

**BAY TOWNSHIP ZONING BOARD OF APPEALS  
NOVEMBER 17, 2021**

**CALL TO ORDER** Chairperson Kathleen Donahue called the meeting to order at 6:30 pm and led the Pledge of Allegiance

**ATTENDANCE** Upon the completion of a roll call, the following Members of the Bay Township Zoning Board of Appeals were identified as being present: Chair Kathleen Donahue, Board of Trustees Representative Steve Ritter, Planning Commission Representative Nancy Blandford, and members Arnold Koteskey and Patrick Alguire. Also present: Ron Van Zee (Zoning Administrator) and Kristin Baranski (Recording Secretary). Audience members signed in: Diane Fischer and Mike Fischer (Applicants) and Mike Pattulo (Architect)

**APPROVAL OF AGENDA**

*MOTION by Blandford, seconded by Ritter to approve November 17<sup>th</sup>, 2021 agenda as amended, passed upon unanimous affirmation vote of the Board Members.*

*Yeas: Ritter, Alguire, Koteskey, Donahue, Blandford  
Nays: None*

**APPROVAL OF MINUTES**

*MOTION by Ritter, seconded by Blandford to correct and dispense with the reading of the January 13<sup>th</sup>, 2021 Bay Township Zoning Board of Appeals meeting minutes, passed upon unanimous affirmation vote of the Board Members.*

*Yeas: Ritter, Alguire, Koteskey, Donahue, Blandford  
Nays: None*

*MOTION BY Ritter, seconded by Blandford, to approve the minutes of the January 13<sup>th</sup>, 2021 Bay Township Zoning Board of Appeals meeting as amended passed upon unanimous affirmation vote of the Board Members.*

*A roll call was taken:*

*Yeas: Ritter, Alguire, Koteskey, Donahue, Blandford  
Nays: None*

**MIKE AND DIANE FISCHER VARIANCE REQUEST**

Zoning Variance Appellants: Mike and Diane Fischer  
Identification No.: 15-001-134-007-00  
Property Address: 02415 Eagle Island Road, Boyne City, MI 49712

Mr. and Mrs. Fischer (Appellants) are seeking a variance from the Bay Township Zoning Ordinance, as amended (the Ordinance). The applicant is proposing to demolish a portion of an existing nonconforming residential structure, renovate remaining portion of structure and add an addition.

The Appellants are seeking a variance from Article XVII, Nonconforming Uses, Section 17.2.e and 6.4.1 of the Ordinance as well as variances from certain dimensional requirements of the Ordinance found in

**BAY TOWNSHIP ZONING BOARD OF APPEALS**  
**NOVEMBER 17, 2021**

Section 5.4. Section 17.2.e states that a nonconforming structure may not be voluntarily demolished and replaced with a new structure unless the new structure conforms to the Ordinance. Section 6.4.1 states that no principal structure, accessory building or parking area(s), shall be erected closer than sixty five (65) feet from the OHWM of a body of water or the bank of a river, stream or creek. The dimensional variances being sought are 13 +/- feet from front yard (Walloon Lake) setback requirement of 65 feet; and 10.5 +/- and 7.5 +/- feet respectfully from side yard setbacks requirements of 15 feet.

Mike Pattulo (Applicants Architect) described proposed project. The applicants are looking for an addition on a nonconforming existing structure on a nonconforming lot. The existing structure was built in approximately 1942. The existing nonconforming lot is very small (8,408 sq. feet whereas the Ordinance requires a minimum of 20,000) and narrow (50 ft. whereas the Ordinance requires a minimum of 100 ft.). The required setbacks would only allow a building envelope of 1,310 sq. ft. and 20 ft. width.

The required setbacks create a building envelope that is too small to accommodate a practical renovation and addition. The applicant is proposing to move the enclosed living space (open up an enclosed porch thus, resulting in improved lake views for adjacent property owners. This modification allows for reuse of the existing nonconforming structure's foundation. The enclosed portion of the structure would be pulled back from the waterside 10 feet, with the adaption of the enclosed porch into a covered porch.

Proposed project includes the following improvements:

- The existing lakeside deck extending beyond the proposed structure will be removed
- The removal of the enclosed living space back 10 feet will improve the lateral views for adjacent neighbors
- The existing nonconforming accessory building (shed) will be removed
- Current cistern (holding tank) will be removed and new drain field is proposed across street and will improve protection of lake

After living up here during covid, applicants have decided to make permeant home. Applicants currently use camper when hosting family.

Van Zee, Zoning Administrator, presented the case. The subject property consists of a non-conforming structure (size, setback encroachments) on a non-conforming lot (size, width). The owner wishes to demolish the majority of their existing cottage, renovate the remaining portion and add an addition. The addition includes two bedrooms and bathrooms, a home office, laundry room, covered lakeside porch and a one car garage. Public notice was published in local paper and notices mailed to all property owners within 350 feet. VanZee received 3 correspondences regarding appeal. Copies attached to minutes.

**PUBLIC COMMENTS**

Opened and closed at 7:24 pm. All correspondences were entered into the record.

**DELIBERATION OF BAY TOWNSHIP ZONING BOARD OF APPEAL MEMBERS**

Deliberation comments include: Enclosed porch compared to covered porch; eaves as overhang on setbacks, improved septic, architectural details, impervious surfaces, alternate plans, use of applicants'

BAY TOWNSHIP ZONING BOARD OF APPEALS  
NOVEMBER 17, 2021

property across street, total additional space on proposed project compared to improved setbacks proposed, total proposed coverage and setbacks compared to existing, total proposed square footage.

Finding of Fact:

14.9 Dimensional Variances

The ZBA may grant dimensional variances only when it is demonstrated, on the record of the hearing, that the strict enforcement of this Ordinance would result in a practical difficulty unique to the property. The applicant's personal or economic hardship shall not be a factor in the ZBA's consideration of the variance request. In establishing the existence of a practical difficulty, the applicant must address all of the following for consideration by the ZBA in the preparation of Finding of Fact:

- a. That there are unique circumstances or physical conditions of the property involved that do not apply to other properties in the surrounding vicinity, and/or Zoning District, such as exceptional narrowness, shallowness, or shape of the parcel, the presence of water or topographic conditions which render strict compliance with the applicable regulations, as applied to the parcel, practically impossible or unnecessarily burdensome. **MET**
- b. The need for the requested variance is not the result of any property owner's actions in the chain of title, unless action predated the enactment the Zoning Ordinance or the specific standard from which a variance is sought. **MET**
- c. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property. **MET**
- d. That granting the requested variance would do substantial justice to the appellant property owner, as well as other property owners in the vicinity, or that granting a lesser variance than requested would give substantial relief to the applicant property owner as well as other property owners in the vicinity. **MET**
- e. That the granting of the requested variance will not cause an adverse impact on surrounding property or the use and enjoyment of property in the vicinity, or Zoning District. **MET**
- f. That the granting of the requested variance will not adversely affect the purposes or objectives of the Ordinance. **MET**

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

- a. The parcel is non-conforming as is with water on one side, the property will remain non-conforming
- b. The need for the variance was not created by the property's owner's actions.
- c. Strict compliance with regulations governing area does prevent the property owner from using property.
- d. The Board Members do feel granting of the variance will not cause adverse impact on surrounding property.

BAY TOWNSHIP ZONING BOARD OF APPEALS  
NOVEMBER 17, 2021

- e. The Board Members found granting the variance would not have debatable adverse impacts on surrounding properties.
- f. The Board felt that granting of the variance would not adversely affect the purpose of the Ordinance.

***MOTION by Alquire, second by Koteskey:***

The Bay Township Zoning Board of Appeals finding of fact identified in the variance request for property identified as 15-001-134-007-00 is as follows:

- Property Owner: Mike and Diane Fischer
- Property Address: 02415 Eagle Island Road, Boyne City, MI 49712
- Property Tax Identification No.: 15-001-134-007-00
- Zoning District in which the Property resides: R-1 Waterfront Overlay District
- The property is subject to the provisions of the Ordinance, Article V (Zoning District Regulations) and Article XVII, Nonconforming Uses, Section 17.2.e and 6.4.1.

***MOTION BY Koteskey, seconded by Blandford, to approve the variance request as presented by Mike and Diane Fischer for property ID 15-001-134-007-00 located at 02415 Eagle Island Road, Boyne City, Michigan 49712 passed upon unanimous affirmation vote of the Board Members.***

***A roll call was taken:***

***Yeas: Ritter, Alquire, Koteskey, Donahue, Blandford***

***Nays: None***

Based upon the findings of fact as identified by the Bay Township Zoning Board of Appeals in hearing the request for the variance regarding Property Tax No. 15-001-134-007-00 and after consideration of all information presented by the Appellant, the standards set forth in Article XVII and the facts found above, the Zoning Boards of Appeals find that the proposed nonconforming new build as proposed by the Appellant, does not violate the applicable Ordinance provisions, and the requested variance is thereby granted.

Board members voting in support of the motion to grant variance request by roll call vote: Steve Ritter, Nancy Blandford, Arnold Koteskey, Kathy Donahue, Patrick Alquire.

Public Hearing closed.

**PLANNING COMMISSION**

**REPORT**

Blandford presented an oral report updating ZBA on Planning Commission Activity.

BAY TOWNSHIP ZONING BOARD OF APPEALS  
NOVEMBER 17, 2021

**ZONING ADMINISTRATOR**

**REPORT** VanZee presented an oral report updating Zoning Activity.

**PUBLIC COMMENT** Open and closed at 8:10 pm

**ADJOURN** **MOTION by Koteskey , seconded by Ritter, to adjourn the meeting at 8:11 pm, passed upon unanimous affirmation vote of Board Members.**

Respectfully Submitted,

Kristin Baranski Deputy Clerk