

**CHARTER TOWNSHIP OF BANGOR
ZONING BOARD OF APPEALS**

MINUTES OF JULY 17, 2018 MEETING

A regular meeting of the Charter Township of Bangor Zoning Board of Appeals was held on the 17th day of July, 2018 at the Bangor Township Administrative Building, 180 State Park Drive, Bay City, Michigan, pursuant to notice of said meeting.

REGULAR MEMBERS PRESENT: Banszak, DeShano, Phelps

MEMBER (S) ABSENT: Corrion, Covaleski

ALTERNATE MEMBER PRESENT: Dore

Mr. Phelps called the meeting to order at 6:00 p.m.

The first item on the agenda was approval of minutes of the June 19, 2018 regular meeting. *Mr. Phelps moved to approve the minutes of the June 19, 2018 regular meeting. Ms. DeShano seconded the motion. Four (4) ayes, no (0) nays. The motion passed.*

The next item on the agenda was a petition filed by Gene Jacobs for vacant property on Killarney Beach Road (0901003810003499) which is on the West side of Killarney Beach for the purpose of a variance to permit an accessory building with no primary structure, a variance of 887 square feet to be 1200 square feet (313 square feet is allowed), a variance of 2' to be 3' for a side yard setback (5' is required) and a rear yard variance of 5' to be 5' (10' is required) for a 30'x40' pole barn. Parcel is zoned Residential-2.

The Department of Water and Sewer takes no exception to the petition.

The Fire Marshal had no comment.

Jim Lillo from the Bay County Road Commission wrote they do not have any objection to the petition. Based on the plan submitted, review of the site per the Bay County Planning Department's current aerials, the proposed accessory building will be well away from the roadway and will have virtually no impact on BCRC maintenance activities. The petitioner will need to secure a permit from the BCRC if they plan to construct a driveway between the accessory building and the road edge.

Paul Rowe of 374 Killarney wrote the variance is too large. No plumbing or residence is allowed.

Mr. Jacobs stated he owns 3 small lots. He would like to build a 30'x40' building on the center lot.

There was no one in the audience for or against the request.

Mr. Phelps stated this is the third time Mr. Jacobs has been before them.

Ms. DeShano stated Mr. Jacobs has complied with their suggestions on size and location.

Ms. DeShano moved to approve the petition filed by Gene Jacobs for vacant property on Killarney Beach Road (0901003810003499) which is on the West side of Killarney Beach for the purpose of a variance to permit an accessory building with no primary structure, a variance of 887 square feet to be 1200 square feet (313 square feet is allowed), a variance of 2' to be 3' for a side yard setback (5' is required) and a rear yard variance of 5' to be 5' (10' is required) for a 30'x40' pole barn. Parcel is zoned Residential-2. Mr. Jacobs reduced the size from

his original request and located the building onto the middle lot. Mr. Phelps seconded the motion. Four (4) ayes, no (0) nays. The motion passed. The petitioner has six (6) months to pull a building permit or the variances are null and void.

The next item was a petition filed by David Brooks for property at 296 Killarney Beach Road (090100L4000002500) which is on the East side of Killarney Beach between Ricoma Beach and Carrier Lane for the purpose of a side yard variance of 1.7' to be 6.3' (8' is required); a variance of 6' for total side yards to be 14' (20' is required); and a variance to permit an encroachment of the 40' waterfront yard setback to meet the established building line for an addition. Parcel is zoned Residential-2.

The Department of Water and Sewer takes no exception to the petition.

The Fire Marshal commented the side yard setbacks should be adhered to for safety reasons.

Jim Lillo from the Bay County Road Commission wrote they do not have any comment on the petition. This work is being done on a road that is not under the jurisdiction of the BCRC.

Mr. Brooks explained how the 40' setback and one of the side yards exist. Those variances will bring the home into compliance. He explained they wanted to move the water closet. The bump out will be as short as possible. The variances will allow for an attractive addition. A lesser variance wouldn't allow them to move the water closet. Mr. Brooks added the lot is long and narrow. His request is common with the neighborhood.

Mr. Brooks presented a letter of support from Dan & Karen Hazen of 294 Killarney Beach Road.

There was no one in the audience for or against the request.

Mr. Dore commented the adjacent neighbor is set back off the property line.

Mr. Phelps stated the existing structure is being updated. Mr. Banaszak added you won't be able to notice the difference because of the existing building.

Ms. DeShano moved to approve the petition filed by David Brooks for property at 296 Killarney Beach Road (090100L4000002500) which is on the East side of Killarney Beach between Ricoma Beach and Carrier Lane for the purpose of a side yard variance of 1.7' to be 6.3' (8' is required); a variance of 6' for total side yards to be 14' (20' is required); and a variance to permit an encroachment of the 40' waterfront yard setback to meet the established building line for an addition. The existing home will be brought into conformance. Mr. Dore seconded the motion. Four (4) ayes, no (0) nays. The motion passed. The petitioner has six (6) months to pull a building permit or the variances are null and void.

The next item was a petition filed by Timothy & Jane Quinn for property at 108 Little Killarney Beach (090100A3000000500) which is on the East side of Little Killarney Beach for the purpose of a side yard variance of 4' to be 4' (8' is required); a variance of 9.4' for total side yards to be 10.6'' (20' is required); and a variance of 25' to be 15' for waterfront yard setback (40' is required). Parcel is zoned Residential-1.

The Department of Water and Sewer takes no exception to the petition.

Jim Lillo from the Bay County Road Commission wrote they do not have any comment on the petition. This work is being done on a road that is not under the jurisdiction of the BCRC.

The Fire Marshal commented the side yard setbacks should be adhered to for safety reasons.

Hasson Klepser of 106 Little Killarney Beach wrote a letter of support.

George Klepser of 114 Little Killarney Beach wrote a letter of support.

Kathy Staudacher of 330 Killarney Beach Road telephoned and stated it is very close on the sides. This will be pushing the safety issue. One side should be able to maintain at least 8' and 10' would be better.

Mr. Quinn stated the bayside wall and North wall are existing. The addition will be on the East and road side.

There was no one in the audience for or against the request.

Mr. Phelps stated the original home is being added on to. The North and West sides will remain where they are. Ms. DeShano stated the home is not extending out.

Mr. Banaszak stated the lot is on an angle. It is unique.

Mr. Phelps moved to approve the petition filed by Timothy & Jane Quinn for property at 108 Little Killarney Beach (090100A3000000500) which is on the East side of Little Killarney Beach for the purpose of a side yard variance of 4' to be 4' (8' is required); a variance of 9.4' for total side yards to be 10.6'' (20' is required; and a variance of 25' to be 15' for waterfront yard setback (40' is required). The shape of the lot is unique. Mr. Dore seconded the motion. Four (4) ayes, no (0) nays. The motion passed. The petitioner has six (6) months to pull a building permit or the variances are null and void.

The next item was a petition filed by Scott & Teresa Royer for property at 4326 Hushen Road (090100M1500002700) which is on South side of Hushen between Wilder and Wheeler Roads for the purpose of a variance to remove 8% rule and/or increase from 1,000 square feet to 1,104 square feet (8% of a 135'x70' lot is 756 square feet. Variance would be for an additional 348 square feet; 756 square feet is allowed) for an accessory building addition. Parcel is zoned Residential-3.

The Fire Marshal had no comment.

The Department of Water and Sewer takes no exception to the petition.

Jim Lillo from the Bay County Road Commission wrote they do not have any objection to the petition. Based on the plan submitted, review of the site per the Bay County Planning Department's current aerials, the proposed addition will be located behind the existing structure (home), well away from the roadway.

Ken Weidman of 4352 Hushen wrote a letter questioning the location in relation to the Consumers easement.

Jeff Mayes of 4326 Hushen telephoned he supported the request.

Mr. Royer explained he would like a 24'x24' addition to his garage. The garage sits back on the property. He would like to store more items inside.

Ms. DeShano asked where the Consumers easement was located. Mr. Royer stated it was behind the existing garage.

There was no one in the audience for or against the request.

Mr. Dore wanted to make sure the easement location wasn't an issue.

Mr. Phelps asked what the hardship was. Mrs. Royer stated he currently rents storage and would like to store his possession on his property.

Mr. Banaszak stated that reason was not a hardship. It was self-created.

Two neighbors stated they were in favor of the request.

Mr. Phelps moved to approve the petition filed by Scott & Teresa Royer for property at 4326 Hushen Road (090100M1500002700) which is on South side of Hushen between Wilder and Wheeler Roads for the purpose of a variance to remove 8% rule and/or increase from 1,000 square feet to 1,104 square feet (8% of a 135'x70' lot is 756 square feet. Variance would be for an additional 348 square feet; 756 square feet is allowed) for an accessory building addition. The lot is small. Mr. Dore seconded the motion. A roll call vote was taken: Banaszak-nay; Phelps-aye; DeShano-aye; Dore-aye. Three (3) ayes, no (0) nays. The motion passed. The petitioner has six (6) months to pull a building permit or the variances are null and void.

The next item on the agenda was a petition filed by Lawrence Hurlburt for property at 417 Ricoma Beach (0901003720007299) which is on West side of Ricoma Beach off Euclid for the purpose of a variance to permit erection of an accessory building on a parcel having no principal building or structure being constructed or already established on the same parcel of land. Parcel is zoned Residential-2.

The Fire Marshal had no comment.

The Department of Water and Sewer takes no exception to the petition.

Jim Lillo from the Bay County Road Commission wrote they do not have any objection to the petition. Based on the plan submitted, review of the site per the Bay County Planning Department's current aerials, the proposed accessory building will be well away from the roadway and will have virtually no impact on BCRC maintenance activities.

There was no one in the audience for or against the request.

Mr. Phelps stated all the setbacks are met. Mr. Banaszak added others in the area were approved for the same request.

Ms. DeShano moved to approve the petition filed by Lawrence Hurlburt for property at 417 Ricoma Beach (0901003720007299) which is on West side of Ricoma Beach off Euclid for the purpose of a variance to permit erection of an accessory building on a parcel having no principal building or structure being constructed or already established on the same parcel of land. Mr. Phelps seconded the motion. Four (4) ayes, no (0) nays. The motion passed. The petitioner has six (6) months to pull a building permit or the variances are null and void.

The next item on the agenda was a petition filed by Gary Geyer for property at 345 State Park Drive (0901003240020000) which is on West side of State Park Drive between Boy Scout and Lauria Roads for the purpose of 1) a variance of six (6) parking spaces to have zero (0) parking spaces (6 spaces are required); 2) a variance to allow gravel surface for all off street parking areas, access lanes, driveways and other vehicle maneuvering areas (hard surface is required); 3) a variance to allow outdoor storage (storage must be contained within an enclosed building); 4) a variance of 20' to be 0' from the driveways serving the open-air business on north and south to the north and south property lines (20' setback is required); 5) a variance of 21' to be 79' lot width for open-air business (100' minimum lot width is required); 6) a variance of 3' to allow all one-way driveways to be designed with one 12' wide loading/unloading lane and one 12' travel lane (one 12' wide loading/unloading lane and one 15' travel lane are required); 7) a variance of 7' to be 8' wide landscaping planting strip adjacent to the road right-of-way (15' is required); 8) a variance to permit open access between the subject property and 333 State Park Drive (enclosure of the entire site with a 6' high fence is required); 9) a variance of 10' to permit a building to be located 10' from the west property line (minimum 20' buffer width is required); and 10) a rear yard variance of 10' to be 10' (20' is

required). Parcel is zoned Commercial.

Mr. Geyer explained the property is a non-conforming residential use on a commercial lot. The proposed storage facility would be adjacent to his existing storage building. He is requesting the same variances that were approved in 2007. This property is deeper than the other site.

Ms. DeShano asked if all the other buildings would be removed other than the house. Mr. Geyer stated the house will be moved to the back. The outside storage already exists.

The Fire Marshal had no comment.

The Department of Water and Sewer takes no exception to the petition.

Jim Lillo from the Bay County Road Commission wrote they do not have any objection to the petition. Based on the plan submitted, review of the site per the Bay County Planning Department's current aerials, the proposed storage building and outside storage will be primarily accessed from a parcel to the south. A gated, Emergency Entrance (Driveway) will connect to State Park Drive. Since this is a change of use and the driveway will be upgraded the petitioner will need to secure a driveway permit from the BCRC.

Amy Geyer stated she was in support of the request. The project would clean up the area.

Heather Lowe of 347 State Park Drive stated the building would be too close to the property line. Since the first storage facility was built, she gets more flooding. She has concerns with how snow removal will be handled.

Judy Brown of 533 River Road asked why there were rules if they were asking to break ten of them. The area is a mix of commercial and residential. Zoning is needed to protect the other area properties. She is not opposed to development but within the law. Ms. Brown asked what the outside storage consisted of. She wanted to make sure the property did not have light pollution. Ms. Brown asked is there would be a barrier between the development and the neighbor.

Mr. Geyer commented the site is on the sewer system. There would be six catch basins so they will not be draining onto the neighbors. He added there would be a privacy fence on the North side of the property. The storage building would be 24' from the property line. His trailers would be stored in the back of the property.

Ms. Geyer stated the existing storage facility is well maintained. The proposed site needs to be cleaned up.

Ms. Brown had a concern with the two entrances to the site. Mr. Geyer explained all traffic would come in off of Boy Scout. State Park Drive was for emergency access.

After discussion, Ms. DeShano moved to approve the petition filed by Gary Geyer for property at 345 State Park Drive (0901003240020000) which is on West side of State Park Drive between Boy Scout and Lauria Roads for the purpose of 1) a variance of six (6) parking spaces to have zero (0) parking spaces (6 spaces are required); 2) a variance to allow gravel surface for all off street parking areas, access lanes, driveways and other vehicle maneuvering areas (hard surface is required); 3) a variance to allow outdoor storage (storage must be contained within an enclosed building); 4) a variance of 20' to be 0' from the driveways serving the open-air business on north and south to the north and south property lines (20' setback is required); 5) a variance of 21' to be 79' lot width for open-air business (100' minimum lot width is required); 6) a variance of 3' to allow all one-way driveways to be designed with one 12' wide loading/unloading lane and one 12' travel lane (one 12' wide loading/unloading lane and one 15' travel lane are required); 7) a variance of 7' to be 8' wide landscaping planting strip adjacent to the road right-of-way (15' is required); 8) a variance to permit open access between the subject property and 333 State Park Drive (enclosure of the entire site with a 6' high fence is required); 9) a variance of 10' to permit a building to be located 10' from the west property line (minimum 20' buffer width is

required); and 10) a rear yard variance of 10' to be 10' (20' is required). Parcel is zoned Commercial. The proposal will improve the area and bring the use of the property into compliance. Mr. Phelps seconded the motion. Four (4) ayes, no (0) nays. The motion passed. The petitioner has six (6) months to pull a building permit or the variances are null and void.

The next item was a petition filed by Theron & Ellen Robinson for property at 3697 Kawkawlin River Drive (0901000510047500) which is on the North side of Kawkawlin River Drive between State Park Drive and N. Euclid for the purpose of a variance to permit a principal building and use located on a lot having no width on a public street or approved private street. Parcel is zoned Residential-1.

The Fire Marshal had no comment.

The Department of Water and Sewer takes no exception to the petition.

Jim Lillo from the Bay County Road Commission wrote they do not have any comment on the petition. This issue is zoning related and tasked under the jurisdiction of the Township.

Mr. Robinson stated they owned the property for 11 years and have been trying to sell it for the last six. There are two houses on the property. When they get a potential buyer, there are issues because a commercial mortgage is needed for property with two houses on it. The requested variance would put the houses on separate properties. All the setbacks would be met and the driveway is not affected.

There was no one in the audience in favor of the request.

Mr. Phelps commented on the unique shape of the property.

Mr. Phelps moved to approve the petition filed by Theron & Ellen Robinson for property at 3697 Kawkawlin River Drive (0901000510047500) which is on the North side of Kawkawlin River Drive between State Park Drive and N. Euclid for the purpose of a variance to permit a principal building and use located on a lot having no width on a public street or approved private street. The shape of the property is unique and it has two homes on it. Mr. Dore seconded the motion. Four (4) ayes, no (0) nays. The motion passed. The petitioner has six (6) months to take action on the split or the variances are null and void.

The next item was a petition filed by WD Partners for property at 3921 Wilder Road (09010P050000500) which is on North side of Wilder between State Street Road and State Park Drive for the purpose of a variance to allow two (2) additional wall signs with an additional 73.92 square feet 65.43 square feet for a "Pick Up" sign and 8.49 square feet for a "Vision Center" sign. Parcel is zoned Commercial.

The Fire Marshal had no comment.

The Department of Water and Sewer takes no exception to the petition.

Jim Lillo from the Bay County Road Commission wrote they do not have any comment on the petition. This issue is signage related and tasked under the jurisdiction of the Township.

Seth Dorman represented the request. He explained Walmart is being remodeled. The building is 205,780 square feet. It is 555' wide and 25' tall. The face of the building is approximately 13,875 square feet. The entire signage is being replaced. 3.5% of the face is being covered by signage. The Zoning Ordinance does not compare the size of the businesses. Strict compliance allows for only 180 square foot of signage on this size of building. Mr. Dorman added the store is 445' off of State Street Road. The store has many elements: grocery, pharmacy, photo, and the new "pick-up" area. The ordinance doesn't account for a large building with many uses.

There was no one in the audience for or against the request.

Ms. DeShano moved to approve the petition filed by WD Partners for property at 3921 Wilder Road (09010P0500000500) which is on North side of Wilder between State Street Road and State Park Drive for the purpose of a variance to allow two (2) additional wall signs with an additional 73.92 square feet 65.43 square feet for a "Pick Up" sign and 8.49 square feet for a "Vision Center" sign. The entire store is being up graded. The building is far off the road. Mr. Phelps seconded the motion. Four (4) ayes, no (0) nays. The motion passed. The petitioner has six (6) months to take action on the split or the variances are null and void.

The next item on the agenda was a petition filed by Site Enhancement Services for property at 918 N. Euclid Ave (0901001730047000) which is on East side of Euclid between Mosher St. and Fulton for the purpose of a variance to allow one (1) additional 14 square foot wall sign on the South elevation (58.5 square feet of signage exists on West side). Parcel is zoned Commercial.

Charlie Scalliol represented the request. He distributed a handout to Board members. He stated there was a renovation going on at McDonalds with a new brand. There is a sign on Euclid but on the Southern elevation, there is only the arch. What they are proposing is under what is allowed for the front façade including what's on the South side. It's a different allocation of the allowed square footage.

Larry Peters, owner, presented pictures of area signage. They would not be adding more than anyone else.

The Fire Marshal had no comment.

The Department of Water and Sewer takes no exception to the petition.

Jim Lillo from the Bay County Road Commission wrote they do not have any comment on the petition. This work is being done on a road that is under the jurisdiction of the MDOT. The petitioner should contact the MDOT to determine if they have any requirements related to this request.

There was no one in the audience against the request.

Mr. Phelps moved to approve the petition filed by Site Enhancement Services for property at 918 N. Euclid Ave (0901001730047000) which is on East side of Euclid between Mosher St. and Fulton for the purpose of a variance to allow one (1) additional 14 square foot wall sign on the South elevation (58.5 square feet of signage exists on West side). Mr. Dore seconded the motion. Four (4) ayes, no (0) nays. The motion passed. The petitioner has six (6) months to pull a building permit or the variances are null and void.

The last item on the agenda was a petition filed by Mark & Suzanne Birnbaum for property at 214 Athlone Beach (09010T1100000400) which is on East side of Athlone Beach for the purpose of a side yard variance of 4' to be 4' on the South (8' is required), a side yard variance 12' to be 4' on the North (8' is required); a total setback variance of 12' be to 8' (20' is required) and a variance to be less than 40' in the waterfront yard for a new home. Parcel is zoned Residential.

The Fire Marshal commented the side yard setbacks should be adhered to for safety reasons.

The Department of Water and Sewer takes no exception to the petition.

Jim Lillo from the Bay County Road Commission wrote they do not have any comment on the petition. This work is being done on a road that is not under the jurisdiction of the BCRC.

See letter of opposition from Janet Dwan of 212 Athlone Beach.

See attachments of opposition from George Killeen of 218 Athlone Beach.

See letter of opposition from Ellen Blakely of 206 Athlone Beach.

See letter of opposition from Donald Goeckel and Dianne Weidner of 204 Athlone Beach.

Mr. Birnbaum stated they purchased the lot. It is 52'x212'; long and skinny. The property has two front yards; a road side and a water front. They are proposing to build a house set back and in line with the adjacent neighbors. He added both neighbors are about 9' off the property lines. They would like a home wider than what is allowed. The previous home was removed prior to the purchase of the property.

There was no one in the audience in favor of the request.

Richard Brown of 216 Athlone spoke in opposition to the side yard variances. They are planning on replacing their current home next year. The new home will respect the 8' minimum offset. The minimum of 16' between structures is required for quality of life, practical access and safety. Mr. Brown presented pictures of a house fire at 365 Killarney Beach which showed how the adjacent home was affected by the fire due to its close proximity.

Mr. Brown continued regarding how they knew a new home would be built at 214 Athlone but believed it would be built to comply with zoning regulations. He realizes relief from the waterfront setbacks would be needed because it would be unfair to require the new owners to build behind the existing homes. Mr. Brown added the previous owner knew the regulations would limit a new home to about 30' wide.

Mr. Brown stated the situation is self-created. Strict compliance with the regulations will not prevent the owner or applicant from using the property for the permitted purpose of a single family residential home. Approving the requested variance will not do substantial justice to other property owners. A lesser variance would still impinge on the neighbor's rights. There is nothing unique about this property to justify the requested variance.

Walter Huszar of 222 Athlone Beach stated he feels a property owner has a right to do what they want on their property but you need to follow the laws. There are five criteria that must be met to have variances approved. This is a self-created problem. The proposed house is too big for the lot or the lot is too small for the house. There is nothing unique about the property.

Robert Dwan of 212 Athlone Beach stated the request is for a 60% reduction in the structure separation from an ordinance that was amended in 2006. He is not in favor of a 4' separation from the property line. The variance would lessen the safe zone established by the current ordinance. He added the drawing provided did not show the length of the structure. The designation of two front yards is not a hardship. It is the condition of waterfront lots. Having two front yards has nothing to do with the side yard variance request. The presented plot plan does not comply with the basic requirements of the application.

Mr. Dwan explained the criteria is not met where strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with the ordinance unnecessarily burdensome. The property can be used for its permitted use. The criteria are not satisfied where the variance will do substantial justice to the applicant as well as to the other property owners. Over-building the lot lessens the safety and privacy and creates an injustice to the adjacent property owners.

Mr. Dwan stated the criteria are not met with regard to a lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners. There is no injustice to provide relief. No variance of side yard setbacks is acceptable to adjacent property owners. Allowing 4' per side would not allow room for an air conditioning compressor which is an allowed projection into the side yard. Waterfront

lots are not a unique circumstance peculiar to the property. There is no problem or resulting need for the variance. The desire to erect a structure that does not conform to the building envelope under the current setback law is a personal choice. It is self-created.

Mr. Dwan urged the Board to deny the variances on the merits that it does not qualify based on the five criteria of consideration.

George Killeen of 218 Athlone stated he reviewed meeting minutes from 10/18/11 to date. At the October 2011 meeting he was on the agenda. His request was denied. He was told the ZBA has rules to follow and the ZBA must follow certain criteria for approvals. Mr. Killeen feels the petitioners failed to provide adequate information, plans, testimony and/or evidence from which the ZBA may make its required findings state strict compliance with the ordinance will prevent them from using the property as it is settled law that these petitioners do not have a legal right to a preferred design.

Mr. Killeen added substantial justice mandates that the interests of the existing conforming property owners receive greater deference than the wishes of a non-resident petitioner. He added the petitioner has no entitlement to relief as a result of their purchasing the property. Mr. Killeen stated there is nothing peculiar or unique about the property. It is an empty, rectangular piece of sand. The petitioners knew the dimensions and limitations and zoning prior to the purchase.

Mr. Killeen explained the request is a perfect text-book example of a self-created need. The petitioners have no legal right to the house design of their choice. The ordinance required that the petitioners satisfy all five of the rules. Mr. Killeen also brought it to the Board's attention that the parcel is a part of the Athlone Beach Owners Association. There are certain deed restrictions, such as no building may be located less than 10' from the North, South, East or West lot lines. He asked that the request be denied.

Ms. Birnbaum stated they are the owners of the property.

Mr. Dore stated being 4' off the property line is an issue. He had to conform to the setbacks when he built his home.

Mr. Phelps stated the lot is long and narrow but 4' is quite narrow.

Mr. Banaszak advised that in Section 5.08A of the Zoning Ordinance it states "Every building ...shall comply with the lot size, lot coverage, and setback requirements for the district in which it is located." He recommended that a survey be done to show all the dimensions, setbacks and all existing and proposed structures and uses of the property and butting lots and parcels.

Mr. Birnbaum stated the lot itself is non-conforming. More discussion took place on the request.

Mr. Banaszak suggested the Birnbaum's meet with the Building Department to get the requirements. Ms. Birnbaum advised Mr. Froncek assisted them in filling out the application. She asked if a lesser variance could be considered.

Mr. Banaszak moved to deny the petition filed by Mark & Suzanne Birnbaum for property at 214 Athlone Beach (09010T1100000400) which is on East side of Athlone Beach for the purpose of a side yard variance of 4' to be 4' on the South (8' is required), a side yard variance 12' to be 4' on the North (8' is required); a total setback variance of 12' be to 8' (20' is required) and a variance to be less than 40' in the waterfront yard for a new home. The five criteria needed for variance approval were not met. Mr. Phelps seconded the motion. Four (4) ayes, no (0) nays. The motion passed.

Having no other business before the Board, Mr. Banaszak adjourned the meeting at 8:05 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Barbara Potts".

Barbara A. Potts
Zoning Board of Appeals Coordinator