

Elk Rapids Township Zoning Board of Appeals

Meeting Minutes – Tuesday, April 12, 2022 – 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: John Conrad, Bob McCririe, Vince Cooper, Julia Pollister Amos, Zach Amos, and Lisa Lundy.
(Quorum Established)

Absent: Dick Hults.

Also Present: Larry Nix, Township Zoning Administrator.

Audience: Steve & Alison Gallagher, Diana & Larry Dragan, Patrick Dyke, John Arelant, Darryl & Maggie Antcliff.

Statement of any conflicts of interest: None.

Adoption of Agenda: Motion to adopt the April 12, 2022 meeting agenda.

Motion - Pollister Amos

Support - McCririe

MOTION CARRIED

Approval of Minutes: Motion to approve the March 8, 2022 meeting minutes.

Motion - McCririe

Support - Pollister Amos

MOTION CARRIED

Public Forum: None

Public Hearing on ZBA-139: Lawrence Dragan is requesting a front and rear yard variance on Tax Parcel 05-06-425-047-00 located at 6949 E. Harbor Drive to construct a dwelling. The front yard requires a 50' setback and the rear yard setback is 35'. Mr. Dragan is requesting a 15' front yard variance and a 25' rear yard variance.

The applicant/representative speaks on this request: Patrick Dyke, architectural designer and representative for Lawrence Dragan addressed the Zoning Board of Appeals. A summary of the discussion follows:

- Mr. Dyke distributed a new packet of information to the ZBA. This additional information gives a graphical representation on the buildable footprint of the applicant's lot.
- The Dragan's purchased this lot 26 years ago in hopes of building a retirement home.
- The applicant's designed a home very similar in size and shape to other homes in their neighborhood.

- Mr. Dyke and the Board discussed the angled lot line and the difference between it being a rear yard or side yard setback. Mr. Nix clarified that the Township Ordinance states if a lot faces the right-of-way, it is a front yard so the angled lot line is considered the front yard. The road right along US-31 was designed as a limited access roadway so the setback should be considered a rear yard. North property line is a side yard.
- Diana Dragan addressed the Board stating she loves this area, hopes to build a modest home, wants to retire here and be a part of this community.
- The Board asked about the stream running across the property. Mr. Dyke noted the small stream/drainage does not run across his client's property. It hits the very tip of the Dragan property and there are no plans to build anything close to this area.
- The Board asked where the septic field might be located. Mr. Dragan reported the lot was perked 26 years ago. It was noted the ground is 100% sand and it was recommended he place the septic field on the northeast side of the property which would be away from the existing stream/drainage easement.
- Applicants believe without the requested variances; this lot is unbuildable.
- To provide privacy and a buffer for their neighbors to the north, the Dragan's would like to salvage as many trees as possible.
- Mr. Dyke noted the Dragan's were forced to design a home with an attached garage vs a detached garage because the Township Ordinance requires the garage be built within the buildable footprint.
- Zoning Administrator Nix clarified that the ZBA is not a negotiating Board and does not suggest modifications. Any modifications to the existing variance application request would need to be made by the applicants.

Mr. Patrick Dyke asked the Board for a recess before closing the public hearing so he could have some time for discussion with the Dragan's. The ZBA postponed the public hearing until their return to the meeting.

Public Hearing on ZBA-140: Darryl & Margaret Antcliff are requesting three variances on Tax Parcel #05-06-425-013-00 located at 6756 Birchwood Drive, Kewadin, MI. The three variances requested are a part of this application. First is to replace the existing deck on the lake side of the house and to add a 4' wide ramp along the front of the deck to provide access to the lake. This will require a total variance of 14' for a lake side setback of 36'. Second is to extend the garage on the east side of the house 18' to accommodate interior remodeling and provide a safe space to access the home. This will result in an 8' setback from Birchwood Drive and require a total variance of 42' to accommodate the garage extension. This includes the variance granted previously. The third request is to replace existing stairs and platform along the south side of the home for accessibility and emergency purposes requiring a 5' variance. The required side yard setback is 10' and the required front yard setback is 50' as stated in Section 7.02.A & B of the Zoning Ordinance.

The applicant/representative speaks on this request: Darryl Antcliff addressed the Zoning Board of Appeals. A summary of the discussion follows:

- Mr. Antcliff stated the existing ramp on his home is currently 3' wide. He would like to enlarge the ramp to 4' wide overall, and expand it to 5' wide near the egress door which would allow him larger turning radius and the ability to open the door from his wheelchair.

- Mr. Antcliff further noted he was unable to follow through with the original variance granted to him by the ZBA in 2020 because the remodel was expensive and his insurance company would not approve the cost.
- Mr. Antcliff reported he now has insurance approval on the current design and cost of this remodel and he is ready to move forward.
- The Board discussed the garage remodel. It was noted the garage needs to be made bigger to accommodate Mr. Antcliff's van which has a ramp. A larger space will allow Mr. Antcliff more accessibility to find a safe pathway from the vehicle to the house. Expanding the garage will also allow a fire escape for Mr. Antcliff from the garage and his bedroom.
- The Board discussed the deck and ramp remodel. It was noted the footprint will not change the ramp. The deck will be 24" above grade.

Written communications from the public on this request. The Township received two communications regarding this request. Board member Julia Pollister Amos read the letters out loud at this meeting. The letters are entered into the record.

- 1) Anne E. Hatch – 6809 Birchwood Drive, Kewadin, MI (In Support)
- 2) M. Woody Wright – 7228 Williams Ct., Elk Rapids, MI (In Support)

Public Hearing Closed.

Committee Members make their decision on this request.

Motion to Approve Variance Request:

Motion - Pollister Amos

Support - McCririe

Based on the following reasons, Julia Pollister Amos moved to grant approval of three variances to Mr. Antcliff, 6756 Birchwood Drive, Kewadin, MI 49648, Tax Parcel 05-06-250-013-00. First variance is for 5 feet from the south property line resulting in a side yard setback of 5 feet from the south property line; a variance for 42 feet from the east property line resulting in a front yard setback of 8 feet from the east property line, and a variance of 14 feet from the Ordinary High-Water Mark of Birch Lake for a lakeside setback of 36 feet.

Reasons:

1. The existing lot is an undersized non-conforming lot.
2. The existing house will be maintained within the original dimensions of the variance granted in April 2008.
3. The new variance request involves improvements necessitated by ADA (American with Disabilities Act) requirements for safe and reasonable access into and out of a dwelling.
4. Mr. Antcliff did not choose to be confined in a wheelchair due to actions beyond his control.
5. There will be no negative impact to the neighborhood or adjacent property owners.

Roll Call Vote: Pollister Amos **YES**, McCririe **YES**, Cooper **YES**, Conrad **YES**, Z. Amos **YES**, and Lundy **YES**. **(6 Voting YES; 0 Voting NO)**.
(Dick Hults is Absent)

MOTION UNANIMOUSLY CARRIED

Public Hearing on ZBA-139 – Lawrence Dragan is re-opened:

After a brief recess Mr. Patrick Dyke addressed the Zoning Board of Appeals. A summary of this discussion follows:

- Mr. Dyke noted he is revising the original variance request as follows: Instead of the 25-foot rear yard variance request, the Dragan's request the Board to consider a 15-foot rear yard variance request. This will push the house 10 feet to the north.
- The Dragan's regret this revision will require them to remove more trees.

Board Responses:

- The Board agreed the Dragan's lot is a non-conforming lot.
- The Board discussed leaving the variance application as is without the new revision Mr. Dyke just proposed.
- After much discussion, the Dragan's stated they would like to go back to their original variance request believing the original request outlined the best use for their lot. Their original request would also allow them to keep more trees on their property.

Written communications from the public on this request. The Township received three communications regarding this request. Chairman John Conrad read the letters out loud at this meeting. The letters are entered into the record.

1. Matt VandeKerkhof – 6905 E. Harbor Drive, Elk Rapids MI (In Support)
2. Bridget Duritza – 6946 E. Harbor Drive Elk Rapids, MI (In Support)
3. Mike Konvinski & Cynthia Charbeneau – 6888 E. Harbor Drive, Elk Rapids, MI (In Support)

Members of the public who want to speak on this request:

- Mr. Steve Gallagher - 6931 W. Harbor Drive voiced his concern on how the the existing stream/drain located on the Dragan property might be impacted by the construction of a new home.
- Mr. Dyke reported no part of any building will be in the area of the draining stream.
- Dragan's confirmed they would like the Board to consider their original variance request.

MOTION TO APPROVE VARIANCE REQUEST:

Motion - McCririe

Support - Cooper

Based on the following reasons:

- 1) The existing building envelop contains a minimal depth for a reasonable sized Dwelling and many lots in the Inwood Harbor have been granted a front yard variance.
- 2) There have been other front yard variances granted in the subdivision under the same conditions.
- 3) The applicant did not create the lot in question that is causing the desire for these two variances.
- 4) There will be no negative impact to the neighborhood or adjacent property owners.

McCrie moved to approve the two variances requested by Mr. Dragan, 6949 E. Harbor Drive, Elk Rapids, MI 49629, Tax Parcel 05-06-425-047-00. First variance is for 15 feet from the west property line resulting in a front yard setback of 35 feet; and a rear yard variance of 25 feet from the southeast property line facing the US 31 right-of way that would permit a 10-foot year yard setback only for the southeast property line.

Roll Call Vote: Pollister Amos **NO**, McCrie **YES**, Cooper **YES**, Conrad **YES**, Z. Amos **NO**, and Lundy **NO**. (3 Voting YES; 3 Voting NO).
(Dick Hults is Absent)

TIE VOTE – NO DECISION – NO VOTE.

MOTION TO APPROVE MODIFIED VARIANCE REQUEST:

Motion - Pollister Amos

Support - Lundy

Julia Pollister Amos moved to approve the two variances requested by Mr. Dragan, 6949 E. Harbor Drive, Elk Rapids, MI 49629, Tax Parcel 05-06-425-047-00. First variance is for 15 feet from the west property line resulting in a front yard setback of 35 feet; and a rear yard variance of 15 feet from the southeast property line facing the US 31 right-of way that would permit a 20-foot rear yard setback only for the southeast property line.

Based on the following reasons:

- 1) The existing building envelop contains a minimal depth for a reasonable sized dwelling and many lots in the Inwood Harbor have been granted a front yard variance.
- 2) There have been other front yard variances granted in the subdivision under the same conditions.
- 3) The applicant did not create the lot in question that is causing the desire for these two variances.
- 4) There will be no negative impact to the neighborhood or adjacent property owners.

Roll Call Vote: Pollister Amos **YES**, McCrie **YES**, Cooper **YES**, Conrad **YES**, Z. Amos **YES**, and Lundy **YES**. (6 Voting YES; 0 Voting NO).
(Dick Hults is Absent)

MOTION UNANIMOUSLY CARRIED TO APPROVE MODIFIED VARIANCE REQUEST.

Old Business: None

New Business: Julia Pollister Amos asked the ZBA to think about and consider adding an alternate to the Board.

Communications: Zoning Administrator Nix reported he has a variance request for the Board to consider at the next meeting on May 10, 2022.

Training Session Member Discussion:

It was noted that four members of the ZBA attended the Zoning Board of Appeals Training offered by MAP and hosted at Torch Lake Township last month. The attendees found the training very interesting and informative.

Motion to Adjourn:

Meeting Adjourned at 4:30 PM

Motion - Cooper

Support - Lundy

(Meeting Minutes Approved 5/10/2022)