

PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686

Ph: 231.223.7322 Fax: 231.223.7117

www.peninsulatownship.com

PENINSULA TOWNSHIP ZONING BOARD OF APPEALS AGENDA

November 21, 2023

7:00 p.m.

1. Call to Order
2. Pledge
3. Roll Call
4. Approval of Agenda
5. Conflict of Interest
6. Brief Citizen Comments – (for items not on the Agenda)
7. Business:

1. Public Hearing for Request No. 911, Zoning = R-1B – Coastal Zone

Applicant/Owner: Matthew B Myers & Keegan L Myers, 625 & 701 Tucker Point, Traverse City, MI 49686

Property Address: 707 Tucker Point, Traverse City, MI 49686

1. Requesting to replace an existing two (2) story non-conforming structure per Section 7.5.6.
2. Requesting a variance from Section 6.8 of the Zoning Ordinance to construct a new garage and dwelling .5-feet from the front property line, where 30-feet is required.
3. Requesting a variance from Section 6.8 of the Zoning Ordinance to construct a new garage and dwelling, 12.6-feet from the rear property line, where 30-feet is required.
4. Requesting a variance from Section 6.8 of the Zoning Ordinance to exceed the maximum lot coverage of 15% up to 18%.

Parcel Code # 28-11-565-925-55

8. **Approval of Minutes from the August 1, 2023 Special Meeting**
9. Citizen Comments
10. Board Comments
11. Adjournment

Business

Peninsula Township Planning & Zoning Department

STAFF REPORT

ZBA Request # 911

Physical Address of Subject Property: 707 Tucker Point, Traverse City, MI 49686

Date: November 14, 2023

To: Peninsula Township Zoning Board of Appeals

From: Jenn Cram, AICP, Director of Planning and Zoning

RE: Request # 911

Zoning

District: R-1B Coastal Zone

Hearing

Date: November 21, 2023 – 7:00 PM

Applicants/

Owners: Matthew B Myers and Keegan L Myers, 625 and 701 Tucker Point, Traverse City, MI 49686

Subject

Property: 707 Tucker Point, Traverse City, MI 49686

Tax ID: 28-11-565-925-55

Background Information:

- Parcel 28-11-565-925-55 comprises Lots 9 and 10, Block 12 of the Neahtawanta Subdivision and is 9,580 square feet.
- The Neahtawanta Subdivision was platted in 1890 prior to the adoption of the Peninsula Township Zoning Ordinance in 1972. A copy of the plat is included as **Exhibit A**.
- The lot was created legally prior to the adoption of the Peninsula Township Zoning Ordinance.
- The property is zoned R-1B – Coastal Zone – Single and Two Family Residential; and the surrounding area is also zoned R-1B – Coastal Zone – Single and Two Family Residential.
- The minimum lot size for the R-1B zone district is 25,000 square feet.
- Lots 9 and 10 together do not meet the minimum lot size.
- Lots 9 and 10 are legally non-conforming with regard to minimum lot size.
- The parcel currently contains an existing garage with a dwelling and two sheds.
- A vicinity map and aerial image with topography have been included as **Exhibit B**.
- The existing garage and dwelling encroach over the southern property line/right-of-way to Tucker Point and the western property line. Thus, the existing structure is non-conforming with regard to setbacks. The site plan/survey is included as **Exhibit C**.
- The right-of-way for Tucker Point south of the parcel has not been developed and will likely never be developed.
- Based on the sketch included with the on-site septic system permit, the existing garage and dwelling are located on Lot 10 and the on-site septic system is located on Lot 9. The on-site septic system permit is included as **Exhibit D**.

- It is estimated that the garage/dwelling was constructed between 1974 and 1977. This is consistent with the Grand Traverse County Environmental Health Department permit for the well dated August 11, 1977, and the on-site septic system dated April 27, 1978.
- The Grand Traverse County Building Department did not start issuing building permits until 1975 and does not have any records prior to 1978.

Request:

1. Requesting to replace an existing two (2) story non-conforming structure per Section 7.5.6.
2. Requesting a variance from Section 6.8 of the Zoning Ordinance to construct a new garage and dwelling 0.5-feet from the front property line, where 30-feet is required.
3. Requesting a variance from Section 6.8 of the Zoning Ordinance to construct a new garage and dwelling, 12.6-feet from the rear property line, where 30-feet is required.
4. Requesting a variance from Section 6.8 of the Zoning Ordinance to exceed the maximum lot coverage of 15% up to 18%.

Applicant

Statement: Please see the enclosed application submitted by the property owners along with additional information submitted to date, **Exhibit E**.

The property owners have not submitted building plans for the replacement structure. They are hoping to receive feedback and/or approval from the ZBA on the requested setbacks and lot coverage prior to making the financial investment in producing building plans.

Section 3.2 Definitions:

***Practical Difficulty:** To obtain a dimensional variance, the applicant must show practical difficulty by demonstrating all of the following:*

- (a) *Strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for any permitted purpose, or would render conformity unnecessarily burdensome;*

Staff Comment: The existing parcel is essentially 40 feet deep. Because the lots as platted are so shallow there is no buildable area on the parcel if the standard setbacks for the zone district are applied.

- (b) *A variance would do substantial justice to the applicant as well as to other property owners in the district, and that a lesser relaxation would not give substantial relief and be more consistent with justice to others;*

Staff Comment: A variance from the front and rear setbacks as well as lot coverage will allow the applicant to replace an existing non-conforming structure on a non-conforming lot with a modest structure that is less non-conforming. The footprint of the replacement structure has also been reduced from 1,820 square feet to 1,440 square feet (1,650 including eaves).

- (c) *The plight of the owner is due to unique circumstances of the property; and;*

Staff Comment: The plight of the owners is due to the unique circumstances of the small, shallow lots platted in 1890.

(d) *The problem was not self-created. (ADDED BY AMENDMENT 171A)*

Staff Comment: As noted above, this problem was not created by the property owners.

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-1B, Coastal Zone: Front setback = 30 feet
 Side yard setbacks = 15 feet
 Rear yard setback = 30 feet
 Ordinary Highwater setback = 60 feet
 Allowable percentage of lot coverage = 15%*

TABLE OUTLINES VARIANCE REQUESTS No. 2, No. 3, and No. 4

R-1B Standards (Section 6.8)	Required	Variance	Conforms to Standards?
Minimum Front Setback	30'	No	No – Variance Requested
Minimum East side yard setback	15'	No	Yes
Minimum West side yard setback	15'	No	Yes
Minimum Rear setback	30'	No	No – Variance Requested
Minimum OHWM	60'	NA	NA
Percentage of Lot Coverage:	15% - allowed	No	No – Variance Requested

Staff Comment:

The purpose of the front setback is to provide safety and separation of structures from the road. The purpose of the rear setback is for privacy and emergency access between adjacent lots and structures.

The purpose of limiting lot coverage is to provide for green space to address stormwater run off and other issues related to development. Green space also provides for an improved quality of life.

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;*

Staff Comment: The proposed location of the replacement structure is less non-conforming than the existing structure. It is proposed to be located entirely within the boundaries of the parcel. The footprint of the replacement structure has also been reduced to be less non-conforming (1,650 sq. ft. vs. 1,820 sq. ft.).

- (2) *There is increased safety to the residents of the structure and to the traveling public on the road providing access to the parcel;*

Staff Comment: The proposed location of the replacement structure is outside of the platted right-of-way. This right-of-way will likely never be developed.

- (3) *Safety and substantial justice is achieved;*

Staff Comment: Safety and substantial justice will likely be achieved if the requested setback variances from the front and rear setbacks are approved by the board because the replacement structure will be located within the boundaries of the parcel. The proposed replacement structure is modest in size (1,440 sq. ft.) to meet the required front and rear setbacks as much as is possible. The replacement structure has also been reduced to better meet lot coverage requirements.

- (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.*

Staff Comment: This standard does not apply to this property as it is not located on the shoreline.

- (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)*

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.*

Staff Comment: The need for the variances is due to the unique circumstances and physical conditions of the property, as the lots were platted in 1890 prior to the adoption of the Township zoning ordinance. Furthermore, the lots are non-conforming with regard to minimum lot size even when considered together at 9,580 square feet. The lots are also very shallow (~40-feet wide). As discussed above, this practical difficulty was not created by the applicant.

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

Staff Comment: As discussed above, the applicants/property owners did not create the practical difficulty. They did not plat the lots in 1890.

- (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.)

Staff Comment: As discussed above, the existing parcel is essentially 40 feet deep. Because the lots as platted are so shallow, there is no buildable area on the parcel if the standard setbacks for the zone district are applied.

- (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.

Staff Comment: A variance from the front and rear setbacks as well as lot coverage will allow the applicant to replace an existing non-conforming structure on a non-conforming lot with a modest structure that is less non-conforming. The footprint of the replacement structure has also been reduced from 1,820 square feet to 1,440 square feet (1,650 including eaves).

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

Staff Comment: The requested variances will not likely cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood as there is currently a structure that encroaches over the front and side property lines that has existed for approximately forty-five years. The replacement structure will be contained within the parcel boundaries and meets the required side yard setbacks. The replacement structure provides for front and rear setbacks as best as possible while still allowing for the construction of a modest structure (1,440 sq. ft.). It should

also be noted that the properties to the south and west are owned by family members and the area functions as a family compound.

- (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.

Staff Comment: The R-1B zone district allows for single and two-family dwellings as uses by right along with associated accessory structures. The proposed replacement structure will be used as a garage and dwelling consistent with allowed uses.

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.*

Staff Comments: We recommend that the board discuss the setback variances and lot coverage so that the property owners can receive the direction that they need to move forward with building plans. We believe that the board will want to see the building plans prior to approving the request to replace the existing non-conforming structure to ensure that the intensity of the use is not increasing beyond what is allowed within the zoning ordinance.

We also recommend that as a condition of approval that the property owners apply for and formally combine Lots 9 and 10, Block 12 so that the replacement structure and on-site septic system are located on the same lot. In addition, this will allow the property to better meet the lot coverage requirements.

- (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.*
- (c) 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.*

Staff Recommendation:

Staff recommends that the Zoning Board of Appeals provide feedback via a formal consideration of requests number two (2) through four (4) related to setbacks and lot coverage and then table action on request number one (1) to a date certain.

Draft Conditions of Approval:

1. The property owners shall apply for and formally combine Lots 9 and 10, Block 12 prior to issuance of a land use permit.

**Peninsula Township
Zoning Board of Appeals**

ZBA Case No. 911

Date of Meeting: November 21, 2023

Peninsula Township
13235 Center Road
Traverse City, MI 49686

Applicants/Owner: Matthew B Myers and Keegan L Myers, 625 and 701 Tucker Point, Traverse City, MI 49686
Address: 707 Tucker Point, Traverse City, MI 49686

Parcel Code: #28-11-565-925-55

Request:

1. Requesting to replace an existing two (2) story non-conforming structure per Section 7.5.6.

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:

**Peninsula Township
Zoning Board of Appeals**

ZBA Case No. 911

Date of Meeting: November 21, 2023

Peninsula Township
13235 Center Road
Traverse City, MI 49686

Applicants/Owner: Matthew B Myers and Keegan L Myers, 625 and 701 Tucker Point, Traverse City, MI 49686

Address: 707 Tucker Point, Traverse City, MI 49686

Parcel Code: #28-11-565-925-55

Request:

2. Requesting a variance from Section 6.8 of the Zoning Ordinance to construct a new garage and dwelling 0.5-feet from the front property line, where 30-feet is required.

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:

**Peninsula Township
Zoning Board of Appeals**

ZBA Case No. 911

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Request:

3. Requesting a variance from Section 6.8 of the Zoning Ordinance to construct a new garage and dwelling, 12.6-feet from the rear property line, where 30-feet is required.

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:

1

**Peninsula Township
Zoning Board of Appeals**

ZBA Case No. 911

Date of Meeting: November 21, 2023

Peninsula Township
13235 Center Road
Traverse City, MI 49686

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Request:

4. Requesting a variance from Section 6.8 of the Zoning Ordinance to exceed the maximum lot coverage of 15% up to 18%.

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 A

8

CIRCUIT COURT ORDER
OCTOBER 24-1957
Voucher No. 17-57

Dated Fri 15th day of July 1911
J. M. B. L. Faintant
Clerk And Gen. Secy.

REGISTERS OFFICE } ss
Grand Traverse County }
Received per return the 11th
day of August A.D. 1890
at 2 o'clock P.M. and recorded in
 Liber 2 of folio 5 engage 46
D. Phares Register.
By Geo B Wanner, Deputy

Exhibit B



Exhibit C

SITE PLAN

SECTION 18, T28N, R10W, PENINSULA TOWNSHIP
GRAND TRAVERSE COUNTY, MICHIGAN



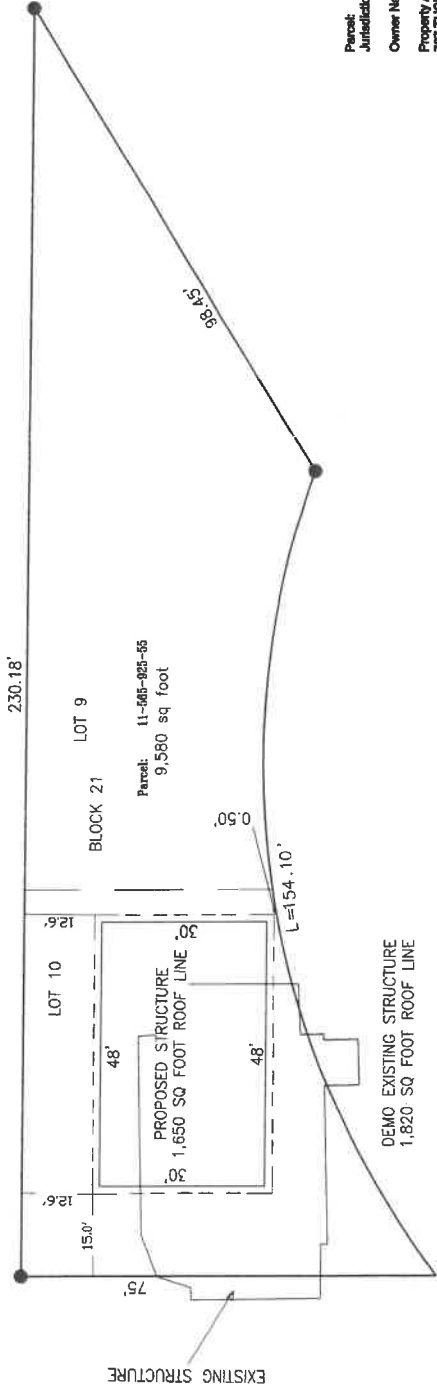
Know what's below.
Call before you dig.

VARIANCES NEEDED

FRONT REDUCED TO 0.5'
(CURRENTLY BUILDING HAS A NEGATIVE SETBACK AND FALLS INSIDE A ROAD)

REAR REDUCED 12.6'

FOOTPRINT REDUCED BY 170 SQ FEET
AND WOULD BE MORE CONFORMING OVERALL TO THE ZONING ORDINANCE.



10-03-2023



JESSE E. MITCHELL, P.L.S.
PROJECT MANAGER

Parcel: 11-565-925-65
Jurisdiction: Peninsula Township

Owner Name: MYERS MATTHEW B & KEEGAN L

Property Address:
707 TUCKER POINT
TRAVERSE CITY, MI 49686

Mailing Address:
14111 CABERNET COVE
TRAVERSE CITY, MI 49698

Tax Description
LOT 9 & 10 BLK 21 NEANTAWANTA, SEC 18 T28N-R10W...LOTS
COMBID FOR ZONING AND RECORDED IN 2008R-06718 SPLITCOMB.
ON 10/31/2008 COMPLETED BY GALLY; CRTSY 8PLT 2005-11; PARENT
PARCEL(S): 11-565-918-00, 11-565-925-00; CHILD PARCEL(S):
11-565-918-65, 11-565-925-65

LOCATION OF EXISTING UTILITIES

- EXISTING PUBLIC AND KNOWN UNDERGROUND UTILITIES ARE SHOWN ON THE PLANS. THE INFORMATION SHOWN IS BELIEVED TO BE CORRECT, HOWEVER, THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO THE START OF ANY CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND NOTICES FROM THE UTILITIES IN QUESTION.
- SPECIAL CARE SHALL BE TAKEN IN EXCAVATING IN THE PRESENCE OF ALL UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO THE START OF ANY CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND NOTICES FROM THE UTILITIES IN QUESTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL UTILITIES FROM DAMAGE DURING CONSTRUCTION.

SITE PLAN

SECTION 18, T28N, R10W, PENINSULA TOWNSHIP
GRAND TRAVERSE COUNTY, MICHIGAN

PROJECT INFORMATION

DATE: 10/03/2023
DRAWN BY: JESSE E. MITCHELL
FIELD CHECK: JESSE E. MITCHELL
REVIEWED BY: JESSE E. MITCHELL
PROJECT MANAGER: JESSE E. MITCHELL

DATE: 10/03/2023
DRAWN BY: JESSE E. MITCHELL
FIELD CHECK: JESSE E. MITCHELL
REVIEWED BY: JESSE E. MITCHELL
PROJECT MANAGER: JESSE E. MITCHELL

1

SHEET 1 OF 1

Bob Mitchell & Associates
PLANNING • ENGINEERING • SURVEYING • MANAGEMENT
1000 W. Main Street
Traverse City, MI 49686
Tel: 231.946.1234
Fax: 231.946.1235
Email: info@bobmitchell.com



Courtesy Split 2005-011

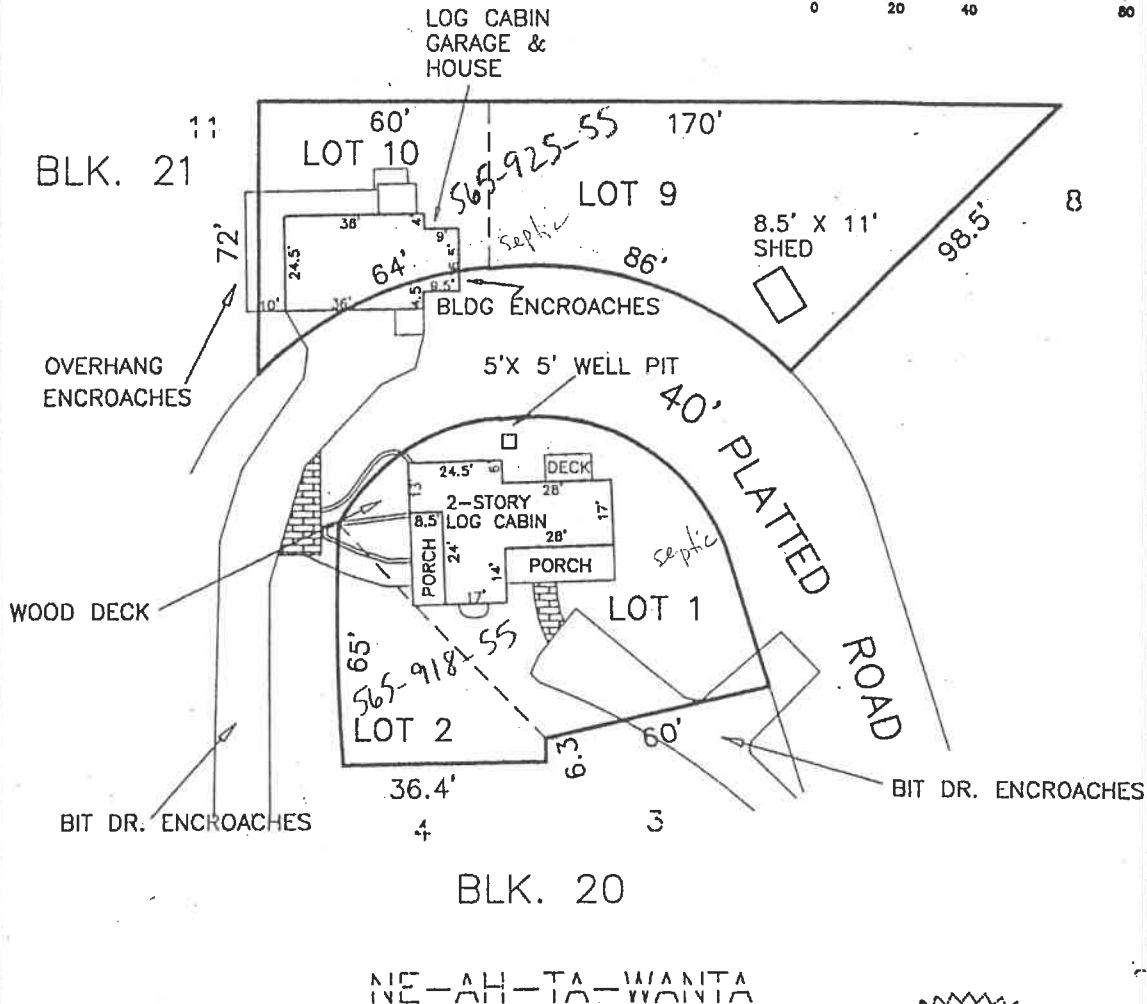
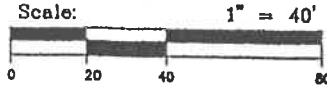
MORTGAGE INSPECTION

THIS DOES NOT CONSTITUTE A BOUNDARY SURVEY

DESCRIPTION: A parcel of land situated in the Township of Peninsula, County of Grand Traverse, State of Michigan, and described as follows to-wit:

AS FURNISHED: Lots 9 and 10, Block 21, AND Lots 1 and 2, Block 20, "Ne-Ah-Ta-Wanta", according to the recorded plat thereof.

SUBJECT TO all agreements, covenants, easements, reservations, and restrictions of record, if any.



I hereby certify to: FIRST CHICAGO NBD MORTGAGE CO.
and/or it's successors and assigns, that on the above described parcel of land that the existing buildings and substantial visible improvements are as shown and that there are no encroachments unless otherwise indicated.

ALTERATION OF ANY PART OF THIS DOCUMENT WITHOUT THE PERMISSION OF MITCHELL & ASSOCIATES, PC, IS PROHIBITED.

STATE OF MICHIGAN
CAROL A. WATTE
Professional Surveyor
No. 43074
DATE 11/10/98

NOTE: This inspection is for mortgage purposes only and should not be used to establish the property lines for the construction of improvements or the erection of fences. No responsibility is extended herein to the present, or future land owner or occupant, without the completion of a certified boundary survey.

CLIENT: FC NBD MORTGAGE CO.-MYERS
LOCATION: PART OF GOV'T LOT 3, SECTION 19, T29N-R10W PENINSULA TWP., GRAND TRAVERSE CO., MI



MITCHELL & ASSOCIATES
SURVEYING / ENGINEERING
4961 Corfield Road South, P.O. Box 306
Kingsley, MI 49649
(816) 263-5463 • FAX (816) 263-7921
Toll Free in Michigan 1-800-533-0827

OWN. KAS	DATE 11-4-98	FILE NO. 982083
CK. CAW	FLD. BK. 421 PG. 38	SHEET 1 OF 1

Exhibit D

10767 TRAVERSE HIGHWAY
TRAVERSE CITY, MICHIGAN 49684
PHONE 947-2460

GOVERNMENTAL BUILDING
P.O. BOX 335
BEULAH, MICHIGAN 49617
PHONE 882-4409

DIAGRAM

SEWAGE PERMIT
WELL PERMIT

DEPTH TO GROUND WATER TABLE

NO. OF BEDROOMS <u>1</u>	NUMBER OF BATHS <u>1</u>
SEPTIC TANK SIZE <u>500</u>	LAUNDRY <u>1/2</u>
TILE FIELD _____	DISHWASHER <u>1/2</u>
TRENCH WIDTH _____	GARBAGE DISPOSAL <u>1/2</u>
LINEAL FEET _____	OTHER _____
DRAIN BED <u>15' x 2'</u>	WATER SUPPLY: CITY _____ WELL <u>X</u> WELL TYPE <u>4"</u> DEPTH <u>210'</u> APPROVED _____
LINEAL FEET <u>150'</u>	
SQUARE FEET <u>450</u>	
TILE LINES ON <u>3'</u>	
OTHER _____	

PERMIT TO INSTALL, CONSTRUCT OR REPLACE
EXPIRES SIX (6) MONTHS AFTER DATE OF ISSUE

ISSUED TO Malibu Insurers
DATE 7-13-78 BY FRANKLIN P. Bickel
HEALTH DEPT REPRESENTATIVE V

RECEIPT

RECEIVED 3/20/70 FOR SEWAGE DISPOSAL PERMIT
3/21/70 FOR WELL PERMIT

AGREEMENT

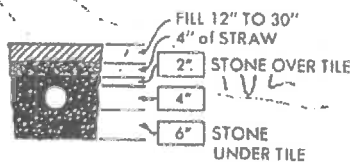
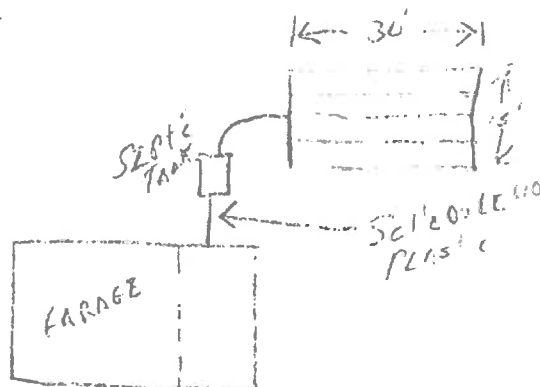
HEREBY AGREE TO COMPLY WITH REQUIREMENTS OF THE SANITARY CODE FOR THE COUNTIES OF GRAND TRAVERSE, LELANAU AND BENZIE, AND THE APPLICABLE LAWS OF THE STATE OF MICHIGAN IN THE INSTALLATION OF A SEPTIC TANK SEWAGE DISPOSAL SYSTEM &/OR WELL INSTALLATION ON THE ABOVE DESCRIBED PROPERTY, AND TO CONSTRUCT THE SAME ACCORDING TO THE PLANS AND SPECIFICATIONS AS DESCRIBED AND APPROVED ABOVE; OTHERWISE I UNDERSTAND, THE PERMIT WILL BE VOID

FINAL INSPECTION REQUIRED BEFORE COVERING. ONE DAY NOTICE SHALL BE GIVEN FOR INSPECTION.

SIGNED _____
OWNER OR AGENT

N

28. 061-565-918-00



ALLOW 1" SLOPE PER 50 FEET
OF TILE
1/2 - 1 1/2 IN. DIA. CLEAN & OR
WASHED STONE
4" OF STRAW TO BE PLACED
OVER STONE

ISOLATION DISTANCES FOR PRIVATE HOMES.

SEWAGE DISPOSAL SYSTEM SHALL BE LOCATED AT LEAST 50 FEET FROM ANY POTABLE WATER SUPPLY, WELL, SPRING, OR UNPROTECTED WATER SUCTIION LINE. BURIED OR UNEXPOSED SEWERS OR PIPES THROUGH WHICH SEWAGE MAY BACK UP SHALL NOT BE LOCATED CLOSER THAN TEN (10) FEET FROM ANY POTABLE WATER WELL OR SUCTIION PIPE. SUCH SEWERS OR PIPES SHALL BE CONSTRUCTED OF CAST IRON OR OTHER APPROVED (HEALTH DEPT.) MATERIAL.

CERTIFICATE OF INSPECTION
(PERMIT TO COVER)

SEWER _____ SEPTIC TANK _____

FINAL DISPOSAL _____ ISOLATION DIST. _____

NOTES Completed 4-27-78


INSPECTION BY _____ APPROVED _____
CONTRACTOR _____ NOT APPROVED _____

CONTRACTOR Travis Ray Good NOT APPROVED _____
APPROVAL OF A PLAN AND THE INSTALLATION CANNOT BE CONSIDERED BY THE
OWNER AS A GUARANTEE THAT SUCCESSFUL OPERATION IS ASSURED. THERE
ARE MANY WAYS A SYSTEM CAN BE ABUSED CAUSING FAILURE.

WATER WELL RECORD

ACT 294 PA 1965

MICHIGAN DEPARTMENT
OF
PUBLIC HEALTH

1 LOCATION OF WELL			3 OWNER OF WELL:		
County <u>Grand Traverse</u>	Township Name <u>Pearceville</u>	Fraction <u>N 5/8 W 1/2</u>	Section Number <u>19</u>	Town Number <u>29 N.B.</u>	Range Number <u>10 E.W.</u>
Distance And Direction from Road Intersections <u>1 1/2 mi. N of Knap's rd on</u> <u>MI-MANOWATON Pkwy.</u>			Address <u>Traverse City, Mich.</u>		
Street address & City of Well Location			4 WELL DEPTH: (completed) Date of Completion <u>47 ft.</u> <u>7-28-77</u>		
Locate with "X" in section below			5 <input type="checkbox"/> Cable tool <input type="checkbox"/> Rotary <input type="checkbox"/> Driven <input type="checkbox"/> Dug <input type="checkbox"/> Hollow rod <input type="checkbox"/> Jetted <input checked="" type="checkbox"/> Bored		
Sketch Map: 			6 USE: <input checked="" type="checkbox"/> Domestic <input type="checkbox"/> Public Supply <input type="checkbox"/> Industry <input type="checkbox"/> Irrigation <input type="checkbox"/> Air Conditioning <input type="checkbox"/> Commercial <input type="checkbox"/> Test Well		
2 FORMATION			7 CASING: Threaded <input checked="" type="checkbox"/> Welded <input type="checkbox"/> Height: Above/Below Diam. <u>4 in.</u> to <u>4 1/2 in.</u> Depth <u>47 ft.</u> Weight <u>11 lbs./ft.</u> Drive Shoe? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
THICKNESS OF STRATUM			8 SCREEN:		
DEPTH TO BOTTOM OF STRATUM			Type: <u>S.S.</u> Dia.: <u>4"</u> Slot/Groove <u>0.010</u> Length <u>5'</u> Set between <u>4 1/2</u> ft. and <u>4 1/2</u> ft. Fittings:		
SAWD - STONE			9 STATIC WATER LEVEL <u>17</u> ft. below land surface		
WATER SAWD			10 PUMPING LEVEL below land surface _____ ft. after _____ hrs. pumping _____ g.p.m.		
Clay			_____ ft. after _____ hrs. pumping _____ g.p.m.		
WATER SAWD			11 WATER QUALITY in Parts Per Million: Iron (Fe) _____ Chlorides (Cl) _____ Hardness _____ Other _____		
			12 WELL HEAD COMPLETION: <input type="checkbox"/> In Approved Pit <input checked="" type="checkbox"/> Pitless Adapter <input checked="" type="checkbox"/> 12" Above Grade		
			13 Well Grouted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Neat Cement <input type="checkbox"/> Bentonite <input checked="" type="checkbox"/> <u>SAWD</u> Depth: From _____ ft. to _____ ft.		
			14 Nearest Source of possible contamination <u>50</u> feet _____ Direction <u>south</u> Type _____ Well disinfected upon completion <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
			15 PUMP: <input type="checkbox"/> Not installed Manufacturer's Name <u>1967</u> Model Number <u>112</u> HP <u>1/2</u> Volts <u>115</u> Length of Drop Pipe <u>31</u> ft. capacity <u>17</u> G.P.M. Type: <input checked="" type="checkbox"/> Submersible <input type="checkbox"/> J81 <input type="checkbox"/> Reciprocating		
16 Remarks, elevation, source of data, etc.			17 WATER WELL CONTRACTOR'S CERTIFICATION: This well was drilled under my jurisdiction and this report is true to the best of my knowledge and belief. <u>J.H. Well Drilling Co.</u> REGISTERED BUSINESS NAME _____ REGISTRATION NO. _____ Address <u>10725 Co. Rd. 100, P.O. Box 100, P.O. Box 100</u> Signed <u>J.H. Well Drilling Co.</u> Date <u>8-11-77</u> AUTHORIZED REPRESENTATIVE		

GRAND TRAVERSE, LEE LANAU & BENZIE DISTRICT HEALTH DEPARTMENT

10767 TRAVERSE HIGHWAY
TRAVERSE CITY, MICHIGAN 49684
PHONE 947-2460

BENZIE MEDICAL
CARE FACILITY
FRANKFORT, MICHIGAN 49635
PHONE 352-9634

NO. 11165

SEWAGE PERMIT ☒
WELL PERMIT ☐

CM - 223-7182

DIAGRAM

28-011-565-918-00

OWNER MATTHEW MYERS
ADDRESS P.O. Box 646 PH. 665-7794
TYPE OF ESTABLISHMENT CABIN NEW ☐ EXISTING ☐
LOCATION 111 - 27 - 717 - KIANTA
TOWNSHIP OR CITY LEE LANAU SECTION 1
COUNTY GRAND TRAVERSE DATE 8-23-76

SOIL:

SOIL TYPES TO A DEPTH OF 6'

DEPTH TO GROUND WATER TABLE

NO. OF BEDROOMS <u>3</u>	COMPLETE PLUMBING <u>YES</u>
SEPTIC TANK SIZE <u>1100</u>	NUMBER OF BATHS <u>1</u>
TILE FIELD	LAUNDRY <u>NO</u>
TRENCH WIDTH	DISHWASHER <u>NO</u>
LINEAL FEET	GARBAGE DISPOSAL <u>NO</u>
DRAIN BED	OTHER
LINEAL FEET <u>200</u>	WATER SUPPLY:
SQUARE FEET <u>600</u>	CITY <u>NO</u> WELL <u>YES</u>
TILE LINES ON <u>3</u>	WELL TYPE <u>4" Submersible</u>
OTHER	DEPTH <u>40'</u>
	APPROVED

PERMIT TO INSTALL, CONSTRUCT OR REPLACE
EXPIRES SIX (6) MONTHS AFTER DATE OF ISSUE

ISSUED TO Matthew Myers
DATE 8-24-76 BY Kim N. Lofgren
HEALTH DEPT REPRESENTATIVE

RECEIPT

RECEIVED 8-24-76 FOR SEWAGE DISPOSAL PERMIT
8-24-76 FOR WELL PERMIT

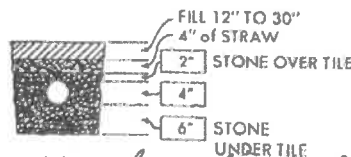
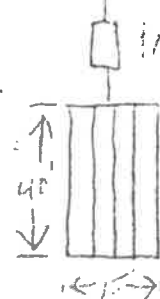
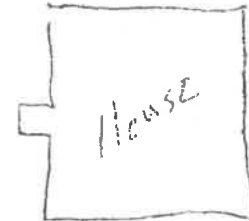
AGREEMENT

I HEREBY AGREE TO COMPLY WITH REQUIREMENTS OF THE SANITARY CODE FOR THE COUNTIES OF GRAND TRAVERSE, LEE LANAU AND BENZIE, AND THE APPLICABLE LAWS OF THE STATE OF MICHIGAN IN THE INSTALLATION OF A SEPTIC TANK SEWAGE DISPOSAL SYSTEM &/OR WELL INSTALLATION ON THE ABOVE DESCRIBED PROPERTY, AND TO CONSTRUCT THE SAME ACCORDING TO THE PLANS AND SPECIFICATIONS AS DESCRIBED AND APPROVED ABOVE; OTHERWISE I UNDERSTAND, THE PERMIT WILL BE VOID

APPLICANT'S SIGNATURE (OWNER OR HIS REPRESENTATIVE)

FINAL INSPECTION REQUIRED BEFORE COVERING. ONE DAY NOTICE SHALL BE GIVEN FOR INSPECTION.

SIGNED Matthew Myers
OWNER OR AGENT



ALLOW 1" SLOPE PER 50 FOOT OF TILE
4 - 1 1/2 IN. DIA. CLEAN & OR WASHED STONE
4" OF STRAW TO BE PLACED OVER STONE

New house being built other one burned down. House to be the same size. Inspected 4-10-78 F.D.C.

ISOLATION DISTANCES FOR PRIVATE HOMES:

SEWAGE DISPOSAL SYSTEM SHALL BE LOCATED AT LEAST 50 FEET FROM ANY POTABLE WATER SUPPLY, WELL, SPRING, OR UNPROTECTED WATER SUCTION LINE. BURIED OR UNEXPOSED SEWERS OR PIPES THROUGH WHICH SEWAGE MAY BACK UP SHALL NOT BE LOCATED CLOSER THAN TEN (10) FEET FROM ANY POTABLE WATER WELL OR SUCTION PIPE. SUCH SEWERS OR PIPES SHALL BE CONSTRUCTED OF CAST IRON OR OTHER APPROVED (HEALTH DEPT.) MATERIAL.

CERTIFICATE OF INSPECTION
(PERMIT TO COVER)

SEWER _____ SEPTIC TANK _____

FINAL DISPOSAL _____ ISOLATION DIST. _____

NOTES Completed 8-24-76

INSPECTION BY _____ APPROVED _____

CONTRACTOR Myers & Sons Co NOT APPROVED _____

APPROVAL OF A PLAN AND THE INSTALLATION CANNOT BE CONSIDERED BY THE OWNER AS A GUARANTEE THAT SUCCESSFUL OPERATION IS ASSURED. THERE ARE MANY WAYS A SYSTEM CAN BE ABUSED CAUSING FAILURE.

Exhibit E

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 MATT + KEBBAN MYERS
Address Line 1 625 TUCKER PT, TVL, MI 49686
Address Line 2 701 TUCKER PT, TVL, MI 49686
Phone _____ Cell 231 392 3503 / 231 392 3555
E-mail MATT@M22.COM / KEM22.COM

Owner: Name SAME AS ABOVE
Address Line 1 _____
Address Line 2 _____
Phone _____ Cell _____
E-mail _____

(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 11-565-925-55 Zoning R1B
Address Line 1 707 TUCKER PT, TVL, MI 49686
Address Line 2 _____

Type of Request

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

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> Front Yard Setback | <input type="checkbox"/> Side Yard Setback | <input checked="" 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

- ☒ ⁽²⁾ \$1,000.00 application fee
- ☒ Basic Conditions Worksheet
- ☒ Site plan drawn to scale showing the following:
- 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;
 - All existing and proposed structures including decks and roof overhangs;
 - Setbacks for existing and proposed structures (varies by zoning district).
- ☒ ^{NA} 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, LOT IS TOO NARROW. EXISTING
STRUCTURE BUILT IN 1977.

- 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, EXISTING STRUCTURE. NON-EXISTANT
PLATTED ROAD IS THE ISSUE.

- 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, TRUE HARDSHIP.

- 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, NEAHTAVANTA PLAT NEEDS
UPDATED TO MEET CURRENT STRUCTURES + USES.

- 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, OUR FAMILY OWNS ALL
HOUSES + BUILDABLE OPTIONS SURROUNDING PARCEL.
NO OTHER FAMILY / NEIGHBOR / PUBLIC WILL BE
IMPACTED IN ANY WAY.

- 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.

Image/Sketch for Parcel: 11-565-925-55



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Image/Sketch for Parcel: 11-565-925-55



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Minutes

PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686
Ph: 231.223.7322 Fax: 231.223.7117
www.peninsulatownship.com

PENINSULA TOWNSHIP ZONING BOARD OF APPEALS MINUTES

August 1, 2023
7:00 p.m.

1. **Call to Order** by Dolton at 7:00 p.m.
2. **Pledge**
3. **Roll Call** Dloski, Wahl, Dolton, Cram-Director of Planning and Zoning, Wikar- Planning and Zoning Administrator, Chris Patterson- township attorney. Absent- Ammerman, Elliott has resigned from the board effective today, August 1, 2023. Wikar was introduced by Cram.
4. **Approval of Agenda** Dloski moved to approve the agenda with a second by Wahl.
Approved by Consensus
5. **Conflict of Interest** None
6. **Brief Citizen Comments – (for items not on the Agenda)** None
7. **Business:**
 - a. Approval of Minutes from the May 16, 2023, Regular Meeting
Dahl moved to approve the minutes with a second by Wahl. **Approved by Consensus**
8.
 - a. Policy Discussion Non-conforming Uses and Structures
Cram- There have been some questions regarding how the ZBA has interpreted some of the aspects of non-conforming uses and structures. I have also discovered there have been land use permits issued for the expansion of non-conforming uses that did not come before the ZBA and they should have. I have also reviewed the minutes of the ZBA and there may be some confusion about how we handle the replacement of non-conforming structures. The minutes from the township board meeting on July 11, 2023, are included so that the ZBA is aware of the outcomes the township board, our elected body wants to see based on the zoning ordinance, the master plan and community input. Land use permits have been issued that violate our zoning ordinance. Some were issued that did not follow the appropriate process of coming before the ZBA and this is concerning to the board. The board does not want to see non-conforming structures expanded vertically (going up) or horizontally (going

out) unless it is for sanitation or safety.

Section 7.5 Non-Conforming Uses and Structures: (REVISED BY AMENDMENT 171B)

Section 7.5.1 Intent and Purpose:

Non-Conforming Use. *At the discretion of the owner, the lawful use of any building, structure, land or premises existing prior to the effective date of this Ordinance, although the use does not conform to the provisions of this Ordinance, may be continued; and such use of any building may be extended throughout such building, provided no structural changes be made therein except those required for safety and sanitation.*

Cram- one example of an appropriate expansion to a non-conforming use might be if someone is proposing an addition to an existing non-conforming structure to increase the size of their bathroom to make it ADA compliant for a wheelchair. Another example is where someone has an internal spiral staircase that does not meet the current construction code. For them to meet the construction code for safety, they need more space. They may need to expand vertically to obtain the rise and horizontally for the required run. These are examples of the types of additions related to safety and sanitation.

Dolton- I am not happy with the word “use”, which is a loaded word for zoning concerns. Use implies different items; are we talking about residential versus commercial versus agricultural. The ZBA does not deal with changes of use, and use will stay the same.

Cram- you recently saw an application where they wanted to convert existing boat storage into a finished laundry room connected internally to the existing dwelling. It is true that the ZBA cannot approve exceptions for uses not authorized by the zoning ordinance but does consider how the use of spaces may change. Both uses of the same space are accessory to the overall residential use of the property and are allowed uses in the zoning ordinance. We do need to look at these spatial relationships.

Section 7.5.1 Intent and Purpose:

Non-Conforming Structure. *It is the intent to allow the continued use of a non-conforming structure. It is also the intent that the Zoning Board of Appeals may grant a variance to move or reconstruct a non-conforming structure where the structure was legally built on parcels that would be otherwise unbuildable due to overlap in the yard requirements. It is not the intent to allow significant increases in the intensity of previously established residential use on otherwise unbuildable lots. It is not the intent to allow the construction of a residence on a vacant parcel where yard requirements meet or overlap such that there is no buildable area on the parcel.*

Cram- adding to the footprint or adding another floor/story even if you are not adding bedrooms can increase the intensity of the use. A larger footprint or increased floor area may require more parking on site or displace other uses of the property.

Dloski- then we would need to take out the word “significant” because that implies you could grant an increase of anything which is not significant. I think this is the same as 7.5.6, which says “substantially” the same. What does that mean?

Wahl- if a cottage meets all the setbacks and there is a request to go up vertically, this might include an increase in the intensity of use.

Dolton- this board has considered those types of cases in the past and used that for basic condition denials. Items a and b under 7.5.1 are both intent paragraphs and they do not offer specific standards for approval.

Cram- you want to look at both intent and purpose to understand where and how the standard should be applied.

Dolton- is there a measurable standard we can apply? If not, we need to choose our words more carefully.

Dloski- if the township board does not want to expand non-conforming structures, then you have to take the word significant out. It is not the intent to allow increases in the intensity of use. We have to wrestle with what is significant or what is not significant.

Wahl- for me use and structure are different, so when you think of the non-conforming use, then there needs to have a provision with regard to the use of the structure. One of my issues is when you go down to 7.5.4 about the repair and alterations of non-conforming structures, we are talking about altering a non-conforming structure, which is generally what people are looking at doing. We have a non-conforming structure we want to alter in some way by doing an addition. As a board we would like tighter language.

Cram- understood. moving on to

Section 7.5.2 Change of Use: *Whenever the non-conforming use of any structure or land is changed in whole or in part to a conforming use, such use shall not thereafter be reverted to any non-conforming use. If the non-conforming use of any building, structure or land is discontinued through vacancy, lack of operation or otherwise for a continuous period of twelve (12) months, then any future use of said building, structure or land shall conform, in its entirety, to the provisions of this Ordinance; provided, however, that the Board of Appeals may, upon application within six (6) months of the termination of said period, permit the resumption of such non-conforming use.*

Cram- if the non-conforming use ceases to exist for 12 months, then it cannot revert back.

Dolton- one of the properties we looked at well over a year ago was on Bluff Road. They wanted to raise the foundation and go up another story and have road level parking. This was denied for several different reasons and lost on an appeal. They gutted the building, and it is not being lived in as a residence any longer; how would this section apply if they do not sell it and have a new owner within 12 months.

Cram- the use of the property is still residential. Someone could come in and repair the non-conforming structure and use it residentially. As an example, someone recently asked me

about Old Mission Associates Landscaping. The property is not zoned commercially, but the business is there. Someone asked if they could expand the use on the property. I pulled the parcel file, and learned before it was Old Mission Associates, the building had been used for a well drilling company. This was prior to the adoption of the zoning ordinance. The uses of the property were similar in nature and the zoning administrator allowed them to continue to use the property for a similar business but made it clear that the business was limited to what existed. If Old Mission Associates decided to sell and move and if the property was vacant for a year, then no one could come back in and use this for a business or commercial property.

Dolton-the word "use" is clear and a situation like this would probably not come before the ZBA.

Cram-you would only see it if the zoning administrator determined the use had ceased to exist for over a year and the applicant disagreed with the determination and then they could appeal the determination to all of you and then you would have to consider the facts.

Section 7.5.3 Reconstruction of Damaged Non-Conforming Structure: *Nothing in this Ordinance shall prevent the reconstruction, repair or restoration and the continued use of any non-conforming building or structure damaged by fire, collapse, explosion, acts of God or acts of the public enemy, subsequent to the effective date of this Ordinance, wherein the non-conforming user has first obtained the approval of the Board of Appeals, wherein the Board of Appeals has first determined that the continued use will be substantially the same as the previous non-conforming use and that such continued use will not be detrimental to the health, safety and welfare and that substantial justice is achieved.*

Cram-these are events that are outside the owner's control and the structure could be rebuilt in a similar fashion as what existed before the disaster.

Wahl- suppose a house was in disrepair and went into foreclosure.

Cram- the structure has not been destroyed or damaged. The structure might need improvement and repair. This applies if someone lost a building to fire or flood. The property could be rebuilt to what was destroyed.

Section 7.5.4 Repair and Alteration of Non-Conforming Structure: *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 insure the continued advantageous use of the building or structure; provided, however, that such repair, alteration, reinforcement, improvement or rehabilitation proposes no change in the use of said building or structure or any part thereof.*

Cram-a person can update the electrical, put on a new roof, or replace windows. What cannot be changed is the footprint/floor area of the building.

Section 7.5.5 Additions to Non-Conforming Structure:

- (1) *The Zoning Administrator shall issue a land use permit for an addition to a lawful non-conforming structure provided all of the following are met: (SEE FIGURE 3)*
 - (a) *the addition is not located in any required yard or ordinary high water mark*

setback; and

- (b) *in addition to the above yard and ordinary high water mark setback requirements, all other applicable dimensional requirements on the subject parcel shall be satisfied (other than what is lawfully non-conforming).*

(REVISED BY AMENDMENT 176A) (REVISED BY AMENDMENT 190)

Cram-if someone wants to do an addition to a non-conforming structure and it meets all the dimensional requirements, the request does not have to go before the ZBA. They could get a land use permit.

Dloski-if I have a 1,200 square foot house and I want to put a 1,200 square foot addition, I could do that?

Cram-if the structure was non-conforming with regard to say the ordinary high-water mark, that second floor addition would also be non-conforming. The zoning administrator could not issue a land use permit and the request would have to come before the ZBA.

Dloski-so not meeting the setbacks on any expansion of a non-conforming structure cannot be approved administratively by the zoning administrator.

Cram-an addition to a non-conforming structure can be approved if the addition meets the dimensional requirements. You are not increasing the non-conformity.

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)*

Dolton- based upon these it would be difficult to have any kind of significant expansion.

Wahl-one problem occurs with the Neahtawanta properties because there are many small lots; these are the outliers.

Cram-as this is the only zoning ordinance we have, this needs to apply to these situations as well. Please bring any questions you have, and we will get them answered for you.

Dloski-I think we should make Section 5.7.3 consistent with the definition of practical difficulty in the zoning ordinance.

Dolton-is unnecessary hardship generally a standard for use variances whereas practical difficulty is for dimensional variances? What the ZBA looks at are dimensional variances.

Patterson- if you get a potential use question, but you don't have an explicitly stated standard other than asking, you can make a decision.

Wahl-so unnecessary hardship and practical difficulty have two separate standards depending on what type of variance is being requested. The interpretation is different under the law, and maybe not our ordinance if you need to have more consistency. My understanding is one standard is more difficult to prove than the other.

Dolton-say they met one of the standards under discontinuation or vacancy or lack of operations or some other reason for that 12-month period, so she is denying them the right to continue with the prior use because the time frame has expired. For approval for that continuing use, the ZBA cannot grant that approval. It would have to be the township board that would say yes; we could not allow some other non-conforming use to that property.

Dloski-let me ask this question regarding 7.5.2 regarding the last two lines. "that the Board of Appeals may, upon application within six (6) months of the termination of said period, permit the resumption of such non-conforming use." Are we not granting a use variance, which the zoning board of appeals does not have the authority to do?

Patterson-no, you're not. The way that section is articulated by most municipalities is present here, which is asking to align a durational aspect.

The Policy Discussion on Section 7.5 Nonconforming Uses and Structures ended.

Cram-we have had some trouble with the notice for the August 15, 2023, meeting and I am wondering if you are available for a special meeting on August 22, 2023?

Dloski, Dolton, and Wahl are available, which does constitute a quorum for voting.

9. Citizen Comments

Jennifer Coleman 10800 Peninsula Drive- I appreciate the conversation here tonight. How are the words "intensity" and "use" being used? When I hear the word use I think is it residential, a business or agricultural? That is my framework. There are different definitions of intensity, and this word needs to be clarified. I think about traffic increases and density. I do not think of intensity when someone puts an addition on their house, unless they are going to have 10 more people live there or they are changing how it is being used. I want to make sure we are using common sense when we talk about residential structures. As we get clearer about what the intent is, how do we apply those standards to recent changes in use. I look at houses that are clearly commercial. How do we as a community address those boo-boos, which have occurred? Is there a mechanism to change that or is this grandfathered as long as it was used this way?

Cram-for someone to have a legally non-conforming use, the use would have to exist prior

to the adoption of the zoning ordinance in 1972 and continued to be used in that manner currently. If something has changed the use of a structure in the last year that you believe is a commercial use in a residential structure, you can come in and talk to planning and zoning because if this is the case, this could constitute a violation that we can address. We do not want this to go on for many, many years, especially if it has negative impacts to neighbors.

Dolton-if a variance was granted for a particular use, and that use has continued, the variance runs with the property, correct?

Cram-that is correct.

Dolton-it can be difficult to stop a use if it was granted by variance at one point in time or was permitted without coming before the ZBA.

Cram-if there is a machine shop being used in a residential district, this needs to be brought to our attention and we can do the research. Was that use granted by a variance in 1980 and continued to be used in that manner or did it exist prior to our zoning ordinance in 1972.

Coleman-consistency and common sense in these issues is vital. So, if I have a farmhouse with an unattached garage, and I want to build a corridor between the two so my 80-year-old mom can get from the car to the house without falling on the ice, this seems to be an issue of safety. Thank you.

Dolton: how does the Americans with Disabilities Act (ADA) impact our decisions on a dimensional variance, where they need to expand to get a wheelchair out or something like that? Do we have discretion?

Patterson-yes, this works in 2 ways. You are going to get documentation, so the federal law requirements are satisfied and whether it is a reasonable accommodation. That is the standard you are going to use based upon the facts the applicant presents. The determination you make needs to be consistent with that practical difficulty of the dimensional variance. Is the request to vary the dimensional standard or is it necessary for a workplace? Is this a reasonable accommodation to change a side yard setback?

Dolton-one of things we do not generally do is tell someone how to structure the interior of their home. We do not care if there are 2 bedrooms and an office or 3 bedrooms. We are looking at the dimensional issue and lot coverage, for example. If someone comes to us that has had a recent injury or we need to remodel the bathroom because we need to accommodate a wheelchair and the space is not big enough, so we need to add an addition to our home. One of the potential items we can look at is this a reasonable request. Could they change the interior of the home to accommodate this larger bathroom without needing to push the house out or is that an unreasonable request?

Patterson-you need to look at the finding of facts. Your 4 standards for practical difficulty would probably suffice.

Nancy R. Heller 3091 Bluewater Road-I have some real concerns. This does not have anything to do with the zoning board of appeals, but the procedure. The citizens need to be educated and communicated with. They do not have a clue that the ordinance is the holy grail. I look at the invoice list of the township board monthly and money is going to defend lawsuit after lawsuit. I have lived in this township for 53 years. I heard interpretations here I

have never heard of until tonight. I have not heard of these and that is normal in that I have never had an application that applied to it. I am, however, thinking of someone who might have, and your average resident of this township does not have a clue. It is not in my back yard. No one is concerned until it personally affects them. How as a township can we communicate and educate them on the importance of the ordinance, the importance of individual applications, and stating there are consequences; you have time limits. It is the individual's responsibility to educate themselves. In truth, how many of us are 100% educated. You might miss something or misinterpret something. I think we are losing our sense of community because enforcement isn't taking place. People were not aware of the limitations and there are limitations. You have a new ZBA board member coming in and I would be very conscientious in how you interpret your decisions.

Dolton- I would like to compliment the newsletter, which over the past years has become a much more robust, transparent document than it used to be. That would be an excellent space to have a standing place about the ordinance, the importance of the ordinance, and the need to talk to the township if you are contemplating doing anything to your property or buying a property. Don't rely on a realtor to gain knowledge of the property's past. If the community does not like the ordinance, which is a living document, there are ways to change it. We like to keep our personal viewpoints of the ordinance out of our decisions. That is not our role.

Heller- I call the newsletter the newspaper as it has become so incorporated with other information on the first page. People are busy and maybe they do not have time to read the entire newsletter and if people have time, they will. There is such disenchantment out there. We are living in a world if I don't get my way, I am going to sue. I have lived through many different town boards and zoning board of appeals and each change has brought different interpretations. I think we need to keep this in mind, I do not know what the answer is. I know as a human, if I do not get my way, then I am going to look at other sources.

Kim Coleman 6899 Peninsula Drive- I was born and raised here in the house my mother still lives in here on the peninsula. My father recently passed, and he served on this board back in the 70s and 80s. My husband and I purchased our home approximately 12 years ago. It was built in the 50s with very few updates. It is a cottage as described. It has served us quite well as a seasonal home and cottage, but now as we move into another stage of our lives, which includes grandchildren and supporting an aging parent, our needs have changed. I think the discussion here is very relevant to our situation and we will be coming before you hopefully within the next month. I am going to share a letter from my husband, who could not be here tonight. (See the letter at the end of minutes to become part of the public record).

Cram- just for a point of clarification, this discussion was scheduled with a regular meeting of the ZBA in July. The business item scheduled was withdrawn because they had issues and the meeting was cancelled. It is important we have this meeting and the ZBA can call a special meeting when necessary. I know the announcement of this meeting was posted well in advance of the 18 hours. This notice went out in an email blast and was posted on the website.

Jennifer Coleman- regarding community, let's make sure we are both working toward the same intent to resolve any issues. I've worked on public boards, and I have worked on school boards, and I understand the noticing process and it is very important to meet engagement and not just to meet the letter of the law when we call a meeting. I can call a meeting with 18-hour notice, but is that the outcome I want? Perhaps if I want participation, 18 hours is not going to do it.

Cram-any changes to the zoning ordinance will have plenty of public notice. This would have to go before the planning commission and the township board. There would be public discussion at all those meetings.

Heller-again communicate and educate. All Jennifer would have had to do was go on the website. Why aren't people using the website; this is a person's responsibility. I had to look at individual driver's licenses for several years. People would come in with these expired driver's licenses and felt it was my responsibility and the state's responsibility to remind them; it was not my job to tell them their driver's license had expired. We as residents have lost the sense of responsibility. We need to inform ourselves.

Dolton-perhaps the special meetings can appear on the first page of the website?

Wahl-I have been a member of this board for over 2 years, and this is the first time we have had a discussion like this.

Cram-we will have more discussions regarding policy, but they cannot occur at a regular meeting where we have a case. We just don't have the time there.

10. Board Comments None

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

Approved by Consensus

Adjournment at 8:37 p.m.