

# Elk Rapids Township Zoning Board of Appeals

## Meeting Minutes – Tuesday, June 9, 2020

The meeting of the Elk Rapids Township Zoning Board of Appeals was called to order at 3:01 PM at the Government Center, 315 Bridge St., Elk Rapids MI 49629.

**Roll Call/Present:** Julia Pollister Amos, Bob McCrie, John Conrad, Marshall Wright, Zach Amos, Vincent Cooper, and Dick Hults. **(Quorum Established)**

**Absent:** None.

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

**Audience:** Laura and Warren Sheppard (*Speaking on behalf of applicant Dennis Lynn Surber*)

**Statement of any conflicts of interest:** None.

**Adoption of Agenda:** Motion to adopt the June 9, 2020 meeting agenda.  
**Motion/S – Wright/Hults** **MOTION CARRIED**

**Approval of Minutes:** Motion to approve the April 14, 2020 meeting minutes.  
**Motion/S – McCrie/Conrad** **MOTION CARRIED**

**Public Forum:** None

**Public Hearing on ZBA-135:** Dennis Lynn Surber, owner of parcel 05-06-425-014-00 located at 6706 E. Harbor Drive, Elk Rapids, MI has requested two variances. The first one is for a front yard variance from the required 50-foot setback to 42 feet which is a variance of 8 feet. The second is for a variance from the required maximum hard surface lot coverage maximum of 30% (4,500 square feet) to 32% which is a variance of an additional 2% (an additional 330 square feet).

**The applicant/representative speaks on this request:** Laura and Warren Sheppard (brother & sister in law to Dennis Lynn Surber), addressed the Zoning Board of Appeals. A summary of the discussion follows:

- Laura Sheppard noted that Mr. Surber was in transition from the hospital and could not attend this meeting. The Sheppard's have Durable Power of Attorney for Mr. Surber.
- Ms. Sheppard noted a typo on page 3 of the Notice of Appeal. Item #3 should read 20,000 sq. ft. not 2,000 sq. ft. This correction was noted into the record.
- Ms. Sheppard referenced their request for the two variances. The members confirmed the request had been received and read.

- Ms. Sheppard noted the purpose of the variance requests would make their life easier, provide safety, and would accommodate a handicap ramp inside their garage which would allow for easier maneuvering and accessibility of a wheel chair. The garage will also provide weather protection and give them the space they need.

**Committee Members ask applicant/representative questions:**

- Garage Size: The Sheppard's noted because of the indoor ramp and need to accommodate two large vehicles as well as some storage space, a larger garage was needed. The exact length of the vehicles was undetermined.
- The members question why the 8' platform was needed. Ms. Sheppard responded noting that her brother has difficulty walking and lifting his feet. The extra space would be greatly beneficial, and she believed 8 ft would be the desirable amount of space to rotate and access a wheelchair safely.
- There was much discussion as to why these plans weren't considered when the home was built. Mr. & Mrs. Sheppard explained when they bought the property and had the home built, they believed they were in compliance. However, they were given inaccurate setback information from Inwood Harbor. The Inwood Harbor Plat indicated they could build their home 35' from the water. They later found out that the Township required a 50' setback from the water. At this point in time, the house was already built and it was too late to make changes.
- The Sheppard's also noted they purposely designed and built the house to be one level. They anticipated physical issues in the future, and did not want to build a multi-level home with stairs which would ultimately present physical challenges in the future.
- The Board members discussed and proposed a number of other options and alternatives for the applicant and the Sheppard's to consider:
  - Redesign or reduce the size of the ramp and platform.
  - Narrow or reduce the size of the driveway.
  - Consider using gravel or pavers instead of cement.
  - Install the ramp outside of the home vs inside.
  - Incorporate a natural landscape ramp.
  - Utilize an overhang off the home to provide weather protection.
  - Build up instead of out.
  - Consider a smaller garage and adding two doors.
  - Consider elevation of the garage.

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

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

**Written communications from the public on this request.** Chairperson Julia Amos read each of the following letters/comments out loud at this meeting. All letters are entered into the record. A copy of the letters were provided to the members.

- 1) Barbara Filipowski, Property Owner - **(Dated: May 27, 2020 - In opposition)**
- 2) Barbara Filipowski Page 2 - Additional Comments were also read out loud and entered into the record per her request. **(Dated: May 27, 2020)**
- 3) Justin & Jacqueline Wolgamott – 6729 Harbor Drive **(Dated: May 22, 2020 – In Support).**
- 4) Tom Reed, President, Inwood Harbor Property Owner Association **(Dated: May 5, 2020 – In support).**

Chairperson Julia Amos reported that she had personally contacted Tom Reed, President of the Inwood Harbor Property Association asking him if *“the subdivision rights indicated all property owners must agree on any variances”* as quoted in Ms. Filipowski’s letter. Mr. Reed responded he had checked the Bylaws and to his knowledge, there is no such agreement on file.

Chairperson Amos also reported that she had contacted the Township attorney, Mr. William Derman regarding Ms. Filipowski’s letter and additional comments. Mr. Derman acknowledged receipt of Barbara Filipowski’s objection(s) and responded: *“Private subdivision restrictions cannot be enforced by Elk Rapids Township. It is up to the specific subdivision association and/or any concerned lot owner(s) to enforce any such restrictions”*. (Mr. Derman’s note was read out loud at this meeting and entered into the record).

- In response to the above letters, Laura Sheppard noted that the garage they are building is not for a business. They simply want to store two vehicles inside and would like extra room for tools, storage, a possible golf cart, and eliminate the need for outdoor storage.
- Ms. Sheppard also responded the cost of making these changes is an issue and has to be considered.
- Ms. Sheppard also noted that she shared the plans with her neighbors and none of them had any problem with the changes they proposed.  
(Reference: Page 8 - Notice of Appeal - 13 signatures dated 5/2/2020).

**MOTION TO APPROVE:**

**M/S Wright/Hults:**

**Motion to grant approval of the variance for Mr. Surber, 6707 E. Harbor Drive, Elk Rapids, Michigan 49629, Tax Parcel 05-06-425-014-00, for 4 feet from the East property line resulting in a setback of 46 feet from the ROW line of E. Harbor Drive, based on the following reasons:**

1. The existing lot is an undersized non-conforming lot.
2. There have been other front yard variances granted in the subdivision.
3. The applicant did not create the lot in question that is causing the desire for this variance.
4. There will be no negative impact to the neighborhood or adjacent

property owners.

**Roll Call Vote: Conrad, Hults, McCririe, Wright, and Z. Amos, and all voting YES. Cooper and Julia Pollister Amos voting NO.  
(5 Voting YES; 2 Voting NO)**

**MOTION APPROVED.**

**MOTION TO DENY:  
M/S Wright/Conrad:**

**Motion to deny the lot coverage variance requested by Mr. Surber, 6706 E. Harbor Drive, Elk Rapids, Michigan 49629, Tax Parcel 05-06-425-014-00, based on the following reasons:**

1. Mr. Surber had full knowledge of the Zoning Ordinance regulations prior to the purchase of the property. He and/or his representative had many conversations with the Township Zoning Administrator prior to the purchase regarding lot regulations.
2. There are no special conditions or circumstances 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.
3. The literal interpretation of the provisions of this Ordinance would not deprive the applicant of property rights commonly enjoyed by other properties in the same zone under the terms of this Ordinance if the variances were not granted.
4. There is sufficient space between the existing house and the front yard setback to construct an attached garage to accommodate a reasonable sized garage consistent with other garages in the neighborhood.

**Roll Call Vote: Conrad, Cooper, Hults, McCririe, Wright, Z. Amos, and Julia Pollister Amos all voting YES.  
(7 Voting YES; 0 Voting NO)**

**MOTION APPROVED TO DENY.**

**Old Business:**

- ZBA Training - East Bay Township scheduled for June 11 via ZOOM.
- Chairperson Amos reported she had discussed the possibility of ZBA members attending meetings via telephone attendance with Township Attorney Bill Derman. It was determined it would be extremely difficult to implement this type of attendance at this point in time.

**New Business: None.**

**Communications:**

- Zoning Administrator Nix reported he has not received any requests or applications. Therefore, no meeting is scheduled for July.
- Mr. Nix provided each member with a Municipal League ZBA handbook for informational and educational purposes. Mr. Nix encouraged the members to review this information and contact him if they had any questions.
- Chairperson Amos asked the ZBA members if they thought the board needed alternates. All members agreed alternates were not necessary at this time.

**Adjourn:** Meeting Adjourned at 4:17 PM

*(Meeting Minutes Approved 8-11-20)*