

PENINSULA TOWNSHIP

REGULAR MEETING

ZONING BOARD OF APPEALS

MINUTES

13235 Center Road, Traverse City, MI 49686

November 17, 2020

7:00 p.m.

1. **Call to Order:** by Soutar at 7:00 p.m.

2. **Pledge**

3. **Roll Call of Attendance: Present:** Rowlett, McBride, Soutar, Couture, Deeren, Dolton via phone; Absent: Wahl

4. **Approval of Agenda:**

Soutar: One adjustment to item 3 under #7, 7.3 is the percentage of lot coverage.

Moved by Couture to approve the agenda as amended, seconded by McBride

pass unan

5. **Conflict of Interest:** None

6. **Brief Citizen Comments – for items not on the Agenda:** None

7. **Old Business:**

1. **Request No. 883, Zoning R-1B**

Applicant: Monte R. & Nancy L. Tuffs – 7447 Cloudberry Lane N.E., Belmont, MI 49306

Owner: Monte R. & Nancy L. Tuffs – 7447 Cloudberry Lane N.E., Belmont, MI 49306

Property Address: 15861 Birch Drive, Traverse City, MI 49686

1. **Requesting a variance from the required sixty (60) foot setback from ordinary high water to forty-four feet in order to construct a twenty (20) foot by twenty-five (25) foot storage parking structure.**

2. **Requesting a variance from the side yard setback of fifteen (15) feet to four (4) feet on the southerly property line.**

Parcel Code # 28-11-560-020-00

Soutar: We have additional materials.

Deeren: The staff report was changed. The violations were left on the staff report. The percentage of lot coverage was changed when the items were removed; the items which were not permitted: the decking and the shed. With just the garage structure or the parking structure, the lot percentage change was from 23.74% to 23%.

McBride: Does 23 (twenty-three) % include the proposed structure?

Deeren: The garage structure, not decking. Currently, I do not have the square footage of the decking. The 23 (twenty-three) % includes the parking structure; that is what the variance is for.

McBride: What is the percentage without the proposed structure?

Deeren: I will provide.

Monte Tuffs, 7447 Cloudberry Lane N.E., Belmont, MI with local residence address of 15861 Birch Drive, Traverse City, MI: Nothing has changed from the last meeting. Looking at a

\$200,000.00 landscaping project. The wood has been there for twenty-five years; that will be torn out and the shed. This project will go in phases. The underground storage will replace the shed and a retaining wall that has dropped two feet level towards the lake. For phase one, the storage garage, extension of the driveway will be put in, and the basement will be done. The timeline will depend on the landscapers.

Soutar: What is a reasonable time frame to complete this?

Tuffs: Phase one will be next year when they can pour the concrete. COVID has slowed this process, I am five months behind. I will need to pull permits and get a design for the structure. April is a possibility. The landscaper may come in this fall for the preliminary excavation.

Deeren: Roughly 500 (five-hundred) square feet, around 19 (nineteen) % rather than 23 (twenty-three) %.

Soutar: Four (4) percent over.

Rowlett: What is the walkway material?

Tuffs: Concrete, pavers, or a combination; also for the retaining wall.

Deeren: Before the new ordinance is adopted it is okay to proceed. If this occurs after it is adopted, then another variance will need to be requested.

Tuffs: I will have a few retaining walls that will be 4 (four) feet, will not know until the landscapers come in. Request that the dock wood remains for one year.

McBride: The task of the ZBA is to find out, do you need this and if it is necessary? What would it be like to do the shed and just the retaining walls?

Tuffs: A place is needed for storage; it will give us parking and extend the driveway. The current shed is an eyesore. It is on 0.3 acres.

Rowlett: The point at which you would use this is when the little shed is removed.

Deeren: The parking structure is added to the calculation of 23 (twenty-three) %. The house was approved in the original variance.

Tuffs: The deck and stairs will be removed. The front porch and sidewalk are wood and are not to code. There needs to be a concrete pad off of the house. A concept drawing is included.

Couture: We reviewed this thoroughly last time. Okay with the plan.

Dolton: It looks like the owner is making a good-faith effort. This is reasonable.

Tuffs: The storage will not be seen from the street. It will not be a visual impairment for the neighbors.

Rowlett: There are horror stories about construction delays over the next year.

McBride: Have you talked to the neighbors?

Tuffs: They have been here already. The neighbor has similar issues. We will work on the ravine towards the lake. There are plans to work on the fence.

Soutar: If approved, there will be three codicils. The storage shed and decking must be removed by a certain date. Also, 1a is the lakeshore removal which will take a longer amount of time. Secondly, a land-use permit and a demolition permit will be issued then. Thirdly, coordination with the neighbor for the runoff will be needed.

McBride: What about zoning changes?

Soutar: Not at this time.

Deeren: If this is passed, on condition of removal of the storage shed, the decking, and if leaving the lower water decking to a date certain.

1. Requesting a variance from the required sixty (60) foot setback from ordinary high water to forty-four feet in order to construct a twenty (20) foot by twenty-five (25) foot storage parking structure.

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

A. The need for the variance 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.

McBride, Soutar, Rowlett, Dolton, Couture all agree the condition has been met.

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

McBride, Soutar, Rowlett, Dolton, Couture all agree the condition has been met.

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.)

McBride, Soutar, Rowlett, Dolton, Couture all agree the condition has been 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.

McBride, Soutar, Rowlett, Dolton, Couture all agree the condition has been 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.

McBride, Soutar, Rowlett, Dolton, Couture all agree the condition has been 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.

McBride, Soutar, Rowlett, Dolton, Couture all agree the condition has been met.

Deeren: The first variance passes.

2. Requesting a variance from the side yard setback of fifteen (15) feet to four (4) feet on the southerly property line.

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

A. The need for the variance 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.

Soutar, Couture, McBride, Rowlett, Dolton all agree the condition has been met.

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

Soutar, Couture, McBride, Rowlett, Dolton all agree the condition has been met.

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.)

Soutar, Couture, McBride, Rowlett, Dolton all agree the condition has been 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.

Soutar, Couture, McBride, Rowlett, Dolton all agree the condition has been 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.

Soutar, Couture, McBride, Rowlett, Dolton all agree the condition has been 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.

Soutar, Couture, McBride, Rowlett, Dolton all agree the condition has been met.

Deeren: The second variance has passed.

3. Requesting a variance from the 15 (fifteen) percent lot coverage to 23 (twenty-three) percent lot coverage.

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

A. The need for the variance 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.

Soutar, Couture, McBride, Rowlett, Dolton all agree the condition has been met.

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

Soutar, Couture, McBride, Rowlett, Dolton all agree the condition has been met.

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.)

Soutar, Couture, McBride, Rowlett, Dolton all agree the condition has been 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.

Soutar, Couture, McBride, Rowlett, Dolton all agree the condition has been 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.

Soutar, Couture, McBride, Rowlett, Dolton all agree the condition has been 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.

Soutar, Couture, McBride, Rowlett, Dolton all agree the condition has been met.

Deeren: The third variance has passed.

Soutar: The next step is to approve in total.

The following must be met:

1. The owner must remove the storage shed and all decking by 11/17/2020 1a. The lakeside decking to be removed by 11/17/2021
2. A land-use permit (issued after the decking is removed) and a demolition permit (issued before) must be applied for
3. The runoff from the project must be coordinated with the neighbor

Discussion of the timing of removal

Moved by McBride to approve the total package with the three conditions, seconded by Rowlett

Roll call: Yes: McBride, Dolton, Couture, Rowlett, Soutar pass unan

8. New Business:

1. Request No. 884, Zoning R-1B

Applicant: Robert J. Zientek, 15559 Upper Birch Drive, Traverse City, MI 49686

Owner: Robert J. Zientek, 15559 Upper Birch Drive, Traverse City, MI 49686

Property Address: 15559 Upper Birch Drive, Traverse City, MI 49686

1. Requesting a variance from the required thirty (30) foot setback from the front yard setback to five (5) feet from the front yard setback in order to construct a 30 foot by 30 foot detached garage.

2. Requesting a variance from the northerly side yard setback of fifteen (15) feet to thirteen (13) feet in order to construct a 30 (thirty) foot by 30 (thirty) foot detached garage.

Parcel Code: #28-11-560-042-00

Robert J. Zientek: 15559 Upper Birch Drive, Traverse City, MI: Kyle Karsten is the designer and builder. The biggest reason for a 20 (twenty) by 16 (sixteen) structure is that the current structure it is too small; storage is needed. The septic is in the back of the garage.

Dolton: Would like an understanding of the dimensions of the new garage. It looks to be larger than a three-car garage- why is it so large?

Zientek: It is for storage for two cars and a fishing boat. The existing structure will be kept for storage and attaching the new structure to the garage.

Dolton: Is this on a private road?

Deeren: It is a private road with a 33 (thirty-three) foot easement. The structure will be in the easement, 5 (five) feet from the road.

Board discussion of the private road, the site, and the setbacks and easement

Dolton: The size of the garage seems larger than reasonable, concerned that the setback is too small. Suggests shrinking the size of the garage which would allow the variance to be smaller.

Karsten: A vehicle in a 24 (twenty-four) foot garage is tight, and that would limit storage.

McBride: Can you get by with less? The idea is to grant something smaller versus not granting it at all.

Zientek: The property is challenging. If not approved, will look at something else.

McBride: Will the driveway change?

Karsten: Yes, a wider driveway.

Rowlett: Can the garage be reshaped?

Karsten: The garage needs to be placed for a turn because the property is an odd shape with a steep hill.

Discussion of the driveway and the property.

Deeren: Suggests a smaller garage with upstairs storage.

Zientek: Unable to navigate stairs for storage.

Rowlett: Can the drain field be moved?

Deeren: The health department requires a certain distance from the bay and 50 (fifty) feet from the well. Substantial relief can be achieved by a 24 (twenty-four) by 24 (twenty-four) garage with an 11 (eleven) foot setback.

Couture: Troubled with the 5 (five) foot setback. Thinking a 24 (twenty- four) foot garage would be more appropriate. Substantial relief can be achieved if a twenty-four by twenty-four garage with an 11 (eleven) foot setback.

Soutar: If you do away with the existing garage, you have more leeway. There is room for a 24 (twenty-four) by 24 (twenty-four) garage if the existing garage is removed. The existing garage is a problem.

Discussion of the drain field, removing the existing garage and a 24 (twenty-four) by 24 (twenty-four) foot garage as an option.

Karsten: Provides the health department drawings of the septic field.

Soutar: The garage is not on this drawing; this map is not adequate. It appears the existing garage is on the drain field.

Zientek: How do you get a drawing of the drain field?

Deeren: To find where the drain field is located, sections will need to be dug to see where it is. It is possible that part of the existing garage is on the drain field?

Discussion of where the drain field is located

Dolton: Reiterates that the size of the proposed structure is too large.

Soutar closes the regular meeting and opens the meeting for public comment.

James Borowicz, 15577 Upper Birch Drive, Traverse City, MI: Neighbor north to Robert Zientek. The septic system runs along the shared lot line. The septic is about one foot and a half from the garage and is about 60 (sixty) by 24 (twenty-four) feet wide. Our road is a private alley and is a narrow two-track road; it is not a sixty-foot-wide road. Zientek wants a larger garage for storage; the HOA has a height restriction, so a taller structure will not work.

Maureen McCloud, 15540 Lower Birch Drive, Traverse City, MI: Received a letter and is interested in the variance process.

Soutar closes the public hearing and opens the regular meeting.

Deeren: Yesterday, a land-use permit was issued for a covered deck porch addition to be added to the construction being done to the property. The percentage of lot coverage comes to 10.02%. If this is approved at a 30 (thirty) by 30 (thirty) proposed garage it will push the lot coverage to 16.36%, which would need a variance. Summarizes the lot coverages with the various sizes of the garage that could be used on the property: Thirty (30) by thirty (30) would be a lot coverage of 16.36%; if 25 (twenty-five) by 25 (twenty-five) foot garage, the lot coverage would be 14.42%; twenty-six (26) by twenty-six (26) would be 14.78%, and a twenty (20) by thirty (30) would be 14.25%. My concern is, the request will have to be amended.

Discussion of percentages of lot coverage, clarifying the fifteen percent structure coverage

Dolton: This means we will need to include a variance for lot coverage; if that is not being requested, how can we move forward?

Soutar: If we decide to approve a lesser amount (smaller garage), then lot coverage would not come into play.

McBride: Concerned about the lot percentage. The existing garage and the new garage is larger than a three-car garage. We could not approve this, but do we approve something lesser? How does the applicant feel about the approval of a smaller garage?

Deeren: Looking at the original percentage on the application, the staff report has a value of 14.45 %. Because of the new construction on the new permit, that is what is kicking them out with regards to the new permit and the original request.

Soutar: A 30 (thirty) by 30 (thirty) garage including the existing garage, which would make a 16 (sixteen) foot front yard setback. Make the front the facing for the old and the new that would save the old structure and allow the new structure. A 580 square foot difference for the garage is close to or under the percentage. It would be a 30 (thirty) by 30 (thirty).

Karsten: Confirming that adding a 24 (twenty-four) by 24 (twenty-four) foot in front of the existing garage would work.

Board discussion of the options of garage size and the total coverage and the setbacks

Soutar: To clarify, option one is 24 (twenty-four) by 24 (twenty-four) foot garage would be in the side yard setback and 11 (eleven) feet to the front yard or option two, building 14 (fourteen) feet forward adding on to the existing structure, and a 14 (fourteen) by 30 (thirty) structure.

Dolton: Is it common to approve an optional variance or to have the applicant decide and return for a verbal?

Soutar: The applicant can decide.

Zientek and Karsten: Will downsize to a 24 (twenty-four) by 24 (twenty-four-foot) structure.

Moved by McBride to approve a 24 (twenty-four) foot by 24 (twenty-four) foot detached garage that will require a variance of 11 (eleven) foot front yard setback, seconded by Rowlett.

Board discussion of the motion.

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

A. The need for the variance 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.

Soutar, no; Rowlett, yes; Couture, yes; McBride, yes; Dolton, yes.

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

Soutar, yes; Rowlett, yes; Couture, yes; McBride, yes; Dolton, no.

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.)

Soutar, no; Couture, yes; McBride, no; Dolton, yes; Rowlett, no.

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.

Dolton, yes; Soutar, no; Couture, yes; McBride, yes; Rowlett, yes.

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

Dolton, Soutar, Couture, McBride, Rowlett all agree the condition has been 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.

Soutar, Couture, McBride, Dolton Rowlett all agree the condition has been met.

Deeren: Failed C of the basic conditions.

Couture: Consider passing a variance with a 30 (thirty) by 30 (thirty) total building, with 14 (fourteen) feet to be added to the existing building. Include a demolition of the existing structure or incorporate it into the new design.

Moved by Couture to approve a variance request for a thirty by thirty foot total building envelope for a garage that would include demolition of the existing structure, or incorporating it into the new design. That would be a side yard setback from 15 (fifteen) to 13 (thirteen) foot which changes the front yard setback to 16 (sixteen) feet. The side yard setback is 2 (two) feet.

Discussion of the motion, considering the drain-field location.

Deeren: The building would be 14 (fourteen) by 30 (thirty).

Discussion of the motion considering the size of the garage.

Action on the motion:

Moved by Couture to approve a variance request for a 30 (thirty) by 30 (thirty) foot total building envelope for a garage that would include demolition of the existing structure or incorporating it into the new design. That would be a side yard setback from 15 (fifteen) to 13 (thirteen) feet which changes the front yard setback to 16 (sixteen) feet, seconded by McBride.

Discussion of the motion.

- 1. Requesting a variance from the required thirty (30) foot setback from the front yard setback to nine (9) feet from the front yard setback in order to construct a fourteen (14) foot by thirty (30) foot detached garage.**

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

A. The need for the variance 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.

Soutar, Rolette, Couture, McBride, Dolton all agree the condition has been met.

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

Soutar, Rowlett, Couture, McBride, Dolton all agree the condition has been met.

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.)

Soutar, Rowlett, Couture, McBride, Dolton all agree the condition has been 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.

Soutar, Rowlett, Couture, McBride, Dolton all agree the condition has been 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.

Soutar, Rowlett, Couture, McBride, Dolton all agree the condition has been 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.

Soutar, Rowlett, Couture, McBride, Dolton all agree the condition has been met.

Deeren: This variance passes unanimously.

2. Requesting a variance from the northerly side yard setback of fifteen (15) feet to thirteen (13) feet in order to construct a 14 (fourteen) foot by 30 (thirty) foot detached garage.

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

A. The need for the variance 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.

Soutar, Rowlett, Couture, McBride, Dolton all agree the condition has been met.

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

Soutar, Rowlett, Couture, McBride, Dolton all agree the condition has been met.

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.)

Soutar, Rowlett, Couture, McBride, Dolton all agree the condition has been 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.

Soutar, Rowlett, Couture, McBride, Dolton all agree the condition has been 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.

Dolton, Rowlett, Couture, McBride, Dolton all agree the condition has been 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.

Soutar, Rowlett, Couture, McBride, Dolton all agree the condition has been met.

**Moved by Couture to approve the variance request #884 as amended, seconded by McBride.
Roll Call: Soutar, yes; Rowlett, yes; Couture, yes; McBride, yes; Dolton, yes pass unan**

2. Approval of Minutes from October 20, 2020 Regular Meeting:

**Moved by Couture to approve the minutes from October 20, 2020, seconded by McBride
pass unan**

9. Citizen Comments: None

10. Board Comments:

Deeren: There are three pending cases for the December meeting.

11. Adjournment:

**Moved by Couture to adjourn, seconded by McBride pass unan
Adjournment at 9:15 p.m.**