

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

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

1. Call to Order by Dolton at 7:00 p.m.
2. Pledge
3. Roll Call of Attendance Elliott, Dolton, Soutar, Wahl, Dloski. Deeren, Director of Zoning. Meihn Township Attorney on teleconference.
4. Approval of Agenda Dloski moved to approve the agenda, second by Elliott passed unan
5. Conflict of Interest None
6. Brief Citizen Comments – for items not on the Agenda None
7. Old Business Tabled from November 16, 2021

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

Owner: William W. Carruthers Trust, 2217 Bedford Terrace, Cincinnati, Ohio 45208

Applicant: Jim Carruthers, 218 E. Eleventh St., Traverse City, MI 49684

Property Address: 14114 Bay View Ave., Traverse City, MI 49686

1. Requesting a variance from the required thirty (30) foot front yard setback to a two (2) foot setback off of the front property line in order to construct a 12 foot by 24 foot 288 square foot detached garage.
2. Requesting a variance from the required fifteen (15) side yard setback on the northerly line to a fourteen (14) side yard setback in order to construct a 12 foot by 24 foot 288 square foot detached garage.

Parcel Code # 28-11-680-004-00

Jim Carruthers, 218 E. Eleventh St., Traverse City, Mi 49684, representing Bill Carruthers of 14114 Bay View Ave, Traverse City, MI 49686: when we were here on November 16, 2021, there were additional questions regarding the variance request of the 2 foot setback off the front of the property to build the garage. The question was could the garage be built further back on the property. I have resubmitted the site plan showing the location of the septic system, which is 3 feet off the eastern back part of the garage. It would not be possible to move it back any further. The structure itself does meet the side yard setback requirement of 15 feet, but I was not aware we would need a 14 inch variance for the roof overhang and we are now asking for the air rights to be able to have the roof line extend over the 15 foot setback. This is very minimal. This is an unheated structure and it is not going to be used for housing. This is for

storage only. Does the board have any further questions?

Dolton: why is it not possible to move the garage back toward the septic system?

Carruthers: building on top of the septic system seems unwise. I cannot tell you how old that system is. Our septic people are telling us the system is working properly and I do not want to take a chance on damaging a working septic. I had the surveyor come back and add it to the site plan as you requested. I do not want to disturb the earth or place heavy equipment on that area during building.

Deeren: I have been concerned about this as well. We do not know what way the pipe is running into the tank and if the pipe were to get crushed or begin leaking underground, we would have a big mess. They would also need access if the tank ever needed to be replaced. The other concern is about cutting the curb.

Carruthers: I do not have to cut the curb. This was something my grandparents put in about 50 years ago to stop some of the water runoff from the private road. I could put up ramps whenever moving something in or out of the garage. The runoff became more of a concern when our neighbors built a home that I heard required 5 variances to construct. We supported them and as we are downhill from them, the water runoff has become more of an issue.

Deeren: if this is approved, because it is within 500 feet of the lake, he will still need to pull a storm water permit. This is an automatic application and another fee you need to pay. You would not want to cut the curb as it is keeping water from flowing into your property and house. If the board puts in the stipulation the curb cannot be cut, that goes with the property in perpetuity. This would apply to any new owner of the property in the future.

Dolton: is there anyone here who would like to speak in favor of this application?

Monnie Peters 1425 Neahtawanta Road: what needs to be remembered in this area considered the downtown on Neahtawanta is it was designed before there were cars in 1890. Most of the houses were built in the first two decades of the 1900s, long before zoning. From this community perspective, the lawn down below is community property and has been used for drain fields and not for structures. This garage would give the Carruthers a place to store items such as a lawn mower and other pieces of equipment. This is a good solution for this situation and I completely support their request for this variance.

Brit Eaton 1465 Neahtawanta Road: as a resident of Neahtawanta and Old Mission Peninsula, I support granting a variance to Bill Carruthers for building a new garage structure with only a 14 side yard setback and 2 feet off the platted road (see letter end of minutes).

Dolton: is there anyone who wishes to speak against the variance request? Seeing no one, the discussion now comes back to the board. Asks Deeren if she has any additional comments.

Deeren: the applicant has brought in all of the information the board requested back in November, 2021.

Dloski: this could be constructed without a variance and I have real concerns about granting this request. The garage may not be exactly where they would want it on the property, but it could be built without a variance.

Wahl: the situation with curb cutting concerns me. Putting in a stipulation that the curb could not be cut would be important to me.

Elliott: they really cannot build this anywhere else. I understand not wanting to build the garage at all if it cannot be here.

Soutar: you have done your due diligence and presented us with all the information we requested. While you could move the garage back, I understand the special circumstance and am in favor of the request.

Dolton: granting of a variance requires meeting 6 conditions. If the conditions are met, the board moves to approve the request. Each variance request is voted on separately.

Wahl moved to vote on the 6 conditions with a second by Elliott passed unan

Section 5.7.3 (1) BASIC CONDITIONS: The applicant must meet ALL of the following Basic Conditions.

1. That any variance from this Ordinance: a) That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.

Yes: Elliott, Dolton, Soutar, Wahl Condition has been met

No: Dloski Condition has not been met

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

Yes: Elliott, Dolton, Soutar, Wahl Condition has been met

No: Dloski Condition has not been met

3. That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)

Yes: Elliott, Dolton, Soutar, Wahl Condition has been met

No: Dloski Condition has not been met

4. That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

Yes: Elliott, Dolton, Soutar, Wahl Condition has been met

No: Dloski Condition has not been met

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

Yes: Elliott, Dolton, Soutar, Wahl Condition has been met

No: Dloski Condition has not been met

6. That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.

Yes: Elliott, Dolton, Soutar, Wahl Condition has been met

No: Dloski Condition has not been met

Deeren: all 6 conditions passed.

**Soutar: Moved to approve variance request number 897 item number one with the following codicil attached, the owners must leave the curb cut and the drainage intact as is or any alteration would trigger the need for a site assessment for drainage adequacy, Wahl second Roll call vote-Yes: Soutar, Wahl, Dolton, Elliott
No: Dloski passed**

Elliott moved to go through the 6 conditions for variance request number 2 with a second by Soutar. passed unan

Section 5.7.3 (1) BASIC CONDITIONS: The applicant must meet ALL of the following Basic Conditions.

1. That any variance from this Ordinance: a) That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.

Yes: Elliott, Dolton, Soutar, Wahl Condition has been met

No: Dloski Condition has not been met

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

Yes: Elliott, Dolton, Soutar, Wahl Condition has been met

No: Dloski Condition has not been met

3. That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)

Yes: Elliott, Dolton, Soutar, Wahl Condition has been met

No: Dloski Condition has not been met

4. That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

Yes: Elliott, Dolton, Soutar, Wahl Condition has been met

No: Dloski Condition has not been met

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

Yes: Elliott, Dolton, Soutar, Wahl Condition has been met

No: Dloski Condition has not been met

6. That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.

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No: Dloski Condition has not been met

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Deeren: 6 out of 6 pass.

Wahl: Moved to approve variance request number 897 item number 2 with a second by Soutar.

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

No: Dloski

passed

Deeren: Variance request 897 is granted.

8. New Business

1. Request No. 898, Zoning R-1B

Owner: Roseanne E. Bachor Trust, 4630 Rivers Edge, Troy, MI 48098

Applicant: Roseanne E. Bachor Trust, 4630 Rivers Edge, Troy, MI 48098

Property Address: Dunn Drive, Traverse City, MI 49686

1. Requesting a variance from the required fifteen (15) percentage lot coverage to seventeen-point two (17.2) percentage of lot coverage in order to construct a single family residence.

Parcel Code # 28-11-555-009-00

Rosanne Bachor 4630 Rivers Edge Troy MI 48098: I have owned the property on Dunn Drive for over 37 years and I now have an opportunity to do something with the property. I hired an architect to draw up some plans. We followed the zoning ordinances found on the township website. In talking to the zoning department, I found out in measuring the building area we had to include the drip line in the calculation. This put me over on the lot coverage requirement. As it stands right now, I am over strictly because of the over hangs. I went back and worked with the architect to reduce some of the room sizes and the size of the garage. I cannot make this work, so I am here requesting this variance. If I need to reduce it any further, it is not a house I want to build and not a house I would want to live in. I am looking to age in place with this house and have included some ADA requirements. I have a large family and would like the house to be large enough to accommodate them for visiting. I also need the storage area in the garage. The overage is strictly from the drip line requirement and that is why I am here asking for a variance.

Dolton: does the board have any questions for the applicant?

Dloski: I have looked at your plans and cannot find the square footage of the house you are proposing to build.

Bachor: it is around 3,600 square feet; I cannot remember the exact figure. The number is on the plans.

Deeren: I have the plans with me and the square footage number does not appear anywhere on the plans.

Bachor: I have the overhangs at 578 square feet.

Dloski: so it is not just the over hangs, it is the square footage of the house causing the problem.

Bachor: in the current ordinance, it does not spell out the drip line needs to be measured in the lot coverage percentage. When I talked with zoning, this is when I found out the drip line needed to be included, so we worked to reduce room sizes and the garage. Unless I eliminate the over hangs entirely, I cannot meet that requirement.

Dloski: so are you telling us the overhangs are 578 square feet?

Bachor: all I can tell you is I am over 578 square feet and if I got rid of the overhangs, I would meet the lot coverage requirement as it stands. I have 18" eaves all the way around the house.

Dloski: your house you want to build, as I understand it, is 4,309 square feet. You are entitled to 3,731 square feet based on the lot size.

Bachor: my understanding is that if I eliminate the over hangs, I could build this house.

Dolton: I did some estimates for various types of overhangs and I could not get to 578 square feet. I could get to 300 plus, but no more. Requests Deeren to explain how lot coverage is measured.

Deeren: the first floor of the structure is what is measured and structures above grade such as a garage, deck, or shed. Impervious structures such as driveways, patios, concrete, or pavers are not counted unless they are above grade. The lot is 24,878.9 square feet and the house is 4,309 according to my calculations. That comes out to 17.3%. I do see on the plans, you have a room opening out onto what could be a patio of some sort. Do you have an idea for that space?

Bachor: not at this time. I am fine with putting in impermeable surfaces to deal with any water issues. But to answer the question of lot coverage, when we read the ordinance, it did not mention drip line anywhere. I am at the point where if I cannot get the variance, the building is a no-go.

Dolton: do you have a minimum square footage number in mind for the house at grade level, ignoring the drip line?

Bachor: no. I wanted a bedroom on the first floor and a minimum of barriers for when I age in place. As I mentioned, I have a huge family and I would like to accommodate them and my handicapped sister as well as a caretaker.

Soutar: the ADA aspect is very important. Who in your family needs access to an ADA approved building?

Bachor: I have a handicapped sister with brain damage and I would like to have her here.

Soutar: would that be full-time or part-time?

Bachor: part time, I would like to have her visit. I have a degenerative disease that will require me to have help in the future.

Soutar: at this time?

Bachor: no, not at this time.

Dolton: is there anyone from the public like would like to speak in favor? As there is no one, is there anyone who would like to speak in opposition? Seeing none, I will open it up to board discussion before going through the 6 basic conditions.

Dloski: there is no reason why you cannot build on this property, you just cannot build a house as big as you would like. This is no reason for a variance.

Elliott: a misinterpretation by the applicant or the architect of the zoning code is not a reason

to issue a variance either.

Wahl: I am still not clear on the exact square footage and this concerns me.

Deeren: in calculating this out from the plans, the house is 4,309 square feet and would take up 17.3% lot coverage.

Soutar: the ADA requirements can make a large difference, but because there is not a direct person living in the home, we need to look at the house without those considerations. The dimensions are nebulous.

Meihn: the ADA requirements are primarily concerned with the inside structural aspects such as door opening sizes, openness of the kitchen, and other facilities to allow for the particular type of accommodation being requested. There is no ADA implication here and you are safe to proceed.

Dolton: The lot is 24,878 and if I take 15% of that it comes out to just over 3,700 square feet. An average 3 car garage is 700 square feet. If you allow 400 square feet of overhang, you could build a 2,600 square foot house on the main floor. This gives you the ability to add a basement and a second floor as well.

Dloski: you can build a 2,600 square foot house without a variance.

Bachor: I have spent a lot of money on this and if you look at the website, it does not say anything about the drip line measurement.

Dolton: I think the board is sympathetic to your situation: however, it is the board's job to follow the ordinance and not to decide if it is well written or fair.

Elliott moved to go through the 6 basic conditions for a variance, Dloski second passed unan

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No: Dloski, Elliott, Soutar, Dolton, Wahl Condition has not been met

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

No: Dloski, Elliott, Soutar, Dolton, Wahl Condition has not been met

3. That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)

No: Dloski, Elliott, Soutar, Dolton, Wahl Condition has not been met

4. That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

No: Dloski, Elliott, Soutar, Dolton, Wahl Condition has not been met

5. That the variance will not cause adverse impacts on surrounding property, property values or the use

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and enjoyment of property in the neighborhood.

Yes: Elliott, Soutar Condition has been met

No: Dloski, Wahl, Dolton Condition has not been met

6. That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.

Yes: Soutar Condition has been met

No: Dolton, Wahl, Elliott, Dloski Condition has not been met

Deeren: 6 out of 6 failed so the variance is denied

Dloski: Moved to deny variance request number 898 with a second by Elliott

Roll call vote-Yes: Soutar, Wahl, Dolton, Elliott, Dloski passed unan

9. Approval of Minutes from November 16, 2021 Regular Meeting

Soutar moved to approve the amended minutes with a second by Dloski passed unan

10. Citizen Comments None

11. Board Comments

Meihn reported that the decision of the ZBA to deny a variance request by Acme Pen was affirmed. Thanked the board for following the procedures and processes.

12. Adjournment Dloski moved to adjourn with a second by Elliott passed unan

Meeting adjourned at 7:58 p.m.

Peninsula Township ZBA Hearing
February 15, 2022

Support of Bill Carruthers Garage Variance

My Name is Brit Eaton, 1465 Neahtawanta Road. My family started coming to Bowers Harbor from Cincinnati in the 1900s and were one of the founders of the reorganized Neahtawanta Association. My family became full-time residents of the Peninsula 54 years ago, in 1964.

Most of the homes in Neahtawanta were built decades ago before zoning ordinances were enacted. Thus, Neah has had to contend with zoning variances in almost all new construction in the older section or "downtown" Neahtawanta. For example, even the neighbor next door to the Carruthers had to have several variances to build their new house on Bay View Avenue; the same neighbors objecting to this very variance.

In addition, what is unique about the home construction in this lake-view area of the Peninsula is that it is often the rear-facing or backside of the house that is most visible to the public. Similarly, the homes on Bay View Ave. have their main entrances off that dirt roadway with doors leading into the kitchen, garages, etc. They are not formal front entrances into a living room like typical houses. If one were to put a garage in the back of their property on Bay View, it would have to go at the bottom of the steep embankment and ruin the ambiance and view-shed of the scenic high bank of lovely homes seen from Neahtawanta Road or the water.

Therefore, as a resident of Neahtawanta and Old Mission Peninsula, I support granting a variance to Bill Carruthers for building a new garage structure with only a 14 side yard setback and 2 feet off the platted road.

Brit Eaton

1465 Neahtawanta Rd
Traverse City, MI 49686
briteaton@goacentek.net