

**PENINSULA TOWNSHIP  
REGULAR MEETING  
ZONING BOARD OF APPEALS AGENDA  
13235 Center Rd., Traverse City, MI 49686**

August 16, 2022

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. Business:

**1. Request No. 903, Zoning R-1A**

Applicant: John C. Ansted Sr. Trust, 10215 Peninsula Drive, Traverse City, MI 49686

Owner: John C. Ansted Sr. Trust, 10215 Peninsula Drive, Traverse City, MI 49686

Property Address: Kroupa Rd., Traverse City, MI 49686

1. Requesting a variance from the required sixty (60) foot setback from the ordinary high water line to a fifty (50) foot setback in order to construct a single family residence w/ an attached garage.

Parcel Code # 28-11-108-001-02

**2. Request No. 904, Zoning A-1**

Applicant: Joshua B. & Lesli-Anne D. Humphrey, 1101 Elmer Drive, Traverse City, MI 49686

Owner: Joshua B. & Lesli-Anne D. Humphrey, 1101 Elmer Drive, Traverse City, MI 49686

Property Address: 1101 Elmer Drive, Traverse City, MI 49686

1. Requesting a variance from the required thirty-five (35) foot front yard setback to a thirty-three (33) foot front yard setback in order to construct a 38'x30' garage attached by a breezeway.

Parcel Code # 28-11-008-021-55

8. **Approval of Minutes from July 19, 2022 Regular Meeting**
9. Citizen Comments
10. Board Comments
11. Adjournment

Peninsula Township Planning & Zoning Department

**EXHIBIT LIST**

**ZBA Request # 903**

Owner: John C. Ansted Trust

---

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

Hearing date: August 16, 2022

---

**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

# Exhibit List

Item No. 1

# 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 John C. Ansted, SR.  
Address Line 1 10215 Peninsula DR.  
Address Line 2 TRAVERSE CITY, MI 49686  
Phone 231-709-3370 Cell 231-709-3370  
E-mail JCANSTED@yahoo.com

Owner: Name SAME AS Applicant  
Address Line 1 \_\_\_\_\_  
Address Line 2 \_\_\_\_\_  
Phone \_\_\_\_\_ Cell \_\_\_\_\_  
E-mail \_\_\_\_\_

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

### Property Information

Parcel ID 1110800102 Zoning \_\_\_\_\_  
Address Line 1 KROUPA Rd.  
Address Line 2 TRAVERSE CITY, MI 49686

### Type of Request

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

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Front Yard Setback  | <input type="checkbox"/> Side Yard Setback | <input type="checkbox"/> Rear Yard Setback        |
| <input type="checkbox"/> Width to Depth Ratio  | <input type="checkbox"/> Lot Coverage      | <input type="checkbox"/> Off-Street Parking       |
| <input type="checkbox"/> Signage   | <input type="checkbox"/> Height/Width      | <input type="checkbox"/> Non-Conformity Expansion |
| <input checked="" type="checkbox"/> Other: Please Describe: <u>OHWM, Reduction from 60 to 50</u> |  |   |

### Attachments

- ☒ \$1,000.00 application fee
- ☒ Basic Conditions Worksheet
- ☒ Site plan drawn to scale showing the following:
- Property boundaries; Shoreline properties must show the Ordinary High Water Mark on a certified survey, and the Flood Elevation Line (3 feet above OHWM) if any;
  - All existing and proposed structures including decks and roof overhangs;
  - Setbacks for existing and proposed structures (varies by zoning district).
- ☒ Front elevation diagram drawn to scale.

## Zoning

---

**From:** John Ansted <jcansted@yahoo.com>  
**Sent:** Wednesday, June 22, 2022 2:59 PM  
**To:** zoning@peninsulatownship.com  
**Cc:** Jesse Mitchell; John Ansted; Ansted, David  
**Subject:** Peninsula Twp. Variance Application - Basic Conditions

A ] The subject property is a uniquely larger parcel, 2.92 acre site that offers a limited building envelop. A large regulated wet land in the middle of property limits size of building envelop. Also property building site is located approximately on 10' bluff change in elevation which is the most suitable building location. Remainder of the property has high ground water, approximately 2 to 4' below surface. Also it would more advantageous to avoid building immediately adjacent to the wetlands thereby avoiding drainage and changing hydrology of the wetlands.

B ] Variance being requested only current natural condition of property and not being result of actions by current or previous owners.

C ] Strict compliance on new construction forces proposed structure to be abnormally small and or irregular shaped. Additionally doesn't allow modest space for a structure in upland area not to impede and impact the function of hydrology. We don't to change biology of the wetlands.

D ] A variance reduction to reduce Ordinary High Water Mark, OHWM is a commonly granted variance by Peninsula Twp. ZBA. Allowing a standardized house structure and attached garage enhances the conformity and curb appeal to the neighborhood. Currently not enough space for a standardized attached 24' x 24' two car garage.

E ] The proposed variance will be unnoticeable to to property within 300' of house and garage building site. The 10' variance set back reduction will not cause adverse impacts on surrounding property, property value or the use and enjoyment of property in the neighborhood.

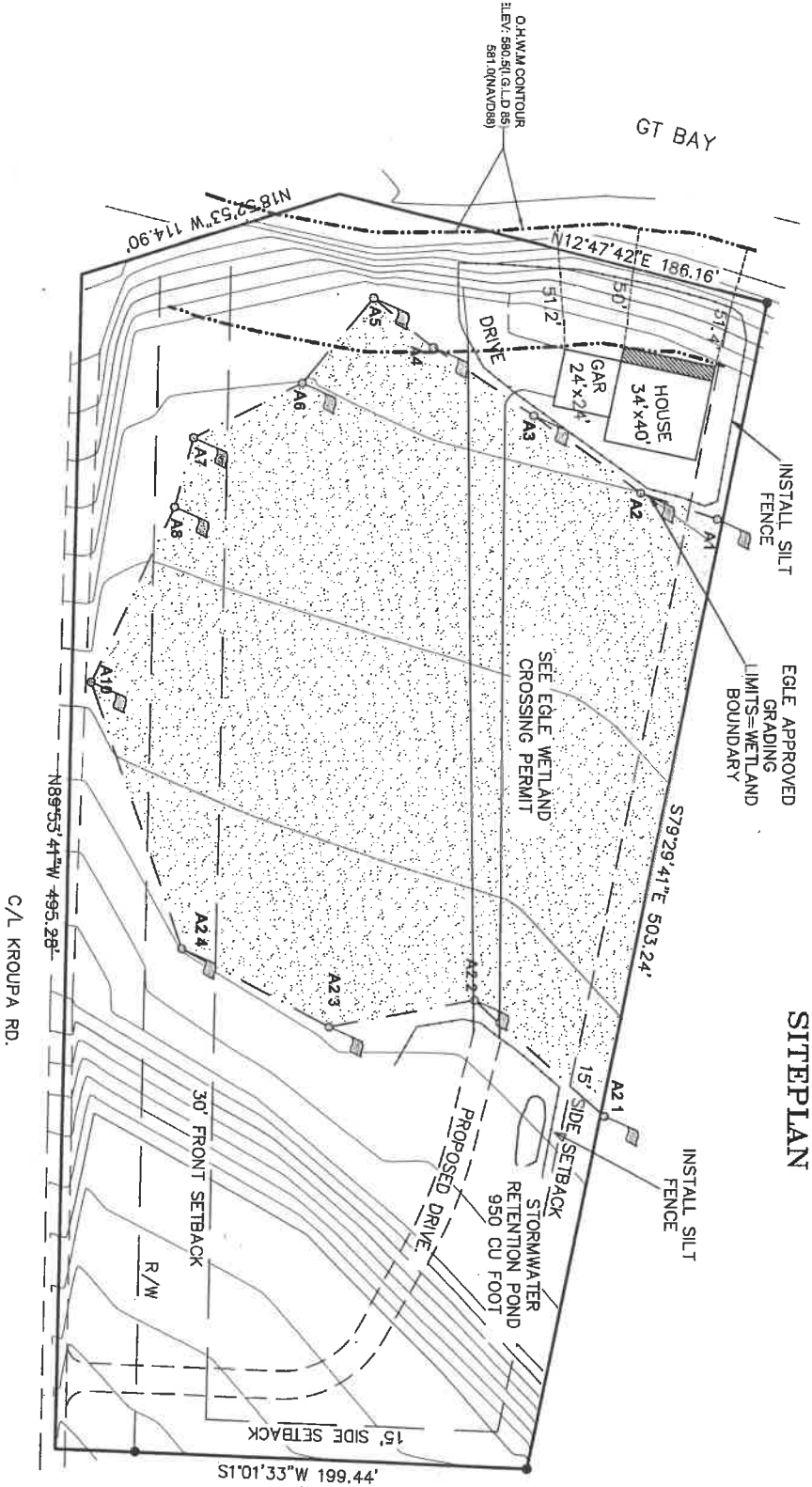
F ] The requested variance is consistent with use by right projects. This variance request will not set a negative or adverse precedent for current and future Township ZBAs as reduction only 16 percent or 10' from 60 to 50'.=

# Exhibit List

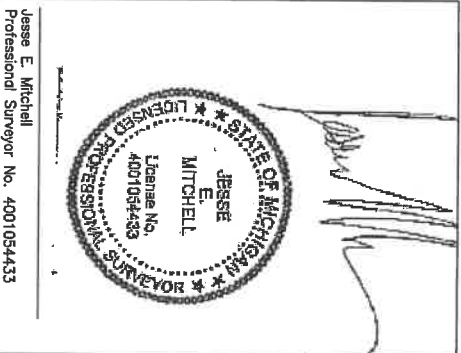
## Item No. 2

# SITEPLAN

Parcel: 11-108-001-02  
 Jurisdiction: Peninsula Township  
 Owner Name: ANSTED JOHN C SR  
 Property Address:  
 KROUPA RD  
 TRAVERSE CITY, MI 49686  
 Mailing Address:  
 10215 PENINSULA DR  
 TRAVERSE CITY, MI 49686



VARIANCE REQUEST  
 -REDUCTION FROM 60' TO 50' ON OHWM



Jesse E. Mitchell  
 Professional Surveyor No. 4001054433

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

Scale: 1" = 60'

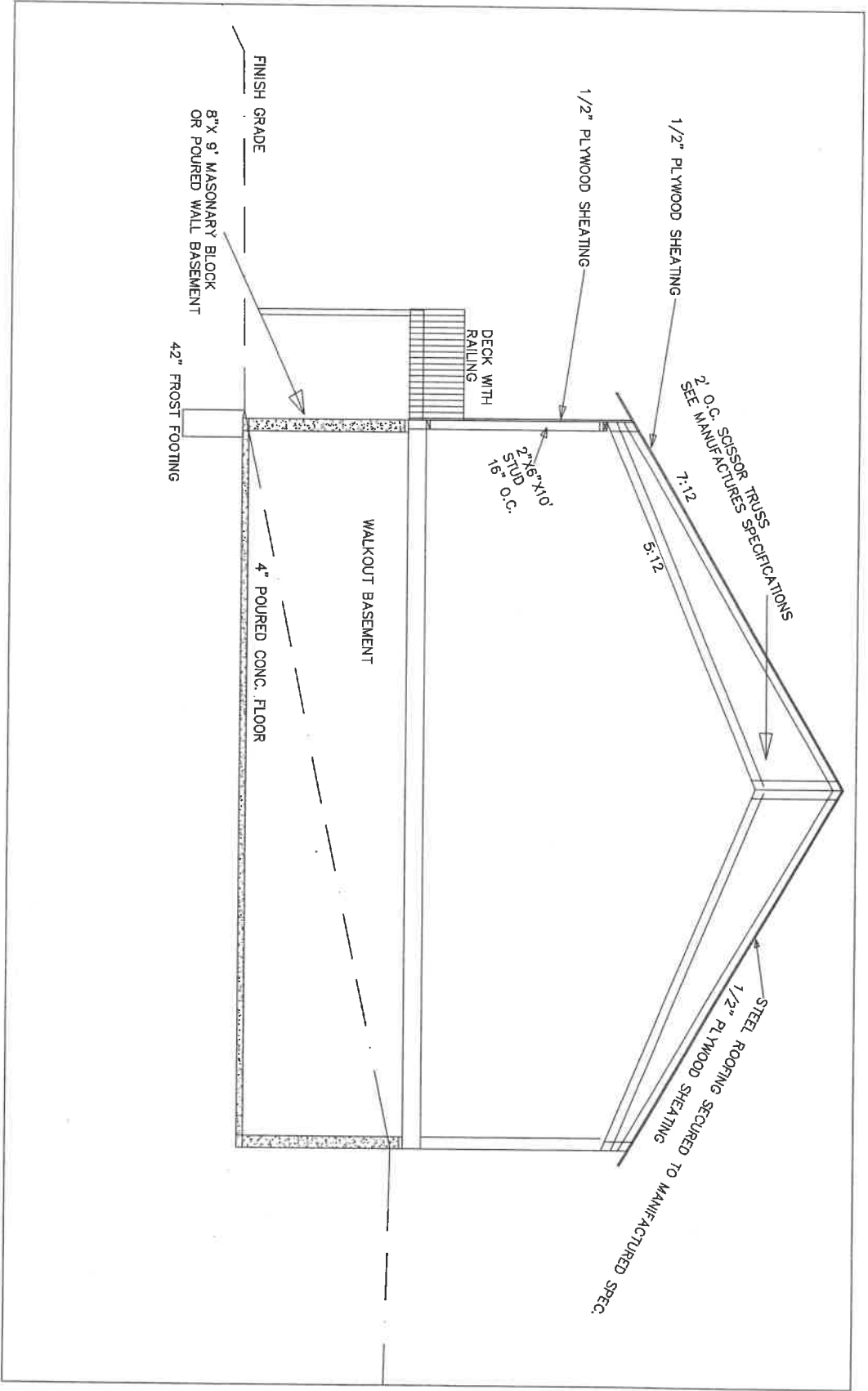
ADDITION OF ANY PART OF THIS DOCUMENT WITHOUT THE  
 PERMISSION OF MITCHELL & ASSOCIATES, P.C. IS PROHIBITED.

**BOB MITCHELL & ASSOCIATES**  
 SURVEYING / ENGINEERING  
 404 West Main Street, P.O. Box 306  
 TRAVERSE CITY, MI 49686  
 (231) 263-5463, FAX (231) 263-7921  
 Toll Free in Michigan 1-800-633-8827  
 www.mitchellandassociates.com

CLIENT: JOHN ANSTED		DATE: 06.16.2022		FILE NO. 20200353	
LOCATION: SEC 8, T29N-R10W		DATE: 06.16.2022		FILE NO. 20200353	
DRAWN: WPM		DATE: 06.16.2022		FILE NO. 20200353	
CHECK: JEM		DATE: 06.16.2022		FILE NO. 20200353	



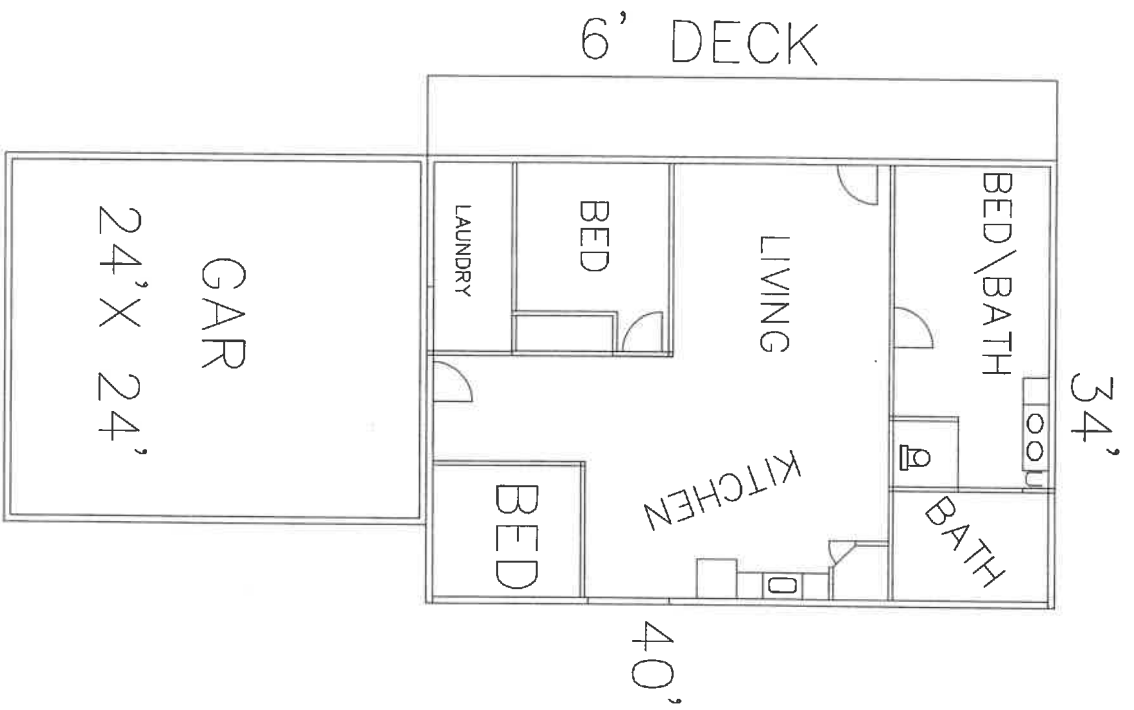
HOUSE PLANS



BUFFCO



HOUSE PLANS



BUFFCO

# Exhibit List

## Item No. 3

Peninsula Township Planning & Zoning Department

**STAFF REPORT**

ZBA Request # 903

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

Date: August 16, 2022

---

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

**From: Christina Deeren, Zoning Administrator**

**RE: Request # 903**

**Zoning**

**District: R-1A Rural & Hillside – Single Family Residential**

**Hearing**

**Date: August 16, 2022 – 7:00 PM**

**Applicant: John C. Ansted Trust, 10215 Peninsula Drive, Traverse City, MI 49686**

**Owner: John C. Ansted Trust, 10215 Peninsula Drive, Traverse City, MI 49686**

**Site: Kroupa Rd., Traverse City, MI 49686**

**Tax ID: 28-11-108-001-02**

**Information:**

- Parcel 28-11-108-001-02 is approximately 2.92 acres in size or 335 feet by 379.687 feet and approximately 127,195 square feet.
- The property is zoned Rural & Hillside – Single Family Residential (R-1A); and the surrounding area is also zoned Rural & Hillside – Single Family Residential (R-1A).
- The lot was created after the adoption of the Peninsula Township Zoning Ordinance, and is considered legal conforming.
- The parcel is vacant and has no improvements at this time.
- The property does contain wetlands that have been identified by EGLE.

**Action Requested:**

1. Requesting a variance from the required sixty (60) foot setback from the ordinary high water line to a fifty (50) foot setback from the ordinary high water line in order to construct a single family residence with an attached garage.

Parcel Code: #28-11-108-001-02

**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:

<b>R-1A Standards (Section 6.8)</b>	<b>Required</b>	<b>Variance</b>	<b>Conforms to Standards?</b>
Minimum Front Setback	30'	No	Yes
Minimum South side yard setback	15'	Yes	Yes
Minimum North side yard setback	15'	No	Yes
Minimum Rear setback	30'	No	Yes
Minimum OHWM	60'	Yes-Requesting a variance to 50 ft to OHWM	No- Variance required
Road Right-of-way setback	33'	No	Yes
Percentage of Lot Coverage:	15% - allowed	Yes -	No – Variance required

**Staff Comments:**

**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-1A, Rural & Hillside:                      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-1A, was created after the effective date of the Ordinance and considered legal conforming. The property is located along Kroupa Rd.**

**Peninsula Township  
Zoning Board of Appeals**

**ZBA Case No. 903**

Peninsula Township  
13235 Center Road  
Traverse City, MI 49686

Date of Meeting: August 16, 2022

Applicant: John C. Ansted Trust, 10215 Peninsula Drive, Traverse City, MI 49686  
Owner: John C. Ansted Trust, 10215 Peninsula Drive, Traverse City, MI 49686  
Address: Kroupa Rd., Traverse City, MI 49686

Parcel Code: #28-11-108-001-02

**Request:**

1. Requesting a variance from the required sixty (60) foot setback from the ordinary high water line to a fifty (50) foot setback from the ordinary high water line in order to construct a single family residence with an attached garage.

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:**

---

---

---

---

---

---

---



# 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 August 16, 2022 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:

Request No. 903, Zoning R-1A

**Applicant:** John C. Ansted Sr. Trust, 10215 Peninsula Drive, Traverse City, MI 49686

**Owner:** John C. Ansted Sr. Trust, 10215 Peninsula Drive, Traverse City, MI 49686

**Property Address:** Kroupa Rd., Traverse City, MI 49686

**Request:**

1. Requesting a variance from the required sixty (60) foot setback from the ordinary high water line to a fifty (50) foot setback from the ordinary high water line in order to construct a single family residence w/ an attached garage.

Parcel Code # 28-11-108-001-02

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 August 15, 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**



# 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: Miranda Roy

Printed at 07/29/22 14:12 by mroy

Acct #: 1837

Ad #: 588960

Status: New

LEGAL NOTICE  
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 August 16, 2022 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. 903, Zoning R-1A

Applicant: John C. Ansted Sr. Trust, 10215 Peninsula Drive, Traverse City, MI 49686

Owner: John C. Ansted Sr. Trust, 10215 Peninsula Drive, Traverse City, MI 49686

Property Address: Kroupa Rd., Traverse City, MI 49686

1. Requesting a variance from the required sixty (60) foot setback from the ordinary high water line to a fifty (50) foot setback from the ordinary high water line in order to construct a single family residence w/ an attached garage.  
Parcel Code # 28-11-108-001-02

2. Request No. 904, Zoning A-1

Applicant: Joshua B. & Leslie-Anne D. Humphrey, 1101 Elmer Drive, Traverse City, MI 49686

Owner: Joshua B. & Leslie-Anne D. Humphrey, 1101 Elmer Drive, Traverse City, MI 49686

Property Address: 1101 Elmer Drive, Traverse City, MI 49686

1. Requesting a variance from the required thirty-five (35) foot front yard setback to a thirty-three (33) foot front yard setback in order to construct a 38'x30' garage attached by a breezeway.  
Parcel Code #28-11-008-021-55

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 August 15, 2022.

July 31, 2022

588960

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

ORDER CONFIRMATION

Salesperson: Miranda Roy

Printed at 07/29/22 14:12 by mroy

Acct #: 1837

Ad #: 588960

Status: New

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

Start: 07/31/2022 Stop: 07/31/2022  
Times Ord: 1 Times Run: \*\*\*  
STDAD 3.00 X 4.10 Words: 251  
Total STDAD 12.30  
Class: 147 LEGALS  
Rate: LEGAL Cost: 132.90  
# Affidavits: 1

Contact:

Phone: (231)223-7322

Fax#: (231)223-7117

Email: deputy.clerk@peninsulatownsh

Agency:

Ad Descrpt: LEGAL NOTICE PUBLIC NOTIC

Given by: EMAIL CHRISTINA DEEREN

P.O. #:

Created: mroy 07/29/22 13:58

Last Changed: mroy 07/29/22 14:11

PUB	ZONE	EDT	TP	START	INS	STOP	SMTWTFS
RE	A	97	W	Sun 07/31/22	1	Sun 07/31/22	SMTWTFS
IN	AIN	97	W	Sun 07/31/22	1	Sun 07/31/22	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)

# Exhibit List

## Item No. 6

PENINSULA TOWNSHIP  
BOARD OF ZONING APPEALS

CERTIFICATE OF NOTIFICATION

Request No. 903

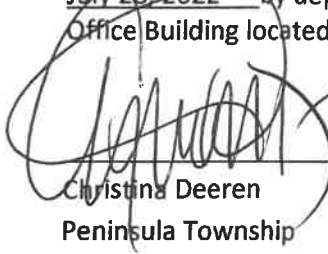
Hearing Date: August 16, 2022

Applicant: John C. Ansted Sr. Trust, 10215 Peninsula Drive, Traverse City, MI 49686

Owner: John C. Ansted Sr. Trust, 10215 Peninsula Drive, Traverse City, MI 49686

Property Address: Kroupa Rd., Traverse City, MI 49686

I certify that the attached Public Hearing Notice and map showing the subject property location whose Parcel Code #s 28-11-108-002-02 was mailed by regular US mail to the attached list of 6 properties on July 28, 2022 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

# Exhibit List

## Item No. 7



August 1, 2022

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

Ref: Request no#903 from applicant John C. Ansted St. Trust for a variance of a (60) foot setback from the ordinary high water line of (50) feet. Parcel#28-11-108-001-02

To whom it May Concerns,

Upon reviewing the above notice, I would like to express my view on the above plan request. Haggard's Plumbing & Heating is not opposed to the changes of the property and/or the request. If a property owner is fortunate enough to have the ability and the recourses in this time to either build 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 in anyways possible.

Sincerely,

John Haggard

*Haggard's Plumbing & Heating*

# Case No. 904

Peninsula Township Planning & Zoning Department

**EXHIBIT LIST**  
**ZBA Request # 904**

---

Owner: Joshua B. & Lesli-Anne D. Humphrey, 1011 Elmer Drive, Traverse City, MI  
49686

---

Physical Address of Subject Property: 1101 Elmer Drive., Traverse City, MI 49686  
Hearing date: August 16, 2022

---

**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

# Exhibit List

Item No. 1

# Peninsula Township Variance Application

## General Information

A fully completed application form, fee, and all related documents must be submitted to the Planning & Zoning Department at least four (4) weeks prior to the Zoning Board of Appeals meeting. **12 copies are required.**

### Applicant Information

Applicant: Name Josh & Lesli Humphrey  
Address Line 1 1101 Elmer Dr.  
Address Line 2 TC, MI 49686  
Phone (231) 633-2211 Cell \_\_\_\_\_  
E-mail leslihumphrey@hotmail.com

Owner: Name Josh & Lesli Humphrey  
Address Line 1 1101 Elmer Dr.  
Address Line 2 TC, MI 49686  
Phone (231) 633-2211 Cell \_\_\_\_\_  
E-mail leslihumphrey@hotmail.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 2811-008-021-55 Zoning Agriculture (A1)  
Address Line 1 1101 Elmer Dr.  
Address Line 2 TC, MI 49686

### Type of Request

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

- |  |  |   |
|--|--|---|
| <input checked="" type="checkbox"/> Front Yard Setback | <input type="checkbox"/> Side Yard Setback | <input type="checkbox"/> Rear Yard Setback        |
| <input type="checkbox"/> Width to Depth Ratio          | <input type="checkbox"/> Lot Coverage      | <input type="checkbox"/> Off-Street Parking       |
| <input type="checkbox"/> Signage                       | <input type="checkbox"/> Height/Width      | <input type="checkbox"/> Non-Conformity Expansion |
| <input type="checkbox"/> Other: Please Describe: _____ |  |   |

### Attachments

- ☒ \$1,000.00 application fee
- ☒ Basic Conditions Worksheet
- ☒ 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).
- ☒ 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. This parcel is unique in that the original land owner built the original home in the current location in 1974, prior to the parceling and selling of the original owners land (parent parcel was 23 acres). Since we are keeping the original footprint by necessity, and as a result, when we make our proposed improvements, we have encountered unnecessary hardship related to front setbacks.

- 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 original home was built in 1974 by Bill Lutz near the center of his property (originally 23 acres). Later, the land to the West (Mission View Estates, subdivision lots) was parceled and sold. Since purchasing the property we have made significant efforts to reduce non-conformity.

- 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. Not having a garage has caused significant damage to our vehicles (cars and lawn equipment). Currently, we have a relatively level elevation where the proposed garage would be constructed. If the proposed garage were to be moved further east, in accordance with the current setback requirements, it would cause the slope of the driveway to be so significant that it could render the garage approach impractical or unusable. Our septic system is just east of our driveway, so the driveway is not able to be moved. Additionally, if the proposed garage were moved further east, significant new infrastructure would be required and would create major architectural challenges. Specifically, there may be excessive foundation exposure, water run-off issues and other potential problems that could cause damage.

**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. The addition of a garage adds value to the home and overall value to our property as well as the neighboring homes and property.

**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. It will improve property values and there will be no adverse impact.

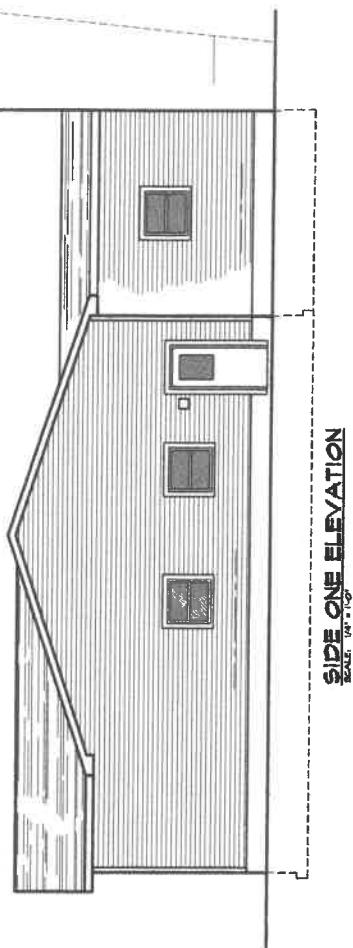
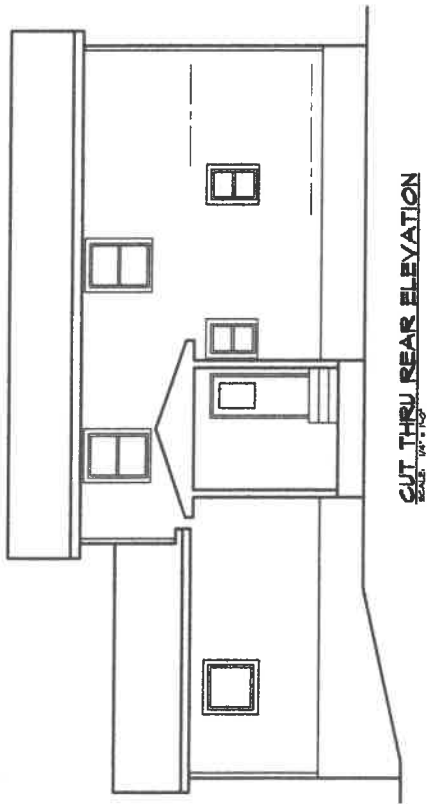
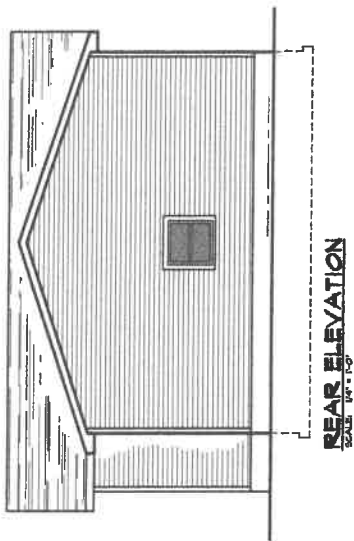
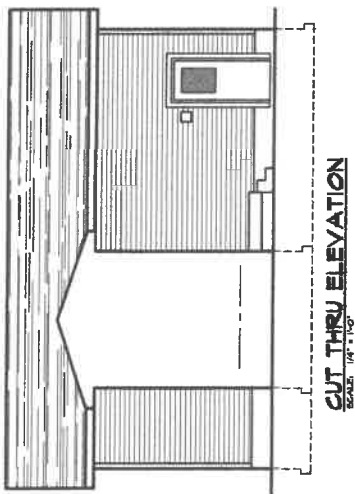
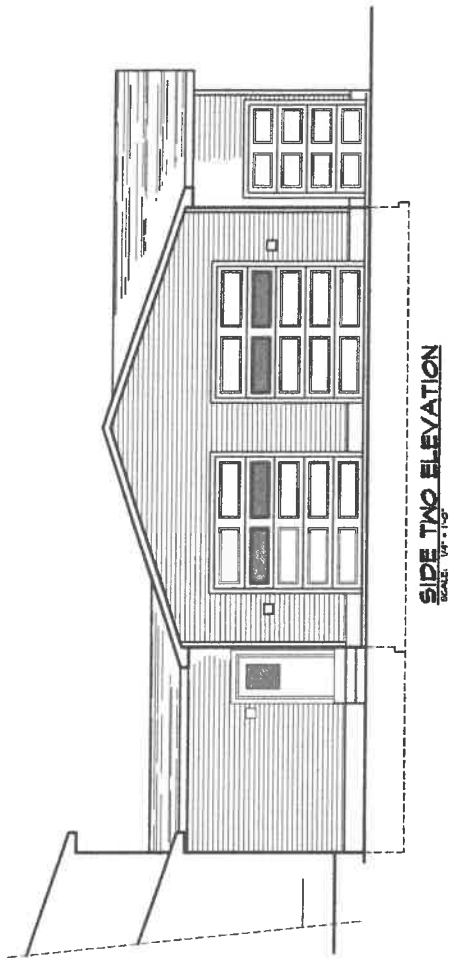
**f) That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.**

**Is this condition met? Please explain:** Yes. This is a garage addition to a primary residence and will be used as such.

# Exhibit List

## Item No. 2





HUMPHREY - GARAGE  
1101 ELVER DRIVE

PROJECT NO.	
DATE	04-04-2020
DRAWN BY	ELM
CHECKED BY	AS 10/10/20
3-4-20	02-20
TRAP POSITION	

PROJECT NO.	
DATE	04-04-2020
DRAWN BY	ELM
CHECKED BY	AS 10/10/20

SHEET NO.  
A3



# Exhibit List

## Item No. 3

Peninsula Township Planning & Zoning Department

**STAFF REPORT**

ZBA Request # 904

Physical Address of Subject Property: 1101 Elmer Drive., Traverse City, MI 49686

Date: August 16, 2022

---

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

**From: Christina Deeren, Zoning Administrator**

**RE: Request # 904**

**Zoning District: R-1A Rural & Hillside – Single Family Residential**

**Hearing Date: August 16, 2022 – 7:00 PM**

**Applicant: Joshua B. & Lesli-Anne D. Humphrey, 1011 Elmer Drive, Traverse City, MI 49686**

**Owner: Joshua B. & Lesli-Anne D. Humphrey, 1011 Elmer Drive, Traverse City, MI 49686**

**Site: 1011 Elmer Drive, Traverse City, MI 49686**

**Tax ID: 28-11-008-021-55**

**Information:**

- Parcel 28-11-008-021-55 is approximately 10.06 acres in size and approximately 461,736 square feet.
- The property is zoned A-1, (Agricultural); and the surrounding area is zoned R-1B – Costal Zone – Single and Two Family (R-1B).
- The lot was created after the adoption of the Peninsula Township Zoning Ordinance, and is considered legal conforming.
- The parcel is improved with a residential home, decks and porches.
- The residential structure does conform with required setbacks and is considered conforming.

**Action Requested:**

1. Requesting a variance from the required thirty-five (35) foot front yard setback to a thirty-three (33) foot front yard setback in order to construct a 38'x30' garage attached by a breezeway.

Parcel Code: #28-11-008-021-55

**Applicant**

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

**Staff Comments:**

**TABLE OUTLINES VARIANCE REQUEST FOR NEW ADDITION TO RESIDENTIAL STRUCTUE:**

**Background:**

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

A-1 Standards (Section 6.8)	Required	Variance	Conforms to Standards?
Minimum Front Setback	35'	Yes- Requesting variance of 33' from the front yard setback	No-variance required
Minimum South side yard setback	15'	Yes	Yes
Minimum North side yard setback	15'	No	Yes
Minimum Rear setback	50'	No	Yes
Minimum OHWM	60'		Yes
Road Right-of-way setback	33'	No	Yes
Percentage of Lot Coverage:	No percentage is established in this zoned district - allowed	No	Yes

**Staff Comments:**

**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:

A-1 Agricultural: Minimum lot front setback -35 feet  
Side yard setbacks – 15 feet  
Rear yard setback – 50 feet

Ordinary Highwater setback – 60 feet  
Allowable percentage of lot coverage – NA

**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 A-1, was created after the effective date of the Ordinance and considered legal conforming. The property is located along Elmer Drive.**



**Peninsula Township  
Zoning Board of Appeals**

**ZBA Case No. 904**

Peninsula Township  
13235 Center Road  
Traverse City, MI 49686

Date of Meeting: August 16, 2022

Applicant: Joshua B. & Lesli-Anne D. Humphrey, 1011 Elmer Drive, Traverse City, MI 49686

Owner: Joshua B. & Lesli-Anne D. Humphrey, 1011 Elmer Drive, Traverse City, MI 49686

Address: 1011 Elmer Drive, Traverse City, MI 49686

Parcel Code: #28-11-008-021-55

**Request:**

1. Requesting a variance from the required thirty-five (35) foot front yard setback to a thirty-three (33) foot front yard setback in order to construct a 38'x30' garage attached by a breezeway.

Action by the Zoning Board of Appeals:

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

**Board Action:**

---

---

---

---

---

---

# Exhibit 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 August 16, 2022 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:

Request No. 904, Zoning A-1

**Applicant:** Joshua B. & Lesli-Anne D. Humphrey, 1101 Elmer Drive, Traverse City, MI 49686

**Owner:** Joshua B. & Lesli-Anne D. Humphrey, 1101 Elmer Drive, Traverse City, MI 49686

**Property Address:** 1101 Elmer Drive, Traverse City, MI 49686

**Request:**

1. Requesting a variance from the required thirty-five (35) foot front yard setback to a thirty-three (33) foot front yard setback in order to construct a 38'x30' garage attached by a breezeway.

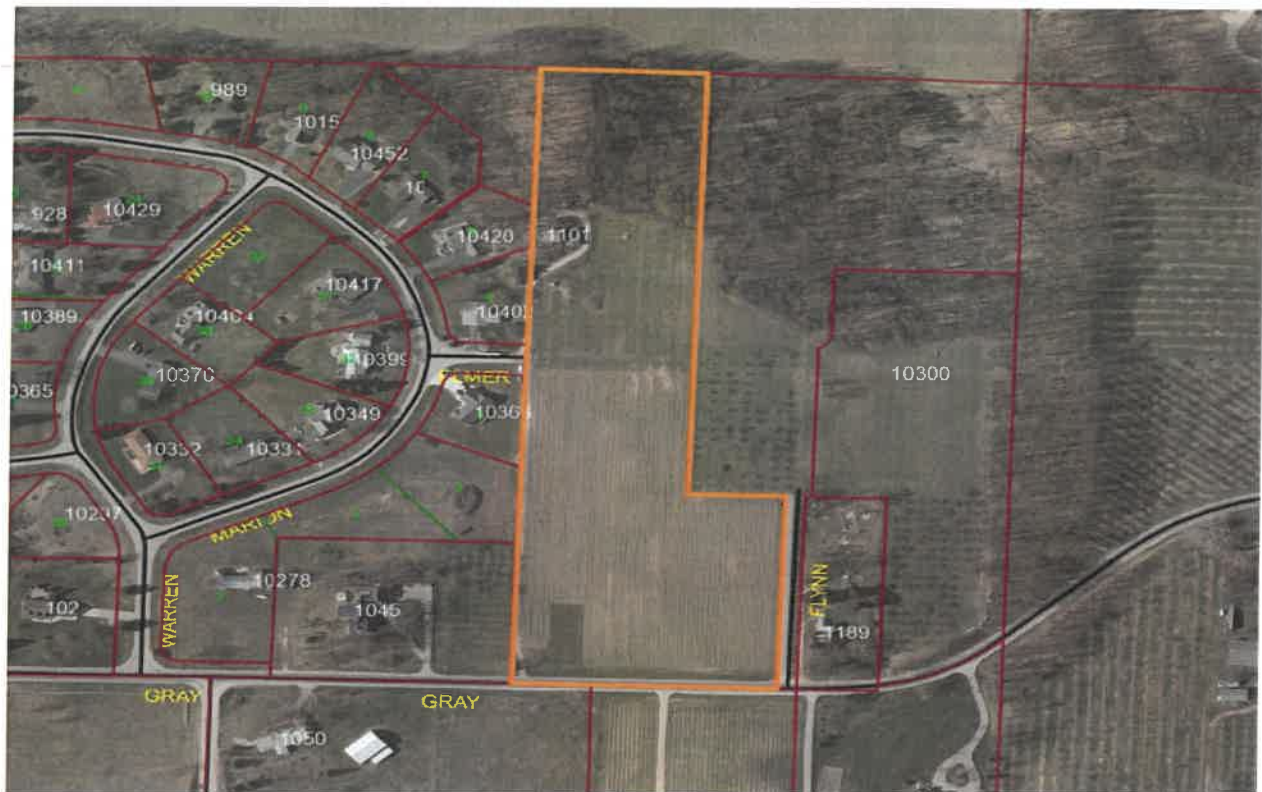
Parcel Code # 28-11-008-021-55

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 August 15, 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**



# 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: Miranda Roy

Printed at 07/29/22 14:12 by mroy

Acct #: 1837

Ad #: 588960

Status: New

LEGAL NOTICE  
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 August 16, 2022 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. 903, Zoning R-1A

Applicant: John C. Ansted Sr. Trust, 10215 Peninsula Drive, Traverse City, MI 49686

Owner: John C. Ansted Sr. Trust, 10215 Peninsula Drive, Traverse City, MI 49686

Property Address: Kroupa Rd., Traverse City, MI 49686

1. Requesting a variance from the required sixty (60) foot setback from the ordinary high water line to a fifty (50) foot setback from the ordinary high water line in order to construct a single family residence w/ an attached garage.  
Parcel Code # 28-11-108-001-02

2. Request No. 904, Zoning A-1

Applicant: Joshua B. & Leslie-Anne D. Humphrey, 1101 Elmer Drive, Traverse City, MI 49686

Owner: Joshua B. & Leslie-Anne D. Humphrey, 1101 Elmer Drive, Traverse City, MI 49686

Property Address: 1101 Elmer Drive, Traverse City, MI 49686

1. Requesting a variance from the required thirty-five (35) foot front yard setback to a thirty-three (33) foot front yard setback in order to construct a 38'x30' garage attached by a breezeway.  
Parcel Code #28-11-008-021-55

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 August 15, 2022.

July 31, 2022

588960

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

ORDER CONFIRMATION

Salesperson: Miranda Roy      Printed at 07/29/22 14:12 by mroy

---

Acct #: 1837      Ad #: 588960      Status: New

PENINSULA TOWNSHIP      Start: 07/31/2022      Stop: 07/31/2022  
BECKY CHOWN CLERK      Times Ord: 1      Times Run: \*\*\*  
13235 CENTER ROAD      STDAD 3.00 X 4.10      Words: 251  
TRAVERSE CITY MI 49686      Total STDAD 12.30  
Class: 147 LEGALS  
Rate: LEGAL      Cost: 132.90  
# Affidavits: 1

Contact:      Ad Descript: LEGAL NOTICE PUBLIC NOTIC  
Phone: (231)223-7322      Given by: EMAIL CHRISTINA DEEREN  
Fax#: (231)223-7117      P.O. #:  
Email: deputy.clerk@peninsulatownsh      Created: mroy 07/29/22 13:58  
Agency:      Last Changed: mroy 07/29/22 14:11

---

PUB	ZONE	EDT	TP	START	INS	STOP	SMTWTFS
RE	A	97	W	Sun 07/31/22	1	Sun 07/31/22	SMTWTFS
IN	AIN	97	W	Sun 07/31/22	1	Sun 07/31/22	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)

# Exhibit List

Item No. 6

PENINSULA TOWNSHIP  
BOARD OF ZONING APPEALS

CERTIFICATE OF NOTIFICATION

Request No. 904

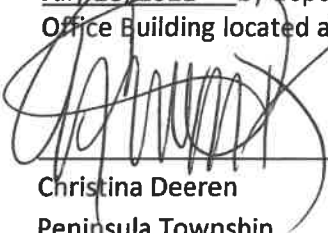
Hearing Date: August 16, 2022

Applicant: Joshua B. & Lesli-Anne D. Humphrey, 1101 Elmer Drive, Traverse City, MI 49686

Owner: Joshua B. & Lesli-Anne D. Humphrey, 1101 Elmer Drive, Traverse City, MI 49686

Property Address: 1101 Elmer Drive, Traverse City, MI 49686

I certify that the attached Public Hearing Notice and map showing the subject property location whose Parcel Code #s 28-11-008-021-55 was mailed by regular US mail to the attached list of 19 properties on July 28, 2022 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



# Exhibit List

## Item No. 7

August 1, 2022

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

Ref: Request no#904 from Joshua B. & Lesli-Anne D. Humphry for a variance request of (35) foot front yard setback to (33) foot. Parcel#28-11-008-021-55

To whom it May Concerns,

Upon reviewing the above notice, I would like to express my view on the above plan request. Haggard's Plumbing & Heating is not opposed to the changes of the property and/or the request. If a property owner is fortunate enough to have the ability and the recourses in this time to either build 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 in anyways possible.

Sincerely,



John Haggard

*Haggard's Plumbing & Heating*

Business Item  
No. 8

Minutes from July 19, 2022

Peninsula Township  
Zoning Board of Appeal  
July 19, 2022 7:00 p.m.  
Lola Jackson Recording Secretary  
DRAFT MINUTES

**PENINSULA TOWNSHIP  
REGULAR MEETING  
ZONING BOARD OF APPEALS  
13235 Center Rd., Traverse City, MI 49686  
July 19, 2022  
7:00 p.m.  
MINUTES**

1. Call to Order by Dolton at 7:00 p.m.
2. Pledge
3. Roll Call of Attendance Serocki, Elliott, Dolton, Wahl, Dloski. Jacob Witte, attorney on teleconference.
4. Approval of Agenda Dolton added approval of minutes from March 15, 2022 to agenda. Dloski moved to approve amended agenda with a second by Elliott. Approved by consensus
5. Conflict of Interest None
6. Brief Citizen Comments – for items not on the Agenda None
7. Business:

**1. Request No. 901, Zoning R-1C**

Applicant: Dean & Michelle Kokkales, 2353 Weber Rd., Dexter, MI 48130

Owner: Dean & Michelle Kokkales, 2353 Weber Rd., Dexter, MI 48130

Property Address: 9722 Center Rd., Traverse City, MI 49686

1. Requesting a variance from the required sixty (60) foot setback from the ordinary high water line and for a proposed addition of 400 square feet to be constructed within the ordinary high water line setback on an existing legal non-conforming lot of record.

Parcel Code # 28-11-017-002-00

David Glenn- Kuhn Rogers PLC 4033 Eastern Sky Drive, Traverse City 49684

[Recording sound equipment malfunction]

Glenn explained why this request fulfilled all of the 6 conditions required for a variance on a non-conforming lot. [See packet for documentation and application]

[Sound resumed taping]

We have not heard of anyone who is against it except The Watershed, whose letter we just received today. Quite frankly, they send these letters out to anyone who wants to build near the water. I don't think anyone is opposed to this in the neighborhood. The neighbors were taken into consideration. They do not want to block views or lose the aesthetics. This is a

stretch where all the cottages look similar as they were all built around the same time. The applicant wants to preserve that look, that cottage feel, which is evident with all the neighbors along that stretch. They don't want to build a monstrosity or make it look like a mini-mall. What they want to do is preserve the cottage feel, allowing the structure to evolve. There is no adverse impact and I think the opposite is true. This seems like a benefit to the neighbors and the ones we have talked to are willing to put their views in writing. Their values will go up and they certainly will not go down. Their views will not be impacted and they will not have to deal with further encroachment toward their property. The next one (condition) is number six and is easily satisfied as the variance shall not permit the establishment of any use which is not permitted by right and shall remain a single family unit. They are going to use it as their home. Overall, it meets all the elements of a variance I think in a very reasonable way. I do want to address the letter we received from The Watershed Committee (Center) literally hours ago. We value their concerns and the preservation of the shoreline and the quality of the water. This is extremely important to all of us, especially the applicants, who live on the water. The last thing they want to do is compromise in that area. We do not agree with the legal positions in that letter. Their first point is that the setbacks are there to preserve water quality. Our plans do not call for the structure to get any closer to the water. The envelope stays the same in proximity to the water and extends down the same plane. You are not going to see any impact as far as preservation of the water. The existing stabilization is going to remain the same. They are going to do everything to maintain stabilization of the lot. If you look at the topography of the lot it may be different than other lots that may have some issues with water coming up and meeting the structure, which is one of the main concerns with the ordinary high water mark. There is very little concern here and it is the same level that exists, which is minimal as it is going to be on the same plane. The next concern is about variances and we have met all of those conditions. The next item cited is Zoning Ordinance 7.5.5. and is actually misapplied and is concerned with the administrative aspect. It does not deal with a variance. There are 5 different requirements that we meet. The first one is that the shoreline is stabilized and that is no problem. Assurances there will be no damage by wave action and we have addressed that. There is no additional detriment to neighboring land owners and feel it is a benefit to neighboring landowners. Shoreline vegetation will be preserved and there will be no sea walls. The other item is increased safety to residents. We have addressed this multiple times now, especially for occupants of the house. We have met all the requirements they have raised in their letter. We respect their letter and wanted to get it on the record that we take their concerns seriously. We are concerned about the issues they raised and feel we have adequately addressed them. If any of you feel we haven't, we are more than happy to explain further. We have provided many similar examples after having gone back and read minutes from the last decade. We have come up with some pretty good examples where similar variances have been granted. This is a very unique area and township that you don't see in this region with its shoreline and roads. Variances have been granted and rightly so. I want to turn it over to the homeowners to answer any of your questions.

Peninsula Township  
Zoning Board of Appeal  
July 19, 2022 7:00 p.m.  
Lola Jackson Recording Secretary  
DRAFT MINUTES

Dean and Michelle Kokkales 2353 Weber Rd. Dexter, MI 48130

**Dean:** we are looking to improve our situation here. We have my mother who is almost 91 and my wife's mother is 83 and most likely one of us will be taking care of them. We currently have one bathroom with a toilet and a tub. We are hoping to do a walk in type shower for our parents. We love the style of the house. Our neighbors across the street just built their house and it is really important to us that we do not impede their view.

**Michelle:** I would like to add that we have been here 11 years. We love the house and the neighborhood. I am retiring this fall and want to bring my mom up here more. I am the primary caregiver as the only child after my brother passed away. We are just looking for some support.

**Serocki:** I have noticed a basement. Is that a full basement?

**Dean:** yes, it is.

**Serocki:** where is the septic field located?

**Dean:** the septic field is located up near the garage and road. It is 28 feet to the septic field. The 2 tanks are located on the westerly side of the sidewalk.

**Deeren:** would you have to move the tanks?

**Dean:** there is a possibility. I talked to Brent Wheat with the health department. I told him what we wanted to do and he pulled up my survey. The only stipulation is if the tank is 5 feet from the footing, it needs to be moved. There is a possibility that one tank would need to be moved.

**Dolton:** what is the square footage of the house?

**Michelle:** just over 1,100 square feet.

**Dolton:** is this your full time residence?

**Dean:** not right now.

**Dloski:** you said you purchased the house approximately 11 years ago. Were you made aware that this is a non-conforming property?

**Michelle:** we were not.

**Dloski:** there is a deck on the lake side of the house. Was that there when you purchased the home?

**Michelle:** yes

Joseph Quandt Kuhn and Rogers PLC 4033 Eastern Sky Drive, Traverse City 49684

**Quandt:** I just want to bring up two important clarifications. The variance request does not include any additional non-conformity. The ordinance created the non-conformity and this does not increase dimensionally on any side the non-conformity. It does not encroach further into the setback area toward the high water mark; it is just in the ordinary high water mark. It does not further encroach on the side lot or the front lot line either.

**Dolton:** you are increasing the non-conformity of the lot coverage by 400 square feet.

**Quandt:** it does. From the stand point of whether it increases non-conformity you would actually have to be water facing in front of the horizontal plan. As a matter of law you would have to be forward with that horizontal plan where the front of the house is currently on the

bay side.

**Dolton:** I would argue this is increasing the non-conformity of the lot coverage.

**Quandt:** we are already below the lot density. It is important in element number 3 it is read in the disjunctive and not the conjunctive. 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. In this case it is not only renders them unnecessarily burdensome, it renders them impossible.

**Dolton:** if you reference the existing draft of the zoning ordinance 7.5.5 that was amended back in 2016 and the language was amended in its entirety. The only thing remaining in 7.5.5 is that the zoning administrator will issue special use permits for non-conformity residences as long as all of the conditions are met.

**Dolton:** is there anyone here who would like to speak in favor of the request. Hearing none is there anyone wishing to speak against the request. Hearing none, I now close the public hearing portion of the meeting and bring it back to the board.

**Elliot:** I am having trouble getting past the increasing non-conformity. This is a very sensitive area and habitat.

**Dloski:** I also have a problem with it. When a person buys a property, they should know they are buying a non-conforming structure. You cannot make certain changes without having a variance on a non-conforming property. They have not fulfilled the requirements for a variance.

**Wahl:** I also have trouble in expanding non-conforming lots.

**Serocki:** I keep going back to 7.5.1, paragraph 2 regard non-conforming structures. "It is not the intent to allow significant increases in the intensity of previously established residential use on otherwise unbuildable lots." So the non-conforming aspect is going to be an increased.

**Dolton:** I turn to the intent of the zoning ordinance. The issue with non-conforming lots is while they are grandfathered in, the ordinance doesn't favor expansion. You are allowed to replace by modifying internally, but ideally we would not have any non-conforming structures. The Watershed Committee (Center) raises a valid point that if you create a hard structure versus a malleable structure, you are at some risk for filtration into the Great Lakes. This has been a consistent concern. I find the applicants extremely conscientious. These structures were built as summer cottages and many of them are now full time residences. I can understand you would like this to be a place for both your parents. This structure already has permitted residential use. The board does not have the power to require how you configure an internal space. There is nothing in the ordinance that prevents you from reconfiguring the existing internal space anyway you want.

**Dloski:** I want to be clear that each case is heard on its own merit and it does not set precedent for any future variance request.

**Wahl moved to consider the 6 conditions needed for variance request 901 with a second by**



**Dloski.**

**Approved by consensus**

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

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

Yes: Elliott, Dolton, Wahl Condition has been met

No, Condition has not been met: Dloski: I voted no because when the property was purchased they should have known it was non-conforming and certain changes would require a variance.

Serocki: This house has 3 bedrooms and a bathroom, so I do not feel this is due to narrowness, shallowness, shape, water or topography. The house is functional.

Jacob Witte, the attorney on the teleconference line requests those who vote no to give the reason for their vote. This will help provide a clear record of the consideration. Repeated condition 1 vote (reasons included).

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

Yes: Wahl Condition has been met

No: Condition has not been met

Elliott: no, the non-conformity already exists.

Dolton: no, without the addition there would be no need for the variance.

Dloski: same as Dolton and the owners should have known this was a legally non-conforming property

Serocki: no, if they want to put an additional structure on their property they will need a variance. Their property is already within the ordinary high water mark.

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

No: Condition has not been met

Dloski: they have owned the property for a number of years and they can configure it internally any way they want without a variance.

Dolton: no, the same reasons as Dloski.

Elliott: no the proposed expansion does not make the property substantially safer.

Wahl: no, same reasons that have already been expressed. There are alternatives that would not need a variance.



Serocki: no, I agree with Dloski.

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

Yes: Wahl Condition has been met

No: Condition has not been met

Serocki: no, I do not see how this would help other property owners

Dolton: no, again we go back to the purpose of the ordinance. This is contrary to the point of having non-conformity structures and not wanting to expand them. In my term on the board we have not permitted non-conforming structures to expand. We are not doing substantial relief to other property owners.

Elliott: no, the same reasons that have been stated.

Dloski: no, I agree with Dolton.

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

Yes: Serocki, Dolton, Wahl Condition has been met

No: Condition has not been met

Dloski: no I do not think it will.

Elliott: no, I agree with Serocki about the basement. The basement is already within the high water mark

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

Yes: Serocki, Dolton, Wahl Condition has been met

No: Condition has not been met

Elliott: no, other people want to build but we do want not set precedent.

Dloski: no

Deeren: this is an all or nothing vote. Conditions 2, 3, 4 were not met.

Dolton: unfortunately, 3 of the conditions were not met, so I need a motion to deny the variance.

**Dloski made a motion with a second by Serocki that Request 901 be denied.**

**Yes: Serocki, Elliott, Dolton, Wahl, Dloski**

**Dolton: Unfortunately, your request has been denied.**

## **2. Request No. 902, Zoning R-1B**

**Applicant: Gerald & Kathy Roster, 7730 Peninsula Drive, Traverse City, MI 49686**

**Owner: Gerald & Kathy Roster, 7730 Peninsula Drive, Traverse City, MI 49686**

1. Requesting a variance from the required fifteen (15) foot side yard setback on the northerly property line to a eleven (11) foot setback in order to re-construct a garage 28 feet by 48 feet that was destroyed by fire.

Parcel Code # 28-11-325-025-55

**Gary Mannor 17368 Peninsula Drive**

I am working with the home owner to rebuild a 28X40 foot garage located at 7730 Peninsula Drive. In 1988, the Rosters had the garage built. The back corner of the garage is 15 feet off set and it lines up with the corner of the house and is 12 feet 8 inches off and that is the non-conforming part. There was an error in measurement when the garage was built. I brought my laser out and went from the front stake to a stake back on the hill. Deeren and I discovered the front corner was off. We are building the exact same garage with the exception of reducing the size by lowering its height. So rather than expand a non-conforming structure, we are minimizing the structure. It is the same footprint on the same foundation and lowering the building by approximately 2 feet. We looked at the zoning ordinance 7.5.3 that non-conforming buildings that were destroyed by fire, collapse or acts of God are allowed to be rebuilt. The burnt out garage does affect the neighborhood. There is just a slab sitting there and it is not a good looking site. I am sure the neighbors would like to see it rebuilt. In order to move the building 2 feet, we would need to bring in heavy equipment, and ensure proper shoring. This would be much more disruptive to the community. We ask that the zoning board of appeal approve the rebuilding of the garage with the same look. There is one conforming house in this neighborhood as the rest were built before the zoning laws.

**Dloski:** you have a large metal container on the site now. Can you tell me what that is for?

**Mannor:** anything salvaged from the fire was put in there. It is on the slab. I was truly dumbstruck when I went to Deeren to get a land use permit and we discovered it was now non-conforming. Anyone who is in the construction business knows you order something and it may take a year. The trusses I ordered came much quicker than I expected.

**Deeren:** so the metal container will be gone once you get the variance?

**Roster:** the store container costs \$140 per month, so yes it will be gone.

**Deeren:** there was no bathroom in this structure, correct?

**Mannor:** Correct.

**Dolton:** is there anyone who would like to speak in favor of this request?

**Dan Stoudt 7748 Peninsula Drive**

I am the closest neighbor and I cannot tell you how the contractor screwed up in the measurement. I love the iron shed you hate so much. I do think it should be removed. The site is just plain ugly and I am in support of the rebuilding of the garage. They have been good neighbors. I am the one most impacted as their garage is 5 feet from my property and I would like to see it rebuilt.

**Dolton:** is there anyone who wishes to speak in opposition to the request? Hearing none, I bring it back to the board.

**Dloski:** this request fits perfectly under 7.5.3. This will not be detrimental to the health, safety, and welfare and that substantial justice is achieved.

**Deeren:** they only need a variance now that it has been discovered the structure was encroaching on the property line due to a mis-measurement.

**Dolton:** I am in agreement with section 7.5.3. This was an error in placement in 1988. I need a motion to consider the 6 conditions for request 902.

Serocki moves to consider the 6 conditions with a second by Dloski.

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

Yes: Wahl, Dloski, Dolton, Elliott, Serocki Condition has been met

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

Yes: Wahl, Dloski, Dolton, Elliott, Serocki Condition has been met

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

Yes: Wahl, Dloski, Dolton, Elliott, Serocki Condition has been met

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

Yes: Wahl, Dloski, Dolton, Elliott, Serocki Condition has been met

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

Yes: Wahl, Dloski, Dolton, Elliott, Serocki Condition has been met

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

Yes: Wahl, Dloski, Dolton, Elliott, Serocki Condition has been met

**Dolton:** All 6 conditions have been met. Called for a motion.

**Dloski moved to approve request variance request 902 with a second by Serocki.**

**Roll call Yes: Wahl, Dloski, Dolton, Elliott, Serocki**

**Deeren:** the variance is approved.

- 8. Approval of Minutes from April 19, 2022 Regular Meeting.** (Added approval of minutes from March 15, 2022) Minutes approved with correction from "approve to consider the 6 conditions"

Peninsula Township  
Zoning Board of Appeal  
July 19, 2022 7:00 p.m.  
Lola Jackson Recording Secretary  
DRAFT MINUTES

from March minutes. **Moved to approve by Wahl with a second by Serocki.**

**Approved by consensus**

9. **Citizen Comments** None
10. **Board Comments** Deeren: there is one case for the August 19, 2022.
11. **Adjournment** Dloski moved to adjourn with a second by Wahl. **Approved by consensus**  
Adjourned at 8:10 p.