

Keweenaw County Zoning Board of Appeals

Minutes
Public Hearing & Regular Meeting
May 13, 2024

Keweenaw County Courthouse 1:00 PM Called to order at 1:00pm

Roll Call: Mark Ahlborn, Chair Present
AJ Kern, Planning Commission Liaison Present
Marty Faassen, Vice-Chair Present Thomas Bryant Present
Frank Kastelic Present Larry Butala, Alternate Present
Sara Heikkila, Zoning Administrator Present Mike Delsha, Alternate Present

Pledge of Allegiance

A quorum is present, meeting was properly posted.

Approve Agenda with correction on page 4 motion line moved.

Motion (M) Frank / Second (S) AJ

Motion carries

Approve minutes from April 30 Special Meeting.

Add mark taking minutes

Motion (M) Marty / Second (S) Mike

Motion carries

Guests: To address the ZBA with topics other than in regard to the Public Hearing to follow.
none

Open Public Hearing to receive public comment on the variance request for reducing the setbacks from the Public Right-of-Way to 3.2 feet for an existing addition on parcel 42-403-51-001-005.

ZBA Chair to summarize Public Hearing procedures:

Mark discusses the public hearing procedures.

Public hearing opened at 1:05

Zoning Administrator to present the Public Hearing Request and Staff Report:

Staff report was presented.

ZBA questions through the Chair:

ZBA questions and discussion.

Applicant to present their request:

The Applicant requested consideration of a conflict-of-interest claim. The Chair responded that their claim had been received and a response was submitted. Both documents are included in the file and further discussion of this topic was denied.

ZBA questions through the Chair:
ZBA questions and discussion.

Public Comment – Property Owners within 300 feet
In Support – None present.
In Opposition – Marrison Sullivan on Zoom

Written Comments Property Owners within 300 feet (4 letters were sent)
In Support (received on or before May 10)/ No Objection –
Micheal Kolb; Chris Bryant; Ted & Debra Burkhart
In Opposition – Marissa Sullivan (emails/letter)

Public Comment from Interested or Affected Persons / Organizations
In Support – John Parsons
In Opposition – Dan Steck

Written Comments from Interested or Affected Persons / Organizations
In Support – None received.
In Opposition – None received.

ZBA questions through the Chair

Chair to close Public Comment portion of the hearing and Open Fact Finding Session of the hearing:
Close public hearing at 2:22pm

ZBA to deliberate on the request:

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:

Operating in the ROW prior to 2012 with smoker.

Advise wasn't given up front to consult with the Keweenaw County Road Commission (KCRC).
Discussing conditions of doing something with the dumpster and grease box. Potential to add conditions to the variance to additional compliance with ordinance requirements.

The Zoning Administrator office should be a reliable source for compliance with the ordinance.
The burden should be on the property owner to know their property lines.

Does this support the Variance:

No consensus by the Board.

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

Comments:

Nonconforming and shallow lot (90').

The property owner should have known their property lines.

Does this support the Variance:

No consensus by the Board.

C. The specific conditions relating to the property are not 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:

No amendment would be necessary.

Does this support the Variance:

No

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

Comment:

Applicant used an erroneous drawing to secure a zoning permit.

Due diligence was not done by the applicant.

Applicant did not create the nonconforming lot.

Due diligence was done by the applicant by contacting the County.

Does this support the Variance:

No

E. Granting 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.

Comment:

They have been operating for over 40 years.

Does this support the Variance:

Yes

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

Comment:

NA

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

Comments:

Not being considered, however the public outhouse building was mentioned in the variance request. The outhouse should not be considered similar to privately owned land.

Does this support the variance:

No and will not be considered.

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:

Smoker location in addition could have been moved to meet the setback.

Mark reviewed a drawing he prepared to show it would be possible to be in compliance with the ordinance.

Does this support the Variance:

No

I. That the proposed use of the premises is in accord with the Zoning Ordinance.

Comments:

No, but it is a legally nonconforming use that was in place prior to zoning in Keweenaw County.

Does this support the Variance:

Yes

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

Comments:

Issue of public trust – should the County condone the taking of public property?

Does this support the Variance:

No

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

Comments:

Safety is a concern – doesn't allow for public safety as the addition is too close to the ROW.
Smoker was in the same location as the addition, so nothing with regards to safety would change.
Discussion on how there doesn't appear to be a public safety issue.
Drainage may be an issue.
Taking or the ROW could limit future utility installation.
No stop work was issued by KCRC for the smoker or addition.

Does this support the Variance:

No

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

Comments:

It would not.

Does this support the Variance:

Yes

Chair to Close Deliberation portion of the hearing, dismiss the alternates from further hearing participation, and Open the Decision and Vote portion of the hearing:

Closed Deliberation at 3:19pm

General Procedures and Findings at Public Hearing

Were the proper time limits followed as established in the Ordinance?


- a. Notification of Public Hearing Posted on Website April 26, 2024
- b. Notification of Public Hearing in newspaper April 26, 2024
- c. Property owners within 300 feet were notified by mail on April 22, 2024
- d. Public Hearing held on May 13, 2024

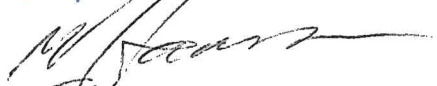
Chair to entertain motion(s):


Tom: Motion to deny the 6.8-foot variance from the required 10-foot setback (south-southeast) for an existing addition because the applicant failed to meet standard Article V, Table 5-1, note e. of the zoning ordinance / S Frank


Roll Call Vote:


Mark Ahlborn, Chair	Y
Marty Faassen, Vice-Chair	N
Frank Kastelic	Y
Thomas Bryant	Y
AJ Kern, Planning Commission Liaison	N

Signature 

Signature 

Signature 

Signature 

Signature 

Chair to advise any party having an interest affected by this order, determination or decision by the ZBA may obtain a review in the Circuit Court; provided the application is made to the Court within 21 days after delivery of a final decision. <Section 19.18>

Regular Meeting Minutes

Chair to adjourn public hearing and invite ZBA alternates to return and resume the Regular Meeting:

Guests: None.

New Business: None.

Old Business:

Updating format for public hearings – push to the next meeting.

MSU Zoning Board of Appeals Online Certificate Course – updated completions.

Mike

Tom

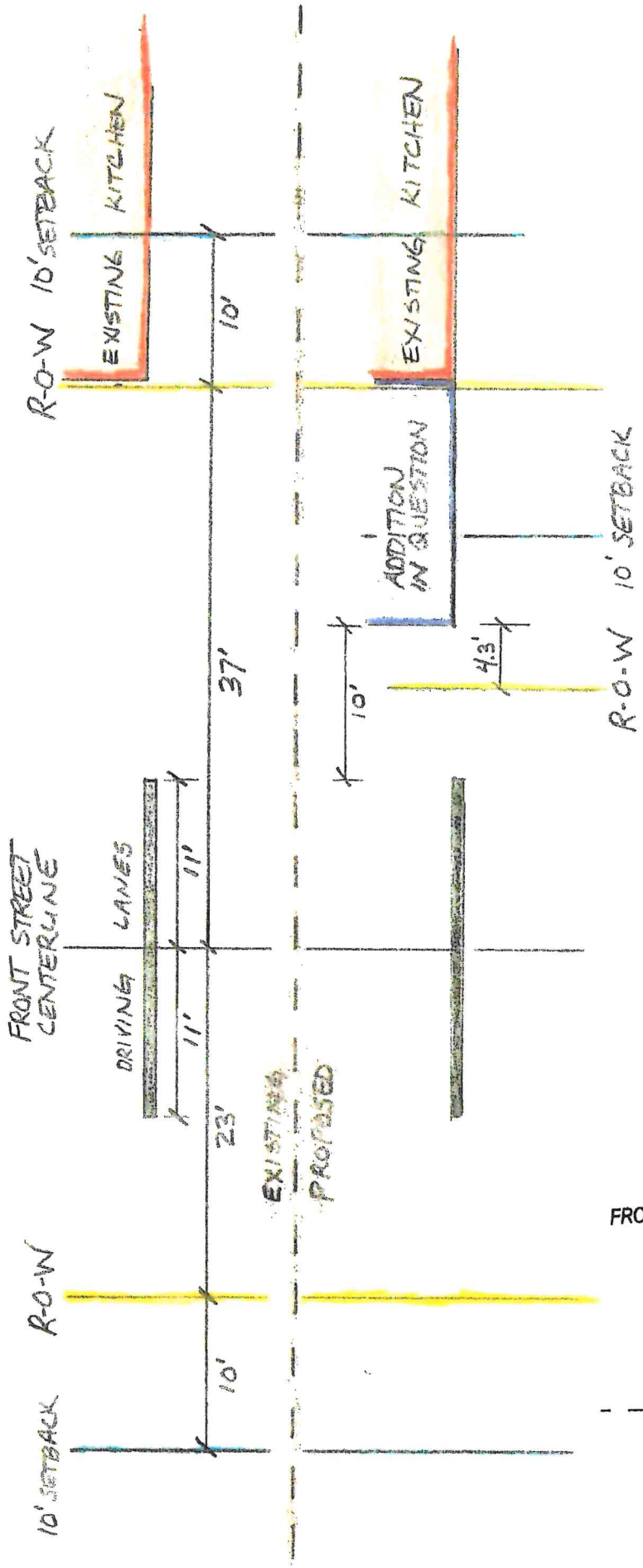
Marty

Final Comments:

Tom – 2 residents recognized other items in the ROW at the Fitz.

Next Meeting July 22, 2024, 1:00 PM

Motion to Adjourn Mike / S Larry 3:40



SCALE DRAWING 1" = 10'

SCALED FROM GEI CONSULTANTS
FIGURE 2.1 MARCH 2024

PREPARED BY MARK AHLBOREN
MAY 12, 2024

