

APPROVED 7/19/22

MELROSE TOWNSHIP

ZBA MINUTES OF

JUNE 1 , 2022

CALL TO ORDER: Errol Lee called the meeting to order at 7:00pm. Those present were Errol Lee, Todd Reeves, Bart Wangeman David Beier, and Lyon Stephens, Zoning Administrator: Vern Goodwin, and Recording Secretary, Bunny Marquardt. Those excused Mary Pat Goldich.

APPROVAL OF AGENDA AS AMENDED. Lyon Stephens made the motion to Approve the Agenda as amended and Bart Seconded. ALL AYES

APPROVAL OF MAY 11, 2022 MINUTES: David made the motion to Approve the Minutes as corrected. Bart seconded. ALL AYES

AMENDED AGENDA: Vern amended the agenda to determine 12.4.3 "UTILIZED " as it relates to Started, Covid hit and stopped. (At 315 Maple Hill Rd with Christine Sherman) as the the 6 months have passed . David asked if the permit was utilized. David made the motion that the permit was valid as it was utilized. Todd seconded. ALL AYES.

PUBIC HEARING:

Errol stated the following: **Case ZBA#4-2022. 4766 US 131 N. Boyne Falls**
(Tax ID #15-010-009-022-20

Milo's Logistics Inc. have requested a 20' front yard set back variance for an addition to the current non-conforming convenience store building and for a gas pump canopy to be installed new.

This case is a variance, and the variance can be approved by the ZBA provided that "such variance shall not be detrimental to the surrounding neighborhood and contrary to the spirit and intent of the Ordinance" (Zoning Ordinance Section 9.5 and Sec. 12.4 C and D. Errol went on to tell the history of the property.

The existing Buildings were built in the early 50's as a garage gas station and used car lot. The gas station garage was added onto and turned into a gas station convenience store in the mid to late 70's. There was a trailer on the site in the 70's, that was replaced with a HUD modular in the early 80's. The Right of Way easement was obtained by the State in the 30's.

Vern as Zoning Administrator stated this property is a 4 acre site with a steep slope and

narrow. The property was utilized as a gas station and the pumps were removed in front (in the front yard setback).

Jordan Irish, representing the owner, is the builder who lives in Springbrook and stated the topography conditions along 131 are the major concern. We hope to improve the situation and build and expand the existing building. The 20ft. Is the distance we need.

Ch.Lee asked if any in support of the project? Matthew Kipert at 47t3 US 131 asked to see the site plan as his main concern is safety from North bound traffic. He would like to see conformity to variance to be as much as possible. He is "neutral". Chuck Pemberton a neighbor stated he feels this is the most dangerous spot in the area and safety is an issue. It is a scary place to pull out off of Clarion Rd onto 131.

Jordan responded with they will have room behind the building for semi's and delivery trucks. Bart feels we need 2 different setbacks. 1).Building on N Side of 18.6 ft and S end of 23 ft, and 2(. 12 ft, for canopy. With these plans it calls for 2 buildings and 2 variances.

After much discussion Ch. Lee closed the Public Hearing and went to the Findings of Fact.

The ZBA Board finds that:

1. The address of the variance request is 4766 US 131 NTT. Boyne Falls (Property Id is 15-010-009-022-20
2. The conforming lot is in the B-1 – General Business District
3. Minimum lot area in the 1 acre with 150' at the front line.
4. The lot is conforming at 4.99 acres with 195.46' on the front lot line.
5. There are steep slopes on the northeast side of the lot. Because of the steep slopes and the lot splits in 2002 it creates a limited building site.
6. Setbacks for B-1 are 50' Front yard setback, Side yard setback 25' except for the street side of the corner lot or any side lot that abuts a residential area then the side yard setback is 50' and a Rear yard setback of 35' except where it abuts a residential area then the set back is 50'
7. Additionally, the proposed canopy will not meet the South side yard setbacks. It will encroach by 2.8 feet and not meet front yard setback.
8. The site currently and as proposed meets rear yard setback and the North side yard setback, but currently doesn't, nor as proposed meet Front yard setback. The plan as submitted also shows a 2.8' encroachment on the South side yard setback. (Canopy)
9. The addition to the store and the gas pump canopy as proposed will need a Front yard setback variance of 18 ft 6 in. / 23 ft south side of store / and 12 ft. for canopy.

10. The gas pumps as proposed do meet the 50' setback from the Road Right of Way as stated in Sec. 6.4 B) 11.
11. On May 16, 2022, a notice of, and reason for, this hearing was mailed to owners of 21 properties within 300' of this parcel.
12. On May 17, 2022, a notice of, and reason for, this hearing was published in the Petoskey News Review.
13. Approval of the zoning requirements for the B-1 district, along with compliance with all other zoning requirements, would be needed and administratively reviewed prior to consideration of issuing a zoning permit.
14. The removal of the existing gas pump island will improve the front yard setback.

Ch. Lee then went on the following:

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 new non-conforming structure will not be substantially detrimental to the surrounding neighborhood (answer after considering all the following, a through c). ALL AGREED
 - a) The Board finds that the proposed new structure will not be conforming. ALL AGREED
 - b) The Board finds that the new structure will make the appearance of the structure in conformance with the district and area. ALL AGREED
 - c) The Board, therefore, finds the new structure will not be substantially detrimental to the surrounding neighborhood. ALL AGREED
- 2) The proposed new structure will not be contrary to the spirit and intent of the zoning ordinance (answer after considering all the following, through e). Voted 3 to 2. (3 voted to will not and 2 voted to will be contrary).
 - a) The Board hereby incorporates by reference its findings of fact contained in paragraphs 1. a) through 1. c) above. YES, 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. YES, ALL AGREED
 - c) The Board finds that Section 6.0 A) of the Zoning Ordinance specifies the purpose of the B-1 Zoning District, which provision is hereby incorporated herein by reference. YES, ALL AGREED

- d) The Board finds that allowing the non-conforming structure does "maintain social and economic stability, property values and general character and trend of Melrose Township development". YES, ALL AGREED
- e) The Board, therefore, finds the proposed project will not be contrary to the spirit and intent of the zoning ordinance. 3 Voted will not (Todd, Lyon and Bart) and 2 Voted will (Errol and David)
- 3. Based on the above findings of fact, the Board finds the standards to permit this project have been met. 3 Voted have (Todd, Lyon, and Bart) and 2 Voted have not (Errol and David)

"Based on the findings of fact as stated above, Bart moved to approve the June 1, 2022, application for ZBA granting a 18'6" north end front yard variance, a 23' south end front yard variance and a 12' front yard variance (canopy) setback to add a 2,208 sq. ft. addition to a non-conforming structure at 4766 US 131 N. Boyne Falls 49713 (ID #15-010-009-022-20) and to grant for a 4,000 sq. ft. gas pump canopy. The gas pump canopy must be moved 2.8' to the north to eliminate the encroachment on the South side yard setback. This action is also based on seven pages of drawings by Northern Michigan Engineering Inc., dated 3-21-22 and labelled Sheet SP.0 through SP.6 and one dated 4-15-22 with Labelled Sheet SP.0 thru SP.6. Motion seconded by Lyon. ROLL CALL: 4 in favor (Bart, Todd, Lyon, and Errol) and 1 opposed (David). MOTION PASSED

NEXT MEETING SCHEDULED FOR SOMETIME IN JULY: Vern will contact us.

ADJOURNMENT:

Respectfully submitted:

Bunny Marquardt, Recording Secretary: Bunny Marquardt 7/19/22

Todd Reeves, ZBA Secretary Todd Reeves 7-28-22