PENINSULA TOWNSHIP
REGULAR MEETING
ZONING BOARD OF APPEALS AGENDA
Virtual Meeting Via Zoom-Link Provided Below:
March 16, 2021
7:00 p.m.

1. **Call to Order**
2. **Pledge**
3. **Roll Call of Attendance**
4. **Approval of Agenda**
5. **Conflict of Interest**
6. **Brief Citizen Comments – for items not on the Agenda**
7. **Appoint new vice chairperson**
8. **Old Business Tabled from February 16, 2021:**

1. Request No. 885, Zoning R-1C
Applicant: Daniel J. Dingeman, 6559 Peninsula Drive, Traverse City, MI 49686
Owner: Daniel J. Dingeman, 6559 Peninsula Drive, Traverse City, MI 49686
Property Address: 6559 Peninsula Drive, Traverse City, MI 49686

1. Requesting a variance from the required sixty (60) foot setback from the ordinary high waterline to fifty-four (54) feet in order to construct a 750 square foot addition to the existing non-conforming structure.

Parcel Code # 28-11-336-038-00

2. Request No. 886, Zoning R-1B
Applicant: Wayne M. Eaker, 12440 Bluff Rd., Traverse City, MI 49686
Owner: Wayne M. Eaker, 12440 Bluff Rd., Traverse City, MI 49686
Property: 12440 Bluff Rd., Traverse City, MI 49686

1. Requesting a variance from the required fifteen (15) foot side yard setback to ten (10) feet on the northerly property line in order to place a 160 square foot shed.
2. Requesting a variance from the required fifteen (15) foot side yard setback to ten (10) feet on the southerly property line in order to place a 160 square foot shed.
3. Requesting a variance from the Definition of Lot: The parcel of land having frontage along a street or right-of- way on which one principal building and its accessories are located or intended to be located together with any open spaces required by this Ordinance. Two (2) or more parcels, lots of legal record, or platted lots, when contiguous and when held in common ownership, may be treated together as a single lot for purposes of this Ordinance. Unless otherwise provided in this Ordinance; public and private streets and road rights-of-way, and easements for ingress and egress shall divided lots (including parcels and sites) for purposes of this Ordnance **(REVISED BY AMDEDNMENT 158)**

Parcel Code # 28-11-134-026-00

9. **New Business:**

1. Request No. 889, Zoning R-1C

Applicant: Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686
Owner: Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686
Property: 7215 Peninsula Drive, Traverse City, MI 49686

1. Requesting a variance from the required sixty (60) foot setback from the ordinary high waterline to thirty-one (31) feet in order to construct a 112 square foot addition to the existing non-conforming garage structure.
2. Requesting a variance from the required twenty-five (25) foot front yard setback to a twelve (12) foot front yard setback in order to construct a 112 square foot addition to the existing non-conforming garage structure.
3. Requesting a variance from the required 25 percent of lot coverage to 26.42 percent in order to construct a 112 square foot addition to existing non-conforming garage structure.

Parcel Code # 28-11-325-036-00

2. Request No. 890, R-1B

Applicant: Jessica Bachmann-Perez, 910 Sheridan Rd., Traverse City, MI 49686
Owner: Jessica Bachmann-Perez, 910 Sheridan Rd., Traverse City, MI 49686
Property: 910 Sheridan Rd., Traverse City, MI 49686

1. Requesting a variance from the required thirty (30) foot rear setback to seven (7) feet for a 1620 square foot deck, a 214 square foot shed and 693 square feet of six (6) foot tall walled fence that has been constructed & placed without the proper permits.
2. Requesting a variance from the required fifteen (15) foot side yard setback to four (4) foot side yard setback on the westerly property line for a 1620 square foot deck, a 214 square foot shed and 693 square feet of six (6) foot tall walled fence that has been constructed & placed without the proper permits.
3. Requesting a variance from the required 25 percent of lot coverage to 43.89percent for a 1620 square foot deck, a 214 square foot shed and 693 square feet of six (6) foot tall walled fence that has been constructed & placed without the proper permits.

Parcel Code # 28-11-595-038-00

10. Approval of Minutes from February 16, 2020 Regular Meeting

11. Citizen Comments

12. Board Comments

13. Adjournment

To join using the Zoom App on a computer, tablet, or smartphone click the following link: https://us02web.zoom.us/j/82302494942

To join by dialing in, call: (312) 626-6799 followed by the **Webinar ID: 823 0249 4942**, followed by the # key.

Peninsula Township Planning & Zoning Department

EXHIBIT LIST
ZBA Request # 885
Owner: Daniel J. Dingeman Trust

Physical Address of Subject Property: 6559 Peninsula Drive, Traverse City, MI 49686
Hearing date: March 16, 2021 –
TABLED FROM FEBRUARY 16, 2021 REGULAR MEETING

EXHIBIT LIST

1. Application for variance request from the applicant
2. Conceptual construction plans and survey
3. NEW - Correspondence from Drain Commissioner – Andy Smits
4. Staff report from Peninsula Township Director of Zoning.
5. Public Notice for properties within 300 feet of subject site
6. Public Notice – Record Eagle
7. Certificate of Notification
8. Correspondence

Case No. 885

EXHIBIT LIST

ITEM NO. 1

Peninsula Township Variance Application

Application Guidelines

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

1. Zoning Board of Appeals (ZBA) applications are available from the Peninsula Township Planning & Zoning Department, 7:30 a.m. to 6:30 p.m., Monday, and 7:30 a.m. to 5:00 p.m. Tuesday through Thursday, or online at www.peninsulatownship.com/zoning.

2. **Applications must be submitted to the Planning & Zoning Department at least four (4) weeks prior to the ZBA meeting. Ten (10) copies must be submitted.**

3. If the applicant is not the property owner, a letter signed by the owner agreeing to the variance must be included with the application.

4. It is the applicant's responsibility to review and address the appropriate sections of the Zoning Ordinance prior to submission.

5. It is the applicant's responsibility to ensure that the application is complete upon submission. **Planning and Zoning Department staff will determine and confirm with the applicant that the application is complete.** An incomplete application will not be considered for review by the ZBA.

6. The application will be forwarded to members of the ZBA for a public hearing.

7. A notice of the public hearing must be mailed to the property owners and occupants within three hundred (300) feet of the subject property not less than fifteen (15) days before the public hearing.

8. The applicant will receive a notice of the public hearing in the mail, and is expected to attend the meeting.

9. ZBA meetings are held on the second Thursday of every month, beginning at 7:00 p.m. in the Township Hall, 13235 Center Road, Traverse City, MI 49686.

10. If the variance(s) are granted, **construction authorized by such variance(s) must begin within six (6) months after the granting of the variance, and the occupancy of land, premises, or buildings authorized by the variance must take place within one (1) year after the granting of the variance.**

11. If the variance(s) are granted, construction authorized by such variance(s) must comply with all other necessary permits. **A variance is independent from, and does not substitute for, all other permits.**

12. No application for a variance which has been denied wholly or in part by the Board shall be resubmitted for a period of one (1) year from the date of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid.

OFFICE USE ONLY		
Date Received:	Fee Received:	Board Action:
Date Complete:	Meeting Date:	

Revised 6-1-2018 per adoption of Twp Board

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. **11 copies are required.**

Applicant Information

Applicant: Name DANIEL J. DINGEMAN

Address Line 1 100 PARK STREET
Address Line 2 TRAVERSE CITY MI 49684
Phone 231 929 0500 Cell 231 620 0100
E-mail dingeman@ddc-law.com

Owner: Name DANIEL J. & LINDY DINGEMAN
Address Line 1 100 PARK STREET
Address Line 2 TRAVERSE CITY MI 49684
Phone 231 929 0500 Cell 231 620 0100
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 11-336-038-00 Zoning RESIDENTIAL
Address Line 1 6559 PENINSULA DRIVE
Address Line 2 TRAVERSE CITY MI 49684

Type of Request

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

[ ] Front Yard Setback [ ] Side Yard Setback [ ] Rear Yard Setback
[ ] Width to Depth Ratio [ ] Lot Coverage [ ] Off-Street Parking
[ ] Signage [ ] Height/Width [ ] Non-Conformity Expansion
[X] Other: Please Describe: SHORELINE SET BACK FROM THE ORDINARY HIGH WATER MARK OF VARIOUS DIMENSIONS. SEE DRAWING

Attachments

[X] $1,000.00 application fee

[X] Basic Conditions Worksheet

[X] Site plan drawn to scale showing the following:

a. 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;
b. All existing and proposed structures including decks and roof overhangs;
c. Setbacks for existing and proposed structures (varies by zoning district).

[X] 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. SEE ATTACHED _____

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. SEE ATTACHED_____

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. SEE ATTACHED_____

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. SEE ATTACHED

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. SEE ATTACHED

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. SEE ATTACHED

Zoning Variance Application
Dingeman Residence
6559 Peninsula Drive

Basic Conditions:

1A. Yes. This basic condition is met because of the unique circumstances of the high water, the physical condition of the property and peculiar lot shape.

The rising high water has caused a substantial loss of waterside frontage. The groundwater table has risen so substantially; it has penetrated the existing basement floor. A drainage system with numerous pumps will be required to make it useable. Stormwater run-off from Peninsula Drive and the Grayhawk private road also run into the lot's east side. The soil conditions are compromised on account of the high water and stormwater run-off. The driest portion of the property is the area upon which the addition is proposed. Applications to install a steel seawall, with boulder stones in front of it, is pending with the state of Michigan and Army Core of Engineers. The neighbor to the immediate south has installed a steel seawall. The neighbor to the north has installed a stone and boulder jetty into the bay. Consequently, further erosion of the property's physical condition has been projected; therefore, there is "no feasible alternative" to installing a steel and boulder seawall. Pen Zon Ord. Section 7.5.5

The parcel is also uniquely shaped. Somewhat cone-shaped, with the narrowest portion on the south and the widest portion on the north. The northwest corner of the parcel jets out to a point approximately 45' further west than the parcel's southwest corner. The driest and highest portion of the property immediately adjacent to the home is the location in which the addition is proposed.

1B. Yes. This basic condition is met because it is not the result of the property owner's actions or the previous property owner. The original building is the northerly half of the building and pre-dates the Township zoning ordinance, and was not constructed by the prior owners. (see photos attached) The southerly half of the building was constructed in 1986 and added to approximately 1992 by the prior owner. (see photos attached) Each time the prior owner added on, it completely met all zoning ordinance requirements, including all setbacks. It is worth noting that the 1986 construction was the same period during which there was the last extraordinary rise of the lake level. The ordinance has since evolved, and the ordinary high water has moved closer to the building, both of which have caused the existing building to become non-conforming.

The requested variance will align with the existing building's westerly plane, and the substantial majority of the addition will be behind the most westerly plane of the existing building. The height, side, and front setbacks will all be met or be substantially less than required. The maximum 25% lot coverage ratio is substantially met: it will be without decks only 11.24% and with decks 14.28%.

1C. Yes. Strict compliance with the ordinary high-water mark set back will render the conformity unnecessarily burdensome. Due to the property's peculiar shape, the northwest portion of the plan substantially meets the ordinance, but as the property substantially narrows to the south, it does not. There is a gradual reduction in conformity with the ordinary 60' high-water mark going from approximately 1' to 5' by a portion of the structure, 8' by a portion of the roof, and 10' by a portion of the cantilevered second-story deck. However, all of the plan will remain at or behind the existing building's most westerly plane. Of the 161' of the property shoreline, the variance for the addition is only 22.8' long, which is 14% of the parcel's entire shoreline. The new construction will raise the floor elevation approximately 8 to 12" from the existing building, providing additional safety from any future high-water levels. The plan will also allow the property owner to construct the addition on the driest and highest elevation of the property adjacent to the existing structure.

1D. Yes, this basic condition is met. It will provide substantial justice by allowing the property owner to bring the home into a safer and more compliant condition. The plan will allow the property owner to construct the addition on the driest and highest elevation of the property, which is immediately adjacent to the existing structure. It leaves substantial portions of the parcel undisturbed and meets or exceeds the minimum side, front, and height setbacks. Given the present location of the existing structure, opportunities to connecting to it with an addition are limited; the addition is in a location that reasonably will do so. The only portion of the variance to whom the change will be visible is the property owner.

The planned steel and boulder seawall and groundwater pump system will render the lower level of the existing structure safe for the property owners to live in; will provide stabilization of the shoreline so the addition and existing structure is not likely to be damaged by high water or wave action; will provide no detriment to the adjacent property owners (both of whom already have shoreline protection systems); will permit the establishment of shoreline vegetation by the property owner consistent with the intent of the zoning ordinance. The foregoing meets all the requirement of section 7.5.5 of the zoning ordinance.

1E. Yes, this basic condition is met. It will not adversely impact the surrounding property or property values or impact property use and enjoyment in the neighborhood. The home is currently barely visible from the public road or the two neighbors. The plan preserves the already substantially lower roofline of the current home, creating the public's seasonal view over its roofline. The plan is modest in size, is proposed for the widest/deepest portion of the property, goes no further toward the ordinary high-water mark than the current most westerly plane of the structure, and will only be visible to the property owner. The plan's approval will improve the surrounding property values by updating a dated 34-year-old + structure while preserving the site's densely wooded nature. It leaves the property still very much underbuilt. The addition of a steel and boulder seawall will be preventing further erosion of the waterline, which will increase the public benefit by preserving a shoreline, which pedestrians may once again be able

to walk upon when the current high water recedes. It will also improve the aesthetics of the structure in relation to its neighbors, the property's view from the water, and the road's limited public view.

1F. Yes, this basic condition is met. The variance will not establish a use that is not permitted by right. This is and will remain a single-family residence, which is an approved use for this R1-C Suburban Residential District.

Special Conditions:

Any one of the following special conditions are satisfied.

(a) There are practical difficulties and unnecessary hardships which prevent carrying out the strict letter of this Ordinance, these hardships and difficulties are not economic, they are unique to this particular parcel of land.
(b) There are exceptional and extraordinary circumstances and physical conditions of this property, including its narrowness, shallowness, shape, and high water, that do not generally apply to other property in the same zoning district. These circumstances and conditions have not resulted from any act of the applicant subsequent to the adoption of this Ordinance.
(c) Portions of this parcel of land were of legal record prior to the effective date of this Ordinance.
(d) This variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

Respectfully submitted,
Daniel and Lindy Dingeman

Original House Prior to Ordinance

Pre Ordinance Original House
With 1986 Addition Starting

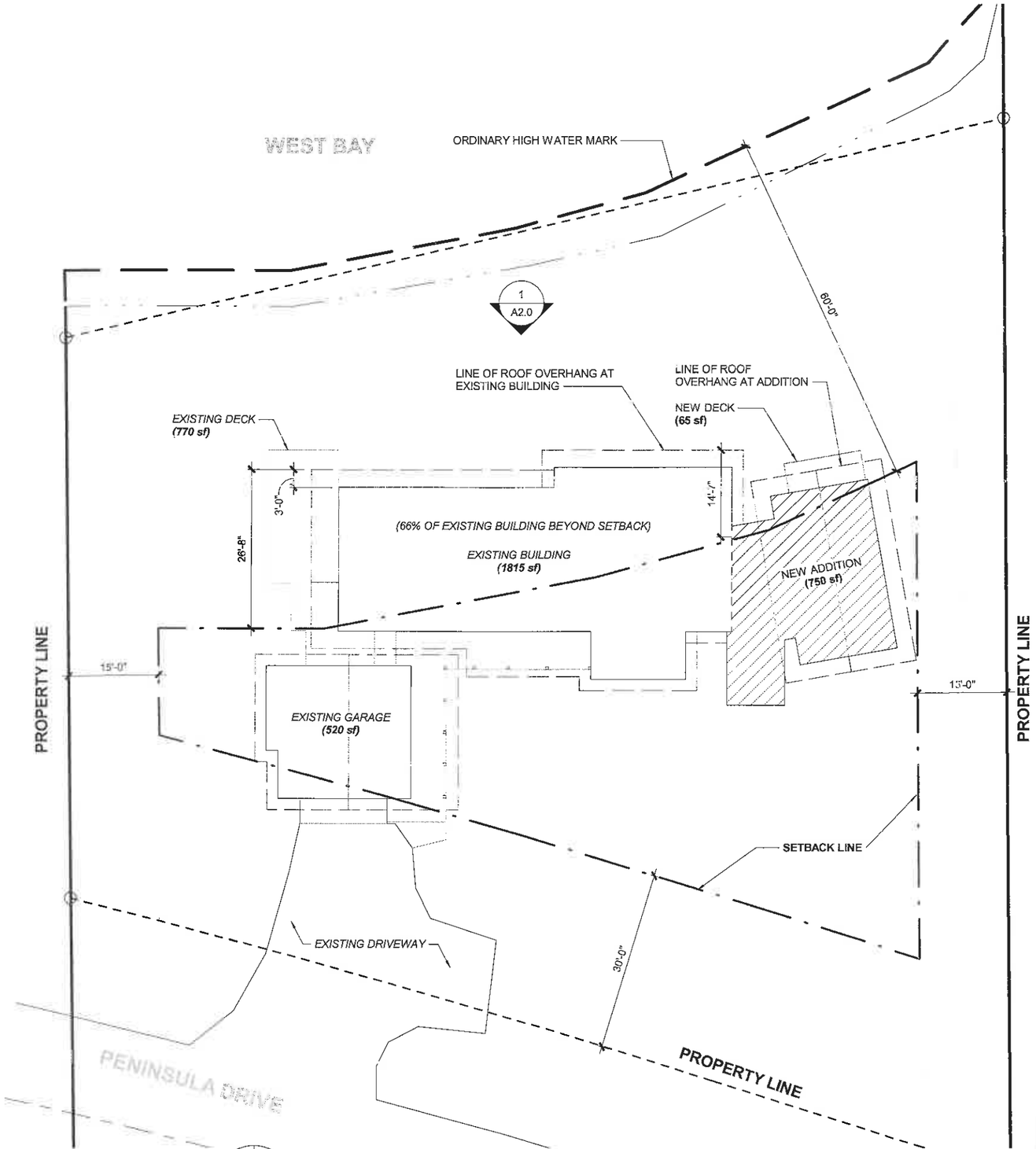
1986 Addition

1992 Addition

Case No. 885

EXHIBIT LIST

ITEM NO. 2



SITE PLAN
SCALE: 1" = 20'-0"

ZONING DISTRICT:

R-1C SUBURBAN RESIDENTIAL SINGLE & TWO FAMILY
MIN. ZONING LOT SIZE PER DWELLING UNIT: 20,000 sf, 100'
MAX. HEIGHT OF STRUCTURES: 2 1/2 STORIES, 35'
SETBACK: 30' (FRONT), 15' (SIDE), 30' (REAR)
NORMAL HIGH WATER MARK: 60'
MAX % OF LOT AREA COVERED: 25%
MIN. ELEVATIONAL WIDTH OF PRINCIPAL STRUCT.: 24'

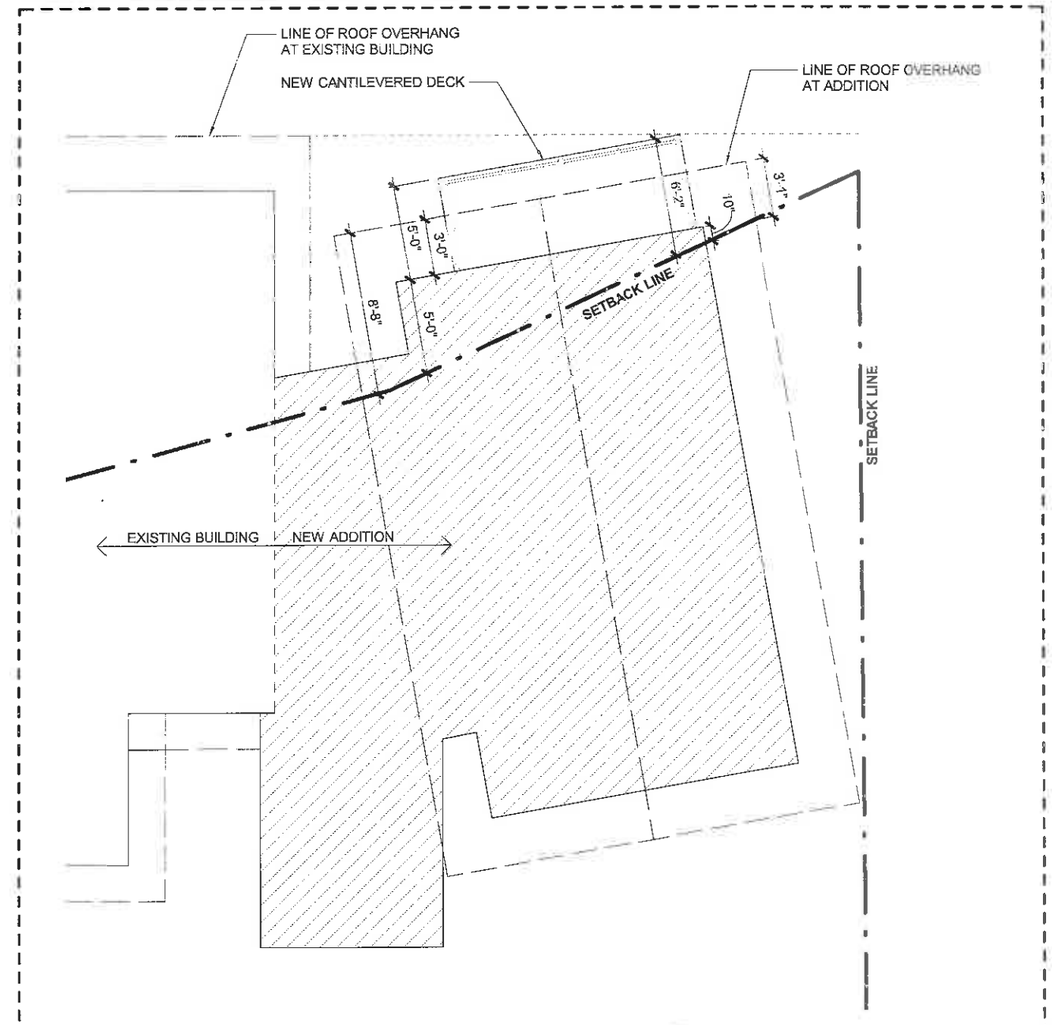
AREA:
EXISTING HOUSE.....1,815 sf
EXISTING GARAGE.....520 sf
NEW ADDITION.....750 sf
TOTAL.....3,085 sf

EXISTING DECK.....770 sf
NEW DECK.....65 sf
TOTAL.....835 sf

TOTAL LOT = 0.63 ACRES = 27,442 sf

LOT COVERAGE
TOTAL AREA OF BUILDINGS = 3,085 sf
3,085 / 27,442 = 0.1124 = 11.24% COVERAGE
11.24% < 25%

TOTAL AREA OF BUILDINGS w/ DECKS = 3,920 sf
3,920 / 27,442 = 0.1428 = 14.28% COVERAGE
14.28% < 25%



ENLARGED SITE PLAN
SCALE: 1/8" = 1'-0"

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231.947.2177 p www.cornerstone-arch.com

DINGEMAN RESIDENCE
RENOVATION & ADDITION
6559 Peninsula Dr. Traverse City, MI 49686

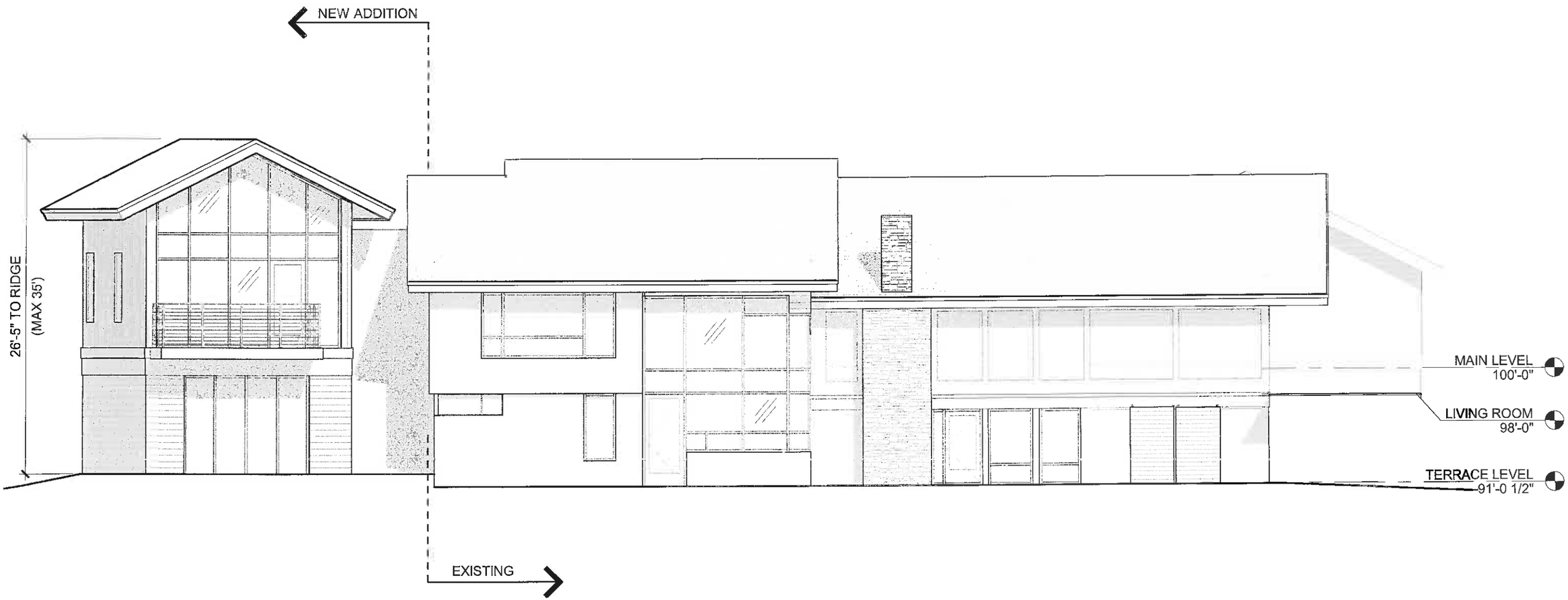
ISSUED FOR: REVIEW
DATE: 11/12/20

A1.0

PIC: J. Dancer
PM: A. Lin

SITE PLAN

PROJECT No.
20.506



1
A2.0

WEST ELEVATION (LAKESIDE)

SCALE: 1/8" = 1'-0"

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DINGEMAN RESIDENCE
RENOVATION & ADDITION
6559 Peninsula Dr. Traverse City, MI 49686

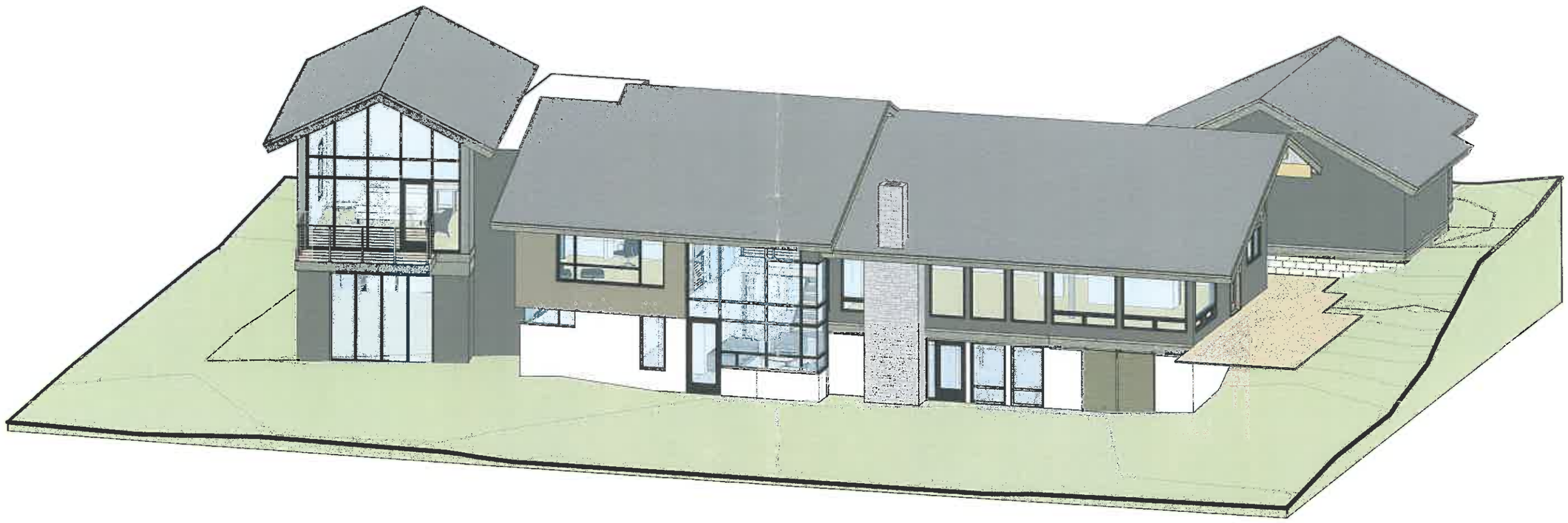
ISSUED FOR: REVIEW
DATE: 11/12/20

A2.0

PIC: J. Dancer
PM: A. Lin

EXTERIOR ELEVATION

PROJECT No.
20.506



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DINGEMAN RESIDENCE
RENOVATION & ADDITION
6559 Peninsula Dr. Traverse City, MI 49686

ISSUED FOR: REVIEW
DATE: 11/12/20

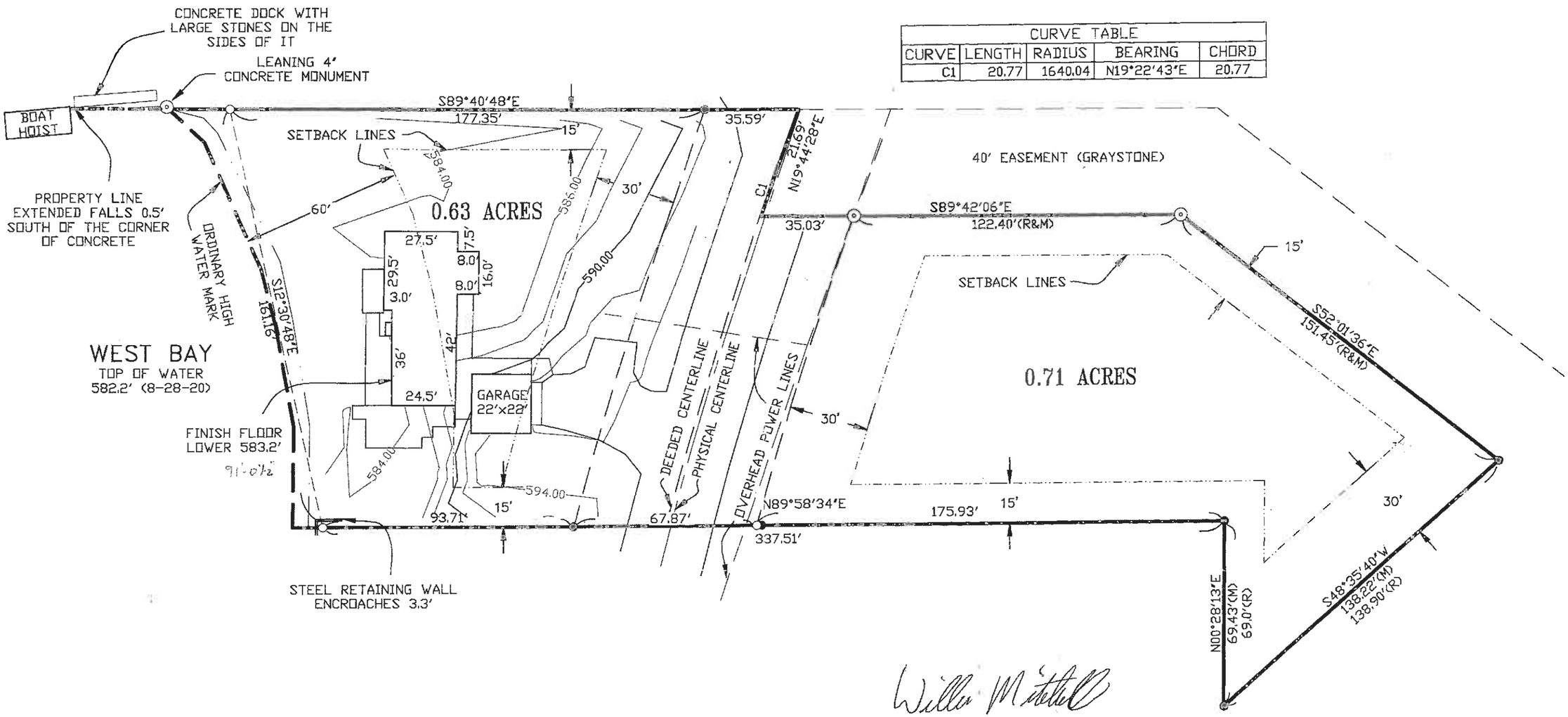
A3.0

PIC: J. Dancer
PM: A. Lin

3D DIAGRAM

PROJECT No.
20.506

SITE CONDITIONS



CURVE TABLE				
CURVE	LENGTH	RADIUS	BEARING	CHORD
C1	20.77	1640.04	N19°22'43"E	20.77

William P. Mitchell
Professional Surveyor
No. 57370

STATE OF MICHIGAN
WILLIAM P. MITCHELL
PROFESSIONAL SURVEYOR
No. 57370
LICENSED PROFESSIONAL SURVEYOR

Legend

- IRON SET
- IRON FOUND
- MONUMENT FOUND
- NAIL SET
- NAIL FOUND
- GOVERNMENT 1/4 CORNER
- SECTION CORNER
- CENTER 1/4 CORNER
- (R) RECORD
- (M) MEASURED

Scale: 1" = 40'

0 20 40 80

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

Bob Mitchell & Associates P.C.
SURVEYING / ENGINEERING
404 West Main Street P.O. Box 306
Kingsley, MI 49849
(231) 263-5463 · FAX (231) 263-7921
Toll Free in Michigan 1-800-533-6827
email wm@mapcivilsurvey.com
NORTH 1ST STREET
Harrison, MI 48625

BASIS OF BEARING: NAD 83 MI CENT SPCS

CLIENT: DANIEL J. DINGEMAN, TRUSTEE OF THE SECOND RESTATED DANIEL J. DINGEMAN TRUST

LOCATION:
PART OF GOVERNMENT LOT 2,
SECTION 36, TOWN 28 NORTH, RANGE 11 WEST,
PENINSULA TOWNSHIP,
GRAND TRAVERSE COUNTY, MICHIGAN

DWN. WPM	REV. 9-4-20 DATE 8-28-20	FILE NO. 20200259
CK. JEM	FLD. BK. X PG. X	SHEET 1 OF 1

Case No. 885

EXHIBIT LIST

ITEM NO. 3

Zoning

From: Andy Smits <asmits@gtcountymi.gov>
Sent: Thursday, February 25, 2021 4:53 PM
To: zoning@peninsulatownship.com
Cc: Jennifer Hodges
Subject: Drainage Easement for 6559 Peninsula Drive

Christina-

I find no record in this office regarding any easement grant to the Drain Commission for any of these unplatted parcels along the east or west side of Peninsula Drive.

Strolling along Peninsula Drive via google maps or earth... I do note that Peninsula Drive drainage in the east right of way is open ditch north of 6637 and south of Graystone. Between the two, several catch basins are evident in this stretch of manicured lawns.

So I would expect that the GTC Road Commission has one or more cross culverts somewhere in that area and maybe into the 6559 property. I've seen similar such outfalls while kayaking the shoreline, especially up by McKinnley. There is municipal water and sewer in that portion of Pen Drive you are interested in.... so perhaps township or DPW record drawings show stormwater infrastructure ? Maybe the Road Commission ?

Even if there is no record, or someone cannot show a structure on their property, that does not mean that their property is not encumbered by common law drainage rights from uphill landowners. As a person who lives near the bottom of a stormwater course (both natural and improved) I am empathetic to the property owners who lose unencumbered use of their property due to its geography.

Please let me know if I can be of further assistance
Andy

==========

Andy,

I am looking for information pertaining to a drainage easement that involves Graystone and 6559 Peninsula Drive.

The owner of 6559 Peninsula Drive stated that there is a drainage easement with culverts that drain into his parcel from Graystone.

I did not see any type of drainage at 6559 Peninsula Drive when I was there on a site visit. There is nothing in the property record card that indicates that such an easement exist.

The owner at 6559 Peninsula Drive has a variance request before the zoning board of appeals and is stating that the need for the variance is due to the water drainage from Graystone.

Is there any way you can look into this issue.

I appreciate your time and assistance.

Respectfully,

Christina Deeren
Peninsula Township Office
13235 Center Road
Traverse City MI 49686
phone - 231-223-7318
fax - 231-223-7117
zoning@peninsulatownship.com

Case No. 885

EXHIBIT LIST

ITEM NO. 4

Peninsula Township Planning & Zoning Department

STAFF REPORT

ZBA Request # 885

Physical Address of Subject Property: 6559 Peninsula Drive, Traverse City, MI 49686

Date: February 16, 2021

To: **Peninsula Township Zoning Board of Appeals**

From: **Christina Deeren, Zoning Administrator**

RE: **Request # 885**

Zoning District: **R-1C Suburban Residential – Single and Two-Family Residential**

Hearing Date: **January 19, 2021 – 7:00 PM**

Applicant: **Daniel J. Dingeman Trust, 6559 Peninsula Drive, Traverse City, MI 49686**

Owner: **Daniel J. Dingeman Trust, 6559 Peninsula Drive, Traverse City, MI 49686**

Site: **6559 Peninsula Drive, Traverse City, MI 49686**

Tax ID: **28-11-336-038-00**

Information:

- Parcel 28-11-336-038-00 is approximately .850 acres in size or 159 feet by 232.868 feet and approximately 37,026 square feet.
- The property is zoned Suburban Residential – Single and Two-Family Residential (R-1C); and the surrounding area is also zoned Suburban Residential – Single and Two-Family Residential (R-1C).
- The lot was created prior the adoption of the Peninsula Township Zoning Ordinance, and is considered legal non-conforming.
- The parcel is improved with a residential structure and detached garage.
- The original residential structure was constructed in 1949.
- In 1992 an addition was added and the original footprint of the structure was re-constructed.
- More than half of the existing residential structure encroaches within the ordinary high water mark setback per the survey provided by the applicant.

Action Requested:

1. Requesting a variance from the required sixty (60) foot setback from the ordinary high water setback to fifty-four (54) feet from the ordinary high water setback in order to construct a 750 square foot two story addition to the existing non-conforming structure

Parcel Code: #28-11-336-038-00

Applicant Statement: Please see the enclosed application submitted by the property owner.

Staff Comments:

1. Requesting a variance from the required sixty (60) foot setback from the ordinary high water setback to fifty-four (54) feet from the ordinary high water setback in order to construct a 750 square foot two story addition to the existing non-conforming structure.

Background:

The required setbacks in the R-1C zoned districts:

R-1C Standards (Section 6.8)	Required	Variance	Conforms to Standards?
Minimum Front Setback	25'	No	No – Existing garage does not conform
Minimum South	15'	No	Yes
Minimum North side setback	15'	No	Yes
Minimum Rear setback	30'	NA	NA
Minimum OHWM	60'	Yes	No – Existing residential structure is non-conforming and encroaches in OHWM setback
Road Right-of-way setback	33'	No	Yes
Percentage of Lot Coverage:	25% - allowed	No – 8.92% - Existing w/ 720 square foot addition 10.86%	Yes

Article III
Definitions:

SECTION 3.2 Definitions: For the purpose of this Ordinance, certain terms or words used herein shall be interpreted or defined as follows:

Structure: A structure is any production or piece of material artificially built up or composed of parts joined together in some definite manner; any construction. Including dwellings, garages, building, mobile homes, signs and sign boards, towers, poles, antennae, landfill, sea walls, weirs, jetties, swimming pools, stand pipes, fences over four feet in height above final grade and earth sheltering for earth-sheltered structures or other like objects, but not including: (a) a temporary fence; (b) agricultural fences that are used for general farming and horticultural uses, field crop and fruit farming, raising and keeping of small animals, and raising and keeping of livestock; (c) access steps required to negotiate changes in site elevation; (d) landscape mounds; and (e) sidewalks, drives, and paved areas which do not protrude above the finished site grade. **(REVISED BY AMENDMENT 152)**

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-1C, Suburban Residential:	Minimum lot front setback - 25 feet Side yard setbacks – 15 feet Rear yard setback – 30 feet Ordinary Highwater setback – 60 feet Allowable percentage of lot coverage – 25%

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.

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

   (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.)

   (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.

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

   (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.

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.

(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.

(b) 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.

Section 5.7.4 Special Exemptions:
(Revised by Amendment 113B)
(DELETED BY AMENDMENT 188)

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: _____
_____
_____.

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: _____
_____
_____.

c) That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirements 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: _____
_____

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: _____
_____
_____.

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: _____
_____
_____.

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: _____
_____
_____.

The subject property, zoned R-1C, was created prior the effective date of the Ordinance and considered legal non-conforming. The property is located along Peninsula Drive.

Peninsula Township
Zoning Board of Appeals

ZBA Case No. 885

Peninsula Township
13235 Center Road
Traverse City, MI 49686

Date of Meeting: February 16, 2021

Applicant: Daniel J. Dingeman Trust, 6559 Peninsula Drive, Traverse City, MI 49686
Owner: Daniel J. Dingeman Trust, 6559 Peninsula Drive, Traverse City, MI 49686
Address: 6559 Peninsula Drive, Traverse City, MI 49686

Parcel Code: #28-11-336-038-00

Request:

1. Requesting a variance from the required sixty (60) foot setback from the ordinary high water setback to fifty-four (54) feet from the ordinary high water setback in order to construct a 750 square foot two story addition to the existing non-conforming structure

Action by the Zoning Board of Appeals:

_____ (Chair)	☐ Yes	☐ No
_____ (Vice Chair)	☐ Yes	☐ No
_____ (Member)	☐ Yes	☐ No
_____ (Member)	☐ Yes	☐ No
_____ (Member)	☐ Yes	☐ No

Board Action:

_____
_____
_____
_____
_____
_____
_____

Case No. 885

EXHIBIT LIST

ITEM NO. 5

PUBLIC NOTICE
(RE-NOTICE FOR VIRTUAL ZOOM MEETING)
PENINSULA TOWNSHIP
ZONING BOARD OF APPEALS
NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the Peninsula Township Zoning Board of Appeals will hold a Regular Meeting on February 16, 2021 at 7:00 p.m. Virtual Meeting Via Zoom-Link, 13235 Center Road, Traverse City, MI 49686 (231) 223-7322.
The following applicant is scheduled to be heard:

1. Request No. 885, Zoning R-1C
Applicant: Daniel J. Dingeman, 6559 Peninsula Drive, Traverse City, MI 49686
Owner: Daniel J. Dingeman, 6559 Peninsula Drive, Traverse City, MI 49686
Property Address: 6559 Peninsula Drive, Traverse City, MI 49686

Request:
1. Requesting a variance from the required sixty (60) foot setback from the ordinary high waterline to Fifty-four (54) feet in order to construct a 750 square foot addition to the existing non-conforming structure.

Parcel Code # 28-11-336-038-00

Please be advised that the public may appear at the hearing in person or by counsel per the Virtual Meeting Via Zoom-Link. Please see the BELOW LINK:

To join using the Zoom App on a computer, tablet, or smartphone click the following link:
https://us02web.zoom.us/j/82302494942
To join by dialing in, call:
(312) 626-6799 followed by the **Webinar ID: 823 0249 4942**, followed by the **#** key.

Written comments may be submitted to Peninsula Township Zoning Departments at 13235 Center Road, Traverse City, MI 49686, no later than 12:00 p.m. on February 15, 2021.

SUBJECT SITE

T. C. RECORD-EAGLE, INC.
120 WEST FRONT STREET
TRAVERSE CITY MI 49684
(231)946-2000
Fax (231)946-8273

ORDER CONFIRMATION (CONTINUED)

Salesperson: DENISE LINGERFELT Printed at 01/26/21 12:12 by dling

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Acct #: 1837 Ad #: 560382 Status: New WHOLD WHOI

PUBLIC NOTICE

PENINSULA TOWNSHIP
ZONING BOARD OF APPEALS
NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the Peninsula Township Zoning Board of Appeals will hold a regular meeting on February 16, 2021 at 7:00 PM at the Peninsula Township Hall, 13235 Center Road, Traverse City, MI 49686, (231) 223-7322. The following applicants will be heard:

1. Request No. 885, Zoning R-1C
Applicant: Daniel J. Dingeman, 6559 Peninsula Drive, Traverse City, MI 49686
Owner: Daniel J. Dingeman, 6559 Peninsula Drive, Traverse City, MI 49686
Property Address: 6559 Peninsula Drive, Traverse City, MI 49686
1. Requesting a variance from the required sixty (60) foot setback from the ordinary high waterline to Fifty-four (54) feet in order to construct a 750 square foot addition to the existing non-conforming structure.
Parcel Code # 28-11-336-038-00

2. Request No. 886, Zoning R-1B
Applicant: Wayne M. Eaker, 12440 Bluff Rd., Traverse City, MI 49686
Owner: Wayne M. Eaker, 12440 Bluff Rd., Traverse City, MI 49686
Property: 12440 Bluff Rd., Traverse City, MI 49686
1. Requesting a variance from the required fifteen (15) foot side yard setback to ten (10) feet on the northerly property line in order to place a 160 square foot shed.
2. Requesting a variance from the required fifteen (15) foot side yard setback to ten (10) feet on the southerly property line in order to place a 160 square foot shed.
3. Requesting a variance from the Definition of Lot: The parcel of land having frontage along a street or right-of- way on which one principal building and its accessories are located or intended to be located together with any open spaces required by this Ordinance. Two (2) or more parcels, lots of legal record, or platted lots, when contiguous and when held in common ownership, may be treated together as a single lot for purposes of this Ordinance. Unless otherwise provided in this Ordinance; public and private streets and road rights-of-way, and easements for ingress and egress shall divided lots (including parcels and sites) for purposes of this Ordinance (REVISED BY AMDEDNMENT 158)
Parcel Code # 28-11-134-026-00

3. Request No. 887, Zoning R-1C
Applicant: Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686
Owner: Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686
Property: 7215 Peninsula Drive, Traverse City, MI 49686
1. Requesting a variance from the required sixty (60) foot setback from the ordinary high waterline to forty-six (46) feet in order to construct a 112 square foot addition to the existing non-conforming garage structure.
2. Requesting a variance from the required fifteen (15) foot side yard setback to thirteen (13) foot side yard setback on the southerly property line to construct an 84 square foot addition to the existing non-conforming garage structure.
3. Requesting a variance from the required twenty-five (25) foot front yard setback to a zero (0) front yard setback on the southerly line in order to construct an 84 square foot addition to the existing non-conforming garage structure.
4. Requesting a variance from the required twenty-five (25) foot front yard setback to a twelve (12) foot front yard setback on the northerly corner in order to construct a 112 square foot addition to the existing non-conforming garage structure.
5. Requesting a variance from the required 25 percent of lot coverage to 52 percent in order to construct a 639 square foot addition to existing non-conforming garage structure.
Parcel Code # 28-11-325-036-00

4. Request No. 888, R-1B
Applicant: Nathan & Karley Elkins, 13024 Peninsula Drive, Traverse City, MI 49686
Owner: Nathan & Karley Elkins, 13024 Peninsula Drive, Traverse City, MI 49686
Property: 13024 Peninsula Drive, Traverse City, MI 49686
1. Requesting a variance from the required fifteen (15) foot side yard setback to twelve (12) foot side setback on the southerly property line in order to construct a 60 square foot addition to the existing non-conforming structure.
2. Requesting a variance from the required thirty (30) foot rear setback to ten (10) foot rear setback in order to construct a 1248 square foot detached garage structure.
3. Requesting a variance from the required fifteen (15) foot side yard setback to thirteen (13) foot side yard setback on the southerly property line in order to construct a 1248 square foot detached garage.
4. Requesting a variance from the required fifteen (15) percent lot coverage to twenty-three (23) in order to construct a 1248 square foot detached garage structure.
Parcel Code # 28-11-128-037-00

Please be advised that the public may appear at the public hearing in person or by counsel.

Written comment may be submitted to Peninsula Township Zoning Department at 13235 Center Rd., Traverse City, MI 49686 no later than 12:00 PM on February 15, 2021.

Given COVID related issues and related restrictions on public gatherings, it is possible that the hearing will be conducted using Zoom. If the meeting is conducted on Zoom, login instructions will be published with the meeting agenda. The Zoning Board of Appeals meeting may also be cancelled. If cancelled, the hearing will then take place at the next regularly scheduled meeting of the Zoning Board of Appeals.

January 27, 2021-1T 560382

Case No. 885

EXHIBIT LIST

ITEM NO. 7

PENINSULA TOWNSHIP
BOARD OF ZONING APPEALS

CERTIFICATE OF NOTIFICATION

Request No. 885
Hearing Date: February 16, 2021
Applicant: Daniel J. Dingeman, 6559 Peninsula Drive, Traverse City, MI 49686
Owner: Daniel J. Dingeman, 6559 Peninsula Drive, Traverse City, MI 49686
Property Address: 6559 Peninsula Drive, Traverse City, MI 49686

I certify that the attached Public Hearing Notice and map showing the subject property location whose Parcel Code #s 28-11-336-038-00 was mailed by regular US mail to the attached list of 21 properties on January 26, 2021 by depositing said notices in a mail box located at United States Postal Services Main Office Building located at: 202 S. Union St., Traverse City, MI 496984

Christina Deeren
Peninsula Township
Director of Zoning

Case No. 885

EXHIBIT LIST

ITEM NO. 8

Peninsula Township Zoning Department
13235 Center Road
Traverse City, MI 49686

RE: Dingeman zoning variance request

Board Members,

I have received notice of Mr. Dingeman's request for a zoning setback variance from the 60 foot ordinary high waterline to 54 feet. I own the property immediately to the South of this parcel.

I have no objection to this request.

Sincerely,

Richard L Pascoe
Cc: Daniel Dingeman

Peninsula Township Planning & Zoning Department

EXHIBIT LIST
ZBA Request # 886
Owner: Wayne M. Eaker
Physical Address of Subject Property: 12440 Bluff Rd., Traverse City, MI 49686
Hearing date: March 16, 2021
TABLED FROM FEBRUARY 16, 2021 REGULAR MEETING

EXHIBIT LIST

1. Application for variance request from the applicant
2. Conceptual construction plans and survey
3. Staff report from Peninsula Township Director of Zoning.
4. Public Notice for properties within 300 feet of subject site
5. Public Notice – Record Eagle
6. Certificate of Notification
7. Correspondence

Case No. 886

EXHIBIT LIST

ITEM NO. 1

November 16, 2020

To: Peninsula Township Zoning Board of Appeals

From: Wayne Eaker and Jan Toth-Chernin
12440 Bluff Rd
Traverse City, MI 49686

In the attached variance application, we are requesting approval to build a shed on our property at 12440 Bluff Road.

We currently do not have a garage or shed on our property, which means we have no place to store common yard tools, such as a lawn mower. This makes it difficult to maintain our property to the degree we would like to. The lack of outdoor storage also makes it difficult to store recreational equipment like bikes and kayaks, and means we don't have a good place to put outdoor furniture during the winter months.

Unfortunately, due to size and shape of our property, there is no place that an accessory building like a shed can be built without a variance.

Thank you for your consideration of this application.

Respectfully,

Wayne Eaker and Jan Toth-Chernin

Peninsula Township Variance Application

Application Guidelines

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

1. Zoning Board of Appeals (ZBA) applications are available from the Peninsula Township Planning & Zoning Department, 7:30 a.m. to 6:30 p.m., Monday, and 7:30 a.m. to 5:00 p.m. Tuesday through Thursday, or online at www.peninsulatownship.com/zoning.

2. **Applications must be submitted to the Planning & Zoning Department at least four (4) weeks prior to the ZBA meeting. Ten (10) copies must be submitted.**

3. If the applicant is not the property owner, a letter signed by the owner agreeing to the variance must be included with the application.

4. It is the applicant's responsibility to review and address the appropriate sections of the Zoning Ordinance prior to submission.

5. It is the applicant's responsibility to ensure that the application is complete upon submission. **Planning and Zoning Department staff will determine and confirm with the applicant that the application is complete.** An incomplete application will not be considered for review by the ZBA.

6. The application will be forwarded to members of the ZBA for a public hearing.

7. A notice of the public hearing must be mailed to the property owners and occupants within three hundred (300) feet of the subject property not less than fifteen (15) days before the public hearing.

8. The applicant will receive a notice of the public hearing in the mail, and is expected to attend the meeting.

9. ZBA meetings are held on the second Thursday of every month, beginning at 7:00 p.m. in the Township Hall, 13235 Center Road, Traverse City, MI 49686.

10. If the variance(s) are granted, **construction authorized by such variance(s) must begin within six (6) months after the granting of the variance, and the occupancy of land, premises, or buildings authorized by the variance must take place within one (1) year after the granting of the variance.**

11. If the variance(s) are granted, construction authorized by such variance(s) must comply with all other necessary permits. **A variance is independent from, and does not substitute for, all other permits.**

12. No application for a variance which has been denied wholly or in part by the Board shall be resubmitted for a period of one (1) year from the date of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid.

OFFICE USE ONLY		
Date Received:	Fee Received:	Board Action:
Date Complete:	Meeting Date:	

Revised 6-1-2018 per adoption of Twp Board

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. **11 copies are required.**

Applicant Information

Applicant: Name Wayne Eaker

Address Line 1 1202 Pearl St
Address Line 2 Ypsilanti, MI 48197
Phone 734-476-5114 Cell 734-476-5114
E-mail wayne@zengenuity.com

Owner: Name Wayne Eaker
Address Line 1 1202 Pearl St
Address Line 2 Ypsilanti, MI 48197
Phone 734-476-5114 Cell 734-476-5114
E-mail wayne@zengenuity.com

(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 11-134-026-00 Zoning R1B
Address Line 1 12440 Bluff Road
Address Line 2 Traverse City, MI 49686

Type of Request

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

[ ] Front Yard Setback [X] Side Yard Setback [ ] Rear Yard Setback
[ ] Width to Depth Ratio [ ] Lot Coverage [ ] Off-Street Parking
[ ] Signage [ ] Height/Width [ ] Non-Conformity Expansion
[X] Other: Please Describe: Accessory structure to be placed without a main dwelling unit

Attachments

[X] $1,000.00 application fee

[X] Basic Conditions Worksheet

[X] Site plan drawn to scale showing the following:

a. 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;
b. All existing and proposed structures including decks and roof overhangs;
c. Setbacks for existing and proposed structures (varies by zoning district).

[X] 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. The property is extremely narrow. This does not leave room within the required setbacks on either the house side of the road or the opposite side of the road for a conforming structure to be built.

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. This parcel was created by a division of a larger parcel that happened before zoning was in effect. There was no way to have known at the time that this division would prevent the building of a shed on the property.

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. An accessory building such as a garage or shed is a typical, permitted feature of properties in the neighborhood. However, the shape of our property in combination with the required setbacks and other zoning rules means there is no place on our property where such a structure can be built without a variance.

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. This variance will allow us to build a shed on the property, which will allow us to store yard tools, such as a lawn mower, in order to better take care of our property.

The placement of the shed, as shown in the site plan, was chosen because it will allow us to best utilize the small amount of property that we have. With the shed in this location, we will have room in front of the shed to use the existing driveway, park vehicles, and turn vehicles around without difficulty.

We recognize that the placement we've chosen does not minimize the variance request. Bringing the structure forward to the front setback would reduce the required side yard setback variance by 1.5 ft. However, placing the shed in this location would partially obstruct the driveway and make it much more difficult to turn vehicles around, especially if they are pulling a trailer. This is due to the narrowness of the property and the fact that much of the right of way and front setback area is a ditch. That said, we are open to changes in the placement of the shed, if it is required in order to be granted a variance.

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. Building a shed on our property will not impact surrounding property use, value, or enjoyment. The shed will be constructed on the non-lake side of the road, so it doesn't affect the view from the surrounding homes, both of which are on the lake side of the road. The location and design of the structure will be in character with surrounding buildings and typical structures of the neighborhood.

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:

Having an accessory building, such as a garage or shed, is a permitted use. Our need for a variance is only due to the extremely narrow shape of our property, which does not allow a conforming structure to be built.

Case No. 886

EXHIBIT LIST

ITEM NO. 2

SITE PLAN FOR VARIANCE / LAND USE PERMIT

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

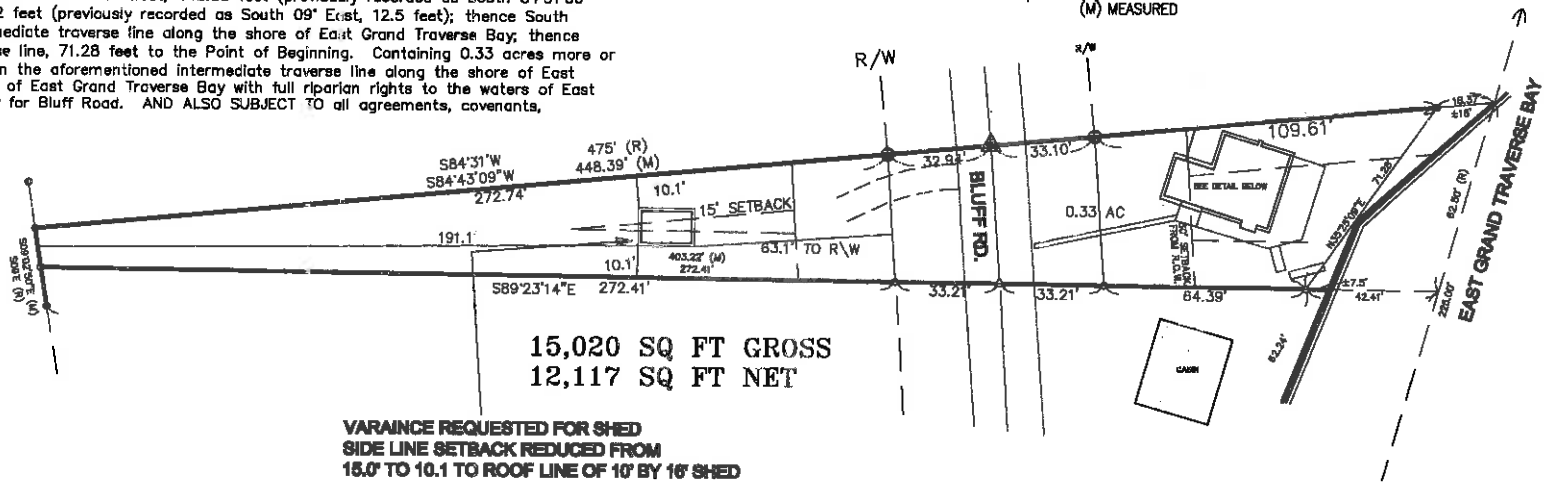
AS FURNISHED: Part of the North One-half of Government Lot 2, Section 34, Town 29 North, Range 10 West, described as: Commencing at the East meander post on the South line of Section 34, thence North 18°38'40" East, 2088.86 feet; thence North 08° East, 454.23 feet; thence North 15°58'50" East, 162.5 feet to the Point of Beginning; thence North 15°58'50" East, 62.5 feet; thence South 84°31' West, 475 feet; thence South 9° East 12.5 feet; thence Southeasterly to the Point of Beginning; being more particularly described as: Commencing at the East meander post on the South line of Section 34; thence North 18°38'40" East, 2088.86 feet; thence North 08° East, 454.23 feet; thence North 15°58'50" East, 162.50 feet; thence continuing North 15°58'50" East, 62.5 feet; thence South 84°43'09" West, 18.37 feet to an iron rod on the shore of East Grand Traverse Bay and the Point of Beginning; thence continuing South 84°43'09" West, 448.39 feet (previously recorded as South 84°31'00" West, 475 feet); thence South 09°02'05" East, 12.52 feet (previously recorded as South 09° East, 12.5 feet); thence South 89°23'14" East, 403.22 feet to a point on an intermediate traverse line along the shore of East Grand Traverse Bay; thence North 35°25'08" East along said intermediate traverse line, 71.28 feet to the Point of Beginning. Containing 0.33 acres more or less. TOGETHER WITH all lands (if any) lying between the aforementioned intermediate traverse line along the shore of East Grand Traverse Bay and the ordinary high water line of East Grand Traverse Bay with full riparian rights to the waters of East Grand Traverse Bay. SUBJECT TO the Right-of-Way for Bluff Road. AND ALSO SUBJECT TO all agreements, covenants, easements and restrictions of record, if any.

Legend

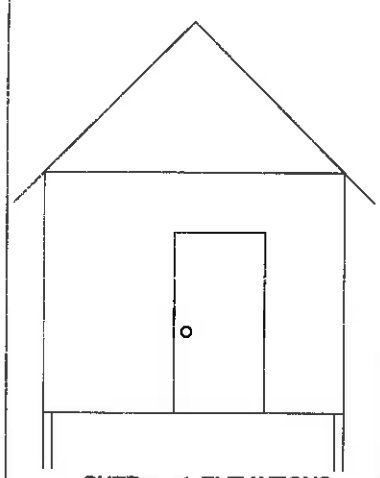
- IRON SET
- IRON FOUND
- MONUMENT FOUND
- NAIL SET
- NAIL FOUND
- GOVERNMENT 1/4 CORNER
- SECTION CORNER
- CENTER 1/4 CORNER
- (R) RECORD
- (M) MEASURED

Scale: 1" = 40'

0 20 40 80



VARAINCE REQUESTED FOR SHED
SIDE LINE SETBACK REDUCED FROM
15.0' TO 10.1 TO ROOF LINE OF 10' BY 16' SHED



SHED west ELEVATIONS

SITE DATA

OWNER: WAYNE EAKER
PROPERTY ADDRESS: 12440 BLUFF RD.

ZONING DISTRICT: R1B - COASTAL ZONE RESIDENTIAL

SETBACKS:
FRONT: 30'
SIDE: 15'
REAR: 30'
ORDINARY HIGH WATER: 60'

BASIS OF BEARING:

CLIENT: WAYNE EAKER

LOCATION: PART OF GOVERNMENT LOT 2, SEC. 34, TOWN 29 NORTH, RANGE 10 WEST, PENINSULA TOWNSHIP, GRAND TRAVERSE COUNTY, MICHIGAN

Jesse E. Mitchell
Professional Surveyor No. 54433

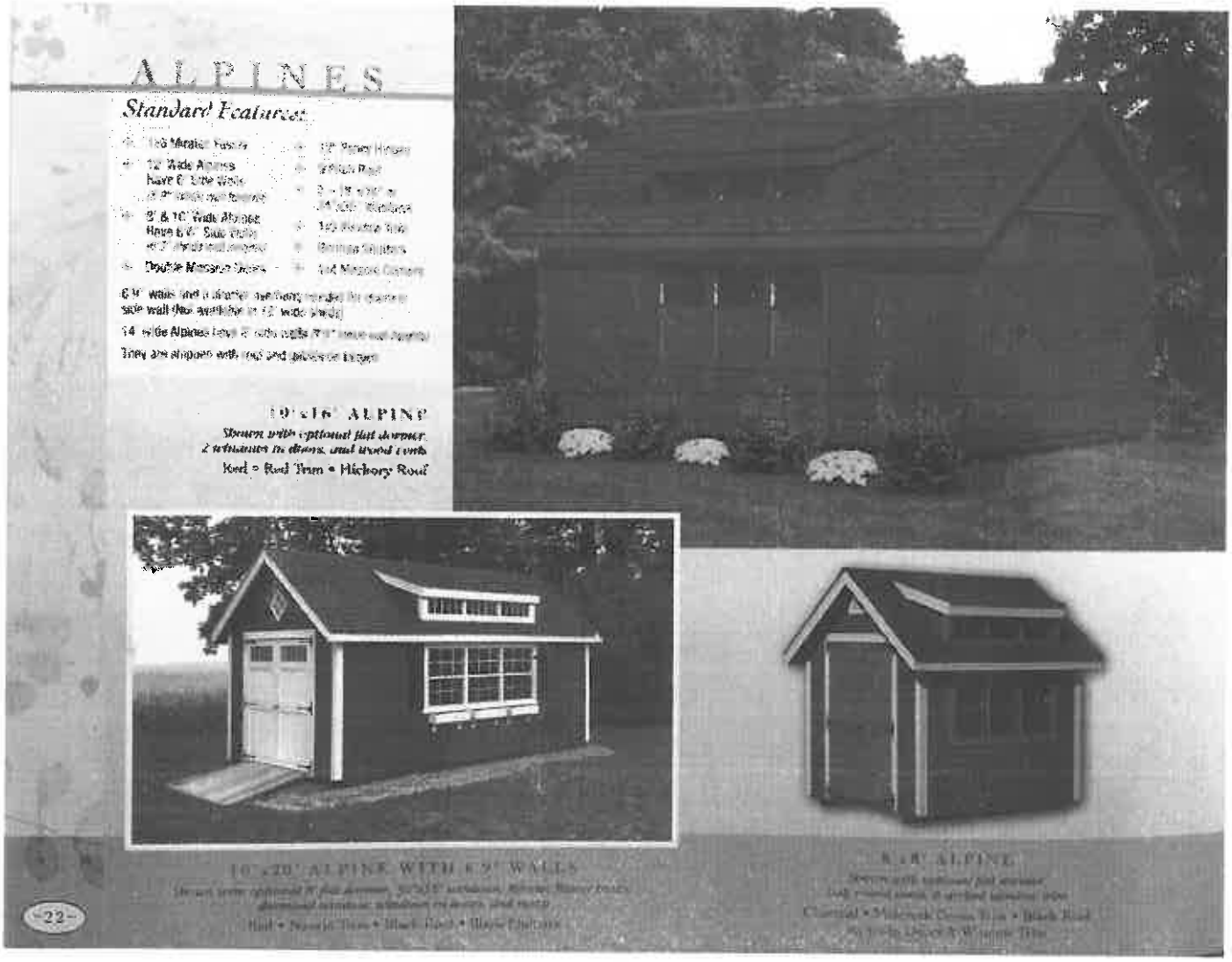
BOB MITCHELL & ASSOCIATES
SURVEYING / ENGINEERING
404 West Main Street P.O. Box 306
Kingsley, MI 49649
(231) 263-5463 • FAX (231) 263-7921
Toll Free in Michigan 1-800-533-6527
www.mapcivilsurvey.com

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

DWN. MJC	rev 11.9.2020 DATE 9.29.2020	FILE No. 20200306
CK. JEM	FLD. BK. X PG. X	SHEET 1 OF 1

Shed Information

Wall Dimensions: 10ft x 16ft
Roof Overhang: 12in
Roof Pitch: 9/12
Height: 11ft, 2in

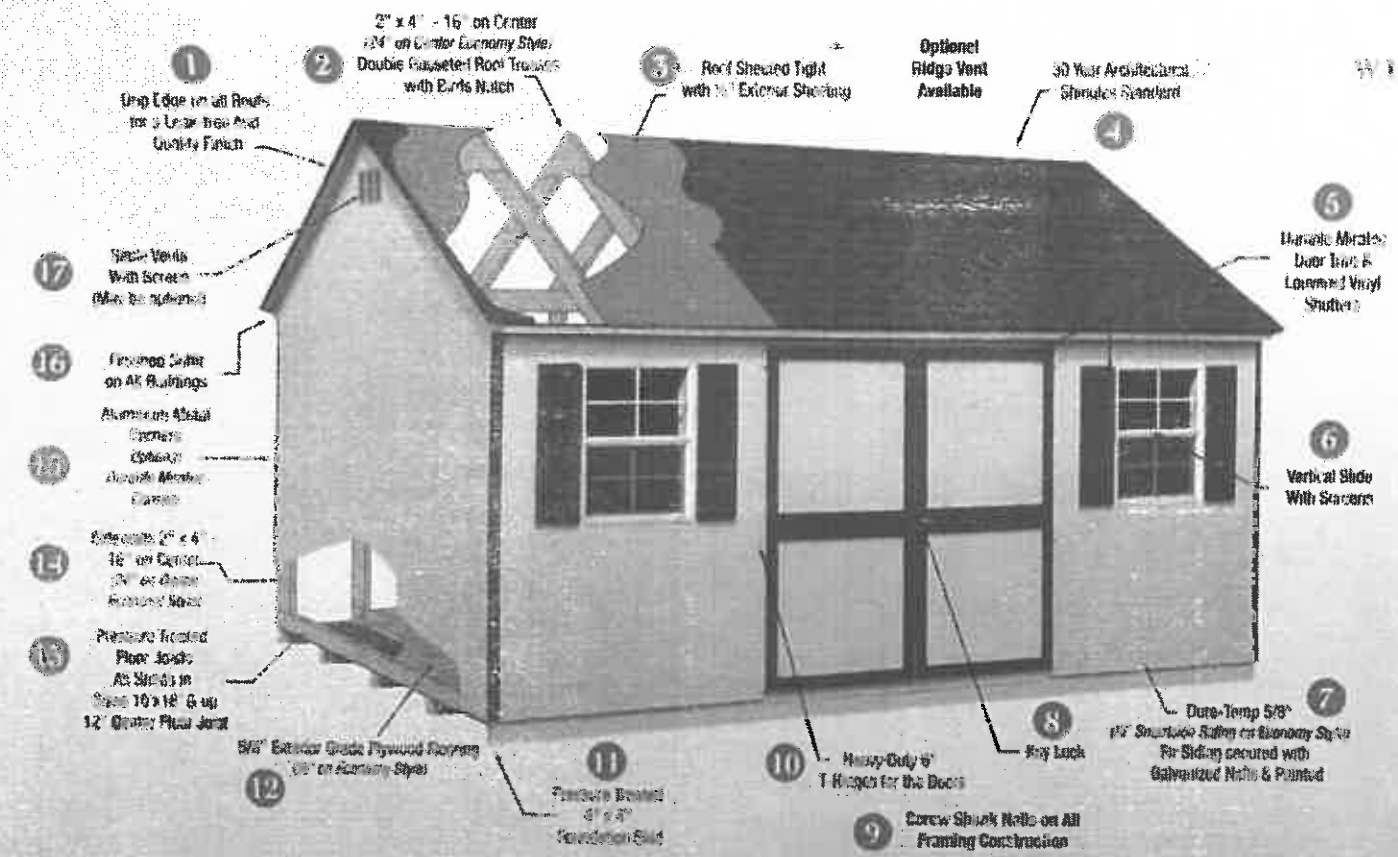


SPECIFICATIONS

Apply to All Sheds Except Economy Styles

DURATEMP SHEDS COME STANDARD WITH TREATED FLOOR JOISTS

Treated floor plywood is optional on any shed.



DURATEMP SHEDS

DOOR SIZES

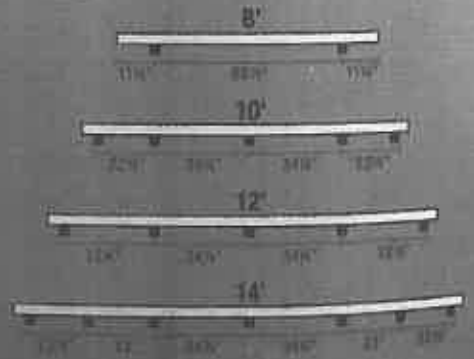
Barns

Width	Door Width
6' (4' wall)	36"
8' (4' wall)	50"
8' (6' & 8' walls)	55"
10'	60"
12'	72"
14'	84"

A-Frames, Quakers, Dutches & Cape Cods

Width	Door Width
6' & 8' wide, all doors	55"
10' wide x 12' long & under	55"
10' wide x 14' to 18' long	60"
10' wide x 20' long & up	72"
12' wide x 12' long & under	55"
12' wide x 14' long	60"
12' wide x 16' long & up	72"

SKID PLACEMENT



Case No. 886

EXHIBIT LIST

ITEM NO. 3

Peninsula Township Planning & Zoning Department

STAFF REPORT

ZBA Request # 886

Physical Address of Subject Property: 12440 Bluff Rd., Traverse City, MI 49686

Date: March 16, 2021

TABLED FROM FEBRUARY 16, 2021

To:	**Peninsula Township Zoning Board of Appeals**
From:	**Christina Deeren, Zoning Administrator**
RE:	**Request # 886**
Zoning District:	**R-1B Coastal Zone – Single and Two-Family Residential**
Hearing Date:	**January 19, 2021 – 7:00 PM**
Applicant:	**Wayne M. Eaker, 12440 Bluff Rd., Traverse City, MI 49686**
Owner:	**Wayne M. Eaker, 12440 Bluff Rd., Traverse City, MI 49686**
Site:	**12440 Bluff Rd., Traverse City, MI 49686**
Tax ID:	**28-11-134-026-00**

Information:

- Parcel 28-11-134-026-00 is approximately .40 acres in size or 63 feet by 276.571 feet and approximately 17,423 square feet.
- The property is zoned Coastal Zone – Single and Two-Family Residential (R-1B); and the surrounding area is also zoned Coastal Zone – Single and Two-Family Residential (R-1B).
- The lot was created prior the adoption of the Peninsula Township Zoning Ordinance, and is considered legal non-conforming.
- The parcel is improved with a residential structure on the East side of Bluff Road.
- The original residential structure was constructed in 1946 and is considered legal non-conforming to current zoning standards.
- The entire residential structure does not conform to the setback requirements within this zoning district.
- Bluff Road divides the lot into separate parcels.
- The portion of the property on the West side of Bluff Road is unbuildable due to the size of the building envelope.

Action Requested:

1. Requesting a variance from the required fifteen (15) foot side yard setback to ten (10) feet on the northerly property line in order to place a 160 square foot shed.

2. Requesting a variance from the required fifteen (15) foot side yard setback to ten (10) feet on the southerly property line in order to place a 160 square foot shed.

3. Requesting a variance from the Definition of Lot: The parcel of land having frontage along a street or right-of- way on which one principal building and its accessories are located or intended to be located together with any open spaces required by this Ordinance. Two (2) or more parcels, lots of legal record, or platted lots, when contiguous and when held in common ownership, may be treated together as a single lot for purposes of this Ordinance. Unless otherwise provided in this Ordinance; public and private streets and road rights-of-way, and easements for ingress and egress shall divided lots (including parcels and sites) for purposes of this Ordnance (REVISED BY AMDEDNMENT 158)

Parcel Code: #28-11-134-026-00

Applicant Statement: Please see the enclosed application submitted by the property owner.

Staff Comments:

Background:

The required setbacks in the R-1B zoned districts:

R-1B Standards (Section 6.8)	Required	Variance	Conforms to Standards?
Minimum Front Setback	30'	No	Yes
Minimum South side yard setback	15' – Variance request to 10 ft	Yes	No
Minimum North side yard setback	15' – Variance request to 10 ft	Yes	No
Minimum Rear setback	30'	No	Yes
Minimum OHWM	60'	NA	NA
Road Right-of-way setback	33'	No	Yes
Percentage of Lot Coverage:	15% - allowed	No- 5.90% w/ existing structures – 6.82%	Yes

Article III
Definitions:

SECTION 3.2 Definitions: For the purpose of this Ordinance, certain terms or words used herein shall be interpreted or defined as follows:

Lot: The parcel of land having frontage along a street or right-of-way on which one principal building and its accessories are located or intended to be located together with any open spaces required by this Ordinance. Two (2) or more parcels, lots of legal record, or platted lots, when contiguous and when held in common ownership, may be treated together as a single lot for purposes of this Ordinance. **Unless otherwise provided ion this Ordinance; public and private streets and road rights-of-way, and easements for ingress and egress shall divide lots (including parcels and sites) for purposes of this Ordinance. (REVISED BY AMENDMENT 158)**

Structure: A structure is any production or piece of material artificially built up or composed of parts joined together in some definite manner; any construction. Including dwellings, garages, building, mobile homes, signs and sign boards, towers, poles, antennae, landfill, sea walls, weirs, jetties, swimming pools, stand pipes, fences over four feet in height above final grade and earth sheltering for earth-sheltered structures or other like objects, but not including: (a) a temporary fence; (b) agricultural fences that are used for general farming and horticultural uses, field crop and fruit farming, raising and keeping of small animals, and raising and keeping of livestock; (c) access steps required to negotiate changes in site elevation; (d) landscape mounds; and (e) sidewalks, drives, and paved areas which do not protrude above the finished site grade. **(REVISED BY AMENDMENT 152)**

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, Suburban Residential:

Minimum lot 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%

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.

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

   (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.)

   (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.

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

(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.

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.

(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.

(b) 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.

Section 5.7.4 Special Exemptions:
(Revised by Amendment 113B)
(DELETED BY AMENDMENT 188)

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: _____
_____
_____.

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: _____

_____
_____.

c) That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirements 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: _____
_____

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: _____
_____
_____.

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: _____
_____
_____.

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: _____
_____
_____.

The subject property, zoned R-1B, was created prior the effective date of the Ordinance and considered legal non-conforming. The property is located along Bluff Rd.

Peninsula Township
Zoning Board of Appeals

ZBA Case No. 886

Peninsula Township
13235 Center Road
Traverse City, MI 49686

Date of Meeting: March 16, 2021

Applicant: Wayne M. Eaker, 12440 Bluff Rd., Traverse City, MI 49686
Owner: Wayne M. Eaker, 12440 Bluff Rd., Traverse City, MI 49686
Address: 12440 Bluff Rd., Traverse City, MI 49686

Parcel Code: #28-11-134-026-00

Request:
1. Requesting a variance from the required fifteen (15) foot side yard setback to ten (10) feet on the northerly property line in order to place a 160 square foot shed.

Action by the Zoning Board of Appeals:

_____ (Chair)	☐ Yes	☐ No
_____ (Vice Chair)	☐ Yes	☐ No
_____ (Member)	☐ Yes	☐ No
_____ (Member)	☐ Yes	☐ No
_____ (Member)	☐ Yes	☐ No

Board Action:

_____
_____
_____
_____
_____
_____
_____

ZBA Case No. 886

Peninsula Township
13235 Center Road
Traverse City, MI 49686

Date of Meeting: March 16, 2021

Applicant: Wayne M. Eaker, 12440 Bluff Rd., Traverse City, MI 49686
Owner: Wayne M. Eaker, 12440 Bluff Rd., Traverse City, MI 49686
Address: 12440 Bluff Rd., Traverse City, MI 49686

Parcel Code: #28-11-134-026-00

Request:

2. Requesting a variance from the required fifteen (15) foot side yard setback to ten (10) feet on the southerly property line in order to place a 160 square foot shed.

Action by the Zoning Board of Appeals:

_____ ☐ Yes ☐ No
(Chair)

_____ ☐ Yes ☐ No
(Vice Chair)

_____ ☐ Yes ☐ No
(Member)

_____ ☐ Yes ☐ No
(Member)

_____ ☐ Yes ☐ No
(Member)

Board Action:

_____
_____
_____
_____
_____
_____
_____

.ZBA Case No. 886

Peninsula Township
13235 Center Road
Traverse City, MI 49686

Date of Meeting: March 16, 2021

Applicant: Wayne M. Eaker, 12440 Bluff Rd., Traverse City, MI 49686
Owner: Wayne M. Eaker, 12440 Bluff Rd., Traverse City, MI 49686
Address: 12440 Bluff Rd., Traverse City, MI 49686

Parcel Code: #28-11-134-026-00

Request:

3. Requesting a variance from the Definition of Lot: The parcel of land having frontage along a street or right-of- way on which one principal building and its accessories are located or intended to be located together with any open spaces required by this Ordinance. Two (2) or more parcels, lots of legal record, or platted lots, when contiguous and when held in common ownership, may be treated together as a single lot for purposes of this Ordinance. Unless otherwise provided in this Ordinance; public and private streets and road rights-of-way, and easements for ingress and egress shall divided lots (including parcels and sites) for purposes of this Ordnance (REVISED BY AMDEDNMENT 158)

Action by the Zoning Board of Appeals:

_____ (Chair)	☐ Yes	☐ No
_____ (Vice Chair)	☐ Yes	☐ No
_____ (Member)	☐ Yes	☐ No
_____ (Member)	☐ Yes	☐ No
_____ (Member)	☐ Yes	☐ No

Board Action:

_____
_____
_____
_____
_____
_____
_____

Case No. 886

EXHIBIT LIST

ITEM NO. 4

PUBLIC NOTICE

PENINSULA TOWNSHIP
ZONING BOARD OF APPEALS
NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the Peninsula Township Zoning Board of Appeals will hold a Regular Meeting on January 19, 2021 at 7:00 p.m. at the Peninsula Township Hall, 13235 Center Road, Traverse City, MI 49686 (231) 223-7322. The following applicant is scheduled to be heard:

1. Request No. 886, Zoning R-1B
Applicant: Wayne M. Eaker, 12440 Bluff Rd., Traverse City, MI 49686
Owner: Wayne M. Eaker, 12440 Bluff Rd., Traverse City, MI 49686
Property Address: 12440 Bluff Rd., Traverse City, MI 49686

Request:

1. Requesting a variance from the required fifteen (15) foot side yard setback to ten (10) feet on the northerly property line in order to place a 160 square foot shed.
2. Requesting a variance from the required fifteen (15) foot side yard setback to ten (10) feet on the southerly property line in order to place a 160 square foot shed.
3. Requesting a variance from the Definition of Lot: The parcel of land having frontage along a street or right-of-way on which one principal building and its accessories are located or intended to be located together with any open spaces required by this Ordinance. Two (2) or more parcels, lots of legal record, or platted lots, when contiguous and when held in common ownership, may be treated together as a single lot for purposes of this Ordinance. Unless otherwise provided in this Ordinance; public and private streets and road rights-of-way, and easements for ingress and egress shall divided lots (including parcels and sites) for purposes of this Ordnance (REVISED BY AMDEDNMENT 158)

Parcel Code # 28-11-134-026-00

Please be advised that the public may appear at the hearing in person or by counsel.

Written comments may be submitted to Peninsula Township Planning and/or Zoning Departments at 13235 Center Road, Traverse City, MI 49686, no later than 12:00 p.m. on January 18, 2021.

If you are planning on attending the meeting and are disabled and require any special assistance, please notify the Planning and/or Zoning Department at (231) 233-7318 or call TDD (231) 922-4766

SUBJECT SITE

Please wear a mask when attending this meeting and keep six feet between you and others.

Case No. 886

EXHIBIT LIST

ITEM NO. 5

T. C. RECORD-EAGLE, INC.
120 WEST FRONT STREET
TRAVERSE CITY MI 49684
(231)946-2000
Fax (231)946-8273

ORDER CONFIRMATION (CONTINUED)

Salesperson: DENISE LINGERFELT Printed at 12/29/20 07:27 by dling

---

Acct #: 1837 Ad #: 559044 Status: New WHOLD WHO:

PUBLIC NOTICE

PENINSULA TOWNSHIP
ZONING BOARD OF APPEALS
NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the Peninsula Township Zoning Board of Appeals will hold a regular meeting on January 19, 2021 at 7:00 PM at the Peninsula Township Hall, 13235 Center Road, Traverse City, MI 49686, (231) 223-7322. The following applicants will be heard:

1. Request No. 885, Zoning R-1C
Applicant: Daniel J. Dingeman, 6559 Peninsula Drive, Traverse City, MI 49686
Owner: Daniel J. Dingeman, 6559 Peninsula Drive, Traverse City, MI 49686
Property Address: 6559 Peninsula Drive, Traverse City, MI 49686
1. Requesting a variance from the required sixty (60) foot setback from the ordinary high waterline to Fifty-four (54) feet in order to construct a 750 square foot addition to the existing non-conforming structure.
Parcel Code # 28-11-336-038-00

2. Request No. 886, Zoning R-1B
Applicant: Wayne M. Eaker, 12440 Bluff Rd., Traverse City, MI 49686
Owner: Wayne M. Eaker, 12440 Bluff Rd., Traverse City, MI 49686
Property: 12440 Bluff Rd., Traverse City, MI 49686
1. Requesting a variance from the required fifteen (15) foot side yard setback to ten (10) feet on the northerly property line in order to place a 160 square foot shed.
2. Requesting a variance from the required fifteen (15) foot side yard setback to ten (10) feet on the southerly property line in order to place a 160 square foot shed.
3. Requesting a variance from the Definition of Lot: The parcel of land having frontage along a street or right-of- way on which one principal building and its accessories are located or intended to be located together with any open spaces required by this Ordinance. Two (2) or more parcels, lots of legal record, or platted lots, when contiguous and when held in common ownership, may be treated together as a single lot for purposes of this Ordinance. Unless otherwise provided in this Ordinance; public and private streets and road rights-of-way, and easements for ingress and egress shall divided lots (including parcels and sites) for purposes of this Ordnance (REVISED BY AMDEDNMENT 158)
Parcel Code # 28-11-134-026-00

3. Request No. 887, Zoning R-1C
Applicant: Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686
Owner: Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686
Property: 7215 Peninsula Drive, Traverse City, MI 49686
1. Requesting a variance from the required sixty (60) foot setback from the ordinary high waterline to forty-six (46) feet in order to construct a 112 square foot addition to the existing non-conforming garage structure.
2. Requesting a variance from the required fifteen (15) foot side yard setback to thirteen (13) foot side yard setback on the southerly property line to construct an 84 square foot addition to the existing non-conforming garage structure.
3. Requesting a variance from the required twenty-five (25) foot front yard setback to a zero (0) front yard setback on the southerly line in order to construct an 84 square foot addition to the existing non-conforming garage structure.
4. Requesting a variance from the required twenty-five (25) foot front yard set back to a twelve (12) foot front yard setback on the northerly corner in order to construct a 112 square foot addition to the existing non-conforming garage structure.
5. Requesting a variance from the required 25 percent of lot coverage to 52 percent in order to construct a 639 square foot addition to existing non-conforming garage structure.
Parcel Code # 28-11-325-036-00

4. Request No. 888, R-1B
Applicant: Nathan & Karley Elkins, 13024 Peninsula Drive, Traverse City, MI 49686
Owner: Nathan & Karley Elkins, 13024 Peninsula Drive, Traverse City, MI 49686
Property: 13024 Peninsula Drive, Traverse City, MI 49686
1. Requesting a variance from the required fifteen (15) foot side yard setback to twelve (12) foot side setback on the southerly property line in order to construct a 60 square foot addition to the existing non-conforming structure.
2. Requesting a variance from the required thirty (30) foot rear setback to ten (10) foot rear setback in order to construct a 1248 square foot detached garage structure.
3. Requesting a variance from the required fifteen (15) foot side yard setback to thirteen (13) foot side yard setback on the southerly property line in order to construct a 1248 square foot detached garage.
4. Requesting a variance from the required fifteen (15) percent lot coverage to twenty-three (23) in order to construct a 1248 square foot detached garage structure.
Parcel Code # 28-11-128-037-00

Please be advised that the public may appear at the public hearing in person or by counsel.

Written comment may be submitted to Peninsula Township Zoning Department at 13235 Center Rd., Traverse City, MI 49686 no later than 12:00 PM on January 18, 2021.

If you are planning to attend the meeting and are disabled requiring any special assistance, please so notify the Planning & Zoning Department at (231) 223-7318 or call TDD at (231) 922-4766.

December 31, 2020-1T 559044

Case No. 886

EXHIBIT LIST

ITEM NO. 6

PENINSULA TOWNSHIP
BOARD OF ZONING APPEALS

CERTIFICATE OF NOTIFICATION

Request No. 886
Hearing Date: January 19, 2021
Applicant: Wayne M. Eaker, 12440 Bluff Rd., Traverse City, MI 49686
Owner: Wayne M. Eaker, 12440 Bluff Rd., Traverse City, MI 49686
Property Address: 12440 Bluff Rd., Traverse City, MI 49686

I certify that the attached Public Hearing Notice and map showing the subject property location whose Parcel Code #s 28-11-134-026-00 was mailed by regular US mail to the attached list of 10 properties on December 27, 2020 by depositing said notices in a mail box located at United States Postal Services Main Office Building located at: 202 S. Union St., Traverse City, MI 496984

Christina Deeren
Peninsula Township
Director of Zoning

Case No. 886

EXHIBIT LIST

ITEM NO. 7

Haggard's
PLUMBING and HEATING
"Business of Quality and Service"
"Charlevoix-the-Beautiful"
haggardsinc@hotmail.com

January 4, 2021

Peninsula Township Zoning Department
13235 Center Rd.
Traverse City, MI 49686

RE: Applicant by Wayne M. Eaker property located at 12440 Bluff Rd. Parcel#28-11-134-026-00 Request for 10 Feet on both the Southern and Northern side of the property to place a 160 Square Foot Shed. To be treated together as a single lot.

To Whom It May Concern,

Upon reviewing the above Article, I would like to express my view on the above plan request. Haggard's Plumbing & Heating is no opposed to the changes of the property and/or the request to the Zoning Board. If a property owner is fortunate enough to have the ability and the resources in this time to either building and/or improve their existing property, it would only help the economy continue to grow. It would prove positive for the local, county and state to do all we can to improve and promote growth in anyways possible.

Sincerely,

John Haggard

P.O. Box 35 06238 U.S. 31 South Charlevoix, Michigan 49720 Ph (231) 547-4046 Fax (231) 547-0364

Peninsula Township Planning & Zoning Department

EXHIBIT LIST
ZBA Request # 889
Owner: Richard M. & Dianne L. Frank
Physical Address of Subject Property: 7215 Peninsula Drive, Traverse City, MI 49686
Hearing date: March 16, 2021

EXHIBIT LIST

1. Application for variance request from the applicant
2. Conceptual construction plans and survey
3. Staff report from Peninsula Township Director of Zoning.
4. Public Notice for properties within 300 feet of subject site
5. Public Notice – Record Eagle
6. Certificate of Notification
7. Correspondence

Case No. 889

EXHIBIT LIST

ITEM NO. 1

Peninsula Township Variance Application

Application Guidelines

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

1. Zoning Board of Appeals (ZBA) applications are available from the Peninsula Township Planning & Zoning Department, 7:30 a.m. to 6:30 p.m., Monday, and 7:30 a.m. to 5:00 p.m. Tuesday through Thursday, or online at www.peninsulatownship.com/zoning.

2. Applications must be submitted to the Planning & Zoning Department at least four (4) weeks prior to the ZBA meeting. Ten (10) copies must be submitted.

3. If the applicant is not the property owner, a letter signed by the owner agreeing to the variance must be included with the application.

4. It is the applicant's responsibility to review and address the appropriate sections of the Zoning Ordinance prior to submission.

5. It is the applicant's responsibility to ensure that the application is complete upon submission. **Planning and Zoning Department staff will determine and confirm with the applicant that the application is complete.** An incomplete application will not be considered for review by the ZBA.

6. The application will be forwarded to members of the ZBA for a public hearing.

7. A notice of the public hearing must be mailed to the property owners and occupants within three hundred (300) feet of the subject property not less than fifteen (15) days before the public hearing.

8. The applicant will receive a notice of the public hearing in the mail, and is expected to attend the meeting.

9. ZBA meetings are held on the second Thursday of every month, beginning at 7:00 p.m. in the Township Hall, 13235 Center Road, Traverse City, MI 49686.

10. If the variance(s) are granted, **construction authorized by such variance(s) must begin within six (6) months after the granting of the variance, and the occupancy of land, premises, or buildings authorized by the variance must take place within one (1) year after the granting of the variance.**

11. If the variance(s) are granted, construction authorized by such variance(s) must comply with all other necessary permits. **A variance is independent from, and does not substitute for, all other permits.**

12. No application for a variance which has been denied wholly or in part by the Board shall be resubmitted for a period of one (1) year from the date of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid.

OFFICE USE ONLY		
Date Received:	Fee Received:	Board Action:
Date Complete:	Meeting Date:	

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. **10 copies are required.**

Applicant Information

Applicant: Name _____Richard M & Dianne L Frank_____
Address Line 1 _____7215 Peninsula Drive_____
Address Line 2 _____Traverse City, MI 49686_____
Phone ____248-925-9464 _____Cell ____same_____
E-mail ____richardmfrank@aol.com_____
Owner: Name _____Richard M & Dianne Frank L_____
Address Line 1 _____7215 Peninsula Drive_____
Address Line 2 _____ Traverse City, MI 49686_____
Phone ____248-925-9464_____Cell _____
E-mail ____richardmfrank@aol.com _____

(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 _____11-325-036-00_____ Zoning __R-1C_____
Address Line 1 _____7215 Peninsula Drive_____
Address Line 2 _____Traverse City, MI 49686_____

Type of Request

Indicate which Ordinance requirement(s) are the subject of the variance request:
[ ] Front Yard Setback [ ] Side Yard Setback [ ] Rear Yard Setback
[ ] Width to Depth Ratio [ ] Lot Coverage [ ] Off-Street Parking
[ ] Signage [ ] Height/Width [ ] Non-Conformity Expansion
[X] Other: Please Describe: _Lake OHWM Setback_____

Attachments

[x] $1,000.00 application fee
[x] Basic Conditions Worksheet
[x] Site plan drawn to scale showing the following:
a. 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;
b. All existing and proposed structures including decks and roof overhangs;
c. Setbacks for existing and proposed structures (varies by zoning district).

[x] 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* _____

Our house was built in the 1960s and a 1 ½ car detached garage was added in the late 1970s. The structure of the garage is 2-stories with the garage on the upper level/street level and with the lower floor walk-out to lake level. The garage needs to be rebuilt because the concrete planks that form the floor of the garage are corroded and in need of replacement. In the process of rebuilding the garage we would like to expand it to a proper 2-car garage. A previous application for this project was submitted and reviewed at the Feb. 16, 2021 ZBA meeting. A 4' expansion to the North (towards the house) was approved while an expansion to the South was rejected due to the proximity to the road Right of Way. This application is to extend the expansion to the north further to achieve the necessary garage width for 2-cars. It does not impact the road R.O.W. set-back.

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*_____

The existing garage was built more than 40 years ago when a smaller garage might have been more acceptable.

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*_____

The existing garage is inadequate to hold our 2 cars and other personal goods such as bicycles, snow blower and garden equipment. Given the current situation with our constrained lot size, it is not possible to expand the garage without new variances. Because we are expanding the existing footprint, following the line of the west wall of the garage results in an incremental additional incursion into the OHWM setback.

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*_____
Keeping the existing garage size would require us to routinely park one car in the driveway in front of the house. And so, the impact of approving the variances would be favorable since keeping our cars in the garage enhances the street appeal of our house. The overall appearance of the garage from the street would be improved with a design done by a professional local architect to match the existing lines of the house.

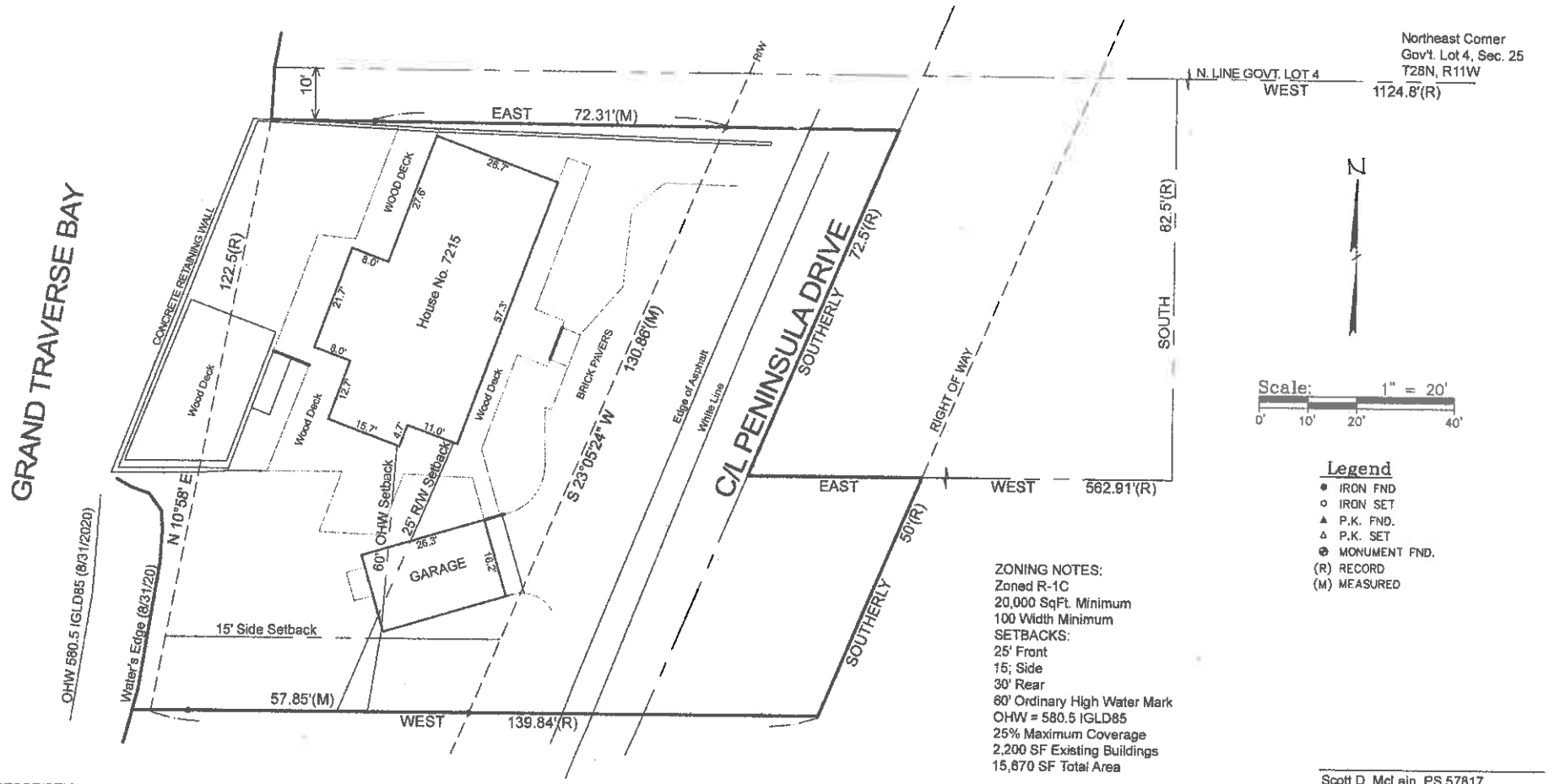
e) That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.

Is this condition met? Please explain: __*Yes*_____
This variance does not impact our neighbors. The proposed expansion is in the space between the existing garage and the house without expanding the overall perimeter of buildings on the property.

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_____
A 2-car garage would be a use permitted by right subject to approval of this Variance Application.

Additional Note: Our second car is a hobby car (1969 Jaguar XKE) that is currently in storage until completion of proposed garage expansion.



ZONING NOTES:
Zoned R-1C
20,000 SqFt. Minimum
100 Width Minimum
SETBACKS:
25' Front
15; Side
30' Rear
60' Ordinary High Water Mark
OHW = 580.5 IGLD85
25% Maximum Coverage
2,200 SF Existing Buildings
15,670 SF Total Area

Legend
- ● IRON FND
- ○ IRON SET
- ▲ P.K. FND.
- △ P.K. SET
- ⊕ MONUMENT FND.
- (R) RECORD
- (M) MEASURED

Scott D. McLain, PS 57817
Date: 9/25/2020

DESCRIPTION AS FURNISHED:
Peninsula Township, Grand Traverse County, Michigan
Commencing at the Northeast corner of Government Lot 4, Section 25, Town 28 North, Range 11 West, Peninsula Township, Grand Traverse County, Michigan; thence West, 1124.8 feet; thence South, 82.5 feet; thence West, 562.91 feet to Peninsula Drive Easterly right of way; thence South, along the Easterly right of way, 50 feet to the Point of Beginning; thence West, 139.84 feet to Grand Traverse Bay; thence North 10°58' East, 122.5 feet along Grand Traverse Bay; thence East to the centerline of said road; thence Southerly along said centerline, 72.5 feet; thence East to the Easterly right of way of said road; thence Southerly along the Easterly right of way to the Point of Beginning. Subject to the right of way of County Road.

SHEET: EXISTING CONDITIONS PLAN

Michigan Geomatics
Land Surveying & Engineering
5422 Goodrick Road
Traverse City, MI 49684
231-325-2655
www.MichiganGeomatics.com

CLIENT: RICHARD FRANK

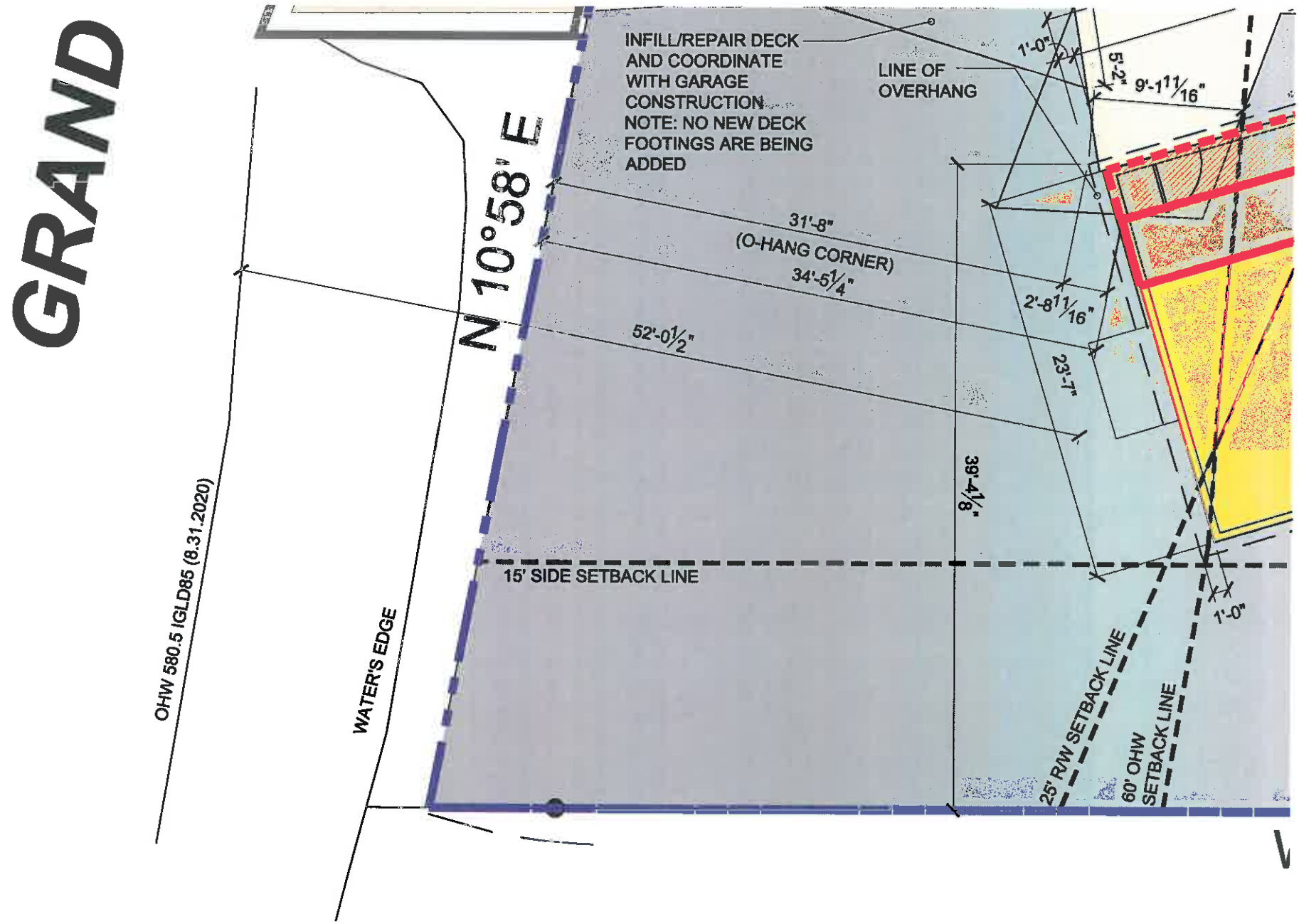
SITE:
RICHARD FRANK RESIDENCE
7215 PENINSULA DR.
TRAVERSE CITY, MI 49686
PHONE: 248-925-9464

JOB NUMBER: 20-3195
DWN: SDM
DATE: SEPT. 23, 2020
CK:
SHEET: 1 OF 1

Case No. 889

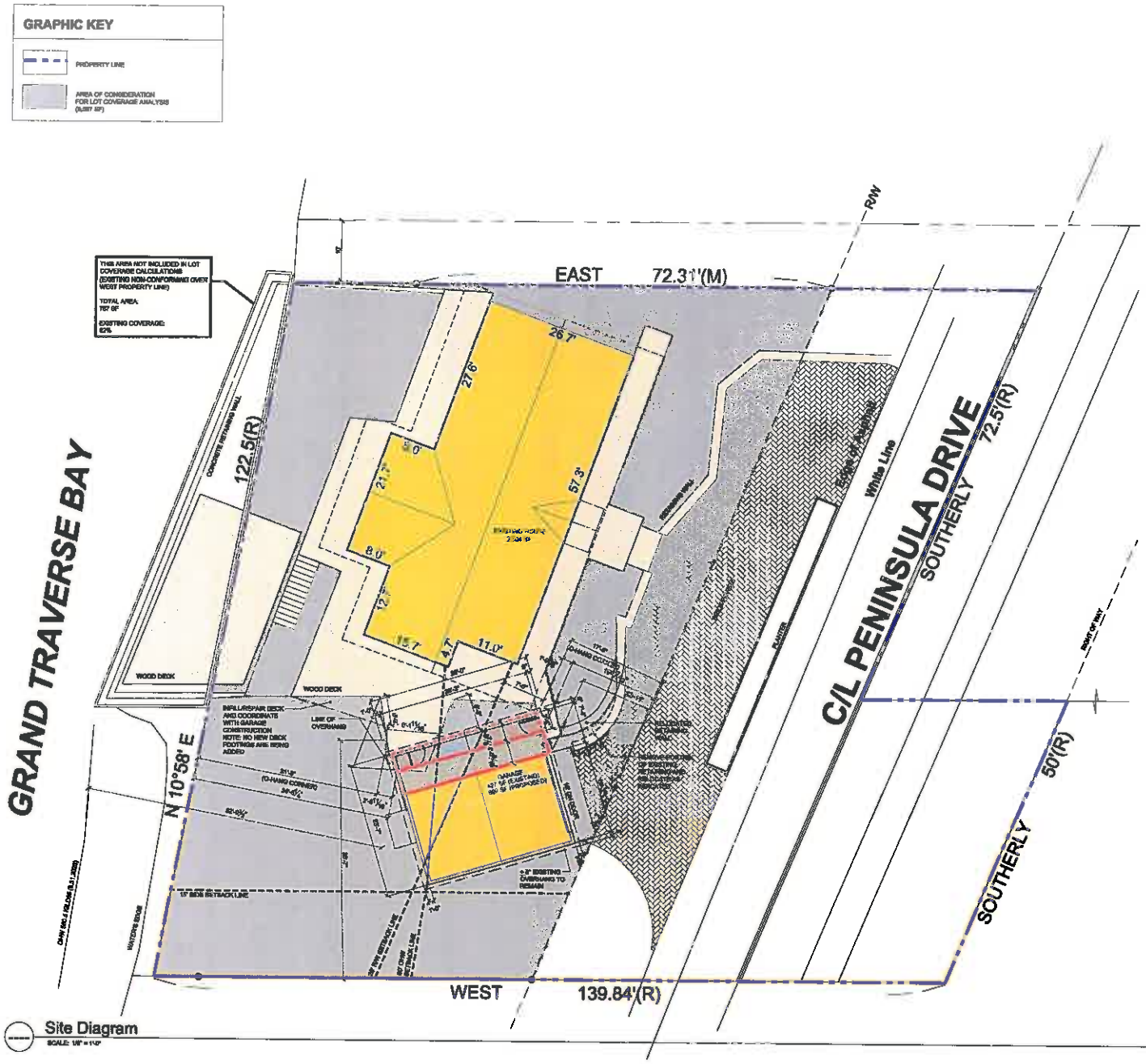
EXHIBIT LIST

ITEM NO. 2



Site Diagram

SCALE: 1/8" = 1'-0"



ZONING NOTES

ZONE: R-1C

22,000 SF MINIMUM

100 WIDTH MINIMUM

SETBACKS:

25' FRONT

10' SIDE

30' REAR

50' ORDINARY HIGH WATER MARK

OHW= 580.8 IGLD85

25% MAXIMUM COVERAGE

EXISTING ANALYSIS

EXISTING HOUSE AND GARAGE (2,931 SF INCLUDING OVERHANG)

EXISTING WOOD DECK AND RETAINING WALLS (1,866 SF)

TOTAL EXISTING STRUCTURES: 4,797 SF

TOTAL AREA OF CONSIDERATION: 9,567 SF

50% LOT COVERAGE

PROPOSED ANALYSIS

EXISTING HOUSE AND GARAGE (2,931 SF INCLUDING OVERHANG)

EXISTING WOOD DECK AND RETAINING WALLS (1,866 SF)

PROPOSED ADDITIONAL GARAGE AREA (INCLUDING OVERHANG) (167 SF)

TOTAL EXISTING STRUCTURES: 4,797 SF

TOTAL EXISTING+PROPOSED STRUCTURES: 5,016 SF

TOTAL AREA OF CONSIDERATION: 9,567 SF

52% LOT COVERAGE

PROPOSED CONFORMING WITHIN SETBACK (24 SF)

PROPOSED NON-CONFORMING OVER SETBACK (GARAGE ONLY) (61 SF)

APPROVED BY VARIANCE REQUEST 2-15-21 (112 SF)

NOTE THIS SHEET TO BE VIEWED IN COLOR

ISSUES:

DATE:	DESCRIPTION:
10-27-20	Preliminary
11-13-20	VARIANCE REQUEST
2-23-21	Floor Plan Updates

environmentarchitects

Addition / Renovations
Frank Garage

20-21
7215 Peninsula Dr.

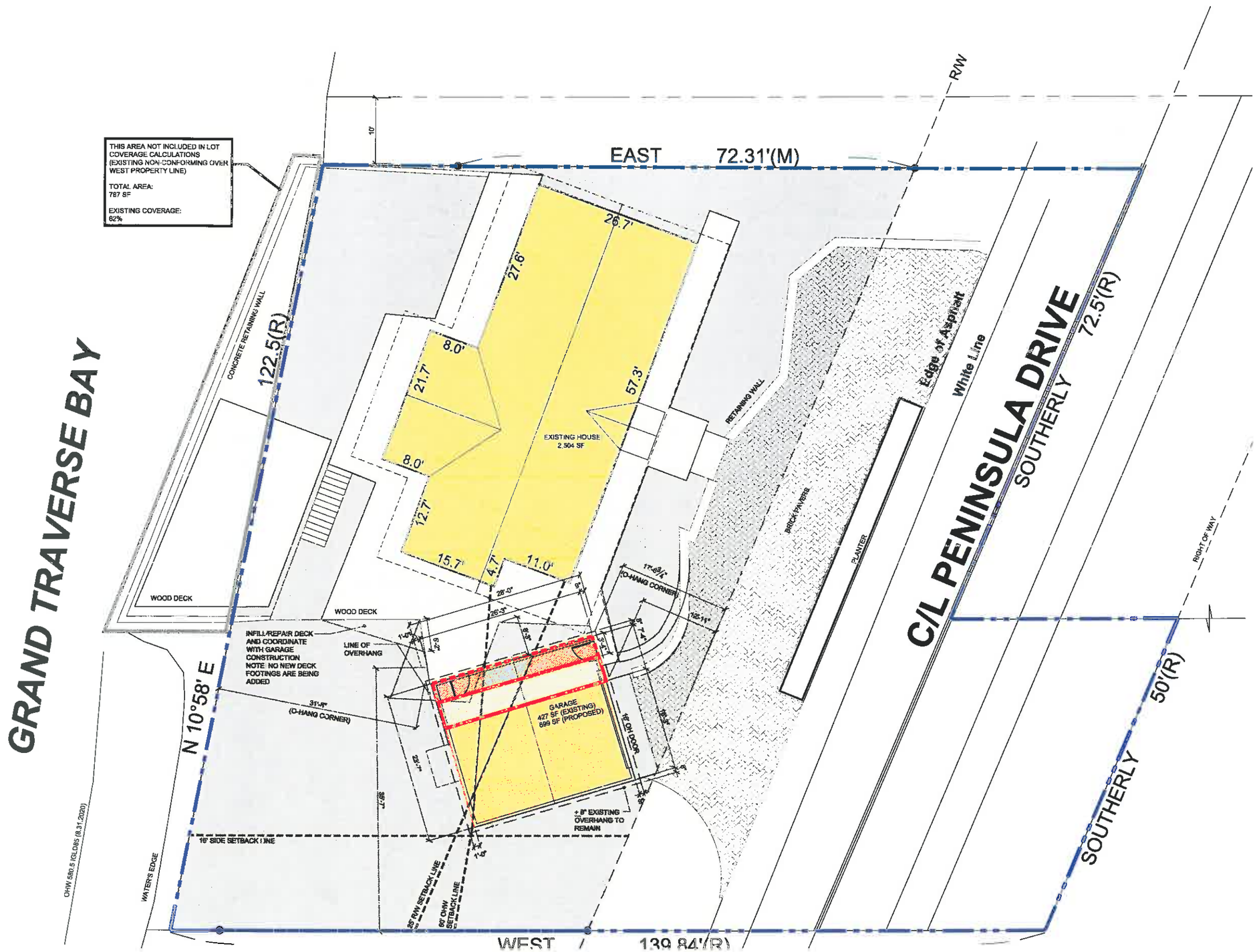
Site Diagram

A1.1

GRAPHIC KEY

PROPERTY LINE

AREA OF CONSIDERATION FOR LOT COVERAGE ANALYSIS (9,597 SF)



ZONING NOTES

ZONE: R-1C

20,000 SF MINIMUM

100 WIDTH MINIMUM

SETBACKS:

25' FRONT

15' SIDE

30' REAR

60' ORDINARY HIGH WATER MARK

OHW= 580.5 IGLD85

25% MAXIMUM COVERAGE

EXISTING ANALYSIS

EXISTING HOUSE AND GARAGE (2,931 SF INCLUDING OVERHANG)

EXISTING WOOD DECK AND RETAINING WALLS (1,866 SF)

TOTAL EXISTING STRUCTURES: 4,797 SF

TOTAL AREA OF CONSIDERATION: 9,597 SF

50% LOT COVERAGE

PROPOSED ANALYSIS

EXISTING HOUSE AND GARAGE (2,931 SF INCLUDING OVERHANG)

EXISTING WOOD DECK AND RETAINING WALLS (1,866 SF)

PROPOSED ADDITIONAL GARAGE AREA (INCLUDING OVERHANG) (107 SF)

TOTAL EXISTING STRUCTURES: 4,797 SF

TOTAL EXISTING+PROPOSED STRUCTURES: 5,019 SF

TOTAL AREA OF CONSIDERATION: 9,597 SF

52% LOT COVERAGE

PROPOSED CONFORMING WITHIN SETBACK (24 SF)

PROPOSED NON-CONFORMING OVER SETBACK (GARAGE ONLY) (91 SF)

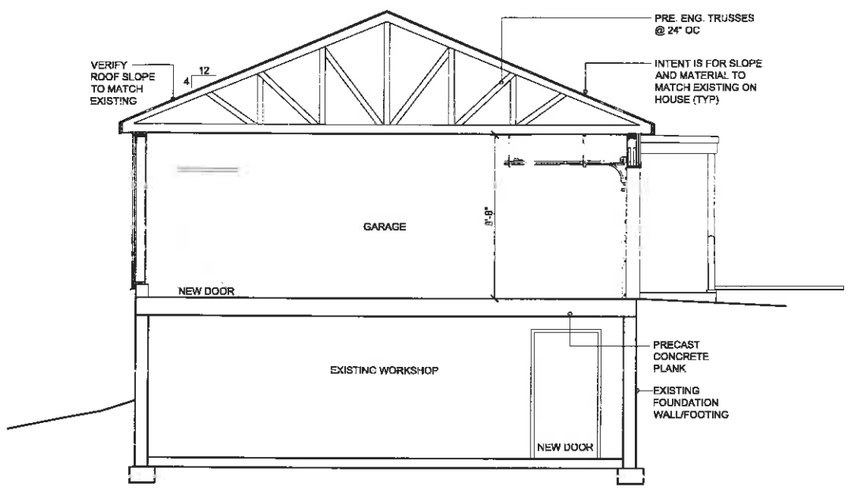
APPROVED BY VARIANCE REQUEST 11-12-20 (115 SF)

NOTE THIS SHEET TO BE VIEWED IN

environmentarchit

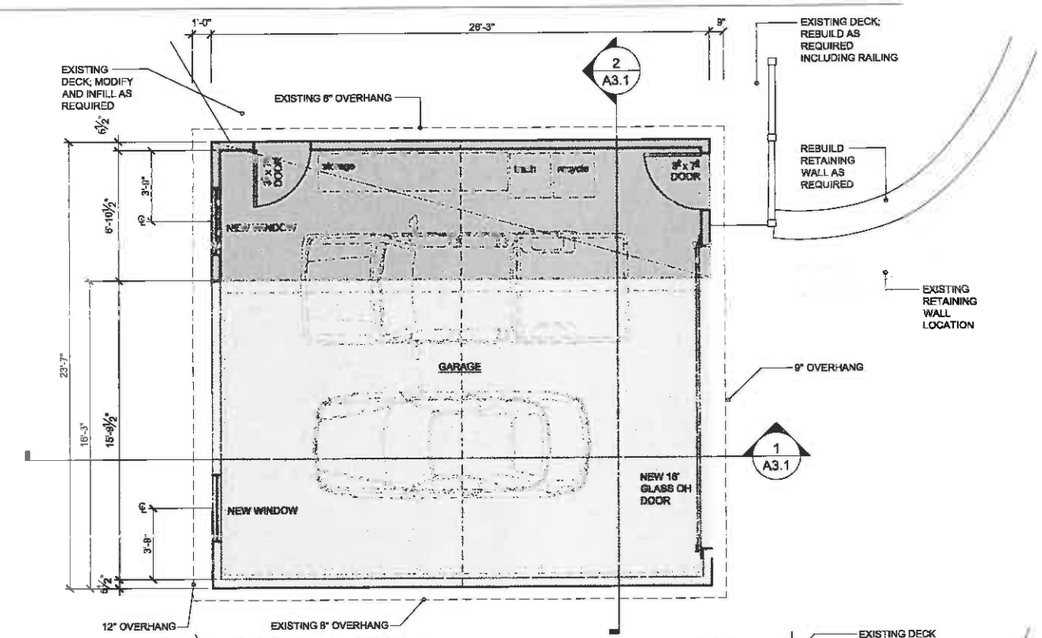
Elevation

SCALE: 1/4" = 1'-0"



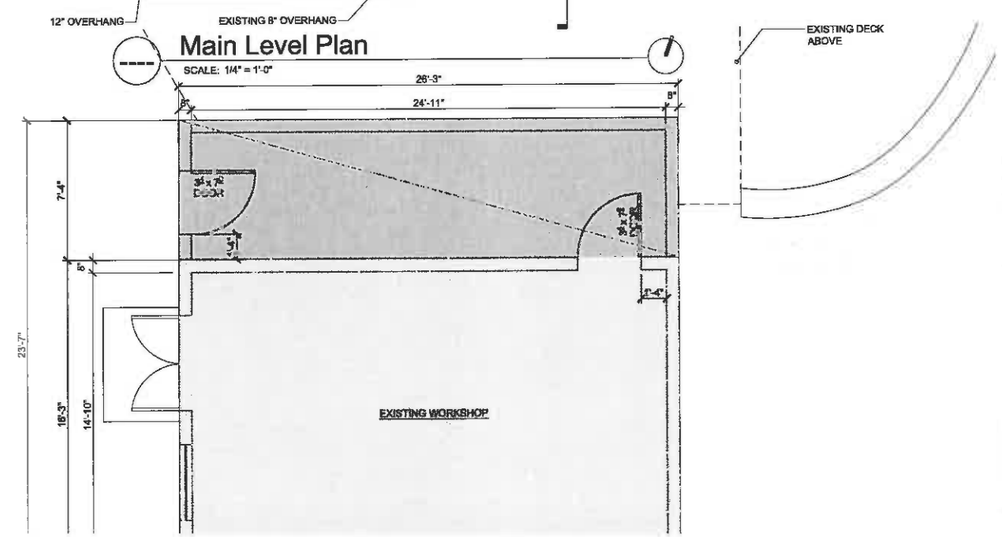
1 Section A

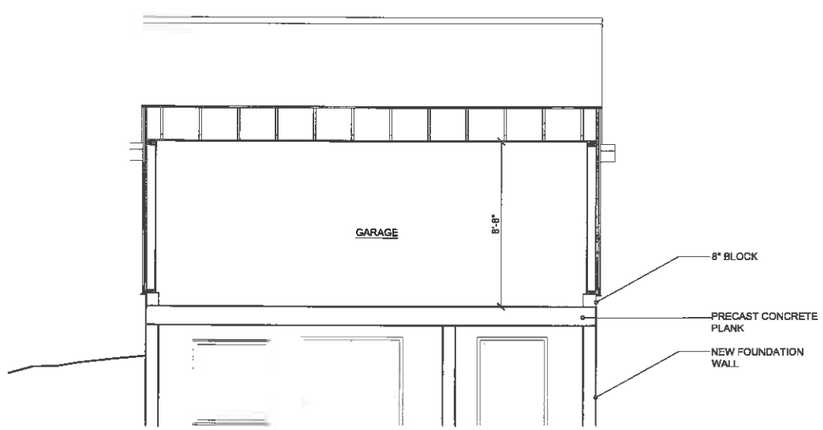
SCALE: 1/4" = 1'-0"



Main Level Plan

SCALE: 1/4" = 1'-0"





ISSI
DATE
10-27
11-12
2-22

environmentarchit

Case No. 889

EXHIBIT LIST

ITEM NO. 3

Peninsula Township Planning & Zoning Department
STAFF REPORT
ZBA Request # 889
Physical Address of Subject Property: 7215 Peninsula Drive, Traverse City, MI 49686
Date: March 16, 2021

To:	**Peninsula Township Zoning Board of Appeals**
From:	**Christina Deeren, Zoning Administrator**
RE:	**Request # 889**
Zoning District:	**R-1C Suburban Residential – Single and Two-Family Residential**
Hearing Date:	**March 16, 2021 – 7:00 PM**
Applicant:	**Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686**
Owner:	**Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686**
Site:	**7215 Peninsula Drive, Traverse City, MI 49686**
Tax ID:	**28-11-325-036-00**

Information:

- Parcel 28-11-325-036-00 is approximately .345 acres in size or 122 feet by 123.182 feet and approximately 15,028 square feet.
- The property is zoned Suburban Residential – Single and Two-Family Residential (R-1C); and the surrounding area is also zoned Suburban Residential – Single and Two-Family Residential (R-1C).
- The lot was created prior the adoption of the Peninsula Township Zoning Ordinance, and is considered legal non-conforming.
- The parcel is improved with a residential structure and detached garage.
- The original residential structure was constructed in 1962.
- The entire residential structure is non-conforming to the current standards outlined within the zoning ordinance.
- The entire existing garage structure is non-conforming to the current standards outlined within the zoning ordinance.
- **The ZBA granted a variance for a 112 square foot addition to be added to the northerly portion of the existing garage structure on February 16, 2021.**

Action Requested:

1. Requesting a variance from the required sixty (60) foot setback from the ordinary high waterline to fifty-two (52) feet in order to construct a 112 square foot addition to the existing non-conforming garage structure.
   NOTE: This was published as a thirty-one (31) foot setback from the ordinary high waterline setback per the information that was submitted. This has been clarified by

the applicant's architect to be a fifty-two (52) feet setback to the ordinary high water.

2. Requesting a variance from the required twenty-five (25) foot front yard setback to a twelve (12) foot front yard setback on the northerly corner in order to construct a 112 square foot addition to the existing non-conforming garage structure.
   NOTE: This is the point where the new construction (if approved) will adjoin the garage addition that was approved by the ZBA on February 16, 2021 for the northerly portion of the structure.

3. Requesting a variance from the required 25 percent of lot coverage to 26.42 percent in order to construct a 112 square foot addition to existing non-conforming garage structure.
   NOTE: This calculation includes the 112 square foot garage addition that was approved by the ZBA on February 16, 2021.

Parcel Code: #28-11-325-036-00

Applicant Statement: Please see the enclosed application submitted by the property owner.

Staff Comments:

Background:

The required setbacks in the R-1C zoned districts:

R-1C Standards (Section 6.8)	Required	Variance	Conforms to Standards?
Minimum Front Setback	25'	Yes – Requesting a 12 front yard setback in order to construct a 112 square foot addition to the existing non-conforming garage and addition that was approved by the ZBA on 3/16/2021.	No – Existing garage does not conform as the majority of the garage structure is within the front yard set back
Minimum South	15'	No	Yes
Minimum North side setback	15'	No	Yes
Minimum Rear setback	30'	NA	NA
Minimum OHWM	60'	Yes – Requesting 52 feet to ordinary high water line as provided by the applicants architect	No – Existing residential structure and garage structure are non-conforming and encroaches in OHWM setback
Road Right-of-way setback	33'	Yes	No
Percentage of Lot Coverage:	25% - allowed	Yes – New addition approved by ZBA on 3/16/2021 and this new requested addition	No

		increase % of lot coverage to 26.42%	

Article III
Definitions:

SECTION 3.2 Definitions: For the purpose of this Ordinance, certain terms or words used herein shall be interpreted or defined as follows:

Structure: A structure is any production or piece of material artificially built up or composed of parts joined together in some definite manner; any construction. Including dwellings, garages, building, mobile homes, signs and sign boards, towers, poles, antennae, landfill, sea walls, weirs, jetties, swimming pools, stand pipes, fences over four feet in height above final grade and earth sheltering for earth-sheltered structures or other like objects, but not including: (a) a temporary fence; (b) agricultural fences that are used for general farming and horticultural uses, field crop and fruit farming, raising and keeping of small animals, and raising and keeping of livestock; (c) access steps required to negotiate changes in site elevation; (d) landscape mounds; and (e) sidewalks, drives, and paved areas which do not protrude above the finished site grade. **(REVISED BY AMENDMENT 152)**

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-1C, Suburban Residential:

Minimum lot front setback - 25 feet
Side yard setbacks – 15 feet
Rear yard setback – 30 feet
Ordinary Highwater setback – 60 feet
Allowable percentage of lot coverage – 25%

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.

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

   (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.)

(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.

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

(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 which a conditional use or temporary use permit is required.

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.

(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.

(b) 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.

Section 5.7.4 Special Exemptions:
(Revised by Amendment 113B)
(DELETED BY AMENDMENT 188)

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: _____
_____
_____.

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: _____
_____
_____.

c) That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirements 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: _____
_____

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: _____
_____
_____.

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: _____
_____
_____.

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: _____
_____
_____.

The subject property, zoned R-1C, was created prior the effective date of the Ordinance and considered legal non-conforming. The property is located along Peninsula Drive.

Peninsula Township
Zoning Board of Appeals

ZBA Case No. 889

Peninsula Township
13235 Center Road
Traverse City, MI 49686

Date of Meeting: March 16, 2021

Applicant: Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686
Owner: Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686
Address: 7215 Peninsula Drive, Traverse City, MI 49686

Parcel Code: #28-11-325-036-00

Request:

1. Requesting a variance from the required sixty (60) foot setback from the ordinary high waterline to fifty-two (52) feet in order to construct a 112 square foot addition to the existing non-conforming garage structure.

Action by the Zoning Board of Appeals:

_____ ☐ Yes ☐ No
(Chair)

_____ ☐ Yes ☐ No
(Vice Chair)

_____ ☐ Yes ☐ No
(Member)

_____ ☐ Yes ☐ No
(Member)

_____ ☐ Yes ☐ No
(Member)

Board Action:

_____
_____
_____
_____
_____
_____
_____

Peninsula Township
Zoning Board of Appeals

ZBA Case No. 889

Peninsula Township
13235 Center Road
Traverse City, MI 49686

Date of Meeting: March 16, 2021

Applicant: Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686
Owner: Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686
Address: 7215 Peninsula Drive, Traverse City, MI 49686

Parcel Code: #28-11-325-036-00

Request:

2. Requesting a variance from the required twenty-five (25) foot front yard setback to a twelve (12) foot front yard setback on the northerly corner in order to construct a 112 square foot addition to the existing non-conforming garage structure.

Action by the Zoning Board of Appeals:

_____ (Chair)	☐ Yes	☐ No
_____ (Vice Chair)	☐ Yes	☐ No
_____ (Member)	☐ Yes	☐ No
_____ (Member)	☐ Yes	☐ No
_____ (Member)	☐ Yes	☐ No

Board Action:

_____
_____
_____
_____
_____
_____
_____

Peninsula Township
Zoning Board of Appeals

ZBA Case No. 889

Peninsula Township
13235 Center Road
Traverse City, MI 49686

Date of Meeting: March 16, 2021

Applicant: Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686
Owner: Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686
Address: 7215 Peninsula Drive, Traverse City, MI 49686

Parcel Code: #28-11-325-036-00

Request:

3. Requesting a variance from the required 25 percent of lot coverage to 26.42 percent in order to construct a 112 square foot addition to existing non-conforming garage structure.
   NOTE: This calculation includes the 112 square foot garage addition that was approved by the ZBA on February 16, 2021.

Action by the Zoning Board of Appeals:

_____ (Chair)	☐ Yes	☐ No
_____ (Vice Chair)	☐ Yes	☐ No
_____ (Member)	☐ Yes	☐ No
_____ (Member)	☐ Yes	☐ No
_____ (Member)	☐ Yes	☐ No

Board Action:

_____
_____
_____
_____
_____
_____
_____

Case No. 889

EXHIBIT LIST

ITEM NO. 4

PUBLIC NOTICE
(VIRTUAL ZOOM MEETING)
PENINSULA TOWNSHIP
ZONING BOARD OF APPEALS
NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the Peninsula Township Zoning Board of Appeals will hold a Regular Meeting March 16, 2021 at 7:00 p.m. Virtual Meeting Via Zoom-Link, 13235 Center Road, Traverse City, MI 49686 (231) 223-7322. The following applicant is scheduled to be heard:

1. Request No. 889, Zoning R-1C
Applicant: Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686
Owner: Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686
Property Address: 7215 Peninsula Drive, Traverse City, MI 49686

Request:
1. Requesting a variance from the required sixty (60) foot setback from the ordinary high waterline to thirty-one (31) feet in order to construct a 112 square foot addition to the existing non-conforming garage structure.
2. Requesting a variance from the required twenty-five (25) foot front yard setback to a twelve (12) foot front yard setback in order to construct a 112 square foot addition to the existing non-conforming garage structure.
3. Requesting a variance from the required 25 percent of lot coverage to 26.42 percent in order to construct a 112 square foot addition to existing non-conforming garage structure.

Parcel Code # 28-11-325-036-00

Please be advised that the public may appear at the hearing in person or by counsel per the Virtual Meeting Via Zoom-Link. Please see the BELOW LINK:

To join using the Zoom App on a computer, tablet, or smartphone click the following link:
https://us02web.zoom.us/j/82302494942
To join by dialing in, call:
(312) 626-6799 followed by the **Webinar ID: 823 0249 4942**, followed by the **#** key.

Written comments may be submitted to Peninsula Township Zoning Departments at 13235 Center Road, Traverse City, MI 49686, no later than 12:00 p.m. on March 15, 2021.

SUBJECT SITE

Case No. 889

EXHIBIT LIST

ITEM NO. 5

T. C. RECORD-EAGLE, INC.
120 WEST FRONT STREET
TRAVERSE CITY MI 49684
(231)946-2000
Fax (231)946-8273

ORDER CONFIRMATION (CONTINUED)

Salesperson: DENISE LINGERFELT Printed at 02/23/21 17:01 by dling

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Acct #: 1837 Ad #: 561898 Status: New WHOLD WHC

PUBLIC NOTICE

PENINSULA TOWNSHIP
ZONING BOARD OF APPEALS
NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the Peninsula Township Zoning Board of Appeals will hold a regular meeting on March 16, 2021 at 7:00 PM at the Peninsula Township Hall, 13235 Center Road, Traverse City, MI 49686, (231) 223-7322. The following applicants will be heard:

1. Request No. 889, Zoning R-1C
Applicant: Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686
Owner: Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686
Property Address: 7215 Peninsula Drive, Traverse City, MI 49686

1. Requesting a variance from the required sixty (60) foot setback from the ordinary high waterline to thirty-one (31) feet in order to construct a 112 square foot addition to the existing non-conforming garage structure.
2. Requesting a variance from the required twenty-five (25) foot front yard setback to a twelve (12) foot front yard setback in order to construct a 112 square foot addition to the existing non-conforming garage structure.
3. Requesting a variance from the required 25 percent of lot coverage to 26.42 percent in order to construct a 112 square foot addition to existing non-conforming garage structure.

Parcel Code # 28-11-325-036-00

2. Request No. 890, Zoning R-1C
Applicant: Jessica Bachmann-Perez, 910 Sheridan Rd., Traverse City, MI 49686
Owner: Jessica Bachmann-Perez, 910 Sheridan Rd., Traverse City, MI 49686
Property Address: 910 Sheridan Rd., Traverse City, MI 49686

1. Requesting a variance from the required thirty (30) foot rear setback to seven (7) feet for a 1620 square foot deck, a 214 square foot shed and 693 square feet of six (6) foot tall walled fence that has been constructed & placed without the proper permits.
2. Requesting a variance from the required fifteen (15) foot side yard setback to four (4) foot side yard setback on the westerly property line for a 1620 square foot deck, a 214 square foot shed and 693 square feet of six (6) foot tall walled fence that has been constructed & placed without the proper permits.
3. Requesting a variance from the required 25 percent of lot coverage to 43.89percent for a 1620 square foot deck, a 214 square foot shed and 693 square feet of six (6) foot tall walled fence that has been constructed & placed without the proper permits.

Parcel Code # 28-11-595-038-00

Written comment may be submitted to Peninsula Township Zoning Department at 13235 Center Rd., Traverse City, MI 49686 no later than 12:00 PM on March 15, 2021.

Given COVID related issues and related restrictions on public gatherings, it is possible that the hearing will be conducted using Zoom. If the meeting is conducted on Zoom, login instructions will be published with the meeting agenda. The Zoning Board of Appeals meeting may also be cancelled. If cancelled, the hearing will then take place at the next regularly scheduled meeting of the Zoning Board of Appeals.

February 25, 2021-1T 561898

Case No. 889

EXHIBIT LIST

ITEM NO. 6

PENINSULA TOWNSHIP
BOARD OF ZONING APPEALS

CERTIFICATE OF NOTIFICATION

Request No. 889
Hearing Date: March 16, 2021
Applicant: Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686
Owner: Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686
Property Address: 7215 Peninsula Drive, Traverse City, MI 49686

I certify that the attached Public Hearing Notice and map showing the subject property location whose Parcel Code #s 28-11-325-036-00 was mailed by regular US mail to the attached list of 11 properties on February 23, 2021 by depositing said notices in a mail box located at United States Postal Services Main Office Building located at: 202 S. Union St., Traverse City, MI 496984

Christina Deeren
Peninsula Township
Director of Zoning

Case No. 889

EXHIBIT LIST

ITEM NO. 7

Peninsula Township Planning & Zoning Department

EXHIBIT LIST
ZBA Request # 890
Owner: Jessica Bachmann-Perez

Physical Address of Subject Property: 910 Sheridan Rd., Traverse City, MI 49686
Hearing date: March 16, 2021

EXHIBIT LIST

1. Application for variance request from the applicant
2. Site Plan
3. Letter of violation from Director of Zoning for new construction
4. Staff report from Peninsula Township Director of Zoning.
5. Public Notice for properties within 300 feet of subject site
6. Public Notice – Record Eagle
7. Certificate of Notification
8. Correspondence

Case No. 890

EXHIBIT LIST

ITEM NO. 1

Jessica (Bachmann) Perez
910 Sheridan Road
Traverse City, Michigan 49686
(231) 642-0050
Oslonjes22@gmail.com

January 7, 2021

Ms. Christina Dereen

Zoning Director and Zoning Administrator

Peninsula Township

13255 Center Road

Traverse City, Michigan 49686

Re: Applications of Jessica (Bachmann) Perez for (1) After-the-Fact Land Use Permit pursuant to Section 7.5.5(2) of the Zoning Ordinance for non-conforming deck extension and storage structure on nonconforming Lot; and/or (2) Variance from the Zoning Board of Appeals pursuant to Section 7.5.5(1) for the addition of a nonconforming deck and storage shed on a nonconforming Lot 38, First Addition, Park Ridge Manor Plat (Recorded in 1957)

Dear Ms. Dereen:

As you know, I am the owner of the home at 910 Sheridan Road, Traverse City, where my husband Nick Perez and I live with our four children, ages 1 through 12. This past spring 2020, my husband Nick hired builder Bill Kaupas to remove the narrow deck and add to the back of our house a new larger deck with storage shed. The purpose of the larger deck and storage shed was to provide our family and children a play and leisure area in the backyard because it is in a low flood-plain area that floods during any significant precipitation event and is perpetually muddy, without vegetation, and otherwise unusable.

We moved forward with the deck build when COVID-19 restrictions were lifted and construction workers were able to return to work again. It all happened so quick. It was my understanding that permits were being pulled. Bill, our builder said he had a small window to build our deck and a crew ready to start. He informed Nick permits weren't pulled yet and Nick approved to go ahead and start the work. I was not aware at the time. Then with the stress of COVID-19, quarantine and working full-time while homeschooling our 4 kids, the topic of permits got lost in the shuffle.

I think it was a whirlwind with some COVID-19 restrictions being lifted and the crew showing up fast to get it done. I thought it was all being handled. Nick gave Bill approval to move forward to

Jessica (Bachmann) Perez
910 Sheridan Road
Traverse City, Michigan 49686
(231) 642-0050
Oslonjes22@gmail.com

start on the deck in order to have a usable space for our kids outdoors while we were all quarantined home together. Then in the midst of our busy life, unknown to me, the permits were never pulled.

On July 15, 2020, you sent me a letter outlining a violation of Section 4.1.3 of the Zoning Ordinance. Section 4.1.3 requires a land use permit before start of the building of a structure or addition. The deck with the 4 more than 4-foot-high privacy wall was deemed a fence and "structure," and, as stated, constructed without the permit.

We were caught by surprise, so, asked our builder to help us take care of obtaining a land use permit. We submitted an application and paid the required $375 fee, but it was denied because the addition of the deck and storage shed (on top of or part of the deck structure) violated the north 15-foot side-yard setback, the backyard 30-foot setback, and the structure to vacant land ratio in our land use district—RIC Residential Suburban. The reason the side-yard setback was violated is because the footprint of the addition of the deck (with storage shed on top) is 8 feet from the north property line of Lot 37, the addition is only 15 feet from the northeast corner of our Lot 38, and the complainant's southwestern corner of his lot in the adjoining subdivision. Further, we were informed that the area of lot coverage with the house and garage and the addition of the deck (with shed) exceeded the percentage limit of 25 percent.

We want to emphasize that we did not intend to violate the need for a land use permit, and are very sorry for what happened. We would like to make sure our addition is properly authorized under the Zoning Ordinance. As it turns out, the non-compliance with setbacks and the area of lot coverage of addition of our deck (with shed) is because of our small 11,500 square foot lot and the location of our nonconforming house and garage structure within 11 feet of the northern lot line and 15 feet of our backlot line. Like all of the lots in this small First Addition, Park Ridge Manor (1957) and the original Park Ridge Manor Plat (1955), where the complainant and owner along our backlot line live, Lot 38 is only 11,550 square feet, only about one-half (1/2) of the minimum lot size of 20,000 square feet for the RIC District. From aerial GIS photograph attached to our Applications in this matter, it appears the houses were located on the lots to align the fronts of the houses the same distance from Sheridan Road. As a result, our house and garage were located in nearer the north lot line and closer to the backlot line.

In reviewing the Ordinance with Jim Olson, attorney with Olson, Bzdok & Howard, P.C. (I want to disclose he is my father and has agreed to help us comply with the Ordinance), he advised us that we needed the land use permit and that we must take the necessary steps and file the necessary applications to resolve this matter. After reviewing the bulk and density requirements in Section 6.8, he determined the size of our lot was only 11,500 square feet, a little more than one-half the minimum lot size of 20,000 square feet for the RIC District. He also determined that the original house and garage was nonconforming, because the garage is 11 feet from the side lot line and 15 to 20 or more feet from the backlot line. And, he added the square footage of the house and garage (2,192 sq. ft.) and the deck

Jessica (Bachmann) Perez
910 Sheridan Road
Traverse City, Michigan 49686
(231) 642-0050
Oslonjes22@gmail.com

(with shed) (1,608 sq. ft.), and determined the sum of the structures equaled 3,801 sq. ft. or 33 percent of our lot area. However, he informed us that if Lot 38 was a conforming lot of 20,000 square feet, and the lot lines were extended proportionately our house and garage and the addition of the deck would not violate any setbacks or the lot area coverage percentage.

He then reviewed the Ordinance, and informed us that there is a specific provision, Section 7.5.5 of the Ordinance, that addresses, directly, the unique circumstances concerning our nonconforming house and nonconforming lot. Section 7.5.5(2) provides for a land use permit without the necessity of a variance from the Zoning Administrator for additions to nonconforming structures and/or nonconforming lots, provided the standards are met. And, in addition, Section 7.5.5(1) provides for a variance from the Zoning Board of Appeals if the standards are met.

We are concerned that we obtain the required approval or permit to satisfy the Township, but we didn't know whether apply for a land use permit under Section 7.5.5(2) or a variance under Section 7.5.5(1). Mr. Olson has advised us that because this involves a unique, nonconforming circumstance in a narrow area of the Township that abuts the City, the matter may well be a "case of first impression," and that we should do both.

Accordingly, attached are (1) an Application for Land Use Permit under Section 7.5.5(2), with application fee of $375, and (2) an Application for a Variance under Section 7.5.5(1) (and, generally, within the powers of the ZBA under Article V). Also attached are the following:

1. **Addendum to Application for Land Use Permit Pursuant to Section 7.5.5(2),** with exhibits;
2. **Addendum to Application for Variance Pursuant to Section 7.5.5(1),** with exhibits;
3. **Application for Land Use Permit fee of $75;** and
4. **Application to the Zoning Board of Appeals for Variance fee of $1,000;**
5. **Site Drawing of the irregular Lot boundaries, house and garage, and deck with shed addition;** It shows lot dimensions, house and all structures, and measurements to property lines of back, side, and front yard on Sheridan Road.
6. **Survey and Survey Map of Lot 38, the house and garage, and the addition of deck (with shed).** It has been ordered and will be completed in 2-3 weeks; it will show drawn to scale all dimensions and bulk density facts required or otherwise helpful to your consideration;

We sincerely thank you for you and Mr. Sanger for your assistance and cooperation. We look forward to your review and consideration.

Sincerely yours,

Jessica Perez

Encs. As described above

Peninsula Township Variance Application

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

OFFICE USE ONLY
Date Received: Fee Received: Board Action:
Date Complete: Meeting Date:

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. **10 copies are required.**

Applicant Information

Applicant: Name Jessica (Bachmann) Perez

Address Line 1 910 Sheridan Road, Traverse City, Michigan 49686

Cell Phone (231) 642-0055; Husband Nick Perez Cell Phone 231-642-0306
E-mail Olsonjes22@gmail.com
Owner: Name Jessica (Bachmann) Perez
Address Line 1 910 Sheridan Road, Traverse City, Michigan 49686
Phone (231) 642-0050
E-mail olsonjes22@gmail.com
(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 No. 11-595-038-00 Zoning: RIC Single Family Sub. District
Address Line 1 Same address as owner, above.

Type of Request
Indicate which Ordinance requirement(s) are the subject of the variance request:
[ ] Front Yard Setback [X] Side Yard Setback [X] Rear Yard Setback
[ ] Width to Depth Ratio [X] Lot Coverage [ ] Off-Street Parking
[ ] Signage [ ] Height/Width [X] Non-Conformity Expansion

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 variance 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? YES. Please explain:

1. This Application for Variance is requested pursuant to Section 7.5.5(1) of the Zoning Ordinance because this involves a request for variance for the addition of a deck with shed to a nonconforming house and garage (the northerly side yard distance is 11 feet, not the required 15 feet for RIC per Section 6.8. Under Section 7.5.5(1)(a) through (d), if the intensity of the residential use is substantially the same and the standards are met, a variance is warranted: Subsection (a) is met, because there is no change to front yard fronting road and no threat to safety of residents or traveling public; Subsection (b) is met, because safety and substantial justice is achieved, since the nonconforming lot and structures, the deck addition, will be able to be used and enjoyed consistent with others who reside on 20,000 sq. ft. lots in the RIC District. Moreover, the yard will be safer for family use (including 9-year-old, 6-year-old, and 1-year-old), because the backyard without a deck is unusable since it remains muddy do to its low physical characteristics, is regularly flooded during rain events, as the topography is low; Subsection (c) is met, because it applies to waterfront lots, so is inapplicable; Subsection (d) is met, because it, too, refers to waterfront lot criteria 1. Through 4. in Subsection (c); moreover, as described below, the unique and special conditions, physical, topographical, and nonconforming legal structure and lot satisfy the more general variance requirements of Section 5.7.3.

2. In any event, the need for the variance is due to unique circumstances and physical conditions involving the 11.500 legally nonconforming Lot 38, the legally nonconforming house and garage, platted and built in 1957, located near northerly lot line (11 feet from garage) and toward back lot line (about 30 feet) to align with other houses on similar small lots on Sheridan Road (Lots 36, 37, and 38); given the small size of the nonconforming lot and placement of house and garage, after the adoption of the Zoning Ordinance side-yard 15-foot setback and backyard 30-foot setback on this small lot, there is no room to build an adequate deck and shed and to use and enjoy the backyard like other property owners who build houses on the minimum lot size of 20,000 feet. Further, the topography and physical conditions of the backyard are low, muddy, incapable of growing grass, and generally

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? YES. Please explain: In reverse order, a variance for the deck will not disturb the owner on lot that abuts our backyard, who does not object to the deck with shed. The area between the deck has trees and shrubs that provide natural screening for privacy. For the same reasons, the owner that abuts our northerly property line does not object to the deck with shed. Moreover, we have a privacy screen along the back of the deck so our activities are not visible to and do not bother adjacent owners. The only objection we've had is from the property owner of the lot that shares our northeast corner, approximately 15 feet from the corner of the deck with shed, and that home and garage are more than 30 or 40 feet from the lot corner. Again, all of the lots in our subdivision are small, nonconforming, as are the houses and garages; the same is true for the Park Manor Plat, 1955. These are the only two subdivisions or plats of this nature in a relatively small area between Center Road to the City's north boundary; because of the unique circumstances, and the nonconforming nature of the situation, and physical conditions and difficulties, the granting of a variance for my deck will not affect other property owners in the district, and the variance is consistent with Section 7.5.5(1) to advance the justice of home owners in these narrow circumstances. Further, a lesser relaxation than requested is not necessary, because these circumstances satisfy the standards in Section 7.5.5(1)(a)-(d), and because no further relief consistent with justice to other owners is really needed.

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? YES. Please explain: For the reasons stated in the paragraphs (a) though (d) above, and set forth in the Addendum, a variance will not affect property values or the use from adverse impacts of adjacent property or property in the neighborhood. The deck and shed are barely visible, the use and intensity of our use is not increased, but consistent with the ordinary use of our home and backyard like any surrounding families and homes in the Ridge Park Manor and Eastern Avenue neighborhood.

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? YES. Please explain: I am not requesting a use variance of any kind or nature, so, this paragraph is not applicable.

The above answers are to the best of my knowledge and belief true and accurate. Thank you.

Jessica Perez

Jessica (Bachman) Perez
Applicant and Owner

Date 1/7/21

Addendum to Application to Zoning Board of Appeals for a Variance, submitted by Jessica (Bachmann) Perez, 910 Sheridan Road, Traverse City, Michigan ("Applicants") for the Addition to a Non-Conforming Structure on Non-Conforming Pursuant to Section 7.5.5(1) and/or Section 5.7.3 for Variances in General of the Zoning Ordinance for Lot 38, First Addition, Park Ridge Manor (Platted in 1957)

A. Introduction

The following factual background and legal analysis are submitted by the undersigned attorney, James M. Olson, Olson, Bzdok & Howard, P.C., at the request of and to support Jessica Perez and her husband Nick Perez to obtain the required land use permit and, if necessary, variance from the Zoning Board of Appeals ("ZBA") pursuant to Section 7.5.5 of the Zoning Ordinance ("Ordinance").[1] As described in a companion Addendum in support of Jessica Perez's Application for Land Use Permit under Section 7.5.5(2), filed with the Township at the same time as this Application for Variance, the Application for Variance is filed and submitted pursuant to Section 7.5.5(1) of the ordinance and based on the general powers of the ZBA under Article V of the Ordinance. This Addendum is incorporated into and made a part of the Application for Variance.

This matter involves a small approximately 11,500 sq. ft. Lot 38, one of a handful of lots in the Township platted in the 1950s that are approximately one-half the size of the 20,000 square foot minimum for a platted lot in the RIC District. The house and garage, a single structure, were built in 1957. The small Lot 38 is part of a subdivision development in the 1950s located between Eastern Avenue in the City of Traverse City, subdivided into similar platted small lots and developed with homes and garages in the mid to late-1950s; the two platted subdivisions in question, Park Ridge Manor, platted 1955, and the First Addition, 1967, in which Lot 38 is located, abut the City's northern boundary. Because Lot 38 is about half the size of the required minimum, it is substantially nonconforming. When houses were constructed throughout the plats, and particularly the 3 lots on Sheridan Road (Lots 36, 37, and 38) in the First Addition, there were no setback restrictions; they were located on the lots by owners and builders based on alignment of the front of the houses and spacing between homes. The house and garage, covering 2,192 sq. ft. are nonconforming structures, because the lot is small and irregular in shape, and because the house and garage were constructed nearer the northerly lot line and, as noted above, to align with the front of the houses along Sheridan Road.

In summary, described in more detail below, this matter involves a unique set of factual circumstances not likely to be repeated except for those lots in First Addition Park Ridge Manor and, potentially, those in Park Ridge Manor. As will be seen, the nonconforming structure, nonconforming lot, and the serious flooding and muddy conditions in the backyard, present unique and a serious unequal treatment of

[1] Please be advised that attorney James Olson is the father of Applicant Jessica Perez, and have agreed to help her and her husband with this matter to conform to the provisions of the ordinance.

owners of nonconforming structures on small nonconforming lots. An owner of a pre-existing lot and house is limited by the placement of the house without reference to setbacks or size of lot, and necessarily has different side yard and backyard sizes and dimensions than an owner of a house on a minimum 20,000 sq. feet under RIC. As a result, Section 7.5.5(1) provides for a variance that addresses this situation; similarly, so does Section 7.5.5(2). As noted in the companion Application for Land Use permit, Section 7.5.5, address the very problem presented by this matter. As shown and for the reasons stated below, it is submitted that Applicants meet the standards required to grant a variance under Section 7.5.5(1). In fact, if the house and garage and new deck addition and storage shed are located on the same shaped lot expanded proportionately to a 20,000 square foot lot that is the minimum for the RIC District, the house and garage, and the as-built addition and storage shed would be in conformity with all setback and other schedule requirements of Section 6.8 of the Zoning Ordinance.

Moreover, there are significant practical difficulties and injustices regarding the tiny size of the Lot, the placement of the house and garage, the flooding and muddy yard that cannot support a lawn, the unequal circumstances presented by the nonconforming structure and lots, and house, and the compatibility of the deck with the shed, mostly surrounded by the trees and vegetation along the boundaries at the back of the lot would and do comply with the standards for a variance as provided in Section 5.7.3 of the Ordinance, all of which are addressed in Applicant's answers to questions in the "Basic Conditions" section of the Application for Variance.

B. **Factual Background to Non-conforming House and Garage and New Deck and Storage Structure Addition to Non-conforming Structure on the Non-Conforming Lot 38, First Addition, Park Ridge Manor (Platted and house and garage constructed in 1957).**

1. Jessica (Olson) Perez ("Applicant") purchased her home at 910 Sheridan Road, Traverse City, Michigan, on May 30, 2017, legally described on her warranty deed as "Lot 38, First Addition to Park Ridge Manor, according to the Plat thereof as recorded in Liber 6 of Plats, Page 12, Grand Travers County Records." (Deed, **Ex. 1**)

2. Lot 38, First Addition to Park Ridge Manor, was platted and recorded on or about May 2, 1957, before Peninsula's Township zoning ordinances, as amended (Plat, **Ex 2**); Lot 38 abuts the northern boundary of the City of Traverse City.

3. Lot 38 is approximately .25 acres or about 11,000 to 11,550 square feet and irregular in shape: The 97 feet along Sheridan Road and 110 feet along the south side-lot line that abuts the northern boundary of the City form a right angle on Sheridan Road; the north boundary forms more than a right-angle and runs 100.85 feet along the northerly side-lot to the northeast corner; the back-lot line runs south easterly 120 feet to the intersection of the corner of the south, side-lot line. (Site drawing, **Ex 3**)

4. The ranch-style, 3-bedroom, 2-bathroom single-family residential home, consisting of 1,646 sq. feet of floor area and a 546 square foot garage, was built in 1957, and located toward the back lot-line so the front of the home ran along approximately the same arc parallel to Sheridan Road and in line with the homes on either side. (GPS Aerial Photo, **Ex 4)**

5. Lot 38 and the home are located in the R1C Single-family (Suburban Residential Single and Two-Family) zoning district, Section 6.4.1 of the Zoning Ordinance, enacted in 1972, caried forward in the 2009 amendments; under Section 6.4.3, a lot, house, and other structures are subject to the size and setback regulations of Section 6.8. (Schedule of Regulations, 6.8, **Ex 5**)

6. Section 6.8 requires a minimum lot size is 20,000 square feet, or approximately ½ acres. Lot 38 is 11,000 to 11,750 square feet or about ¼ acres, that is close to one-half of the required 20,000 square feet.

7. The lot width on Sheridan road is scheduled at a minimum 100 feet **(Ex 5)**. Lot 38 is 97 feet wide on Sheridan, and because of the curvilinear front lot line and irregular shape, the depth of the lot is 100 to 110 feet, and 120 feet wide in the back; the minimum width of 100 feet is non-conforming. **(Ex 3)** If the lot is squared off, that is tied to the right-angled front-lot line on Sheridan and south-lot line abutting the lot in the City to the south, the dimensions are 97 feet by 100 feet, or 9,700 square feet, less than one-half the size of the minimum lot requirement of 20,000 square feet. (see Site Drawing, **Ex 3**). Again, Lot 38 is significantly non-conforming.

8. The minimum setbacks are: 30 feet from front-lot line, 15 feet from side-lot lines, and 30 feet from rear-lot lines. **(Ex 5)** As constructed in 1957, the house and garage are 11 feet from the northerly side-lot line, 15 feet from the rear-lot line as it approaches the northeast lot corner, and 25 feet from the southerly lot line; the house and garage to the northerly lot line are non-conforming (**Ex 3**). The house and garage to the northern half of the easterly rear-lot line are non-conforming.

9. In September, 2019, Jessica (Olson) Perez and Nick Perez ("Applicants"), both of Traverse City, were married and moved their combined family (children ages 1 to 12) to 910 Sheridan.

10. In late Spring, 2020, Applicant and her husband Nick Perez decided to add a deck with shed along the back of their home on Lot 38, because the topographical, low, wet, flooding, and muddy conditions of the backyard make it unusable. She and her husband also decided that the deck would be critical for the coming summer, because like everyone the COVID 19 pandemic prevented her family and friends from meeting them indoors. She was not aware that when the deck with shed and privacy screen were constructed that there was no land use permit from the Township. The backyard area is and has been unusable since it is part of a well-documented extended area of the Park Ridge Manor Plats that has mucky, black and clay soils, a high-water table, and floods frequently; in the past two years, flooding has become more frequent and more intense.

11. On or about July 28, Applicant received an email notice of a zoning ordinance violation and from Township Zoning Director Christina Deeren, and that she was to contact David Sanger, her assistant zoning director or administrator; Mr. Perez emailed Christina Deeren advising her that Jessica, his wife, and he lived at Sheridan Rd with their four children (ages 1 through 12) Jessica Perez was surprised that no permit had been obtained, but she was sorry and upset that there was no land use permit, and they advised that they would work with the builder and Township to obtain necessary permits and comply with the requirements of the Ordinance.

12. On July 29, David Sanger, Assistant Zoning Administrator to Zoning Director Christina Deeren, sent an email/notice to Applicants that a complaint had been filed with the Township, stating that the property owner has added a structure without obtaining the required Land Use Permit, and cited Applicants for a civil infraction. (Email Sanger to Perez, July 29, 2020 at 9:54 a.m.) Mr. Sanger, in the same email, advised Mr. Perez that a citation for civil infraction would be issued unless the matter was resolved immediately. (Id.)

13. Subsequently, during August and September, 2020, Applicant Nick Perez discussed with Mr. Sanger a process for applying for a variance or other permit that he could apply for under the Zoning Ordinance; in addition, Applicants paid the amount of $ 375 for civil fine.

14. The builder was not able to provide immediately an accurate a surveyed site plan in relation to the irregular shaped non-conforming lot and non-conforming house and garage on Lot 38. Accordingly, Nick Perez and Jessica Perez contacted an attorney, James M. Olson, Olson, Bzdok & Howard, P.C., Traverse City, to assist them in applying for a land use permit or variance.

15. After reviewing the plat, the irregular shape of the lots, the non-conforming lot size and measurements, the house and garage non-conforming side and rear-yard setbacks, their attorney advised Nick Perez and Jessica Perez that they must apply for and obtain land use permit for a non-conforming structure, non-conforming lot under Section 7.5(2) of the Zoning Ordinance, or for and obtain a variance for a non-conforming structure and/or non-conforming lot under Section 7.5(1) of the Ordinance.

C. Legal Analysis and Basis for Non-Conforming Structure Land Use Permit and/or Variance

Paragraphs 1 through 17 above are incorporated by reference.

The Perez's 11,000 square foot Lot 38, platted in 1957, is non-conforming. The lot is a little over one-half of the minimum lot size of 20,000 square feet. Lot 38 is irregular, and when squared up with the right-angled front-lot line and south-lot line, to reflect a buildable rectangle, the dimensions of the buildable area of the lot are 97 feet x 100 feet, or only 9,700 square feet, less than one-half the minimum lot size. (**Ex 3**) The house and garage (built in 1957) are set close to the rear and side lot lines along the north line

(11 and 8 feet) and east line (8-10 feet) as it approaches the northeast corner. (**Ex 3**) This was done in part to line the front of the house with the houses south and north along Sheridan Road (**Ex 4**) As a result, the house with garage is a non-conforming structure. were located on a lot half the size of the minimum; any addition to the house, garage, or addition of a deck to enjoy the privacy of the rear yard does not conform to the side and rear-lot minimums of 15 and 30 feet, respectively. After the Pérezes moved into the house, it was discovered that the rear-yard was unusable when wet and often flooded, as part of continuous flooding area in the subdivision, both in and outside the City.

To enjoy the backyard with room for the children and friends, magnified by the need to meet outside during the COVID 19 pandemic, Nick Perez arranged with a builder to add the deck and shed in early July 2020. The builder failed to get a land use permit, a complaint was filed, and after discussions with the Township zoning director and zoning administrator, the Pérezes acknowledged and apologized for the failure to obtain the permit and paid $ 375 ($75 plus late fee $300). It was also understood and agreed that they would apply for the required land use permit or variance.

The Township's Zoning Ordinance specifically provides for the issuance of a land use permit by the Zoning Administrator for additions to non-conforming structures and/or non-conforming structures on non-conforming lots like the Applicants' pre-existing non-conforming house and garage on their small, non-conforming Lot 38.

Section 7.5.5 Variance for Addition of Deck with Shed for Non-Conforming Structure on Nonconforming Lot:

Section 7.5.5(1) Additions to Non-Conforming Structure:

> (1) The Zoning Board of Appeals may grant a variance for addition(s) to nonconforming structure(s) on a legal non-conforming lot if the continued intensity of residential use is substantially the same, provided that all the following are met:
>
> (a) There is increased safety to the residents of the structure and to the traveling public on the road providing access to the parcel; (b) Safety and substantial justice is achieved; and (c) If the variance allows the structure to encroach in the setback from the Ordinary High Water Line, conditions of approval shall include at a minimum, the following additional provisions: 1. provisions for stabilization of the shoreline so that the structure is not likely to be damaged by high water or wave action; 2. there is no additional detriment to adjacent properties; 3. shoreline vegetation is existing or established consistent with the intent of Section 7.4.4 Removal of Shore Cover ; and 4. sea walls will not be allowed unless it is determined that there is no feasible alternative. (d) 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.

The Section 7.5.5(1) Requirements for Variance and/or Section 5.7.3 Requirements for Variance Are Met

The Applicants qualify for a variance because of the unique combination of the small size of Lot 38 in the First Addition, Park Ridge Manor Plat, 1957, and the absence of any set-backs in the Plat, the placement of the house and garage on the small lot in 1957 sited the house and garage as they are today, platted and constructed in relation to the abutting Lot 37 on the north, and the existing and abutting Lots 6 and 7 in the Park Ridge Manor Plat, 1956, on the north. Further, as noted above, the house and garage were setback and aligned with the houses along Sheridan Road, and setback 25 feet from the lot-line abutting the City lot on the south. As a result, the size of the northly side and rear yards for the house and garage on Lot 38 were necessarily squeezed, and small. The rear-yard ranges from 15 to 20 feet from the rear-lot line to the house and garage; the side-yard to the north is 11-feet from the garage side of the house.

The small and rear and side yard setbacks are magnified by the fact that Lot 38 itself is only 11,000 or so square feet. If the configuration of Lot 38 remained the same but it was enlarged to 20,000 square feet, the minimum lot size, there would be no encroachment or violation of setbacks by the house and garage, and there would be no violation of any setbacks for the addition of the new deck and shed; the enlargement would add approximately 40 to 50 feet to the lot lines; 140 x 150 equals 21,000 square feet; 135 x 145 equals approximately 20,000 sq. ft. (See sketch of extended lot liens if 20,000 sq. ft. minimum lot, **Ex 3-A**) The addition of 35 feet to 45 feet to the lot lines would establish a conforming lot size for R1C single-family district; and, the house and garage and the new addition of the deck and shed would conform to the setback requirements of Section 6.8 of the Ordinance. (Ex 5).

The edge of the deck and shed is 8 feet from the side-lot line to the north, Lot 39; the addition of 35 feet to the lot, divided by 2, would add 17 feet. The edge of the deck and shed is 15 feet from the northeast corner of Lot 38, the southwest corner of Lot 6 in the Park Ridge Manor Plat, and 15 to approximately 20 feet from the rear-lot line that abuts the rear-lot line of Lot 7, Park Ridge Manor. Further, all of the houses and garages on these lots were build in the late 1950s and 1960s on non-conforming lots (Lots 6 and 7 are roughly 15,000 square feet). The lots and siting of houses and structures precede the Township's Zoning Ordinance, as amended.

Moreover, it should be noted that the entire length of the rear yard of Lot 38 that abuts the length of Lot 7 is covered with trees and undergrowth, a thicket, providing screening and privacy. The yard of Lot 6 whose corner is the same as the northeasterly corner of Lot 38 is open, and the nearest structure is more than 30 feet distant from the corner. And, as noted above, the rear-yard area between Applicants' house and garage and the trees and thicket consists of dark, muck soils that frequently floods along with the entire area from the nearby park into the rear of Lot 38. (Photos and video, **Exs 6** and **7)** It is difficult to grow any grass, and unsuitable for their children or themselves to use and enjoy their backyard. Finally, the residents in the home on Lot 39 adjacent to the north and Lot 6, Park Ridge Manor Plat, to the east have not objection to the request for approval of the addition of the deck and shed. **(Exs 8A** and **8B)**[2]

Under Section 7.5.5(2) for additions to non-conforming structures on non-conforming, small lots, the Township Zoning Administrator "shall issue land use permit for an addition to a non-conforming

[2] The neighbor is preparing and Ex 8B will be submitted as soon as it provided to Applicants,

structure provided all of the following are met:" The standards that must be met are: (a) not within a yard or set back along the water line; (b) not closer than 5 feet to a lot line, (c) the sum of the setbacks for the addition does not exceed the sum of the side-yard setbacks, and (d) all other setbacks, excluding the non-conforming setbacks for the permit, are met. Section 7.5.5(2) is intended to avoid the necessity and expense to the Township and applicants of a variance, in those situations, as here, where these four standards are met. When met, the issuance of the land use permit is ministerial or mandatory: "shall issue... if all of the following are met."

Applied to the facts of this matter, it can be seen that standard (a) does not apply because the application does not involve a waterfront lot. Standard (b) is met, because the non-conforming deck and shed addition are not closer than 5 feet; the deck and shed are 8 feet from the northerly side-lot line, and 15 to 20 feet from the rear-lot line. Standard (c) is met, because the total of the two setbacks is 19 feet, which is less than the "sum of the side-yard setbacks of the district, 15 feet plus 15 feet, or 30 feet. Standard (d) is met, because, except for the addition to the non-conforming structure, all other setbacks for the addition and the house and garage are in compliance with the setbacks and schedule of regulations set forth in Section 6.8 of the Ordinance.

Further, in the alternative, Applicant has demonstrated and met the requirements for a variance under Section 5.7.3 of the Ordinance, for the reasons sets forth in her answers to the questions regarding "Basic Conditions" on the application and in this Addendum with Exhibits 1-9A and 9B.

Conclusion and Requested Relief

For these reasons, it is my conclusion that the Applicants respectfully request the Zoning Board of Appeals, after consideration of the unique circumstances and practical difficulties, grant a variance pursuant to Section 7.5.5(1) of the Ordinance

In the alternative or in addition, based on the Application, the facts and circumstances set forth in the Applicant's answers to the questions regarding "Basic Conditions," and the attached Addendum and Exhibits, the Board is requested to grant a variance under Section 5.7.3.

By: _____ Dated: 1/7/2021

James M. Olson[3]

Attachments: Exhibits 1 through 9A and 9B

[3] Olson, Bzdok & Howard, P.C., 430 East Front Street, Traverse City, Michigan 49686, olson@envlaw.com, (231) 946-0044.

8229327
Tx:4123944

2017R-09012
STATE OF MICHIGAN
GRAND TRAVERSE COUNTY
RECORDED 1:05:47 PM
05/31/2017 PAGE 1 OF 2
PEGGY HAINES REGISTER OF DEEDS

28-11-595-038-00 By TB
STATE OF MICHIGAN, County of Grand Traverse at Traverse City _____ I hereby certify that there are no Tax Liens or Titles held by the State or any individual against the within description, and all taxes on same are paid for five years previous to the date of this instrument as appears by the records in my office. This does not cover taxes in the process of collection by Township, City or Village 5/31/17 Grand Traverse County, Treasurer
Stamp

WARRANTY DEED
(3/97)

ACCESS TITLE AGENCY, LLC

The Grantor John VanderWall and Susan VanderWall, husband and wife

whose address is **323 Lakeview Ct, Spring Lake, MI 49456**

convey and warrant to Jessica Bachmann

whose address is **310 N. Spruce, Traverse City, MI 49684**

the following described premises situated in the **County of Grand Traverse, State of Michigan**, to wit:

All that certain lot or parcel of land situated in the Township of Peninsula, County of Grand Traverse, State of Michigan, and being more particularly described as follows:

Lot 38, First Addition to Park Ridge Manor, according to the Plat thereof as recorded in Liber 6 of Plats, Page 12 Grand Traverse County Records.

Tax Parcel No: **28-11-595-038-00**

Common Address: **910 Sheridan Rd. Traverse City, MI 49686**

"This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act."

Subject to easements, reservations and restrictions of record

For Total Consideration of ***Real Estate Tax Valuation Affidavit Filed***

Dated: May 30, 2017

Ex 1

MAY 31 '17 AM 10:38

Signed and Sealed:

John VanderWall

Susan VanderWall

State of Michigan
County of Grand Traverse

The foregoing instrument was acknowledged before me on this 30th day of May, 2017, by John VanderWall and Susan VanderWall, husband and wife

Notary Public
_____ County, Michigan
My commission expires _____

Melissa Herman
Notary Public, State of Michigan
County of Leelanau
My Commission Expires August 27, 2019
Acting in the County of Grand Traverse

Drafted by and return to:
Access Title Agency, LLC
at direction of the Grantor
718 N St. Joseph St., Ste K-2,
Suttons Bay, MI 49682
File No. 175B-0696

910 SHERIDAN RD TRAVERSE CITY, MI 49686 (Property Address)

Parcel Number: 11-595-038-00

Item 1 of 2 1 Image / 1 Sketch

Property Owner: BACHMANN JESSICA

Summary Information

> Residential Building Summary
- Year Built: 1957
- Bedrooms: 3
- Full Baths: 1
- Half Baths: 1
- Sq. Feet: 1,646
- Acres: 0.255

> Assessed Value: $131,700 | Taxable Value: $102,362

> Property Tax information found

Owner and Taxpayer Information

Owner	BACHMANN JESSICA 910 SHERIDAN RD TRAVERSE CITY, MI 49686	**Taxpayer**	BACHMANN JESSICA 910 SHERIDAN RD TRAVERSE CITY, MI 49686

General Information for Tax Year 2020

Property Class	400 RESIDENTIAL	**Unit**	11 PENINSULA TOWNSHIP
School District	TRAVERSE CITY SCHOOL DIST.	**Assessed Value**	$131,700
MAP #	28113634	**Taxable Value**	$102,362
USER NUM IDX	401	**State Equalized Value**	$131,700
USER ALPHA 1	*Not Available*	**Date of Last Name Change**	*Not Available*
USER ALPHA 3	*Not Available*	**Notes**	*Not Available*
Historical District	*Not Available*	**Census Block Group**	*Not Available*
USER ALPHA 2	*Not Available*	**Exemption**	*No Data to Display*

Principal Residence Exemption Information

Homestead Date 07/18/2017

Principal Residence Exemption	June 1st	Final
2020	100.0000 %	100.0000 %

Previous Year Information

Year	MBOR Assessed	Final SEV	Final Taxable
2019	$107,900	$107,900	$100,454
2018	$98,100	$98,100	$98,100
2017	$98,100	$98,100	$98,100

Land Information

Zoning Code	R1C	**Total Acres**	0.255
Land Value	$78,400	**Land Improvements**	$2,275
Renaissance Zone	No	**Renaissance Zone Expiration Date**	*No Data to Display*
ECF Neighborhood	*Not Available*	**Mortgage Code**	*No Data to Display*
Lot Dimensions/Comments	*No Data to Display*	**Neighborhood Enterprise Zone**	No

Lot(s)	Frontage	Depth
No lots found.		

Total Frontage: 0.00 ft **Average Depth: 0.00 ft**

Legal Description

LOT 38 FIRST ADD. TO PARK RIDGE MANOR.

Land Division Act Information

Date of Last Split/Combine *No Data to Display* **Number of Splits Left** 0

Exhibit A

Date Form Filed	*No Data to Display*	**Unallocated Div.s of Parent**	0
Date Created	*No Data to Display*	**Unallocated Div.s Transferred**	0
Acreage of Parent	0.00	**Rights Were Transferred**	*Not Available*
Split Number	0	**Courtesy Split**	*Not Available*
Parent Parcel	*No Data to Display*		

Sale History

Sale Date	Sale Price	Adj. Sale Price	Instrument	Grantor	Grantee	Terms of Sale	Liber/Page
05/30/2017	$280,000.00	$280,000.00	WD	VANDERWALL JOHN & SUSAN	BACHMANN JESSICA	ARMS LENGTH	2017R-09012
06/28/2016	$0.00	$0.00	OTH	FEDERAL NATIONAL MORT ASSOC	GIVENS CHRISTOPHER L & JENNIFER A	INVALID SALE	2016R-11028
06/23/2016	$110,000.00	$110,000.00	COV	GIVENS CHRISTOPHER L & JENNIFER A	VANDERWALL JOHN & SUSAN	INVALID SALE	2016R-10775
05/04/2016	$91,891.00	$91,891.00	FC	GIVENS CHRISTOPHER L & JENNIFER	FEDERAL NATIONAL MORT ASSOC	SHERIFF DEED	2016R-07890
10/22/1996	$108,000.00	$108,000.00	WD		GIVENS C	WARRANTY DEED	1124/854
06/30/1976	$39,000.00	$39,000.00	WD		BROWN M	LAND CONTRACT	549/788

Building Information - 1646 sq ft RANCH (Residential)

General

Floor Area	1,646 sq ft	**Estimated TCV**	$184,327
Garage Area	546 sq ft	**Basement Area**	1,412 sq ft
Foundation Size	1,646 sq ft		
Year Built	1957	**Year Remodeled**	*Not Available*
Occupancy	Single Family	**Class**	*Not Available*
Effective Age	25 yrs	**Tri-Level**	No
Percent Complete	100%	**Heat**	Forced Air w/ Ducts
AC w/Separate Ducts	No	**Wood Stove Add-on**	No
Basement Rooms	0	**Water**	Water Well
1st Floor Rooms	0	**Sewer**	Septic
2nd Floor Rooms	0	**Style**	RANCH
Bedrooms	3		

Area Detail - Basic Building Areas

Height	Foundation	Exterior	Area	Heated
1 Story	Basement	Siding	1,412 sq ft	1 Story
1 Story	Crawl Space	Siding	234 sq ft	1 Story

Basement Finish

Recreation	0 sq ft	**Recreation % Good**	0%
Living Area	0 sq ft	**Living Area % Good**	0%
Walk Out Doors	0	**No Concrete Floor Area**	0 sq ft

Plumbing Information

3 Fixture Bath	1	**2 Fixture Bath**	1

Built-In Information

Dishwasher	1	**Garbage Disposal**	1
Vented Hood	1	**Standard Range**	1

Garage Information

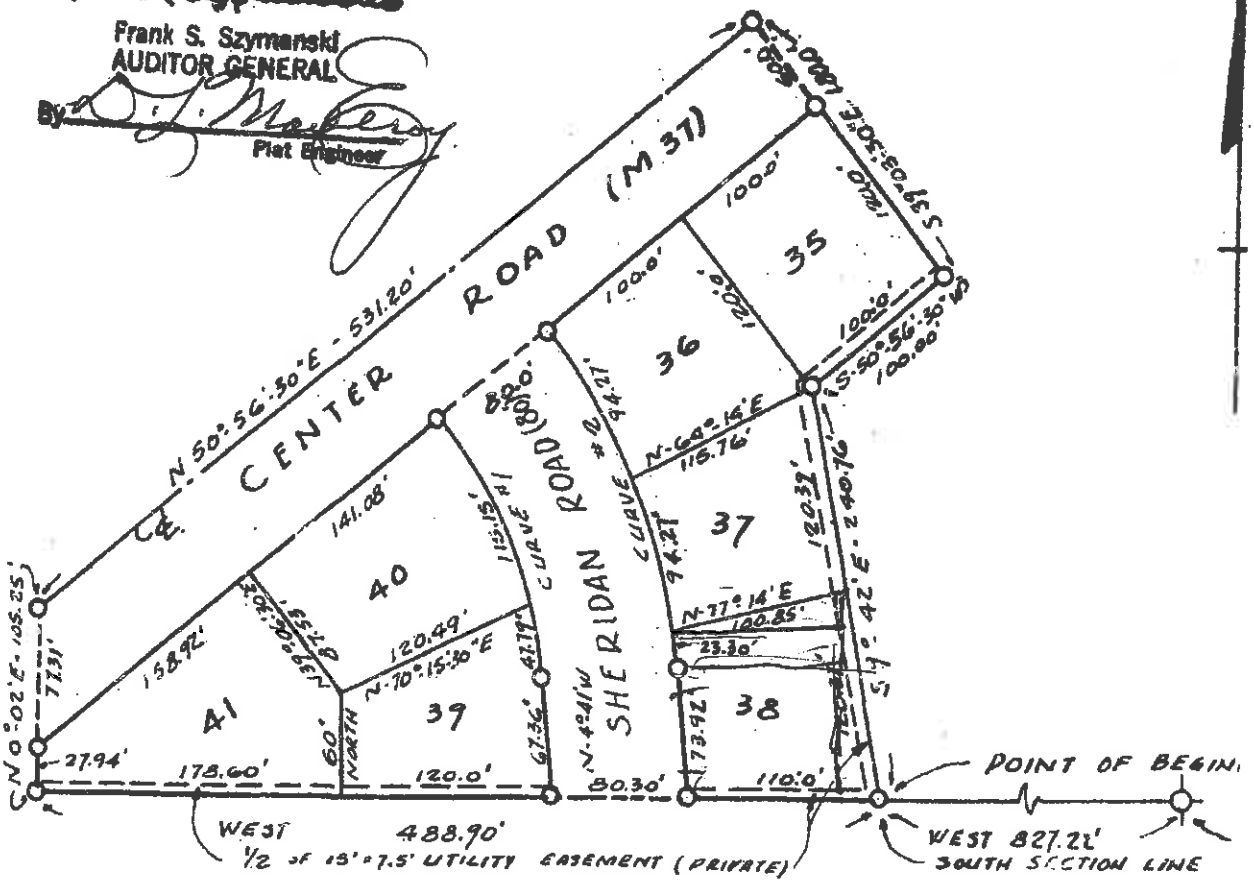
Area	546 sq ft	**Exterior**	Siding
Foundation	42 Inch	**Common Wall**	1 Wall
Year Built	1957	**Finished**	No
Auto Doors	1	**Mech Doors**	0

Porch Information

CCP (1 Story)	96 sq ft	**Foundation**	Standard
CPP	32 sq ft	**Foundation**	Standard
CPP	28 sq ft	**Foundation**	Standard

EXAMINED AND APPROVED
Date APR 30 1957

Frank S. Szymanski
AUDITOR GENERAL
By
Plat Engineer



CURVE DATA

CURVE NO. 1.
I = 34° 24'
T = 84.46'
R = 272.84'
L.C. = 161.09'
BEARING L.C. = N21°51'20"W

CURVE NO. 2.
I = 34° 24'
T = 109.22
R = 352.84'
L.C. = 208.66
BEARING L.C. = N21°51'20"W

EX 2

DEDICATION

KNOW ALL MEN BY THESE PRESENTS, that we The Cherryland Construction Company

a Michigan corporation by Edgar L. Fink President, and James McEvoy, Jr., Secretary as proprietor, have caused the land embraced in the annexed plat

ACKNOWL

STATE OF Michigan
County of Grand Traverse } ss.

On this 15 day of
me
said county appeared Edgar L. Fink

0006P-00122

22

COPY

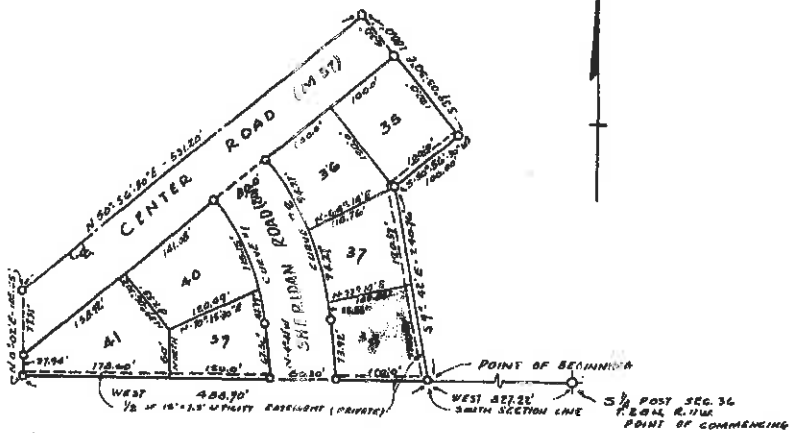
First Addition to Park Ridge Manor

Part of S. E. ¼ of the S. W. ¼, Sec. 36, T. 28 N., R. 11 W.

Peninsula Township, Grand Traverse County, Michigan

All dimensions are in feet and decimals thereof

Scale: 1 inch equals 100 feet



CURVE DATA

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R = 272.84'
L.C. = 161.07'
BEARING L.C. = N 17° 10' 10" W

CURVE No. 2.
Δ = 34° 24'
T = 149.22
R = 351.84'
L.C. = 208.82
BEARING L.C. = N 17° 10' 10" W

DEDICATION

KNOW ALL MEN BY THESE PRESENTS, that we The Cherryland Construction Company, a Michigan corporation by Edgar L. Fink President, and James McIvoy, Jr., Secretary as proprietor, have caused the land embraced in the annexed plat to be surveyed, laid out and platted to be known as "First Addition to Park Ridge Manor" a part of S. E. ¼ of the S. W. ¼ Sec. 36, T. 28 N., R. 11 W., Peninsula Township, Grand Traverse County, Michigan and that the streets as shown on said plat are hereby dedicated to the public.

Diane Dahlman (Witness) — Edgar L. Fink, President
Wilbur W. Duncan (Witness) — James McIvoy, Jr., Secretary

ACKNOWLEDGMENT

STATE OF Michigan } ss.
County of Grand Traverse }

On this 1st day of May A.D. 1956, before me Wilbur W. Duncan a Notary Public in and for said county appeared Edgar L. Fink and James McIvoy, Jr. to me personally known, who being each by me duly sworn did say that they are the President and Secretary respectively of the Cherryland Construction Company a Michigan corporation, and that the seal affixed to said instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors and the said Edgar L. Fink and James McIvoy, Jr. acknowledged said instrument to be the free act and deed of said corporation.

Wilbur W. Duncan
Notary Public, Grand Traverse County
My Commission expires June 20, 1957

DEDICATION

KNOW ALL MEN BY THESE PRESENTS, that I, Gladys L. McQueen as proprietor, have caused the land embraced in the annexed plat to be surveyed, laid out and platted, to be known as "First Addition to Park Ridge Manor" a part of S. E. ¼ of the S. W. ¼ Sec. 36, T. 28 N., R. 11 W., Peninsula Township, Grand Traverse County, Michigan and that the streets as shown on said plat are hereby dedicated to the use of the public.

Signed and Sealed in Presence of
Earl T. Kobbin, Jr. (Witness) — Gladys L. McQueen (L.S.)
E. Joanne Avery (Witness) (L.S.)

ACKNOWLEDGMENT

STATE OF MICHIGAN } ss.
County of Grand Traverse }

On this 2nd day of May 1956, before me, a Notary Public in and for said County, personally came the above named Gladys L. McQueen known to me to be the person who executed the above dedication, and acknowledged the same to be their free act and deed.

Notary Public, Grand Traverse County
My Commission expires July 14, 1957

CERTIFICATE AS TO STATE TRUNK LINE OR FEDERAL AID ROAD

WE HEREBY CERTIFY THAT SAID PLAT APPEARS TO INCLUDE LAND LOCATED ON A STATE TRUNK LINE OR FEDERAL AID ROAD.

Claudia M. Snedley
ANITA KUCERA
BEATRICE BOROUGH
GUY FULLER

APPROVAL BY COUNTY PLAT BOARD

This plat was approved on the 1st day of November 1956 by the Grand Traverse County Plat Board

Claudia M. Snedley (County Register of Deeds)
Anita Kucera (County Clerk)
Beatrice Borough (County Treasurer)
Guy Fuller (County Drain Commissioner)

MUNICIPAL APPROVAL

This plat was approved by the Township Board of the Township of Peninsula at a meeting held Dec. 27, 1955

Harry E. Heller (Clerk)

APPROVAL BY BOARD OF COUNTY ROAD COMMISSIONERS

This plat has been examined and was approved on the 1st day of August 1956 by the Grand Traverse County Board of Road Commissioners.

Duren Carlson (Chairman)
Roy J. Cooper (Member)
Herman L. Walters (Member)

DESCRIPTION OF LAND PLATTED

The land embraced in the annexed plat of "First Addition to Park Ridge Manor" a part of S. E. ¼ of the S. W. ¼ Sec. 36, T. 28 N., R. 11 W., Peninsula Township, Grand Traverse County, Michigan is described as follows: Commencing at the South one-quarter post, Section 36, T. 28 N., R. 11 W.; thence East on the South Section line of said Section 36, 527.22 feet to the point of beginning; thence North 0° - 02' East, 105.25 feet; thence North 50° - 56' - 30" East, 531.20 feet; thence South 39° - 03' - 30" East, 180.00 feet; thence South 50° - 56' - 30" West, 100.00 feet; thence South 9° - 42' East, 240.76 feet to the point of beginning.

COUNTY TREASURER'S CERTIFICATE

Office of County Treasurer, Grand Traverse County.

I hereby certify, that there are no tax liens or titles held by the State on the lands described hereon, and that there are no tax liens or titles held by individuals on said lands, for the five years preceding the 30th day of September 1956 and that the taxes for said period of five years are all paid, as shown by the records of this office, except

This certificate does not apply to taxes, if any, now in process of collection by township, city or village collecting officers.

Beatrice Borough (County Treasurer)

SURVEYOR'S CERTIFICATE

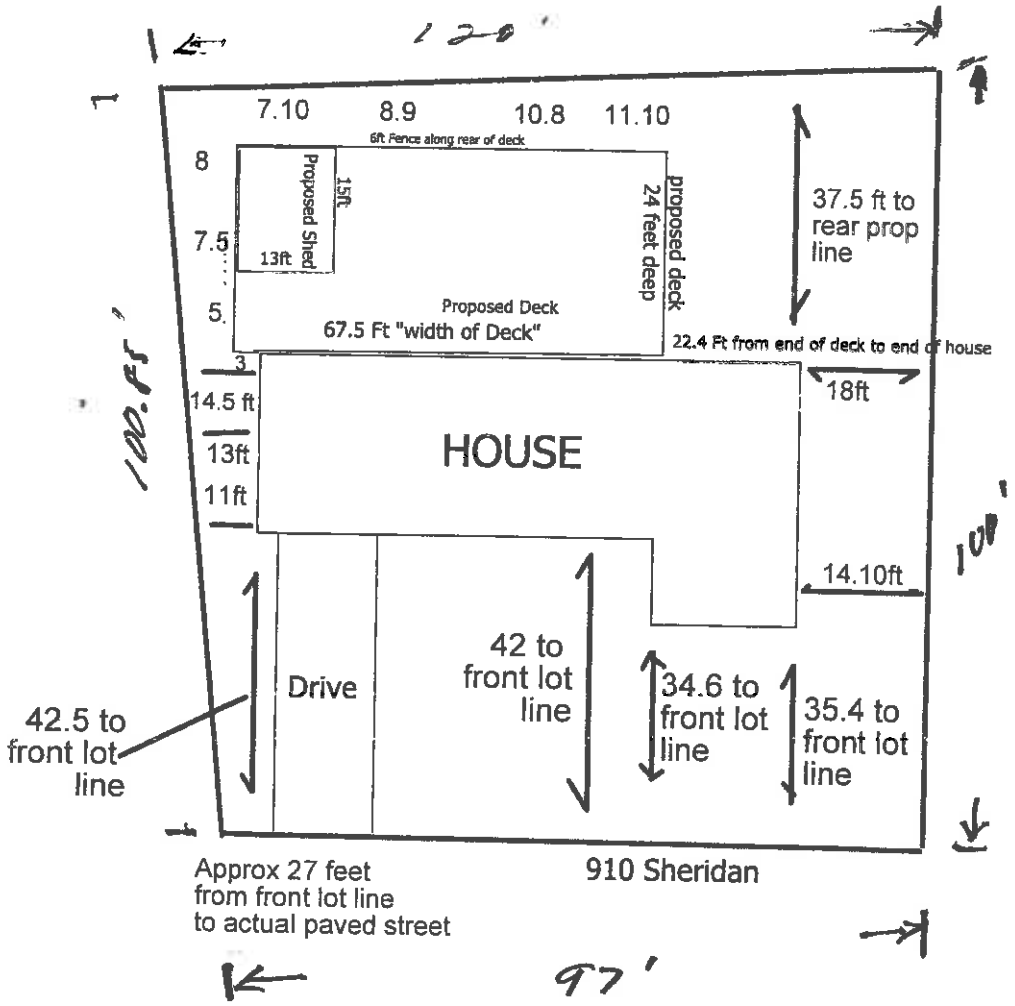
I hereby certify that the plat hereon delineated is a correct one, and that permanent monuments consisting of iron rods at least one half inch in diameter and 30 inches in length, encased in concrete cylinders four inches in diameter and 30 inches in length, have been set at points marked thus (●) on thereon shown at all angles in the boundaries of the land platted, at all intersections of the lines of streets and at intersections of the lines of streets with the boundaries of the plat.

John C. Porter, #2728
Registered Land Surveyor — Registered Professional Engineer

APPROVED
Charles M. Ziegler
CHARLES M. ZIEGLER
STATE HIGHWAY COMMISSIONER

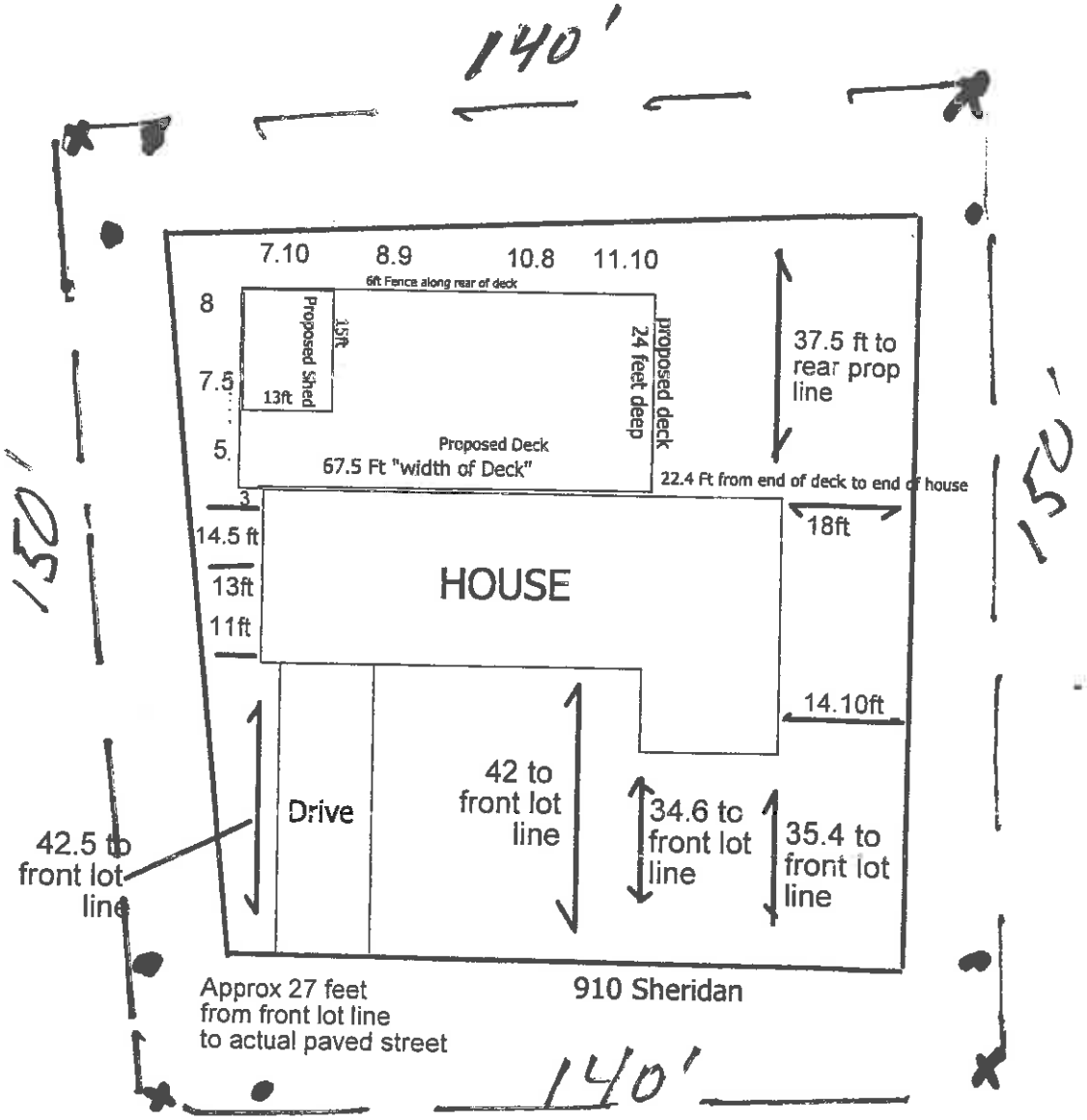
39308

Ex



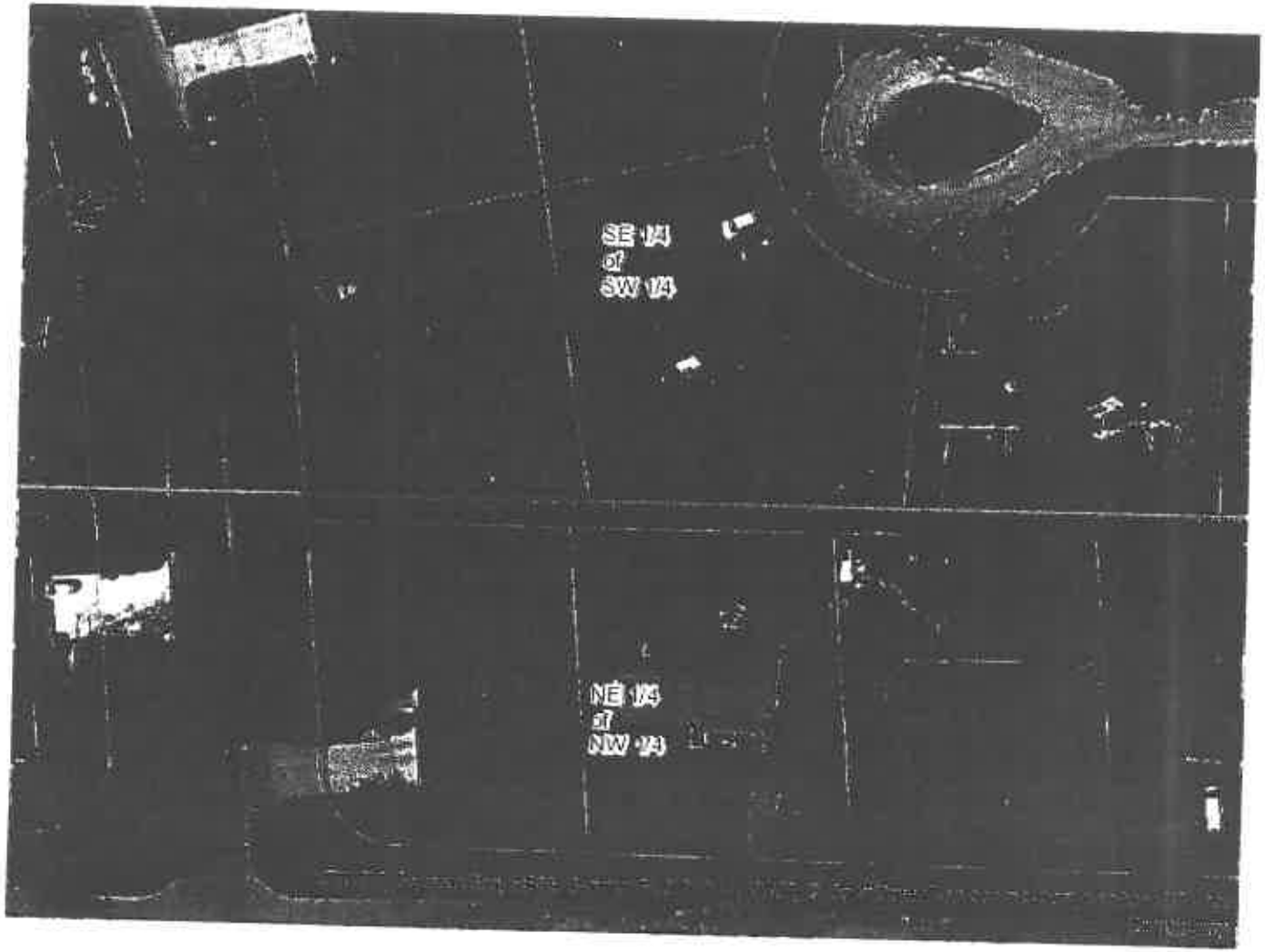
(Site Drawing with Measurements)

Ex 3



* Approx. 20,000 sq. ft. Min. Lot Size sec. 6.0

Site Drawing Ex 3-A



Ex 4

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 Dist.

Zoning District	Minimum Zoning Lot Size Per Dwelling Unit Area	Width in Feet	Maximum Height of Structures Stories	Feet	Minimum Yard Setback Per Lot in Feet from Each Front	Side	Rear	Normal High Water Mark	Maximum % of lot area Covered by All Structures	Minimal Elevational Width of a Principal Structure
R-1A, Rural & Hillside	1 Acre	150(b)	2 ½(c)	35	30(j)	15(j)	30(j)	60(d)	15	24'
R-1A,PUD; R-1B PUD	(e)	(e)	2 ½(c)	35	30(e)	15(e)	30(e)	60(d)	15	24'
R-1C,PUD; R-1D PUD	(e)	(e)	2 ½(c)	35	30(e)	15(e)	30(e)	60(d)	15	24'
R-1B, Coastal Zone Single and Two-Family	25,000	100(b)	2 ½(c)	35	30(j)	15(j)	30(j)	60(d)	15	24'
R-1C, Suburban Residential Single and Two-Family	20,000	100(b)	2 ½(c)	35	25(j)	15(j)	30(j)	60(d)	25	24'
R-1D, Community Residential Single and Two-Family	15,000	100(b)	2 ½(c)	35	25(j)	15(j)	30(j)	60(d)	30	24'
C-1 Commercial	25,000	150	2 ½(c)	35	35	10	30	60(d)	35	
A-1, Agricultural	5 A.	330(g,h,i)	2 ½(c)	35	35(j)	50(f,j)	50(f,j)	60(d)		

Section 6.8.1 Schedule Limiting Height, Bulk, Density, and Area by Zoning District. Footnotes -- Additional Requirements

(b) In the case where curvilinear street pattern produces irregularly-shaped lots with nonparallel side lot lines, a lessor frontage width at the street line may be permitted provided that the lot width at the building line is equal to the lot width for that district.

(c) Allowable height variations are subject to the provisions of Article VII, Section 7.3

(d) Does not include fishing, boating or swimming docks, open decks, and boat hoists as provided in Section 6.2.2(2)(c) and 6.2.2(2) (d).

(e) As approved under Section 8.3.

(f) The minimum setback for other than residential structures shall be fifteen (15) feet. PROVIDED, HOWEVER, the minimum side yard setbacks for residences shall be fifteen (15) feet on lots of record with lot widths of one hundred ninety-nine (199) feet or less that were recorded prior to the adoption of Amendment No. 91 by the Township Board on June 9, 1992. **(REVISED BY AMENDMENT 108)**

(g) Where a lot in the Agricultural District has its access on a public road, the lot shall have a minimum lot width and frontage width of 330 feet. Where a lot in the Agricultural District has as its access a frontage road, that lot shall have a minimum lot width and frontage width of 100 feet and if the lot also abuts a public road, the lot shall also have a width of not less than 330 feet on the public road side of the lot. Where a lot has been created by Planned Unit Development, the minimum frontage width shall be that which is approved by the Township Board.

(h) REQUIRED LOT SHAPE A lot in the Agricultural District shall be of such shape that a square measuring 210 feet on a side can be located within the parcel. The square has no relevance to structure location or setbacks. **(REVISED BY 107D)**

(i) Access to residential building sites on farmland subject to a recorded Conservation Easement consistent with the intent of Ordinance No. 23 shall be regulated by the provisions of Section 6.7.5. **(ADDED BY AMENDMENT 117B)**

(j) See Section 7.7.1.1 for required setbacks of residences adjacent to agricultural lands. **(ADDED BY AMENDMENT 138A)**

Jim Olson

From:	Jim Olson
Sent:	Wednesday, December 16, 2020 3:21 PM
To:	Jim Olson
Subject:	FW: Drawing from builder - 910 Sheridan
Attachments:	910 Site Plan.png

-----Original Message-----
From: Nick Perez <nick@solutionstud.io>
Sent: Monday, November 02, 2020 8:21 PM
To: Nick Perez <nick@solutionstud.io>
Cc: Jim Olson <Olson@envlaw.com>; JSR <olsonjes22@gmail.com>

Photos and Video of Flooding When It Rains.

https://photos.google.com/share/AF1QipMHXwD2cG0J8coPVng60kepFkk9ERibb9jGxgfIs-IgZKwZrYMEWxS1FP7f3TL-Wg?key=M1ZVLTNVcEE2OExjU2EyTHViX2ZPckVFWFR3REp3

Nick Perez
Solution Studio

Link to
Exs 6 PHOTOS
&
7 VIDEOS

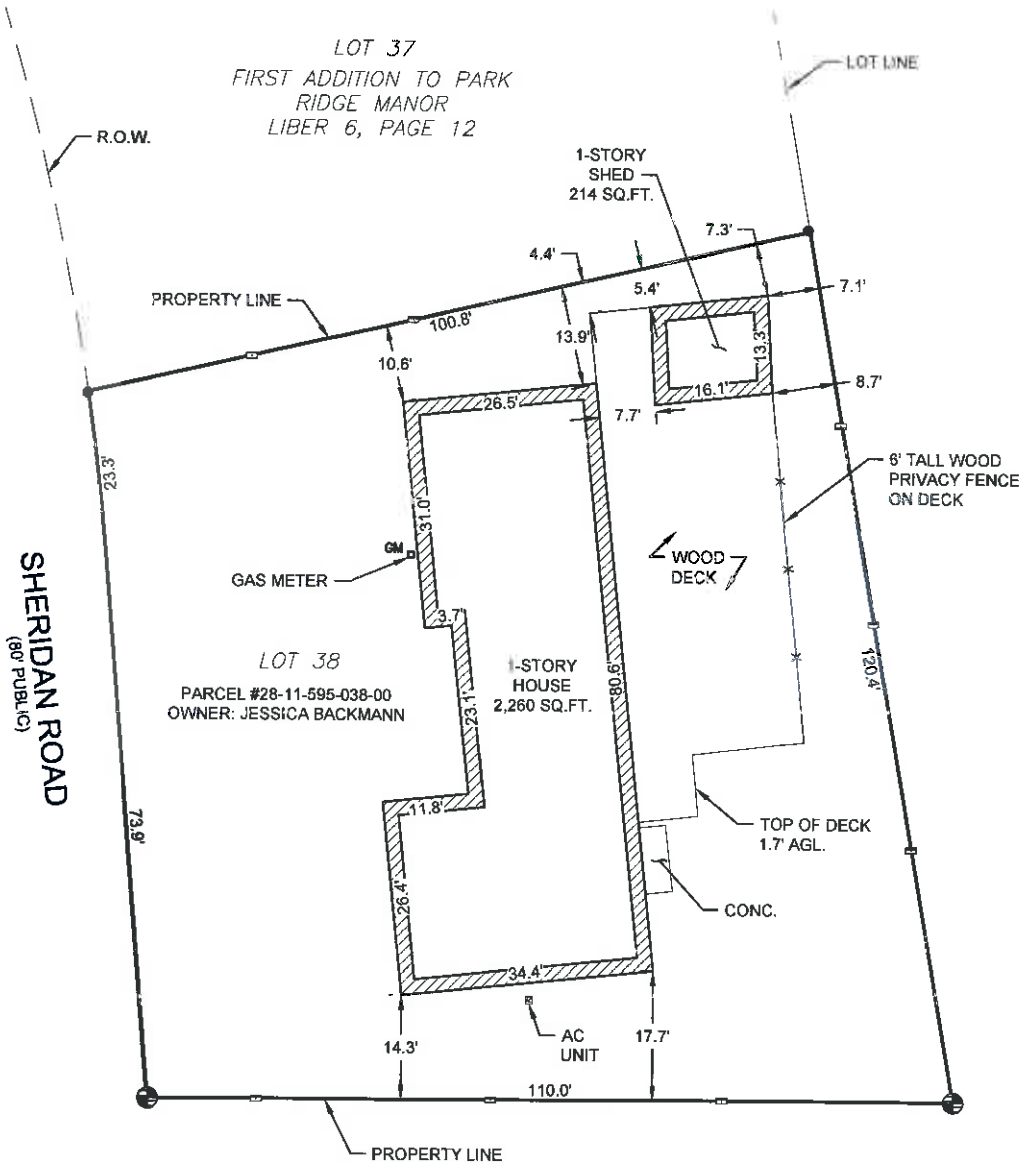
Case No. 890

EXHIBIT LIST

ITEM NO. 2

SITE PLAN

PART OF SECTION 36, TOWN 28 NORTH, RANGE 11 WEST,
PENINSULA TOWNSHIP, GRAND TRAVERSE COUNTY, MICHIGAN



N

LEGEND

- IRON FOUND
- IRON SET
- WOOD HUB SET

SCALE: 1"=20'

0 20' 40'

ALL BOUNDARY & EASEMENT DIMENSIONS
ARE RECORDED UNLESS OTHERWISE NOTED.
THIS IS NOT A BOUNDARY SURVEY.

PROPERTY LEGAL DESCRIPTION

LOT 38, FIRST ADDITION TO PARK RIDGE MANOR, ACCORDING TO THE PLAT THEREOF AS RECORDED IN LIBER 6 OF PLATS, PAGE 12, GRAND TRAVERSE COUNTY RECORDS.

For:

JESSICA BACHMANN
910 SHERIDAN ROAD,
TRAVERSE CITY, MI 49686

Sheet 1 of 1

Job No.:	20502033
Date:	01/18/21
Scale:	1" = 20'
Drawn:	CEL
Chk'd.:	MTM
Rev.:	

LANDTECH
PROFESSIONAL SURVEYING & ENGINEERING
231-943-0050 ph 231-943-0051 fax 877-520-LAND toll free
www.landtechps.com www.towersurveyors.com

Case No. 890

EXHIBIT LIST

ITEM NO. 3

PENINSULA TOWNSHIP

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

ROBERT K. MANIGOLD SUPERVISOR
BECKY CHOWN CLERK
BRAD BICKLE TREASURER
MARGARET ACHORN TRUSTEE
DAVID SANGER TRUSTEE
WARREN WAHL TRUSTEE
ISAIAH WUNSCH TRUSTEE

July 15, 2020

Jessica Bachmann
910 Sheridan Rd.,
Traverse City, MI 49686

Re: Zoning Violation

Parcel No. 11-595-038-00

Dear Miss Bachmann,

This letter is in regard to a complaint that I received that you have constructed a new deck and privacy fence on your property. Please be advised that you are in violation of the Peninsula Township Zoning Ordinance; **Section 4.1.3 Land Use Permits**.

Peninsula Township Zoning Ordinance defines a structure as the following:

Structure: A structure is any production or piece of material artificially built up or composed of parts joined together in some definite manner; any construction, including dwellings, garages, building, mobile homes, signs and sign boards, towers, poles, antennae, landfill, sea walls, weirs, jetties, swimming pools, stand pipes; fences over four feet in height above final grade and earth sheltering for earth-sheltered structures or other like objects, but not including: (a) a temporary fence: (b) agricultural fences that are used for general farming and horticultural uses, field crop and fruit farming, raising and keeping of small animals, and raising and keeping or livestock; (c) access steps required to negotiate changes in site elevation; (d) landscape mounds; and (e) sidewalks, drives, and paved areas which do not protrude above the finished site grade. (Revised by Amendment 152).

Section 4.1.3 Land Use Permits:

(1 General: Any individual, corporation, association, officer, department, board or bureau of the State, County or Township planning **to erect or move a structure to the extent of more than twenty-five (25) square feet of floor area** or to establish a new use for any premises in any land use district, **shall file an application in writing with the Zoning Administrator for a land use permit.** Said Zoning Administrator shall issue a "Land Use Permit" if such planned building or

structure or mobile home or land use is in compliance with the provisions of eh Ordinance. The application shall be on a form prescribed by the Zoning Administrator and approved by the Township Board. The applicant shall furnish permits or approvals from the Grand Traverse – Leelanau – Benzie District Health Department, the Grand Traverse County Road Commission, the Michigan Department of Natural Resources and the Grand Traverse County Soil Conservation District and plans which will meet the requirements of Section 7.2.5 of the Zoning Ordinance before the Zoning Administrator may issue a permit. Each land use permit shall be issued in triplicate and the copies shall be distributed as follows: one to the applicant which he is to retain until construction is completed; on to the Township Supervisor; and one to be retained by the Zoning Administrator as a part of eh permanent records of the Township. The Zoning Administrator shall promptly inform the applicant of the denial of a "Land Use Permit" if such planned building or structure or land use does not comply with the provisions of this Ordinance.

Section 4.2.1 Enforcement:

Violations and Penalties. Any person, firm, association, corporation, company, or other entity which fails to comply with any Peninsula Township Ordinances, Michigan law, or any regulatory measures or conditions imposed by the Planning Commission, Zoning Board of Appeal, or Township Board shall be found in violation. If such violation has not abated, ceased to exist or otherwise been **remedied within seven days after written notice of the violation has been sent,** the violator will be deemed to be responsible for a municipal infraction as defined by Michigan statue. This infraction shall be punishable by a civil fine in an amount to be determined for each violation. The amount will be determined by the Township violation fee schedule, or in an amount determined by the Court, along with all expenses (direct and indirect) incurred by the Township. Each day that a violation continues to exist shall constitute a separate violation of this Ordinance.

A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as authorized under Michigan law. Provisions of this Ordinance may also be enforced by suit for injunctive relief.

You are hereby ordered to remedy this violation within 7 days upon receipt of this letter. Failure to do so will result in Civil Infraction citation being issued for each day that the violation remains.

I am enclosing a land use permit application for you to complete and submit to my office. You must provide plans of the new deck and privacy fence. You will also need to provide a site plan of where these structures are located on the property and the setbacks from the property lines should be indicated on the site plan.

Please feel free to contact me if you have any questions regarding this information.

Respectfully,

Christina Deeren
Director of Zoning
Zoning Administrator
(231) 223-7318

Case No. 890

EXHIBIT LIST

ITEM NO. 4

Peninsula Township Planning & Zoning Department

STAFF REPORT

ZBA Request # 890

Physical Address of Subject Property: 910 Sheridan Rd., Traverse City, MI 49686

Date: March 16, 2021

To: **Peninsula Township Zoning Board of Appeals**

From: **Christina Deeren, Zoning Administrator**

RE: **Request # 890**

Zoning District: **R-1C Suburban Residential – Single and Two-Family Residential**

Hearing Date: **March 16, 2021 – 7:00 PM**

Applicant: **Jessica Bachmann-Perez, 910 Sheridan Rd., Traverse City, MI 49686**

Owner: **Jessica Bachmann-Perez, 910 Sheridan Rd., Traverse City, MI 49686**

Site: **910 Sheridan Rd., Traverse City, MI 49686**

Tax ID: **28-11-595-038-00**

Information:

- **This is an after the fact request by the applicant as the decking has already been constructed without applying for the appropriate permits from Peninsula Township for a land use permit and Grand Traverse County Construction Code Office for a building permit.**
- Parcel 28-11-595-038-00 is approximately .255 acres in size or 96 feet by 100 feet and approximately 11,107 square feet.
- The property is zoned Suburban Residential – Single and Two-Family Residential (R-1C); and the surrounding area is also zoned Suburban Residential – Single and Two-Family Residential (R-1C).
- The lot was created prior the adoption of the Peninsula Township Zoning Ordinance, and is considered legal non-conforming.
- The property is part of the First Addition to Park Ridge Manor subdivision.
- The parcel is improved with a residential structure and attached garage.
- The original residential structure was constructed in 1957.
- The existing residential attached garage is located ten (10) feet from the existing westerly lot line.
- The north westerly portion of the residential structure is approximately thirty-one (31) feet to the property line.

Action Requested:

1. Requesting a variance from the required thirty (30) foot rear setback to seven (7) feet for a 1620 square foot deck, a 214 square foot shed and 693 square feet of six (6) foot tall walled fence that has been constructed & placed without the proper permits.

2. Requesting a variance from the required fifteen foot side yard setback to four (4) foot side yard setback on the westerly property line for a 1620 square foot deck, a 214 square foot shed and a 693 square foot six (6) foot tall walled fence that has been constructed & placed without the proper permits.
3. Requesting a variance from the required 25 percentage of lot coverage to 43.89 percent for a 1620 square foot deck, a 214 square foot shed and 693 square feet of six (6) foot tall walled fencing that has been constructed & placed without the proper permits.

Parcel Code: #28-11-595-038-00

Applicant Statement: Please see the enclosed application submitted by the property owner.

Staff Comments:

Background:

The required setbacks in the R-1C zoned districts:

R-1C Standards (Section 6.8)	Required	Variance	Conforms to Standards?
Minimum Front Setback	25'	No	Yes
Minimum West	15'	Yes- New structure is located 4 feet to the westerly property line	No
Minimum East	15'	No	Yes
Minimum Rear setback	30'	Yes – New structure is located 7 ft from the rear property line	No
Minimum OHWM	60'	Yes	Yes
Road Right-of-way setback	33'	No	Yes
Percentage of Lot Coverage:	25% - allowed	Yes- New Construction increased % of lot coverage to 43.89%	No

Article III
Definitions:

SECTION 3.2 Definitions: For the purpose of this Ordinance, certain terms or words used herein shall be interpreted or defined as follows:

Structure: A structure is any production or piece of material artificially built up or composed of parts joined together in some definite manner; any construction. Including dwellings, garages, building, mobile homes, signs and sign boards, towers, poles, antennae, landfill, sea walls, weirs, jetties, swimming pools, stand pipes, fences over four feet in height above final grade and earth sheltering for earth-sheltered structures or other like objects, but not including: (a) a

temporary fence; (b) agricultural fences that are used for general farming and horticultural uses, field crop and fruit farming, raising and keeping of small animals, and raising and keeping of livestock; (c) access steps required to negotiate changes in site elevation; (d) landscape mounds; and (e) sidewalks, drives, and paved areas which do not protrude above the finished site grade. **(REVISED BY AMENDMENT 152)**

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-1C, Suburban Residential:	Minimum lot front setback - 25 feet Side yard setbacks – 15 feet Rear yard setback – 30 feet Ordinary Highwater setback – 60 feet Allowable percentage of lot coverage – 25%

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.

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

   (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.)

   (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.

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

(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.

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.

(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.

(b) 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.

Section 5.7.4 Special Exemptions:
(Revised by Amendment 113B)
(DELETED BY AMENDMENT 188)

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: _____
_____
_____.

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: _____
_____
_____.

c) That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirements 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: _____

_____

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: _____

_____

_____.

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: _____

_____

_____.

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: _____

_____

_____.

The subject property, zoned R-1C, was created prior the effective date of the Ordinance and considered legal non-conforming. The property is located along Sheridan Road.

Peninsula Township
Zoning Board of Appeals

ZBA Case No. 890

Peninsula Township
13235 Center Road
Traverse City, MI 49686

Date of Meeting: March 16, 2021

Applicant: Jessica Bachmann-Perez, 910 Sheridan Rd., Traverse City, MI 49686
Owner: Jessica Bachmann-Perez, 910 Sheridan Rd., Traverse City, MI 49686
Address: 910 Sheridan Rd., Traverse City, MI 49686

Parcel Code: #28-11-595-038-00

Request:

1. Requesting a variance from the required thirty (30) foot rear setback to seven (7) feet for a 1620 square foot deck, a 214 square foot shed and 693 square feet of six (6) foot tall walled fence that has been constructed & placed without the proper permits.

Action by the Zoning Board of Appeals:

_____ (Chair)	☐ Yes	☐ No
_____ (Vice Chair)	☐ Yes	☐ No
_____ (Member)	☐ Yes	☐ No
_____ (Member)	☐ Yes	☐ No
_____ (Member)	☐ Yes	☐ No

Board Action:

_____
_____
_____
_____
_____
_____
_____

Peninsula Township
Zoning Board of Appeals

ZBA Case No. 890

Peninsula Township
13235 Center Road
Traverse City, MI 49686

Date of Meeting: March 16, 2021

Applicant: Jessica Bachmann-Perez, 910 Sheridan Rd., Traverse City, MI 49686
Owner: Jessica Bachmann-Perez, 910 Sheridan Rd., Traverse City, MI 49686
Address: 910 Sheridan Rd., Traverse City, MI 49686

Parcel Code: #28-11-595-038-00

Request:

2. Requesting a variance from the required fifteen foot side yard setback to four (4) foot side yard setback on the westerly property line for a 1620 square foot deck, a 214 square foot shed and a 693 square foot six (6) foot tall walled fence that has been constructed & placed without the proper permits.

Action by the Zoning Board of Appeals:

_____ (Chair)	☐ Yes	☐ No
_____ (Vice Chair)	☐ Yes	☐ No
_____ (Member)	☐ Yes	☐ No
_____ (Member)	☐ Yes	☐ No
_____ (Member)	☐ Yes	☐ No

Board Action:

_____
_____
_____
_____
_____
_____
_____

Peninsula Township
Zoning Board of Appeals

ZBA Case No. 890

Peninsula Township
13235 Center Road
Traverse City, MI 49686

Date of Meeting: March 16, 2021

Applicant: Jessica Bachmann-Perez, 910 Sheridan Rd., Traverse City, MI 49686
Owner: Jessica Bachmann-Perez, 910 Sheridan Rd., Traverse City, MI 49686
Address: 910 Sheridan Rd., Traverse City, MI 49686

Parcel Code: #28-11-595-038-00

Request:

3. Requesting a variance from the required 25 percentage of lot coverage to 43.89 percent for a 1620 square foot deck, a 214 square foot shed and 693 square feet of six (6) foot tall walled fencing that has been constructed & placed without the proper permits.

Action by the Zoning Board of Appeals:

_____ ☐ Yes ☐ No
(Chair)

_____ ☐ Yes ☐ No
(Vice Chair)

_____ ☐ Yes ☐ No
(Member)

_____ ☐ Yes ☐ No
(Member)

_____ ☐ Yes ☐ No
(Member)

Board Action:

_____
_____
_____
_____
_____
_____
_____

Case No. 890

EXHIBIT LIST

ITEM NO. 5

PUBLIC NOTICE
(VIRTUAL ZOOM MEETING)
PENINSULA TOWNSHIP
ZONING BOARD OF APPEALS
NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the Peninsula Township Zoning Board of Appeals will hold a Regular Meeting March 16, 2021 at 7:00 p.m. Virtual Meeting Via Zoom-Link, 13235 Center Road, Traverse City, MI 49686 (231) 223-7322. The following applicant is scheduled to be heard:

1. Request No. 890, Zoning R-1C
Applicant: Jessica Bachmann-Perez, 910 Sheridan Rd., Traverse City, MI 49686
Owner: Jessica Bachmann-Perez, 910 Sheridan Rd., Traverse City, MI 49686
Property Address: 910 Sheridan Rd., Traverse City, MI 49686

Request:

1. Requesting a variance from the required thirty (30) foot rear setback to seven (7) feet for a 1620 square foot deck, a 214 square foot shed and 693 square feet of six (6) foot tall walled fence that has been constructed & placed without the proper permits.
2. Requesting a variance from the required fifteen (15) foot side yard setback to four (4) foot side yard setback on the westerly property line for a 1620 square foot deck, a 214 square foot shed and 693 square feet of six (6) foot tall walled fence that has been constructed & placed without the proper permits.
3. Requesting a variance from the required 25 percent of lot coverage to 43.89percent for a 1620 square foot deck, a 214 square foot shed and 693 square feet of six (6) foot tall walled fence that has been constructed & placed without the proper permits.

Parcel Code # 28-11-595-038-00

Please be advised that the public may appear at the hearing in person or by counsel per the Virtual Meeting Via Zoom-Link. Please see the BELOW LINK:

To join using the Zoom App on a computer, tablet, or smartphone click the following link:
https://us02web.zoom.us/j/82302494942
To join by dialing in, call:
(312) 626-6799 followed by the **Webinar ID: 823 0249 4942**, followed by the **#** key.

Written comments may be submitted to Peninsula Township Zoning Departments at 13235 Center Road, Traverse City, MI 49686, no later than 12:00 p.m. on March 15, 2021.

SUBJECT SITE

Case No. 890

EXHIBIT LIST

ITEM NO. 6

T. C. RECORD-EAGLE, INC.
120 WEST FRONT STREET
TRAVERSE CITY MI 49684
(231)946-2000
Fax (231)946-8273

ORDER CONFIRMATION (CONTINUED)

Salesperson: DENISE LINGERFELT Printed at 02/23/21 17:01 by dling

---

Acct #: 1837 Ad #: 561898 Status: New WHOLD WHO

PUBLIC NOTICE

PENINSULA TOWNSHIP
ZONING BOARD OF APPEALS
NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the Peninsula Township Zoning Board of Appeals will hold a regular meeting on March 16, 2021 at 7:00 PM at the Peninsula Township Hall, 13235 Center Road, Traverse City, MI 49686, (231) 223-7322. The following applicants will be heard:

1. Request No. 889, Zoning R-1C
Applicant: Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686
Owner: Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686
Property Address: 7215 Peninsula Drive, Traverse City, MI 49686

1. Requesting a variance from the required sixty (60) foot setback from the ordinary high waterline to thirty-one (31) feet in order to construct a 112 square foot addition to the existing non-conforming garage structure.
2. Requesting a variance from the required twenty-five (25) foot front yard setback to a twelve (12) foot front yard setback in order to construct a 112 square foot addition to the existing non-conforming garage structure.
3. Requesting a variance from the required 25 percent of lot coverage to 26.42 percent in order to construct a 112 square foot addition to existing non-conforming garage structure.

Parcel Code # 28-11-325-036-00

2. Request No. 890, Zoning R-1C
Applicant: Jessica Bachmann-Perez, 910 Sheridan Rd., Traverse City, MI 49686
Owner: Jessica Bachmann-Perez, 910 Sheridan Rd., Traverse City, MI 49686
Property Address: 910 Sheridan Rd., Traverse City, MI 49686

1. Requesting a variance from the required thirty (30) foot rear setback to seven (7) feet for a 1620 square foot deck, a 214 square foot shed and 693 square feet of six (6) foot tall walled fence that has been constructed & placed without the proper permits.
2. Requesting a variance from the required fifteen (15) foot side yard setback to four (4) foot side yard setback on the westerly property line for a 1620 square foot deck, a 214 square foot shed and 693 square feet of six (6) foot tall walled fence that has been constructed & placed without the proper permits.
3. Requesting a variance from the required 25 percent of lot coverage to 43.89percent for a 1620 square foot deck, a 214 square foot shed and 693 square feet of six (6) foot tall walled fence that has been constructed & placed without the proper permits.

Parcel Code # 28-11-595-038-00

Written comment may be submitted to Peninsula Township Zoning Department at 13235 Center Rd., Traverse City, MI 49686 no later than 12:00 PM on March 15, 2021.

Given COVID related issues and related restrictions on public gatherings, it is possible that the hearing will be conducted using Zoom. If the meeting is conducted on Zoom, login instructions will be published with the meeting agenda. The Zoning Board of Appeals meeting may also be cancelled. If cancelled, the hearing will then take place at the next regularly scheduled meeting of the Zoning Board of Appeals.

February 25, 2021-1T 561898

T. C. RECORD-EAGLE, INC.
120 WEST FRONT STREET
TRAVERSE CITY MI 49684
(231)946-2000
Fax (231)946-8273

ORDER CONFIRMATION

Salesperson: DENISE LINGERFELT Printed at 02/23/21 17:01 by dling

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Acct #: 1837 Ad #: 561898 Status: New WHOLD

PENINSULA TOWNSHIP
BECKY CHOWN CLERK
13235 CENTER ROAD
TRAVERSE CITY MI 49686

Start: 02/25/2021 Stop: 02/25/2021
Times Ord: 1 Times Run: ***
STDAD 3.00 X 6.83 Words: 490
Total STDAD 20.49
Class: 147 LEGALS
Rate: LEGAL Cost: 177.75
Affidavits: 1

Contact:
Phone: (231)223-7322
Fax#: (231)223-7117
Email: deputyclerk@peninsulatownshi
Agency:

Ad Descrpt: PUBLIC NOTICE PENINSULA T
Given by: EMAIL CHRISTINEA DEEREN
P.O. #: ZBA 889 & 890
Created: dling 02/23/21 16:51
Last Changed: dling 02/23/21 17:01

PUB	ZONE	EDT	TP	START	INS	STOP	SMTWTFS
RE	A	97	W	Thu 02/25/21	1	Thu 02/25/21	SMTWTFS
IN	AIN	97	W	Thu 02/25/21	1	Thu 02/25/21	SMTWTFS

AUTHORIZATION

Thank you for advertising in the Record-Eagle, our related publications and online properties. If you are advertising with the Record-Eagle classifieds, your ad will begin running on the start date noted above.

Please be sure to check your ad on the first day it appears. Although we are happy to make corrections at any time, the Record-Eagle is only responsible for the first day's incorrect insertions. Also, we reserve the right to edit or reclassify your ad to better serve buyers and sellers.

No refunds or rebates will be issued if you cancel your ad prior to the stop date.

We appreciate your business.

(CONTINUED ON NEXT PAGE)

Case No. 890

EXHIBIT LIST

ITEM NO. 7

PENINSULA TOWNSHIP
BOARD OF ZONING APPEALS

CERTIFICATE OF NOTIFICATION

Request No. 890
Hearing Date: March 16, 2021
Applicant: Jessica Bachmann-Perez, 910 Sheridan Rd., Traverse City, MI 49686
Owner: Jessica Bachmann-Perez, 910 Sheridan Rd., Traverse City, MI 49686
Property Address: 910 Sheridan Rd., Traverse City, MI 49686

I certify that the attached Public Hearing Notice and map showing the subject property location whose Parcel Code #s 28-11-595-038-00 was mailed by regular US mail to the attached list of 15 properties on February 23, 2021 by depositing said notices in a mail box located at United States Postal Services Main Office Building located at: 202 S. Union St., Traverse City, MI 496984

Christina Deeren
Peninsula Township
Director of Zoning

Case No. 889

EXHIBIT LIST

ITEM NO. 8

March 3, 2021

Peninsula Township Zoning Departments
13235 Center Road
Traverse City, MI. 49686

To Whom It May Concern,

This input is regarding a Board of Appeals Public Hearing on March 16, 2021 for Parcel Code # 28-11-595-038-00, Request No. 890, Zoning R-1C, Jessica Bachmann-Perez, 910 Sheridan Rd. Traverse City, MI 49686.

As residents of Peninsula Township, we are opposed to granting any and all of the three requested variances for the following reasons:

1. Per the information provided on the variance request, all structures (deck, shed and 6 ft. tall fence) were constructed without proper permits.

2. In the early phases of the construction in question, Jim walked over to inquire as to whether zoning rules were being followed and encouraged the workers to contact the zoning office to avoid possible issues.

3. Concern about the ability of fire, first responder and utility services to access properties, if/as needed due to structures and limited setbacks. In addition, close proximity of their structures increases the chances a fire could jump to adjacent property owners' structures.

4. Structures are so close to property lines that it does not protect the value of surrounding homes and the beauty of Peninsula Township due to aesthetics. The structures cover most of the backyard and significantly increases lot coverage.

We support the need for ordinances to protect the safety and privacy of Peninsula Township residents. Thank you for allowing us to share our concerns.

Sincerely,

Jim Coughlin
Diane Coughlin

James and Diane Coughlin
627 Edmar Dr.
Traverse City, MI. 49686

AGENDA

ITEM

NO. 10

APPROVAL OF MINUTES FROM FEBRUARY 16, 2021 REGULAR MEETING

Peninsula Township
Zoning Board of Appeals
February 16, 2021
Lola Jackson-Recording Secretary
DRAFT

PENINSULA TOWNSHIP
REGULAR MEETING
ZONING BOARD OF APPEALS MINUTES
Virtual Meeting Via Zoom-Link Provided Below:
February 16, 2021
7:00 p.m.

1. **Call to Order** The meeting was called to order by Soutar at 7:00 p.m.
2. **Pledge**
3. **Roll Call of Attendance** Couture, McBride, Rowlett, Dolton, Soutar.
   Note: Murazai from Land Information Access Associates (LIAA) conducted the virtual meeting. Members of the public could participate by raising their hand in zoom. Those calling in by phone could raise their hand by pressing *9.
4. **Conflict of Interest** Couture recused himself from Request No. 885 Item 1 under business as Daniel Dingeman is a professional colleague.
5. **Brief Citizen Comments – for items not on the Agenda** None
7. **New Business:**

1. Request No. 885, Zoning R-1C
Applicant: Daniel J. Dingeman, 6559 Peninsula Drive, Traverse City, MI 49686
Owner: Daniel J. Dingeman, 6559 Peninsula Drive, Traverse City, MI 49686
Property Address: 6559 Peninsula Drive, Traverse City, MI 49686

1. Requesting a variance from the required sixty (60) foot setback from the ordinary high waterline to fifty-four (54) feet in order to construct a 750 square foot addition to the existing non-conforming structure.

Parcel Code # 28-11-336-038-00

Daniel Dingeman 6559 Peninsula Drive

Dingeman: There are six conditions required for a variance. I will discuss each of these in detail. Item A. 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. I have met this condition due to the fact the property is an odd shape and is not due to any of my actions. If you look at the maps that were submitted the property is narrow at the south and then gets wider to the north. The high water has caused this property to lose a significant amount of shoreline as seen in the photographs I

submitted. The ground water table has risen substantially and has penetrated into the house. The previous owners sold the house as they did not want to continue dealing with this issue. I was willing to take this on and I have a drainage system with numerous pumps. I have applied for the required permits for the interior of the house and am now working to address the ground water issue on the basement level. The property has to deal with the high water table of the lake and ground water plus water running from Peninsula Drive and Grayhawk Rd, which is a private road. A culvert off Peninsula Dr. running from the east side to the west side dumps water down onto our property. All of these issues has caused the soil to be compromised. The driest part of my property is the northwestern corner which is where the addition is proposed. We are also seeking to put in a seawall; that permit is pending with EGLE. We want to put in a steel sea wall with boulders in front of it. The neighbor to the south of us has just installed a sea wall and the neighbor to the north of use installed cement bags with stones and boulders that jetty out into the bay. This is great for those properties, but this might be causing this property frontage to erode at a faster pace. There is really no other alternative except a steel wall with boulders in front of it. Because this property is so unique in its shape, it is not just a rectangle, but is more cone shaped. The narrowest portion is to the south and widest portion is to the north. The northwest corner lends itself best to this addition. Condition One B is not the result of the property owner. The house was built 30 years ago in 1947 and predates any zoning ordinance. Two additions to the house occurred in 1986 and 1992 and I have provided picture of these for you. Since then, the requirements for the high water mark setback has changed. The property is compliant with all side yard and front yard setbacks. The next point is that we are trying to align the master bedroom addition to be aligned with the western plane. The lot coverage is 11.24 and with the decks 14.28, which results in 25% lot coverage. Item C. of the requirement is met by the northwest corner and nearly meets the high water mark requirement. There is 160 feet of shoreline on this lot. The construction raises 8-12 inches from the existing building which will provide additional safety not only us, but future owners of the house. For item D the variance will do substantial justice to the applicant as well as to other property owners in the district. I believe this action makes the home safer. This allows me to have additional housing on a lot with a huge amount of density still permitted in the highest and driest part of the property. Adding onto a house is always driven by the mechanicals such as where is the electrical, where is the gas. That is the rational for the location of the addition on the property and still leaves plenty of room for more density going forward. The neighbors to the north and south sent letters of support. This action aids in stabilizing the shoreline and helping to get the vegetation going again. If you look at this property from the lake, the houses around it are much taller than my structure. Item E. That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood. Both neighbors have given support to the project, which is modest in size. We are trying to use the deepest part of the lot. This will improve the property values of the houses around us as we are updating the 30 year old structure and keep the wooden density in place. The steel sea wall is a public benefit as it aids in preserving the shoreline and once the water goes down as it one day, people will be able to walk on the beach. Item F. The variance shall not

permit the establishment within a district of any use which is not permitted by right. This property is zoned R-1C, so that should meet the requirement. The other items are any special conditions.
Deeren: The special conditions are no longer in use.
Dingeman: Ok, great.

John Dancer architect 12180 Peninsula Drive
We have worked really hard to use the existing pad and get the angle right and we need to tie into the existing house. The addition needs to line up with the house.

Deeren: In looking at your site plan, if you were to pull that building back within your building envelope and square it off with the house, in my opinion a variance would not be necessary. Was that anything you considered?

Dancer: Yes, we did try to do this and again the issue is tying into the existing house. Once we pull it back it becomes really difficult to tie into the existing house. The addition needs to line up with the house. In pushing it out elevates the house not just 4 feet, the one corner of the house becomes more like 8- 10 feet because of the oddly shaped property.
Rowlett: Mr. Dancer said it would be very difficult to make that hallway line up with the addition to the existing house. Sometimes difficult does not mean impossible.
Dancer: It does not make the plan work very well. It doesn't logically lay out very well.
Dingeman: This would make the existing stair well that goes down stairs, it would make the existing hallway begin in the stairwell and then you would be starting the hallway in the existing stairwell and that it would drive it right through where the existing laundry area is now. This starts a domino effect where one thing leads to another. First you would have to move the existing stairwell, which is not an easy thing to do and then you need to move the laundry room which is easier to do, but now you need to move all of the utilities that tie into the house.
Deeren: We were not given a floor plan; we were just given the exterior plan of the house. There is no way for us to see how this ties into the interior of the existing house. I could permit this if that turn was straightened out. With this turned the way you have proposed you are trying to encapsulate more of the view of Traverse City. The water mark has not changed since the 1980s and that line is actually a water marker in the lake. So, they don't take it from the water line moving, but the elevation of the lake and that is how the 60 foot setback is determined.
Rowlett: We did receive a letter from the Traverse City Baykeepers recommending we not give this variance. How much do we pay attention to this?
Dingeman: That is the first I heard of this letter.
Deeren: It just came in this afternoon.
Dingeman: What is a little bit lost is I am taking the water from the neighborhood and moving it across my property. As you go east from the proposed site, it gets wet. That is not ground water; it is ordinary water runoff. The culvert from Grayhawk Road does not have an easement.

Soutar: The letter is not to be considered tonight as we have not all seen it.
Dolton: In looking at this orientation it appears to be designed to gain a better view line of Traverse City. It looks to me if you straighten that addition you would have more of a view of the tree that is there and not the city. Did the view line have any aspect on this design?
Dancer: It was a secondary piece. We certainly want to keep the willow tree that is there. We were trying to work more with the setback.
Dolton: I was taking Deeren's suggestion that if you pull the building more to the east and straightening it out, you would be more within the setback. However, your view line would change.
Dingeman: It would be a shame to have to take that majestic tree out.
McBride: Could you talk more about the area that is wet. Given these wet lands this makes me wonder if the addition is placed where it should be.
Dancer: There is a culvert on Grayhawk that goes underneath Peninsula Drive. While the property is high at Peninsula Drive, it then dips down just a little bit and then it goes back up. There can literally be standing water there. We are trying to get it out of that wet area. In addition, we are actually pushing up so that it is 12 inches higher than the existing basement floor.
Deeren: We have a survey by Bob Mitchell that does not show any elevation. It shows it goes from 586 to 584 and that is all that is shown on here.
Dancer: You are exactly right that this goes in 12 inch increments. If you walk around the house you will see there is an area that actually holds water. You can see the culvert on the topo map at 586.
Deeren: The culvert does not show on the survey.
Rowlett: Have you had made any attempt to help you such as the DNR with this water issue? It seems to me if you have a water runoff problem someone might be able to assist you in this.
Dingeman: No, we have not.
McBride: Will this addition help with the beach maintenance and help the property from eroding further?
Dingeman: The question is how much of an investment is one prepared to make. The previous owners were so concerned about the water in the basement; the suggestion was made to just tear the house down. I am trying to save the house as it is not very old. This is a large piece of property that one can hardly see from the road. If I am going to make this investment, I want to build the steel seawall to protect it.
Soutar: (Garbled question due to technology) We do not have complete information.
Dancer: Goes through the history of the property from 1947 to present day.
Deeren: Asks for public comment and there is none.
Soutar: Is there anyone who wishes to speak in favor of the proposal? Hearing none is there anyone who wishes to speak against the proposal? No.
Soutar: Are there any other board comments?
Dingeman: I am surprised by the letter from the Baykeepers coming in so late. We were on the agenda back in November, December, January, and now February.

Deeren: This case was published in the Record Eagle in January. The Baykeeper watches for watershed issues along the lakeshore.
Dolton: There is a strong argument in that 66% of the existing building is beyond the setback, certainly the percentage of the addition is no more than 5-10% over the setback. The squaring of the configuration of the house in the SSW orientation moves the house with more of a view of the large tree which appears important in reducing additional erosion. We need to trust the architect in the tie-in to the existing with the issues of existing hallways and stairways. The applicant has made a reasonable effort to comply with the setbacks with the certain limitations.
McBride: There has been an effort by the applicant to address all of the required conditions for a variance. The question is this is such a small variance, why it necessary when there are other solutions for the proposed addition. I am stuck on condition 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. This condition has not been met.
Rowlett: If we move from requiring a 60 foot setback to granting 54 feet; this would affect future cases.
Soutar: One does not know if spending money on the water issue, which is already requiring pumps, would solve the water issue. The slight turn of the house is architecturally desirable, but we are not here to design the house.
Dolton: The applicant should be aware there is not a full quorum on this case due to Couture's recusal. Does he want to come back when there is a full board?
Deeren: Yes, I would have to get a second alternate to have a full quorum if this gets tabled.
Soutar: A vote of a 2-2 tie would mean disapproval of the variance request. Mr. Dingeman, what would like to do?
Dingeman: Yes, I would like to come back in March.
Rowlett moved the case be moved to a date certain of March 16, 2021 with a second by McBride.
Roll call vote: Yes Dolton, McBride, Soutar, Rowlett **Passed unam**

2. Request No. 886, Zoning R-1B
Applicant: Wayne M. Eaker, 12440 Bluff Rd., Traverse City, MI 49686
Owner: Wayne M. Eaker, 12440 Bluff Rd., Traverse City, MI 49686
Property: 12440 Bluff Rd., Traverse City, MI 49686

1. Requesting a variance from the required fifteen (15) foot side yard setback to ten (10) feet on the northerly property line in order to place a 160 square foot shed.
2. Requesting a variance from the required fifteen (15) foot side yard setback to ten (10) feet on the southerly property line in order to place a 160 square foot shed.
3. Requesting a variance from the Definition of Lot: The parcel of land having frontage along a street or right-of- way on which one principal building and its accessories are located or intended to be located together with any open spaces required by this Ordinance. Two (2) or

more parcels, lots of legal record, or platted lots, when contiguous and when held in common ownership, may be treated together as a single lot for purposes of this Ordinance. Unless otherwise provided in this Ordinance; public and private streets and road rights-of-way, and easements for ingress and egress shall divided lots (including parcels and sites) for purposes of this Ordnance **(REVISED BY AMDEDNMENT 158)**

Parcel Code # 28-11-134-026-00

Wayne Eaker 12440 Bluff Road

Eaker: The property is extremely narrow and small and the house is only 630 square feet. This does not leave room for the required setbacks on either side of the house or the opposite side of the road for a conforming structure. We would like to build a 10X16 foot shed across the street from the cottage where we live. This allows us to store a lawn mower and other tools to better care for the property. In going through the 6 required **conditions. Item 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. This property is definitely narrow and small. **Item B)** the need for the variance is not the result of actions of the property owner (self-created) or previous property owners. This property was created by a division of a large parcel that happened before the zoning laws were in effect. There was no way of knowing this division would prevent building a shed on the property. **Item 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. We meet this requirement because an accessory building such as a garage or shed is a typical, a permitted feature of properties in the neighborhood. However, the shape of our property in combination with the required setbacks and other zoning requirements means there is no place on the property where one could build without a variance. **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. With the shed in this location, there is room in front of the shed. This allows us to use the existing driveway, park cars, and turn a car or a car pulling a trailer around without difficulty. We understand the placement of the shed does not minimize the variance request. Moving the proposed shed forward would change the side yard setback to 1.5 feet over the allowed setback requirement. We are open to moving the placement of the shed in order to get the variance. **E.** That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property. The shed will be on the other side of the road so there is no issue in obstructing the lake views of the surrounding homes, both of which are on the lake side. The structure fits into the character of the neighborhood. Lastly, Item **F.** that the variance shall not permit the establishment within a district of any use which is not permitted by right. Having a shed is a permitted use. The only reason we need this variance is due to the narrowness of the property that does not allow a conforming structure to be built. Only a non-conforming building

would fit into this property and this is not permitted.
Soutar opens the meeting up for board discussion.
McBride: Is there any way you could put the shed right next to the garage?
Eaker: In looking at the site plan, I do not believe there is any other place for the shed that would not change the setbacks on the side or front.
Rowlett: This appears to be difficult to put the shed on the same side of the street as the house.
Soutar: The only place it appears to work is to put the shed on the deck on that side of the house. Basically, what we have here is an unbuildable lot and this makes it difficult.
Couture: The placement of a structure on the other side of the road appears that we are changing the definition of a lot. I do not believe the zoning board of appeals has the authority to define a lot. I would want a legal definition of a lot from our attorney.
Deeren: The current definition of a lot in the zoning ordinance reads "Unless otherwise provided in this ordinance; public and private streets and road right-of-way and easements for ingress and egress shall divide lots. You cannot build on a divided lot. You cannot have your house on one side and your garage on the other. If a portion of the land across the street were to touch the other side, such as a corner, then the two properties could be joined for zoning purposes. He would need two variances for the side yard setbacks.
This is treated as two separate lots. You cannot add an accessory structure unless it is tied into a residential building.
Couture: I am not comfortable rendering an opinion tonight. The township attorney needs to give us an opinion on this issue.
Soutar: Would Eaker be alright to moving to a date certain?
Eaker: I would be amenable to that.
Couture moved the case be moved to a date certain of March 16, 2021 with a second by Dolton.
Roll call vote: Yes Dolton, McBride, Soutar, Rowlett, Couture **Passed unam**

3. Request No. 887, Zoning R-1C
Applicant: Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686
Owner: Richard M. & Dianne L. Frank, 7215 Peninsula Drive, Traverse City, MI 49686
Property: 7215 Peninsula Drive, Traverse City, MI 49686

1. Requesting a variance from the required sixty (60) foot setback from the ordinary high waterline to forty-six (46) feet in order to construct a 112 square foot addition to the existing non-conforming garage structure.
2. Requesting a variance from the required fifteen (15) foot side yard setback to thirteen (13) foot side yard setback on the southerly property line to construct an 84 square foot addition to the existing non-conforming garage structure.
3. Requesting a variance from the required twenty-five (25) foot front yard setback to a zero (0) front yard setback on the southerly line in order to construct an 84 square foot addition

to the existing non-conforming garage structure.

4. Requesting a variance from the required twenty-five (25) foot front yard setback to a twelve (12) foot front yard setback on the northerly corner in order to construct a 112 square foot addition to the existing non-conforming garage structure.
5. Requesting a variance from the required 25 percent of lot coverage to 52 percent in order to construct a 639 square foot addition to existing non-conforming garage structure.

Parcel Code # 28-11-325-036-00

Richard and Diane Frank, 7215 Peninsula Drive

R. Frank: The house was built in the 1960s and a 1 ½ car garage was added in the late 1970's. The garage is 2 stories with the garage being on the upper portion even with the street and the bottom is at the lake level. The garage needs to be rebuilt because the concrete planks that form the floor of the garage are eroded and need to be replaced. In the process of rebuilding, we would like to expand the structure into a 2 car garage. We want to keep the existing foundation and extend the garage only on the upper story. On order to accomplish the, we need to expand the garage in both directions. (Frank goes through the site plan with the board). The existing structure is non-complaint with the ordinary high water mark, the right-of- way side yard setback, and the lot coverage, multiple variances is required. A new variance in the shape of a triangle to the south is requested. The existing garage was built 40 years ago, when smaller garages might have been more acceptable.
The existing garage is too small for our 2 cars and other items such as bicycles, snow blowers, and garden equipment. The constrained lot size makes it impossible to expand the garage without variances. In considering only expanding the garage to the north, this would require new foundation walls. With only one car in the garage at a time, one of the cars is usually parked in the driveway in front of our house. Keeping all the cars in an expanded garage improves the overall appearance of the house. None of the requested variances substantially affect the neighbors, who both live across the street. The benefits of a 2 car garage outweigh the minor impact from the variances. A 2 car garage is a use permitted by right subject to approval of the request.
Soutar: Are there any questions from the board?
McBride: No questions.
Rowlett: We also received an email today from the Baykeeper's stating they are not in favor of this request. Again, as not all members of the board have seen the email and will not be a factor in this case. This request is for a large variance. Is there any way to move the garage closer to the house?
R. Frank: This would make the high water mark infringement worse and we would need to lose our deck. We might need a column if we were to move closer to the house. Going out 4' on one

Jeff Simonis Construction, 5833 Kilton Rd. Traverse City 49684

Simonis: We are trying not to disturb the existing footprint. It is already non-conforming so we are cantilevering the deck to achieve a wider garage and I know this encroaches on the setbacks. It is going to be 9' up in the air. We are leaving the foundation where it is as to not enlarge the existing footprint.
Couture: He wants to expand the footprint as he wants to get 2 cars in his garage.
Simonis: Yes, the foundation is staying in place and would not increase the footprint.
Deeren: You are requesting 5 variances. If you move this more toward the house you would only need 3. I would move it more toward the house and away from the road. We can take variance request number 5 off as they meet the lot coverage requirement. My other concern is the property line being right on the road. If the Grand Traverse Road Commission wanted to widen the road, you would have a problem.
Dolton: I am concerned with the 0 foot side yard setback and that you are right on the road. Economic considerations cannot be used by the zoning board in making decisions.
Soutar: Is there anyone who wishes to speak in favor of this proposal-hearing none is there anyone who wishes to speak against this proposal? Hearing none the meeting now goes back to the board.
Couture: This is already a non-conforming property and this request would make it more non-conforming. While I understand you want to park 2 cars, this is not a requirement to repair the failing foundation.
Dolton: My concern is moving to zero the setback on the road side.
McBride: I agree with my colleagues that a garage is not a right.
Rowlett: I would like to see the structure moved closer to the house and away from the road.
McBride moved to approve variance request number 1 if all 6 basic conditions are met with a second by Rowlett. **Passed unam**

Soutar: The Board will now go through the 6 Basic Conditions that must be met for each variance. This is for variance request number 1.

A. 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.
McBride, Rowlett, Dolton, Couture, Soutar **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, McBride, 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, Rowlett, Dolton, Couture, Soutar **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.
Rowlett, Dolton, Couture, McBride, Soutar **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, McBride, 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.
Soutar, McBride, Rowlett, Dolton, Couture **all agree** the condition has been met.
Roll call vote-Yes Rowlett, McBride, Couture, Dolton, Soutar **Passed unam**

Deeren: Variance Request number 1 is approved.

McBride makes a motion that variance request 2 be denied with Rowlett providing a second.

Roll call vote-Rowlett, Dolton, Couture, Soutar, McBride **Passed unam**

Deeren: Request for variance number 2 is denied.

McBride moves to deny Variance Request number 3 with a second by Couture.
Roll call vote: Yes Couture, Dolton, McBride, Rowlett, Soutar **Passed unam**

Deeren: Request for variance number 3 is denied.

McBride moved to approve variance request variance number 4 if all 6 basic conditions are met with a second by Rowlett. **Passed unam**

Soutar: The Board will now go through the 6 Basic Conditions that must be met to approve variance request number 4.

A. 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.
McBride, Rowlett, Dolton, Couture, Soutar **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, McBride, 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, Rowlett, Dolton, Couture, Soutar **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.
Rowlett, Dolton, Couture, McBride, Soutar **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, McBride, 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.
Soutar, McBride, Rowlett, Dolton, Couture **all agree** the condition has been met.
Roll call vote-Yes Rowlett, McBride, Couture, Dolton, Soutar **Passed unam**

Deeren: Variance Request number 4 is passed.
Variance requests 1 and 4 are approved and variance requests 2 and 3 are denied.

4. Request No. 888, R-1B
Applicant: Nathan & Karley Elkins, 13024 Peninsula Drive, Traverse City, MI 49686
Owner: Nathan & Karley Elkins, 13024 Peninsula Drive, Traverse City, MI 49686
Property: 13024 Peninsula Drive, Traverse City, MI 49686

1. Requesting a variance from the required fifteen (15) foot side yard setback to twelve (12) foot side setback on the southerly property line in order to construct a 60 square foot addition to the existing non-conforming structure.
2. Requesting a variance from the required thirty (30) foot rear setback to ten (10) foot rear setback in order to construct a 1248 square foot detached garage structure.
3. Requesting a variance from the required fifteen (15) foot side yard setback to thirteen (13) foot side yard setback on the southerly property line in order to construct a 1248 square foot detached garage.
4. Requesting a variance from the required fifteen (15) percent lot coverage to twenty-three (23) in order to construct a 1248 square foot detached garage structure.

Parcel Code # 28-11-128-037-00

Nathan Elkins, 13024 Peninsula Drive

Elkins: We have reached out to our 3 surrounding neighbors and they approve of our plan. This project meets all 6 conditions for approval. (Site plan is shared with all participants through screen share). 1. Requesting a variance from the required fifteen (15) foot side yard setback to twelve (12) foot side setback on the southerly property line in order to construct a 60 square foot addition to the existing non-conforming structure.

An existing structure on the north side of the house will be removed and this allows for a driveway to be constructed on the north side to access the new garage. The rest of the variance requests are to allow the garage to be built. The location of the garage placement is to allow for the required well and septic requirements.

2. Requesting a variance from the required thirty (30) foot rear setback to ten (10) foot rear setback in order to construct a 1248 square foot detached garage structure.

3. Requesting a variance from the required fifteen (15) foot side yard setback to thirteen (13) foot side yard setback on the southerly property line in order to construct a 1248 square foot detached garage.

4. Requesting a variance from the required fifteen (15) percent lot coverage to twenty-three (23) in order to construct a 1248 square foot detached garage structure. In reviewing other lots in our neighborhood, the lot coverages range from our 17% up to 25%. So we are well under the required lot size.

Soutar: Are there any questions from the board?
Couture: Why is the garage so large?
Elkins: We want to go as large as possible. We want to be able to fit 2 cars in the garage and have plenty of additional storage.
Couture: Can you move the garage closer to the house? Or put it on the northern side?
Elkins: The garage cannot go into the septic reserve drain field. To move the garage to the north would require cutting down old oak trees.
Dolton: The garage is 51 feet wide which is larger than a typical 4 car garage.
Elkins: This allows room for the cars, storage, and a bonus room.
Dolton: What do you mean by bonus room?
Elkins: I mean room for storage. We have a small house and a growing family.
Deeren: You need to understand you can have no living quarters in that space. There can be no bathroom or kitchen in the garage.
McBride: The property already has a garage. This does not seem like an extraordinary situation and while we all want more storage you do not need to increase your lot coverage.

Chris Moyer, 13044 Peninsula Drive
I am in favor of this proposal. I am the neighbor to the north.

Elise Steffe, 13140 Peninsula Drive
Please take into consideration the increased building space to the south of this property. I am the daughter of the owner in the property to the southern side.
Dolton: I want to acknowledge he is removing the existing garage structure on the northern side. I am concerned about the size of the proposed garage and the southern setback.
McBride: I do not have a problem with request 1. However, I cannot support 2 and 4. Having a garage this large is not a right.
Rowlett: Are you living in the house full time? What kind of pathway would you have from the house to the garage?
Elkins: Yes. We have 3 boys. The garage driveway would be pavers or concrete.
Couture moves to approve Variance Request 1. McBride seconds. **Passed unam**

McBride, Rowlett, Dolton, Couture, Soutar **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, McBride, 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, Rowlett, Dolton, Couture, Soutar **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.
Rowlett, Dolton, Couture, McBride, Soutar **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, McBride, 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.
Soutar, McBride, Rowlett, Dolton, Couture **all agree** the condition has been met.
Roll call vote-Yes Rowlett, McBride, Couture, Dolton, Soutar **Passed unam**
Deeren: Variance request number 1 is approved.

Couture moved to deny variance request number 2 with a second by McBride.
Roll call vote-Yes Rowlett, McBride, Couture, Dolton, Soutar **Passed unam**
Deeren: Variance request number 2 is denied.

Couture moved to deny variance request number 3 with a second by Dolton.

Roll call vote-Yes Rowlett, McBride, Couture, Dolton, Soutar **Passed unam**
Deeren: Variance request number 3 is denied.

Couture moved to deny variance request number 4 with a second by McBride.
Roll call vote-Yes Rowlett, McBride, Couture, Dolton, Soutar **Passed unam**
Deeren: Variance request number 4 is denied.

Deeren: Variance request 1 is approved and 2, 3, 4 are denied.

2. Approval of Minutes from November 17, 2020 Regular Meeting

Rowlett moved to approve the minutes with a second by Dolton. **Passed unam**

8. **Citizen Comments-**None
9. **Board Comments**- Dolton commented that a letter from Haggard's Plumbing and Heating was submitted for multiple cases.
   Deeren: Yes, the letter is being submitted to all planning board cases as well. This business is in Charlevoix and has no standing with this board.

10. **Adjournment** Couture moved to adjourn the meeting with a second by McBride.
    Passed unam

Meeting adjourned at 10:49 p.m.