

MELROSE TOWNSHIP
ZONING BOARD OF APPEALS
APPROVED MINUTES OF MARCH 21, 2018

- I. CALL TO ORDER:** The meeting was called to order at 7 pm by Ch. Errol Lee
ROLL CALL: Members Present: Ch. Errol Lee, Todd Reeves, Bart Wangeman, David Beier, Zoning Administrator - Randy Frykberg. Absent: Lyon Stephens (excused).
- II. ELECTION OF OFFICERS:** Bart Wangeman asked 3 times for nominations for Chair. Reeves nominated Lee, seconded by Beier. **All Ayes, Motion passed.** Lee took over as Chair and asked 3 times for Vice-Chair nominations. Bart nominated Beier, seconded by Reeves. **All Ayes, Motion passed.** Lee asked 3 times for Secretary nominations. Dave nominated Reeves. **All Ayes, Motion passed.**
- III. APPROVAL OF AGENDA:** The proposed agenda was approved by consensus.
- IV. APPROVAL OF JANUARY 10, 2018 MINUTES:** Wangeman motioned, 2nd by Reeves, to approve the minutes of January 10, 2018 as presented.
- V. SCHEDULED PUBLIC HEARING:** The 2 applicant representatives were informed that one member was absent and questioned if they wanted to proceed. Both decided to proceed. Ch. Lee opened the Public Hearings at 7:05 pm and described the procedure for considering the application. We will hear from Randy first and then from the applicant and then comments (each presenter is allowed up to 5 minutes). The Public Hearing will then be closed and the Board will deliberate. The cases are:

Case # ZBA 1-18, Jeffery Hoerr request to expand a non-conforming house in a conforming way at 04474 Third St. (ID# 15-010-730-085-00)

Randy stated that 3 letters were received regarding this case. Greg Young has a cottage at the northern end of Third St and was concerned with parking as well as ingress and egress to their home due the narrowness of the street, especially during construction. Beth Cooper, writing for her parents who live at the southeast corner of N Shore and Third St, has concerns about parking and the Hoerr's septic system. Non Melrose Township resident John Haggard wrote in support of the project. Frykberg then reviewed the general facts as presented in his memorandum to the ZBA.

Ch. Lee asked for any applicant comment. Applicant representative Drew (N.J. White and Associates) stated they would like to proceed as weather permits.

Susan Gilmette spoke with concerns regarding the septic system and its erroneous location shown on the site plan. She was informed that The Northwest Michigan Community Health

Department will review and approve or disapprove the existing system before a Zoning Permit can be issued. A modified system may be required or they may need to hook up to the municipal system.

With no other audience comments, Ch. Lee closed the Public Hearing at 7:25 pm. and the Board began deliberations.

The ZBA Board finds that:

1. The lot at 04474 Third St, identified as Property ID # 15-010-730-85-00, is in the R-2 Zoning District.
2. The lot was platted as lot 85 of Watson's Addition to the Village of Talcott.
3. R-2 Setback requirements are 35' front, 10' side, 35' rear, 15,000 square feet and 100' width at the front line.
4. The lot is non-conforming because it is about 50' wide and covers about 7,550 sq. ft. The district requirement is 100' wide and 15,000 sq. ft.
5. The proposed expansion consists of a one-story 27' X 24' addition to be added to the rear of the house.
6. About one-half of the proposed addition will be a covered, screened porch.
7. This proposed project of an approximate 648 square foot conforming addition to the nonconforming house requires ZBA approval for expansion of a Nonconforming Use (Section 9.6 of the Zoning Ordinance).
8. The required 300' notices were mailed on March 2, 2018 to 29 properties.
9. The required Public Hearing Notice was published in the Thursday, March 1, 2018 edition of the Petoskey News Review.

Section 9.6 - Expansion of Nonconforming Use

“ The Zoning Board of Appeals may permit expansion of a pre-existing nonconforming use, provided such expansion shall not be substantially detrimental to the surrounding neighborhood and contrary to the spirit and intent of the Ordinance.”

1. The proposed conforming addition to a nonconforming structure will not be substantially detrimental to the surrounding neighborhood.
 - a. The Board finds that the proposed conforming addition will meet all setbacks.
 - b. The Board finds that the proposed addition will keep the structure similar to the other structures in the area.
 - c. The Board, therefore, finds the expansion will not be substantially detrimental to the surrounding neighborhood.
2. The proposed conforming addition will not be contrary to the spirit and intent of the zoning ordinance.
 - a. The Board hereby incorporates by reference its findings of fact contained in paragraphs 1.a through 1.c. above.

- b. The Board finds that Section 1.0 of the zoning ordinance specifies the purpose of the zoning ordinance, which provision is hereby incorporated herein by reference.
 - c. The Board finds that Section 6.0 A) of the zoning ordinance specifies the purpose of the R-2 Zoning District, which provision is hereby incorporated herein by reference.
 - d. The Board finds that allowing the addition does “maintain social and economic stability, property values and general character and trend of Melrose Township development”.
 - e. The Board, therefore, finds the proposed addition will not be contrary to the spirit and intent of the zoning ordinance.
3. Based on the above findings of fact, the Board finds the standards for the conforming addition, which meets all setbacks, have been met.

Due to the findings of fact as stated above, Dave Beier moved to approve Jeffery Hoerr's Zoning Variance Application for a 27' X 24 conforming addition to a non-conforming structure at 04474 Third St. (Property ID # 15-010-730-085-00). This approval is based upon:

- 1. Zoning Action Application signed by Matt Liebler on February 14, 2018;***
- 2. Location Survey, dated 29 January, 2018 by Benchmark Engineering; and***
- 3. Hoerr Residence Elevations by White Associates dated February 13, 2018.***
- 4. Health Department approval of a septic system or hook up to the municipal system.***

Bart Wangeman seconded the motion. 4 AYES, 0 NAYS, MOTION PASSED

Case # ZBA 2-18, James Smith and Nancy Doherty request to expand a non-conforming house by adding a two-story addition at 01859 Fort Wayne Camp (ID# 15-010-017-012-00)

Randy stated that 2 letters were received regarding this case. John Carpenter wrote on behalf of himself, Robert Carpenter, Nobel Carpenter Jr and Noble Carpenter, owners of two cottages south of Jim Smith's and Sara Doherty's cottage. Their concern is regarding an existing condition that access to the lake side of the house is limited on both sides. Concrete stairs, stair well and surrounding railing providing access to a basement is on the southerly property line, and the existing setback is only 1' 8" on the northerly boundary line. John Haggard wrote in support of the project. The proposal is to fill in a "U" on the non-lakeside of the cottage with a 2-story addition, and go toward the road about 7' beyond the existing house. Additionally, a 14-18' lakefront deck will be removed, increasing the waterfront

setback. Frykberg then reviewed the general facts as presented in his memorandum to the ZBA.

Ch. Lee asked for any applicant comment. Applicant representative Jim Matthews (Matthews Construction) stated that the bushes on the southerly side would be removed and they could make a cover over the stairwell on the southerly side. Because a metal cover would be very heavy, Wangeman mentioned there are some strong, lighter plastics available.

With no other audience comment, Ch. Lee closed the Public Hearing at 8:18 pm. and the Board began deliberations.

The ZBA Board finds that:

1. The lot at 01859 Fort Wayne Camp, identified as Property ID # 15-010-017-012-00, is in the R-1 Zoning District and the Walloon Lake Shoreline Protection Overlay District.
2. R-1 Setback requirements are 50' front (lakefront), 10' side (because of the narrow width of the lot), 35' rear, 20,000 square feet and 100' width at the water line.
3. The lot is non-conforming because it is about 66' wide.
4. Before issuance of a zoning permit, conformance with Zoning Ordinance Section 6.11, Walloon Lake Shoreline Protection Overlay District, shall be determined by the Zoning Administrator.
5. The proposed expansion is a fill-in and extension toward the road of a "U" shaped area in the center of the house.
6. The addition would be two stories approximately 22' X 18'. About 7' of the 22' would be outside the "U".
7. Approximately 8' of the 22' nearest the water would need a variance.
8. The proposal also includes removal of a 14-18' wide lakeside deck, increasing the existing waterfront setback.
9. The required 300' notices were mailed on March 2, 2018 to 15 properties.
10. The required Public Hearing Notice was published in the Thursday, March 1, 2018 edition of the Petoskey News Review.

Section 9.6 - Expansion of Nonconforming Use

"The Zoning Board of Appeals may permit expansion of a pre-existing nonconforming use, provided such expansion shall not be substantially detrimental to the surrounding neighborhood and contrary to the spirit and intent of the Ordinance."

1. The proposed addition to a nonconforming structure will not be substantially detrimental to the surrounding neighborhood.
 - f. The Board finds that the proposed addition will be 8' into the front yard setback.
 - g. The Board finds that the proposed addition will keep the structure similar to the structures in the area.

- h. The Board, therefore, finds the expansion will not be substantially detrimental to the surrounding neighborhood.
2. The proposed two-story addition will not be contrary to the spirit and intent of the zoning ordinance.
 - a. The Board hereby incorporates by reference its findings of fact contained in paragraphs 1.a through 1.c. above.
 - b. The Board finds that Section 1.0 of the zoning ordinance specifies the purpose of the zoning ordinance, which provision is hereby incorporated herein by reference.
 - c. The Board finds that Section 6.0 A) of the zoning ordinance specifies the purpose of the R-1 Zoning District, which provision is hereby incorporated herein by reference.
 - d. The Board finds that allowing the addition does “maintain social and economic stability, property values and general character and trend of Melrose Township development”.
 - e. The Board, therefore, finds the proposed addition will not be contrary to the spirit and intent of the zoning ordinance.
 3. Based on the above findings of fact, the Board finds the standards for the two-story addition, have been met.

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:”

1. The variance will not be contrary to the public interest or to the spirit and intent of the Ordinance. The proposed 22’ X 18’ “fill in” on the non-lakeside of the house, of which 8’ X 18’ will be non-conforming, will not be contrary
2. The variance does not permit the establishment within the zoning district of any use that is not permitted by right within the district. Residential uses are an allowed use in the R-1 District.
3. The granting of the variance will not cause any adverse effect to property in the vicinity or in the Zoning District or the Township. The Board finds that the proposed expansion will not have a negative impact on property values, and would maintain the general character and trend of Melrose Township development. The project includes removal of a lakeside deck which will increase the waterfront setback.
4. Does the variance relate only to property under control of the applicant? Yes.
5. Does the variance affect only property subject to exceptional or extraordinary circumstances or conditions that do not generally apply to other property or uses in the

vicinity? The Board finds that the house was built prior to zoning and has a "U" shaped opening facing the road.

6. The proposed project meets the above 5 criteria in Section 12.4 C for a variance.
7. Granting the variance would observe the Spirit of the Ordinance and provide for substantial justice.

Due to the findings of fact as stated above, Dave Beier moved to approve James Smith and Nora Doherty's Variance Application for an addition and "fill in" of a "U" shaped area on the non-lake side of the structure with a two-story addition and the removal of the entire lakeside deck on a non-conforming structure at 01859 Fort Wayne Camp (Property ID # 15-010-017-012-00).

This approval is based upon:

- 1. Zoning Variance Application signed by James Smith and Nora Doherty on 12-19-17;***
- 2. Certificate of Survey, Advanced Geometrics, dated July 30, 2014;***
- 3. Elevations, un-named drawing, and Second level floor Plan, Smith/Doherty Cottage, by Gary Nance Design, dated 10/27/17; and***
- 4. The lakeside deck is to be removed before any other construction.***

Bart Wangeman seconded the motion. 4 AYES, 0 NAYS, MOTION PASSED

- VI. Other Matters to be Reviewed by the ZBA:** The question of "Exceptional or Extraordinary" situations has not yet been researched.
- VII. Communications and Correspondence received:** Training for ZBA members, "The ABCs of ZBAs", will be offered in Gaylord on March 27
- VIII. Zoning Board of Appeals Members:** none
- IX. Report of Planning Commission Representative:** Bart discussed the concept of less minimum acreage for some Ag zoned properties. The PC is seeking more input. Two commissioner supported the concept.
- X. Citizen Comments:** None
- XI. Next Meeting:** Scheduled for Wednesday, March 28, 2018 at 5:00 PM. Other Future meetings will be held at 6 pm.
- XII. Adjournment:** At 9:05 PM.

Acting Recording Secretary: Randy Frykberg _____

ZBA Secretary: Todd Reeves _____