

Elk Rapids Township Zoning Board of Appeals

Meeting Minutes – Tuesday, December 12, 2023 – **Approved**

The meeting of the Elk Rapids Township Zoning Board of Appeals was called to order at 3:00 PM at the Government Center, 315 Bridge St., Elk Rapids MI 49629.

Roll Call/Present: Julia Pollister Amos, Bob McCririe, Vince Cooper, Zach Amos, Lisa Lundy, and Dick Hults.

(Quorum Established)

Absent: John Conrad.

Also Present: Larry Nix, Township Zoning Administrator.

Audience: Applicants Janet Fairley, Bill Rich, and Conrad Reiter. Also attending, Mary Lou Nagy, Graham Martin, Len Harrett, Steve Gallagher, Dennis Spillane, Nicky Tobin, Jim Braun and John C. Bourta.

Statement of any conflicts of interest: None.

Adoption of Agenda: Motion to adopt the December 12, 2023 meeting agenda.

Motion: Pollister Amos

Support: Lundy

MOTION CARRIED

Approval of Minutes: Motion to approve the September 12, 2023 meeting minutes.

Motion: Pollister Amos

Support: Hults

MOTION CARRIED

Public Forum: None.

Public Hearing on ZBA-149: Berton (Bill) Rich of 8684 N. Bayshore Drive is requesting consideration of a variance to expand the volume of the existing house with the construction of a 12'-6"x 57'-6" second level addition over the existing house. There will be no expansion of the footprint of the existing house. The existing house and lot are not compliant with the zoning requirements. The request is for a volume expansion variance over the existing house. They are also requesting a 4'-6"x 12' of addition first floor living space and 42 square feet of deck to create a main entry to the house and they are also requesting a 20'x12'-6" balcony (deck) off the second level toward the lake. The roadside improvement will require a 50' front yard (street side) variance from the 50' front yard setback requirement and the second level balcony (deck) will require a 25' variance from the 50' waterside setback requirement from the lake. In total there are three variances requested by the applicants: Volume expansion, main entry addition, and second level balcony.

The applicant/representative speaks on this request. Applicant and property owner Bill Rich addressed the Board with his request to add to his non-conforming structure a second

floor, adding 630 square feet. Moving a front entrance and adding a porch, adding a second story deck is also in his variance request. The applicant cited the special circumstances and feels like his request would be in alignment and bring value to the neighborhood. Mr. Rich stated he has talked to neighbors that support the variance.

Committee Members ask applicant/representative questions:

- Dick Hults inquired if Mr. Rich was adding any bedrooms, which Mr. Rich clarified he is reducing the home from a 3 bedroom to a 2 bedroom. Also addressed was the septic system. Mr. Rich has submitted the construction plans to the Health Department and doesn't see any issues arising but will know next week.
- Julia Pollister-Amos inquired as to the location of the septic, which is between the house and the bay. She also asked how much footage was available between the house and the bay which is between 30.91 feet and 42.76 feet according to the applicant.
- Hults asked Mr. Rich if it was correct his garage was in the existing right of way as shown according to the drawings. Mr. Rich is aware of that since he has had a formal survey to assist in his variance request but did not have that information when he purchased the home.

Members of the public in attendance who want to speak in favor of this request. None.

Members of the public who want to speak in opposition to this request. None.

Written Communications from the public on this request.

- Julia Pollister Amos read a letter from North Bayshore resident Graham Martin, retired architect, referencing ZBA 149 and ZBA 150, expressing his concern on the traffic issues, septic systems, and setbacks. He was not in support of the variances getting approved.
- Email read by Larry Nix from Michael and Tracy Aulicino of 8696 North Bayshore Drive, stating they support the approval of the variance. They feel it would bring the home more aesthetically in line with the existing homes in the area.

Committee members make their decision on this request.

- Hults commented there are a number of non-compliance issues involved with the requests and McCririe agrees. Pollister Amos feels the property is too small and was supported by Amos. Lundy feels like the owner should have researched the property prior to the purchase to understand the non-conforming issues involved.

Motion to Deny Variance Request:

Motion: Pollister Amos

Support: Lundy

Motion to Deny

Based on the following reasons, I, Julia Pollister Amos moves, and Lisa Lundy supports denying the three variances requested by Berton Rich, 8684 N. Bayshore Drive, Elk Rapids, Michigan, Tax Parcel 05-06-350-010-00.

Reasons:

1. This parcel is small and contains a habitable dwelling as exists.
2. There are no special circumstances of the property that warrant variances for this property.
3. The subject property enjoys the same rights as other properties in the neighborhood.
4. There are no special circumstances or conditions that exist on the property that prohibit a reasonable enjoyment of the property.

Roll Call Vote: **Hults, Amos, Lundy, McCririe, Pollister Amos - YES**
 Cooper - NO
 5 VOTING YES - 1 VOTING NO
 (Conrad is absent)

MOTION TO DENY VARIANCE REQUEST CARRIED.

Public Hearing on ZBA-150: Janet Fairley of 8128 N. Bayshore Drive is requesting consideration of a variance to expand the existing house with the construction of a 16'x15' kitchen area on the south side of the house, a 22'x12' master bedroom on the north side of the house plus a second level addition over the north third of the house measuring 22'x22'. The front face of the existing house is at the N. Bayshore Drive property line and the additions are proposed to be parallel with the existing house. The existing house and lot are not compliant with the zoning requirements. This will require a 50' front yard (street side) variance from the 50' front yard setback requirement and a volume expansion variance for the second-floor expansion.

The applicant/representative speaks on this request. Applicant Janet Fairley and owner would like to make the existing building into a family cottage rather than the vacation size home it is currently. The owner's architect also spoke mentioning the desired requests of enlarging the kitchen, adding a master bedroom, and second level addition. The variances he feels would make it a more up to date living space for a family.

Committee Members ask applicant/representative questions:

- Hults inquired about the drawing which shows a porch over the County Right of Way. The architect mentioned the County is going to review that issue, citing that they are also considering a removeable structure in the Right of Way, that could be moved if needed. Upon discussion it was noted that the applicant also owns a 2 acre parcel across the road.
- A question was asked regarding tree removal that would be needed to create the expansion, possibly affecting the soil retention of the root system along the shoreline.

Members of the public in attendance who want to speak in favor of this request. None.

Members of the public who want to speak in opposition to this request.

- Jim Braun, neighbor to the North, expressed concern of the parking issues, removal of trees and root systems. The current septic system would also not be adequate for

the expansion and would need updating. Braun mentioned the existing property owners should not have to be penalized for an individual that purchased a home that does not fit their current needs. Mr. Nix explained to the audience and Board, the existing deck does encroach into the setback of the property but is within the owner's lot.

- Nicky Tobin lived at this home while her mother was attempting to build on the property to the North. Her mother's request was denied building on the water side due to erosion. She wanted to remind the Board of the history of the area.

Written Communications from the public on this request.

- Julia Pollister Amos mentioned the previous letter from Martin Graham which was not in support of ZBA 150. She also read a letter that was received from Alan Yahanda and Pamela Thomas, neighbors to the immediate South of the Fairley property. This letter stated their concerns regarding the safety issues the variance would create, and adding to the already non-conforming structure would set precedent for future zoning requests.

Committee members make their decision on this request.

- Hults inquired about footings with the architect and seemed satisfied with his answer.
- Pollister Amos suggested too small of property near the right of way and was supported by Bob McCririe with the non-compliance of the property.
- Lundy mentioned she experienced the traffic issue with the parking at the property when she went to view the parcel.
- Cooper expressed with the proximity of the building and available land across the road, he cannot support the request.

Motion to Deny Variance Request:

Motion: Pollister Amos

Support: McCririe

Motion to Deny

Based on the following reasons, I, Julia Pollister Amos moves, and Bob McCririe supports denying the two variances requested by Janet Fairley, 8128 N. Bayshore Drive, Elk Rapids, Michigan, Tax Parcel 0-06-016-007-00.

Reasons:

1. This parcel is very large and can accommodate a new dwelling that is compliant with all zoning requirements.
2. There are no special circumstances of the property that warrant variances for this property since the entire parcel contains 2.277 acres of land.
3. The subject property enjoys the same rights as other properties in the neighborhood.
4. There are no special circumstances or conditions that exist on the property that prohibit a reasonable enjoyment of the property.

**Roll Call Vote: Hults, Amos, Lundy, McCririe, Pollister Amos and
Cooper Yes
6 VOTING YES - 0 VOTING NO
(Conrad is absent)
MOTION TO DENY VARIANCE REQUEST CARRIED.**

Public Hearing on ZBA-151: Conrad and Adele Reiter of 6970 W. Harbor Drive are requesting a variance to construct an accessory building. The request is for a 5.0' variance from the side yard setback adjacent to the south property line property line for the construction of an 8'x12' detached accessory building. The south property line is a side yard, and the required setback is 10'. The request would provide a 5.0' side yard.

The applicant/representative speaks on this request: Conrad Reiter addressed the Board desiring to put up a small shed in the setback area of his property in order to make the structure less conspicuous.

Committee Members ask applicant/representative questions:

- A member of the Board asked if any trees would be removed. Mr. Reiter said no trees would be removed. He had the area staked out which the Board appreciated for the visual assessment.
- Mr. Reiter also mentioned the adjacent lot was an access and is not a lot that would be built on. It was also brought up that it will be on a foundation.

Members of the public in attendance who want to speak in favor of this request. None.

Members of the public who want to speak in opposition to this request. None.

Written Communications from the public on this request. None

Committee members make their decision on this request.

Motion to Approve Variance Request:

Motion: Pollister Amos

Support: Lundy

Based on the following reasons, I, Julia Pollister Amos moves, and Lisa Lundy supports granting approval of the variance to Conrad & Adele Reiter of 6970 W. Harbor Drive, Elk Rapids, Michigan. Tax parcel ID 05-06-400-001-00. The variance is 5' feet from the South property line to accommodate a 8' X 12' accessory building. This will result in a side yard setback for the accessory building of 5'.

Reasons:

1. There are limited locations on the lot for a small accessory building
2. There are other accessory buildings in the neighborhood located in wooded areas to screen them from the public view.

3. Due to environmental site limitations of woods and slope, there are limited locations for an accessory building.
4. There will be no negative impact on the neighborhood or adjacent property owners.

Roll Call Vote: **Hults, Amos, Lundy, McCririe, Pollister Amos and
Cooper Yes
6 VOTING YES - 0 VOTING NO
(Conrad is absent)**

MOTION TO ACCEPT VARIANCE REQUEST CARRIED.

Old Business: **None.**

New Business:

- Larry Nix mentioned the 2024 ZBA Meeting Schedule is posted on the website.

Communications: **None**

Member Discussion of topics not on the agenda: **None**

Motion to Adjourn: **Meeting Adjourned at 3:55 PM**

Motion: **Hults**

Support: **Lundy**

(Approved March 12, 2024 3:35 pm)