angela Thapra
D. Campbell Barbara's
Glen Cornell
Perry & Sandra Pine
George & Barbara Karslen
Arthur & Davis Wyong

6637 Pen. Dr.
1335 Copley Rd, Rd. 3.
Petersburg, Va. 49970
6656 Pen. Dr.
6661 Pen. Dr.
32 Plank Ave
Glastonbury, Conn. 06033
3205 Applwood Rd.
Midland, Va. 48
6609 Pen. Dr.
6607 Pen. Dr.
6618 Pen. Dr.
6592 Pen. Dr. Same as above
6572 Pen. Dr.
3415 Timberview
Sugarland, TX. 7747
6571 Pen. Dr.
6564 Pen. Dr.
7799 Thredale Lane
7422 Pen. Dr.

I HEREBY CERTIFY THAT NOTICES WERE MAILED ON 4/4 FOR Pat Noland

BY FIRST CLASS MAIL FOR THE ABOVE MENTIONED PARCELS.

Patrick Noland
6637 Peninsula Drive
Traverse City MI
49684

Angelena Mapes
6592 Peninusla Drive
Traverse City MI
49684

Mary Long
1335 Eppler Road RT 3
Petoskey, Mi 49770

David Lewis
3415 Timberview
Sugarland, Tx 77479

James Burkholder
6656 Peninsula Drive
Traverse City MI
49684

Glen Cornell
6571 Peninsula Drive
Traverse City MI
49684

Kenneth Aldrich
6661 Peninsula Drive
Traverse City MI
49684

George Kausler
7799 Truesdale Lane
Traverse City MI
49684

Howe Enterprises
32 Plank Ave.
Glastonbury, Conn 06033

Arthur Wysong
7422 Peninsula Drive
Traverse City MI
49684

Diane Brown
3205 Applewood Rd
Midland, Mi 48640

Robert Sotterrer
6609 Peninsula Drive
Traverse City MI
49684

Betty Andres
6607 Peninsula Drive
Traverse City MI
49684

Everett Burkholder
6618 Peninsula Drive
Traverse City MI
49684

REQUEST FOR VARIANCE

Code # 336-032-00

From

PENINSULA TOWNSHIP
Board of Zoning Appeals

14213 Center Road
Traverse City, Mich. 49684

13235 Center Rd

Address

6637 Peninsula Drive

Phone

941-0384 Office 947-6896 Home

Date

3/20/89

Members, Board of Zoning Appeals:

We are requesting a variance from the Zoning Ordinance as follows:

Zoning Administrator's Decision and/or Zoning Ordinance Reference

Sec 6.8.1 Requires 15' side yard setback.

Basis for Variance Request

House needs a new roof. Wish to update the home by adding a family room and having the bedrooms tied together.

Specific Request

allow addition to existing home inside
15' side yard.

APPEAL BOARD ACTION

Bahm	Yes
Ferris	Yes
Fulmer	Yes
Goyle	Yes
Burton	Yes

Shall the application be approved to allow an addition to the existing home inside the 15' side yard setback, not to exceed 19' in height.

\$30.00

\$30.00

PA 3/20/89 CK# 5903 + 4/4/89 CK# 5925

Fees: Regular hearing - \$30.00; Special hearing - \$80.00

Fees are non-refundable \$60.00

Applicant's Signature

Check drawn to the order of
PENINSULA TOWNSHIP TREASURER

(date)

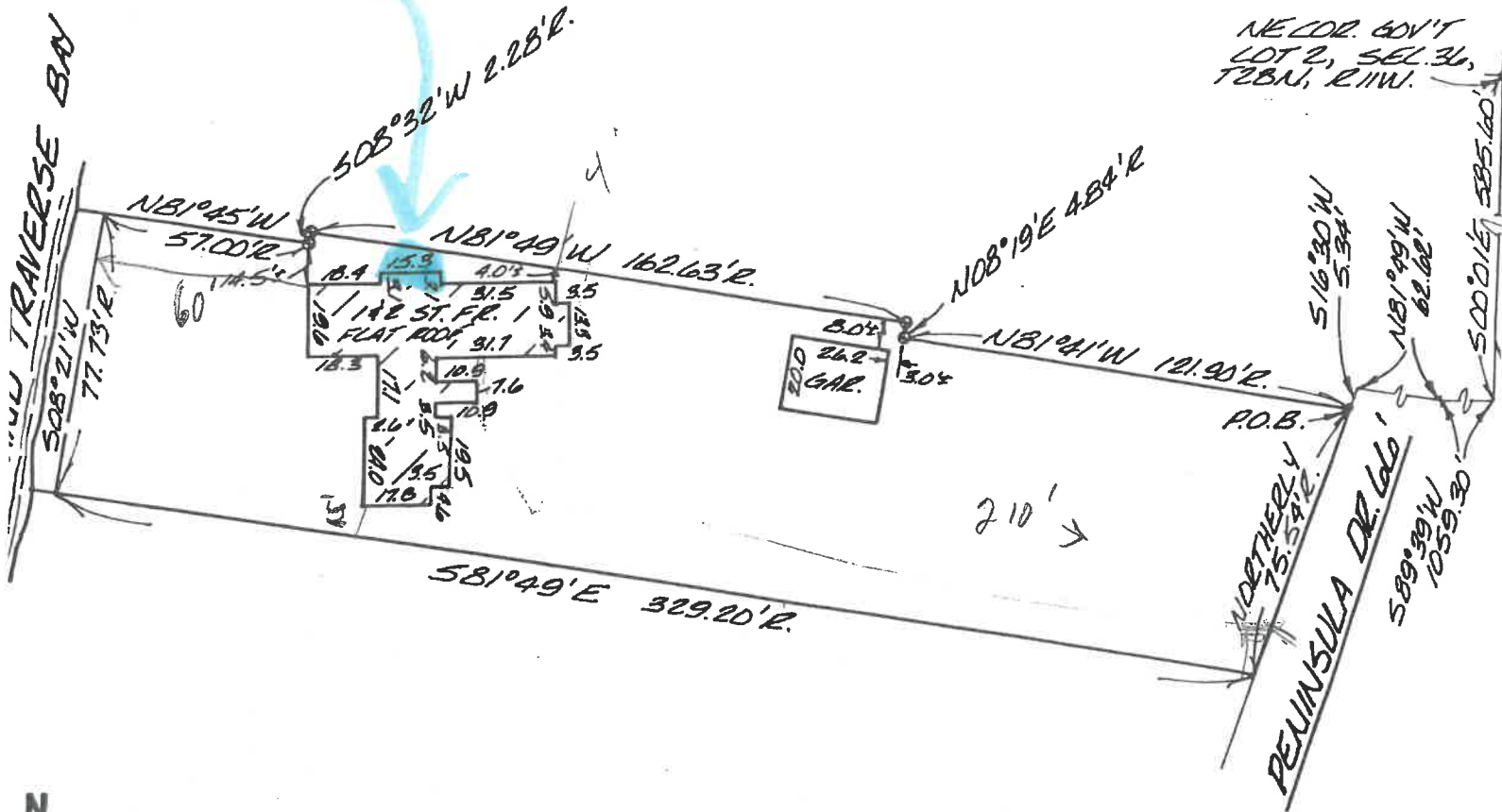
**PENINSULA TOWNSHIP
ZONING BOARD OF APPEALS
AGENDA**

August 9, 1990
7:30 pm

1. Pat Noland, 6637 Peninsula Drive, Traverse City, Mi 49684. Request a variance to add to a nonconforming structure for the purpose of adding to the existing home. The addition does not encroach further into the setback then the existing house. Parcel Code #28-11-336-032-00.
2. Alvin and Julia York, 3957 Bluewater Road, Traverse City, Mi 49684. Request approval to split a parcel which would create three lots of less than five acres in the Agricultural District. Parcel Code #28-11-127-005-20.
3. Richard Gielow, 7616 East Shore Road, Traverse City, Mi 49684. Request a variance to add to a non-conforming structure and variances from the front, ordinary high water line and side yard setbacks to construct a second floor and attached garage. Parcel Code #28-11-030-025-30.
4. J. Elliot P. Morrison, 14088 Bay View Ave, Traverse City, Mi 49684. Request a variance to add to non-conforming structure and variances from front and side yard setbacks to construct a second floor addition and new entrances. Parcel Code #28-11-680-005-00,
5. James and Beverly Loomis, 11335 Peninsula Drive, Traverse City, Mi 49684. Request a variance of eight feet from fifteen foot side yard setback to construct a residence. Parcel Code # 28-11-005-003-00.
6. Elizabeth Gielow, 7600 East Shore Drive, Traverse City, Mi 49684. Request approval of a drive through a parcel across the road from the residence for the purpose of using the drive as "Minimum Adequate Access" to a parcel to the west for purpose of splitting the parcel to the west. Parcel Code #28-11-030-025-00.

THERE WILL BE A FIELD TRIP AT 3:30.

MORTGAGE REPORT



$$340 \times 77 = 26,180$$

$$\frac{25'8'' \text{ exting. cov.}}{110} = 10\%$$

LEGEND

- ⊙ = MONUMENT, F.D.
- = IRON, F.D.
- R = RECORD

CERTIFICATE

I hereby certify that I have inspected the property hereon described; that the improvements are located as shown; that said improvements are within the property lines; and that there are no existing encroachments upon the land and property described, unless shown above.

Colin J. Reynolds
R.L.S. NO. 20706

PERLA STOUT ASSOCIATES, P.C. • ENGINEERS • SURVEYORS

525 WEST 14TH STREET TRAVERSE CITY MI 49684

FOR:

PAT NOLAND

FIRST SAVINGS & LOAN ASSOC.

DESCRIPTION:

PART OF GOV'T LOT NO. 2, SEC. 36, T28N, R11W, PENINSULA TWP, GRAND TRAVERSE CO, MICHIGAN.

- SEE SHEET 2 OF 2 -

DATE: JULY 16, 1980

SHEET 1 OF 2

SCALE: 1" = 40'

DATE: 8/2/80

Exhibit

No. 4

Peninsula Township Planning & Zoning Department

STAFF REPORT

ZBA Request # 908

Physical Address of Subject Property: 6637 Peninsula Drive, Traverse City, MI 49686

Date: November 15, 2022

To: Peninsula Township Zoning Board of Appeals

From: Christina Deeren, Zoning Administrator

RE: Request # 908

Zoning

District: R-1C Suburban Residential – Single and Two-Family Residential

Hearing

Date: November 15, 2022 – 7:00 PM

Applicant: Shawn Smith, 6637 Peninsula Drive, Traverse City, MI 49686

Owner: Shawn Smith, 6637 Peninsula Drive, Traverse City, MI 49686

Site: 6637 Peninsula Drive, Traverse City, MI 49686

Tax ID: 28-11-336-032-00

Information:

- Parcel 28-11-336-032-00 is approximately .67 acres in size or 78 feet by 374.169 feet and approximately 29,185 square feet.
- The property is zoned Suburban Residential – Single and Two-Family Residential (R-1C); and the surrounding area is also zoned Suburban Residential – Single and Two-Family Residential (R-1C).
- The lot was created prior the adoption of the Peninsula Township Zoning Ordinance, and is considered legal non-conforming.
- The parcel is improved with a residential structure and detached garage.
- The original residential structure was constructed in 1963 and is considered legal non-conforming to current zoning standards.
- A variance was granted by the Zoning Board of Appeals on June 4, 1990 for an addition to the existing home inside the 15 foot side yard setback on the northerly property line.
- The residential structure does not conform to the setback requirements within this zoning district as it encroaches on the northerly line.

Action Requested:

1. Requesting a variance from the required fifteen (15) foot side yard setback on the northerly property line to a nine (9) foot side yard setback in order to construct an attached 16 foot by 24 foot garage to the existing residential building on an existing legal non-conforming lot of record.

Parcel Code: #28-11-336-032-00

Staff Comments:

TABLE OUTLINES CURRENT SETBACKS ON EXISTING NON-CONFORMING RESIDENTIAL STRUCTURE and NEW PERCENTAGE OF LOT COVERAGE CALCULATIONS IF GARAGE ADDITION IS APPROVED.

Background:

The required setbacks in the R-1B zoned districts:

R-1C Standards (Section 6.8)	Required	Variance	Conforms to Standards?
Minimum Front Setback	25'	No	Yes
Minimum South side yard setback	15'	No	Yes
Minimum North side yard setback	15'	Yes	No
Minimum Rear setback	30'	No	NA
Minimum OHWM	60'	No	No
Road Right-of-way setback	33'	No	Yes
Percentage of Lot Coverage:	25% - allowed	No	Yes
Current Building(s) on Lot	3269 square feet of buildings existing on property	11.20% Current percentage with existing structures	Yes
Percentage of lot coverage if new garage is approved	3653 square feet with new 16'x24' attached garage	12.51%	Yes

Article III**Definitions:**

SECTION 3.2 Definitions: For the purpose of this Ordinance, certain terms or words used herein shall be interpreted or defined as follows:

Structure: A structure is any production or piece of material artificially built up or composed of parts joined together in some definite manner; any construction. Including dwellings, garages, building, mobile homes, signs and sign boards, towers, poles, antennae, landfill, sea walls, weirs, jetties, swimming pools, stand pipes, fences over four feet in height above final grade and earth sheltering for earth-sheltered structures or other like objects, but not including: (a) a temporary fence; (b) agricultural fences that are used for general farming and horticultural uses, field crop and fruit farming, raising and keeping of small animals, and raising and keeping of livestock; (c) access steps required to negotiate changes in site elevation; (d) landscape mounds; and (e) sidewalks, drives, and paved areas which do not protrude above the finished site grade. **(REVISED BY AMENDMENT 152)**

SECTION 6.8 Schedule of Regulations (Revised by Amendment 91), (Amendment 107D)

The Regulations contained herein shall govern the Height, Bulk, and Density of Structures and Land Area by Zoning District:

R-1C, Suburban Residential: Minimum lot front setback - 25 feet

Side yard setbacks – 15 feet
Rear yard setback – 30 feet
Ordinary Highwater setback – 60 feet
Allowable percentage of lot coverage – 25%

SECTION 5.7.3 VARIANCES: The Board of Appeals shall have the power to authorize, upon an appeal, specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements, PROVIDED ALL of the basic conditions listed herein can be satisfied:

1. 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.
- (b) That the need for the variance is not the result of actions of the property (self-created) or previous property owners.
- (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.)
- (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 a substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
- (e) That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.
- (f) That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use of r which a conditional use or temporary use permit is required.

2. Rules: The following rules shall be applied in the granting of variances:

- (a) The Board of Appeals may specify, in writing, such conditions regarding the character, location, and other features that will in its judgement, secure the objectives and purposes of this Ordinance. The breach of any such condition shall automatically invalidate the permit granted.
- (b) Each variance granted under the provisions of this Ordinance shall become null and void unless: the construction authorized by such variance or permit has been

commenced within six (6) months after the granting of the variance; and the occupancy of the land, premises, or buildings authorized by the variance has taken place within one (1) year after the granting of the variance.

- (b) No application for a variance which has been denied wholly or in part by the Board of Appeals shall be resubmitted for a period of (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board of Appeals to be valid.

Section 5.7.4 Special Exemptions:

(Revised by Amendment 113B)

(DELETED BY AMENDMENT 188)

SECTION 5.7.3(1) BASIC CONDITIONS: The Board shall have the power to authorize, upon an appeal specific variances from such requirements as lot area and width regulations, building height and bulk regulations, **yard and depth regulations**, and off-street parking, and loading space requirements, **provided all of the Basic Conditions listed herein can be satisfied.**

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

Is this condition met: _____

_____.

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

Is this condition met: _____

_____.

- c) That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirements 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).

Is this condition met: _____
_____.

- 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.

Is this condition met: _____

_____.

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

Is this condition met: _____

_____.

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.

Is this condition met: _____

_____.

The subject property, zoned R-1C, was created prior the effective date of the Ordinance and considered legal non-conforming. The property is located along Peninsula Drive.

**Peninsula Township
Zoning Board of Appeals**

ZBA Case No. 908

Peninsula Township
13235 Center Road
Traverse City, MI 49686

Date of Meeting: November 15, 2022

Applicant: Shawn Smith, 6637 Peninsula Drive, Traverse City, MI 49686
Owner: Shawn Smith, 6637 Peninsula Drive, Traverse City, MI 49686
Address: 6637 Peninsula Drive., Traverse City, MI 49686

Parcel Code: #28-11-336-032-00

Request:

1. Requesting a variance from the required fifteen (15) foot side yard setback on the northerly property line to a nine (9) foot side yard setback in order to construct an attached 16 foot by 24 foot garage to the existing residential building on an existing legal con-conforming lot of record.

Action by the Zoning Board of Appeals:

_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Chair)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Vice Chair)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		

Board Action:

Exhibit

No. 5

**PUBLIC NOTICE
PENINSULA TOWNSHIP
ZONING BOARD OF APPEALS
NOTICE OF PUBLIC HEARING**

PLEASE TAKE NOTICE that the Peninsula Township Zoning Board of Appeals will hold a Regular Meeting on November 15, 2022 at 7:00 p.m. at the Peninsula Township Hall, 13235 Center Road, Traverse City, MI 49686 (231) 223-7322. The following applicant is scheduled to be heard:

Request No. 908, Zoning R-1C

Applicant: Shawn Smith, 6637 Peninsula Drive, Traverse City, MI 49686

Owner: Shawn Smith, 6637 Peninsula Drive, Traverse City, MI 49686

Property Address: 6637 Peninsula Drive, Traverse City, MI 49686

Request:

1. Requesting a variance from the required fifteen (15) foot side yard setback on the northerly property line to a nine (9) foot side yard setback in order to construct an attached 16 foot by 24 foot garage to the existing residential building on an existing legal non-conforming lot of record.

Parcel Code # 28-11-336-032-00

Please be advised that the public may appear at the hearing in person or by counsel.

Written comments may be submitted to Peninsula Township Planning and/or Zoning Departments at 13235 Center Road, Traverse City, MI 49686, no later than 12:00 p.m. on November 13, 2022.

If you are planning on attending the meeting and are disabled and require any special assistance, please notify the Planning and/or Zoning Department at (231) 233-7318 or call TDD (231) 922-4766

SUBJECT SITE



Exhibit

No. 6

T. C. RECORD-EAGLE, INC.
120 WEST FRONT STREET
TRAVERSE CITY MI 49684
(231) 946-2000
Fax (231) 946-8273

ORDER CONFIRMATION

Salesperson: Miranda Roy

Printed at 10/27/22 11:02 by mroy

Acct #: 1837

Ad #: 593209

Status: New WHOLD

PENINSULA TOWNSHIP
BECKY CHOWN CLERK
13235 CENTER ROAD
TRAVERSE CITY MI 49686

Start: 10/29/2022 Stop: 10/29/2022
Times Ord: 1 Times Run: ***
STDAD 3.00 X 2.90 Words: 178
Total STDAD 8.70
Class: 147 LEGALS
Rate: LEGAL Cost: 96.10
Affidavits: 1

Contact:

Phone: (231) 223-7322

Fax#: (231) 223-7117

Email: deputy.clerk@peninsulatownsh

Agency:

Ad Descript: LEGAL NOTICE PUBLIC NOTIC
Given by: CHRISTINA DEEREN

P.O. #:

Created: mroy 10/27/22 10:52

Last Changed: mroy 10/27/22 11:01

PUB	ZONE	EDT	TP	START	INS	STOP	SMTWTFS
RE	A	97	W	Sat 10/29/22	1	Sat 10/29/22	SMTWTFS
IN	AIN	97	W	Sat 10/29/22	1	Sat 10/29/22	SMTWTFS

AUTHORIZATION

Thank you for advertising in the Record-Eagle, our related publications and online properties. If you are advertising with the Record-Eagle classifieds, your ad will begin running on the start date noted above.

Please be sure to check your ad on the first day it appears. Although we are happy to make corrections at any time, the Record-Eagle is only responsible for the first day's incorrect insertions. Also, we reserve the right to edit or reclassify your ad to better serve buyers and sellers.

No refunds or rebates will be issued if you cancel your ad prior to the stop date.

We appreciate your business.

(CONTINUED ON NEXT PAGE)

T. C. RECORD-EAGLE, INC.
120 WEST FRONT STREET
TRAVERSE CITY MI 49684
(231) 946-2000
Fax (231) 946-8273

ORDER CONFIRMATION (CONTINUED)

Salesperson: Miranda Roy

Printed at 10/27/22 11:02 by mroy

Acct #: 1837

Ad #: 593209

Status: New WHOLD W.

LEGAL NOTICE
PUBLIC NOTICE
PENINSULA TOWNSHIP
ZONING BOARD OF APPEALS
NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the Peninsula Township Zoning Board of Appeals will hold a regular meeting on November 15, 2022 at 7:00 PM at the Peninsula Township Hall, 13235 Center Road, Traverse City, MI 49686, (231) 223-7322. The following applicants will be heard:

1. Request No. 908, Zoning R-1C

Applicant: Shawn Smith, 6637 Peninsula Drive, Traverse City, MI 49686

Owner: Shawn Smith, 6637 Peninsula Drive, Traverse City, MI 49686

Property Address: 6637 Peninsula Drive, Traverse City, MI 49686

1. Requesting a variance from the required fifteen (15) foot side yard setback on the northerly property line to a nine (9) foot side yard setback in order to construct an attached 16 foot by 24 foot garage to the existing residential building on an existing legal non-conforming lot of record.

Parcel Code # 28-11-336-032-00

Written comment may be submitted to Peninsula Township Zoning Department at 13235 Center Rd., Traverse City, MI 49686 no later than 12:00 PM on November 13, 2022.

October 29, 2022-1T

593209

Exhibit No. 7

PENINSULA TOWNSHIP
BOARD OF ZONING APPEALS

CERTIFICATE OF NOTIFICATION

Request No. 908


Hearing Date: November 15, 2022

Applicant: Shawn Smith, 6637 Peninsula Drive, Traverse City, MI 49686

Owner: Shawn Smith, 6637 Peninsula Drive, Traverse City, MI 49686

Property Address: 6637 Peninsula Drive, Traverse City, MI 49686

I certify that the attached Public Hearing Notice and map showing the subject property location whose Parcel Code #s 28-11-336-032-00 was mailed by regular US mail to the attached list of 15 properties on October 27, 2022 by depositing said notices in a mail box located at United States Postal Services Main Office/Building located at: 202 S. Union St., Traverse City, MI 496984



Christina Deeren
Peninsula Township
Director of Zoning

Exhibit No. 8

Minutes from
October 12, 2022
Special ZBA meeting Minutes
And
October 18, 2022
Regular ZBA Minutes

Peninsula Township
Zoning Board of Appeals
October 12, 2022 7:00 p.m.
Lola Jackson
DRAFT MINUTES

**PENINSULA TOWNSHIP
SPECIAL MEETING
ZONING BOARD OF APPEALS **AMENDED** AGENDA
13235 Center Rd., Traverse City, MI 49686
October 12, 2022
7:00 p.m.**

1. **Call to Order** by Dolton at 7:00 p.m.
2. **Pledge**
3. **Roll Call of Attendance** Elliot, Dolton, Wahl, Dloski. Absent: Ammeman. Jack Witte, Attorney via telephone.
Dolton: the absence of Ammeman raises a procedural question, whether the applicant wants to procedure with just an even number of members. This would lead to a potential split vote.
Deeren: I had absolutely no idea Ammeman would not be here.
Milliken (applicant): what would we do if it is a split vote?
Deeren: a split vote is a no vote and all of the six conditions for the variance need to be met. Milliken decided to proceed.
4. **Approval of Agenda** Dloski moves to approve the agenda with a second by Elliott.
approved by consensus
5. **Conflict of Interest** None
6. **Brief Citizen Comments – for items not on the Agenda** None
7. **Business:**

1. Request No. 906, Zoning R-1C

Applicant: John P. Milliken Trust (95%), 7035 Peninsula Drive, Traverse City, MI 49686

Owner: John P. Milliken Trust (95%), 7035 Peninsula Drive, Traverse City, MI 49686

Property Address: 7035 Peninsula Drive, Traverse City, MI 49686

1. Requesting a variance from Section 7.5.6 Moving or Replacing Non-Conforming Structure. Requesting to convert an existing ten (10) foot by sixteen (16) foot 160 square foot attached boat storage area into residential living space.

Parcel Code # 28-11-325-078-00

Deeren: I need to correct my staff report to read Request 906 instead of 902.

John Milliken 600 Hidden Forest Trail: just for clarification have you all been out to see the property?

All board members indicated they had visited the site.

Milliken: it is a storage area that is attached directly to the house. Our proposal is to make that into a living area with a washer and dryer and things like that. The stairway from the inside the house will go down there. It is an existing structure and we want to change the use of the space.

Dolton opened up to questions from the board for the applicant.

Dloski: there is a deck and is there anything under the deck?

Jack Klein, architect, 1451 Peninsula Drive: there is an existing foundation on 3 sides. At road level on one side it slopes down so the water side is totally open, creating access from the water side. Presently, with a flat deck on it and where the house attaches, we would like to take a stair from the house down into that area. If the deck were to stay, there is no headroom for the stairs. We need to add about a three foot wall on the top of the foundation and put a roof on that. We are not building any living space above the foundation level. The area can be accessed from the stairs going down or from the water side where there will be doors.

Dolton: currently the foundation is a grade?

Klein: yes. We want to use the existing foundation.

Wahl: so the existing foundation will be used?

Klein: at least the footprint of it. Much of this house is not in very good shape and a lot of the foundation elsewhere is cracked and bowing. The deck projects north where it is like 30 inches beyond.

Wahl: it sounds like some of the foundation is going to need to be replaced. Is that part of the original footprint or was that added on at a later date.

Milliken: I don't think any of us know.

Deeren: not much is available on the history of the property. I searched to see if there were any previous variances and there's hardly anything in the record card. The house was originally built in 1964. The zoning ordinance did not get adopted until 1972, so the house was built without a permit.

Wahl: if this was moved to the west, it would make it more conforming within the backyard side setback and the side yard setbacks.

Klein: to move this structure, there is not much legally conforming right now.

Deeren: most of the property is within the ordinary high water mark, so you are never going to get outside of the ordinary high waterline. You will always need to get a variance for anything you want to do to the property, so moving it to the west would make the property more conforming.

Elliott: I am uncomfortable with making suggestions to the applicant.

Deeren: I know, I agree.

Dolton: is any aspect of the redesign reducing the current non-conformity?

Klein: no, we were told early on we could build within the drip line of the existing structure.

Elliott: so is this within the drip line that you are talking about? (holds up map)

Klein: yes, that is the existing drip line up above.

Elliott: so this distance from grade is the same as it is currently?

Klein: it is slightly higher as there are presently 8 foot walls and we're doing 9 foot walls, but it's not beyond east west north south. The north elevation of the deck extends 30 inches beyond the foundation.

Dloski: so you are going to take the deck and the roof off?

Klein: we are certainly going to take the deck off. If the foundation is good enough, we will build it in the exact location.

Dolton opens it up for anyone who wishes to speak in favor of the applicant?

Jack Knol 7042 Peninsula Drive: I live directly across the street on Peninsula Drive (see letter attached at end of minutes). Knol is in favor of this house being restored through renovation within the confines of the existing drip line of the one story roof along with their request to allow a new laundry room to be located on the lower level into a 10 foot by 16 foot existing garage/storage structure. Knol had reservations of future projects that may block his view of the bay such as a garage addition. Knol also wants to be sure the drawings are accurate.

Dolton asks if there is anyone who wishes to speak against the application. Seeing and hearing none, Dolton ends the public portion of the meeting and brings it back to the board.

Dolton: I would like to reference something here that has some merit and significance and is the definition of "use". Use is defined as "the purpose for which land or a building is arranged, designed, or intended or for which land or a building may be occupied". My opinion is this covers 2 different concepts. The latter half "for which land or a building may be occupied" seems to point more toward agricultural use, is it residential use, is it commercial use and how the land is being occupied. The first portion is more finessed. This says the purpose for which "the land or building is arranged, designed or intended". This seems to imply, at least my mind, that the existing structure on that lower level was designed as boat storage unit, it was not designed or intended to be living space and because of that I understand why it was published as a change of use. I just wanted to put that out there.

Dolton opens the meeting up for board discussion.

Dloski: that puts them in section 5.7.6 and the trigger on that section is it has to be less non-conforming than the previous structure. If they went under alternations or additions to a non-conforming structure, they don't have to meet that standard, which would be 7.5.5.

Dolton: an expansion.

Dloski: yes, is this an addition? This is a gray area. Putting them in a change of use puts them in to no-man's land. We are talking about the house structure, just this one room. You have the right to rebuild the rest of the home on the existing footprint.

Elliott: if someone were to come to you today to permit these plans with these setback issues, you would not be able to issue a permit. There would be a change in the height. How can they do that?

Dolton: it would be under 7.5.4, which states "nothing in this 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 this structure. They are allowed to rebuild the home; however, here is where the trick comes in.

Witte: my understanding and Christina (Deeren) correct me if I am wrong. Section 7.5 is no longer in the zoning ordinance.

Deeren: 7.5.5 has been amended and is no longer in the zoning ordinance and was revised by amendment 171B. 7.5.5 is no longer in the ordinance as well.

Elliott: so as long as they are within our current parameters, including the height parameters they aren't inside the setback parameters.

Dolton: as long as they are not proposing a change in use from boat storage to a laundry and storage space.

Deeren: it kicks them out of that caveat for that section, so therefore they have to seek a variance in order to move forward with this specific portion of the structure. If they were to come to me with a building plan, as long as that was within the drip line and within the parameters of the existing structure, this could be done. In remodeling the existing structure, I could issue a permit because of 7.5.4.

Dolton: that was the information received from the township staff. As the zoning board, we have discretion to interpret the zoning as we think is appropriate. If we disagree with this analysis, it is still within our discretion.

Wahl: I think in this section, it differentiates between the residential use of the lot and of the structure, so the residential use of this lot is not changing. The zoning remains the same as R1C. Then you look at structure. You think storage changed to a laundry room and it's confusing. The ordinance does say needs to be less non-conforming and this is essentially the same footprint.

Dloski: if they want to go up, what prevents them from doing that?

Deeren: if you take what is there and change it into something else, this is a change of use. If they wanted to remove it, yes, I would give them a permit. If they wanted a replacement, this would be all right.

Wahl: they would still need to get a variance?

Deeren: most of the property is within the ordinary high water line and then the whole front portion of the building becomes the front of the side yard setback. They need to meet the side yard setback on the north line.

Dolton: because they are now proposing to build a structure above grade, can they use 3 feet of wall plus potentially 5 feet of roof peak, is that not a new structure within the setback? Is it something they can do?

Deeren: yes, essentially you are using the same foot print even though you are going up and that is why they are before you now. There is a flat surface there and if they want to go up approximately 90 feet, then they would need to come back to get a variance for this.

Dloski: if they go up is it making it more or less non-conforming?

Deeren: that is a really good question isn't it?

Witte: if the existing footprint is the same, the relevant inquiry is, does it increase the non-conformity, you could consider going up as increasing the volume of the structure within the required setback. Because the zoning ordinance is not clear on this point, there is some discretionary interpretation that might be involved. The new section 7.5.5 might provide help in determining the overall intent of the ordinance. An addition can be built as long as it is not located within any required side yard setbacks or the ordinary high water mark setback. A change in height may not be permissible as it increases the non-conformity.

Elliott: I am taking the advice of the attorney and we should go with 7.5.6.

Dloski: if this makes it more non-conforming, then we cannot allow this.

Dolton: item number 2 under 7.5.6 "there is increased safety to the residents of the structure and to the traveling public on the road providing access to the parcel. We are verifying under which section we are going to discuss this.

Wahl: if you look at the term alter versus repair versus move and replace. They are using the same footprint, are they merely repairing things already there or are they actually replacing it. It sounds like they are tearing down a lot of it and replacing it. Nothing is being moved, but if they were moving this to the left, there would be no problem. The question is, is something being replaced.

Dolton: my take is this is a replacement only in they are replacing a boat storage area with residential use.

Elliott: can we go from 16' to 20' or do we go from 20' to 16'?

Dolton opens back up the public portion to allow Klein to make a comment.

Klein: so there is an existing foundation and whether it is in the side yard setback, it seems if we make it less non-conforming, this would be advantageous. If we move it 2' less toward the road it would make it more conforming and I believe they would agree to that.

Dolton: we are allowed to grant lesser variances.

Wahl: I have a question for Christina and the attorney. Let's say we do this tonight or is it something we can table and come back with.

Deeren: it is 100% up to you and the applicant.

Witte: you could table it and have the applicant come back pending a new application or the applicant could withdraw their pending application and just resubmit.

Wahl: I don't like putting conditions on a variance request.

Dloski: even if they moved it, there is still the issue of the increase in volume.

Elliott: given the setback situation, this is a real problem.

Dolton: when it comes to volume, I think of intensity of use. Is this going to become a bedroom for a growing family? This increases the intensity of use.

Elliott: are we talking 3' or 8'.

Dolton: the 8' is to create the roof, but I am going to assume most of the 5' is roof and not attic space. My understanding is they need this height to be able to walk down the stairwell into the laundry room. I understand you are creating a structure now above grade and was not there before.

Wahl: you are actually moving the structure away from the roadway, which improves the safety issue. They are always going to be within the ordinary high. I think we are looking at 7.5.6 no matter what. They're making it less non-conforming and they are increasing safety.

Witte: so far the discussion addresses the first two points in 7.5.6. Section 5 also requires the applicant to meet all of the basic and special conditions as provided for all variances in 5.7.3.

Dolton: one of my issues is we are evaluating this as a use variance. We're applying potentially 7.5.6. I am not sure this will pass. If the applicant goes ahead tonight and is not granted this variance they have to wait a year to come back with the same variance request.

Deeren: correct.

Dolton: so we have 3 choices for the applicant. We can evaluate the request as it stands, we can state you cannot utilize the 2 feet of the existing footprint, or we can table this to the next meeting to give you time to ponder all of the above discussion we have had tonight and maybe come back with a more refined request.

Dloski: before you throw this out to them, why are we not proceeding under 7.5.4?

Dolton: in my mind the reinforcement, improvement, or rehabilitation proposes no change of use in the said building or structure. I believe we are proposing a change in the use of the structure from storage to a finished space allowing for a washer, dryer, refrigerator and a finished space.

Deeren: this was already vetted by our attorney who agreed the caveat in the last part of the statement did not apply to this particular situation and the best option was moving ahead with 7.5.6.

Dolton: we will give the applicant 5 minutes to tell us how they want to proceed. We are now in recess.

Dolton reopens the meeting.

Milliken: we were given 3 choices. The one about increasing conformity would be to lose the 2' is what we would like to go with tonight.

Elliott: could this be a condition added on to the request?

Dolton: yes, that is what we would have in mind when evaluating this request.

Wahl: so this would take them 12" forward?

Dolton: they would move it back 2 feet, which reduces the amount of the side yard setback.

Elliott asks to ask the applicant. Dolton approves.

Elliott: in 7.5.6 item c there is a concern regarding shoreline vegetation. You have 2 very large trees. One is on the north side and one is on the south side. If you take this structure you are going to have to remove substantial portions of these trees. Do you have a plan for that?

Milliken: yes, there will be substantial trimming. Every roofer I have spoken to says we do not want those trees over the roof line.

Elliott: so that will essentially kill the trees.

Milliken: no. We are not going to knock them down and yes, there will be trimming. We would only knock them down if they threaten the structure. So the trees are both a help and a hurt.

Every builder or roofer I have had out state this as a potential problem. I tell them I want to keep the trees for as long as I can.

Elliott: do you have a plan to deal with the shoreline vegetation that exists as you are in the high water mark?

Milliken: no one really knows about Mother Nature and future potential outcomes. The first thing we did after buying the property was put up an expensive seawall. We got all the required permits from the various agencies. Putting in the seawall has made a huge difference, even though the water has dropped this year. Literally when we bought the water was coming up to the windows during the high seas, so the sea wall has been invaluable.

Dolton: any other questions from the board for the applicant?

Dolton: I will entertain a motion to consider and evaluate variance request 906 with the condition the eastern section of the boat storage unit be converted to residential use and be pushed back 2 feet toward the west. This will reduce the square footage and it will move the foundation back 2 feet from the road. This board needs to evaluate this using 7.5.6 and additionally is subject to the 6 basic conditions.

Wahl: moved to consider and evaluate variance request 906 with the condition the eastern section of the boat storage unit be converted to residential use and be pushed back 2 feet toward the west. Seconded by Dloski.

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

passed by consensus

Section 7.5.6 Moving or Replacing Non-Conforming Structure: The Township Zoning Board of Appeals may grant a variance for moving or replacing a residential structure on a legal non-conforming lot so that the continued intensity of residential use of the lot is substantially the same as in the pre-existing structure, provided all of the following are met:

- (1) The moved or replaced structure is less non-conforming than the previous structure;
- (2) There is increased safety to the residents of the structure and to the traveling public on the road providing access to the parcel;
- (3) Safety and substantial justice is achieved;
- (4) If the variance allows the structure to encroach into the setback from the Ordinary High Water Line, conditions of approval shall include:
 - (a) provisions for stabilization of the shoreline so that the structure is not likely to be damaged by high water or wave action;
 - (b) there is no additional detriment to adjacent properties;
 - (c) shoreline vegetation is existing or established consistent with the intent of Section 7.4.4 Removal of Shore Cover; and
 - (d) sea walls will not be allowed unless it is determined that there is no feasible alternative.
- (5) In addition to (1) through (4) above, the subject parcel shall also meet all of the basic and special conditions as provided for all variances in Section 5.7.3. (REVISED BY AMENDMENT 176B)

Deeren: I am going to do the basic conditions on 7.5.6. 1. The moved or replaced structure is

less non-conforming than the previous structure.

Dolton, Dloski, Wahl- yes.

Elliott-no- the minimal reduction in non-conformity with the move of 2 feet does not offset the increase in volume represented by the height.

Deeren: 2. there is increased safety to residents of the structure and to the traveling public on the road providing access to the property.

Dloski: yes, this is true because they are moving it 2 feet. This will improve the property and increase the safety from the road.

Elliott: no. I believe moving this above grade increase the volume and increase the non-conformity.

Dolton: yes. I believe moving the structure 2 feet to the west makes it safer from the roadway.

Wahl: yes, for reasons already stated.

Deeren: 3. Safety and Substantial justice is achieved.

Elliott: no, for reasons already stated.

Wahl: yes, taking it away from the roadway and increasing safety. The structure does not look safe and this will increase the safety.

Dolton: for the same reasons Wahl stated. The footprint is not expanded.

Dloski: moving the structure back 2 feet from the road is desirable and they are using the same footprint.

Deeren: 4. if the variance allows the structure to encroach into a setback from the ordinary high water mark, conditions of approval shown must include...

Dolton: I am going to raise a question before you read those. The variance requests for a change in use. I don't think these impacts the encroachment from the ordinary high watermark. There's no change in the encroachment.

Deeren: we need to read all of the items under 4 (a,b,c,d). a) provisions for stabilization of the shoreline so that the structure is not likely to be damaged by high water or wave action: b) there is no additional detriment to adjacent properties: c) shoreline vegetation is existing or established consistent with the intent of Section 7.4.4 Removal of Shore Cover; and d) sea walls will not be allowed unless it is determined that there is no feasible alternative.

Dolton: yes, I believe this meets all of the requirements under section 4. Stabilization for the shoreline has already occurred with the sea wall under appropriate permitting. There is no additional detriment to the adjacent properties. Shoreline vegetation exists and is being managed appropriately.

Wahl: yes, for all the reasons Dolton stated and they are not changing the foundation in any way.

Elliott: yes, for the same reasons as Dolton and Wahl stated.

Dloski: yes, especially as there is no additional detriment to the adjacent properties. The neighbor to this property saw it would create an improvement to his property and the surrounding properties.

Dolton: the variance passes all of the requirements except item 5 under 7.5.6. We need to go through the 6 basic conditions. I will entertain a motion for request 906 be considered with the condition the eastern section of the boat storage unit request to convert to residential use be pushed 2 feet toward the west. This will reduce the square footage and will move the foundation 2 feet further from the road.

Wahl makes the motion with a second from Dloski.

Roll call vote: Yes-Dolton, Elliott, Wahl, Dloski.

passed unan

Deeren now reads the 6 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, the property is the same as when the applicant purchased it and it was legal non-conforming at the time and he is not increasing the non-conformity, but is in fact reducing non-conformity.

Dloski: yes, for the same reason Dolton stated

Wahl: yes, for the reasons stated by Dolton

Elliott: no, the circumstances or physical conditions and the change of use is for desirability

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

Dloski: yes, this is a little bit more difficult in my mind, but I am still voting yes due to the unique situation and the nature of this particular property.

Elliott: no, same reason as due to desirability

Wahl: yes, this property was in disrepair when the applicant purchased it and something needs to be done with it. They are not changing the foundation. They are building something on the existing foot print and are actually improving the property. They are making the legal non-conforming property more conformity based.

Dolton: yes, for the reasons Wahl stated.

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, this will be in strict compliance with these setbacks

Wahl: yes, they cannot comply as the whole structure is legally non-conforming and are within the ordinary high watermark. They could not do anything with this property if they had to strictly comply with the existing setbacks.

Dloski: yes, for the reasons stated by Wahl and Dolton

Elliott: no, strict compliance will not prevent the permitted use. This represents an increase in the non-conformity, not a restriction from a permitted use.

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.

Dloski: yes, I believe this will do substantial justice to the applicant. This property is encumbered by non-conformities and the only way it can be utilized is with a variance. If this variance is approved, this allows a reconstruction to the shed and to the setback that they have agreed to.

Wahl: yes, this is a piece of property previously was in foreclosure and it has been sitting there for several years. Something needs to be done with it. The shed and deck are in disrepair. This will do substantial justice to the applicant and the surrounding neighbors.

Dolton: yes, this will be substantial justice to the applicant. If this was a conforming property you would have every right to reconfigure that space in any way they saw fit. I believe this is reducing the non-conformity.

Elliott: no, it is not necessary and is still an expansion and increases the non-conformity.

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

Ashley: yes, this will increase the enjoyment of the property and the impact to the neighbors is positive

Elliott: no, I think this increases the non-conformity and the setbacks. This is a very sensitive area on the water. This house could be made desirable and livable without expanding these non-conformities.

Dloski: yes, it is clear in my mind this will not cause adverse impacts to surrounding property. As evidence tonight we had a gentleman speak in favor of the variances. I think if this building is repaired and occupied it will increase property values in the neighborhood.

Dolton: yes, I believe what they are proposing is reasonable.

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, a laundry room in a residential home is a use by right.

Dloski: yes, a laundry room and shed are residential uses and is consistent with the use of the house.

Elliott: yes, permitted by right.

Wahl: yes, for the reasons stated.

All 6 conditions must be met for us to proceed. Dolton calls for a motion.

Dloski makes a motion that all of the conditions have been met and that the most eastern wall of the requested change of use from a storage shed to a living space and the eastern wall has to be moved to the west by 2 feet with a second by Wahl.

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

Deeren: you have one year from today to complete this variance work as requested. You can come back and ask for an extension before the year is up, but not after it expired.

9. Citizens Comments- None

10. Board Comments

Dloski: the planning commission had a joint meeting with the town board and the planning commission voted to approve zoning ordinance amendments.

Deeren: the town board then approved it that night, so they are moving forward.

Elliott: I thought tonight was a very important meeting and many important things were said. It is our job to hear these variances and to drive the changes and evolution of the zoning ordinance. I feel restricted by certain language that perhaps needs to be changed.

Deeren: these are the types of issues I have been trying to clean up for the last 7 years. This is the most non-conforming place I have ever been. This place is unique and there is no way to make that go away.

Dloski: we need to make our decisions uniform.

Deeren: ironically you were dealing with this.

Wahl: you have to give meaning to words and when you do that in plain language if they are not defined within the ordinance. When you are looking at repair, alter, remove, replace, we have to look in plain language what those words mean because they are not defined within the ordinance.

Elliott: definitions are vital and this is why they are at the beginning of every zoning law.

11. Adjournment Dloski moved to adjourn the meeting with a second by Wahl. **passed unan**
Adjournment at 8:30 p.m.

**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

Peninsula Township
Zoning Board of Appeals Regular Meeting 7:00 p.m.
Lola Jackson Recording Secretary
DRAFT MINUTES

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 ft². I believe this is an error and should be stated as 24' X 10' for a max area of 240 ft² 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,

A handwritten signature in black ink, appearing to read "Patrick J. Kealy", with a stylized flourish at the end.

Patrick J. Kealy