

**CHEBOYGAN COUNTY ZONING BOARD OF APPEALS "HYBRID" MEETING & PUBLIC HEARING
WEDNESDAY, SEPTEMBER 23, 2020 AT 7:00 PM
ROOM 135 – COMMISSIONERS ROOM
CHEBOYGAN COUNTY BUILDING, 870 S. MAIN ST., CHEBOYGAN, MI 49721**

PLEASE TAKE NOTE that the Cheboygan County Zoning Board of Appeals will hold a "hybrid" public hearing (the option of attending telephonically, remotely or in-person, as permitted by Cheboygan County Resolution 2020-06 and Governor's Executive Order subject to extension to prevent the spread of Coronavirus Disease COVID-19) on Wednesday, September 23, 2020 at 7:00 p.m. The in-person hearing will be held at the Cheboygan County Building at 870 S. Main Street, Cheboygan, Michigan. You may also join the meeting remotely from your computer, tablet or smartphone via the following link (Visit the County's Website for additional remote participation instructions):

<https://global.gotomeeting.com/join/959849597>

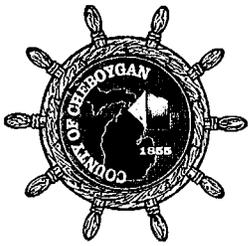
You may also dial in using your phone:

**United States (Toll Free): 1-877-309-2073
Access Code: 959-849-597**

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<https://global.gotomeeting.com/install/959849597>

1. **Trent Burrus/Tammie Gable** – The applicant requests approval of a 124-ft. front setback variance to construct a garage on a property located on the mainstream of the Pigeon River zoned Natural River Protection (P-NR). Per Section 17.1 of the Zoning Ordinance, a minimum 200-ft. front setback is required on a waterfront mainstream property in the P-NR zoning district. The subject property is located at 1471 Riverview Lane in Koehler Township, Parcel No. 171-009-100-039-02, Section 9.

Please visit the Planning and Zoning Department's website to see the application and supporting documents. These documents may be viewed at www.cheboygancounty.net/planning/. Comments, questions, and correspondence may be sent to p&z@cheboygancounty.net or Planning & Zoning Department, PO Box 70, 870 South Main St., Rm. 103, Cheboygan, MI 49721, or presented at the meeting. Persons with disabilities needing accommodations for effective participation in the public hearing should contact the Planning and Zoning Director at the above address one week in advance to request mobility, visual, hearing or other assistance.



CHEBOYGAN COUNTY ZONING BOARD OF APPEALS

870 SOUTH MAIN ST. ■ PO BOX 70 ■ CHEBOYGAN, MI 49721
PHONE: (231)627-8489 ■ FAX: (231)627-3646

**CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING
WEDNESDAY, SEPTEMBER 23, 2020 AT 7:00 P.M.
ROOM 135 – COMMISSIONERS ROOM
CHEBOYGAN COUNTY BUILDING, 870 S. MAIN ST., CHEBOYGAN, MI 49721**

AGENDA

CALL TO ORDER

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

APPROVAL OF MINUTES

PUBLIC HEARING AND ACTION ON REQUESTS

1. **Trent Burrus/Tammie Gable** – The applicant requests approval of a 124-ft. front setback variance to construct a garage on a property located on the mainstream of the Pigeon River zoned Natural River Protection (P-NR). Per Section 17.1 of the Zoning Ordinance, a minimum 200-ft. front setback is required on a waterfront mainstream property in the P-NR zoning district. The subject property is located at 1471 Riverview Lane in Koehler Township, Parcel No. 171-009-100-039-02, Section 9.

UNFINISHED BUSINESS

NEW BUSINESS

ZBA COMMENTS

PUBLIC COMMENTS

ADJOURN

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING
WEDNESDAY, AUGUST 26, 2020 AT 2:00PM
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: Michael Turisk, Jen Merk, Ron Williams, Paul Fisher, Mandy Cook, Peter Fisher

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 July 22, 2020 Zoning Board of Appeals meeting were presented. **Motion** by Mr. Moore, seconded by Ms. Sherwood, to approve the minutes as presented. Motion carried unanimously.

PUBLIC HEARING & ACTION ON REQUESTS

North Country Homes Corporation-Paul Fisher/Peter Fisher – The applicant requests approval of a 6-ft., 6-in. side setback variance to construct a dwelling 3-ft., 6-in. from the nearest point on a property in the Agriculture and Forestry Management (M-AF) zoning district. Per Section 17.1 of the Zoning Ordinance, structures must be 10-feet from the side property lines. The subject property is located at 3915 N. Schook Road in Mullett Township, Parcel No. 130-016-100-006-00, Section 16.

Ms. Merk reviewed the information included in the staff report.

Mr. Freese stated that he had a discussion with Mr. Peter Fisher during his site visit and the question had come up as to whether the home could be placed immediately next to the existing garage and secondary question as to whether the proposed 3 foot distance between the existing garage and proposed house location is adequate. Mr. Freese stated that he had contacted Matthew Cronk, Building Official, and found that the proposed home could be placed next to the existing garage provided a firewall was erected between the two structures and further that if the two were separated they had to be a minimum of 5 feet apart. Discussion was held concerning alternative locations for the house to the west, reducing the width of the house or placing the house immediately next to the garage, which would reduce the amount or eliminate the need for the variance.

Mr. Paul Fisher stated that he was not comfortable placing the house immediately next to the existing garage because he felt it might weaken the support under the garage when the footings are placed for the house. Mr. Freese stated that the footings for the house would only have to extend 4 inches under the garage concrete slab. Mr. Paul Fisher stated that the area to the west of the proposed house location was infiltrated by springs and would not be suitable for the house foundation. Mr. Freese noted that the area proposed for the house had been excavated and filled and this could be done for the area to the west. Mr. Freese asked Mr. Peter Fisher whether he wished to consider a relocation of the proposed house to reduce the amount of the variance requested or whether he wished to have it considered as advertised. Mr. Peter Fisher stated he wishes to go with the request as stated.

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

The Zoning Board of Appeals reviewed and approved the Findings of Fact and the Specific Findings of Fact under Section 23.5.4. **Motion** by Mr. Moore, seconded by Mr. Hemmer, to deny the variance request based on the General Findings and the Specific Findings of Fact under Section 23.5.4. Motion carried unanimously.

Mandy Cook/Gregory R. Cook – The applicant requests approval of a 500-ft. setback variance from a Lake and Stream Protection (P-LS) zoning district boundary to operate a commercial kennel on a property in the Agriculture and Forestry Management (M-AF) zoning district. Per Section 17.16.a. of the Zoning Ordinance, the commercial kennel building(s) and

all associated dog enclosures must be located at least five hundred (500) feet from any Residential (D-RS) and Lake and Stream Protection (P-LS) zoning district boundary. This section shall apply only for commercial kennels located in the Rural Character/Country Living (D-RC) and Agriculture and Forestry Management (M-AF) zoning districts. The subject property is located at 12048 S. Straits Highway in Nunda Township, Parcel No. 251-006-100-001-04, Section 6.

Ms. Merk reviewed the information included in the staff report.

The applicant stated that she had nothing to add.

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

Mr. Freese asked for Zoning Board of Appeals comments. Mr. Moore stated that he felt the Rails to Trails right of way and South Straits Highway right of way precluded any possible detrimental effects of the proposed kennel on the Sturgeon River.

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

9. A commercial kennel is permitted in the Agriculture and Forestry Management Zoning District with a special use permit.
10. The Lake and Stream Protection Zoning District Zoning is established as a 500ft. wide buffer along perennial streams, wetlands and lakes in Cheboygan County in order to:
 1. Avoid excessive structural encroachment on the waters and waterways except for uses traditionally depending upon direct water access. (Section 10.1.1.2)
 2. Promote high water quality by encouraging natural vegetation strips along waterfronts to filter out nutrients and sediment from surface run-off, keep them from entering the waters, prevent erosion and help maintain cool water temperature through shading (Section 10.1.1.2)
 3. Protect the natural environment of streams and lakes for wildlife habitat purposes and to preserve to the extent possible, the natural image of landscapes (Section 10.1.1.3).
 4. Promote the general welfare of the County by protecting water quality, ground water resources, public health, property values, recreational values, riparian rights and erecting safeguards against flooding (section 10.1.1.4).
11. The parcel is buffered from the sturgeon river to the east by the elevated road bed of South Straits Highway and the Michigan Department of Natural Resources Elevated Rail Trail.

The Zoning Board of Appeals reviewed the Specific Findings of Fact Under Section 23.5.4. The Zoning Board of Appeals added "A commercial kennel is a permitted purpose with a special use permit in the Agriculture and Forestry Management Zoning District (Section 9.3.17)." as 23.5.4.3.A.2. The Zoning Board of Appeals added "Granting the variance would not adversely impact the established purposes of the Lake and Stream Protection Zoning District (Section 10.1)." as 23.5.4.5.A.2. The Zoning Board of Appeals agreed that Specific Findings of Fact under Section 23.5.4 have been met. **Motion** by Mr. Moore, seconded by Mr. Hemmer, to approve the variance request based on the General Findings and the Specific Findings of Fact under Section 23.5.4. Motion carried unanimously.

UNFINISHED BUSINESS

No comments.

NEW BUSINESS

No comments.

ZBA COMMENTS

Discussion was held regarding the GIS maps provided in the staff report. Mr. Freese stated his concerns regarding the scale not being accurate. Mr. Turisk stated that he can talk to the GIS Department regarding Mr. Freese's concern. Mr. Moore noted that there is a distortion because this is airplane imagery and not satellite imagery. Mr. Freese stated that there has always been a statement included in the Zoning Ordinance that the zoning maps are a guide and the final determination is made by the Zoning Administrator. Discussion was held.

PUBLIC COMMENTS

Mr. Williams stated that he was appointed to the Cheboygan County Board of Commissioners. Commissioner Williams stated that Commissioner Warfield is liaison and that he will be the alternate liaison.

Mr. Turisk provided an update on Amendment #157 that has been approved by the Cheboygan County Board of Commissioners.

ADIURN

Motion by Moore to adjourn. Motion carried. Meeting adjourned at 8:25 pm.

John Thompson, Secretary

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS

Trent Burrus/Tammie Gable

Exhibit List

1. Cheboygan County Zoning Ordinance
2. Cheboygan County Master Plan
3. Variance Application (4 Pages)
4. Real Estate Summary Sheet for parcel no. 171-009-100-039-02 (1 Page)
5. Property Tax Card for parcel no. 171-009-100-039-02 (1 Page)
6. Mailing List (1 Page)
7. Staff Report (8 Pages)
- 8.
- 9.
- 10.
- 11.

Note: Zoning Board of Appeals members have exhibits 1 and 2.

CHEBOYGAN COUNTY
 PLANNING & ZONING DEPT.
 870 South Main St., PO Box 70
 Cheboygan, MI 49721
 (231) 627-8489 (Telephone)
 (231) 627-3646 (Fax)

DIMENSIONAL VARIANCE APPLICATION

\$110.00

\$110.00 APPLICATION FEE

RECEIPT #:	7494
CASH/CHECK:	✓ #2333
ACTION / DATE:	9-23-20

PLEASE PRINT

PROPERTY LOCATION

Address 1471 River View Ln	City / Village Indian River	Township / Sec. Koh	Zoning District P-NR
Property Tax I.D. (Parcel) Number 171 009 100 039-02	Subdivision or Condo. Name / Plat or Lot No.		

APPLICANT

Name Trent Burrus	Telephone 231 944 8187	Fax
Address PO Box 769	City & State Indian River, MI	Zip Code 49749
		E-Mail t.d.burrus@yahoo.com

OWNER (If different from applicant)

Name Tammie Gable	Telephone 231 330 0285	Fax
Address 1471 River View	City & State Indian River, MI	Zip Code 49749

Detailed directions to site, including nearest crossroad:

See Attached

Please Note: All applicable questions must be answered completely. If additional space is needed, number and attach additional sheets.

I. Property Information

- A. List all known deed restrictions: _____
- B. This property is unplatted, platted, will be platted. If platted, name of plat _____
- C. Present use of the property is: Single Family Dwelling
- D. A previous appeal has has not (circle one) been made with respect to these premises in the last one (1) year. If a previous appeal, rezoning or special use permit application was made, state the date _____, nature of action requested _____, and the decision _____.
- E. Attach a site plan drawn per the attached directions.

II. Detailed Request and Justification

1. State exactly what is intended to be done on, or with the property which necessitates a variance from the Zoning Ordinance.

Build a Garage on Property, There is no
were on Property IT could be Built without a variance
The Lot is non compliant

2. A dimensional variance may be granted by the Zoning Board of Appeals only in cases where the applicant demonstrates in the official record of the public hearing that practical difficulty exists by showing all of the following. All variance decisions made by the Zoning Board of Appeals are based on the following five (5) standards of the Cheboygan County Zoning Ordinance. Please explain how the request meets each standard.

a. That the need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic difficulty.

The Lot is non compliant

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

Change in Set Back since the
Property was Bought

c. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome

IT is a non-complying Lot that
couldn't be Built on.

d. That the requested variance is the minimum variance necessary to grant the applicant reasonable relief as well as to do substantial justice to other property owners in the district.

This is the only location that wouldn't
the neighbors
IT is the Drive way now

e. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.

IT is currently a Drive way

The Zoning Board of Appeals members will visit the site prior to the public hearing. Please clearly stake the corners of the proposed building or addition and the nearest property line. Does the property owner give permission for County zoning officials to enter his or her property for inspection purposes? Yes No

Owner's Signature Lami J. Hall

Date 8/17/2020

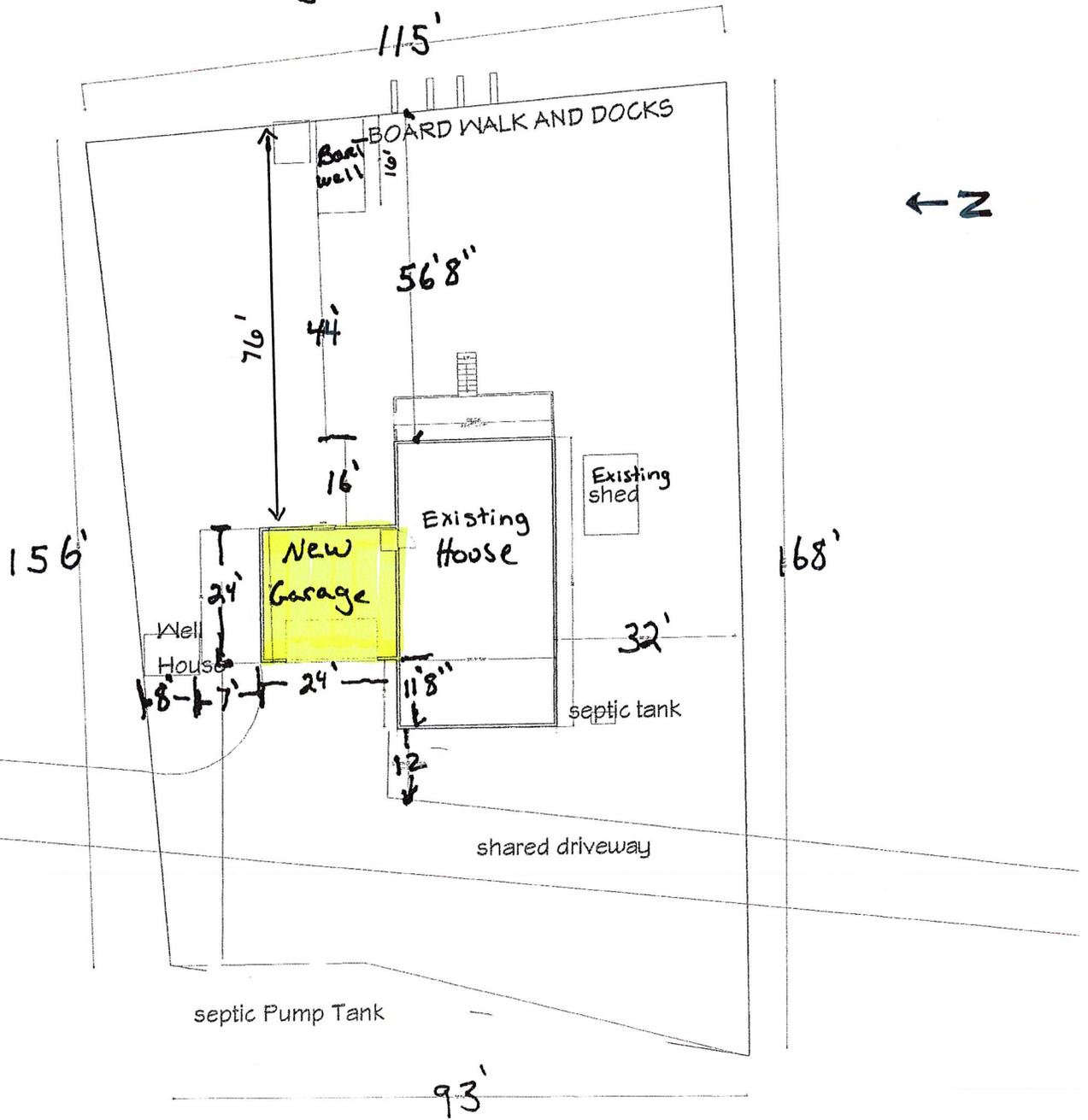
AFFADAVIT

The undersigned affirms that the information and plans submitted in this application are true and correct to the best of the undersigned's knowledge.

Applicant's Signature Lami J. Hall

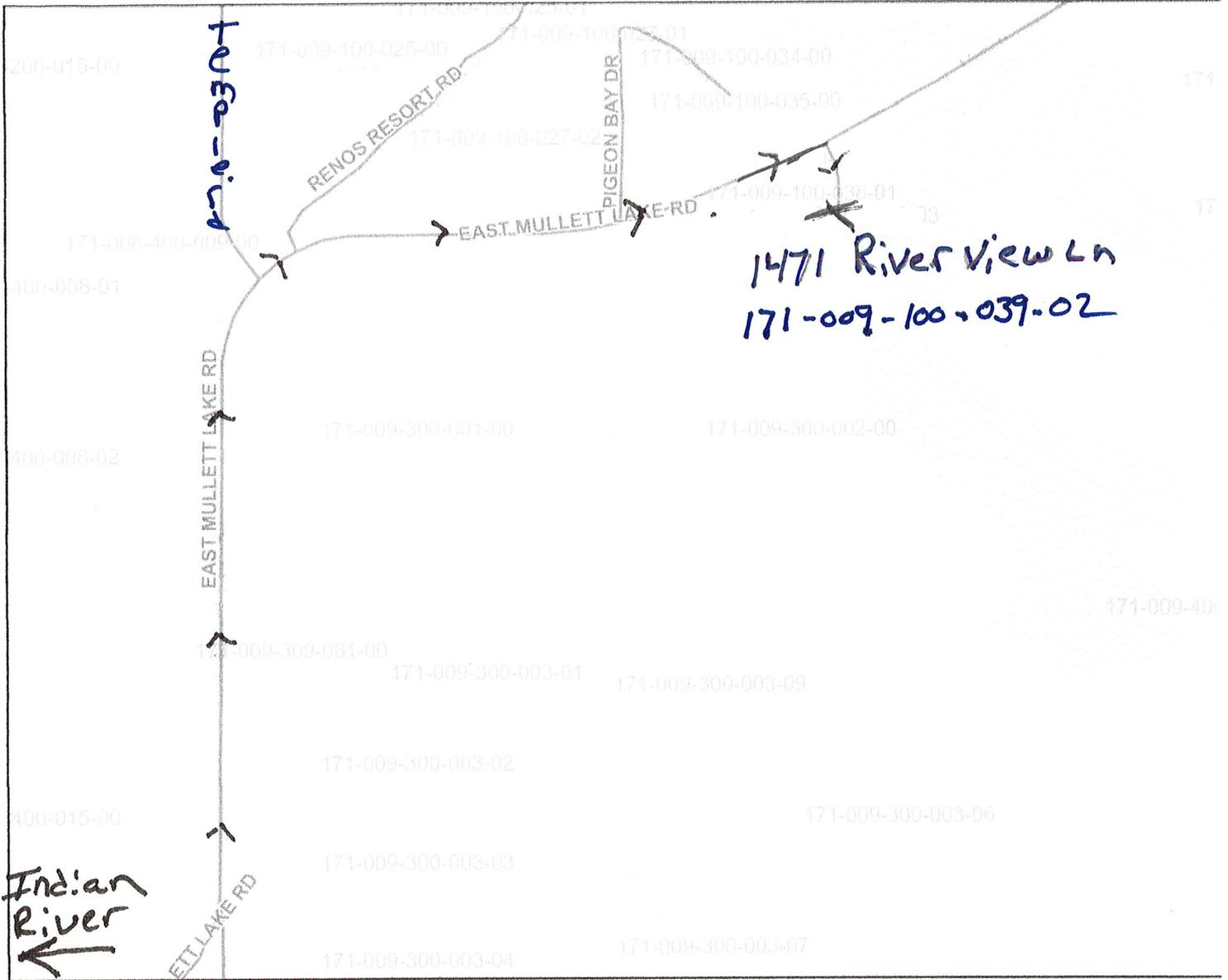
Date 8-17-2020

Pigeon Bay



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Cheboygan County



8/17/2020, 2:16:58 PM

Parcel Data

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Sources: Esri, HE

Cheboygan
LTC, Ontario MNR, Esri Canada, Esri, HERE, Garmin, I

Real Estate Summary Sheet

Information herein deemed reliable but not guaranteed

09/02/2020 10:17 AM

Parcel: 171-009-100-039-02
Owner's Name: GABLE, STEVEN & TAMMIE H/W
Property Address: 1471 RIVERVIEW LN
INDIAN RIVER, MI 49749
Liber/Page: 655/596
Split: / /
Public Impr.: None
Topography: None

Current Class: 400.400 RESIDENTIAL
Previous Class: 400.400 RESIDENTIAL
Gov. Unit: 171 KOEHLER
MAP #
School: 16050 INLAND LAKES SCHOOL DISTRICT
Neighborhood: CTY-R

Mailing Address:

GABLE, STEVEN & TAMMIE H/W
1471 RIVERVIEW LN
INDIAN RIVER MI 49749

Description:

COM W 1/4 COR SEC 9, T35N,R2W; TH N 89D 44M 40S E 1403.74FT TO SLY R/W LI OF EAST MULLETT LAKE RD; TH N 68D 4M 58S E ALG SD R/W LI 668.26FT; TH S 20D 16M 47S E 78.13FT TO POB; TH N 75D 45M 26S E 155.81FT; TH S 10D 58M 3S E 115FT; TH S 83D 54M 14S W 167.6 FT; TH N 2D 43M 37S E 66.92FT; TH N 20D 16M 47S W 27.2FT TO POB.
1054/941;1054/943

Most Recent Sale Information

Sold on 09/20/1996 for 76,200 by BLUM, W.

Terms of Sale:

Liber/Page: 655/596

Most Recent Permit Information

None Found

Physical Property Characteristics

2021 S.E.V.: 67,400	2021 Taxable: 56,411	Lot Dimensions:
2020 S.E.V.: 67,400	2020 Taxable: 56,411	Acreage: 0.43
Zoning:	Land Value: 1,720	Frontage: 0.0
PRE: 100.000	Land Impr. Value: 0	Average Depth: 0.0

Improvement Data

None

Image



171-009-100-039-02

* 171-009-100-039-02 COR SEC 9 TH N 89D 44M 40S E 1403.74 FT
 COM W 1/4 LI OF EAST MULLETT LAKE RD TH N 68D 4M
 TO SLY R/W LI 668.26 FT TH S 20D 16M 47S E
 58S E ALG SD R/W LI 668.26 FT TH S 20D 16M 47S E
 78.13 FT TO POB TH N 75D 45M 26S E 155.81 FT TH
 S 100 58M 3S E 115 FT TH S 83D 54M 14S W 167.6 FT
 TH N 2D 43M 37S E 66.92 FT TH N 20D 16M 47S W
 27.2 FT TO POB. SEC 9 T35N R2W

YEAR	PAID TO	DATE	RECEIPT NO.	YEAR	PAID TO	DATE	RECEIPT NO.
67	Old			89	Old		
68				90	Old		
69				91	Old		
70				92	Old		
71				93	Old		
72				94	Old		
73				95	Old		
74				96	Old		
75				97	pd		
76				98	pd	08/18/11	
77				99	pd	09/19/13	
78				2000	pd		
79				01			
80				02			
81				03			
82				04			
83				05			
84				06			
85				07			
86				08			
87				09			
88				10			

Out of 100-039 #

CHEBOYGAN COUNTY

171-009-100-039-01
BLUM, SUSAN M L/EWPTS; JOSHUA KURTZ
122 S BAILEY ST
CHEBOYGAN, MI 49721

171-009-100-039-02
GABLE, STEVEN & TAMMIE H/W
1471 RIVERVIEW LN
INDIAN RIVER, MI 49749

171-009-100-039-03
FELOSAK, THEODORE & DEANNA H/W
58445 ROMEO PLANK RD
RAY, MI 48096

171-009-100-038-01
PETERSON, DONALD & CHERYL H/W AND
6535 SPRING MEADOW LN
PLYMOUTH, MI 48170

171-009-100-035-00
BERKAS FAMILY, THE LLC
5742 STONY BROOK CT
GRAND RAPIDS, MI 49546

171-009-300-002-00
PETERSON, DONALD & CHERYL H/W &
6535 SPRING MEADOW LN
PLYMOUTH, MI 48170-5839

171-009-100-038-02
FOREN, STEVEN J
1553 EAST MULLETT LAKE RD
INDIAN RIVER, MI 49749

171-009-100-039-01
OCCUPANT
1461 RIVERVIEW LN
INDIAN RIVER, MI, 49721

171-009-100-039-02
OCCUPANT
1471 RIVERVIEW LN
INDIAN RIVER, MI, 49721

171-009-100-039-03
OCCUPANT
1485 RIVERVIEW LN
INDIAN RIVER, MI, 49721

171-009-100-038-01
OCCUPANT
1533 EAST MULLETT LAKE RD
INDIAN RIVER, MI, 49721

171-009-100-035-00
OCCUPANT
1540 EAST MULLETT LAKE RD
INDIAN RIVER, MI, 49721

171-009-300-002-00
OCCUPANT
1535 EAST MULLETT LAKE RD
INDIAN RIVER, MI, 49721

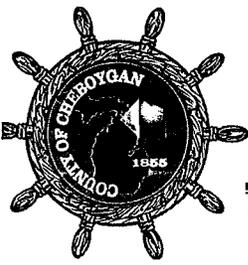
171-009-100-038-02
OCCUPANT
1553 EAST MULLETT LAKE RD
INDIAN RIVER, MI, 49721

171-009-100-035-00
OCCUPANT
1514 EAST MULLETT LAKE RD
INDIAN RIVER, MI, 49721

171-009-100-035-00
OCCUPANT
1512 EAST MULLETT LAKE RD
INDIAN RIVER, MI, 49721

171-009-100-035-00
OCCUPANT
1510 EAST MULLETT LAKE RD
INDIAN RIVER, MI, 49721

171-009-100-035-00
OCCUPANT
1508 EAST MULLETT LAKE RD
INDIAN RIVER, MI, 49721



CHEBOYGAN COUNTY PLANNING AND ZONING DEPARTMENT

CHEBOYGAN COUNTY BUILDING ■ 870 S. MAIN STREET, PO BOX 70 ■ CHEBOYGAN, MI 49721
PHONE: (231)627-8489 ■ FAX: (231)627-3646
www.cheboygancounty.net/planning/

DIMENSIONAL VARIANCE STAFF REPORT

Item: Requests approval of a 124-ft. waterfront setback variance to construct a garage 76-ft. from the mainstream of the Pigeon River.	Prepared by: Jennifer Merk
Date: September 17, 2020	Expected Meeting Date: September 23, 2020

GENERAL INFORMATION

Applicant(s): Trent Burrus

Phone: 231-944-8187

Owner(s): Tammie Gable

Property Address: 1471 Riverview Lane, Indian River, MI 49749

Requested Action: The applicant is requesting a 124-ft. variance from section 17.1 of the Zoning Ordinance. The applicant is proposing to construct a garage 76-ft. from the mainstream of the Pigeon River. A 200-foot waterfront setback is required for structures along a mainstream on property zoned Natural Rivers Protection (P-NR).

BACKGROUND INFORMATION

The subject property is 0.38 acres (16,553 square feet), located at 1471 Riverview Lane in Koehler Township and is zoned Natural Rivers Protection (P-NR). Riverview Lane, a private shared driveway, crosses through the western portion of the subject property. The subject property is located on the mainstream of the Pigeon River, south of the East Mullett Lake Road Bridge.

The subject property does not meet the minimum width standard (200 feet) and area (50,000 square feet) required for properties in the Natural Rivers Protection (P-NR) zoning district per Section 17.1; however, the subject property is a non-conforming lot of record. Property tax card records, beginning in 1968, show the property (parcel no. 171-009-100-039-02) has the identical legal description then as it does today. Amendment #113 of the Zoning Ordinance established minimum lot size, building setbacks, height of structures, etc. permitted in the P-NR zoning district on June 28, 2012.

A dwelling (28 ft. x 36 ft.) with deck (28 ft. x 8 ft.), shed and well house exist on the subject property. No zoning or building permit history exists for these structures in the County’s permit tracking system. A septic tank is located just south of the southwest corner of the existing dwelling. The applicant indicated the septic field is not located on the subject property. The well and septic field is shared through an easement according to the warranty deed. The applicant and owner are proposing to construct a garage (24 ft. x 24 ft.) attached to the north side of the existing dwelling. The proposed garage will be 76 feet from the Pigeon River.

Section 17.1. of the Zoning Ordinance determines that front setbacks on mainstream waterfront property in Natural Rivers Protection zoning districts are 200 feet. A 124-foot front setback variance is requested in order for the proposed garage to be constructed 76 feet from the mainstream of the Pigeon River at its closest point.

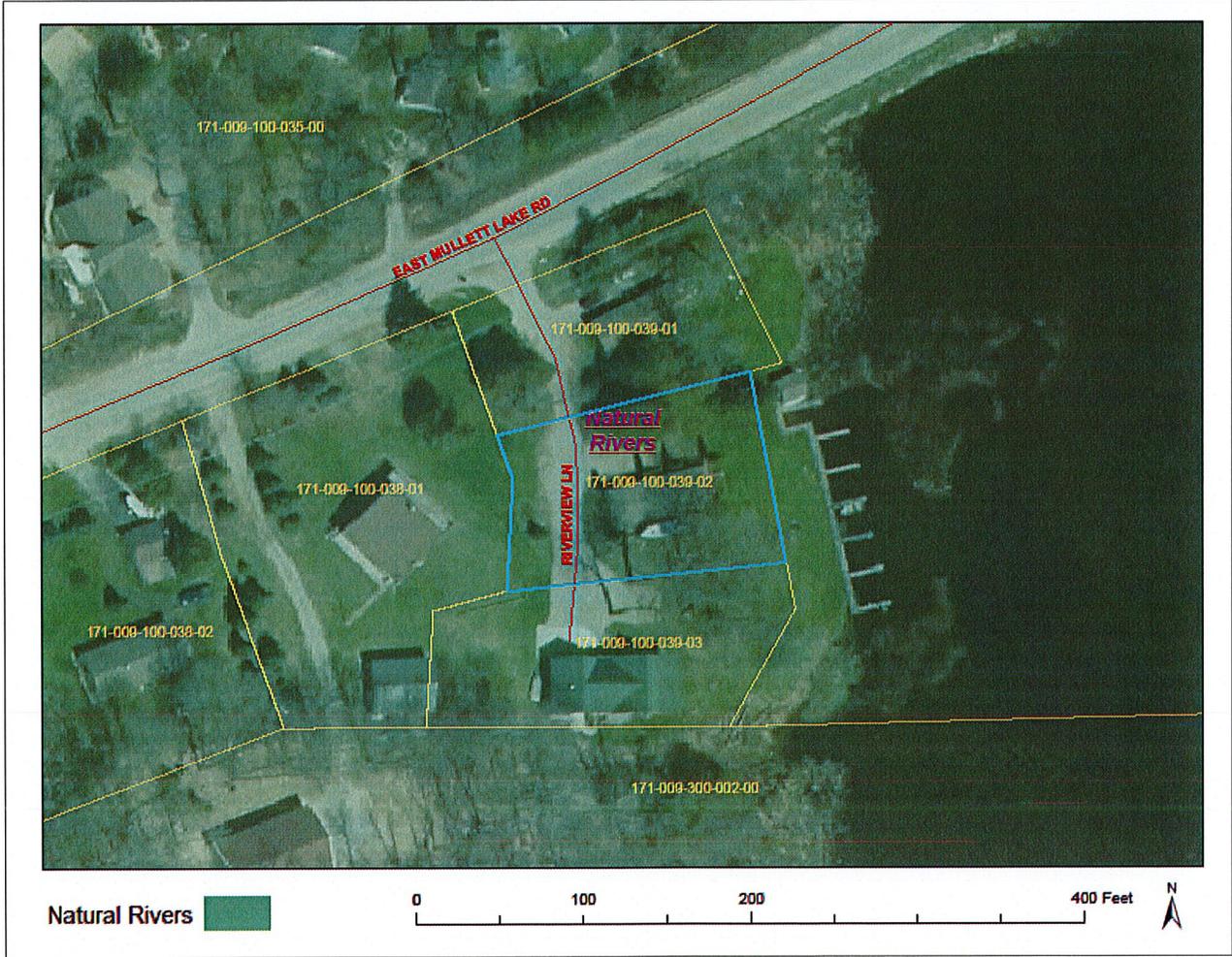


Figure 1. Location and zoning of subject property (highlighted in light blue) 1471 Riverview Lane, Koehler Twp.

Surrounding Zoning:

- North: Natural Rivers Protection (P-NR)
- East: P-NR
- South: P-NR
- West: P-NR

Surrounding Land Uses:

Residential land uses surround the subject property. The mainstream of the Pigeon River, as designated in section 11.2 of the Zoning Ordinance, is located to the east of the subject property.

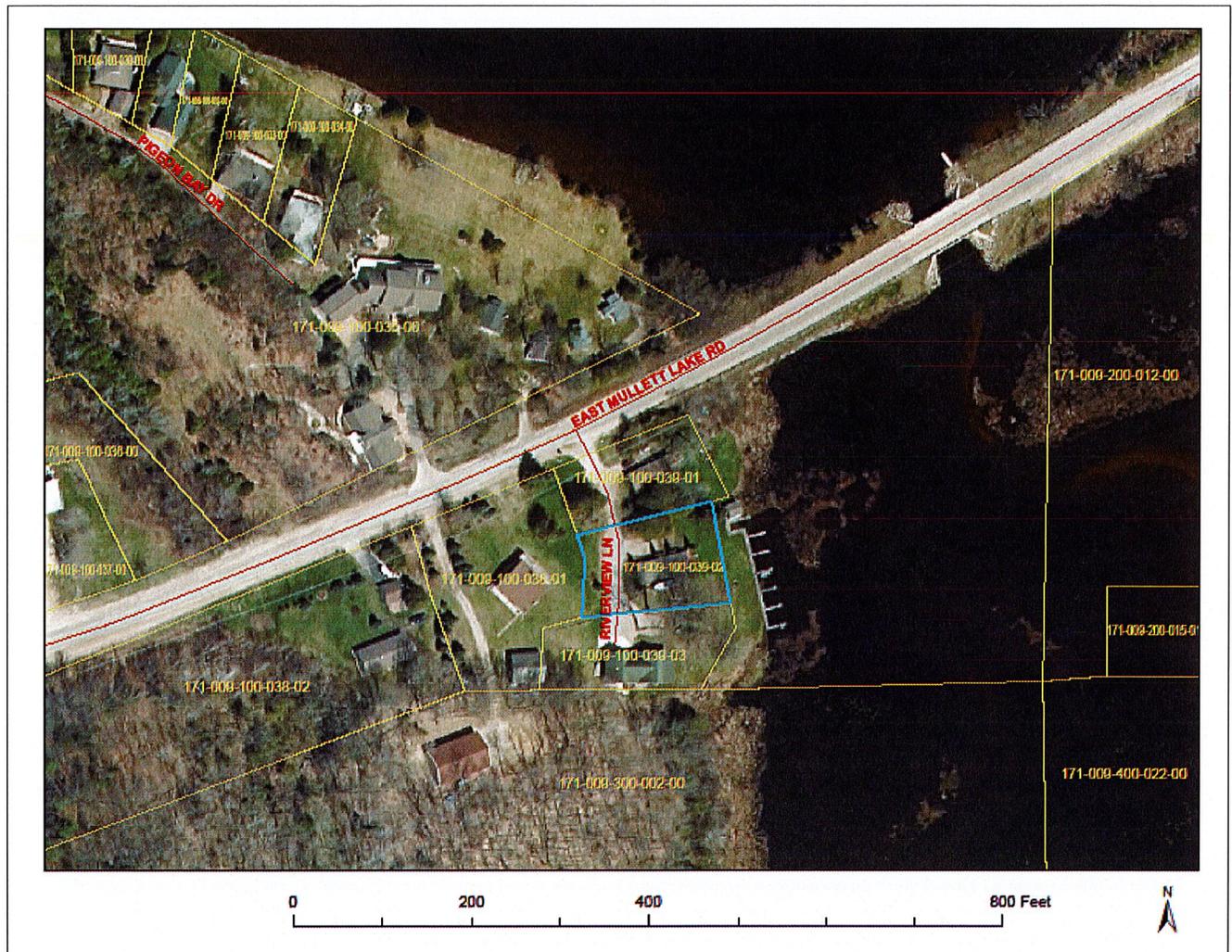


Figure 2. Subject property (highlighted in light blue).

Environmentally Sensitive Areas: (steep slopes, wetlands, woodlands, stream corridor, floodplain):

The Pigeon River is deemed environmentally sensitive. Section 11.1.1 of the Zoning Ordinance states in part, “The Pigeon River has been designated as a wild-scenic river, under authority of part 305 of the Natural Resources and Environmental Resources Protection Act, Public Act 451 of 1994, based on its water quality, resource and recreation values.”

According to the Michigan Department of Environment, Great Lakes, and Energy (EGLE)/Final Wetlands Inventory Database, wetlands may be present on the eastern portion of the subject property.

Public comments:

No public comments have been received as of the date of this report.

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS
Wednesday, September 23, 2020 at 7:00 PM
Room 135 – Commissioners Room
Cheboygan County Building, 870 S. Main St., Cheboygan, MI 49721

Applicant:

Trent Burrus
P.O. Box 769
Indian River, MI 49749

Owner:

Tammie Gable
1471 Riverview Lane
Indian River, MI 49749

Parcel: 171-009-100-039-02

General Findings:

1. The subject property is 0.38 acres (16,553 square feet), located at 1471 Riverview Lane in Koehler Township and is zoned Natural Rivers Protection (P-NR). Riverview Lane, a private shared driveway, crosses through the western portion of the subject property.
2. The subject property is located on the mainstream of the Pigeon River, south of the East Mullett Lake Road Bridge.
3. The subject property is a non-conforming lot of record; it does not meet the minimum width standard (200 feet) and area (50,000 square feet) required for properties in the Natural Rivers Protection (P-NR) zoning district per Section 17.1.
4. The applicant and owner are proposing to construct a garage (24 ft. x 24 ft.) attached to the existing dwelling. The proposed garage will be 76 feet from the Pigeon River at its closest point, 27-ft., 2-in. farther from the water's edge than the existing home and deck that is 48-ft., 8-in. from the water's edge.
5. Section 17.1. of the Zoning Ordinance determines that front setbacks on mainstream waterfront property in Natural Rivers Protection zoning districts are 200 feet.
6. A 124-foot front setback variance is requested in order for the proposed garage to be constructed 76 feet from the mainstream of the Pigeon River.
7. Property tax card records, beginning in 1968, show the property (parcel no. 171-009-100-039-02) has the identical legal description then as it does today.
8. Amendment #113 of the Zoning Ordinance established minimum lot size, building setbacks, height of structures, etc. permitted in the P-NR zoning district on June 28, 2012.
9. A dwelling (28 ft. x 36 ft.) with deck (28 ft. x 8 ft.), shed and well house exist on the subject property. No zoning or building permit history exists for these structures in the County's permit tracking system.

10. A septic tank is located just south of the southwest corner of the existing dwelling. The applicant indicated the septic field is not located on the subject property. The well and septic field is shared through an easement according to the warranty deed.

23.5.4. (Rev. 09/11/04, Amendment #36)

A dimensional variance may be granted by the 'Zoning Board of Appeals only in cases where the applicant demonstrates in the official record of the public hearing that practical difficulty exists by showing all of the following:

23.5.4.1. That the need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic difficulty.

A. The physical conditions of the property that support granting the variance request are as follows:

1. The subject property is 0.38 acres (16,553 square feet).
2. The subject property is a non-conforming lot of record; it does not meet the minimum width standard (200 feet) and area (50,000 square feet) required for properties in the Natural Rivers Protection (P-NR) zoning district per Section 17.1.

This standard has been met.

B. The physical conditions of the property which support denying the variance are as follows:

1. None identified.

This standard has not been met.

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

A. Actions which have occurred which support granting the variance which were not caused by the applicant or previous property owners:

1. The subject property is a non-conforming lot of record; it does not meet the minimum width standard (200 feet) and area (50,000 square feet) required for properties in the Natural Rivers Protection (P-NR) zoning district per Section 17.1.
2. Amendment #113 of the Zoning Ordinance established dimensional standards for minimum lot size, building setbacks, height of structures, etc. in the P-NR zoning districts on June 28, 2012.

This standard has been met.

- B. Actions which the applicant or previous property owners have taken that results in the request for the variance and therefore requires denial of the variance:
 - 1. Although the garage noted on the dimensional variance application has not been constructed, the applicant and owner are proposing to construct a garage (24 ft. x 24 ft.) attached to the existing dwelling. The proposed garage will be 76 feet from the Pigeon River.

This standard has not been met.

23.5.4.3 That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.

- A. Zoning regulation requirements result in the following conditions which prevent use of the property or cause undue hardship:
 - 1. Strict compliance with the required 200-foot front setback for dwellings and accessory structures on a mainstream in the P-NR zoning district would result in no new development on the subject property; the property is approximately 168 feet deep at its greatest depth, less than the 200-foot minimum front setback standard.

This standard has been met.

- B. Factors that show no adverse effects caused by the zoning regulation conditions:
 - 1. None identified.

This standard has not been met.

23.5.4.4 That the requested variance is the minimum variance necessary to grant the applicant reasonable relief as well as to do substantial justice to other property owners in the district.

- A. Factors that show the variance cannot be reduced beyond that requested and still meet the needs of the applicant, and still not infringe upon the rights of the surrounding property owners:
 - 1. The subject property is 0.38 acres (16,553 square feet), and is a non-conforming lot of record; it does not meet the minimum width standard (200 feet) and area (50,000 square feet) required for properties in the Natural Rivers Protection (P-NR) zoning district per Section 17.1.

2. The subject property is located on the mainstream of the Pigeon River, south of the East Mullett Lake Road Bridge.
3. The required 200-foot front setback for dwellings and accessory structures on a mainstream in the P-NR zoning district would result in no new development on the subject property.
4. The proposed garage (24-ft x 24-ft.) is shown on the site plan as being 16 feet farther away from the Pigeon River than the existing dwelling.

This standard has been met.

B. Factors that show the variance requested is more than needed and/or would infringe upon the rights of surrounding property owners:

1. None identified.

This standard has not been met.

23.5.4.5 That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.

A. Factors that show how granting the variance would not result in unfavorable impacts on the surrounding properties, neighborhood or zoning district:

1. There is no evidence that shows granting the 124-foot front setback variance to construct a garage 76-feet from the Pigeon River would result in unfavorable impacts on surrounding properties, neighborhood or zoning district. A similar pattern of development showing structures within 200 feet of the Pigeon River exists on properties in the immediate area.

5. This standard has been met.

B. Factors that show how granting the variance would adversely impact the neighborhood or zoning district.

1. None identified.

This standard has not been met.

DECISION

TIME PERIOD FOR JUDICIAL REVIEW

MCLA 125.3606 provides that a person having an interest affected by the zoning ordinance may appeal a decision of the Zoning Board of Appeals to the Circuit Court. Any appeal must be filed within thirty (30) days after the Zoning Board of Appeals certifies this Decision in writing or approves the minutes of its decision.

DATE DECISION AND ORDER ADOPTED

Wednesday, September 23, 2020

Charles Freese, Chairperson

John Thompson, Secretary