



**MORTON TOWNSHIP ZONING BOARD OF APPEALS  
MEETING MINUTES – MAY 24, 2021**

Meeting called to order at 6:00 P.M. by Jeff Cross  
Pledge of Allegiance to the Flag by all  
Members Present: Dennis Morawa, Yulanda Bellingar, Jeff Cross  
Members Absent: Zoning Administrator, Rich Davis  
Others Present: Recording Secretary, Vicky Esch  
Public Present: Terri Swallow, Tim & Beth Dykstra, Danny Thompson, Richard Barnum, Ronald Wright

Motion by: Yulanda Bellingar  
To Approve the minutes of the April 14, 2021, meeting as presented. (Bouwkamp & Whip appeals)  
2nd by: Dennis Morawa  
Vote: 3 Ayes 0 Nays 0 Absent Motion Carried

**Open Public Hearing #1**

**New Business**

A. The hearing is for the purpose of hearing an appeal of the Zoning Administrator’s decision to deny zoning permit application (PZ21-024), for a deck with attached roof in violation of Section 5.15 (#6) Waterfront Setbacks, of the Morton Township Zoning Ordinance. The appeal is asking for a setback variance on the waterfront of 27 feet.

Facts:

Property Code: 5411-139-130-000 Property Address: 7601 Bay Meadow  
Owner/Applicant: Tom & Terri Swallow Zoning: R-1  
Notice in Big Rapids *Pioneer* on May 7, 2021  
Letters sent to 12 neighboring property owners on May 7, 2021

Chairman, Jeff Cross, presented the facts of the appeal as listed above.

Comments by Terri Swallow (owner/applicant):

- Asking for a variance – 27 feet from the water’s edge. Need 5 ½ feet more for the deck. (gives all a copy of the layout of the deck: 10 x 16 and shows them a picture taken of the proposed layout).
- The original plat of the lot was 144 feet, now it is 120 feet, so we have lost 24 feet in the water. That is why we are here asking for a variance. Erosion. Put a sea wall in last year.
- Non-conforming lot, take into consideration, not a big lot, house is 1500 sf, front yard is all new above ground drain field, side yard has 3 septic’s, north side has the well. That is why had to put house where it is.
- Also notified both neighbors adjacent to the house of the work we are going to do. (shows board pictures of neighbor’s houses and a signed note from each that they approve the project)

Comments by Board Members:

- Measured from the house to the waterfront = 37 feet. Deck will be 10 feet, so the finished distance from the house with new enclosed deck to the water will be 27 feet.
- Notice that all the houses are in line. Did not know about the erosion, something to take into consideration.

**Public Comments:** None

**Correspondence:**

No correspondence was received by the Township.

**Close Public Hearing #1**

Zoning Board of Appeals members review the 5 standards that must be used for a basis of substantial evidence to determine whether or not to grant a non-use variance:

In the Finding of Facts:

1. Whether compliance with the regulations would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.  
*Compliance with the regulations would unreasonably prevent the owner from using the property for a permitted use. Dimensional zoning requirements cannot be met due to the 20 feet erosion of the original waterfront. The resulting setback from the waterfront is consistent with other properties in that immediate vicinity.*  
Standard is satisfied.
2. Whether a grant of the variance applied would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that requested would give substantial relief to the owner and be more consistent with justice to other property owners.  
*Variance applied would do substantial justice to the applicant as well as other property owners in the district. Variance is the minimum necessary to permit reasonable use of the land for activities permitted in the zoning district.* Standard is satisfied.
3. Whether the plight of the owner is due to unique circumstances.  
*The problem creates a practical difficulty which is unique due to erosion of the waterfront as well as those noted in Standard #1.* Standard is satisfied.
4. Whether the problem is self-created.  
*Practical difficulty is not created by an action of the applicant. It existed at the time of the adoption of the requirement from which the variance is requested (erosion of waterfront setback).* Standard is satisfied.
5. Whether relief can be granted in such that the spirit of the ordinance will be observed, and public safety and welfare served:
  - Will not be contrary with the intent and purpose of the zoning ordinance.
  - Will not cause a substantially adverse effect on adjacent properties.
  - Will relate only to the property of the owner.
  - Will not essentially alter the character of the surrounding area.
  - Will not increase the hazard from fire, flood, similar dangers, or increase traffic congestion.*Relief can be granted in such fashion that the spirit of the ordinance will be observed, and public safety and welfare served.* Standard is satisfied.

The Zoning Board of Appeals finds that all 5 standards have been met.

Motion by: Yulanda Bellingar

**Determination of this board is:**

In the finding of facts as per the Morton Township Zoning Ordinance, in granting a non-use variance as shown in Section 12.2, Variance, Paragraph 3 (A-E), this Board finds that it is not a self-created circumstance and **approves** the request for a variance of a 27-foot waterfront setback.

**The request for a non-use variance is approved.**

2<sup>nd</sup> by: Dennis Morawa

Roll Call Vote: Yulanda Bellingar – Aye; Jeff Cross – Aye; Dennis Morawa - Aye  
3 Ayes      0 Nays              0 Absent              Motion Carried

**Intermission while secretary prepares the Decision Form.**

**Open Public Hearing #2**

- B. The hearing is for the purpose of hearing an appeal of the Zoning Administrator’s decision to deny zoning permit application (PZ21-028), for a garage in violation of Section 5.15 (#3) Setbacks, of the Morton Township Zoning Ordinance. The appeal is asking for a setback variance on the front (roadside) of 15 feet.

Facts:

Property Code: 5411-077-019-000

Property Address: 10755 Round Lake Drive

Owner/Applicant: Danny Thompson Zoning: R-1  
Notice in Big Rapids *Pioneer* on May 7, 2021  
Letters sent to 20 neighboring property owners on May 7, 2021

Comments by Danny Thompson (owner/applicant):

- To be in compliance we need to be 30 feet from lot line and because of the location of overhead power lines we can't move the proposed garage back any further. Instead of 30 feet from the lot line we would be 15 feet from the lot line. Lot line is 15 feet from the edge of the road. Front of the garage would be 30 feet off from the road instead of 45 feet. Need to ask for variance.

Comments by Ron Wright:

- There is 15 feet from one corner of the lot from the road to where the lot starts. Not able to meet front setback. Other setbacks are good. Would be 31 feet on NE corner of front of building, south corner 20 feet.
- Two doors down to south, there is a garage within 20 feet of the road. Back to the north, another garage there that is close to the road as well. Several buildings right there on the same side, lakeside of road that are close to the road.

Comments by Board Members:

- Powerlines would cause a problem with the pole barn. Do not feel he should have to invest in the expense of having the power lines moved.
- Other properties are enjoying the relaxed variances on their properties. So why make one guy move power lines or whatever, and he will still be further back from the road than the neighbors. Do not feel it would be a problem.

When asked by the Board if the applicant had consulted with the power company about the power lines, the response was yes. The pole on the property does not only serve the owner but also two existing neighboring homes. His is the pivot point. It would be a complete overhaul of the power system there because of that.

**Public Comments:** None

**Correspondence:**

No correspondence was received by the Township.

**Close Public Hearing #2**

Zoning Board of Appeals members review the 5 standards that must be used for a basis of substantial evidence to determine whether or not to grant a non-use variance:

In the Finding of Facts:

1. Whether compliance with the regulations would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.  
*Dimensional zoning requirements cannot be met on an existing lot due to overhead power lines which would interfere with pole barn if it was moved further back from the road. Standard is satisfied.*
2. Whether a grant of the variance applied would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that requested would give substantial relief to the owner and be more consistent with justice to other property owners.  
*A grant of the variance applied for would do substantial justice to the applicant as well as other property owners in the district and the variance is the minimum necessary to permit reasonable use of the land and buildings for activities permitted in the zoning district. Standard is satisfied.*
3. Whether the plight of the owner is due to unique circumstances.  
*The problem creates a practical difficulty because dimensional zoning requirements cannot be met on the existing lot due to overhead power lines which could affect safety of the structure. Standard is satisfied.*
4. Whether the problem is self-created.  
*The practical difficulty was not created by an action of the applicant. It existed at the time of the adoption of the requirement from which the variance is requested. Standard is satisfied.*

5. Whether relief can be granted in such that the spirit of the ordinance will be observed, and public safety and welfare served:

- Will not be contrary with the intent and purpose of the zoning ordinance.
- Will not cause a substantially adverse effect on adjacent properties.
- Will relate only to the property of the owner.
- Will not essentially alter the character of the surrounding area.
- Will not increase the hazard from fire, flood, similar dangers, or increase traffic congestion.

*Relief can be granted in such fashion that the spirit of the ordinance will be observed, and public safety and welfare served.* Standard is satisfied.

The Zoning Board of Appeals finds that all 5 standards have been met.

Motion by: Dennis Morawa

**Determination of this board is:**

In the finding of facts as per the Morton Township Zoning Ordinance, in granting a non-use variance as shown in Section 12.2, Variance, Paragraph 3 (A-E), this Board finds that it is not a self-created circumstance and **approves** the request for a 15-foot front (roadside) setback.

**The request for a non-use variance is approved.**

2<sup>nd</sup> by: Yulanda Bellingar

Roll Call Vote: Dennis Morawa – Aye; Yulanda Bellingar – Aye; Jeff Cross – Aye  
3 Ayes      0 Nays              0 Absent              Motion Carried

**Intermission while secretary prepares the Decision Form.**

**Open Public Hearing #3**

C. The hearing is for the purpose of hearing an appeal of the Zoning Administrator’s decision to deny zoning permit application (PZ21-029), for a garage in violation of Section 5.15 (#3) Setbacks, of the Morton Township Zoning Ordinance. The appeal is asking for a setback variance on the front (roadside) of 15 feet.

Facts:

Property Code: 5411-052-108-000	Property Address: 9408 Marywood Drive
Owner/Applicant: Tim & Beth Dykstra	Zoning: R-1
Notice in Big Rapids <i>Pioneer</i> on May 7, 2021	
Letters sent to 13 neighboring property owners on May 7, 2021	

Comments by Tim & Beth Dykstra (owner/applicant):

- Property was surveyed so I know exactly where the property stakes are. According to township ordinance I need a 30 feet road setback. If I went 30 feet from my property line to build a garage, I would have to build a 15-foot retaining wall on the back wall of it for the garage.
- Requesting a 15-foot setback. The southwest corner of the garage would still be 32 feet from the road and the front, northwest corner will be 30 feet from the edge of the road.
- I marked it with stakes, clearly show where the garage is going to set if the board members came/drove by. Neighbors stopped by, got letter, explained to them, not from edge of the road, not 15 feet, they said that is further away from the road than my garage.
- Is a double lot. 1.1 acres. Still a lot of room up there by the road. Landscaped, natural, not a real crowded area.
- Going to pour 2 ½ feet down, outside footing around whole garage for strength and support. Not going to just be on a slab. Poured footings. Whole frame of garage will have a 2 ½ foot footing under that slab.

Comments from Board Members:

- We have all had the opportunity to personally view it, seen the staking and what you intend to do. It is further back from the road than the neighbors.

**Public Comments:** None

**Correspondence:**

No correspondence was received by the Township.

**Close Public Hearing #3**

Zoning Board of Appeals members review the 5 standards that must be used for a basis of substantial evidence to determine whether or not to grant a non-use variance:

In the Finding of Facts:

1. Whether compliance with the regulations would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.  
*Dimensional zoning requirements cannot be met on an existing lot due to the topography of the site and would unreasonably prevent the owner from using the property for a permitted use.* Standard is satisfied.
2. Whether a grant of the variance applied would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that requested would give substantial relief to the owner and be more consistent with justice to other property owners.  
*A grant of the variance applied for would do substantial justice to the applicant as well as other property owners in the district and the variance is the minimum necessary to permit reasonable use of the land for activities permitted in the zoning district.* Standard is satisfied.
3. Whether the plight of the owner is due to unique circumstances.  
*The problem creates a practical difficulty because dimensional zoning requirements cannot be met on the existing lot due to the topography of the site.* Standard is satisfied.
4. Whether the problem is self-created.  
*The practical difficulty was not created by an action of the applicant.* Standard is satisfied.
5. Whether relief can be granted in such that the spirit of the ordinance will be observed, and public safety and welfare served:
  - Will not be contrary with the intent and purpose of the zoning ordinance.
  - Will not cause a substantially adverse effect on adjacent properties.
  - Will relate only to the property of the owner.
  - Will not essentially alter the character of the surrounding area.
  - Will not increase the hazard from fire, flood, similar dangers, or increase traffic congestion.*Relief can be granted in such fashion that the spirit of the ordinance will be observed, and public safety and welfare served.* Standard is satisfied.

The Zoning Board of Appeals finds that all 5 standards have been met.

Motion by: Yulanda Bellingar

**Determination of this board is:**

In the finding of facts as per the Morton Township Zoning Ordinance, in granting a non-use variance as shown in Section 12.2, Variance, Paragraph 3 (A-E), this Board finds that it is not a self-created circumstance and **approves** the request for a 15-foot front (roadside) setback.

**The request for a non-use variance is approved.**

2<sup>nd</sup> by: Dennis Morawa

Roll Call Vote: Jeff Cross – Aye; Dennis Morawa – Aye; Yulanda Bellingar – Aye  
3 Ayes      0 Nays      0 Absent      Motion Carried

**Intermission while secretary prepares the Decision Form.**

**Old Business - None**

**Adjourn Meeting.**

Motion By: Dennis Morawa

To adjourn the meeting.

2nd By: Yulanda Bellingar

Vote: 3 Ayes      0 Nays      Motion Carried

Meeting adjourned at 7:20 P.M.

Respectfully Submitted,

*Vicky Esch*

Vicky Esch, Recording Secretary