

Members Present: Chair- Jane Gale, Board members- Wetherbee, McCann, Cook, Harper, Ager, Gremel

Absent: None

Staff: Joni Scott- Zoning Administrator, Cynthia Edmondson- Community Liaison

**The Public Hearing of the Zoning Board of Appeals (ZBA):**

The public hearing began at 7:24 p.m.

A. Presentation of Case:

A Zoning Variance request from applicants Kevin and Georgia Abbey seeking a rear-yard setback variance of 8' feet in a R-2, Village Residential District parcel #042-350-194-00 Lot 195. The required rear-yard setback is as follows;

Article 3 General Provisions:

3.02 ACCESSORY BUILDINGS AND GARAGES.

1. Setbacks. All accessory buildings shall be subject to the same front yard setback requirements as the principal building in that district, except provided in this section. Side and rear yard setback requirements for accessory buildings and for garages (either attached or detached) shall be at least eight (8) feet from adjacent property lines.

B. Applicants Presentation:

Kevin Abbey explained that the variance would allow for the existing structure on lot 195 to remain as nonconforming.

C. Zoning Administrator Report:

Zoning Administrator Scott noted the following;

Finding of Facts:

1. All fees have been paid and the application and site plan overview are on file for public review.
2. Benard Alford and Lucia Elden have provided a letter outlining their request.
3. All surrounding property owners within a 300' radius was notified by letter dated 4/19/2022.
4. A notice to the Public was published in the Leelanau Enterprise dated April 21, 2022.

Susan Ager **Moved, Supported by** Steve Wetherbee to accept the Findings and Facts outlined by the Zoning Administrator. **Motion Carried.**

D. Public Comment/Correspondence:

**Zoning Administrator Scott noted that the Village had received one phone call from Merilee and Doug Scripps in favor of the variance request.**

E. Questions from the Board:

None

F. Applicant Rebuttal:

None

G. Closing of Public Hearing:

**The Public Hearing was closed at 7:26 p.m.**

## H. Deliberation:

### 1. Basic Conditions:

- A. Will not be contrary to the public interest or to the intent and purpose of this Ordinance.
- B. Shall not permit the establishment within a District of any use which is not permitted by right within that Zoning District or any use of dimensional variance for which a conditional use permit is required.
- C. 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.
- D. Is not one where the Specific Conditions relating to the property are so general or recurrent in nature as to make the formulation of general regulations for such conditions reasonably practical.
- E. Will relate only to property that is under control of the applicant.

Hugh Cook Moved, Supported by Susan Ager that all the Basic Conditions were met.

**Discussion:** None

**Roll Call Vote:** Yeas: (7) Nays: (0) **Motion Carried.**

### 2. Special Conditions:

- A. Where there are practical difficulties that prevent carrying out the strict letter of this Ordinance. These difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.
- B. Where there are exceptional or extraordinary circumstances of physical conditions such as narrowness, shallowness, shape or topography of the property involved or to the intended use of the property, that do not generally apply to other property uses in the same Zoning District. Such circumstances of conditions shall not have resulted from any act of the applicant subsequent to the adoption of this Ordinance.
- C. Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same Zoning District.

Hugh Cook Moved, Supported by Susan Ager to approve the variance based on Special Conditions A.

**Discussion:** None

**Roll Call Vote:** Yeas: (7) Nays: (0) **Motion Carried.**

### Variance Request Approval:

Steve Wetherbee Moved Supported by Thomas Gremel to approve the 8' rear yard variance for lot 195 for the existing structure parcel #042-350-194-00.

**Roll Call Vote:** Yeas: (7) Nays: (0) **Motion Carried.**

**Zoning Board of Appeals Chair Gale started the second public hearing for Timm Sahs.**

### **The Public Hearing of the Zoning Board of Appeals (ZBA):**

The public hearing began at 7:30 p.m.

#### I. Presentation of Case:

A Zoning Variance request from applicants Timm and Arron Sahs seeking a rear-yard setback variance of 70' feet in a D-1, Village Development District parcel #042-234-016-20, 883 N. Mill Street The required rear-yard setback is as follows;

#### 16.05 GENERAL REQUIREMENTS

All uses permitted in the D-1 District that share a common lot line with parks, public playgrounds, day nurseries, institutional uses, cemetery or a Residential Zoning District shall have a building setback of not less than 100 feet. Residential dwelling in the D-1 District are exempt from this requirement.

- 1. A request for a 70' variance of the required 100' rear yard setback has been made to construct a 100' x 16' Retail Display Structure

J. Applicants Presentation:

None

K. Zoning Administrator Report:

Zoning Administrator Scott noted the following;

Finding of Facts:

5. All fees have been paid and the application and site plan overview are on file for public review.
6. Timm and Aaron Sahs have provided a letter outlining their request.
7. All surrounding property owners within a 300' radius was notified by letter dated 4/19/2022.
8. A notice to the Public was published in the Leelanau Enterprise dated April 26, 2022.

Steve Wetherbee **Moved, Supported by** Susan Ager to accept the Findings and Facts outlined by the Zoning Administrator. **Motion Carried.**

L. Public Comment/Correspondence:

**Zoning Administrator Scott noted that Thomas and Milliken wrote a letter in support of the variance request.**

M. Questions from the Board:

Hugh Cook questioned if the Township office was notified and if there was a response? Zoning Administrator Scott responded that the Township was notified in writing and that she hadn't received any response.

N. Applicant Rebuttal:

None

O. Closing of Public Hearing:

**The Public Hearing was closed at 7:28 p.m.**

P. Deliberation:

1. Basic Conditions:

- A. Will not be contrary to the public interest or to the intent and purpose of this Ordinance.
- B. Shall not permit the establishment within a District of any use which is not permitted by right within that Zoning District or any use of dimensional variance for which a conditional use permit is required.
- C. 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.
- D. Will relate only to property that is under control of the applicant.

Thomas Gremel Moved, Supported by Hugh Cook that all the Basic Conditions were met.

**Discussion:** None

**Roll Call Vote:** Yeas: (7) Nays: (0) **Motion Carried.**

a. Special Conditions:

- A. Where there are practical difficulties that prevent carrying out the strict letter of this Ordinance. These difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.
- B. Where there are exceptional or extraordinary circumstances of physical conditions such as narrowness, shallowness, shape or topography of the property involved or to the intended use of the property, that do not generally apply to other property uses in the same Zoning District. Such circumstances of conditions shall not have resulted from any act of the applicant subsequent to the adoption of this Ordinance.
- C. Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same Zoning District.

Will Harper Moved, Supported by Hugh Cook to approve the variance based on Special Conditions A.

**Discussion:** None

**Roll Call Vote:** Yeas: (7) Nays: (0) **Motion Carried.**

Variance Request Approval:

Steve Wetherbee **Moved Supported by** Thomas Gremel to approve the 70' rear yard variance for a display structure as outlines in the designs submitted.

**Discussion:** Susan Ager clarified that the structure design should be built comparable to the design submitted.

**Roll Call Vote:** Yeas: (7) Nays: (0) **Motion Carried.**

**Adjournment:**

The meeting was adjourned at 7:32 pm

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Mr. #1 #17 frw #1 dun #

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