

Burger Addition Variance Public Hearing

Keweenaw County Zoning Board of Appeals
Regular Meeting and Public Hearing
January 7, 2021
4:00 PM

The meeting was called to Order at 4:05.

The Pledge of Allegiance was recited.

Roll Call: Mark Ahlborn, Chair Frank Kastelic
 Steve Siira Leslie duTemple
 Ann Gasperich ZA

Members excused: Marty Faassen

A nomination for Mark as Chair was made, a nomination for Marty as Vice-Chair was made. Request for additional nominations was called, there were no other nominations, the nominating process was closed.

M/S Frank/Leslie as Mark for Chair. Roll call vote, Frank-yes, Leslie-yes, Mark-yes, Steve-yes, motion carried.

M/S Leslie/Steve as Marty for Vice-Chair. Roll call vote, Leslie-yes, Steve-yes, Mark-yes, Frank-yes, motion carried.

M/S Frank/Mark to approve the agenda as presented. Roll call vote, Frank-yes, Mark-yes, Steve-yes, Leslie-yes, motion carried.

Approval of the following minutes:

McKenzie M/S Frank/Steve roll call vote, Frank-yes, Mark-yes, Steve-yes, Leslie-yes, carried.

Horizons M/S Steve/Leslie roll call vote, Steve-yes, Leslie-yes, Mark-yes, Frank-yes, carried.

Moyryla M/S Leslie/Steve roll call vote, Leslie-yes, Steve-yes, Mark-yes, Frank-yes, motion carried.

Guests: Ed Burger

Public Hearing:

The Chair opened the public hearing at 4:18 for Ed and Janet Burger, Appeal Number ZBA 2020 VAR05. The request is for a variance to the ordinance regarding the setback from the Tobacco River for an addition of a 13' x 23' three-season porch / sunroom.

Owner Comments: Ed thanked the board for their time. The addition will be a four-season room, not just three. The river, septic and well limit the direction the addition can go. He said he will remain available to answer any questions there may be for him, and again, thank you.

The Chair commented there were no other persons in attendance, so there will be no Public Comment from Property Owners within 300' in Support or in Opposition.

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The Chair then read into the record the written Comments by Property Owners within 300', in Support: letters from Bill Melchiori and Sherry Kauppi. There are no letters in Opposition. Letters included in the minutes.

With no others in attendance, there were no public comments from Interested or affected persons/organizations In Support or in Opposition.

The Chair read the written comments from Interested or affected persons/organizations in Support from Sherman Township Supervisor, and in opposition, none. The letter is included in the minutes.

ZBA Questions through the Chairman – Frank asked about the current set back from the river, the house is approximately 46' away. Frank also commented that at the time, the setback was 50' and with an administrative variance, the zoning permit would have been approved for the construction at that location.

New Business:

Discussion, documentation, and determination of the Burger Addition request for a setback variance Findings of Fact were individually reviewed and discussed.

Section 19.13 FINDINGS OF FACT

The Board of Appeals shall grant no variance or make any determination on an appeal, Ordinance interpretation or other issue requested of it unless the Board records specific findings of fact based directly on the particular evidence presented to it. These findings of fact must support conclusions that the standards imposed by the requirements of this Ordinance have been met.

A. *Strict compliance with the Ordinance would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity with such restrictions unnecessarily burdensome

Comments Does this support the variance - Yes.
The existing home was, but is now not in compliance with the current regulations. A variance will allow the addition. Strict compliance is unnecessarily burdensome.

B. *The problem is due to a unique circumstance of the property

Comments Does this support the variance - Yes.
Yes, it is unique, near the river. It was the appropriate setback at the time. The septic is on the rear side of the home.

C. The Specific conditions relating to the property are no so general or recurrent in nature in the zoning district so as to require an amendment to the zoning ordinance instead of a variance.

Comments Does this support the variance - Yes.

It is unique to this property only.

Burger Addition Variance Public Hearing

D. *The problem was not created by the action of the applicant.

Comments Does this support the variance - Yes.
The actions WAS NOT created by the applicant.

E. Granting of the variance will not cause a substantial adverse effect upon property values in the immediate vicinity, or in the district in which the property of the applicant is located.

Comments Does this support the variance - Yes.
There will be no negative impact.

Agree: Frank, Mark, Leslie, Steve

F. The required variance will relate only to the property under the control of the applicant.

Comments Does this support the variance - Yes.
This is only one request. To this property only.

Agree: Frank, Leslie, Mark, Steve

G. The non-conforming dimensions of other lands, structures, or building in the same zoning district shall not be considered grounds for the issuance of a variance.

Comments Does this support the variance - Yes.
We are not considering ANY OTHER ACTIONS.

Agree: Steve, Leslie, Frank, Mark.

H. The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure in the zoning district in which it is located.

Comments Does this support the variance - Yes.
This is a minimum amount of variance. The addition is not going any closer to the river.

Agree: Frank, Leslie, Steve, Mark.

I. *The variance would do substantial justice to the applicant as well as to other property owners in the district.

Comments Does this support the variance - Yes.
It will do justice to allow the sun room. There is support of the neighbors and it will increase value.

Agree: Mark, Frank, Steve, Leslie

Burger Addition Variance Public Hearing

- J. The granting of the variance will ensure that the spirit of the ordinance is observed, public safety secured, and substantial justice applied.

Comments Does this support the variance - Yes.
Yes, the spirit of the ordinance is observed, no additional public safety concerns.

Agree: Mark, Leslie, Frank, Steve.

- K. The requested variance shall not amend the permitted uses of the zoning district in which it is located.

Comments Does this support the variance - Yes.

Correct, it is a permitted variance.

Agree: Mark, Leslie, Frank, Steve.

General Procedures and Findings at Public Hearing.

1. Were the proper time limits followed as established in the Ordinance? Yes
 - a. Notification to the Township on 10/29/2020 & 12/10/2020
 - b. Notification to the property owners within 300' on 11/09/2020 & 12/10/2020
 - c. Post notice at Courthouse on 10/29/2020, & 12/10/2020; and
 - d. Notification of Public Hearing in newspaper on 11/14/2020 & 12/18/2020.
 - e. Public Hearing Held January 7th, 2021

2. Decision

- a. Has the appropriate summary of information relevant been presented?
 - i. The Public Hearing was held and comments were received.
 - ii. The application from Joe Johnson on behalf of the Burgers has been presented.
 - iii. The staff report has been presented.

Yes, yes, and yes.

- b. Is a summary of all documentary evidence submitted into the record?

- i. Yes

- c. What findings were applied with respect to the relevant review standards?

- i. Following Article V, Table 5-1 and Non-Use Variance Standards 19.5 & 19.6 Rules for Granting Variances, the findings of fact were discussed and recommended, see within.

Burger Addition Variance Public Hearing

Motion by ___Leslie_____ Seconded by ___Frank_____ to

Affirm / Deny the Variance Request regarding the setback for the 13' * 23' addition to lie within the setback of the ordinary high watermark of the Tobacco River.

If approved, the following conditions be required to be satisfied prior to issuing a zoning permit: None

Roll Call Vote:

Ahlborn	Yes	Signature
DuTemple	Yes	Signature
Siira	Yes	Signature
Faassen	absent	Signature
Kastelic	Yes	Signature

Public Comment – Ed again thanked the Board for their time, and for the approval.

New meeting schedule was discussed. The next meeting will be the second Tuesday at 1:00 PM. We will maintain the second Tuesday for now, maybe adjusting the start time as necessary.

M/S Leslie/Frank to adjourn at 4:55

November 20, 2020

Keweenaw County Zoning
Attn. Ann Gasperich, Zoning Administrator
5095 4th St.
Eagle River, MI 49950

Ann,

This is a letter of support for the variance request on parcel #42-501-20-000-003; Ed and Janet Burger's home. I am Ed and Janet's neighbor across the Tobacco River.

This variance and addition to their home will not affect me negatively, and I fully support the variance request.

Ed and Janet have always respected me and my property in Gay, and I am able to communicate effectively with them. They take excellent care of their home and property, and this addition will only add to their beautiful home. They are also very supportive of other people and causes in the Keweenaw. I appreciate them using established process to file for this variance request.

Joe Johnson is my brother-in-law, and the owner of REJ Contracting. I appreciate the Burger's using a local contractor that will keep money in the local area.

I support this variance request, and I appreciate the opportunity to respond to it as a neighboring property owner.

With Respect,

A handwritten signature in black ink, appearing to read "Bill Melchiori", with a long horizontal flourish extending to the right.

Bill Melchiori

November 26, 2020

Keweenaw County
Zoning Board of Appeals
Eagle River, MI

Dear Board Members,

As a land owner with property near the lots owned by Ed and Janet Burger, who are petitioning for an easement for construction of an addition on their building, I am writing to approve the plans and support them and their project to the fullest extent. The Burgers have been excellent neighbors. The work they have done on their property over time has enhanced the entire area in many ways. I am happy to support and assist in any way I can.

Please put me on record as in strong support of the application for the variance to be approved by the board.

If you have any questions or need anything further from me, please feel free to contact me.

Sincerely,

Sherry Kauppi
Dockside Resort
Gay, Michigan

Burger
Support
Outside

Ann Gasperich

From: Sherman Township <shermantwpsupv@pasty.net>
Sent: Thursday, November 12, 2020 9:04 PM
To: Ann Gasperich
Subject: Re: Variance Request for Ed and Janet Burger
Attachments: image003.jpg

The Township Board discussed and supports the variance request for Ed and Janet Burger building addition. Since it does not bring the building closer to the River and they were not the original builders, the only way to put on an addition is parallel to the River since the septic system is on the opposite side of the building.
Rob

On Thu, Oct 29, 2020, 6:16 PM Ann Gasperich <Codes@keweenawcountymi.gov> wrote:

Property Owner: Ed and Janet Burger

Applicant: Joe Johnson

Contact: 906-296-0289

Property Address: 1198 Potato Patch Rd, Sherman Township

Parcel Number 42-501-20-000-003

Zoning: RRB

Request: A variance to construct a 13' x 20' addition.

Public Variance for an addition to be constructed within the 75' setback

Location: Keweenaw County Courthouse, Courtroom

Public Hearing Date and Time: Tuesday December 1st, 2020, at 1:30 PM

Township Board:

You are receiving this letter as the above mentioned property is in your township. The parcel is zoned TR. In order for the variance request to be discussed, a public hearing must be held to take public comment.

The Township board may review the petition and make comment or recommendation within thirty (30) days after receipt. If no written correspondence is received by the Zoning Administrator or the Zoning Board of Appeals, they shall assume the Township has no objection or input to offer.

Burger Addition Variance Public Hearing

Keweenaw County Zoning Board of Appeals
 Regular Meeting and Public Hearing
 January 7, 2021
 4:00 PM

	Chair Mark	Vice Chair Marty	Min Ut's	AGENDA ↓
MARK-	yes	yes	x	
Steve			y	
FRANK			y	
Leslie			y	

Call to Order: 4:05

✓ Pledge of Allegiance:

Roll Call: ✓ Mark Ahlborn, Chair ✓ Frank Kastelic
 ✓ Steve Siira ✓ Leslie duTemple
 - Marty Faassen *excused*
 ✓ Ann Gasperich ZA

Members excused: *Marty Faassen*

Election of Officers: *mark Frank-Leslie - Leslie-Steve - yes - Marty vice*

✓ Agenda Approval and Additions: *FRANK/Mark*

✓ Minutes: -

Guests: *Ed BURGER*

Public Hearing:

Open Public Hearing for Ed and Janet Burger, Appeal Number ZBA 2020 VAR05.
 Request for a variance to the ordinance regarding the setback from the Tobacco River for an addition of a 13' x 23' three-season porch / sunroom.

4:18

Owner or Applicant Comment:

Public Comment -- Property Owners within 300' **

- ✓ In Support - *none*
- ✓ In Opposition - *none*

Written Comments Property Owners within 300' read from the Chair

- ✓ In Support - Sherry Kauppi, Bill Melchiori
- ✓ In Opposition - None

Public Comment from Interested or affected persons/organizations**

- ✓ In Support -- None
- ✓ In Opposition - None

Written Comments from Interested or affected persons/organizations

- ✓ In Support - Sherman Township Supervisor
- In Opposition - None

ZBA Questions through the Chairman -

New Business: 4:29

Discussion, documentation, and determination of the Burger Addition request for a setback variance Findings of Fact

Burger Addition Variance Public Hearing

Section 19.13 FINDINGS OF FACT

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A. *Strict compliance with the Ordinance would unreasonably prevent the owner from using the for a permitted purpose, or would render conformity with such restrictions unnecessarily burdensome

Comments

Does this support the variance

yes -

The existing home was/is not in compliance w/ current regulation - a variance will allow the addition - yes - strict compliance is unnecessarily burdensome -
Burderson - Yes - it supports the variance -

B. *The problem is due to a unique circumstance of the property

Comments

Does this support the variance

Yes

Yes, it is unique - near the river - was setback appropriate at the time - Septic is on the rear side of home -

C. The Specific conditions relating to the property are no so general or recurrent in nature in the zoning district so as to require an amendment to the zoning ordinance instead of a variance.

Comments

Does this support the variance

Yes

it is unique to the property only -

D. *The problem was not created by the action of the applicant.

Comments

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Burger Addition Variance Public Hearing

- E. Granting of the variance will not cause a substantial adverse effect upon property values in the immediate vicinity, or in the district in which the property of the applicant is located.

Comments

Does this support the variance

There will be no negative impact -

Yes.

Agree FRANK, Mark, Leslie, Steve

- F. The required variance will relate only to the property under the control of the applicant

Comments

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This is ~~is~~ only one REQUEST - to this property ONLY

Yes

FRANK Leslie Mark Steve

- G. The non-conforming dimensions of other lands, structures, or building in the same zoning district shall not be considered grounds for the issuance of a variance.

Comments

Does this support the variance

We are not considering ANY OTHER ACTIONS -

Yes

Steve Leslie FRANK Mark

- H. The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure in the zoning district in which it is located.

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This is A minimum amount of variance we are not going any close to the river
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Yes

- I. ***The variance would do substantial justice to the applicant as well as to other property owners in the district.**

Comments

Does this support the variance

It will do justice to allow the sun room. Support of neighbors - will increase values.

Yes

3 | Mark, FRANK, Steve, Leslie

Burger Addition Variance Public Hearing

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Yes.

Yes

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Comments

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Yes

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 - b. Is a summary of all documentary evidence submitted into the record?
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 - i. Following Article V, Table 5-1 and Non-Use Variance Standards 19.5 & 19.6 Rules for Granting Variances, the findings of fact were discussed and recommended, see within.

Burger Addition Variance Public Hearing

Motion by Leslie Seconded by FRANK to

Affirm / Deny the Variance Request regarding the setback for the 13' * 23' addition to lie within the setback of the ordinary high watermark of the Tobacco River.

If approved, the following conditions be required to be satisfied prior to issuing a zoning permit: NONE

Roll Call Vote:

<u>yes</u>	Ahlborn	Signature
<u>yes</u>	DuTemple	Signature
<u>yes</u>	Siira	Signature
<u>Absent</u>	Faassen	Signature
<u>Yes</u>	Kastelic	Signature

Public Comment NONE - Ed thanked the board

Set Meeting Schedule and Time: 2nd Thursday in April at 1:00 P.M.

Motion to adjourn Leslie / Frank

4:55 p.m.