

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING
WEDNESDAY, APRIL 25, 2018 AT 7:00PM
ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING

Members Present: Charles Freese, Ralph Hemmer, John Moore, John Thompson, Nini Sherwood
Members Absent: None
Others Present: Jeff Lawson, Eric Boyd, Paulette Gorde, Russell Crawford, Cheryl Crawford, Sherry Coonfer, Karen Johnson, Charles Griffith

The meeting was called to order by Chairperson Freese at 7:00pm.

PLEDGE OF ALLEGIANCE

Chairperson Freese led the Pledge of Allegiance.

APPROVAL OF AGENDA

The agenda was presented. **Motion** by Mr. Moore seconded by Mr. Hemmer to accept the agenda as presented. Motion carried unanimously.

APPROVAL OF MINUTES

Minutes from the Tuesday, March 28, 2017 Zoning Board of Appeals meeting were presented. **Motion** by Mr. Moore seconded by Mr. Hemmer to approve the minutes as presented. Motion carried unanimously.

PUBLIC HEARING & ACTION ON REQUESTS

Charles Griffith and Brandon Griffith – Requests a 4ft. front setback variance for construction of an addition (13.6ft. x 15ft.) to an existing dwelling in a Lake and Stream Protection (P-LS) zoning district. The property is located at 11140 Pells Island View Lane, Munro Township, Section 30, parcel #080-B04-000-034-00. A front setback of 40 feet is required in this zoning district.

Mr. Lawson explained that the applicant is requesting a 4 ft. front setback variance for construction of an addition to an existing dwelling in a Lake and Stream Protection zoning district.

Mr. Griffith stated that he would like more space on the main floor of the dwelling. Mr. Griffith stated that he has problems with his hip and going upstairs and would like to add more space. Mr. Griffith stated that they are confused as to what the required setbacks are for this zoning district. Mr. Griffith stated that he understands that his front setback has to be greater than the average of his neighbors. Mr. Griffith stated his front setback measures 36'. Mr. Griffith stated that Mr. McNeil measured the front setback before he retired and advised him that he fell within the average of his neighbor's setback.

Mr. Freese stated that Mr. Griffith originally submitted an application for a second story to an existing structure that was a legal non-conforming structure at the time. Mr. Freese stated that he also wanted to place an external stairway on the backside of that building. Mr. Freese stated that the Zoning Board of Appeals agreed that they would allow the second story addition to that building within the footprint of the existing structure. Mr. Freese stated that this brought the building into conformance as far as square footage for a dwelling as it was originally 450sf. Mr. Freese stated that the applicant was then in compliance with the 720sf minimum for a dwelling. Mr. Freese stated that the applicant agreed to place the stairway inside the building and therefore stayed within the existing footprint.

Mr. Freese stated that subsequent to that point in time, Mr. Griffith was granted a zoning permit for a 2 story garage which was to meet the setback requirements of the zoning regulation. The diagram submitted with the zoning permit application showed the setbacks would be met, however, the diagram submitted with the variance request indicated the setback cannot be met as shown as either the scale is incorrect or the dimensions are wrong.

Mr. Freese stated that the regulation provides for an exception to the 40' front setback in the Lake and Stream Protection Zoning District. Mr. Freese stated that both the house to the east and the west do not meet the 40' setback. Mr. Freese read Section 10.4.8 from Zoning Ordinance #200 "On property where existing structures on both sides are within two hundred (200) feet of a new building wall and said structures do not meet waterfront setback standards, the required setback need not be greater than the average setback on the adjoining developed lots."

Mr. Freese stated that the objective of Section 10.4.8 was to allow the house in the middle, which was presumed to be new construction, to have a better view of the lake because the two existing structures are closer than the 40'. Mr. Freese stated that this section would allow the new structure to move forward to an average line between the structures on either side, which are nonconforming. Mr. Freese stated that in this case, the structure that is in the middle is already well ahead of that 40' line and we're allowing him to build back further toward the average line between the two non-conforming structures and in fact further obstruct their view rather than helping the occupants of the parcel in the middle to gain a more equal view. Mr. Freese stated that the question is where the average line falls on the subject property. Mr. Freese noted that the applicant states that he feels he meets that line. Mr. Freese stated that he couldn't confirm the dimensions on the diagram. Mr. Freese stated that he and Mr. Lawson visited the site on Monday, and measured the distances. Mr. Lawson stated that the structure to the east is 37' from the high water mark and the structure to the west is 35'3" from the high water mark. Mr. Freese stated that this is an average of 35'. Mr. Freese stated that Mr. Griffith does not qualify under Section 10.4.8.

Mr. Freese stated that Mr. Griffith can disagree with these measurements or he can say his measurements are correct and we can solve the matter by having a survey. Mr. Griffith stated he didn't know the measurements for the two dwellings on the adjacent parcels. Mr. Griffith stated that he believed his front setback is 36'. Discussion was held regarding the definition of high water mark. Mr. Lawson stated that they used the tools available to them and measured 16'6" from the high water mark to the house and 18'6" for the length of the building which is 35'. Mr. Lawson stated that if everything is accurate is only about 1/4ft. which is a tight measurement. Mr. Lawson stated that a survey would be the most accurate. Mr. Lawson stated that Mr. Griffith could request a survey to confirm his measurements. Mr. Lawson stated that the Zoning Board of Appeals will have to use what information they have at this point and time to make a decision. Discussion was held.

Mr. Griffith asked if there is any chance that a variance will be approved. Mr. Freese stated that the Zoning Board of Appeals can proceed with the information that they have, which indicates it does not meet the requirements and evaluate the variance request. Mr. Freese stated that if the five standards are met then the variance would be approved. Mr. Freese stated that the request could also be tabled to allow for a survey to be completed. Mr. Freese asked if Mr. Griffith would like to proceed with the variance request. Mr. Griffith stated yes.

Mr. Freese referred to Mr. Griffith's responses to the questions on the variance application and asked what kind of parking problems Mr. Griffith anticipates if he considers constructing a second home on the parcel. Mr. Griffith stated that he is not saying that will be the proposal. Mr. Griffith stated that if they need to build a separate structure it will take up more lot space than what they have now. Mr. Griffith stated a new structure would make it worse for parking.

Mr. Freese stated that the answer to question E stated that granting the variance would have a positive impact on the surrounding property, property values, and not affect the use or enjoyment of property in the neighborhood as compared to building a new two-story home with a setback that is greater than the average set back on the adjoining property. Mr. Freese questioned how this would enhance the value of the neighbor's property. Mr. Griffith stated that if allowed to construct the addition, it would not detract from the value or detract from the view. Mr. Griffith stated that the addition will not block anyone's view of the lake from the houses on either side. Mr. Freese stated that the addition will block a portion of the view of the lake. Discussion was held.

Mr. Freese asked for public comments. There were no public comments. Public comment closed.

The Zoning Board of Appeals added the following to the Findings of Fact:

4. The applicant originally applied for a 22.5' front setback variance for the addition of a second story and exterior rear stairway to an existing cottage which was nonconforming both as to front setback and in having only 453.25sf of floor area.
5. The Zoning Board of Appeals granted the variance for the second story which brought the structure into compliance with the requirement of 720sf for a residential dwelling but required that all construction remain within the footprint of the existing structure. The applicant agreed to place the requested exterior stairway with the structure's existing footprint.
6. On 09/12/16 the applicant applied for a zoning permit to construct a 20' x 24' two story garage with a 12' x 20' lean to extension for overall dimensions of 32' x 24' with a front setback of 56' side setbacks of 22' (west) and 5' (east) and rear setback of 30'. It was approved 09/30/16 (exhibit 10).
7. The applicant stated in item II 1. Detailed Request and Justification Section of the Dimensional Variance Application that "The distance from the proposed structure to the high water mark is greater than the average setback on the adjoining lots. See article 10.4.8 of Zoning Ordinance #200." The applicant states that the distances from the high

water mark to the structures on the adjacent lots appear to be 33 feet and 35 feet and the distance from the rear of the existing structure of the ordinary high water mark to be 36'-37'.

8. The drawing provided with the variance requires is not accurate. The dimensions shown cannot be to scale e.g. (1)

The 24' dimension on the garage shown on the diagram submitted is larger in scale than the 24.5' dimension shown on the house, (2) The distance between the house and the water is shown as 36'-37' - 18.5' or approximately 18', however, it is obviously about half the width of the house if the scale of the drawing is correct, (3) If the distance between the proposed addition and the west property line is correct at 8.5' then the setback between the garage shown and the east property line would be about 2'-3' if drawn to scale and would not meet the required 5' side setback.

9. Since the drawing has obvious inaccuracies, measurements were taken on site by the Zoning Administrator and Zoning Board of Appeals Chairman on 04/23/18 with the findings as follows:
- A. Distance from dwelling on the east to the ordinary high water mark is 37'.
 - B. Distance from the dwelling on the west to the ordinance high water mark is 33'6".
 - C. Distance from the applicant's dwelling to the ordinary high water mark is 16'6" and the dwelling 18'6" deep making the distance from the rear wall to the ordinary high water mark to be 35'.
 - D. The average of the nonconforming dwellings to the east and west would, therefore, be $37' + 33.5' / 2 = 35.25'$.
 - E. Since the average 35.25' is greater than the distance from the ordinary high water mark to the rear wall of the existing building, the criteria for meeting the provisions of section 10.4.8 are not met for any new construction closer to the water than 35.25'.
10. The parcel under consideration is nonconforming that does not meet either the requirements for minimum width 100' nor minimum lot size of 15,000sf as it is only 6557sf in area and 50.58' in width.
11. Due to the nonconformance of the parcel in both size and width, construction of a second dwelling would not be allowed without removal of the original nonconforming dwelling.
12. Letters of objection have been received from Mr. Joseph J. Gorde, the neighbor to the south west (exhibit 11) and Rebecca Gorde, the neighbor to the west (exhibit 12).
13. The applicant agrees to proceed with the variance request based on the distances as measured by the Zoning Administrator and the Chairman of the Zoning Board of Appeals which indicates the requirements for the average setback deviation allowed under Section 10.4.8 are not met and proceed with the variance as requested of 4 feet and if the variance request is not approved he may have a survey done to determine if the provisions of section 10.4.8 are not met and therefore not requiring a variance.

Mr. Griffith asked what the survey would have to cover and whether any specific surveyors had to be used and whether the distance from the high water mark to the adjacent building would be required. Mr. Freese stated that any registered land surveyor would be acceptable and that the setback distances must be verified for all structures on the property along with the distances from the ordinary high water mark to the dwellings on either side as well as the applicant's dwelling.

The Zoning Board of Appeals reviewed the General Findings and the Specific Findings of Fact under Section 23.5.4 and found the findings under 23.5.4.1, 23.5.4.3., 23.5.4.4, and 23.5.4.5 were not met and that the findings under 23.5.4.2 had been met with a 3-2 vote. **Motion** by Mr. Moore, seconded and by Mr. Hemmer, to deny the variance request based on the General Findings and the Specific Findings under section 23.5.4. Motion carried unanimously.

UNFINISHED BUSINESS

No comments.

NEW BUSINESS

No comments.

ZBA COMMENTS

Mr. Freese made note of the fact that the notice does not adequately describe the actual variance requested in the plans to discuss the wording of section 10.4.8 with the Planning Commission.

PUBLIC COMMENTS

Neighbors made comments on the extent of the coverage of the buildings on the lot and how they obstructed the view of the lake from the rear lots. They also stated that there are living quarters in the garage and asked if this was allowed. Mr. Freese indicated that a guest house is allowed if properly permitted in this district, however, in this case, the permit for the garage did not request a guest house over the garage and no final inspection has been done on the garage.

ADJOURN

Motion by Moore to adjourn. Motion carried. Meeting adjourned at 7:50 pm.



John Thompson, Secretary