

# Elk Rapids Township Zoning Board of Appeals

## Meeting Minutes – Tuesday, July 9, 2024 – 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, John Conrad, Vince Cooper, Lisa Lundy, and Dick Hults.

*(Quorum Established)*

**Absent:** Zach Amos.

**Also Present:** Larry Nix, Township Zoning Administrator.

**Audience:** Applicants Leandra and Nathan Eggers, Patrick Dowling, Jay Merchant.

**Statement of any conflicts of interest:** Bob McCririe stated his son worked on the plans for the variance as a designer for Merchant Builders. McCririe also commented that he does not have any financial interest in the project. The Board voted on allowing Bob McCririe being able to make an impartial decision on the project because of no financial interest.

**Motion: Julia Pollister Amos** Motion to permit Mr. McCririe to participate and vote on the variance application.

**Support John Conrad**

**MOTION CARRIED**

**Adoption of Agenda:** Motion to adopt the July 9, 2024 meeting agenda.

**Motion: McCririe**

**Support: Lundy**

**MOTION CARRIED**

**Approval of Minutes:** Motion to approve the April 9, 2024 minutes.

**Motion: McCririe**

**Support: Lundy**

**MOTION CARRIED**

**Public Forum:** None.

### Public Hearing on ZBA-154:

Mr. Nix read the public hearing announcement and reviewed his report. Following is the content of the report.

Nathan & Leandra Eggers purchased the property located at 14552 Williams Drive, Elk Rapids, Michigan December 2023. (Tax Parcel Number 05-06-175-005-00) This lot contains approximately 4,600 square feet in area measuring 50x92. The existing cottage on the lot was constructed in 1945 according to County records and the Township has not issued a Zoning Permit for improvements. The footprint of the cottage is approximately a 26' square and is parallel to Williams Drive as most dwellings are in this area of Williams Drive. The lot is a nonconforming lot by virtue of its size. The front and rear setbacks overlap on the lot

leaving no room to construct a home. There is an existing well on the Williams Drive side of the lot and sewer service is the public system serving Birch Lake.

The applicants desire to remove the existing one story dwelling as it is in poor condition and construct a new two story dwelling with a footprint of 30x36. The location of the new dwelling is basically in the same location as the existing dwelling. They also desire to remove the existing shed which is partly in the Williams Drive right-of-way and construct a new shed of the same size in the front yard. The shed and dwelling require yard variances as follows:

**House:** Front yard (Williams Dr) Proposed Setback 20'-6" Required Setback 50'-0"  
Variance of 29'-6"

**House:** Water Side Yard Proposed Setback 37'-4" Required Setback 50'-0" Variance of 12'-8"

**House:** East Side Yard Proposed Setback 9'-6" Required Setback 10'-0" Variance of 0'-6"

**House:** West Side Yard Proposed Setback 1'-3" Required Setback 10'-0" Variance of 8'-9"

**Shed:** Front yard (Williams Dr.) Proposed Setback 11'-3" Required Setback 50'-0"  
Variance of 38'-9"

The site plan submitted illustrates the waterside setbacks as measured from the Intermediate Traverse Line as opposed to the water's edge as permitted. This increases the waterside setback from 30'-4" to 37'-4". All setbacks and variances have been measured from the roof overhang as required by the Zoning Ordinance. The waterside patio will be constructed at ground level and will not be elevated. This patio is proposed beyond the 25' lakeside protection zone as required by the Zoning Ordinance. The overall location of the dwelling on the lot is consistent with adjacent dwellings and provides approximately 20' of separation from the adjacent dwellings. The existing 8x8 shed is proposed to be demolished and a new 8x8 shed will be constructed 11'-3" from the Williams Drive right-of-way (ROW) line and will meet the 10' side yard setback requirement. The existing shed encroaches approximately 2' into the Williams Drive ROW.

My research of previous variances in this area of Williams Drive finds numerous front and side yard variances granted by the ZBA. The location of the proposed new dwelling and shed will be in keeping with adjacent and nearby homes in the area.

In consideration of the variance request by the Eggers family, there seems to be justification for granting relief from the setback standards found in Section 7.02, yard setbacks. The size of the lot, and the previous actions of the ZBA to accommodate a reasonable setback along this section of Williams Drive and the siting of a new dwelling need to be considered. Following are the zoning ordinance criteria for consideration of a variance.

#### **Section 18.06 - VARIANCES**

**No variance in the provisions or requirements of this Ordinance shall be authorized by the Zoning Board of Appeals unless the Zoning Board of Appeals makes**

findings, based upon competent, material and substantial evidence on the whole record, and meets the following standards:

- A. Special conditions or circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zone.
- B. Literal interpretation of the provisions of this Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zone under the terms of this Ordinance.
- C. The special conditions or circumstances do not result from the actions of the applicant.
- D. The authorizing of such variance will not be of substantial detriment to the neighboring property and will not be contrary to the spirit and purpose of this Ordinance.

**The applicant/representative speaks on this request.** General Contractor Jay Merchant addressed the Board describing that because of the condition of the building a remodel wasn't considered, and a new construction of a two bedroom home would be desired. Because of the variance issues, staying as close to the original footprint was attempted.

**Committee Members ask applicant/representative questions:** Pollister-Amos inquired about trees and was told at this time they would not be taken down. Chair Conrad addressed the flood plain and water runoff. Merchant assured the Board the building would be put on a slab on grade and avoid any issue of the flood plain and water runoff. Pollister Amos asked about the angle of the home and it was determined it was aligned with the homes on the adjacent properties.

**Members of the public in attendance who want to speak in favor of this request.** Pat Dowling from 14554 Williams Drive commented he is in favor of the request but is concerned about the water mitigation.

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

**Written Communications from the public on this request.** Larry said a neighbor Robert Lundy had inquired and reviewed the plans and had no concerns.

**Board opens discussion regarding ZBA -154**

**Committee members make their decision on this request.**

Based on the following reasons, Julia Pollister Amos moves and Richard Hults supports granting approval of variances to Nathan & Leandra Eggers 14552 Williams Drive, Elk Rapids, Michigan Elk Rapids, Michigan, Tax Parcel 05-06-175-005-00. The variances are as follows:

**House:** Front yard (Williams Dr) Proposed Setback 20'-6" Required Setback 50'-0"  
Variance of 29'-6"

**House:** Water Side Yard Proposed Setback 37'-4" Required Setback 50'-0" Variance  
of 12'-8"

**House:** East Side Yard Proposed Setback 9'-6" Required Setback 10'-0" Variance of  
0'-6"

**House:** West Side Yard Proposed Setback 1'-3" Required Setback 10'-0" Variance of  
8'-9"

**Shed:** Front yard (Williams Dr.) Proposed Setback 11'-3" Required Setback  
50'-0" Variance of 38'-9"

**Reasons:**

1. The existing lot is an undersized non-conforming lot.
2. There have been a variety of front and side yard variances granted along Williams Drive.
3. There has been no action by the applicant to cause the need for this variance as the lot was created long before the zoning regulations were created.
4. There will be no negative impact on the neighborhood or adjacent property owners.
5. There will not be substantial detriment to the neighboring property and will not be contrary to the spirit and purpose of this Ordinance with the proposed second level.

**Motion to Approve Variance Request:**

**Motion:** Pollister Amos

**Support:** Hults

**Roll Call Vote:** J. Pollister Amos – Yes  
J. Conrad - Yes  
V. Cooper – Yes  
L. Lundy – Yes  
D. Hults – Yes  
B. McCririe Yes

**6 VOTING YES**  
(Z. Amos is absent)

**MOTION TO APPROVE VARIANCE REQUEST CARRIED.**

**Old Business:** None.

**New Business:** Administrator Nix has communication for Williams Court for the August 13<sup>th</sup> meeting. They will be asking for a variance for a deck.

**Communications:** None.

**Member Discussion of topics not on the agenda:** Pollister Amos presented the idea requesting the Planning Commission to review the zoning regulations for the Birch Lake area considering the non-conforming lots and variances granted over the past 30 years. The ZBA agrees that the majority of the variances presented to them are in that area, and history shows they are usually approved. Nix commented it would be very hard to deny future requests unless there are issues such as fire setbacks that are infringed. A change in the zoning regulations could save time and money for all involved and provide consistent zoning regulations for lots adjacent to Birch Lake.

**Motion      Request the Planning Commission to study the repetitive variances requested on lots adjacent to Birch Lake, and bring it to the attention of the Township Board.**

**Motion      McCririe**  
**Support      Pollister Amos**

**Motion to Adjourn:      Meeting Adjourned at 3:45 PM**  
**Motion: Cooper**  
**Support: Lundy**

*(Approved August 13, 2024 3:05 pm)*