

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING
WEDNESDAY, APRIL 28, 2010 AT 5:00 P.M.
ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING

Members Present: Charles Freese, Ralph Hemmer, Mary Street, John Moore

Members Absent: Chris Brown

Others Present: Scott McNeil, Steve Schnell, Dave McKinley, Steve Begle, Paul Gerhan, Ken Wright, John F. Brown, Russell Crawford

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

APPROVAL OF AGENDA

The agenda was presented. **Motion** by Mr. Moore, seconded by Ms. Street, to accept the agenda as presented. Motion carried. 4 Ayes (Freese, Hemmer, Street, Moore), 0 Nays, 1 Absent (Brown)

APPROVAL OF MINUTES

Minutes from the February 28, 2010 Zoning Board of Appeals meeting were presented. **Motion** by Mr. Hemmer, seconded by Mr. Moore, to approve the minutes as presented. Motion carried. 4 Ayes (Freese, Hemmer, Street, Moore), 0 Nays, 1 Absent (Brown)

PUBLIC HEARING & ACTION ON REQUESTS

GARY AND MARY MILLER – Requests an 11ft. front variance, where 30ft. is required, to replace the existing front steps with a porch (6ft. x 5ft) and a ramp (4ft. x 24ft.). The property is located at 1649 Phelps St., Mullett Township, section 30, parcel #130-T25-003-008-00 and is zoned Residential Development (D-RS).

Discussion was held regarding the front property line. Mr. McNeil stated he found the northeast property stake and verified the right of way line with an AT&T utility box. Mr. McNeil stated that based on this information, the drawing that was submitted by the property owner’s contractor appears to be accurate. The Zoning Board of Appeals reviewed an aerial photo that Mr. McNeil presented.

Mr. McKinley explained currently there are a couple of steps to the door. Mr. McKinley stated the property owner would like a porch that is 6ft. x 5ft. to the front of the house. Mr. McKinley stated there would be a 2ft. space between the house and the proposed ramp for the roof to drain during the winter. Mr. McKinley believes this is the minimum size porch and ramp that could be built. Mr. McKinley presented a letter from Mr. Miller’s doctor explaining the medical need for the porch and ramp.

Discussion was held regarding the location of the right of way. Mr. McNeil believes the right of way ends at the property stake. Mr. McNeil believes the AT&T utility box confirms the location of the right of way. Mr. Freese noted the edge of the road is 44ft. from the front of the building. Discussion was held regarding the necessity of the ramp due to Mr. Miller medical condition.

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

Mr. Freese asked Mr. Schnell what is the interpretation on a handicapped access and how an applicant can qualify for this type of a variance. Mr. Schnell stated when he talked to legal counsel about this issue there had to be a permanent disability. Mr. Freese noted the doctor’s letter implies there is a permanent disability. Discussion was held.

The Zoning Board of Appeals reviewed the General Findings. The Zoning Board of Appeals added “A letter was received from William Heise MD, indicating there is a progressive, degenerative health condition.” as item 5 and “The edge of the road is 44ft. from the front of the building.” as item 6. The Zoning Board of Appeals reviewed the Findings of Fact Under Section 23.5.4. The Zoning Board of Appeals agreed to delete 23.5.4.1.2, 23.5.4.2.2, 23.5.4.3.2, 23.5.4.4.2 and 23.5.4.5.2. The Zoning Board of Appeals agreed the revised Findings of Fact Under Section 23.5.4 have been met. **Motion** by Mr. Hemmer, seconded by Mr. Moore, to approve the variance request based on the General Findings and the Findings of Fact Under Section 23.5.4. Motion carried. 4 Ayes (Freese, Hemmer, Street, Moore), 0 Nays, 1 Absent (Brown)

IRENE WRIGHT – Requests a 10ft. rear variance, where 30ft. is required, to construct a 12ft. x 20ft. sunroom/addition to a residence. The property is located at 2921 Gilpin Rd., Benton Township, section 4, parcel #104-004-400-015-04 and is zoned Agriculture & Forestry Management (M-AF).

Mr. McNeil stated the depth of the property is such that the existing home, which is 28ft. wide, meets the front and rear setback requirements. Mr. McNeil noted that any porch or deck to the front or rear of the residence will need a variance. Mr. McNeil stated the applicant is proposing a 12ft. x 20ft. addition, which would cause a 20ft. rear setback as opposed to the 30ft. that is required.

Mr. Wright stated he is speaking on behalf of his mother, Irene Wright. Mr. Wright stated his sister will be moving in with his mother to assist her and this addition will allow each to have their own privacy when the other is entertaining friends.

There was no correspondence to be read. Mr. Freese asked for public comment. Mr. Begle, an adjacent property owner, questioned why a variance was granted for the existing garage. Mr. Begle stated he would like to see compliance with the Zoning Ordinance. Mr. Begle stated cavalier adjustments should not be granted to just allow this variance request. Mr. Freese stated he cannot speak as to why the variance was granted in 1990 but that approval will not have anything to do with the variance request being reviewed currently. Public comment closed.

Board held discussion. Mr. Moore stated it appears the addition could be built on the west side without a variance.

The Zoning Board of Appeals added “The variance for the existing garage was granted in 1990.” and “The house is located on a portion of the property where there is minimal depth.” to the General Findings. The Zoning Board of Appeals reviewed the Findings of Fact Under Section 23.5.4. The Zoning Board of Appeals agreed to delete 23.5.4.1.2, 23.5.4.2.1, 23.5.4.3.1, 23.5.4.4.1 and 23.5.4.5.1. The Zoning Board of Appeals agreed to change 23.5.4.1.1 to “The property is shallow which is a unique physical condition and is not due to the applicant’s personal or economic difficulty.” The Zoning Board of Appeals agreed 23.5.4.1 has been met. The Zoning Board of Appeals agreed 23.5.4.2, 23.5.4.3, 23.5.4.4, 23.5.4.5 have not been met. **Motion** by Mr. Moore, seconded by Ms. Street, to deny the variance request based on the General Findings and the revised Findings of Fact Under Section 23.5.4. Motion carried. 4 Ayes (Freese, Hemmer, Street, Moore), 0 Nays, 1 Absent (Brown)

PAUL ARTHUR GERHAN – Requests a 14ft. front variance, where 30ft. is required, and a 4ft. rear variance, where 12ft. is required, to construct a 24ft. x 28ft. garage. The property is located at 7419 Pells Island Dr., Munro Township, section 30, parcel 080-B04-000-023-00 and is zoned Lake & Stream Protection (P-LS).

Mr. McNeil explained there is one legal description for this parcel and that it is separated by a public road. Mr. McNeil stated this public road has caused a non-conforming lot and the property owner is not able to meet front or side setbacks for the proposed garage.

Ms. Street asked if this parcel is addressed off of Pells Island Drive or Pells Island View Drive. Mr. Gerhan stated that the address of the parcel is 7419 Pells Island Drive but this portion of the parcel is on the corner of Pells Island View Drive and Pells Island Drive. Ms. Street asked if Pells Island View Drive was ever a private road. Mr. Gerhan stated he has owned the property for 53 years and this road existed prior to him owning the property. Ms. Street asked Mr. Gerhan if this is two separate parcels or one parcel. Mr. Gerhan stated it is one parcel and he receives only one tax bill. Discussion was held. Mr. Gerhan stated he is now living in the area all year long and if he is not able to have a garage it would be a hardship. Mr. Gerhan stated he talked to many of his neighbors and they do not have any problems with the proposed garage.

Mr. Freese asked if there was any correspondence. Mr. McNeil stated one e-mail was included in the packet. Mr. McNeil read the e-mail from Mr. and Mrs. John Dunlop stating they have no objections to the variance request.

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

Mr. Freese asked Mr. Gerhan when the existing buildings were constructed. Mr. Gerhan stated rental cottage 1 was built in 1950. Mr. Gerhan believes all other buildings may have been built in the 1920’s. Mr. Freese stated that all structures were built prior to 1970 when the Zoning Ordinance was adopted. Mr. Freese asked it was ever determined if this is actually a lake front lot. Mr. McNeil stated that according to the plat and the legal description, it appears there is space between the lake and the parcel. Mr. Freese stated the waterline is a long way from Mr. Gerhan’s property line. Discussion was held. Mr. McNeil noted that when he reviewed this application he looked at this portion of the property as a separate parcel because it was divided by the road. Mr. McNeil determined the front to be where the driveway is proposed (Pells Island View Drive). Mr.

Freese stated the property is addressed off of Pells Island Drive. Mr. Moore stated if the front of the parcel is Pells Island Drive there will not be a front or side setback issue. Mr. Moore stated there would only be a 4ft. rear setback issue. Mr. Moore stated if the garage is moved 4ft. to the east there would be no setback issues at all and a variance would not be necessary. Mr. Gerhan stated he can move the garage 4ft. to the east. Discussion was held.

Motion by Mr. Moore, seconded by Mr. Hemmer, that the Zoning Board of Appeals determined that the address of the parcel on which the garage is proposed is Pells Island Drive and therefore the front setback shall be determined to be from Pells Island Drive. Motion carried. 4 Ayes (Freese, Hemmer, Street, Moore), 0 Nays, 1 Absent (Brown)

Mr. Freese asked if Mr. Gerhan would like to withdraw his variance request since no variance is required in view of Mr. Gerhan's voluntary offer to move the garage location 4ft. to the east. Mr. Gerhan stated he would like to withdraw his variance request.

UNFINISHED BUSINESS

No comments.

NEW BUSINESS

Mr. Schnell presented the Community Development Department's annual report for 2009 to the Zoning Board of Appeals. Discussion was held.

ZBA COMMENTS

No comments.

PUBLIC COMMENTS

No comments.

ADJOURN

Motion by Mr. Moore to adjourn. Motion carried. Meeting adjourned at 6:06pm.



Mary Street, Secretary