

APPROVED July 28, 2022 MELROSE TOWNSHIP ZONING BOARD OF APPEALS MINUTES OF JULY 19, 2022

CALL TO ORDER/ROLL CALL: Members Present: Ch. Errol Lee Todd Reeves, Bart Wangeman, David Beier, Mary Pat Goldich, Zoning Administrator - Vern Goodwin, and Recording Secretary - Bunny Marquardt.

APPROVAL OF AGENDA: David made the motion to Approve the Agenda, Bart seconded, Motion Passed. ALL AYES

APPROVAL OF JUNE 1, 2022 MEETING MINUTES: David made the motion to Approve the Minutes of 6/1/22 as amended, Todd seconded, Motion Passed. ALL AYES

SCHEDULED PUBLIC HEARING: Errol read the following:

Case ZBA#4-2022t, 5-foot height variance at 4488 Third Street, Walloon Lake, MI (Tax ID#15-010-730-083-00)

Dr. Sebald is requesting a 5' height variance on an accessory building to be built in the southwest corner of the lot. Accessory buildings are allowed within 10' of the rear yard setback if it does not exceed 18' in height

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) The lot is in the R-2 zone district and is part of the plat described as Talcott Watson's Addition A, dated 1899. The existing structure was built before zoning and is nonconforming. The lot is also nonconforming. Vern added it a typical lot in Talcott Addition and is nonconforming and narrower than the 100ft.

It was noted that David Hoerr (lives within the 300 ft.) did not receive his notice as father passed and notice was not delivered therefore did not know of this variance request. Vern stated that Tom had called him and he gave him a new address. Mr. Hoerr was notified

of this ZBA meeting and he responded with a letter and an email. Both are attached.

Justin Roberts, the architect for Dr. Sebald, stated that we have a non-informing lot which is 30% smaller than the current lots in R-2, therefore asking for a 5 ft additional height should be given as there is 10ft in the rear yard setback which is in compliance.)

Ch.Lee asked for those in support: Mike Longo, a neighbor on 4th street stated he was in favor and would be an asset to the community. Susan Gilmette was not sure and needed to hear the Hoerr letter before she decides. After reading the Hoerr letters it was decided they were opposed to this variance request. Ch.Lee closed the Public Hearing.

Ch.Lee asked for discussion by the ZBA Board members: Errol asked does a 5 ft height variance need a different variance at 18 ft with a 10 ft back yard setback as the 23 ft. Height requires a 35 ft back yard. Mary Pat answered Yes. If this variance is granted it is a request to break the law. David explained it is a 5 ft variance and only needs a 5 ft variance. After much discussion Errol stated the applicant could build a garage and still meet all setbacks.

The ZBA Board went on to the Findings of Facts:

The ZBA has requested some assistance in preparation of findings of fact (FOF). The following draft may be considered, modified, used or totally revised by the Zoning Board of Appeals during your deliberations following the hearing:

The ZBA Board finds that:

1. The address of the lot is 04488 Third Street, Walloon Lake. Property tax ID (15-010-730-083-00).
2. The lot is nonconforming with an area of 11,684 SF, a width of 77'7" and a depth of 151'2".
3. There are no special features on this property, such as steep slopes.
4. Setbacks for R-2 are 35' Front yard setback, Side yard setback 10' except for the street side of the corner lot then the side yard setback is 35' and a Rear yard setback of 35'. Accessory Buildings are allowed to have a Front yard setback of 20', unless facing a body of water then the front yard setback is 50' and a rear and side yard setback of 10', as long as the building does not exceed 18' in height.
5. The building as proposed meets all setbacks for the R-2 Zone District but does not meet the height restriction of 18'. The proposed height is 23'.
6. This Parcel is currently served by the Walloon Lake Water System and the Township Sewer System.
7. On June 27, 2022, a notice of, and reason for, this hearing was mailed to owners of 30 properties within 300' of this parcel.

8. On June 29, 2022, a notice of, and reason for, this hearing was published in the Petoskey News Review.
9. Approval of the ZBA, along with compliance with all other zoning requirements, would be needed and administratively reviewed prior to consideration of issuing a zoning permit. ALL AGREED ON THE ABOVE 9 POINTS LISTED.

Section 9.5 – Nonconforming Lots of Record

Lots of record that are nonconforming because of lack of the required land area shall be allowed to be built on and variances may be allowed for required setbacks and yard sizes, provided that adequate water supply and safe sewage disposal facilities are provided. The ZBA in granting the variance must ensure that the spirit of the Ordinance is observed, public safety secured and substantial justice is done.

1. The proposed new non-conforming structure will 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 not make the appearance of the structure in conformance with the district and area. ALL AGREED
 - c) The Board, therefore, finds the new structure will be substantially detrimental to the surrounding neighborhood. ALL AGREED
- 2) The proposed new structure will be contrary to the spirit and intent of the zoning ordinance (answer after considering all the following, a through e). ALL AGREED
 - a) The Board hereby incorporates by reference its findings of fact contained in paragraphs 1. a) through 1. c) 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 6.1 A) of the Zoning Ordinance specifies the purpose of the R-2 Zoning District, which provision are hereby incorporated herein by reference. ALL AGREED
 - d) The Board finds that allowing the non-conforming structure does (Errol and Mary Pat) and David, Bart and Todd voted does not “maintain social and economic stability, property values and general character and trend of Melrose Township development”. 2voted does and 3 voted does not.
 - e) The Board, therefore, finds the proposed project will 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 to permit this project have not been met. ALL AGREED

“Based on the findings of fact as stated above, Bart moved to deny the July 19, 2022, application for a 5-foot height variance to build a 960 sq. ft non-conforming structure at 04488 Third St. Walloon Lake, Mi (Property Tax Id. 15-010-730-083-20). The decision of the ZBA is based upon information per Dr. Sebald application packet dated May 24, 2022. Motion seconded by Todd. ALL AGREED

Ch. Lee stated to Dr. Sebald that he had 30 days to appeal this decision in Circuit Court

REPORT OF PLANNING COMMISSION REPRESENTATIVE BART WANGEMAN:
Bart reported that the Gas Station got Final Approval at the last PC meeting. The applicant met all the requirements and they did discuss the traffic (will be one way around the building).

NEXT MEETING SCHEDULED FOR 5PM ON JULY 28,2022.

MEETING ADJOURNED AT 8:30 PM.

RECORDING SECRETARY_____.

ZBA SECREATRY_____.