



**VILLAGE OF PENTWATER
Zoning Board of Appeals**

65 South Hancock Street – P.O. Box 622
Pentwater, Michigan 49449
(231) 869-8301

**Annual Meeting Minutes – December 20, 2022 in-person
Park Place - 310 N. Rush St., Pentwater, MI 49449**

Vice Chairperson McKinney called the meeting of the Pentwater Zoning Board of Appeals Meeting to order at 6:00 p.m. with the Pledge of Allegiance.

ROLL CALL: **Present:** Lisa McKinney, Jane Dosemagen, Mary Temple and Nancy Ceton.
 Absent: Bill Bainton and Jim Young.
 Alternate Jane Dosemagen filled in for Bill Bainton.

Others present: Zoning Administrator, Katie Anderson.

APPROVAL OF AGENDA: *Motion* by Dosemagen, second by Ceton to approve the agenda as presented. Voice Vote: Ayes: 4, Nays: 0. Absent: 1. **Motion carried.**

APPROVAL OF MINUTES of September 20, 2022: *Motion* by Dosemagen, second by Ceton to approve the minutes of September 20, 2022 with correction to the roll call vote on page 3. Voice Vote: Ayes: 4, Nays: 0. Absent: 1. **Motion carried.**

PUBLIC COMMENTS: None

UNFINISHED BUSINESS: None

PUBLIC HEARING – 294 E. Lake St. (Parcel ID No. 64-044-396-11-00)

Vice Chairperson McKinney asked Zoning Administrator, Katie Anderson to present the highlights of her report which determined that the proposed shed would further exceed the allotted accessory building GFA., thus a 110 sq. ft. variance is requested, in accordance with the requirements of Section 3.08.D.1.b of the Accessory Building and Uses.

Vice Chairperson McKinney then referred to the applicant, David Peterhans explained the reason for the request was to add a 10' x 11' storage shed, attaching to a secondary building on the property known as the "Club House".

Vice Chairperson McKinney opened the public hearing at 6:04pm and closed the public hearing at 6:07pm when she learned that no members of the audience wished to offer comment on the request.

CORRESPONDENCE / PUBLIC COMMENTS: Ms. Anderson received an email correspondence from Amy LaBarge, which was read by Ms. McKinney.

NEW BUSINESS:

A. Variance Request for 294 E. Lake St. – 110 sq. ft. additional accessory building

allotment variance.

Discussion: (Members reviewed Section 18.08 Review Standards for Variances)

A. **First Standard** – Practical Difficulty or Unnecessary Hardship. The applicant shall demonstrate that the circumstances constitute **either** a practical difficulty (the standard for a non-use variance) or an unnecessary hardship (the standard for a use variance), as follows:

1. Dimensional (Non-Use Variance). A non-use or dimensional variance would permit the modification or waiver of a non-use zoning regulation (such as minimum requirements for setbacks, lot width, lot area, building separation, or other dimensional regulations that do not alter the fundamental type of building or use permitted).

For a non-use variance - the First Standard will be satisfied only if the Zoning Board of Appeals finds that a “**practical difficulty**” exists that prevents compliance with the non-use zoning regulation. A practical difficulty exists when there are exceptional or extraordinary circumstances or conditions applying to the property (such as exceptional narrowness, shallowness or shape of the property, topographic conditions, conditions caused by the use or development of the property immediately adjoining the property in question), where such practical difficulty would unreasonably prevent the owner from using the property for a permitted use or would render conformity unnecessarily burdensome.

--or--

2. Use Variance. A use variance permits a land use that is not otherwise permitted in the relevant zoning district.

For a use variance - the First Standard will only be satisfied if the Zoning Board of Appeals finds that an “**unnecessary hardship**” will exist as to the applicant’s land if the requested use is not permitted. An “unnecessary hardship” exists when the property, as a whole, cannot be put to a conforming use because the applicant has demonstrated that the land cannot yield a reasonable rate of return when used for a use that complies with the ordinance.

Comment: All agree, that a practical difficulty of extraordinary circumstances is viable for this case.

B. **Second Standard** – Special or Unusual Circumstances. The circumstances creating the need for the variance must be peculiar to the land, structures or buildings involved and shall not be recurrent or applicable as to a sufficient number of other lands, structures or buildings in the same zoning district, to a degree that the ZBA concludes that a general zoning ordinance amendment would be more appropriate.

Comment: All agree, there are unusual circumstances in regards to the buildings involved on the property.

C. **Third Standard** – Substantial Justice. The Zoning Board of Appeals should find that strict application of the ordinance provisions would deprive the applicant of property rights that are commonly enjoyed by other properties in the same zoning district.

Comment: All agree, not granting the variance would deprive the applicant of property right that are commonly enjoyed by other properties in the same zoning district.

- D. **Fourth Standard** – Protecting Neighborhood Properties. The Zoning Board of Appeals shall not grant the variance if it would cause a substantial detriment or harm to other lands and uses, or if in the judgment of the Zoning Board of Appeals, the variance would be contrary to the spirit and purpose of the Zoning Ordinance Regulations.

Comment: All agree, the variance would not cause a substantial detriment or harm to other lands and uses.

- E. **Fifth Standard** – Not Self-Created. If the Zoning Board of Appeals determines that the applicant or the applicant’s representatives were involved in any action or inaction with respect to the property, prior to the variance request, where such action or inaction created the circumstances which prompts the variance request, no variance shall be granted.

Comment: Yes, all agree that this was not a self-created issue.

- F. **Sixth Standard** – Minimum Variance Necessary. The Zoning Board of Appeals shall grant only the minimum necessary variance from current Zoning Ordinance provisions to afford the applicant the relief created by the requested variance.

Comment: All agree, only granting the 110 sq. ft. of allowance, as requested.

- G. **Seventh Standard** – Voting. An affirmative vote of a majority of the members of the Zoning Board of Appeals is required to grant a dimensional (non-use variance). For a use variance, an affirmative vote of two-thirds of the members of the Board of Appeals is required.

Motion by Ceton, seconded by Dosemagen to grant the variance request of 110 sq. ft.

Roll call vote: McKinney, yes; Ceton, yes; Dosemagen, yes; Temple, yes;
Ayes: 4. Nays: 0. Absent: 1. Motion passed. Variance Approved for 294 E. Lake St.

ADJOURNMENT: Vice Chairperson McKinney moved to adjourn the meeting at 7:33 pm, second by Dosemagen. Ayes: 4. Nays: 0 Absent: 1 Motion passed.

Respectfully submitted by:

Katie Anderson

Katie Anderson, Zoning Administrator
Village of Pentwater

December 21, 2022

Approved by the Zoning Board of Appeals on _____.