



**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.

2nd 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

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.

2nd 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.

2nd 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