

MELROSE TOWNSHIP
ZONING BOARD OF APPEALS
APPROVED MINUTES OF
SEPTEMBER 26, 2018

CALL TO ORDER: The meeting was called to order at 7 pm by Ch. Lee

ROLL CALL: Members Present: Ch. Errol Lee, Todd Reeves, Bart Wangeman, Lyon Stephens, David Beier, Zoning Administrator - Randy Frykberg, and Recording Secretary - Bunny Marquardt

APPROVAL OF AGENDA: Bart made the motion to approve the Agenda as printed. David seconded. Motion passed - ALL AYES

APPROVAL OF MINUTES OF SEPT. 5, 2018: Todd made the motion to approve the minutes of 9/5/18 as amended. David seconded. Motion passes - ALL AYES.

CH. Lee stated the following:

Case # ZBA 18-5-18, S Gunnar & Louise Klarr request to expand a house and preserve cabin at 00117 Shadow Trails Rd E (Property ID # 15-010-018-045-10)

Randy added that this is an interesting site as the smaller portion is in Melrose Township and the rest in Evangeline Township. This case has three parts and each needs to be discussed individually as noted in his memo. He went on to read the following

Jason Black, Glennwood Custom Builders, on behalf of S. Gunnar and Louise Klarr, has applied for a variance to expand a non-conforming structure. The owners would like to add a covered 8' X 12' second story porch that will act as a platform for a future lift to access the sleeping rooms that are only located on the second story of the residence. They also would like to 1) add a dormer facing the water to part of an enclosed second story porch in a conforming way that would not alter the footprint or height of the residence; and 2) preserve an existing cabin near the waterfront by replacement of rotten logs, installation of two new doors and one window, and addition of a new window.

The property owned by the Klarrs is divided into two lots by a township boundary

line which crosses at an angle between the two side lot lines. The larger portion is in Evangeline Township (Tax ID#15-005-012-060-10) and the smaller portion, including the lakefront, is in Melrose Township (Tax ID#15-010-018-045-10). A house is present on both parcels, one in each Township.

After the Public Hearing, the ZBA needs to consider granting permission to 1) preserve the waterfront cabin, 2) add a dormer facing the lake on the house, and 3) give a variance for the 8' X 12' second story porch.

Ch. Lee opened the Public Hearing and asked Jason Black, the representative for the Klarrs to speak. He gave the board a hand out explaining this situation and noting this property has been in the family for many years and was built on before zoning. He stated the lakeside covered balcony addition does not increase the footprint of the existing log cabin. The covered 2nd story deck/porch needs three posts to support this structure as this addition will provide future access through an exterior wheelchair lift. The preservation of the existing beach house will include the replacement of the rotten base log on the North, installation of a new exterior door, and re-roofing the current structure. There is no plumbing in this Beach House.

Ch. Lee asked if there was support of this - Connie Schach supported it. The notice was in the Petoskey News review and only Haggard's responded in support. There were none opposed.

Ch. Lee closed the Public Hearing. He stated there are two separate parcels and numbers and they need two separate addresses for safety issues.

Ch. Lee went thru the Findings of Facts:

The ZBA Board finds that:

1. The lot at 00171 Shadow Trails E, identified more accurately as Property ID # 15-010-018-045-10, is in the R-1 Zoning District and the Walloon Lake Shoreline Protection Overlay District.
2. R-1 requirements are Setbacks of at least 50' front (lakefront), 15' each side and 35' rear, lot area of at least 20,000 square feet and a minimum width of 100' at the water line.
3. The house is non-conforming because it is approximately 12' from the rear property line.
4. The rear property line does not front on Shadow Trails Road.
5. Access to the parcel is on an easement on parcel 15-005-012-060-10 in Evangeline Township.
6. The rear property line is the line separating Melrose Township and Evangeline Township.
7. Due to the setbacks, the actual building envelope is a triangle in the southeast corner of the property.
8. The beach house is also non-conforming as it is about 8' from the shoreline.
9. The house and the cabin were built before zoning.
10. Before issuance of a zoning permit, conformance with Zoning Ordinance Section 6.11, Walloon Lake Shoreline Protection Overlay District, shall be determined by the Planning Commission.

11. The proposed second story porch would be 8' X 12'.
12. A proposed dormer would be added to part of an existing enclosed second story porch on the lake view side of the house. The dormer would not change the setback, footprint or height of the residence.
13. They propose to preserve an existing beach house near the waterfront by replacement of rotten logs, installation of two new doors and one window, and addition of a new window.
14. The required 300' notices were mailed to owners of 9 properties on September 6, 2018, including owners of property within 300' but in Evangeline Township.
15. The required Public Hearing Notice was published in the Friday, September 7, 2018 edition of the Petoskey News Review.

Section 9.1 Restoration

The Zoning Board of Appeals may permit reconstruction (Beach house - 14x 16 ft. facing the lake) of a pre-existing nonconforming use and structure provided that the reconstruction be of the same size, on the same location, be of equal or greater value and shall not be substantially detrimental to the surrounding neighborhood and contrary to the spirit and intent of the Ordinance.

1. The proposed restoration of a non-conforming structure (beach house) near the waterfront will or will not be the same size, on the same location, and be of equal or greater value.
 - a) The Board finds that the proposed restoration will be of the same size, on the same location and be of equal or greater value. ALL AGREED
 - b) The Board, therefore, finds the restoration will not be substantially detrimental to the surrounding neighborhood. ALL AGREED
- 2) The proposed restoration will or will not be contrary to the spirit and intent of the zoning ordinance.
 - a) The Board hereby incorporates by reference its findings of fact contained in paragraphs 1.a) and b) above. ALL AGREED
 - b) The Board finds that Section 1.0 of the zoning ordinance specifies the purpose of the zoning ordinance, which provision is hereby incorporated herein by reference. ALL AGREED
 - c) The Board finds that Section 6.0 A) of the zoning ordinance specifies the purpose of the R-1 Zoning District, which provision is hereby incorporated herein by reference. ALL AGREED
 - d) The Board finds that allowing the restoration does "maintain social and economic stability, property values and general character and trend of Melrose Township development". 4 AGREED, 1 ABSTAINED.
 - e) The Board, therefore, finds the proposed restoration will or will not be contrary to the spirit and intent of the zoning ordinance. 4 VOTED IT WILL NOT AND 1 VOTED IT WILL.

3. Based on the above findings of fact, the Board finds the standards for the restoration have been met. ALL AGREED

Section 9.6 - Expansion of Nonconforming Use

The Zoning Board of Appeals may permit expansion of a pre-existing nonconforming use, provided such expansion shall not be substantially detrimental to the surrounding neighborhood and contrary to the spirit and intent of the Ordinance.

1. The proposed addition of a dormer in part of the second story enclosed lakeside porch to a nonconforming structure will not be substantially detrimental to the surrounding neighborhood. ALL AGREED
 - a) The Board finds that the proposed addition will meet all setbacks. ALL AGREED
 - b) The Board finds that the proposed addition will keep the structure similar to the structures in the area. ALL AGREE
 - c) The Board, therefore, finds the expansion will not be substantially detrimental to the surrounding neighborhood. ALL AGREED
- 2) The proposed dormer addition will or will not be contrary to the spirit and intent of the zoning ordinance.
 - a) The Board hereby incorporates by reference its findings of fact contained in paragraphs 1.a through 1.c. above.
 - b) The Board finds that Section 1.0 of the zoning ordinance specifies the purpose of the zoning ordinance, which provision is hereby incorporated herein by reference.
 - c) The Board finds that Section 6.0 A) of the zoning ordinance specifies the purpose of the R-1 Zoning District, which provision is hereby incorporated herein by reference.
 - d) The Board finds that allowing the dormer addition does “maintain social and economic stability, property values and general character and trend of Melrose Township development”. ALL AGREED
 - e) The Board, therefore, finds the proposed addition will not be contrary to the spirit and intent of the zoning ordinance. ALL AGREED
3. Based on the above findings of fact, the Board finds the standards for the dormer addition, which meets all setbacks, have been met. ALL AGREED

Section 12.4 C Variance Criteria:

The Zoning Board of Appeals shall have the power to authorize, upon appeal, specific variances from dimensional requirements. It shall be found by the Zoning Board of Appeals that any variance granted:"

1. **The variance will or will not be contrary to the public interest or to the spirit and intent of the Ordinance.** The proposed 8' X 12' covered second story porch will be about 17' from the township line facing the driveway in Evangeline Township. It is much smaller than the portion of the 1,110 sq. ft. house that is in the setback and that is within 12' of the Township line. A up to 18' variance is needed. The rear lot line, the line demarcating two Townships, divides two properties that share a driveway and access to the water. The covered second story porch will not be contrary to the public interest or to the spirit and intent of the Ordinance. ALL AGREED
2. **The variance does not permit the establishment within the zoning district of any use that is not permitted by right within the district.** Residential uses are an allowed use in the R-1 District.
 - i. **The granting of the variance will not cause any adverse effect to property in the vicinity or in the Zoning District or the Township.** The Board finds that the proposed 8' X 12' second story porch will not have a negative impact on property values and would maintain the general character and trend of Melrose Township development. ALL AGREED
3. **Does the variance relate only to property under control of the applicant?** Yes. ALL AGREED
4. **Does the variance affect only property subject to exceptionally or extraordinary circumstances or conditions that do not generally apply to other property or uses in the vicinity?** The Board finds that the house was built prior to zoning and the property is split by being in two townships.
5. The proposed project meets the above 5 criteria in Section 12.4 C for a variance. ALL AGREED
6. Granting the variance would observe the Spirit of the Ordinance and provide for substantial justice. ALL AGREED

Draft Motion for ZBA

After thorough review and discussion of the above Findings of Fact, **“Due to the findings of fact as stated above, David Beier made the motion to approve S. Gunner and Louise Klarr’s Application for 1) up to a 18 ft. variance to non-conforming structure, 2) addition of a dormer without expanding the footprint or height of the structure, and 3) restoring an existing beach house near the waterfront at 00117 Shadow Trails Rd E (Property ID # 15-010-018-045-010). This approval is based upon:**

- 1. Zoning Variance Application signed by Jason Black on 9-4-18;**
- 2. A Topographic Survey by Ferguson & Chamberlain Associates dated November 21, 2016; and**
- 3. 5 sheets titled “Alteration to Klarr Residence” by Presley Architecture dated 8-27-18.**
- 4. This approval is contingent upon the applicant rectifying the erosion problem caused by the gravel trail and erosion controls must be maintained.**
- 5. This approval is also contingent upon house numbers being provided at the road and on the homes for safety issues.**

Motion seconded by Todd Reeves. ROLL CALL - ALL IN FAVOR - MOTION PASSED.

CITIZEN COMMENTS: Connie Schach at 01259 S Shore Dr. asked for help with her neighbor and his hedge. Randy replied he had spoken to her and did an on-site visit. The problem is between her and her neighbor, Mr McKinney. The ZBA would need an application to review.

NEXT MEETING: OCT 3, 2018 at 5:15 pm to approve these minutes.

MEETING ADJOURNED AT 8:45 PM.

Recording Secretary: Bunny Marquardt _____ date

ZBA Secretary: Todd Reeves _____ date