

BURT TOWNSHIP
Zoning Board of Appeals
October 9, 2009

The regular meeting of the Burt Township Zoning Board of Appeals was called to order by Chairman Walt Lindsay on October 9, 2009 at 7 p.m. at the Burt Township Hall, Cheboygan Michigan.

Attendance: Walt Lindsay, Gary Street, Harold Koviak, Dave Poxson, Katie Parker.
Also attending: Kim Kihnke (ZBA Alternate Member), Dan Swantek (Zoning Administrator) and Joyce Hutto (Recording Secretary).
Guests: Carolyn Richardson, Mac Richardson, David Hutto and Jeanie Hutto.

Minutes July 24, 2009

MOTION: Moved by Harold Koviak and seconded by Gary Street to accept the minutes of July 24, 2009 as written.

MOTION APPROVED

Public Comment Period

No Public comments.

Public Hearings

James M. Richardson, 3901 White Goose Rd, Cheboygan Michigan 49721—Case #249

James M. Richardson has requested a variance to construct a second accessory building (a detached garage) on the lot on which his residence is located in the Waterfront Residential District. In accordance with Section 6.04.1(a), approval of a second accessory building by the ZBA can be provided only on lot sizes exceeding 60,000 sq. ft; thus, Mr. Richardson proposes that he combine his lakefront lot measuring 24,209 sq. ft. with an adjoining lot he owns to the rear to produce a combined lot exceeding 60,000 sq. ft. The variance Mr. Richardson requests is nine (9) feet in order to locate the proposed structure eleven (11) feet from the existing residence.

Mr. Richardson stated the existing accessory building, used as a guest house, was built in 1924 as a garage. It is now too small for an automobile to fit in the garage and Mr. Richardson needs a place to put his automobile. Mr. Richardson owns 10 acres behind his property which he proposes to combine with his lakefront lot to make the combined lot more than 60,000 sq. ft. The surveyor said combining the two lots would not be a problem. It would not be practical to change the location of the proposed garage as trees would have to be removed and the circular driveway would have to be changed. Mr. Richardson is asking for a variance for the proposed garage to be 11 feet from the house.

Dan Swantek said it was discussed to locate the garage across the road but this cannot be done as there is a wetlands problem. No letters have been submitted by neighbors regarding this variance.

Katie Parker said she understood why the proposed garage could not be built closer to the road and away from the house as trees would have to be removed and it would be very difficult to get

automobiles in and out of the garage due to the circular driveway. It is understood that the proposed garage cannot be used as a guest house since one guest house already exists on the property.

Walt Lindsay said the 10 foot side set back of the proposed garage is not an issue as this setback complies with the ordinance, and the 9 feet is the only variance being requested as the Richardson's would like to place the proposed garage 11 feet from the existing residence.

MOTION: Moved by Katie Parker and seconded by Gary Street to grant a variance of nine (9) feet in order to locate the proposed structure eleven (11) feet from the existing residence. This is contingent on Mr. Richardson combining the lake front lot with the rear lot he owns across the private road so the combined lot exceeds 60,000 sq. ft.

Reasons: It is not practical to reconfigure the circular drive in order to locate the garage any further away from the existing residence. The requested variance will not cause an adverse impact on surrounding property. It is not possible to locate the garage on the rear lot due to a wetlands issue.

Roll call vote: Lindsay-yes; Street-yes; Koviak-yes; Poxson-yes; Parker-yes.

MOTION UNANIMOUSLY APPROVED

David and Jeanie Hutto, 10634 Chickagami Trail, Brutus Mi 49716. Case #250

A request has been made by David and Jeanie Hutto for a rear setback variance to allow construction of a 12'x24' accessory building on the lot on which their home is located in the R-1 (General Residential) District. There are no other accessory buildings on this property. The rear setback variance requested by the Hutto's is forty (40) feet to locate the building ten (10) feet from the rear lot line. While it appeared that a side yard setback was also necessary, measurements taken during site inspection show that the proposed structure would be located twenty five (25) feet from the side lot line. This placement complies with the requirement of a twenty five (25) foot side yard setback in the R-1 District for properties more than 120 feet wide (the Hutto's lot is 150 feet wide); thus, a side yard setback variance is not needed to construct the structure as proposed.

Mr. Hutto stated the purpose of the proposed building is to store yard implements and to store a boat in the winter. The location of the building would be in an area that would not disturb trees on the lot. The lot backs up to the Little Traverse Conservancy land. A ridge separates the two properties; given the proposed location of the structure, only the top of the roof would be visible and that just in the winter. The Conservancy does not provide comment on zoning requests. Due to a substantial number of trees on the property, the proposed building would be hidden behind the Hutto's house. It would be the same dark brown color as the house, thus blending into the area.

Dan Swantek said he received one letter approving the Huttos' request. Harold Koviak received one phone call of inquiry including approval of the request.

Harold Koviak asked how tall the proposed building would be and Mr. Hutto stated it would be a total of twelve (12) feet high.

Walt Lindsay confirmed that the placement of the accessory building ten (10) feet from the rear lot line, thus requiring a 40 foot rear setback variance, is the issue to be addressed by the board. Gary Street said the building is hidden from the road and the placement next to the Little Traverse Conservancy land would have no negative impact.

MOTION

Moved by Gary Street and seconded by Harold Koviak to grant a forty (40) foot rear setback variance to allow David and Jeanie Hutto to construct the accessory building as proposed in the application they submitted.

Reasons: The topography of the land is such that placement of the structure ten (10) feet from the rear property line is the best way to obscure the structure both from the conservancy land to the rear and from the road to the front of the property. The accessory building fits the general layout of the other structures on the property and will not adversely impact the surrounding property including the Little Traverse Conservancy land which will remain undeveloped.

Roll call vote: Lindsay-yes; Street-yes; Koviak-yes; Poxson-yes; Parker-yes.

MOTION UNANIMOUSLY APPROVED

OTHER BUSINESS

Dan Swantek reported that a letter was received by Mr. Robert Kerzka, attorney for the Cottage Shores Association, pertaining to the resolution of their property line encroachment dispute with Richard Keefer. Since the letter does not adequately address the agreement to be placed in writing by the two parties, Dan Swantek will contact Mr. Keefer and Mr. Kerzka to provide a copy of the written agreement by December 1, 2009.

The Board took note of David Hutto's comment and suggestion that the notices of public hearing mailed to neighbors should be certain to include a complete description of the proposal made by those applying for a variance.

REPORTS

Dan Swantek (Zoning Administrator) reports a violation on the Dale Hadel property at 1240 Indian Point Road, Brutus. Pictures were shown of a patio, fire pit, and stonework under construction in the 75 foot waterfront setback. Dan Swantek issued a stop work on October 8, 2009. In addition, he will send a certified letter to Mr. and Mrs. Hadel with a copy of the letter to Tim MacArthur, Burt Township attorney, detailing violation of section 6.12 concerning structures in the 75 foot setback and section 6.04.3 concerning fire pits. The Hadel's will also be notified of Section 9.07.3 regarding a fine of up to \$500 per day for a municipal civil infraction.

A letter was sent by Tim MacArthur, Burt Township Attorney, to Jim Parker on September 30, 2009 stating Mr. Parker has not fully complied with the agreement concerning his clean up of the property on West Burt Lake Road. The letter states Mr. Parker must comply by November 1, 2009. Dan Swantek will do a site inspection after November 1, 2009.

Harold Koviak (Burt Township Board Representative) reports property tax collections are slow this year. Burt Township operating data has been updated and computerized. The DNR has approached the Township about upgrading the boat ramp at Maple Bay. The proposed plan is for improved parking and an improved boat ramp with adjacent dock walkway. The Township is doing some additional maintenance work to the boat ramp by Hoppie's. Gravel will be added to the north side for parking. Harold distributed a summary of a Michigan court case upholding a finding that the desire to build one's preferred design is not a basis for a variance.

Gary Street (Planning Commission Representative) reports the next meeting on October 26, 2009 will be a public hearing on the updated master plan. Satellite dish placement in the 75 foot setback will also be on the agenda. The trail committee has been approved for a grant by the National Park Service for consultation service.

ZBA MEMBERS COMMENT PERIOD

Dan Swantek said the DEQ and DNR are being combined into a single department.

Walt Lindsay reported Mary Campbell was asked if a request for an ordination interpretation is required to come only from a resident or could the Zoning Administrator in that capacity make a request to the zoning board to interpret a provision in the ordinance. Mary advised that the Zoning Administrator is allowed to make such a request.

Letters will be mailed to Private Lake Access Lot licensees in early 2010 to advise of the procedures they need to complete as set forth in Section 6.10.2(3). Licenses were first issued in 2005.

PUBLIC COMMENT PERIOD

No Public comments.

NEXT MEETING: December 11, 2009, 2 p.m. at Burt Township Hall.

MOTION: Moved by Harold Koviak and seconded by Katie Parker to adjourn.

MOTION APPROVED

Meeting Adjourned at 8:22 p.m.

Respectfully submitted
Joyce Hutto, Recording Secretary