

**Packet Addition
Correspondence
Case No. 897**

BETHANY C. WARNER & ASSOCS.

107 CASS STREET, SUITE G
TRAVERSE CITY, MICHIGAN 49684
TELEPHONE: (231) 922-8028
FAX: (231) 922-8128

BETHANY C. WARNER
LANE T. PLAMONDON
ERIN R. O'NEIL

CORINNE R. GALUSKY
SHANA L. POPP
LAURA A. LIBERTY

November 11, 2021

Peninsula Township Zoning Department
Attn: Ms. Christina Deeren, Zoning Administrator
13235 Center Road
Traverse City, Michigan 49686

Re: **CARRUTHERS REQUEST FOR VARIANCE**
REQUEST NO. 897, ZONING R-1B

Dear Ms. Deeren:

Our Law Firm represents the Harley R. Morrison Trust, which owns real property located at 14168 Bay View Avenue, Traverse City, Michigan 49686, situated directly adjacent and to the north of Parcel 28-11-680-004-00, located at 14114 Bay View Avenue, Traverse City, Michigan 49686, and owned by Mr. William W. Carruthers.

We are in receipt of an Application for Variance ("Application") submitted by William and Jim Carruthers (the "Applicant"), seeking a 28 foot variance from Peninsula Township's westerly front setback requirement of 30 ft, for the purpose of erecting a 12x24 foot detached garage. As we understand, a hearing is to be held on November 16, 2021 for the purposes of evaluating and disposing of Applicant's request.

Our Client appreciates Applicant's desire to build a garage and has no objection to Applicant's use of the property for this purpose. Being an adjacent property owner with knowledge of the landscape and topography, our Client also understands the challenges that neighboring property owners face when trying to build within the confines of the Zoning laws. There are, however, ambiguities with the Application which if not clarified and resolved prior to the Board's disposition of the Application, could potentially result in damage to our Client's property, and/or neighboring properties, and impact our Client's future use and enjoyment of their property.

The garage that Applicant has proposed building includes a standard garage door for vehicular ingress/egress, which when installed, will abut the westerly edge of Applicant's property. While Applicant has addressed the obvious setback issue arising from the placement and orientation of the proposed garage, there is nothing in the Application that addresses how Applicant intends to

access the garage from the road. Currently, a curb and sidewalk would impede vehicular access to the garage. If Applicant intends to seek a permit to alter the curb and sidewalk to allow for vehicular access, our Client is concerned that any such alteration would impact the drainage system in that area, and cause excess drainage upon and damage to our Client's property. Our Client requests that a drainage site assessment be conducted, and a comprehensive report provided to our Client and the Zoning Board, prior to disposition of Applicant's variance request.

Our Client is also concerned that the proposed structure would encroach upon the northerly 15-foot setback requirement. We note from reviewing the building schematic that the structure is 12x24, and Applicant's Site Plan reflects exactly 15 feet between the structure and the north property line which adjoins our Client's and Applicant's properties. The building schematic, however, shows an overhang of the building roof, as well as a pass-through door including a cement apron of unknown size and grade; neither of which are depicted on the Site Plan. It is not clear to our Client whether the roof overhang and the cement apron will fall within the setback (thereby necessitating an additional variance). Our Client requests that the Applicant provide a more detailed survey depicting conformance to the required setback, and that Applicant move the pass-through door and cement apron to the other side of the proposed garage.

As the Zoning Board of Appeals is aware, the Board has the power, pursuant to Section 5.7.3 of the Peninsula Township Zoning Ordinance, to authorize specific variances under the Ordinance, subject to satisfaction of 6 Basic Conditions. Subparagraph (e) of the Basic Conditions states "*[t]hat the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.*" It is pursuant to this Subparagraph (e) that our Client raises objection to the Application, and asks the Board to deny Applicant's Application and any corresponding permit(s), pending satisfactory clarification and resolution of the foregoing.

Respectfully Submitted,



Shana Lynn Popp, Esq.

SLP

Mary M. Shaffer
Mary F. M. Shaffer Real Estate Trust
14208 Bay View Avenue
Traverse City, MI 49686

November 1, 2021

Peninsula Township Planning and/or Zoning Departments
13235 Center Road
Traverse City, MI 49686

Re: Request No. 897, Zoning R-1B

Dear Department Officers:

I write in support of the variance request noted above. My siblings and I are the trustees of the owner of the cottage two doors north of the Carruthers cottage. We have reviewed the garage plans as well as its proposed location, and we fully support locating the garage as the Carruthers propose.

Although non-conforming with township zoning rules, siting the garage near to the road will be completely consistent with nearly all of the other structures on the street, including our cottage. Indeed, I believe it would look odd if it were set back further.

In addition, keeping the garage closer to the road better protects the viewsheds that we value. The view of the Bay View cottages from Neahtawanta Road would remain essentially unchanged with the proposed garage positioning. I doubt the garage would even be visible from down below. Significantly, denial of the variance would force the Carruthers to build their garage in the lawn beneath their cottage, marring the west-looking view of the Bay View cottages and destroying the wide-open natural space that runs along Neahtawanta Road, a viewshed my family and everyone in the community treasures.

Finally, please keep in mind that the Carruthers have been very supportive of the placement of the non-conforming structures that flank their cottage – both of which are not only closer to the road but also closer to the Carruthers' property than current zoning rules allow. I was in attendance when Bill Carruthers spoke in support of Sladie and Harley Morrison's variance request allowing them to construct their cottage as they hoped.

The Carruthers are thoughtful, respectful, and supportive neighbors. I am grateful to be able to return that support in this small way. Please grant the variance the Carruthers seek.

Sincerely,



Mary M. Shaffer

On behalf of myself and the rest of the trustees of the Mary F. M. Shaffer Real Estate Trust, owner of the cottage at 14208 Bay View Avenue

cc: Bake, Dotty and Bob Shaffer
Bill and Jim Carruthers

850 Neahtawanta Road
Traverse City, MI 49686 (summer)
November 14, 2021

Zoning Board of Appeals
Peninsula Township
13235 Center Road.
Traverse City, MI 49686

RE: Request #897, Zoning R-1B; Request of William W. Carruthers Trust for a variance from the 30-foot front yard setback in order to construct a 12' by 24' detached garage.

Dear Members of the Zoning Board of Appeals:

I am writing to the Zoning Board of Appeals regarding the above-referenced application as President of the Neahtawanta Resort Association. My views reflect those of the Association's Board of Directors.

The Association and numerous of its constituent members have both recently and historically expressed a desire to preserve the open space east of the structures on Bay View Avenue on the large, predominately open, lawn area below the Bay View Avenue bluff abutting Neahtawanta Road (almost all of which is owned by its members with no known restrictions beyond the zoning code, and referred to herein as the "Undeveloped Lawn Area"). The Association notes that were this variance granted and the proposed garage constructed, then the existing parcel would have little to no ability to construct a structure on the portion of the parcel that sits within the larger Undeveloped Lawn Area. (See p.2 of the Staff Report - total lot coverage with the proposed garage would be 14.3%; 0.7% (approximately 114 sq ft) remaining within the maximum 15% lot coverage.)

The Association acknowledges that any one or more property owners (including Association members) impacted by this proposed variance may have objections to the grant of a variance and it does not take issue or contest the objections of such other interested parties. The Association simply wants to inform the Zoning Board of Appeals that it would find it preferable for a garage to be constructed in accordance with the variance application than for a garage to be constructed on the relevant portion of the parcel that sits within the larger Undeveloped Lawn Area (for which, to our knowledge, no such variance would be required).

Very truly yours,



Anne Treadway Arouca
President
Neahtawanta Resort Association

Cc: Christina Deeren, Zoning Administrator



3000 Galloway Ridge
 Pittsboro, NC 27312
 Phone: (919) 545-2215
 Toll Free: (888) 763-9600
 Main Fax: (919) 545-2220
 WWW.gallowayridge.com

- Continuing Care Retirement Community
 Located in Fearrington Village
- LifeCare Community
- Duke Center For Living with Pool and Spa
- Fully Staffed Clinic
- Emergency Response System
- Security (First Response) Staff
- Transportation
- Maintenance
- Weekly Housecleaning
- Covered Walkways
- Three Dining Options
- Lounge
- Library
- Beauty Salon/Barber Shop
- Computer Lab
- Auditorium
- Card Room
- Woodworking Shop
- Arts Studio
- Guest Suites
- Walking and Biking Trails
- On-Site Bank
- ATM
- English Garden and Courtyard with Garden Plots
- Pets Welcome!

FACSIMILE

DATE: Nov. 15, 2021

TO: Christina Deeren

FAX NUMBER: 231-223-⁷¹¹⁷~~7822~~

FROM: Marcia Gest F203

SUBJECT: ZBA request (Carruthers)

PAGES: (Including cover) 7

MESSAGE: incl.

- Comments
- historical background

Thank you for your consideration
mbg.

NOTE: This facsimile contains **PRIVILEGED** and **CONFIDENTIAL** information intended only for use of the specific individual or entity named above. If you or your employer is not the intended recipient of this facsimile or an employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any unauthorized dissemination or copying of this facsimile or the information please notify the person named above at once by telephone and return the original facsimile to us at the above address via the US Postal Service. Thank you.

**marcia gest <bmigest2@gmail.com>****ZBA897**

3 messages

marcia gest <bmigest2@gmail.com>

Fri, Nov 12, 2:29 PM

To: deputy.clerk@peninsulatownship.com <deputy.clerk@peninsulatownship.com>

Bcc: marcia gest <bmigest2@gmail.com>

Variance request by Wm. Carruthers

Of course the whole street is lined with non conforming structures as most of the buildings were constructed before building codes were even considered. The fact that the side lines and set backs are not according to code is not the real issue. What is more important is that it appears that the property owner has made little or no effort to construct a building that, even remotely, will blend in with the existing architecture of the homes along the East side of Bayview Ave.

To me and I am sure other residents of the area this factor is of great importance. Needless to say, as requested .I hope that you will deny this variance.

I am sending under separate cover some documents that really back up the need to revised rules and regulations in a timely manner in order to avoid the opportunities of such events happening in the future.

Marcia Gest. Non resident property owner 14403 Linwood Avenue Traverse City MI 49686

<deputy.clerk@peninsulatownship.com>

Fri, Nov 12, 2:29 PM

To: <bmigest2@gmail.com>

I am currently out of the office. I will return on Wednesday, Nov. 17, 2021. If you need assistance in my absence, please call (231) 223-7321.

Robin Noval
Peninsula Township Deputy Clerk
13235 Center Road
Traverse City MI 49686
phone - 231-223-7321
deputy.clerk@peninsulatownship.com

2/7

[Quoted text hidden]

marcia gest <bmigest2@gmail.com>
To: **marcia gest** <bmigest2@gmail.com>

Fri, Nov 12, 2:31 PM

[Quoted text hidden]

Bayview sub zone guidelines:

Front yard set back...East side of Bayview:

Current conditions:

There are 11 houses along lake side of Bayview, 9 of which are within the 30' setback currently required.

The setbacks, measured from the front of the house (or steps) to the lake side of the side walk are as follows:

Barrows: 36' **	Morrison,brown: 4'
Crutchfield: 32'	Langdon: 4'
Shaffer: 8'	Lea: 4'
H Morrison: 13'	Marckwald: 8'
Carruthers: 1'	Marckwald: 24', or 4'
E Morrison: 5'	

** From where the side walk would be, if there was one.

There are two houses on the West side of Bayview that meet current Township ordinances and are not involved in any changes to the setback ordinance.

Intention:

To establish a "build to" line that takes into account these measurements so that the "character" of the road is maintained and future houses are not forced so far from the road that they would impact the neighbors scenic views of the lake.....and

To preserve the views from the porches of the houses by limiting the extent to which houses are built "down the bluff" towards the Lake so they do not impact neighbors views..

Garages:

8/23/07

Intention: To maintain the character of the area by requiring garages be harmonious in design and construction materials of the principal dwelling.

Follow township ordinances with the following exceptions

1. Limit size of garages to the following

Two car (24 x 32) in all mini zones:

2. Require that all detached garages be harmonious in design and Construction materials of the principal dwelling

Harmonious: There is a need to define "Harmonious" so that the ZBA Officer has some guidance and can defend his "objective" decision on a subjective" subject....Gordon is going to work onthis.....here are a few I came up with (not shared with Gordon yet)

Overhangs similar to the main dwelling (so someone can not have outside overhangs under which boats, bicycles etc can be stored.

Siding that is the same or close to the same as the main dwelling. For example if the main dwelling is shingled, the garage must be shingled, if the main dwelling is "lap board", so must the garage.

Light fixtures should be the same or close to those of the man dwelling

Windows should be the same or similar in design as the main dwelling

Continued

Bayview subzone guidelines continued:

Backyard set back...East side of Bayview:

Current conditions:

There are 11 houses on the lake side of Bayview, each with meadows at the bottom of a steep bank. This meadow extends from the bottom of the bank towards the water to Nehtawanta Road.

This meadow has no structures of any kind. There are, however, septic tanks and fields for six houses in these meadows. Two houses (both Marckwalds) have septic systems between their houses and the other three (Barrows, Carruthers, Langdon) have no place for a septic in the future except in the meadow in front of their house.

There are steps from the top to the bottom of the bank for each house.

Intention:

To establish a setback line at the toe of the bank that would eliminate building on the meadows (unless a variance was obtained) which would preserve the rural and natural character of the meadow so:

The views from the porches on Bayview would not be impacted by looking down on roofs, driveways etc.

and to preserve the rural character for those driving or walking by on Nehtawanta Road

Impacting the views and rural character could be houses, garages, driveways, fences, walls and walkways that under current Township ordinances could be built.

Continued:
Bayview subzone setback guidelines continued:

Allowed in the meadow should be:

:

- Septic fields
- Wells
- Watering systems

End of Bayview sub zone guidelines

Molly Lewis
14475 Charlotte Avenue
Traverse City, MI 49686

November 3, 2021

Peninsula Township Planning and/or Zoning Departments
13235 Center Road
Traverse City, MI 49686

Re: Request No. 897, Zoning R-1B

Dear Department Officers,

I am writing in support of the variance request noted above. I have reviewed the garage plans as well as its proposed location and fully support locating the garage as the Carruthers propose for these reasons:

1. The location of the proposed garage would make it consistent with other structures on Bay View. The garage would not stand out as an oddity, rather it would fit in with the other buildings.
2. This location would also have the least impact on neighbors' viewscapes, whereas the only other option for the Carruthers - building their garage on the lawn beneath their cottage - would be an eyesore for the entire community and would forever ruin the green space in front of the cottages along Neahtawanta Road. With the garage located where the Carruthers proposed, the impact to the viewscape would be minimal.

Again, I urge you to approve the Carruthers request for a variance.

Sincerely,



Molly Lewis