

# BAY TOWNSHIP ZONING BOARD OF APPEALS

March 7, 2018 MEETING MINUTES

## APPROVED

2           **CALL TO ORDER**

Chairman Rob Maxwell called the meeting to order at 6:30PM and led with the Pledge of Allegiance.

3           **ATTENDANCE**

4           Upon the completion of a roll call the following Members of the Bay Township Zoning Board  
5           of Appeals (the Board) were identified as being present: Chairman R. Maxwell, Vice  
6           Chairperson N. Blandford, Secretary W. Simmons and members S. Ritter and A. Koteskey.

7           Also in attendance:

8           Sho Sho Nie Beach Residents: Arielle Wyatt and Jan Anderson  
9           Representing Bay Township: R. Van Zee, Bay Township Zoning Administrator  
10          Members of the Public: Xavier Gaudard

11          **AGENDA**

12          *MOTION by Ritter, seconded by Blandford, to approve the agenda as presented, passed*  
13          *upon unanimous affirmative vote of the Board Members.*

14          **PRIOR MEETING**

15          **MINUTES**

16          *MOTION by Ritter, seconded by Koteskey, to approve the January 16, 2018 Zoning Board*  
17          *of Appeals regular meeting minutes as presented, passed upon unanimous affirmative*  
18          *vote of the Board Members.*

19          **PUBLIC COMMENT**

20          No public comment received.

21          **PLANNING COMMISSION**

22          **REPORT**

23          Simmons summarized the recent Planning Commission activities.

## WILLIAM AND TERRY COUGHLIN VARIANCE REQUEST

24          Zoning Variance Appellants:

25          William & Terry Coughlin

26          Property Identification No.:

27          15-001-008-043-00

28          Property Address:

29          04191 Sho Sho Nie Beach Rd., Boyne City, MI 49712

30          The Coughlin's (Appellants) are seeking a variance from the Bay Township Zoning Ordinance, as amended (the Ordinance). The  
31          Appellants are proposing to remove an existing 10-FT x 10-FT shed and build a two story 2-car detached garage, 32-FT wide, 24-  
32          FT long and 22.8-FT in height (this is revised from what was originally submitted on their Zoning Variance Application). To  
33          accomplish this project, the Appellants are seeking a 5-FT variance from the Bay Township Zoning Ordinance Section 5.4 (which  
34          requires a 15-FT side yard setback) to allow for the proposed detached garage to be located within 10-FT of the existing side  
35          yard property line.

36          This meeting was noticed in the Petoskey News-Review February 12, 2018 edition.

37          Maxwell stated in 2010, the Zoning Board of Appeals heard a similar variance request for this parcel which was denied (see  
38          November 4, 2010 Zoning Board of Appeals minutes). At that time, there was a different property owner. Maxwell stated that  
39          the 2010 Zoning Board of Appeals Finds of Fact need to be followed, unless there is new evidence/information presented to  
40          the Zoning Board of Appeals regarding this variance request.

41          The Appellants (represented by their General Contractor Kevin Jones) presented the following:

- 42          - The original garage dimensions have been reduced from what was originally proposed, thereby reducing the  
43          requested side yard setback variance from 10-FT, to a side yard variance request of 5-FT (i.e. the garage will be built  
44          10-FT from side property line). A two story garage is still being proposed to be built.

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- 53 - The variance request would not obstruct the neighbor's views of Lake Charlevoix. In fact, the neighbor's garage is 5-FT  
54 from the side property line.  
55 - There is a shared driveway on the Appellants property.  
56 - An existing 10-FT x 10-FT shed is approximately 5-FT from the North property line. If the variance is approved, the  
57 existing shed would be torn down and replaced with the proposed garage.  
58 - Presented an updated drawing showing the smaller 2 car garage. The two garage doors will now be on the gable end  
59 of the garage, and the one end of the garage will be for storage.  
60 - The existing water well is in the way of the garage, so it will have to be relocated.  
61 - Due to the septic drain field location and the topography of the parcel, the proposed garage location is the optimal  
62 location for this site.  
63

64 Van Zee reviewed the application as follows (refer to the Appellant's Zoning Variance Application for further details):  
65

- 65 - Property Owner: William & Terry Coughlin  
66 - Property Address: 04191 Sho Sho Nie Beach Rd., Boyne City, MI 49712  
67 - Property Tax Identification No.: 15-001-008-043-00  
68 - Zoning District: R-1 Residential within the Waterfront Overlay district  
69

70 Van Zee further explained the following:  
71

- 71 - The Appellants zoning permit application was denied because they did not comply with the Bay Township Zoning  
72 Ordinance Section 5.4, side yard setback requirements. Therefore the Appellants have filed an application to the  
73 Zoning Board of Appeals to seek a 5-FT variance from the Ordinance Section 5.4.  
74 - The Appellants desire to build the garage within a portion of the 15-FT side yard setback requirement.  
75 - A previous variance was granted to build the house in 1996.  
76 - In 2010 a variance application was denied to build a two story garage within 5-FT of the property line. At that time the  
77 Ordinance did not allow for an accessory structure to be two stories.  
78 - The lot is 65-FT wide, which is legally non-conforming (needs to be 100-FT wide).  
79 - As required by the Ordinance, notices were mailed out regarding the proposed variance request; one neighbor  
80 emailed their objection to granting the variance, another neighbor after seeing the plans is agreeable to the granting  
81 the requested variance, and one letter supporting the variance was received from Haggard Plumbing & Heating.  
82

83 Deliberations by the Board with participation from time to time by Van Zee in response to questions from the Board Members  
84 are as follows:  
85

- 85 - The Board questioned the neighbor's garage variance approval. Van Zee stating no records existing regarding the  
86 neighbors garage variance request.  
87 - The lot's topography is difficult for building purposes.  
88 - Discussed the Ordinance Section 14.9 regarding "...unique circumstances or physical condition of the property that do  
89 not apply to other properties surrounding the vicinity". The unique features of this lot are the topography and the  
90 shared driveway with the adjoining property owner.  
91

92 The Board reviewed the following Bay Township Zoning Ordinance Article 14.9 findings of facts regarding the application as  
93 follows:  
94

- 94 a. The parcel has unique topography features not seen in surrounding 65-FT width properties which would make  
95 construction of a usable structure practically impossible.  
96 b. The need for the variance was not created by the property owner's actions.  
97 c. Strict compliance with the side yard setback requirements would not unreasonably prevent the use of the  
98 property. By reducing the garage footprint, a variance would not be required.  
99 d. Granting the variance would not do substantial justice to the Appellant and would not harm property owners in  
100 the vicinity. Reducing the garage size to fit within the side yard setbacks would eliminate the need for a variance.  
101 e. Some Board Members felt that granting the variance will not cause adverse impact on surrounding property as  
102 the neighboring properties have accessory buildings within 5-FT of the property line. Other Board Members felt  
103 that granting the variance would cause an adverse impact on surrounding property.  
104 f. The Board felt that granting of the variance would adversely affect the purpose of the Ordinance.  
105

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- 106 Maxwell opened the meeting up to public comment regarding the Appellants proposed variance request.  
107  
108 Jan Anderson: Stated the existing driveway is constructed as such to not allow a garage to be built up near the road  
109 as the rest of the neighbors have.  
110  
111 Arielle Wyatt: Stated the previous owners purchase 2-FT from the neighbors to the South, so the lot is 67-FT wide.  
112  
113  
114 **MOTION by S. Ritter, seconded by N. Blandford:**  
115  
116 The Bay Township Zoning Board of Appeals findings of fact identified in the  
117 variance request for property identified as 15-001-008-043-00 is as follows:  
118  
119 - Property Owner: William and Terry Coughlin  
120 - Property Address: 04191 Sho Sho Nie Beach Road, Boyne City, MI 49712  
121 - Property Tax Identification No.: 15-001-008-043-00  
122 - Zoning District in which the Property resides: R-1  
123 - The property is subject to the provisions of the Ordinance, Article V (Zoning District Regulations)  
124  
125 Based upon the findings of fact as identified by the Bay Township Zoning Board of Appeals in hearing the request for the  
126 variance in regard to Property Tax Identification No. 15-001-008-043-00, and after consideration of all information presented  
127 by the Appellant, the standards set forth in Article XVII and the facts found above, the Zoning Board of Appeals find that the  
128 proposed construction of a two story detached garage, as proposed by the appellant, and the requested 5-FT variance is  
129 denied.  
130  
131 Board Members voting in support of the motion by roll call vote: Simmons, Ritter, Blandford and Maxwell, and Board  
132 Member Koteskey voting in opposition. Motion passed.  
133  
134  
135 **OTHER**  
136 - Ritter stated he will be resigning as the Board of Trustees representative on the ZBA.  
137 - Blandford requested the meetings be on Monday's.  
138 - Simmons stated since she has been appointed as the new Township Clerk, she can no longer be the Planning  
139 Commission representative on the ZBA.  
140  
141  
142 **PUBLIC COMMENT** No public comment received.  
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144  
145 **ADJOURNMENT** ***MOTION by Ritter, seconded by Simmons, to adjourn the meeting at 7:35PM, passed upon  
unanimous affirmative vote of the Board Members.***  
146  
147  
148 Respectfully submitted,  
149  
150  
151 James G. Vanek  
152 Planning Commission Recording Secretary