

# PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686

Ph: 231.223.7322 Fax: 231.223.7117

[www.peninsulatownship.com](http://www.peninsulatownship.com)

## PENINSULA TOWNSHIP ZONING BOARD OF APPEALS AGENDA

June 18, 2024

7:00 p.m.

1. Call to Order
2. Pledge
3. Roll Call
4. Approval of Agenda
5. Conflict of Interest
6. Brief Citizen Comments – (for items not on the Agenda)
7. Business:
  1. **Extension Request for Variance No. 911, Zoning = R-1B – Coastal Zone (Originally Approved December 19, 2023)**  
Applicant/Owner: Matthew B Myers & Keegan L Myers, 625 & 701 Tucker Point, Traverse City, MI 49686  
Property Address: 707 Tucker Point, Traverse City, MI 49686
    1. Requesting to replace an existing two (2) story non-conforming structure per Section 7.5.6.
    2. Requesting a variance from Section 6.8 of the Zoning Ordinance to construct a new garage and dwelling .5-feet from the front property line, where 30-feet is required.
    3. Requesting a variance from Section 6.8 of the Zoning Ordinance to construct a new garage and dwelling, 12.6-feet from the rear property line, where 30-feet is required.

Parcel Code # 28-11-565-925-55
  2. **Discussion on motions and conditions of approval**
8. **Approval of Minutes from the May 21, 2024, Meeting**
9. Citizen Comments
10. Board Comments
11. Adjournment

**Business**

## Jennifer Cram

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**From:** Matt Myers <matt@m22.com>  
**Sent:** Tuesday, May 21, 2024 4:40 PM  
**To:** Jennifer Cram  
**Cc:** Keegan Myers  
**Subject:** Re: Extension for site plan

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi Jennifer,

I just listened to your voicemail, thank you for the follow up.

We are asking for a sixth month extension so we can better plan for the build. This property has been in our family since 1975 and we plan to keep it as a legacy property so we want to make sure we give the project planning adequate time. We hope to have a plan to you by mid summer. Please let me know if there is anything else you need from us at this time.

Talk soon,

On Tue, May 14, 2024 at 3:22 AM Jennifer Cram <[planner@peninsulatownship.com](mailto:planner@peninsulatownship.com)> wrote:

I will discuss with John Dolton, the chair of the ZBA to see what an extension entails and follow up ASAP.

### *Jenn Cram*

*Peninsula Township Director of Planning and Zoning*

*13235 Center Road*

*Traverse City MI 49686*

*phone - 231-223-7314*

*fax - 231-223-7117*

*[planner@peninsulatownship.com](mailto:planner@peninsulatownship.com)*

*Office Hours: Mondays 7:30 am to 6:30 pm, Tuesdays – Thursdays 7:30 am to 5 pm and closed Friday – Sunday and Holidays.*

**From:** Matt Myers <[matt@m22.com](mailto:matt@m22.com)>  
**Sent:** Monday, May 13, 2024 10:55 PM  
**To:** Jennifer Cram <[planner@peninsulatownship.com](mailto:planner@peninsulatownship.com)>  
**Cc:** Keegan Myers <[k@m22.com](mailto:k@m22.com)>  
**Subject:** Extension for site plan

Hi Jennifer, nice talking with you last week. You mentioned we could file for an extension if we're not going to make our June 18 deadline. I think we need an extension. What would you like us to do?

--

**Matt Myers**  
231-392-3503

**M22 LLC**  
125 East Front Street  
Traverse City, MI 49684

[M22.com](http://M22.com)

[facebook.com/M22life](https://facebook.com/M22life)

[instagram.com/M22life](https://instagram.com/M22life)

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**Matt Myers**  
231-392-3503

**M22 LLC**  
125 East Front Street  
Traverse City, MI 49684

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[instagram.com/M22life](https://instagram.com/M22life)

**Peninsula Township  
Zoning Board of Appeals**

**ZBA Case No. 911.**

Date of Meeting: December 19, 2023

Peninsula Township  
13235 Center Road  
Traverse City, MI 49686

Applicants/Owner: Matthew B Myers and Keegan L Myers, 625 and 701 Tucker Point, Traverse City, MI 49686  
Address: 707 Tucker Point, Traverse City, MI 49686

Parcel Code: #28-11-565-925-55

**Request:**

4. Requesting a variance from Section 6.8 of the Zoning Ordinance to exceed the maximum lot coverage of 15% up to 18%.

Action by the Zoning Board of Appeals:

  
\_\_\_\_\_  
(Chair)


Yes       No

  
\_\_\_\_\_  
(Vice-Chair)

Yes       No

  
\_\_\_\_\_  
(Member)

Yes       No

  
\_\_\_\_\_  
(Member)

Yes       No

  
\_\_\_\_\_  
(Member)

Yes       No

**Board Action:**

Motion to approve request based  
on findings made during the meeting  
and with proposed conditions of approval  
in the staff report.

Peninsula Township  
Zoning Board of Appeals

ZBA Case No. 911

Date of Meeting: December 19, 2023

Peninsula Township  
13235 Center Road  
Traverse City, MI 49686


Applicants/Owner: Matthew B Myers and Keegan L Myers, 625 and 701 Tucker Point, Traverse City, MI 49686  
Address: 707 Tucker Point, Traverse City, MI 49686

Parcel Code: #28-11-565-925-55

**Request:**

3. Requesting a variance from Section 6.8 of the Zoning Ordinance to construct a new garage and dwelling, 12.6-feet from the rear property line, where 30-feet is required.

Action by the Zoning Board of Appeals:

  
\_\_\_\_\_  
(Chair)

Yes       No

  
\_\_\_\_\_  
(Vice Chair)

Yes       No

  
\_\_\_\_\_  
(Member)

Yes       No

  
\_\_\_\_\_  
(Member)

Yes       No

  
\_\_\_\_\_  
(Member)

Yes       No

**Board Action:**

Motion to approve request based on findings made during the meeting and with prepared conditions of approval in the staff report.

**Peninsula Township  
Zoning Board of Appeals**

**ZBA Case No. 911**

Date of Meeting: December 19, 2023

Peninsula Township  
13235 Center Road  
Traverse City, MI 49686

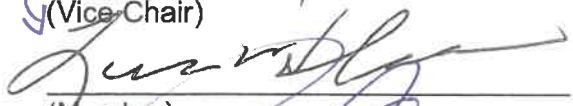

Applicants/Owner: Matthew B Myers and Keegan L Myers, 625 and 701 Tucker Point, Traverse City, MI 49686  
Address: 707 Tucker Point, Traverse City, MI 49686

Parcel Code: #28-11-565-925-55

**Request:**

2. Requesting a variance from Section 6.8 of the Zoning Ordinance to construct a new garage and dwelling 0.5-feet from the front property line, where 30-feet is required.

Action by the Zoning Board of Appeals:

 _____ (Chair)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
 _____ (Vice Chair)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
 _____ (Member)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
 _____ (Member)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
 _____ (Member)	<input type="checkbox"/> Yes	<input type="checkbox"/> No

**Board Action:**

Motion to approve request based on findings made during the meeting and with proposed conditions of approval in the staff report

**Peninsula Township  
Zoning Board of Appeals**

**ZBA Case No. 911**

Date of Meeting: December 19, 2023

Peninsula Township  
13235 Center Road  
Traverse City, MI 49686

Applicants/Owner: Matthew B Myers and Keegan L Myers, 625 and 701 Tucker Point, Traverse City, MI 49686  
Address: 707 Tucker Point, Traverse City, MI 49686

Parcel Code: #28-11-565-925-55


**Request:**

1. Requesting to replace an existing two (2) story non-conforming structure per Section 7.5.6.

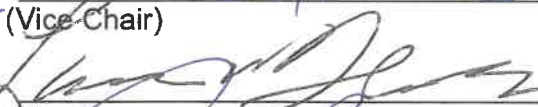
Action by the Zoning Board of Appeals:

  
\_\_\_\_\_  
(Chair)

Yes       No

  
\_\_\_\_\_  
(Vice-Chair)

Yes       No

  
\_\_\_\_\_  
(Member)

Yes       No

  
\_\_\_\_\_  
(Member)

Yes       No

  
\_\_\_\_\_  
(Member)

Yes       No

**Board Action:**

Motion to approve request based on  
findings made during the meeting and  
with proposed conditions of approval in  
the staff report.



Peninsula Township Planning & Zoning Department

**STAFF REPORT**

ZBA Request # 911

Physical Address of Subject Property: 707 Tucker Point, Traverse City, MI 49686

Date: December 12, 2023

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**To: Peninsula Township Zoning Board of Appeals**

**From: Jenn Cram, AICP, Director of Planning and Zoning**

**RE: Request # 911**

**Zoning District: R-1B Coastal Zone**

**Hearing Date: December 19, 2023 – 7:00 PM**

**Applicants/ Owners: Matthew B Myers and Keegan L Myers, 625 and 701 Tucker Point, Traverse City, MI 49686**

**Subject Property: 707 Tucker Point, Traverse City, MI 49686**

**Tax ID: 28-11-565-925-55**

**Background Information:**

- Parcel 28-11-565-925-55 comprises Lots 9 and 10, Block 12 of the Neahtawanta Subdivision and is 9,580 square feet.
- The Neahtawanta Subdivision was platted in 1890 prior to the adoption of the Peninsula Township Zoning Ordinance in 1972. A copy of the plat is included as **Exhibit A**.
- The lot was created legally prior to the adoption of the Peninsula Township Zoning Ordinance.
- The property is zoned R-1B – Coastal Zone – Single and Two Family Residential; and the surrounding area is also zoned R-1B – Coastal Zone – Single and Two Family Residential.
- The minimum lot size for the R-1B zone district is 25,000 square feet.
- Lots 9 and 10 together do not meet the minimum lot size.
- Lots 9 and 10 are legally non-conforming with regard to minimum lot size.
- The parcel currently contains an existing garage with a dwelling and two sheds.
- A vicinity map and aerial image with topography have been included as **Exhibit B**.
- The existing garage and dwelling encroach over the southern property line/right-of-way to Tucker Point and the western property line. Thus, the existing structure is non-conforming with regard to setbacks. The site plan/survey is included as **Exhibit C**.
- The right-of-way for Tucker Point south of the parcel has not been developed and will likely never be developed.
- Based on the sketch included with the on-site septic system permit, the existing garage and dwelling are located on Lot 10 and the on-site septic system is located on Lot 9. The on-site septic system permit is included as **Exhibit D**.

- It is estimated that the garage/dwelling was constructed between 1974 and 1977. This is consistent with the Grand Traverse County Environmental Health Department permit for the well dated August 11, 1977, and the on-site septic system dated April 27, 1978.
- The Grand Traverse County Building Department did not start issuing building permits until 1975 and does not have any records prior to 1978.

**Request:**

1. Requesting to replace an existing two (2) story non-conforming structure per Section 7.5.6.
2. Requesting a variance from Section 6.8 of the Zoning Ordinance to construct a new garage and dwelling 0.5-feet from the front property line, where 30-feet is required.
3. Requesting a variance from Section 6.8 of the Zoning Ordinance to construct a new garage and dwelling, 12.6-feet from the rear property line, where 30-feet is required.
4. Requesting a variance from Section 6.8 of the Zoning Ordinance to exceed the maximum lot coverage of 15% up to 18%.

**Applicant**

**Statement:** Please see the enclosed application submitted by the property owners along with additional information submitted to date, **Exhibit E**.

The floor plan and elevations that have been submitted are examples. The final building plans for the replacement structure will be consistent with the footprint shown on the survey/site plan dated April 3, 2023.

**Section 3.2 Definitions:**

***Practical Difficulty:** To obtain a dimensional variance, the applicant must show practical difficulty by demonstrating all of the following:*

- (a) *Strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for any permitted purpose, or would render conformity unnecessarily burdensome;*

**Staff Comment: The existing parcel is essentially 40 feet deep. Because the lots as platted are so shallow there is no buildable area on the parcel if the standard setbacks for the zone district are applied.**

- (b) *A variance would do substantial justice to the applicant as well as to other property owners in the district, and that a lesser relaxation would not give substantial relief and be more consistent with justice to others;*

**Staff Comment: A variance from the front and rear setbacks as well as lot coverage will allow the applicant to replace an existing non-conforming structure on a non-conforming lot with a modest structure that is less non-conforming. The footprint of the replacement structure has also been reduced from 1,820 square feet to 1,440 square feet (1,650 including eaves).**

- (c) *The plight of the owner is due to unique circumstances of the property; and;*

**Staff Comment: The plight of the owners is due to the unique circumstances of the small, shallow lots platted in 1890.**

(d) *The problem was not self-created. (ADDED BY AMENDMENT 171A)*

**Staff Comment: As noted above, this problem was not created by the property owners.**

**Section 6.8 Schedule of Regulations: (Revised by Amendment 91), (Amendment 107D)**

*The Regulations contained herein shall govern the Height, Bulk, and Density of Structures and Land Area by Zoning District:*

*R-1B, Coastal Zone:                      Front setback = 30 feet  
    Side yard setbacks = 15 feet  
    Rear yard setback = 30 feet  
    Ordinary Highwater setback = 60 feet  
    Allowable percentage of lot coverage = 15%*

**TABLE OUTLINES VARIANCE REQUESTS No. 2, No. 3, and No. 4**

<b>R-1B Standards (Section 6.8)</b>	Required	Variance	Conforms to Standards?
Minimum Front Setback	30'	No	No – Variance Requested
Minimum East side yard setback	15'	No	Yes
Minimum West side yard setback	15'	No	Yes
Minimum Rear setback	30'	No	No – Variance Requested
Minimum OHWM	60'	NA	NA
Percentage of Lot Coverage:	15% - allowed	No	No – Variance Requested

**Staff Comment:**

**The purpose of the front setback is to provide safety and separation of structures from the road. The purpose of the rear setback is for privacy and emergency access between adjacent lots and structures.**

**The purpose of limiting lot coverage is to provide for green space to address stormwater run off and other issues related to development. Green space also provides for an improved quality of life.**

**Section 7.5.6 Moving or Replacing Non-Conforming Structure: *The Township Zoning Board of Appeals may grant a variance for moving or replacing a residential structure on a legal non-conforming lot so that the continued intensity of residential use of the lot is substantially the same as in the pre-existing structure, provided all of the following are met:***

- (1) *The moved or replaced structure is less non-conforming than the previous structure;*

**Staff Comment:** The proposed location of the replacement structure is less non-conforming than the existing structure. It is proposed to be located entirely within the boundaries of the parcel. The footprint of the replacement structure has also been reduced to be less non-conforming (1,650 sq. ft. vs. 1,820 sq. ft.).

- (2) *There is increased safety to the residents of the structure and to the traveling public on the road providing access to the parcel;*

**Staff Comment:** The proposed location of the replacement structure is outside of the platted right-of-way. This right-of-way will likely never be developed.

- (3) *Safety and substantial justice is achieved;*

**Staff Comment:** Safety and substantial justice will likely be achieved if the requested setback variances from the front and rear setbacks are approved by the board because the replacement structure will be located within the boundaries of the parcel. The proposed replacement structure is modest in size (1,440 sq. ft.) to meet the required front and rear setbacks as much as is possible. The replacement structure has also been reduced to better meet lot coverage requirements.

- (4) *If the variance allows the structure to encroach into the setback from the Ordinary High Water Line, conditions of approval shall include:*

- (a) *provisions for stabilization of the shoreline so that the structure is not likely to be damaged by high water or wave action;*
- (b) *there is no additional detriment to adjacent properties;*
- (c) *shoreline vegetation is existing or established consistent with the intent of Section 7.4.4 Removal of Shore Cover; and*
- (d) *sea walls will not be allowed unless it is determined that there is no feasible alternative.*

**Staff Comment:** This standard does not apply to this property as it is not located on the shoreline.

- (5) *In addition to (1) through (4) above, the subject parcel shall also meet all of the basic and special conditions as provided for all variances in Section 5.7.3. (REVISED BY AMENDMENT 176B)*

**Section 5.7.3 Variances:** *The Board of Appeals shall have the power to authorize, upon an appeal, specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements, PROVIDED ALL of the basic conditions listed herein can be satisfied:*

1. *Basic Conditions:*

- (a) *That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.*

**Staff Comment: The need for the variances is due to the unique circumstances and physical conditions of the property, as the lots were platted in 1890 prior to the adoption of the Township zoning ordinance. Furthermore, the lots are non-conforming with regard to minimum lot size even when considered together at 9,580 square feet. The lots are also very shallow (~40-foot wide). As discussed above, this practical difficulty was not created by the applicant.**

- (b) That the need for the variance is not the result of actions of the property (self-created) or previous property owners.

**Staff Comment: As discussed above, the applicants/property owners did not create the practical difficulty. They did not plat the lots in 1890.**

- (c) That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)

**Staff Comment: As discussed above, the existing parcel is essentially 40 feet deep. Because the lots as platted are so shallow, there is no buildable area on the parcel if the standard setbacks for the zone district are applied.**

- (d) That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give a substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

**Staff Comment: A variance from the front and rear setbacks as well as lot coverage will allow the applicant to replace an existing non-conforming structure on a non-conforming lot with a modest structure that is less non-conforming. The footprint of the replacement structure has also been reduced from 1,820 square feet to 1,440 square feet (1,650 including eaves).**

- (e) That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.

**Staff Comment: The requested variances will not likely cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood as there is currently a structure that encroaches over the front and side property lines that has existed for approximately forty-five years. The replacement structure will be contained within the parcel boundaries and meets the required side yard setbacks. The replacement structure provides for front and rear setbacks as best as possible while still allowing for the construction of a modest structure (1,440 sq. ft.). It should**

**also be noted that the properties to the south and west are owned by family members and the area functions as a family compound.**

- (f) That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use of r which a conditional use or temporary use permit is required.

**Staff Comment: The R-1B zone district allows for single and two-family dwellings as uses by right along with associated accessory structures. The proposed replacement structure will be used as a garage and dwelling consistent with allowed uses.**

2. *Rules: The following rules shall be applied in the granting of variances:*

- (a) *The Board of Appeals may specify, in writing, such conditions regarding the character, location, and other features that will in its judgement, secure the objectives and purposes of this Ordinance. The breach of any such condition shall automatically invalidate the permit granted.*

**Staff Comments: We recommend that the board discuss the setback variances and lot coverage so that the property owners can receive the direction that they need to move forward with building plans. We believe that the board will want to see the building plans prior to approving the request to replace the existing non-conforming structure to ensure that the intensity of the use is not increasing beyond what is allowed within the zoning ordinance.**

**We also recommend that as a condition of approval that the property owners apply for and formally combine Lots 9 and 10, Block 12 so that the replacement structure and on-site septic system are located on the same lot. In addition, this will allow the property to better meet the lot coverage requirements.**

- (b) *Each variance granted under the provisions of this Ordinance shall become null and void unless: the construction authorized by such variance or permit has been commenced within six (6) months after the granting of the variance; and the occupancy of the land, premises, or buildings authorized by the variance has taken place within one (1) year after the granting of the variance.*
- (c) *No application for a variance which has been denied wholly or in part by the Board of Appeals shall be resubmitted for a period of (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board of Appeals to be valid.*

**Staff Recommendation:**

Staff recommends that the Zoning Board of Appeals provide feedback via a formal consideration of requests number two (2) through four (4) related to setbacks and lot coverage and then table action on request number one (1) to a date certain.

**Draft Conditions of Approval:**

1. The property owners shall apply for and formally combine Lots 9 and 10, Block 12 prior to issuance of a land use permit.
2. Final building plans shall be consistent with the examples included in the December 19, 2023, packet (2 story structure w garage space on main level with studio above including a kitchen and three fixture bathroom) and as dimensioned on the site plan dated April 3, 2023.

**Peninsula Township  
Zoning Board of Appeals**

**ZBA Case No. 911**

Date of Meeting: December 19, 2023

Peninsula Township  
13235 Center Road  
Traverse City, MI 49686

Applicants/Owner: Matthew B Myers and Keegan L Myers, 625 and 701 Tucker Point, Traverse City, MI 49686  
Address: 707 Tucker Point, Traverse City, MI 49686

Parcel Code: #28-11-565-925-55

**Request:**

1. Requesting to replace an existing two (2) story non-conforming structure per Section 7.5.6.

Action by the Zoning Board of Appeals:

_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Chair)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Vice Chair)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		

**Board Action:**

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**Peninsula Township  
Zoning Board of Appeals**

**ZBA Case No. 911**

Date of Meeting: December 19, 2023

Peninsula Township  
13235 Center Road  
Traverse City, MI 49686

Applicants/Owner: Matthew B Myers and Keegan L Myers, 625 and 701 Tucker Point, Traverse City, MI 49686  
Address: 707 Tucker Point, Traverse City, MI 49686

Parcel Code: #28-11-565-925-55

**Request:**

2. Requesting a variance from Section 6.8 of the Zoning Ordinance to construct a new garage and dwelling 0.5-feet from the front property line, where 30-feet is required.

Action by the Zoning Board of Appeals:

_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Chair)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Vice Chair)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		

**Board Action:**

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**Peninsula Township  
Zoning Board of Appeals**

**ZBA Case No. 911**

Date of Meeting: December 19, 2023

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13235 Center Road  
Traverse City, MI 49686

Applicants/Owner: Matthew B Myers and Keegan L Myers, 625 and 701 Tucker Point, Traverse City, MI 49686

Address: 707 Tucker Point, Traverse City, MI 49686

Parcel Code: #28-11-565-925-55

**Request:**

3. Requesting a variance from Section 6.8 of the Zoning Ordinance to construct a new garage and dwelling, 12.6-feet from the rear property line, where 30-feet is required.

Action by the Zoning Board of Appeals:

_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Chair)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Vice Chair)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		

**Board Action:**

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**Peninsula Township  
Zoning Board of Appeals**

**ZBA Case No. 911**

Date of Meeting: December 19, 2023

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**Request:**

4. Requesting a variance from Section 6.8 of the Zoning Ordinance to exceed the maximum lot coverage of 15% up to 18%.

Action by the Zoning Board of Appeals:

_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Chair)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Vice Chair)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		

**Board Action:**

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# Minutes

Peninsula Township  
Zoning Board of Appeals  
May 21, 2024 7:00 p.m.  
Lola Jackson Recording Secretary

PENINSULA TOWNSHIP  
13235 Center Road, Traverse City MI 49686  
Ph: 231.223.7322 Fax: 231.223.7117  
[www.peninsulatownship.com](http://www.peninsulatownship.com)

**PENINSULA TOWNSHIP  
ZONING BOARD OF APPEALS MINUTES**

May 21, 2024  
7:00 p.m.

1. **Call to Order** by Dolton at 7:00 pm
2. **Pledge**
3. **Roll Call** Cowan, Dloski, Wahl, Dolton, Dunn, Cram-director of planning and zoning
4. **Approval of Agenda** Dloski moved to approve the agenda with a second by Cowan.  
**Approved by consensus**
5. **Conflict of Interest** None
6. **Brief Citizen Comments – (for items not on the Agenda)** None
7. **Business:**

**1. Public Hearing for Request No. 917, Zoning = R-1B – Coastal Zone**

Owner: Richard Wiener Trust, 1847 Wilson Avenue, Saginaw, MI 48638

Applicant: Raquel and Sean McGovern, 1245 Lake Shore Drive, Boyne City, MI 49712

Property Address: 11692 Bluff Road, Traverse City, MI 49686

1. Requesting a variance from Section 6.8 of the Zoning Ordinance to construct a second story addition above an existing detached garage 5 feet from the side property line, where 15 feet is required.

Parcel Code # 28-11-003-015-00

Dolton opens the public meeting and reads variance request 917.

**Cram:** this is a request tabled from the April 23, 2024 meeting. The pause in the proceedings was to allow the applicant to make some revisions. The packet includes both the initial proposal from April 3, 2024, and the new proposal to be presented tonight for comparison. The dormers were removed and so the footprint above the garage for the storage was reduced. The flat roof is not draining properly and collects a lot of debris from the surrounding trees. The applicant would like to replace the roof and at the same time add some additional storage. This replacement would be a gabled roof with some storage space above. The existing garage is located 5 feet from the northern property line. They want to go up and the addition would not meet the required setback of 15 feet. The second story and the new roof requires a variance from the ZBA. A variance would not be required if they were replacing the roof like for like. We could allow for a gabled roof with no storage as it is a roof, but not adding any additional storage space. (Cram shows the photo of the existing garage from the front, and a side view of the existing garage) The tennis court was discussed at the last meeting. The tennis court is at grade and is not required to meet structure setbacks. The fence along the western side of the tennis court does exceed 4 feet in height and so is required to meet the setbacks for a structure. This is non-conforming. The

applicant has agreed to reduce the height of the fence, which would address the issue. This is not the subject of this variance request. However, the applicant wants to be a good neighbor and address the concerns of property owners to the north. The property has been surveyed and staked. The plan included in your packet is hand drawn and not quite to scale. We can confirm the setback from the existing staking and the property owner has noted the addition would not extend any further into the side yard setback. The building elevations are in the meeting packet. The revised plan still showed the eave on the northern side. Again, they drew a line through it and noted there would be no eave on the northern side. This means there is no additional encroachment towards the northern property line. The footprint is 24 feet wide by 37 feet because of the eave overhang. The site plan is not totally accurate. The dormers were removed. However, a balcony is still included, and a second story addition is still proposed. The township zoning ordinance was adopted in 1972. The existing garage was constructed in 1955, prior to the adoption of our zoning ordinance and prior to the time period the Grand Traverse Construction Code was issuing building permits, so we do consider the existing garage to be legally non-conforming with regard to setbacks. We did receive public comments again from the neighbor, which is included in the packet.

**Dloski:** the fact the garage was constructed prior to the adoption of the zoning ordinance does not necessarily justify granting a variance, does it?

**Cram:** correct. That is merely a statement of fact. Yes, it was built in 1955 and this could be a constraint. One could look at this, especially if there were not any alternatives, as to where a garage could be located. The construction from 1955 does not keep one from considering all of the conditions for approval in Section 5.7.3.

**Dloski:** it is my understanding the garage roof can be secure without a variance.

**Cram:** correct. The garage roof could be replaced. Section 7.5.4 does allow the repair and alternation of non-conforming structures. This allows them to repair the roof, but in order to go up as they are proposing and add an additional floor, a variance is needed under Section 7.5.1. I cannot issue a land use permit for an addition on a non-conforming structure if it does not meet the required setbacks, height, and other dimensional requirements.

**Dloski:** if they came in just to repair the roof, could you issue them a land use permit?

**Cram:** yes, for the repair like-for-like.

**Dolton:** just as a reminder Section 7.5.3 is for additions to non-conforming structures. This request must meet all of the 6 Basic Conditions. If the variance request meets all 6, the variance request is approved. If any one condition is not met, the variance request fails.

### **Richard Wiener P0 Box 250 Williamston, Mi. 48895**

Tonight, I have brought my wife Raj Wiener, who is co-owner of the property, with me. The applicant is Sean McGovern, he is the applicant and contractor on the project. Sean can answer all of the technical questions you might have. We have come here tonight with a revised plan. We took your concerns very seriously and have a plan that meets some of those issues. Some of the issues were raised by our neighbor and some by members of this board. We have appreciably downsized the plan for lack of a better word. We did leave the balcony for passing things up and there is some window space. We removed the dormers and addressed the issue of the fence even though we believe after 40 plus years of the fence being in the identical same position, there is an

appreciable property claim we have there. In the interest of neighborhood comity, the fence issue will be resolved while incurring the expense of a pitched roof as a repair and gaining a little bit of storage space. At the last meeting, there seemed to be a misplaced perception we wanted to house people in this area. We do not want to do this. I would like to address some of the issues raised in the Maureen Madion letter dated May 15, 2024. She brought up the issue of grandchildren wreaking havoc, my phrase not hers, in the space above the garage. First, we do not have any grand kids. We are not interested in using this as a play area and do not believe it would be a safe place. She brought up an issue of a property owner being denied an ordinance. An ordinance is used to set policy; that is not this board's function. We are asking this board to grant this variance as we have answered every one of your concerns.

**Dolton:** are there any questions for the applicant from the board?

**Dloski:** this board can only grant a dimensional variance if there is something unique about the property that prevents you from complying with the zoning ordinance. There has to be something about the property such as narrowness or topography that prevents you from complying with the zoning ordinance. There is nothing here that prevents you from complying with the zoning ordinance.

**Wiener:** this board raised a specific set of concerns at the last meeting. The chairman asked that we come back with a new plan to address those concerns and we have come back with a more modest plan.

**Dolton:** asks if there is anyone who wishes to speak on behalf of the variance request. Seeing and hearing none, is there anyone who wishes to speak against the variance request? Hearing none, Dolton closes the public portion of the meeting. McGovern asks if he may offer some information. Dolton reopens the public portion of the meeting.

### **Sean McGovern comes up to the podium. 1245 Lakeshore Boyne City**

**McGovern:** when you ask if there is anything that can be done to meet the zoning ordinance, if you were to take down the garage and move it further away from the sideline setback, you would not be able to come down the driveway and turn into the garage. You would not be able to build a proper size for a 2 car garage. In taking in all of the comments from the last meeting, I do not believe the board was telling us to do anything, but I was taking feedback from the neighbors, the Madions, and questions the board had. We took those comments to the architect and tried to address every possible issue to meet and exceed those questions, comments, and concerns. We had the architect lower the pitch of the roof. I wanted to go with an 8/12 to a 10/12 pitch roof. The stairway where you come up requires you to make a turn and you need headroom coming up into the attic. This requires us to use a 12/12 pitch roof. We were looking at different design features on how we could still lower the height, which was a concern of the Madions. Originally, the architect had designed it so we could put the trusses on top of the existing roof, pull back the dura roof, put the trusses on top of that, and then you build a new floor. In the new design, we have completely taken off the roof, which drops the whole elevation 11.5 inches. We took the roof down a foot. The other issue raised is taking off the existing roof and repairing it. The answer is yes; however, the same issue is going to come up again in a 3-5 year period. This is mainly due to the neighbors having a huge forest over there with very tall trees. There is not a fall, spring, or winter where those trees do not drop on that duralast roof and poke holes in it.

Yes, the roof could be replaced, and that means more expenses for the Wieners in the future. The reason we chose a pitched roof is the elements up here, which all of you know, are very harsh in the wintertime. A pitched roof also solves the storage issue. In the last meeting, the owner did agree to sign a document that the garage would never be used for living quarters, only storage. The balcony was downsized. There was an actual slider in the first plan and now it is a standard, single 36 inch door, with a gate on the balcony to help pass items through like a stand up paddle board.

**Dolton:** on the diagrams, I noticed the interior height space appears unchanged. I do not see any measurement of total height space on the original plan.

**McGovern:** the original total height was going to be about 23 feet, 6 inches. Now the height would be 21 feet.

Dolton closed the public portion of the meeting and brought the discussion back to the board.

**Wahl:** is the word addition defined in the ordinance?

**Cram:** no. Any time a term is not defined, we can use a common definition from Merriam-Webster.

**Wahl:** the word alteration is defined. Wahl reads definition. This may conflict with how we look at additions. I know they can be defined differently under the ordinance, but the definition of alteration includes addition.

**Cram:** an addition is a type of alteration to a structure because you are altering the structure by adding on to it. The flat roof is not working. If they changed it so there was a slight pitch so things drained off, it is not adding onto the structure it is merely altering it. The other part you need to look at is the intent and purpose under Section 7.5.1 that says it is not the intent to allow significant increases in the intensity of the previously established residential use on an otherwise unbuildable lot. Based on the site visit and the plans, the garage could be moved further from the northern property line. You would not have to turn to get into the garage (Cram shows photos of existing garage and property on the screen); you could drive straight into the garage. When we look at variance requests, we look to see if there are other alternatives.

**Dolton:** I would like to clarify several points. The flat roof is a problem as the applicant has expressed and I think we are sympathetic to that being a problem. There is the ability from the ordinance to restore a non-conforming structure to maintain its ability to be in service. Some type of minimally, but modest sloped roof would not require a variance.

**Cram:** correct. That would be an alteration of the existing roof without increasing the intensity.

**Dolton:** the other point, which is a kind of curious one, is we have talked about moving the entire garage, but the garage is actually 32 feet deep and it is the back end of garage with the 5 foot setback problem.

**Cram:** what is proposed is what the property owner would like because they wanted the garage to be aesthetically consistent with the existing residence. It is their prerogative to come in and request a variance for what they want, but we have to look at the conditions of approval and to think, to some degree, about future precedent.

**Dloski:** these are tough decisions and not easy issues to deal with and we certainly would like to make everybody happy, but we cannot. We have to follow the letter of the law and the law is very clear. If the application can be changed, so a variance is no longer needed, this body has to deny it.

**Cowan:** the roof could have a pitch put on it, but it would not have the storage space they are



clearly asking for. The way Larry (Dloski) explained it makes a lot of sense to me.

**Dolton:** the issue is in order to achieve a variance is the portion of the structure that requires the variance. In this case, it is the 5 feet from the property line, when it has to be 15 feet. The current structure as described would add an additional 11 feet of structure that is now only 5 feet from the property line.

Dolton requested Cram to go through the 6 conditions for variance approval. Each board member needs to give a reason for their yes or no vote.

Section 5.7.3 (1) BASIC CONDITIONS: The applicant must meet ALL of the following Basic Conditions.

(A). That any variance from this Ordinance: a) That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.

Dunn: No, I do not think we have a unique circumstance here.

Wahl: No, I do not think these are unique circumstances.

Cowan: No, simply because the building was built in 1955 is not a justification in my mind.

Dloski: No, there are no unique circumstances that would justify this variance.

Dolton: No, for reasons already stated.

(B). The need for the variance is not the result of actions of the property owner (self-created) or previous property owners.

Wahl: Yes, it is a legally non-conforming garage built in 1955 and not a self-created issue.

Cowan: Yes, I agree with Wahl.

Dunn: Yes, I agree with Wahl.

Dloski: No, it is a self-created problem because the owner is asking us to do something that he could do without a variance.

Dolton: Yes, the applicant desires to change the footprint of an existing structure that is legally non-conforming

(C). That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)

Dloski: No, this garage can be used without the variance being granted.

Cowan: No, I agree with Dloski.

Dunn: No, for reasons previously stated.

Dolton: No, because alternatives have been expressed and described that would not require a

variance.

Wahl: No, for reasons already stated.

(D). That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

Wahl: Yes, this would do substantial justice to the applicant as well as other property owners.

Dloski: No, substantial justice is not an issue here because they can utilize the garage and secure the roof. If we just start giving variances to just give variances, then we are going to get into trouble down the road.

Cowan: No, for reasons stated by Dloski.

Dunn: No, because of staff comments and for reasons previously stated.

Dolton: No, it is not substantial justice if we approve an expansion of the non-conformity when there are alternatives.

(E). That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.

Dolton: No, it was clear from the one neighbor that they believe it would cause a detriment to their property value.

Dloski: No, for reasons stated by Dolton.

Dunn: No, because of staff comments and prior reasons stated.

Wahl: Yes, the property is far back and I do not think it is going to have an adverse impact on any of the neighbors. Any time you make an improvement to a home, it increases the neighbors' property values.

Cowan: No, for reasons previously stated.

(F). That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.

Dloski: Yes, there is no change in use.

Dolton: Yes, no change in use.

Cowan: No, for reasons previously stated.

Dunn: Yes, there is no change in use.

Wahl: Yes, no change in use.

Cram summarized the results.

Condition A did not pass. There were 5 unanimous No votes.

Condition B had 4 Yes and 1 No.

Condition C had 5 No votes.

Condition D had 4 No and 1 Yes.

Condition E had 4 No and 1 Yes.

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Lola Jackson Recording Secretary

Condition F had 4 Yes and 1 No

**Cram:** in order for a variance to pass, all 6 basic conditions must be met. Unfortunately, this was not the case.

**Dolton:** 5 out of the 6 conditions were not met

**Dloski made a motion that Request No. 917 be denied with Cowan providing a second.  
Roll call vote: Yes-Dunn, Dolton, Dloski, Wahl, Cowan**

**8. Approval of Minutes from the April 23, 2024, Meeting**

**Dunn moved to approve the minutes with a second by Wahl.**

**Approved by Consensus**

**9. Citizen Comments None**

**10. Board Comments None**

**11. Adjournment Dloski moved to adjourn the meeting with a second by Dunn.**

**Approved by Consensus**

Meeting adjourned at 7:46 p.m.