

NOTICE

**CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING and PUBLIC HEARING
WEDNESDAY, July 22, 2020 AT 7:00 P.M.
ROOM 135 – COMMISSIONERS ROOM
CHEBOYGAN COUNTY BUILDING, 870 S. MAIN ST., CHEBOYGAN, MI 49721**

1. **Craig Carrier/Peter Schwenger** – The applicant requests approval of a 27-ft. setback variance from a creek to reconstruct a garage on a property in the Lake and Stream Protection (P-LS) zoning district. Per Section 10.4.9 of the Zoning Ordinance, a 40-ft. setback is required for structures from the shoreline's ordinary high water mark of any stream or pond that can be identified on the U.S. Geological Survey Maps of the 7.5' quadrangle series of Cheboygan County. The applicant also requests approval of a 2-ft. side setback variance to reconstruct the garage 4 feet from the side property line. The subject property is located at 2513 Silver Lodge Trail in Mullett Township, Parcel No. 130-003-100-021-00, Section 3.

Visit the Planning and Zoning office or visit our website to view the application and the associated plan drawings. Site plans may be viewed at www.cheboygancounty.net/planning. Comments, questions, and correspondence may be sent to p&z@cheboygancounty.net or Planning & Zoning Department, 870 S. Main St., PO Box 70, 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, July 22, 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. **Craig Carrier/Peter Schwenzer** – The applicant requests approval of a 27-ft. setback variance from a creek to reconstruct a garage on a property in the Lake and Stream Protection (P-LS) zoning district. Per Section 10.4.9 of the Zoning Ordinance, a 40-ft. setback is required for structures from the shoreline's ordinary high water mark of any stream or pond that can be identified on the U.S. Geological Survey Maps of the 7.5' quadrangle series of Cheboygan County. The applicant also requests approval of a 2-ft. side setback variance to reconstruct the garage 4 feet from the side property line. The subject property is located at 2513 Silver Lodge Trail in Mullett Township, Parcel No. 130-003-100-021-00, Section 3.

UNFINISHED BUSINESS

NEW BUSINESS

ZBA COMMENTS

PUBLIC COMMENTS

ADJOURN

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING
WEDNESDAY, MAY 27, 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

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. Mr. Freese stated that a request had been received to table the Thomas Finch/Jason Campbell request until June 24th 2020. **Motion** by Mr. Freese seconded by Mr. Thompson, approve tabling the Finch/Campbell request until June 24, 2020 and to approved the revised agenda. Motion carried unanimously.

APPROVAL OF MINUTES

Minutes from the April 22, 2020 Zoning Board of Appeals meeting were presented. Ms. Sherwood noted two typographical errors in the minutes. **Motion** by Mr. Hemmer seconded by Mr. Sherwood, to approve the minutes as presented. Motion carried unanimously.

PUBLIC HEARING & ACTION ON REQUESTS

Laura and Jason Mayer – The applicant requests approval of a 17-ft. setback variance to place a shed onto a vacant waterfront property zoned Lake and Stream Protection (P-LS). Section 17.23.1.g. of the Zoning Ordinance states in part, a minimum 50-ft. setback from water’s edge is required for private storage buildings in the P-LS zoning district. The subject property is located at 1988 Lake Shore Dr. in Mullett Township, Parcel No. 130-029-100-037-00, Section 29.

Ms. Merk reviewed information included in the staff report.

Mr. Freese asked the Mr. and Mrs. Mayer if they wanted to add anything to what Ms. Merk had presented. They stated that the material submitted was adequate.

Mr. Freese asked for public comments. Mr. Gouine stated that many other structures in the vicinity are closer to the water than is the proposed storage shed. Public comment closed.

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

10. The storage building to the south of the parcel and the recreational deck to the north are closer than 33ft. to the water’s edge.
11. Most dwellings, storage buildings and other structures along Lake Shore Drive are closer than 33 ft. to the water’s edge.

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. Thompson, 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

Ms. Sherwood asked whether the application of Mr. Nelson was to be held tonight. Ms. Merk stated that Mr. Nelson had requested that the application be postponed until the June 24, 2020 meeting. Ms. Merk read Mr. Nelson’s email request.

Mr. Freese revised his motion to revise the agenda to include the tabling of both the Finch/Campbell request and the Nelson request until June 24, 2020.

Mr. Turisk provided information on a proposed amendment to the zoning regulation pertaining to temporary regulatory relief in regards to COVID-19. Mr. Turisk explained that the proposed amendments would allow a portion of on-site parking to be used as an outdoor seating area. Mr. Turisk stated that the proposed amendment would also allow for more flexibility in granting administrative extensions of site plans review approvals, special use permits approvals and zoning permits. Mr. Turisk stated that a public hearing is scheduled on July 1, 2020.

PUBLIC COMMENTS

No comments.

ADJOURN

Motion by Mr. Moore to adjourn. Motion carried. Meeting adjourned at 7:20 pm.

John Thompson, Secretary

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS

Craig Carrier/Peter Schwenzer

Exhibit List

1. Cheboygan County Zoning Ordinance
2. Cheboygan County Master Plan
3. Variance Application (3 Pages)
4. Mailing List (2 Pages)
5. Staff Report (12 Pages)
- 6.
- 7.
- 8.
- 9.
- 10.
- 11.
- 12.

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 APPLICATION FEE

RECEIPT #:	7354
CASH/CHECK:	\$110.00
ACTION /DATE:	7-22-20

PLEASE PRINT

PROPERTY LOCATION

Address # 2513 Silver Lodge Trail	City / Village Mullett Lake	Township / Sec. Mullett / 3	Zoning District P-LS
Property Tax I.D. (Parcel) Number 130-003-100-021-00	Subdivision or Condo. Name / Plat or Lot No.		

APPLICANT

Name CRAIG CARRIER	Telephone 517-719-3132	Fax	
Address 1325 W. DEVEREAUX LK Rd	City & State Indian River	Zip Code 49749	E-Mail

OWNER (If different from applicant)

Name PETER SCHWENZER	Telephone 586 2159682	Fax	
Address 56586 Birkholz	City & State Mocomb MI	Zip Code 48042	

Detailed directions to site, including nearest crossroad:

old 275. To SILVER Lodge Trail

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: none
- B. This property is unplatted, platted, will be platted. If platted, name of plat _____
- C. Present use of the property is: Home
- 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 none, 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.

MAIN REASON FOR VARIANCE FOR GARAGE IT WILL BE EASIER TO DRIVE VEHICLE IN + OUT OF GARAGE / NEED 2' VARIANCE EAST LOT LINE NEIGHBOR RICK IS OK WITH NEW GARAGE 2' OFF LOT LINE (4' 3.54")

27' VARIANCE REAR

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.

BECAUSE OF NARROW LOT AND GARAGE BEHIND HOUSE 2' VARIANCE ALLOWS EASIER ACCESS ENTERING + EXITING GARAGE

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

LOT NARROWNESS WITH HOUSE - REQUIRED DRIVEWAY TO BE ALONG EAST LOT LINE 2' VARIANCE WOULD MAKE GARAGE ACCESS MUCH EASIER

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

ASKING FOR 2' VARIANCE EAST LOT LINE 27' VARIANCE REAR - SOUTH LINE FROM CREEK

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.

YES THIS IS MINIMUM VARIANCE NECESSARY

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.

THIS WILL NOT CAUSE ADVERSE IMPACT ON NEIGHBORS OR SURROUNDING PROPERTIES NEIGHBOR RICK IS SUPPORTIVE OF THIS VARIANCE

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 [Signature] Date 6-28-20

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 [Signature] Date 6-28-20

SITE PLAN INFORMATION Please include the following on your site plan:

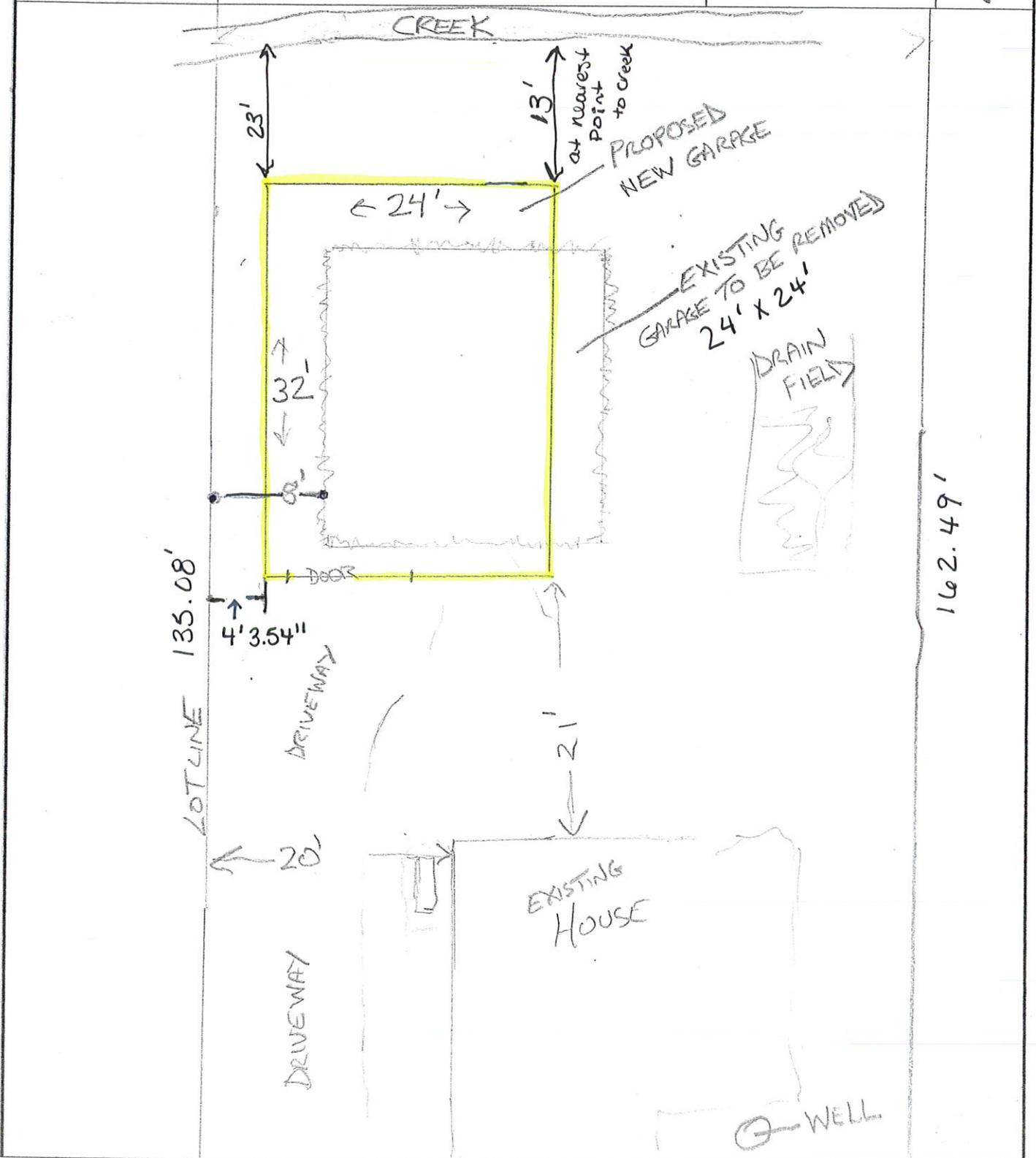
- | | |
|---|---|
| 1. Property Line dimensions and Property shape. | 6. Parcels under separate ownership therein. |
| 2. Front, Rear, & Side setback dimensions. | 7. Road Right-Of-Way (ROW); access or utility easements. |
| 3. Location, shape & size of all existing & proposed buildings on property. | 8. The existing and intended use of the lot and structures. |
| 4. Location of all drives and parking areas. | 9. Place North arrow in space provided. |
| 5. Rivers, lakes, wetlands, or streams within 500 ft. | 10. Other essential zoning information. |

Distance from property line to proposed structure:

Front: 60'+ Rear: 60'+ Side: 4' Side: 32'

Zoning District:

North:



2513 SILVER LANE

60' LOT

130-003-100-007-01
SBE MEADOW, LLC
333 W FORT ST, STE 1200
DETROIT, MI 48226

130-003-100-011-00
PERZYK, DAVE & CHARMAINE H/W
27509 DEMRICK
ROSEVILLE, MI 48066

130-003-100-012-00
STOCKWELL, CHARLES D, TTEE CHARLES
PO BOX 473
LAKE ORION, MI 48361-0473

130-003-100-013-00
KOMPERDA, JOSEPH & SHERRI H/W,
PO BOX 68
MULLETT LAKE, MI 49761

130-003-100-016-00
PERZYK, PAUL E; MARY TAMPAKES
13758 ALGER AVE
WARREN, MI 48088

130-003-100-017-00
RICE, JAMES E & KIMBERLY H/W
2545 SILVER LODGE TRL
CHEBOYGAN, MI 49721

130-003-100-018-00
URICK, THOMAS W AND
595 E LAKE ST
SOUTH LYON, MI 48178

130-003-100-019-00
PERZYK, PATRICK & DONNA H/W 1/2 INT
8805 N RUSHTON RD
SOUTH LYON, MI 48178

130-003-100-020-00
ALVARADO, MITCHELL & LINDA H/W
6 SPRING CREEK DR
WESTERVILLE, OH 43081

130-003-100-021-00
SCHWENZER, PETER J & CHERYL A H/W
56586 BIRKDALE DR
MACOMB, MI 48042-1134

130-003-100-022-00
HAGELTHORN, ERIC & JUDITH H/W
2901 EGRET CT
NORTH PORT, FL 34287

130-003-100-023-00
GOTCH, LANE T
1659 MERCEDES
WEST BLOOMFIELD, MI 48324

130-003-100-025-00
FERO, DAVID & DARLENE FERO
12410 COPPERWOOD DR
FOLEY, AL 36535

130-003-100-026-00
TOLHURST, DENNIS L
5044 DEEP POINT DR
PORTAGE, MI 49002-5918

130-003-100-027-00
NEUMANN, ROGER & SUSAN H/W L/EWPTS;
PO BOX 267
TOPINABEE, MI 49791

130-003-209-081-00
BAIER, JOHN E ET UX
15247 MARKESE
ALLEN PARK, MI 48101

130-003-209-083-00
STATE OF MICHIGAN
PO BOX 30448
LANSING, MI 48909

130-003-100-027-00
OCCUPANT
5515 N STRAITS HWY
CHEBOYGAN, MI, 49721

130-003-100-011-00
OCCUPANT
5827 SILVER VIEW LN
CHEBOYGAN, MI, 49721

130-003-100-012-00
OCCUPANT
5801 SILVER VIEW LN
MULLETT LAKE, MI, 49721

130-003-100-013-00
OCCUPANT
2562 SILVER LODGE TRL
MULLETT LAKE, MI, 49721

130-003-100-016-00
OCCUPANT
2549 SILVER LODGE TRL
CHEBOYGAN, MI, 49721

130-003-100-017-00
OCCUPANT
2545 SILVER LODGE TRL
MULLETT LAKE, MI, 49721

130-003-100-018-00
OCCUPANT
2541 SILVER LODGE TRL
CHEBOYGAN, MI, 49721

130-003-100-019-00
OCCUPANT
2537 SILVER LODGE TRL
CHEBOYGAN, MI, 49721

130-003-100-020-00
OCCUPANT
2525 SILVER LODGE TRL
CHEBOYGAN, MI, 49721

130-003-100-021-00
OCCUPANT
2513 SILVER LODGE TRL
MULLETT LAKE, MI, 49721

130-003-100-022-00
OCCUPANT
2499 SILVER LODGE TRL
MULLETT LAKE, MI, 49721

130-003-100-023-00
OCCUPANT
5735 N STRAITS HWY
CHEBOYGAN, MI, 49721

130-003-100-025-00
OCCUPANT
5715 N STRAITS HWY
CHEBOYGAN, 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

<p>Item:</p> <ol style="list-style-type: none"> 1.) Requests approval of a 27 ft. setback variance from the 40 ft. minimum setback standard from the ordinary high-water mark for structures in the Lake and Stream Protection (P-LS) zoning districts, per Section 10.4.9 of the Zoning Ordinance. 2.) Requests approval of a 2 ft. side setback variance to reconstruct a garage 4 ft., 3.5 in. from the east side property line. 	<p>Prepared by: Jennifer Merk</p>
<p>Date: July 16, 2020</p>	<p>Expected Meeting Date: July 22, 2020</p>

GENERAL INFORMATION

Applicant(s): Craig Carrier/C & J Excavating & Trucking, LLC

Phone: 517-719-3132

Owner(s): Peter Schwenzer

Property Address: 2513 Silver Lodge Trail, Mullett Lake, MI 49761

Requested Action: The applicant requests a 27-foot dimensional variance from Section 10.4.9 of the Zoning Ordinance that requires a 40-foot minimum setback in the Lake and Stream Protection (P-LS) zoning districts for structures from the shoreline's ordinary high water mark of any stream or pond. (that can be identified on the U.S. Geological Survey Maps of the 7.5' quadrangle series of Cheboygan County). The applicant is also requesting a 2-foot dimensional variance from Section 17.1.J. that states if the lot is less than 80 feet in width, then each side setback shall be 10 percent of lot width, or 5 feet, whichever is greater. The applicant is proposing to reconstruct a garage 13-feet from the nearest point of a creek located on the southern portion of the subject property, and 4-feet, 3.54 inches from the east side property line.

BACKGROUND INFORMATION

The subject property is 0.21 acres (approximately 9,148 square feet), is zoned Lake and Stream Protection (P-LS) and located at 2513 Silver Lodge Trail in Mullett Township. The subject property's dimensions are 60 feet wide at the north property line, 135.08 feet at the east property line, 65.9 feet at the south property line and 162.49 feet at the west property line.

The subject property does not meet the minimum width standard (100 feet) and area (15,000 square feet) required for properties in the P-LS zoning district per Section 17.1. While the subject property is likely a lot of record this could not be determined due to an incomplete legal description contained on the property tax record generated in 1967. A house and detached garage exist on the subject property; however, no building permits were discovered for the structures. Building permit records go back to 1975.

The applicant and owner are proposing to demolish the existing garage (24 ft. x 24 ft.) and reconstruct a larger garage (24 ft. x 32 ft.). The setbacks under review for this dimensional variance request are the east side setback and the setback from the nearby creek. The proposed garage will be 4 feet, 3.54 inches from the east side property line and 13 feet, at the nearest point, from a creek that flows through the southern portion of the subject property. The proposed garage location, closer to the side property line, is cited in the dimensional variance application as allowing easier vehicle access. The applicant indicates that a larger garage is necessary to store larger vehicles.

Section 17.1.J. of the Zoning Ordinance determines that side setbacks on property in Lake and Stream Protection zoning districts can be 10 percent of lot width or 5 feet, whichever is greater, if the property is 80 feet or less in width. The subject property is narrow, irregularly shaped and has an average width of 62.95 feet. A side setback of 6.295 feet is required. A 2-foot side setback variance is requested in order for the proposed garage to be constructed 4.295 feet or 4 feet, 3.54 inches from the east side property line.

Section 10.4.9. of the Zoning Ordinance states, in part, a 40-foot setback shall be required for structures from the shoreline's ordinary high water mark of any stream or pond which can be identified on the U.S. Geological Survey Maps of the 7.5' quadrangle series of Cheboygan County. The proposed garage will be 13 feet, at the nearest point, from the creek; therefore, 27-foot variance is requested from the required 40 foot setback from the creek.



*Figure 1. Location and zoning of subject property (highlighted in light blue)
2513 Silver Lodge Trail, Mullett Twp.*

Surrounding Zoning:

North: Lake and Stream Protection (P-LS)

East: P-LS

South: P-LS

West: P-LS

Surrounding Land Uses:

Residential land uses surround the subject property. An open, undeveloped property with ponds is located north of the subject property.



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

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

The subject property is relatively flat until dropping downwards to a creek flowing through the southern portion of the property with woods beyond. The creek flowing through the southern portion of the property is deemed environmentally sensitive, hence the 40-foot minimum setback requirement for dwellings and accessory structures.

Public comments:

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

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS
Wednesday, July 22, 2020 at 7:00 PM
Room 135 – Commissioners Room
Cheboygan County Building, 870 S. Main St., Cheboygan, MI 49721

Applicant:

Craig Carrier
1325 W. Devereaux Lake Road
Indian River, MI 49749

Owner:

Peter Schwenzer
56586 Birkdale Dr.
Macomb, MI 48042

Parcel: 130-003-100-021-00

General Findings:

1. The subject property is 0.21 acres (approximately 9,148 square feet), is zoned Lake and Stream Protection (P-LS) and located at 2513 Silver Lodge Trail in Mullett Township.
2. According to the legal description, the subject property's dimensions are 60 feet wide at the north property line, 135.08 feet at the east property line, 65.9 feet at the south property line and 162.49 feet at the west property line.
3. The subject property does not meet the minimum width standard (100 feet) and area (15,000 square feet) required for properties in the P-LS zoning district per Section 17.1.
4. A creek (identified on the U.S. Geological Survey Maps of the 7.5' quadrangle series of Cheboygan County) flows through the southern portion of the subject property and adjacent to the existing 24 ft. x 24 ft. garage.
5. The applicant and owner are proposing to demolish the existing 24 ft. x 24 ft. garage and reconstruct a larger garage (24 ft. x 32 ft.).
6. The proposed garage will be 4 feet, 3.54 inches from the east side property line and 13 feet, at the nearest point, from a creek that runs through the southern portion of the subject property.
7. Section 17.1.J. of the Zoning Ordinance determines that side setbacks on property in Lake and Stream Protection zoning districts can be 10 percent of lot width or 5 feet, whichever is greater, if the property is 80 feet or less in width.
8. The subject property is narrow, irregularly shaped and has an average width of 62.95 feet. A minimum side setback of 6.295 feet is required.
9. A 2-foot side setback variance is requested for the proposed garage to be constructed 4.295 feet or 4 feet, 3.54 inches from the east side property line.
10. Section 10.4.9. of the Zoning Ordinance states, in part, a 40 foot setback shall be required for structures from the shoreline's ordinary high water mark of any stream or pond which can be identified on the U.S. Geological Survey Maps of the 7.5' quadrangle series of Cheboygan County.

11. A 27-foot variance is requested from the required 40-foot setback from the creek.

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:

Regarding the setback from the creek:

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 0.21 acres (approximately 9,148 square feet), narrow, irregularly shaped with the following dimensions: 60 feet wide at the north property line, 135.08 feet at the east property line, 65.9 feet at the south property line and 162.49 feet at the west property line.
 2. A creek (identified on the U.S. Geological Survey Maps of the 7.5' quadrangle series of Cheboygan County) flows through the southern portion of the subject property and adjacent to the existing garage.

This standard has been met.

- B. The physical conditions of the property which support denying the variance are as follows:
1. The property appears to be configured in a similar manner as other properties in the area.

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:
1. The subject property is 0.21 acres (approximately 9,148 square feet), narrow, irregularly shaped with the following dimensions: 60 feet wide at the north property line, 135.08

feet at the east property line, 65.9 feet at the south property line and 162.49 feet at the west property line.

2. The subject property does not meet the minimum width standard (100 feet) and area (15,000 square feet) required for properties in the P-LS zoning district per Section 17.1.
3. A creek (identified on the U.S. Geological Survey Maps of the 7.5' quadrangle series of Cheboygan County) flows through the southern portion of the subject property and adjacent to the existing garage.

This standard has been met.

- B. Actions which the applicant has taken that results in the request for the variance and therefore requires denial of the variance:
1. The applicant and owner are proposing to demolish the existing garage (24 ft. x 24 ft.) and reconstruct a larger garage (24 ft. x 32 ft.), with the proposed garage to be 13 feet, at the nearest point, from a creek that runs through the southern portion of the subject property.

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 minimum setback of 40 feet from ordinary high water mark would prevent the garage from being reconstructed on the subject property because a zoning permit cannot be approved without a dimensional variance from the creek.

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 0.21 acres (approximately 9,148 square feet), narrow, irregularly shaped with the following dimensions: 60 feet wide at the north property line, 135.08 feet at the east property line, 65.9 feet at the south property line and 162.49 feet at the west property line.
 - 2. A creek (identified on the U.S. Geological Survey Maps of the 7.5' quadrangle series of Cheboygan County) flows through the southern portion of the subject property adding to the site constraints with a required 40-foot setback from the ordinary high water mark.
 - 3. The location of the existing home on the narrow parcel determined the driveway location along the east side property line leading to the garage. Vehicle access and maneuverability will be more difficult if the proposed garage location was moved north to reduce the setback variance from the creek.

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. The applicant could potentially construct a smaller garage to reduce the setback variance from the creek; therefore, the 27-foot requested variance is not the minimum variance necessary.

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. Granting the 27-foot setback variance to reconstruct a garage within 13 feet of the ordinary high water mark of the creek would not result in unfavorable impacts on surrounding properties, neighborhood or zoning district due to several of the surrounding property structures not meeting the 40-foot required setback from the creek in the P-LS zoning district.

This standard has been met.

- B. Factors that show how granting the variance would adversely impact the neighborhood or zoning district.
 - 1. Granting the variance would allow a garage to be reconstructed 13 feet, at the nearest point, from the ordinary high water mark of the creek, 27-feet closer than the 40 foot minimum standard

This standard has not been met.

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:

Regarding the side setback;

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 0.21 acres (approximately 9,148 square feet).
 - 2. According to the legal description, the subject property's dimensions are 60 feet wide at the north property line, 135.08 feet at the east property line, 65.9 feet at the south property line and 162.49 feet at the west property line.
 - 3. The subject property is narrow, irregularly shaped and has an average width of 62.95 feet.

This standard has been met.

- B. The physical conditions of the property which support denying the variance are as follows:
 - 1. The property appears to be configured in a similar manner as other properties in the area.
 - 2. The subject property, albeit comparatively small and irregularly shaped, does allow for the construction of a smaller garage that would require a smaller dimensional variance.

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:
 - 1. The subject property is 0.21 acres (approximately 9,148 square feet), narrow, irregularly shaped with the following dimensions: 60 feet wide at the north property line, 135.08 feet at the east property line, 65.9 feet at the south property line and 162.49 feet at the west property line.
 - 2. The subject property does not meet the minimum width standard (100 feet) and area (15,000 square feet) required for properties in the P-LS zoning district per Section 17.1.

This standard has been met.

- B. Actions which the applicant has taken that results in the request for the variance and therefore requires denial of the variance:
 - 1. The applicant and owner are proposing to demolish the existing garage (24 ft. x 24 ft.) and reconstruct a larger garage (24 ft. x 32 ft.), with the proposed garage to be 4 feet, 3.54 inches from the east side property line. The need for the 2-foot variance request is self-created.

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 minimum side setback of 6.295 feet in the P-LS zoning district would result in the inability to construct the garage as proposed because a zoning permit cannot be approved without a dimensional variance.

This standard has been met.

- B. Factors that show no adverse effects caused by the zoning regulation conditions:
 - 1. Strict compliance with the zoning regulations would allow the applicant to reconstruct the garage a minimum of 6.295 feet from the east side property line and would be closer than the existing garage which is located 8 feet from the east side property line.

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 location of the existing home on the narrow parcel determined the driveway location along the east side property line leading to the garage. The existing garage location makes vehicle access more difficult.
 2. The applicant is proposing to demolish the existing garage (24-ft. x 24-ft.) and reconstruct a garage (24-ft. x 32-ft.) 4 feet, 3.54 inches from the east side property line. The variance request of 2 feet from the required minimum of 6.295 is the minimum variance request possible for the garage as proposed and given the constraints presented by the small, narrow parcel.

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. The zoning regulations allow the garage to be reconstructed a minimum of 6.295 feet from the east side property line, and this setback measurement would be closer than the existing garage which is located 8 feet from the east side property line.

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. The adjacent neighbor to the east, and the neighbor likely most impacted, is stated in the dimensional variance application to support the variance request.
 2. There is no evidence that shows granting the 2-foot side setback variance to reconstruct a garage within 4 feet, 3.54 inches from the east side property line would result in unfavorable impacts on surrounding properties, neighborhood or zoning district.

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, July 22, 2020

Charles Freese, Chairperson

John Thompson, Secretary