

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

**Zoning Board of Appeals Meeting  
April 4, 2023, In-Person  
7:00 P.M.**

**CALL TO ORDER**

Jean Russell called the meeting to order at 7:00 pm.

**ROLL CALL**

Jean Russell	Present
Randy Hepworth	Present
Mike Flynn	Present
Terry Cluchey	Present
Mark Trierweiler	Present

Keith Edwards the Zoning Administrator was present during the meeting.

**APPROVAL OF THE AGENDA**

Chairperson Jean Russell moved to approve the agenda of April 4, 2023, and Randy Hepworth seconded. All ayes and the agenda was approved.

**APPROVAL OF MINUTES**

Randy Hepworth made a motion to approve the minutes of September 13, 2022 as written, and Mike Flynn seconded. All ayes and the minutes were approved.

**OLD BUSINESS – None**

## **NEW BUSINESS**

### **7a. Property ID #64-001-531-007-00, Lots 7-11 of Block 11 of the Pentwater Beach Addition No. 4 Subdivision, a.k.a. 8987 N. Paulina Avenue.**

The applicant seeks to construct a detached Accessory Building in the front yard between the house and road right-of-way of Paulina Avenue. Section 3.08, paragraph H, subparagraph 2.a. requires that the lot have a depth of not less than 250 feet, where the subject lot is a maximum of 125 feet in depth. Therefore, a variance of 125 feet is requested.

#### **Chairperson Jean Russell opened the public hearing at 7:06 pm and asked for comments from the public.**

Per Keith Edwards, Zoning Administrator, he received one written response from Heidi Schroeder and Steve Sinas in support of the request. Margaret Mitchell, a member of the audience who resides at inquired as to whether the placement of the garage so close to the street would allow for safe traffic movement especially when backing out from the garage and in recognition of the hilly terrain of the street Mark Hamersma, the applicant explained how the existing streets were put in the wrong spot and that the proposed garage is 16 feet from the actual rad surface.

Randy Hepworth, a member of the ZBA and a Licensed Professional Surveyor added to the discussion of past historical development within the Pentwater Beach Addition No. 2 Plat and explained that the attempt by Surveyor Sammy Barnett in the past was the wrong solution. Mr. Hepworth also reviewed the Township Attorney's letter dated December 18, 2018, and further explained his concerns regarding actual property lines and the current development conditions.

#### **Public hearing closed at 7:23 pm.**

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 applicant was not able to demonstrate a that exceptional or extraordinary circumstances exist that would prevent him from complying with the ordinance because he owns the adjacent property when the proposed garage could be relocated to or to combine the properties to have the required 250 of lot depth.

**VOTE: Yes = Zero**

**No = Russell, Flynn, Cluchey, Trierweiler, and Hepworth.**

- 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.

No special circumstances were demonstrated since the applicant owns the adjacent land that would make the request compliant with the 250 lot depth requirement.

**VOTE: Yes = Zero**

**No = Hepworth, Trierweiler, Cluchey, Russell, and Flynn.**

- 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 ZBA found that there is at least one other location on the property and/or adjacent property owned by the applicant that would allow the intended garage and compliance with the Zoning Ordinance requirements.

**VOTE: Yes = Zero**

**No = Cluchey, Trierweiler, Russell, Flynn, and Hepworth.**

- 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.

At least one member of the audience was concerned about vehicles either not getting off of the road when parking in the intended parking area in front of the proposed garage as the applicant was also unwilling to position the garage door for a side entrance. Concern was also expressed for vehicles backing into traffic on Paulina Ave and not being able to see oncoming traffic.

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

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 finds that the request is self-created as the applicant is not willing to combine the adjacent property also owned by the applicant.

**VOTE: Yes = Trierweiler, Flynn, Hepworth, Cluchey, and Russell.**  
**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 the minimum dimensional standard needed as the subject property is only 125 feet deep.

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

7. **Seventh Standard – Voting.** Hepworth moved to grant the 125 ft. variance from Section 3.08, paragraph H, subparagraph 2.a. of the Zoning Ordinance for locating an accessory building within the front yard. Seconded by Cluchey.

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

**7b. Proving a practical difficulty for a dimensional variance request – a primer from MSU Extension - Discussion**

ZBA members received a flyer in their agenda packet from MSU Extension explaining what members information should be presented and what to discuss when considering whether or not a “practical difficulty” exists with a request for a dimensional variance.

**ADJOURNMENT** – Randy Hepworth moved to adjourn the meeting at 7:34 pm. Terry Cluchey seconded. All Ayes and the motion to adjourn was approved.

Respectfully submitted by,

Keith Edwards, Zoning Administrator                      April 10, 2023

Approved by the Zoning Board of Appeals on    May 23, 2023