

**PENTWATER TOWNSHIP
500 N. HANCOCK ST.
P.O. BOX 512
PENTWATER, MICHIGAN 49449**

**Zoning Board of Appeals Meeting
April 22, 2021 In-Person
7:00 P.M.**

CALL TO ORDER

Jean Russell called the meeting to order at 7:08 pm.

ROLL CALL

Jean Russell	Present
Randy Hepworth	Present
Mike Flynn	Present
Terry Cluchey	Absent
Glenn Beavis	Present

Keith Edwards the Zoning Administrator was present during the meeting.

APPROVAL OF MINUTES

Randy Hepworth made a motion to approve the minutes of March 18, 2021 as written, and Mike Flynn seconded. All ayes and the minutes were approved.

APPROVAL OF THE AGENDA

Mike Flynn moved to approve the agenda, and Randy Hepworth seconded. All Ayes and the agenda was approved.

OLD BUSINESS – None

NEW BUSINESS

- 7a.** Shoreline Development Assistance, a representative of the owners of 5437 N. Ridge Road., Property ID No. 64-001-586-001-00, Lots 1 &2 of Block 6 of the Pleasant Beach Resort Plat, are requesting two variances for the construction of a new home.
- a. A six and one-half (6.5) foot variance for the side setback of a new home, where Section 6.04.E of the Pentwater Township Zoning Ordinance requires a minimum of ten (10) feet. If approved, the home would be within three and one-half (3.5) feet of the south property line.
 - b. A twenty (20) foot variance for the required setback from a stream. Section 3.31, paragraph A, subparagraph 2 requires a thirty (30) foot setback from a lake, river or stream. If approved, the home would be within ten (10) feet of the southern bank of the stream.

Chairperson Jean Russell opened the public hearing at 7:33 pm and asked for comments from the public. Per Keith Edwards, Zoning Administrator, he no written responses. Sherry and Alexander Duncanson, neighbors at 5467 Ridge Road, came to the meeting to support the variance requests.

Steve DeBrabander from Shoreline Development Assistance and the property owners, Mark & Joelle Vandervelde presented their information regarding their requests, including the permit from the Michigan Department of Environment, Great Lakes and Energy for the new home in the location shown on the site plan received.

Public hearing closed at 7:55 pm.

Jean Russell asked for a voice vote from the ZBA members on each of the following Review Standards for variances in Section 18.08 of the Zoning Ordinance, based on the request of a 6.5 ft. variance from the 10 feet required to the side yard setback adjacent to the south property line.

1. **First Standard – Practical Difficulty.** The existing site topography adjacent to a high-risk erosion area along Lake Michigan, and stream that bisects the property from east to west have reduced the buildable area to the south side of the stream, where critical dunes and a wooded area protecting the dunes exist on the north side of the stream.

VOTE: 4 Yes, 0 no – vote passes.

2. **Second Standard – Special or Unusual Circumstances.** The circumstances creating the need for the variance are peculiar to the land, and building area involved and are not recurrent or applicable to a sufficient number of other lands, structures or buildings in the same zoning district.

VOTE: 4 yes, 0 no – vote passes.

3. **Third Standard – Substantial Justice.** The Zoning Board of Appeals finds that strict application of the ordinance provisions would deprive the applicant of property rights that are commonly enjoyed by other properties in the same zoning district.

VOTE: 4 yes, 0 no – vote passes.

4. **Fourth Standard – Protecting Neighborhood Properties.** The Zoning Board of Appeals finds that the request will not generate substantial detriment or harm to other lands and uses, nor is the request contrary to the spirit and purpose of the Zoning Ordinance Regulations.

VOTE: 4 yes, 0 no – vote passes.

5. **Fifth Standard – Not Self-Created.** the Zoning Board of Appeals determines that the applicant or the applicant’s representatives were not involved in any action or inaction with respect to the property, prior to the variance request, where such action or inaction created the circumstances which prompts the variance request.

VOTE: 3 yes, 1 no (Beavis) - vote passes.

6. **Sixth Standard – Minimum Variance Necessary.** After review of the site plan submitted and the permit issued by the Michigan Department of Environment, Great Lakes and Energy (EGLE) The Zoning Board of Appeals finds the applicant is requesting the minimum variance necessary from current Zoning Ordinance provisions to afford the applicant the relief created by the requested variance.

VOTE: 4 yes, 0 no – vote passes.

7. **Seventh Standard – Voting.** Hepworth moved to grant a 6.5 ft. variance from the side setback of 10 feet required along the south property line.

VOTE: 4 yes, 0 no – Motion Passes.

Jean Russell asked for a voice vote from the ZBA members on each of the following Review Standards for variances in Section 18.08 of the Zoning Ordinance, based on the request of a 20 ft. variance from the 30 feet required waterfront setback to the existing stream.

1. **First Standard – Practical Difficulty.** The existing site topography adjacent to a high-risk erosion area along Lake Michigan include the mouth of an unmapped stream that bisects the property from east to west. The existence of the unmapped stream have reduced the buildable area of the property to the south side of the stream, where critical dunes and a wooded area protecting the dunes exist on the north side of the stream.

VOTE: 4 Yes, 0 no – vote passes.

2. **Second Standard – Special or Unusual Circumstances.** The circumstances creating the need for the variance are peculiar to the land, and building area involved and are not recurrent or applicable to a sufficient number of other lands, structures or buildings in the same zoning district.

VOTE: 4 yes, 0 no – vote passes.

3. **Third Standard – Substantial Justice.** The Zoning Board of Appeals finds that strict application of the ordinance provisions would deprive the applicant of property rights that are commonly enjoyed by other properties in the same zoning district. It is unusual that the stream bisects the property instead of the property sharing a property line with the stream.

VOTE: 4 yes, 0 no – vote passes.

4. **Fourth Standard – Protecting Neighborhood Properties.** The Zoning Board of Appeals finds that the request will not generate substantial detriment or harm to other lands and uses, nor is the request contrary to the spirit and purpose of the Zoning Ordinance Regulations.

VOTE: 4 yes, 0 no – vote passes.

5. **Fifth Standard – Not Self-Created.** Since the proposal is to replace an existing building in nearly the same location, the Zoning Board of Appeals determines that the applicant or the applicant's representatives were not involved in any action or inaction with respect to the property, prior to the variance request, where such action or inaction created the circumstances which prompts the variance request.

VOTE: 3 yes, 1 no (Beavis) - vote passes.

6. **Sixth Standard – Minimum Variance Necessary.** After review of the site plan submitted and the permit issued by the Michigan Department of Environment, Great Lakes and Energy (EGLE) The Zoning Board of Appeals finds the

applicant is requesting the minimum variance necessary from current Zoning Ordinance provisions to afford the applicant the relief created by the requested variance.

VOTE: 4 yes, 0 no – vote passes.

7. **Seventh Standard – Voting.** Hepworth moved to grant a 20 ft. variance from the waterfront setback of 30 feet required to allow for a 10 ft. building setback adjacent to the stream.

VOTE: 4 yes, 0 no – Motion Passes.

PUBLIC COMMENTS – Steve DeBrabander of Shoreline Development Assistance spoke favorably regarding working with Zoning Administrator Keith Edwards.

ADJOURNMENT – Mike Flynn moved to adjourn the meeting at 8:25 pm. Randy Hepworth seconded. All Ayes and the motion to adjourn was approved.

Respectfully submitted by,

Keith Edwards, Zoning Administrator

April 29, 2021

Approved by the Zoning Board of Appeals on June 3, 2021.

Terry Cluchey, Secretary