

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

MINUTES OF SEPTEMBER 18, 2012 MEETING

A regular meeting of the Charter Township of Bangor Zoning Board of Appeals was held on the 18th day of September, 2012 at the Bangor Township Administrative Building, 180 State Park Drive, Bay City, Michigan, pursuant to notice of said meeting.

REGULAR MEMBERS PRESENT: Banaszak, Corrion, Phelps, Pilarski, Schisler

MEMBER (S) ABSENT: None

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

The Pledge of Allegiance was recited.

The first item on the agenda was approval of the minutes of a regular meeting held August 21, 2012. *Mr. Pilarski moved to approve the minutes as presented. Mr. Phelps seconded the motion. Five (5) ayes, no (0) nays. The motion passed.*

The next item on the agenda was a petition filed by Bay Regional Medical Center for property at 3250 E. Midland Road which is on the South side of Midland Road between Two Mile and Euclid for the purpose of a variance of 576 parking spaces to have 435 parking spaces (1,011 parking spaces required). Parcel is zoned Residential-3.

Jim Lillo from the Bay County Road Commission wrote with regard to the petition filed by Bay Regional Medical Center (McLaren West Campus) for property at 3250 East Midland Road, they have no comment to this specific petition. Please see below.

As a follow-up to our review comments for the August 21, 2012 meeting of the Bangor ZBA, they attended a meeting with Bay Regional Medical Center officials and their engineer on August 30, 2012. The existing entrances to their facility were discussed in detail. The discussion mainly focused around the western access, as it has visibility issues for vehicle both entering and exiting. The point was also made, that since the closure of Brian's House, the proposed addition will basically be "a wash" as far as overall vehicle traffic in an out of the facility. Bay Regional Medical Center agreed to and they understand they have approached the landowner to the west of their western entrance regarding removal of the tree and also are looking at relocating their sign at that same entrance.

Therefore, with regard to the petition submitted by Bay Regional Medical Center (McLaren West Campus) reviewed at the August 21, 2012 Bangor ZBA meeting – they have no objection to the petition.

Bradd Maki from the Bay County Department of Water and Sewer wrote the DWS takes no exception to the proposed variance.

Fire Marshal Bailey wrote the Fire Department takes no exception.

Bay County Drain Commission wrote most of the area is impervious already. There is a major detention basin behind it. Drainage from the new building will not have much effect.

Mr. Banaszak read the Township Attorney's suggested verbiage for variance approval.

Jim Bourdon of McLaren Bay Regional represented the request. He stated they met with the neighbor to the west and there is an agreement to remove the chestnut tree. They are proposing to replace the sign at the west

entrance. The proposed location will be to the east of the west entrance instead of west of it.

Mr. Pilarski noted the Planning Commission approved the site plan contingent upon ZBA approval of the parking space variance.

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

Mr. Pilarski stated the attorney's recommendation would cover if the hours of operation change.

Mr. Pilarski moved to approve the petition filed by Bay Regional Medical Center for property at 3250 E. Midland Road for the purpose of a variance of 576 parking spaces to have 435 parking spaces (1,011 parking spaces required). The variance has been granted based upon the representation that a full service oncology unit will be open 7:00a.m. to 5:00 p.m., Sunday-Saturday. The Zoning Board of Appeals reserves the right to require a new review of this variance request and to impose new conditions in the event that hours of operation, or day of operation of the unit are expanded. Mr. Schisler seconded the motion. Five (5) ayes, no (0) nays. The motion passed. They have six months to pull a building permit or the variance would be void.

The next item on the agenda was a petition filed by Robert Charles Milka for property at 303 S. Woodbridge which is on the East side of S. Woodbridge between Jane and Jenny for the purpose of a variance of 5' to be 0' from and encroach the road right of way (5' is required) for a fence. Parcel is zoned Residential.

Jim Lillo from the Bay County Road Commission wrote with regard to the petition filed by Robert Charles Milka for property at 303 S. Woodbridge, for a variance to install a fence – they have no objection to the petition. Although within the road right-of-way, this fence will deter motorists that have frequently been cutting across Mr. Milka's lawn for no apparent reason. He personally has seen a photograph of a pick-up truck doing this and vehicle tracks across his yard.

Woodbridge's 66' road right-of-way basically comes within 15' of the faces of the homes along the east side. Trees, fences, telephone poles, landscaping have all been placed within the road right-of-way at a distance of 22' from the existing road centerline. This has been like this for decades. Why this was allowed to happen is unclear, but nonetheless, it is the "norm". The location Mr. Milka is proposing is in line with or behind the other items currently there.

Mr. Milka is proposing a fence along Woodbridge that is 27' from the centerline of the road. They have no objection to the installation. He also is proposing the installation of a fence 27' from the centerline of Jane Street, again they do not have any objection to the installation. The location of the fence will not impede BCRC maintenance activities (snow plowing, general maintenance of the road, etc).

Bradd Maki from the Bay County Department of Water and Sewer wrote there are DWS service(s) in the area where the variance is requested. The DWS takes no exception to the proposed variance. However, the DWS strongly recommends that the property owner be required to formally agree in writing to not hold DWS responsible for any damages should the fence interfere with water and/or sewer repairs.

Fire Marshal Bailey wrote the Fire Department takes no exception.

James Miner owner of property at 309 S. Westlawn wrote he would be opposed to any fence over the road right of way. If it is a question of the fence being along the South or East boundary of the road right of way or within 5 feet of the South of East boundary of the right of way then he should get his variance.

James Milka represented the petition. He explained they would be happy with a fence within 10' of the right of way. They want to stop people from vandalizing their property. They would keep inline with the neighbor's fence.

Mr. Pilarski asked if there was evidence of the vandalism. Mr. Milka stated they had video showing cars driving and people walking across their property.

Angela Setula of 307 S. Woodbridge stated she has had vandalism also. The proposed fence won't cause a problem. It would be well off the road. The fence will deter traffic from cutting across the property. She has no objection.

Fred Johnson of 306 S. Woodbridge was in favor of the variance.

There was no one in the audience against the request.

Mr. Pilarski stated the dimension would need to be changed on the drawing. Mr. Schisler commented the variance is to encroach into the right of way but doesn't say by how much.

Mr. Schisler moved to approve the petition filed by Robert Charles Milka for property at 303 S. Woodbridge which is on the East side of S. Woodbridge between Jane and Jenny for the purpose of a variance of 5' to be 0' from and encroach the road right of way (5' is required) for a fence. There has been vandalism experienced. The fence will fall inline with the neighbors. The area neighbors are in favor of the request. Ms. Corrion seconded the motion. Five (5) ayes, no (0) nays. The motion passed. He has six months to pull a building permit or the variance would be void.

The next item on the agenda was a petition filed by Mary Beth Koch for vacant property on Killarney Beach which is on the East side of Killarney Beach Road for the purpose of a variance to have an accessory building on a lot without a primary structure and a 2' side yard setback variance to be 3' from the lot line. (5' is required). Parcel is zoned Residential-2.

Jim Lillo from the Bay County Road Commission wrote with regard to the petition filed by Mary Beth Koch for vacant property on Killarney Beach for a variance to construct an accessory building without a primary structure – they have no objection to the petition. If the accessory building has vehicle access to Killarney Beach Road, a permit for the driveway must be secured from the BCRC. As with any construction along this roadway, they strongly recommend the building be placed as far away from the road right-of-way as possible, as to not impede the BCRC's maintenance activities. This location will also avoid any damage that may be done to the structure during snow removal operations.

Bradd Maki from the Bay County Department of Water and Sewer wrote the DWS takes no exception to the proposed variance. DWS recommends a minimum 10 feet of separation from structures to mainline utilities.

Fire Marshal Bailey wrote the Fire Department takes no exception.

Kathy & Jon Staudacher of 330 Killarney Beach wrote they have no problem with this building issue. They know it will be a quality structure and will care for it very well.

A petition in favor of the request was signed by Dan & Judy Park of 343 Killarney Beach; Ron & Kathy Renfer of 344 Killarney Beach; John & Marjorie Byerly of 332 Killarney Beach; and Michael & Lori Bosco of 341 Killarney Beach.

Ms. Koch stated the building would be far enough off the road to not impede the Road Commission regarding snow removal.

Mr. Pilarski asked why the 2' variance was needed. Ms. Koch explained the building would be closer to the paved area and would be easier for her. Mr. Pilarski commented there could be an issue if there was a water main problem. Ms. Koch believed the water line ran in the middle of the adjacent easement.

Mr. Banaszak asked if the building could be moved over. Ms. Koch stated it could but there were utility lines

running along the other side. A discussion took place on the location of the utility lines and the water line. The Board thought it would be best to move the building to meet the setbacks.

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

Mr. Schisler moved to approve the petition filed by Mary Beth Koch for vacant property on Killarney Beach for the purpose of a variance to have an accessory building on a lot without a primary structure. The road in that area separates the property. The building will not be used as a living area. This type of item is requested often in the area. Mr. Phelps seconded the motion. Five (5) ayes, no (0) nays. The motion passed. She has six months to pull a building permit or the variance would be void.

Mr. Pilarski moved to deny the petition filed by Mary Beth Koch for vacant property on Killarney Beach for the purpose of a 2' side yard setback variance to be 3' from the lot line. The building can be put on the property without a negative impact on the owner or neighbors. There may be utilities on the property but they are not in an easement. Mr. Phelps seconded the motion. Mr. Schisler commented that based on what was presented, there is plenty of room on the property to move the building over. Five (5) ayes, no (0) nays. The motion passed. The variance was denied.

The next item on the agenda was a petition filed by Patrick Gray for property at 156 Bay Shore Drive which is on the West side of Bay Shore Drive for the purpose of a variance to have a 3' picket fence in the waterfront. (No fence is allowed). Parcel is zoned Residential.

Jim Lillo from the Bay County Road Commission wrote with regard to the petition filed by Patrick Gray for property at 156 Bay Shore Drive for a variance to install a 3' picket fence along the waterfront – they have no comment to the petition. Based on the information received, the proposed fence is along the riverfront and not along the roadside. Therefore, it will in no way impact the Bay Shore Drive right-of-way.

Bradd Maki from the Bay County Department of Water and Sewer wrote the DWS takes no exception to the proposed variance.

Fire Marshal Bailey wrote the Fire Department takes no exception.

Dwayne and Mary Lou Fischer of 414 Bay Shore Drive telephoned they had no problem with the request.

Bob Clayton of 100 West Drive telephoned he had no objection to the request.

Charles and Judith Frantz wrote they have no problem with the request.

Terrence Kelly of 164 Bay Shore Drive wrote he did not object to the request.

Donna Vandenbosch of 155 Bay Shore Drive wrote she had no objection to the request.

A letter from Patrick Gray was read.

Mr. Gray stated the fence would keep his and his guests' animals in the yard. He wants to respect his neighbors' property. The fence would be low. Many fences in the area have been grandfathered in. The fence would be decorative and not distracting. The proposed fence would run from the face of the house to the seawall. The fence would be 6' at the house.

Mr. Pilarski stated the height is below what a standard fence would be and would not obstruct any view.

Mr. Schisler commented the existing fences in the area were there prior to the current zoning ordinance adoption.

Anthony Forgash of 151 Bay Shore Drive was in favor of the request.

Terry Kelly of 164 Bay Shore Drive was in favor of the request.

Kenny Degg represented his father, Leroy Degg of 160 Bay Shore Drive. They are in favor. Most decks in the area are 2' high.

Darryl Steiner of 158 Bay Shore Drive was opposed to the request. He is a lot owner and advocate for waterfront property owners. The request is for dog containment. No fences are allowed in the waterfront. Section 5.00 of the Zoning Ordinance deals with waterfront properties. A practical difficulty must be shown. There are other means to obtain the proposed goal.

Mr. Steiner stated a fence would be an injustice to the adjacent properties. There are at least two alternatives for dog containment. There are invisible fences and there will be a 20'x40' fenced in area where the dogs could go. The ordinance was in effect when the property was purchased. Mr. Steiner stated this approval could lead to others requesting fences and blocking views. The existing fences are all chain link. He asked what a picket fence would look like. Mr. Steiner stated there is a code enforcement issue going on with the property. Other variances may be needed. Having a picket fence near the roadway could create a hazard.

Mr. Degg commented Mr. Steiner has a deck that is 2.5' high. The view is not an issue. He felt the variance should be approved.

Mr. Schisler stated no fence is allowed in the waterfront. Although he doesn't feel the proposed fence would affect anything, they have never granted a fence in the waterfront before. This is a self-created problem. He added the fence would probably look nice but he can't vote in favor of it.

Mr. Pilarski stated they have never approved a fence in the waterfront. There are other options for dog containment. There is no hardship proven. Mr. Phelps agreed. Ms. Corrion added practical difficulty had not been proven. Mr. Banaszak agreed.

Mr. Schisler moved to deny the petition filed by Patrick Gray for property at 156 Bay Shore Drive for the purpose of a variance to have a 3' picket fence in the waterfront. (No fence is allowed). There is no practical difficulty. Mr. Phelps seconded the motion. Five (5) ayes, no (0) nays. The motion passed. The variance was denied.

The last item on the agenda was a petition filed by Jerry & Connie Eaton for property at 298 Killarney Beach which is on the East side of Killarney Beach for the purpose of a variance of 1' to have 19' in total side yards (20' in total side yards is required) for an addition. Parcel is zoned Residential.

Jim Lillo from the Bay County Road Commission wrote with regard to the petition filed by Jerry & Connie Eaton for property at 298 Killarney Beach Road for a setback variance for an addition – they have no comment to the petition. Based on the information received, the house and therefore proposed addition is not located along road right-of-way under the jurisdiction of the Bay County Road Commission. This location is on a private drive/road.

Bradd Maki from the Bay County Department of Water and Sewer wrote the DWS takes no exception to the proposed variance.

Fire Marshal Bailey wrote the Fire Department takes no exception.

Mr. Eaton submitted a petition in favor of his request signed by Dale & Vonnice Lazarowicz of 299 Killarney Beach; Chad & Deana Cunningham of 288 Killarney Beach; Shannon & Robert Harvey of 308 Killarney Beach; Danny & Ellen Latal of 304 Killarney Beach; David & Carol Hunt of 302 Killarney Beach; Daniel & Karen Hazen of 294 Killarney Beach and Alan Gurski of 292 Killarney Beach.

Mr. Eaton stated the house sits on an angle. The addition will not be any closer to the property line than what exists. The variance is for total side yards.

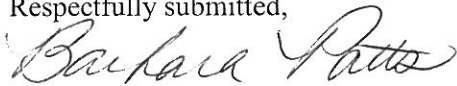
No one was in the audience for or against the request.

Mr. Schisler stated the variance is for a technicality. The addition will have no effect on the area.

Mr. Schisler moved to approve the petition filed by Jerry & Connie Eaton for property at 298 Killarney Beach which is on the East side of Killarney Beach for the purpose of a variance of 1' to have 19' in total side yards (20' in total side yards is required) for an addition. The home sits on an angle. It is a narrow lot. Mr. Pilarski seconded the motion. Five (5) ayes, no (0) nays. The motion passed. They have six months to pull a building permit or the variance would be void.

Having no other business before the Board, Mr. Pilarski moved to adjourn. Mr. Schisler seconded the motion. Five (5) ayes, no (0) nays. The motion passed and the meeting was adjourned at 7:15 p.m.

Respectfully submitted,



Barbara A. Potts
Zoning Board of Appeals Coordinator