

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

**Zoning Board of Appeals Meeting  
June 22, 2023, In-Person  
7:00 P.M.**

**CALL TO ORDER**

Jean Russell called the meeting to order at 7:03 pm.

**ROLL CALL**

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

Keith Edwards the Zoning Administrator was present during the meeting.

**APPROVAL OF THE AGENDA**

Randy Hepworth moved to approve the agenda of June 22, 2023, and Jeff Wrisley seconded. All ayes and the agenda was approved.

**APPROVAL OF MINUTES**

Mike Flynn made a motion to approve the minutes of May 23, 2023 as written, and Randy Hepworth seconded. All ayes and the minutes of May 23, 2023 were approved.

**OLD BUSINESS – None**

**NEW BUSINESS**

**A. Property ID #64-001-690-007-00, Lots 7 & 8 of Smith’s Subdivision, a.k.a. 5778 W. Longbridge Road.**

Following a fire in the original building, the new home, still under construction at 5778 W. Longbridge Road, is in the process of finalizing the finish grading at the property. After discussion with the neighbor at 5772 Longbridge Rd., the neighbors have reached an agreement for the completion of the grade along the south lot line of 5778 W. Longbridge.

The request for the variance is to allow the applicant to transfer seven (7) feet of the property of Lot 7 and 8, Parcel ID No. 64-001-690-007-00 (a.k.a. 5778 W. Longbridge Rd.) to the adjacent Lot 6, Parcel ID No. 64-001-690-006-00 (a.k.a. 5772 W. Longbridge Rd.) which is owned by Brenda Warden for the purpose of constructing a retaining wall between the two properties. The resulting transfer would result in a side lot setback of 7.7 feet where 10 feet is required.

**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 had been received by mail or email from the public. John Faas of 5762 Longbridge Road stated that he supports the requested variance.

**The public hearing closed at 7:29 pm.**

ZBA Members asked several questions of the applicant Carla DeForest and the neighbor Brenda Warden from the audience, who intends to acquire the approximately 7 feet of property from DeForest for the retaining wall.

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 failure of the design of the original site plan drawings to produce a satisfactory result on the ground for protection of the neighboring property’s landscape due to the inability of the existing sandy soils to remain in place without the firm establishment of one or more retaining walls.

**VOTE: Yes = Russell, Flynn, Trierweiler, Hepworth and 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 the nature of the construction of the retaining wall, requiring additional room for tiebacks to hold the retaining wall in place while preserving the existing landscaping of the neighboring property to the south.

**VOTE: Yes = Hepworth, Trierweiler, Wrisley, Russell, and Flynn  
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 existing landscaping of the neighboring property to the south will be negatively impacted should the variance not be approved which would allow for installation of the tiebacks for the proposed retaining wall.

**VOTE: Yes = Wrisley, Trierweiler, Russell, Flynn, and Hepworth.  
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.

No harm to neighboring properties was found within the request since both neighbors impacted have agreed to the requested solution.

**VOTE: Yes = Hepworth, Wrisley, Trierweiler, Flynn, and Russell.  
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 ZBA found that the request is due to the failure of the design to hold back the sandy soil due to the change in elevation of the subject property.

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

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 the minimum dimensional standard needed as the space is necessary for the tiebacks for the retaining wall.

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

7. **Seventh Standard – Voting.** Russell moved to grant the 2.3 ft. variance from Section 6.04, paragraph E, of the Zoning Ordinance for the required side setback. Seconded by Flynn.

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

**ADJOURNMENT** – Jeff Wrisley moved to adjourn the meeting at 8:14 pm. Randy Hepworth seconded. All Ayes and the motion to adjourn was approved.

Respectfully submitted by,

Keith Edwards, Zoning Administrator

June 27, 2023

Approved by the Zoning Board of Appeals on April 11, 2024