

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

Zoning Board of Appeals Meeting
October 22 and 25, 2024 - 7:00 P.M.

CALL TO ORDER

Vice Chairperson Randy Hepworth called the meeting to order at 7:02 pm.

ROLL CALL

Jean Russell	Present
Randy Hepworth	Present
Mike Flynn	Present
Terry Cluchey	Present
Mark Trierweiler	Absent
Jeff Wrisley – alternate	Present

Keith Edwards the Zoning Administrator was present during the meeting.

APPROVAL OF THE AGENDA

Jeff Wrisley moved to approve the agenda of October 22, 2024, and Mike Flynn seconded. All ayes and the agenda was approved.

APPROVAL OF MINUTES

Randy Hepworth made a motion to approve the minutes of June 2, 2024 as written, and Jean Russell seconded. All ayes and the minutes of June 2, 2024 were approved.

OLD BUSINESS – None

NEW BUSINESS

A. 8513 Perry Ave., Property ID #64-001-494-010-00, Lots 10, 11, 12 & 14 of Block 34 of the Pentwater Beach Addition No. 2 Plat.

Andrew Snyder, one of the owners of 8513 N. Perry Ave, Parcel ID NO. 64-001-494-010-00 (a.k.a. Lots 10, 11 12 & 14 of Block 34 of the Pentwater Beach Addition No. 2 Plat.), is requesting the following variance from the Pentwater Township Zoning Ordinance:

Section 3.11 Paragraph B, sub-paragraph 1a requires that a fence may not be located within any front setback unless such fence is a height of three (3) feet or less and of a type which is not more than fifty percent (50%) solid, so as not to obscure vision at the right-of-way or property line of the lot or parcel on which it is placed.

The applicant seeks to erect a six (6) fence within thirty (30) feet (the required front setback) of Ede Avenue and Perry Avenue upon lots 10, 11 and 12 of Block 34 of the Pentwater Beach Addition No. 2 Plat. Thus, a 3 ft variance in fence height is being requested.

Chairperson Jean Russell opened the public hearing at 7:09 pm and asked for comments from the public.

Zoning Administrator Keith Edwards stated that no comments from the public had previously been received by mail or email.

Susan Kreuter of 8503 N. Perry Ave. asked why more fence was needed on the property and what activities were anticipated when earth-moving equipment was seen on the property earlier this summer. Her preference is to preserve the natural condition of the dune area.

Andrew Snyder and Sara Tweedie replied that the fence was needed to contain the family's large dogs, and that earlier activity was in anticipation of putting in a driveway, but the work was not started.

Additional discussion took place between the applicant and ZBA in an attempt to explain the existing conditions of parking by the residents and guests of the Gilbert cottage, owned by the Kreuters and known as 8503 N. Perry Avenue. The applicant explained how the area, downhill of the home, was also used for their parking when contractors visited the home.

The applicants asked for a continuation of the public hearing and future decision by the ZBA until additional information was collected and presented to the ZBA. Hepworth moved to postpone continuation of the public hearing and meeting until Friday, October 25, 2024 at 7 pm, seconded by Wrisley. A roll call vote was taken.

VOTE: Yes = Wrisley, Cluchey, Trierweiler, and Hepworth. No = Zero.

On October 25, 2024, Chairperson Jean Russell reconvened the meeting at 7:00 pm.

Roll Call

Jean Russell	Present
Randy Hepworth	Present
Mike Flynn	Present
Terry Cluchey	Present
Mark Trierweiler	Absent
Jeff Wrisley – alternate	Present

Keith Edwards the Zoning Administrator was present during the meeting.

Public Hearing Continued

The applicant, Andrew Snyder presented some alternative for installing the fence, which included requiring the gates to open inward toward the property instead of out into the Perry Avenue right-of-way, or the Ede Avenue right-of-way.

Susan Kreuter was concerned for turning around among potentially parked cars in the parking area of Ede Avenue, destruction of the natural condition of the area, and the possibility of creating an attraction for those that may seek parking to head to the beach.

Chairperson Jean Russell, hearing no further public comment closed the public hearing at 7:49 pm on October 25, 2024.

Chairperson Jean Russell asked for a roll call vote from the ZBA members on each of the following Review Standards for variances in Section 18.08 of the Zoning Ordinance.

1. **First Standard – Practical Difficulty.** A practical difficulty exists when there are exceptional or extraordinary circumstances or conditions applying to the property (such as exceptional narrowness, shallowness or shape of the property, topographic conditions, conditions caused by the use or development of the property immediately adjoining the property in question), where such practical difficulty would unreasonably prevent the owner from using the property for a permitted use or would render conformity unnecessarily burdensome.

The practical difficulty is the existing topography of the critical dune area on the south east side of the property that would allow large dogs to jump over the allowable 3 ft fence, especially on the sloping topography.

**VOTE: Yes = Hepworth, Russell, Cluchey, Flynn, Wrisley.
No = Zero.**

2. **Second Standard – Special or Unusual Circumstances.** The circumstances creating the need for the variance must be peculiar to the land, structures or buildings involved and shall not be recurrent or applicable as to a sufficient number of other lands, structures or buildings in the same zoning district, to a degree that the ZBA concludes that a general zoning ordinance amendment would be more appropriate.

The special circumstance is that the sloping site and maximum 3 ft tall fence is peculiar to the dune area, and not necessarily present in all areas within the R-2 Zoning District, and therefore specific to the property in question.

**VOTE: Yes = Russell, Hepworth, Cluchey, Flynn, Wrisley.
No = Zero.**

3. **Third Standard – Substantial Justice.** The Zoning Board of Appeals should find 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.

The proposed six-foot fence would contain the dogs keeping them on the owner's property and not loose in area, potentially chasing deer, other dogs or other animals off of the subject property.

**VOTE: Yes = Wrisley, Cluchey, Hepworth, Flynn and Russell.
No = Zero**

4. **Fourth Standard – Protecting Neighborhood Properties.** The Zoning Board of Appeals shall not grant the variance if it would cause a substantial detriment or harm to other lands and uses, or if in the judgment of the Zoning Board of Appeals, the variance would be contrary to the spirit and purpose of the Zoning Ordinance Regulations.

The applicant demonstrated that parking and vehicular turning movements can be accomplished by having brush removed. Swinging the gates inward toward the subject property would also aid in maneuvering vehicles, thus protecting the rights of both property owners to use the right-of-way.

**VOTE: Yes = Wrisley, Cluchey, Trierweiler, and Hepworth.
No = Zero.**

5. **Fifth Standard – Not Self-Created.** If the Zoning Board of Appeals determines that the applicant or the applicant's representatives were 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, no variance shall be granted.

The property owner did not change the configuration or size of the property, nor changed the grade in the critical dune area prior to the requested variance. and has combined two properties together to provide adequate space for the proposed home.

VOTE: **Yes = Russell, Hepworth, Cluchey, Flynn and Wrisley**
 No = Zero.

6. **Sixth Standard – Minimum Variance Necessary.** The Zoning Board of Appeals shall grant only the minimum necessary variance from current Zoning Ordinance provisions to afford the applicant the relief created by the requested variance.

The ZBA finds that the variance requested is reasonable and does not exceed the maximum height of fences allowed by the Zoning Ordinance.

VOTE: **Yes = Hepworth, Cluchey, Wrisley, Flynn and Russell.**
 No = Zero.

7. **Seventh Standard – Voting.** Hepworth moved to grant the 3 ft. variance from Section 3.11, paragraph B, Subparagraph 1a, of the Zoning Ordinance for the maximum fence height of 6 feet with the following conditions:
- Parking area must be a minimum of 3 parking spaces
 - Gates that open inward, toward the subject site and do not impede parking spaces.

Seconded by Wrisley.

VOTE: **Yes = Hepworth, Wrisley, Cluchey.**
 No = Zero.

PUBLIC COMMENT

Susan Kreuter expressed her appreciation for the ZBA members and their neighbor's willingness to work with them. Her goal is to keep the area as natural as possible.

ADJOURNMENT – Randy Hepworth moved to adjourn the meeting at 8:13 pm. Jeff Wrisley seconded. All Ayes and the motion to adjourn was approved.

Respectfully submitted by,

Keith Edwards, Zoning Administrator

October 29, 2024

Approved by the Zoning Board of Appeals on March 25, 2025