

# APPROVED

## MELROSE TOWNSHIP ZONING BOARD OF APPEALS MINUTES OF JUNE 17, 2015

CALL TO ORDER: The meeting was called to order by Ch. Lee at 7:03 pm.

ROLL CALL: Ch. Errol Lee, Todd Reeves, Bart Wangeman, David Beier, Lyon Stevens, Bunny Marquardt - Recording Secretary, Randy Frykberg - Zoning Administrator. Also present: Jon Borisch of Walloon Lake Holdings, LLC, and Aaron Nordman of Performance Engineers,

APPROVAL OF MINUTES OF 4 -30 - 2015: David Beier made the motion to accept the minutes as corrected. Todd Reeves seconded. ALL AYES - MOTION PASSED.

Ch. Lee opened the Public Hearing and Randy stated:

**Case # ZBA 3-15, Walloon Lake Holdings LLC request to place a seasonal dock near the Hotel north side lot line at 04127 M-75 North (ID# 15-010-009-095-00)**

Randy gave the following background:

Jonathan Borisch, Walloon Lake Holdings, LLC, has applied for a dimensional variance from the side yard setback in order to install a seasonal dock section touching the shoreline near the north side of the Hotel property, adjacent to the Public Boat Launch Ramp. The explained reason for the location of the dock is for safety by adding a barrier to separate the public boat launch from the Hotel beach. Notices of the meeting have been sent to the owners of 37 parcels that are within 300' of this property. The notice was also published in the Petoskey News Review on Friday, May 29, 2015. The General Facts are:

1. The portion of the dock that is already in the water is within the riparian interest line, as required by the DNR. The dock does not yet touch the shoreline.
2. The Township Zoning Ordinance stipulates that docks, at the point they meet the shoreline, shall meet the side yard setback requirement of the district unless a variance is granted.
3. The property is in the C-3 Village Commercial District and the Walloon Lake Shoreline Protection Overlay District.

4. The required setback for the proposed section of the Hotel dock that meets the shoreline is 25' because it is a corner lot. It would be 10' if it was not a corner lot.
5. The variance request is to place one section of a seasonal dock, the section that touches the shoreline, within a foot of the northern property line.
6. The Public Launch Ramp is immediately adjacent to the Hotel property on the north side.

David Beier stated that the dock is legal as it is and would be illegal if it was connected to the land.

Mr. Borisch stated he was here to answer questions and asked the Board to make any suggestions to make the situation better. The firm of Performance Engineering stated it is adjacent to the boat launch and should not be considered as a corner lot and Randy explained: road or not it would be a 10 ft setback. Aaron explained they used the court settlement for Mettler to determine the riparian line. Ch. Lee went on to state that this is a unique situation in the Village/Residential district.

Ch. Lee closed the Public Hearing. David B. went on to say: Why does this dock need to connect to the land? and Why is this dock needed to be used as a buffer? Errol explained if it were a sea wall it would need a DNR permit. Aaron explained the dock would be nice for people to walk on and the buffer is needed for the safety of the swimmers at the hotel and for the users of the boat launch. Mr. Borisch stated he would put up a sign Hotel Guests Only. Bunny stated for safety is would be a good thing. David B. felt it was not a good policy for the ZBA to pass a variance request.

Mr. Borisch it would be in the best interest of the Board to grant this variance to set a precedence as leaving this 2" gap could be trouble in the future. Bart went on to state that he agrees with David but now does not see a huge need to connect the two but it could be dangerous where it is and we could use this to our advantage. Errol stated we could add safety and welfare for the public to our conditions in the final motion.

Ch. Lee went to the Findings of Facts and the Board finds that:

1. The property, identified by Tax Code 15-010-009-095-00, is in the C-3 Village Commercial and the Walloon Lake Shoreline Protection Overlay District.
2. The proposal is to place one section of a seasonal dock that would be close to the northern property line of the Hotel Walloon property.
3. The Township Zoning Ordinance stipulates that docks, at the point they meet the shoreline, shall meet the side yard setback requirement of the district unless a variance is granted.
4. The required setback for the proposed section of the Hotel dock that meets the shoreline is 25' because it is a corner lot.

5. The Public Launch Ramp is immediately adjacent to the Hotel property on the north side.
6. Once in the water, dock placements are controlled by riparian interest lines, rather than property lines, and regulated by the State of Michigan through the DNR.

7. **Section 12.4 C Variance Criteria:**

**“The Zoning Board of Appeals shall have the power to authorize, upon appeal, specific variances from dimensional requirements. It shall be found by the Zoning Board of Appeals that any variance granted:”**

- a. **Will not be contrary to the public interest or to the spirit and intent of the Ordinance.** The variance request to install a seasonal dock section touching the shoreline near the north side of the Hotel property, adjacent to the Public Boat Launch Ramp is for safety reasons to separate the public boat launch ramp from the Hotel beach. Without a barrier, the public boat launch and a guest beach seem to be incompatible uses side-by-side. Therefore, the Board finds that the proposed project will not be contrary to the public interest or to the spirit and intent of the Ordinance. Vote was 3 to 2 in favor of Will Not be.
- b. **Shall not permit the establishment within the zoning district of any use that is not permitted by right within the district.** Docks are an allowed use in the C-3 District. Therefore, the Board finds that the proposed seasonal dock project meets this requirement. ALL AGREED
- c. **Will not cause any adverse effect to property in the vicinity or in the Zoning District or the Township.** The variance request only relates to the one section of dock that touches the shoreline and no adverse effect is anticipated. Additionally, approval of this variance would be in the interest of public health safety and welfare. Therefore, the Board finds that the proposed project will not cause any adverse effect. Vote was 3 to 2 in favor of Will Not be.
- d. **Relates only to property under control of the applicant?** Yes. ALL AGREED
- e. **Affects only property subject to exceptionally or extraordinary circumstances or conditions that do not generally apply to other property or uses in the vicinity and have not resulted from any act of the applicant?** The parcel's location next to the only public boat launch in the Township, and with the launch ramp dock on the side opposite the hotel property, makes this property quite unique. Therefore,

the Board finds that proposed project will meet this requirement. **ALL  
AGREED**

8. The proposed project meets the above 5 criteria in Section 12.4 C for a variance. Vote was 3 to 2 in favor of Meets.
9. Granting the variance would observe the Spirit of the Ordinance and provide for substantial justice. Vote was 3 to 2 in favor of would

**Due to the findings of fact as stated above, Todd Reeves moved to Approve** Walloon Lake Holdings, LLC., application dated 5-14-15 for up to a 25' side yard variance, according to plan Sheet Z-1 prepared by Performance Engineering, dated 5-5-15, for one section of a seasonal dock to be placed near the northern property line of Hotel Walloon, parallel to the public launch ramp dock at 04127 M-75 N (Property ID # 15-010-009-095-00. This structure should be so built to discourage the access of the North Side of the dock. Signage should be placed on North Side of Dock saying no swimming and no diving.  
**Motion seconded by Lyon Stevens. MOTION PASSED THREE TO TWO.**

PLANNING COMMISSION REPORT: Bart gave the report that August 27 would be the Public Hearing on the updates to the Master Plan.

NEXT MEETING WILL IN AUG TO APPROVE THE MINUTES OF 6-17-15

MEETING ADJOURNED, RESPECTFULLY SUBMITTED BY: Bunny Marquardt