

Packet Addition

Case No. 900

Case No. 900

Corrected Staff Report

Peninsula Township Planning & Zoning Department

STAFF REPORT

ZBA Request # 900

Physical Address of Subject Property: 13024 Peninsula Drive, Traverse City, MI 49686

Date: April 19, 2022

To: Peninsula Township Zoning Board of Appeals

From: Christina Deeren, Zoning Administrator

RE: Request # 900

Zoning

District: R-1B Coastal Zone – Single and Two-Family Residential

Hearing

Date: April 19, 2022 – 7:00 PM

Applicant: Nathan & Karley Elkins, 13024 Peninsula Drive, Traverse City, MI 49686

Owner: Nathan & Karley Elkins, 13024 Peninsula Drive, Traverse City, MI 49686

Site: 13024 Peninsula Drive, Traverse City, MI 49686

Tax ID: 28-11-128-037-00

Information:

- Parcel 28-11-128-037-00 is approximately .63 acres in size or 85 feet by 322.856 feet and approximately 27,442 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 and attached garage
- The original residential structure was constructed in 1960 and is considered legal non-conforming to current zoning standards.
- The residential structure does not conform to the setback requirements within this zoning district as it encroaches on the southerly and northerly property lines.
- The Zoning Board of Appeals granted a variance for a 60 square foot addition in Case No. 888 in February of 2021. This structure was not constructed in the time allowance granted for the variance.

Action Requested:

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. This was a prior approval in ZBA Case No. 888 from February 16, 2021.
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 in order to construct a 30'x37' detached garage or 1110 square foot detached garage.

4. Requesting a variance from the required fifteen (15) percent lot coverage to sixteen point six-eight percent (16.68%) in order to construct a 1110 square foot detached garage structure.
Parcel Code: #28-11-128-037-00

Applicant

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

Staff Comments:

TABLE OUTLINES VARIANCE REQUEST FOR NEW ADDITION TO RESIDENTIAL STRUCTURE:

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 (60 sq. ft. addition)	15' – Variance request to 12 ft to construct a 60 square foot addition to residential structure	Yes	No – Variance required
Minimum North side yard setback	15'	No	No – Non-conforming
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	Yes -	No – Variance required
Current Building(s) on Lot Corrected 4/18/2022	2484 square feet	9.05% Lot Coverage	With new structure total new square footage = 3654 sq. ft. 13.31%

Staff Comments:

TABLE OUTLINES VARIANCE REQUEST FOR PROPOSED NEW DETACHED GARAGE STRUCTURE:

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 13 ft in order to construct a 1110 square foot detached garage (30'x37')	Yes	No – requires a variance
Minimum North side yard setback	15'	No	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	Yes -requesting a variance to exceed the 15% lot coverage to 16.59% in order to construct a 1110 square foot garage w/ a 74 ft roof overhang = 4552 sq. ft	No – requires a variance
Advertised and published as:		16.68% Actual: 13.31%	

**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-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 Peninsula Drive.

**Peninsula Township
Zoning Board of Appeals**

ZBA Case No. 900

Peninsula Township
13235 Center Road
Traverse City, MI 49686

Date of Meeting: April 19, 2022

Applicant: Nathan & Karley Elkins, 13024 Peninsula Drive, Traverse City, MI 49686
Owner: Nathan & Karley Elkins, 13024 Peninsula Drive, Traverse City, MI 49686
Address: 13024 Peninsula Drive., Traverse City, MI 49686

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

Request:

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. This was a prior approval in ZBA Case No. 888 from February 16, 2021.

Action by the Zoning Board of Appeals:

_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Chair)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Vice Chair)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		

Board Action:

ZBA Case No. 900

Peninsula Township
13235 Center Road
Traverse City, MI 49686

Date of Meeting: April 19, 2022

Applicant: Nathan & Karley Elkins, 13024 Peninsula Drive, Traverse City, MI 49686
Owner: Nathan & Karley Elkins, 13024 Peninsula Drive, Traverse City, MI 49686
Address: 13024 Peninsula Drive., Traverse City, MI 49686

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

Request:

- 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 in order to construct a 30'x37' detached garage or 1110 square foot detached garage.

Action by the Zoning Board of Appeals:

_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Chair)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Vice Chair)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		

Board Action:

ZBA Case No. 900

Peninsula Township
13235 Center Road
Traverse City, MI 49686

Date of Meeting: April 19, 2022

Applicant: Nathan & Karley Elkins, 13024 Peninsula Drive, Traverse City, MI 49686
Owner: Nathan & Karley Elkins, 13024 Peninsula Drive, Traverse City, MI 49686
Address: 13024 Peninsula Drive., Traverse City, MI 49686

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

Request:

3. Requesting a variance from the required fifteen (15) percent lot coverage to sixteen point six-eight percent (16.68%) in order to construct a 1110 square foot detached garage structure.

Action by the Zoning Board of Appeals:

_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Chair)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Vice Chair)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		

Board Action:

Case No. 900

Correspondence

Zoning

From: Linda Schimeck <lindaschimeck1@hotmail.com>
Sent: Thursday, April 14, 2022 2:26 PM
To: zoning@peninsulatownship.com
Subject: Re: Meeting April 19, 2022

Re: request No 900 Zoning R-18

Elkins property

I am the property owner of 13010 Peninsula Dr. directly South of Elkins property.

I have a concern with the scale of proposed building structure (4 car/1110 sq.ft.) structure and the location to the property line.

There has already been a previous variance on the property line done in the 1980's.

sincerely yours,

Linda Schimeck 586-792-0963

Sent from Windows Mail

Zoning

From: Chris Moyer <crtsmoyer@yahoo.com>
Sent: Wednesday, April 13, 2022 7:54 PM
To: zoning@peninsulatownship.com; planner@peninsulatownship.com; Chris Moyer
Subject: Request number 900, Zoning R-1B

We can not make the public hearing for the zoning request for my neighbor, Nathan and Karley Elkins of 13024 Peninsula Drive.

We have reviewed their plans and met with Karley and Nathan to understand the changes and are excited to see the investment that they are making in our neighborhood.

We are very comfortable with the changes and support their application for variance. They are investing substantially in the property and the garage space will provide storage to keep personal items and vehicles maintaining the appeal of the neighborhood.

We are out of the country right now so joining the Zoom call is at a very unsocial hour. Please share this with zoning board.

Kind regards,
Chris & Robin Moyer
13044 Peninsula Drive

crtsmoyer@yahoo.com