



**VILLAGE OF PENTWATER**  
**Zoning Board of Appeals**  
ON PENTWATER LAKE AND LAKE MICHIGAN  
327 South Hancock Street – P.O. Box 622  
Pentwater, Michigan 49449  
(231) 869-8301 – FAX (231) 869-5120

**Regular Meeting Minutes – May 4, 2016**

Chairperson Castor called the regular meeting of the Pentwater Zoning Board of Appeals Meeting to order at 7:00 P.M. with the Pledge of Allegiance.

**ROLL CALL**

**Present:** Gay Birchard, Juanita Lamb, Andrew Witt, Norm Shotwell, Nancy Ceton (Alternate), and Mike Castor.

**Absent:** Bill O'Donnell, and Jim Young (Alternate).

**Others present:** Zoning Administrator Sara Bizon, Deputy Clerk/Treasurer Barbara Siok.

**APPROVAL OF AGENDA**

**Motion** by Shotwell, second by Birchard to approve agenda.

Voice Vote: Ayes: 6, Nays: 0. **Motion carried.**

**PUBLIC COMMENTS ON AGENDA ITEMS:** None.

**APPROVAL OF MINUTES**

**Motion** by Shotwell, second by Witt to approve September 2, 2015 meeting minutes.

Voice Vote: Ayes: 6, Nays: 0. **Motion carried.**

**Motion to open Public Hearing** by Birchard, second by Shotwell.

Roll Call Vote: Ayes: 6, Nays: 0. **Motion carried.**

Chair Mike Castor explained request for two separate variance requests.

Zoning Administrator Sara Bizon presented variance request from Mr. James Pearce with Jeremy Horton present from Harbor Design to answer any questions for the property on Beach Street explaining handout information. Mr. Pearce is requesting a variance due to restrictions under the Critical Dunes Act. The first variance is a 2ft. height variance for the structure to be built at 37 feet high. The second variance request; for a 7ft front set back request, after further review with no platted roads and access by driveways, Bizon suggests a front yard variance is not needed. Bizon reviewed the application and sent letters to any property owners within 300 ft. Copies of responses were included in the packet and additional by email or copies available tonight. The variance request of 37 ft. height is for ordinance Section 6.04E of the R2 District regulations which calls for a maximum height of 35 feet. The set back is not an issue.

Bizon said the zoning administrator does not make a recommendation on variance requests, but with everything received, the property owner has received approval from the Health Department and the DEQ based on the board approval which the DEQ approval will become valid.

Jeremy Horton stated the request is for hardship due to the small footprint and not excavating into the dunes thus creating three stories with no basement and still make it architecturally pleasing and appealing. It was pointed out that the positive responses from the letters received from the community are in support of Mr. Pearce which doesn't obstruct from anyone's view.

**PUBLIC COMMENTS:** Ted Cuchna, 529 Clymer, commented that architects from other areas might not understand the full information on our ordinances and that he inspected the site and plans include 10ft. ceiling heights and 12 ft. roof which could be adjusted a few feet.

Ron Christians, 87 Sands, retired fire department chief, commented on the 35 ft. ruling coming from ladders put on fire trucks can often be exceeded and probably wouldn't make a difference to the fire department.

Norm Shotwell asked about the architect's design to meet the property owner's approval.

Jeremy Horton said the DEQ set the footprint after evaluating the slopes and the architect and property owner were cognizant in making their decisions and compromised.

There being no further questions or discussions:

**Motion to close the Public Hearing** by Shotwell, second by Ceton. Roll call vote: Unanimous. Motion passed.

**Comments:**

Bizon said that a new set of by-laws that were adopted, a new magazine and a copy of open meetings act from the county were distributed on the table. The local prosecutor could give a presentation on the open meetings act if requested.

**UNFINISHED BUSINESS:** None

**NEW BUSINESS:**

**Motion** by Birchard to approve the 2 ft. height variance request by Mr. Pearce, second by Shotwell.

Discussion followed using the worksheet, which will be part of the public record.

**Condition #1: (Section 18.08 A (1)):** "Granting the variance will not be contrary to the public interest and will ensure that the spirit of this Ordinance is observed."

Comments: Given the restraints placed on the architects they met the conditions of the ordinance as much as possible, public interest and letters were positive and supportive, meeting DEQ demands are difficult.

**Condition #2: (Section 18.08 A (2)):** "Granting the variance will not cause a substantial adverse effect to property or improvements in the vicinity or in the district in which the subject property is located."

Comments: Collectively letters and public interest were positive and supportive.

**Condition #3: (Section 18.08 A (3)):** "The variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practicable."

Comments: Agree, not necessary to go to the Planning Commission.

**Condition #4: (Section 18.08 A (4)):** “That there are practical difficulties in the way of carrying out the strict letter of these regulations which are caused by exceptional or extraordinary circumstances or conditions applying to the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the vicinity in the same zoning district. Exceptional or extraordinary circumstances or conditions include:

- a. Exceptional narrowness, shallowness or shape of a specific property on the effective date of this Ordinance;
- b. Exceptional topographic conditions;
- c. By reason of the use or development of the property immediately adjoin the property in question; or
- d. Any other physical situation on the land, building or structure deemed by the Board of Appeals to be extraordinary.

Comments: B. is the key reason with exceptional topographic conditions, agree.

**Condition #5: (Section 18.08 A (5)):** “That granting such variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district.”

Comments: Necessary for preserving Mr. Pearson’s property rights.

**Condition #6: (Section 18.08 A (6)):** “That the variance is not necessitated as a result of any action or inaction to the property prior to the variance request by the applicant or his/her representative.”

Comments: Agree. No impact. Trying for more than 20 years.

**Roll call vote:** Birchard: Yes, Shotwell: Yes, Castor: No, Lamb: Yes, Witt: Yes, Ceton: Yes.  
Ayes: 5, Nays: 1. Motion carried.

**ELECTION OF OFFICERS:**

**Motion** by Shotwell to nominate Mike Castor as Chair and Bill O’Donnell as Vice-Chair, second by Ceton. Roll call vote: Ayes: 5, Abstain: 1. Motion passed.

**Motion** by Shotwell to close the nominations, second by Ceton.

**BATES UPDATE:** Bizon said that Bates filed an appeal to Judge Monton’s ruling and the Village is in the process of hiring a new attorney and will be given the information when necessary.

Bizon requested if an August meeting is needed, to please consider changing the date due to her being out of the state.

**ADJOURNMENT**

**Motion** to adjourn by Shotwell second by Lamb. All Ayes.

Castor adjourned the meeting at 8:00 PM

Respectfully submitted by,

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Barbara Siok  
Deputy Clerk/Treasurer

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Date