

WATERSMEET TOWNSHIP ZONING BOARD OF APPEALS

FINAL MINUTES

MEETING OF JUNE 28, 2023

5:30 PM

Community Center

[www.watersmeet.us](http://www.watersmeet.us)

**Call to Order:** ZBA Chair – Cheryl Pytlarz called the Zoning Board of Appeals (ZBA) – Business Meeting to order at 5:30 PM 6/28/2023, followed by Pledge of Allegiance and Attendance/Roll call.

**Members Present:** Cheryl Pytlarz, Paul Kemppainen, Bob Zelinski, John Cestkowski, John Oliver

**Public Attendees:** Patrick & Laura Mans, Chris Wegner, Zoe Coleman, Mark Erhart, Dan Kline

**Virtual Attendees:**

**Approval of Agenda:** No changes to agenda. A motion was made by Paul Kemppainen to approve the agenda. John Cestkowski seconded the motion. All in-favor, Motion carried.

**Approval of Meeting Minutes for Sep. 7, 2022:** Draft minutes were accepted noting a change that Bob Zelinski was preset for the 9/7/2022 Business meeting and Public Hearing as a non-voting member. No further discussion.

A motion was made by Paul Kemppainen to approve the Sep. 7, 2022 Minutes as revised, John Cestkowski seconded the motion. All in-favor, Motion carried.

**OLD BUSINESS:** none

**NEW BUSINESS:**

. Cheryl Pytlarz stated the ZBA can write and adopt procedures for how we conduct business, i.e., setting up, establishing, and holding a public hearing.

Cheryl provided a high-level overview of the process, requirements, and dependencies when the ZBA receives a Zoning Board of Appeals application:

- . Schedule a Public Hearing date.
- . Prepare and publish a notice (article) in the newspaper.
- . Notification to neighboring property owners within 300 feet of the applicant's property.
- Gogebic County GIS website is the resource tool used.
- . Prepare and post the Hearing Agenda

Cheryl proposed that she compile the details she has into a structured ZBA procedure for our review/discussion under Old Business during the August 1<sup>st</sup> Business meeting. Paul also referenced use of the ZBA Handbook and Planning Handbook he purchased at the previous MTA meeting.

ZBA members agreed that these topics are good items to discuss during our next Business meeting.

**Business Meeting:**

A motion was made by Paul Kemppainen to adjourn the Business meeting, John Cestkowski seconded the motion. All in-favor, Motion carried. Business meeting adjourned at 5:40PM

**Public Hearing - Mans Dimensional Variance Request:**

ZBA Chair – Cheryl Pytlarz called the Zoning Board of Appeals (ZBA) Public Hearing for the Mans Dimensional Variance request to order at 5:59PM, followed by Attendance/Roll call.

**Members Present:** Cheryl Pytlarz, Paul Kemppainen, Bob Zelinski, John Cestkowski, John Oliver

**Public Attendees:** Patrick & Laura Mans, Chris Wegner, Zoe Coleman, Mark Erhart, Dan Kline, Pete Cartwright, David Sherrill, Pat Walsh

**Virtual Attendees:** Dan Hance, Julie Worley, Arny D.

**Documentation of public record:** Mr. Mans ZBA application, letter to the ZBA dated May 23, 2023, and supporting exhibits A & B that depict the details of his request for both properties located at E19388 and E19387 Roddis Rd Watersmeet MI, 49969 lot numbers 27-06-31-004-500 lake lot, 27-06-31-004-510 off lake lot. A letter of support from adjacent property owner Mr. Omar Shabaz was also included.

In summary, “if granted a conditional variance, I will have a survey completed noting the (*property line*) changes and have it filed with the Gogebic County Register of Deeds.”

**Mr. Mans** expressed his appreciation to the board then presented an overview of his request, including hardships, of his non-conforming adjoining lots to address the setback requirements and his Dimensional Variance request to permit construction of a house on his off-water property/lot.

- . Lot 1 - Lake lot, < 1-acre non-conforming
- . Lot 2 - is a .68-acre non-conforming lot with contiguous property line shared with lot 1.  
Lot 2 is the subject property to build a house.
- . Topology constraints of (road/driveway) hills impact accessibility in winter requiring 4-wheel drive and/or chains to the lakefront property (lot 1). “One hardship is (lot 2) is really the only place. As we get older and are retired, to try and get down there and up without having just a drive in a garage, that's one challenge”.
- . Intent to limit/preserve large tree removal from property. “The other challenge, there's a lot of very large trees on the property. We're trying to limit the amount of those that we have to cut down as to not impact us and the neighbors and what it looks like they're now because it's beautiful”.
- . Proximity constraints of the “shared access” private and narrow road/driveway that services neighboring properties and dissects Mans lot 2.
- . Insufficient room to place the house closer to the road/driveway, the septic tank requires a 10-foot setback from the foundation and will be pumped under the road/driveway to the septic field.

Mr. Mans stated “...we're not building a or 5000 square foot house and trying to jam it on something it shouldn't be on. This is about a small house we can build for the two of us. It's one bedroom upstairs with maybe a future bunk room down in the basement. So, it's not big and what I'm asking is for the ability to move my own property line from the upper lot, the one off the lake (lot 2), move it 60 feet to the on-lake (lot 1) property. Just move that property line that far thereby it alleviates any of the setback

issues that there would be at all". ... "I wouldn't need a variance from the front of the house to the property line if that property if I simply move that property line between the two lots".

ZBA questions with Mr. Mans included discussion regarding the adjacent corner of Mr. Shabaz lot in proximity to the proposed house. If required, Mr. Shabaz and Mr. Mans would trade equal size minimal triangle portions of property to meet the diagonal line requirements. Please reference the Letter of Support dated May 23, 2023 from Mr. Shabaz to the Watersmeet ZBA.

There were no further questions or discussion from the ZBA.

**Public comment:**

. David Sherrill, resident on Long Lake, Watersmeet, MI – Expressed his concern and requests that the board not approve because he has not seen/heard of compelling reason to do it (approve). Also, if you do this, it will set precedent.

There were no further questions for Mr. Sherrill.

Dan Hance, virtual attendee, and former resident of Watersmeet expressed his support for the character of Mr. and Mrs. Mans.

No further Public Comment, the Public Hearing was closed.

**ZBA Deliberations:**

**Observations/Summary:**

The Mans own two *substandard* lots (i.e., non-conforming) that's the technical term in the Zoning Ordinance. The area was previously a resort, the lots were established before the Zoning Ordinance. If the two lots were merged, it would be non-conforming because it would not meet the dimensions of 150-foot lakefront and 300-foot depth.

The house on the lake is so close that it would be required to be the primary residence. A guest house must be 125 feet from the lake, the Mans new home that he would be building would, in our Zoning Ordinance, be a guest house. In the Zoning Ordinance, the Mans new primary residence does not meet the guest house requirements.

**Watersmeet Zoning Ordinance – 7.02C Substandard Lots:**

If the area or width of any lot on public record on the date of enactment of this ordinance is less than the minimum required, the lot may be used for a one family dwelling and the required width of each side yard reduced to not more than 50% of the requirement but not less than 3 1/2 feet.

In the instant in this instance, so therefore those side yards where we have it has to be 20, we can reduce to 10 feet.

Mark Erhart, Zoning Administrator, provided an overview of the proposed house dimensions, lot dimensions, and proximity to Mr. Shabaz property. Further discussion regarding interpretation of the property "corner". Mark shared – "We don't have it. There's nowhere in the book that it says, oh, by

the way, straight line from the middle of a house to the live line it's got to be 25. Well, what do you do on a Kitty corner? Whatever you're it's not in the book".

Cheryl contacted the Michigan Township Association. When there is an issue that is not defined in our ordinance, how do we proceed? MTA guidance – is to use common sense, be reasonable.

Paul shared insight reflecting when old resorts were broken up, zoning and issues that show up with nonconforming. What's being proposed here is something relative to his (Mr. Mans) own property. That we are depriving him of the right to use his property if we don't let this variance go through as presented.

He (Mr. Mans) has presented a compelling argument; he is trying to be conscious of what he's doing with his property uses. He's talking about not cutting down every possible tree, he is limited by the location, working with the terrain and that is definitely an influence on what he can do. I think he deserves the right to have this done in his favor.

John Cestkowski shared If you look at our area, there are a lot of non-conforming lots. Are we going to deny people the right to be able to use those lots just because of non-conforming? I think it would be a problem for the Township if that became a precedent.

When somebody comes before the Zoning Board of Appeals, it's an individual case. It's not considered as a precedent or anything else. The individual presents their case and the based on the information we receive, and if it falls within the power of the Zoning Board of Appeals, we can grant that appeal or we can deny it based on what we've heard.

We have to be realistic, and we have to be able to give people an opportunity to do what they would like to do (with their property) and welcome them into our community.

The other thing I wanted to mention is the reason for moving the lot line from the transition lot down the hill to under the power lines again on non-buildable unusable land is to relieve a variance. The 3-foot next to the existing rear lot line won't be a variance requirement any further.

#### **Standards to Decide a Dimensional Variance:**

1 - Special or unique conditions and circumstances exist which are peculiar to the land, structure or building involved and which are generally not applicable to other lands, structures, or buildings in the same district.

- . Lots 1 and 2 are parcels from a prior resort, the lots were established before the Zoning Ordinance.
- Consideration for Lot-2 as it applies under Watersmeet Zoning Ordinance – 7.02C Substandard Lots: If the area or width of any lot on public record on the date of enactment of this ordinance is less than the minimum required, the lot may be used for a one family dwelling... (see ref. 7.02C for full details)
- . Variance request to move the property line 60-feet north between Lot 1 and Lot 2:
  - Based on topography, terrain and the public utility easement, none of this portion of the property:
  - would likely be suitable for building a structure for anybody in the future

- would likely not be usable for playground or general recreational purposes, or even for a septic area
- the above is regardless of which lot it is assigned to

. This dimensional variance, if approved, becomes part of the land description. Based on the above, it is reasonable that there is likely no significant consequence to any future property owner by moving the property line.

2 - A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the ordinance; and that the variance is the minimum necessary.

. The Mans own both lots, moving the lot lines is at their discretion. They are creating two different non-conforming lots and without adding any more dimension. Denying the variance request is to deny them the ability to build their home.

3 - The special conditions do not result from the actions of the applicant.

. Correct. Mans purchased their property with intent on building their home. The topography, terrain, power lines, and constraints of the “shared access” private road/driveway that service neighboring properties pre-date Mans ownership of the property.

4 – The granting of the variance will be in harmony with the general purpose and intent of this ordinance.

. Watersmeet Zoning Ordinance 7.02C Substandard Lots - was provisioned specifically to enable land use for a single-family dwelling on smaller non-conforming lots and allow reduced setback requirements. The Township wants people to be able to buy and use their land.

. The distance from the from the (proposed) house to the private road/driveway is just enough to meet the 10-foot requirement by the WUPHD and just enough room for the septic tank. This was a hardship factor in moving the property line. Lot-2 is a small .68-acre, moving the private road/driveway would impact every neighboring property. These are the special conditions that it's just a small property and there's not enough room for everything.

5 – The variance will not be injurious to the neighbors or otherwise detrimental to the general welfare.

. Though the private road/driveway dissects Lot-2, the Mans can move forward to build their home without concern/expense/impact to their neighbors.

. Placement of their off-water home and preservation of large trees does not visually/adversely affect the character of the neighborhood or on-water properties.

. Following discussion with Mr. Mans, Mr. Steven Minore rescinded his letter against granting a variance.

. Mr. Omar Shabaz provided a letter of support. He is the only other adjacent neighbor that would be most impacted.

6 – The spirit of this ordinance shall be observed, public safety secured, and substantial justice done for the applicant and neighboring property owners.

. The aforementioned Standards (above), Approval of the variance, and no concern/expense/impact expressed by neighbors.

. No public safety issues. No changes to the private road/driveway is primarily on the man's property.

**Motion:**

A motion was made by Paul Kemppainen to grant Mr. Mans the Dimensional Variance request to change and create two (2) new non-conforming lots by moving the northern property line of parcel 27-06-31-004-510 sixty (60) feet north.

A condition was placed on the motion to grant the variance. The Mans are to be required to have an official survey of the properties and to have the survey and legal descriptions recorded at the Gogebic County Register of Deeds as stated by Mr. Mans in his May 23, 2023 letter to the ZBA. Mr. Mans has 90 days to complete this condition.

John Cestkowski seconded the motion to grant the variance request followed by a roll call vote.  
All In-favor, Motion carried.

The Public Hearing was closed.

Meeting adjourned at 7:22 PM

Respectfully submitted,  
John Oliver- ZBA Secretary

Approved minutes on  
10/02/2023