

Peninsula Township
Zoning Board of Appeals
November 15, 2022 7:00 p.m.
Lola Jackson Transcribing Secretary

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

1. **Call to Order** by Dolton at 7:00 p.m.
2. **Pledge**
3. **Roll Call of Attendance** Elliott, Dloski Wahl, Serocki, Dolton. Excused absence: Ammerman.
Deeren: Director of Zoning; Attorney Kyle O'Meara via zoom.
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**
Nancy R. Heller 3091 Blue Water Road: requested board members use the microphones and for the chair to repeat who made the motion and who seconded the motion.
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
Moved by Wahl and seconded by Serocki to table Case 903 until March 21, 2023.
Roll call vote: Yes-Wahl, Dolton, Elliott, Serocki, Dloski. **passed unan**
 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

Jake Schmalzried 7485 Sparling Road Kingsley, Mi.

Shawn Smith approached me this summer about attaching their existing garage to the house.

They currently have a 2-car detached garage. They want to attach the garage because her mother was diagnosed with a debilitating disease this summer and they want her to come live with them. She wants her mother to be able to walk right into the garage instead of having to walk across the driveway area into the garage. The reason the garage placement is in that location is there is a door already in the house, so it is a straight entry into the garage.

Dolton asked if there were any questions for the applicant from the board.

Dloski: I was reading in the packet the garage can be built to conform. The problem you are stating is there is a problem with drainage.

Schmalzried: yes.

Dloski: the owner's situation is unfortunately not enough to grant a variance. The fact they want their mother to be living with them and may have health issues, this is not enough to grant a dimensional variance. Can you tell me something about the property that creates a compelling reason to place the garage here?

Schmalzried: the way the driveway sits is where most of the water comes down. We want to move the water away so it does not come into the garage.

Dloski: and if you cannot place the garage there, what is the ramification?

Schmalzried: we would have to put more drainage in. I am of the belief it is better to let nature handle the runoff through vegetation rather than on a location where all the water drains out from a pipe.

Dloski: is the owner willing to tear down the existing garage?

Schmalzried: I do not know.

Wahl: can you tell me the dimensions of the current garage? It looks on the plan like 20x26.3 feet.

Schmalzried: that sounds about right. The closest the right corner of the house gets to the front yard setback is 8.3 feet and the garage is 8.7 feet.

Wahl: so you do not know if the owner is willing to tear down the garage?

Dolton: on my site visit with Deeren, the owner was on site. She said no, she was not interested in building a new garage because of the expense. There is more leeway if you were replacing a non-conforming structure than asking for a variance.

Dolton asked if there was anyone willing to speak in favor of the request; hearing and seeing none Dolton asks if there is anyone who wished to speak again the request. Hearing and seeing none, Dolton brings it back to the board. Dloski has a question for the applicant

Dloski: have you had any discussion with the owner about being willing to replace the garage?

Schmalzried: no, I have not.

Deeren: if you deny this variance request, she could not back and ask for this much difference in the setback; she could not come back for a year.

Dloski: so do you want to talk to the owner to see if the apparent decision not to tear down the garage is her position?

Schmalzried: yes, I certainly can.

Dolton: this means we would table this to next month's meeting.

Dloski: I can tell you directly tonight, I am not going to vote for this. There is nothing about the land that makes this eligible for a dimensional variance.

Wahl: we are trying to make the property more conforming. Right now this makes the property more non-conforming. A new garage would be within the existing setback.

Deeren: can you call her right now?

Schmalzried: yes.

5-minute recess

Schmalzried: she is not willing to tear down the existing garage.

Dolton closes the public portion of the meeting and brings it back for board discussion.

Elliott: I agree with Dloski.

Serocki: under ordinance 7.5.1 it is not the intent to allow significant increases in the intensity of previously established residential use on otherwise unbuildable lots and this is not an unbuildable lot. So this is saying we do not want to allow significant increases. It is going to be non-conforming and an increase in intensity of use. I agree this is not a good plan.

Dolton: I have struggled with this. The ordinance is quite clear. The home is within the setback. The need for a variance is caused by actions of the previous owner.

Serocki: how long has she owned this house?

Deeren: I believe 7 years.

Wahl: the garage on the property is fairly large.

Dolton: as there is no more board discussion, let us consider request 908 using the 6 basic conditions.

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.

Serocki: no, the existing garage is large. This could be rebuilt without a variance.

Wahl: no, the garage could be built without a variance

Dloski: no, the property has no unique circumstance or physical condition. The drainage is a manageable issue. The garage can be built within the side yard setback and would not need a variance.

Elliott: no, this is an expansion of intensity of use and an increase in non-conformity. The garage could be sited elsewhere and not need a variance.

Dolton: no, the lot does not have a unique circumstance requiring a variance.

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

Dolton: no, the request is being generated by placement of the existing home and action of the previous property owner.

Wahl: no, I agree with Dolton.

Dloski: no, this is generated by the personal preference of the owner.

Elliott: no, same reason as rest of comments.

Serocki: no, I agree with Elliot.

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.)

Serocki: no, there is a garage on the property and this new garage could be moved away from the side yard setback.

Dloski: no, the property owner is not unreasonably prevented from using the property or constructing a garage on the property that conforms.

Wahl: no, for the reasons Dloski just stated.

Elliott: no, the additional cost of the drainage would not make the cost unnecessarily burdensome.

Dolton: no, the property has an existing garage

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.

Serocki: no, there is already a garage on the property and having a second garage is not going to help any other property owners in the area.

Wahl: no, for reasons already stated.

Dloski: no, there is another option to build a conforming garage.

Elliott: no, compliance with the setbacks is what does justice to other property owners in the district.

Dolton: no, for reasons articulated by Dloski.

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

Wahl: yes, for reasons I have already stated.

Dolton: yes, I do not think the variance would cause adverse impact on surrounding property owners.

Serocki: yes, I agree with Dolton.

Elliott: no, the increase in non-conformity does cause adverse impacts on the surrounding property.

Dloski: 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.

Serocki: yes, no change in use.

Wahl: yes, there is no change in use.

Dloski: yes.

Elliott: yes, no change in use.

Dolton: yes, no change in use.

Dloski makes a motion that Request 908 be denied with Serocki providing a second.

Roll call vote: yes-Dolton, Dloski, Serocki, Wahl, Elliott.

Variance request denied.

8. Approval of Minutes from October 12, 2022 Special Meeting and October 18, 2022 Regular Meeting Dolton did have a correction on the October 12th meeting minutes on the second page - under a comment he made; foundation "a" grade and this should be "at" grade.

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Moved by Marilyn and 2nd by Ashley to approve the amended minutes from October 12th - passed

Moved by Larry and 2nd by Ashley to approve the minutes from the October 18th meeting as presented - passed

9. Citizen Comments None

10. Board Comments

Deeren: there is no case for December, 2022

11. Adjournment Dloski moved to adjourn the meeting with a second by Serocki.

Adjournment at 7:37 p.m.