

Danbury Township Board of Zoning Appeals

Special Meeting – July 14,

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The Danbury Township Board of Zoning Appeals Special Meeting was called to order at 5:09 p.m. by the Chair, Joseph Fetzer. The Pledge of Allegiance was recited.

The roll call showed the following members present: Chair, Joseph Fetzer, Vice-Chair, Loretta Grentzer, Ms. Sherry Roberts, Ms. Lisa Bauer, Mr. Clyde Shetler and Alternates, Mr. Gregory Huffman & Patty Zsigo. Also present was Kathryn Dale, Zoning & Planning Administrator. Visitors present were Ms. Beverly Kuenzli, Ms. Jeannie Pruitt & Ms. Shirley Ross.

Ms. Dale read the rules of order for the meeting proceedings. The meeting is being held via Zoom due to the Covid-19 pandemic. Ms. Dale acknowledge everyone who joined the meeting and explained that prior to speaking, the Chair would call on everyone to give them the opportunity to speak. She asked that if they were not speaking to place themselves on mute so that any background noise was blocked. Ms. Dale explained that at the conclusion of the hearing during the Board's deliberation, the applicant and any members of the public would be placed in the "waiting room" of Zoom. She explained that they should not leave the meeting because the Board will come back and make their decision openly. The Chair asked Mrs. Dale if all the documents relating to the case had been received and were in proper order. She indicated that they were. The Chair swore-in the Zoning and Planning Administrator, Kathryn Dale.

The Chair asked Mrs. Dale to introduce the first case of the evening.

**Adjudication Hearing
Case BZA #2020-111
186 Sunnydale
Pruitt**

Request for an Area Variance to Section 3.5 to allow for a new deck to encroach into the east, front-yard setback (28' proposed/ 35' required).

The Chair asked if there were any Board members who would have a conflict and wished to abstain from this hearing. There were none. Ms. Grentzer moved and Ms. Roberts seconded the motion to open the public hearing. All were in favor and the motion carried.

The Chair asked the Zoning Administrator to give an overview of this application. Ms. Dale shared that the applicant is proposing a 9' x 16' deck on the front of the house which will encroach into the front-yard setback requirement by 7'. The proposed setback is 28' where 35' is required. In the emails at the end of the packet, the Board will see that the owner emailed about getting a permit for the deck in early May. However upon review, she was advised that it would require a variance. In early June, it was observed that the deck had been constructed anyway and a violation letter was sent. Despite the work already being completed, the Board has to review this application as though it is not there. Anotherwords, the Board has to decide if they would have granted or denied the request prior to it being constructed. There are similar decks on both houses next to this address that did not receive variances. The slight difference in these decks compared to this application is that the neighboring decks are lower to the ground or at grade. For a period of time, the previous zoning inspector did not require deck permits if the Building Department also did not require a permit (no permit required if less than 12" off grade) and treated them more like patios. Ms. Dale shared that it can be a bit confusing back in this neighborhood because there are two different zoning districts that apply to the lots with different setbacks. Some lots are allowed to have a 25' front-yard setback, and other lots such as this lot are required to have 35' front-yard setbacks. Ms. Dale concluded by reviewing the Duncan Standard decision criteria the Board would be considering during their deliberations.

Jeannie Pruitt, Owner/Applicant, 186 Sunnydale, Marblehead, was called upon and sworn in. Ms. Pruitt reviewed the paperwork via the "shared screen" option from Ms. Dale's computer and stated it was as she submitted. Ms. Pruitt said she was just wanting to put a small deck on the front of her house so she could enjoy her property. She said the steps that were there, were poured concrete and were deteriorating. She said because the neighbor's had a deck out front, she thought she would be also and wasn't aware of the 35' setback requirement, nor was she aware that she doesn't actually own out to the road pavement. Mainly, she stated she just wanted to upgrade her property so it has more value and somewhere to sit when she retires.

Mr. Fetzer asked if there were any questions from the Board. Ms. Grentzer & Ms. Roberts indicated they did. Ms. Roberts said she can understand that Ms. Pruitt may not have realized there were setback requirements when she asked about the deck, but to then put the deck up knowing an approval would be needed, why was it done anyway? Ms. Pruitt said the honest truth is they had a family friend who is a contractor and already had half of it done when she got home one day. She said he asked if she had received a permit yet, and she had told him no because she didn't even know he was going to do it the day that he did.

Ms. Grentzer said that Ms. Pruitt stated she didn't realize she didn't own the property all the way out to the road, but when you purchase a home, you typically receive a plat of the property showing

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the boundary line. Ms. Grentzer asked why is was that she didn't know she owned out to the road? Ms. Pruitt said it may have, but she didn't pay much attention to all the paperwork or look it over once she closed. Ms. Pruitt said she knew where the side boundary lines were, but as far as the front, she said she just didn't pay enough attention to that 5-6 years ago when she bought the property.

There were no further questions from the Board.

Mr. Fetzer asked if there was anyone with standing who wished to testify. Ms. Dale indicated that there was no one else on the Zoom meeting for this case and there were no letters submitted.

Ms. Roberts made a motion to close the public comment segment of the hearing, seconded by Ms. Bauer. All were in favor and the motion carried.

Ms. Roberts motioned to recess into executive session to deliberate the merits of the case. Ms. Bauer seconded the motion and the roll call vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Ms. Roberts – yes; Mr. Fetzer – yes. The motion carried and the Board recessed at 5:27p.m. Ms. Dale reminded the applicant and other non-board members that they would now be placed in the Zoom waiting room and not to disconnect from the meeting.

All participants were removed from the waiting room and brought back into the meeting. Ms. Roberts moved and Ms. Bauer seconded the motion to reconvene. The roll call vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Ms. Roberts – yes; Mr. Fetzer – yes. The Board reconvened at 5:44p.m.

The Chair asked Mrs. Dale to read the Findings of Fact for BZA Case #2020-111:

With regard to BZA-2020-111 being a request for an Area Variance to Section 3.5 to allow for a new deck to encroach into the east, front-yard setback (28' proposed/ 35' required) for the property located at 186 Sunnydale:

1. The property in question **will** yield a reasonable return and **can** be used beneficially without the variance because the property can continue to be used for a single-family residence.
2. The request **is not** substantial because 7' of the 9' deep deck would encroach and is no closer to the road than other decks next door.
3. The essential character of the neighborhood **would not** be substantially altered by the variance and adjoining properties **would not** suffer a substantial detriment as a result of the variance because there are other homes in the neighborhood and directly next door on both sides of this property that also have decks off the front of the homes.
4. There is **no** indication the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.) because all utilities are existing and available to the property.
5. The property owner stated they **were not** aware of the zoning restrictions at the time they purchased the property and that they did not own all the way to the edge of the road, however this owner has received 2 other permits in the last 6 years and was made aware in May 2020 that her proposed deck would require a variance.
6. The property owner's predicament **can** feasibly be obviated through some method other than a variance by locating a deck at the rear of the house or providing an at-grade concrete patio in this same location that would then not require any permits or variances.
7. The spirit and intent behind the zoning requirement **would be** observed and substantial justice done by granting the variance because there is no negative impact on adjoining properties

Mr. Shetler moved that the Board adopts and makes the findings of fact as read by the recording secretary and that after considering and weighing these factors, the Board finds that Decision Standards(s) (2) (3) (7) weigh more heavily to show that:

- a. Practical difficulty **is** sufficient to warrant granting the Variance requested.
- b. There **is** a preponderance of reliable, probative and substantial testimony; and
- c. There is evidence that **does** support the applicants request for a variance.

Therefore, the Variance should be accordingly **APPROVED**.

Motion Seconded by Ms. Bauer. Roll Call Vote was as follows: Mr. Shetler – yes; Ms. Grentzer – no; Ms. Bauer – yes; Ms. Roberts – no; Mr. Fetzer – yes. Vote 3-2 the motion passed. The Chair stated that the application has been approved and the applicant can pick up permits following the Board's next meeting which is August 19, 2020.

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Ms. Dale explained that the applicant from this case was now free to leave the meeting or they were welcome to stay on to watch the Board complete the rest of their regular business.

Alternates Mr. Huffman and Ms. Zsigo left the meeting since they were not needed.

The Chair asked Mrs. Dale to introduce the second case of the evening.

**Adjudication Hearing
Case BZA #2020-117
7618 E. Bayshore Road, #26
Kuenzli**

Request for an Area Variance from Section 7.12 and Section 4.16 to allow for the removal and replacement of a nonconforming resort unit (RV Camper) to encroach into the required 55' rear-yard setback (20' proposed).

The Chair asked if there were any Board members who would have a conflict and wished to abstain from this hearing. There were none. Ms. Roberts moved and Ms. Grentzer seconded the motion to open the public hearing. All were in favor and the motion carried.

The Chair asked the Zoning Administrator to give an overview of this application. Ms. Dale shared that the applicant is proposing to remove a 1950's-styled camper with a cottage-like structure built around it with a traditional 8' x 40' RV camper. Maplewood Cove is considered as a nonconforming, grandfathered "Resort" that has a mix of Cabins, Cottages and a RV campers with approximately 28 sites. The property is not a licensed Manufactured Home Park or Campground/Recreational Camp through the State of Ohio or Ottawa County Health District. Resorts are considered as a Conditional Use in this zoning district. If a unit is replaced, the new unit would have to conform to the Resort restrictions, or obtain the necessary variances. The water-facing side of this property along Sandusky Bay is considered to be the rear-yard. As such, a Resort is required to have a 55' rear-yard setback. The existing unit is approximately 20' from the south shoreline and the new unit would not be placed any closer. The existing unit also does not meet the separation requirement of 20' from the unit to the east. This would be corrected with the replacement unit, thus making it to some degree more conforming. The applicant actually has about 13' in width to work with, so even a camper unit with slide-out would meet the 20' separation requirement. Ms. Dale concluded by reviewing the Duncan Standard decision criteria the Board would be considering during their deliberations.

Beverly Kuenzli, Owner/Applicant, 7618 E. Bayshore Road, Marblehead, was called upon and sworn in. Ms. Kuenzli reviewed the paperwork via the "shared screen" option from Ms. Dale's computer and stated it was as she submitted. Ms. Kuenzli stated they have been seasonal residents of the Marblehead area for 24 years. She said when they purchased this property they were still renting, but then had the opportunity with 25 other residents here to purchase the property. Everything is grandfathered, but it is now time that they need to replace the unit and don't want to put good money into bad. Ms. Kuenzli stated there are so many things that need to be repaired and redone on this unit that it will just be easier and they would be able to conform better by putting in an RV camper.

Mr. Fetzer asked if there were any questions from the Board. Ms. Bauer indicated she did. Ms. Bauer asked if she has already purchased an RV or if they were waiting on this decision. Ms. Kuenzli indicated that she did not hear the question. Ms. Bauer asked if the RV has not yet been purchased, but rather they just know what they want and are looking for. Ms. Kuenzli said actually she has purchased an RV, but it is sitting at her permanent home. She said she's been looking for 3 years at different RV models and finally found something that she really liked.

Ms. Grentzer asked if she owns the land or just the unit. Ms. Kuenzli said it's a bit complicated. She said the group is an LLC, there are 26 members that own the property. She said it's not like they necessarily own each lot or site, but they do own what is on the lot but then share the 2.6 acres.

Mr. Fetzer asked if she intends to remove the wooden structure that is built around her current unit and place the new camper under it. Ms. Kuenzli stated they are removing everything that is there now. She said they will then bring in the new RV, regrade and make everything pretty and nice. She said the neighbors behind her are excited because they will end up with a better view of the Bay.

Ms. Grentzer said that when she looks at the site plan in the packet and the green outline showing where the new unit will go, the front will be a little more forward and the back will be even to where it is now. Ms. Kuenzli said that was correct. Ms. Dale clarified that the south side of the unit will be no closer to the Bay or the water than the current unit. New RV's tend to be longer than RV's from the 50's, so the new unit will be closer to the gravel drive, but not to the point that it impedes anyone from parking.

Mr. Fetzer asked if there was anyone with standing who wished to testify.

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Shirley Ross, 7634 E. Bayshore Road, Marblehead, was called upon and sworn in. Mrs. Ross said she and her husband purchased their home 5 years ago and when they purchased the home, they were informed that if anything back in Maplewood Cove would be removed, they would have to follow the current zoning guidelines if 75% or more of a structure were removed. She said they ask that the Board consider this in their decision. She said it doesn't affect them per say where their property is located and where this specific unit is located, however there are 26-28 units on 2.6 acres, but according to the zoning resolution, the density is not to exceed more than 5 units per acre, so Maplewood Cove has almost double the amount of units it should. Additionally, each unit is supposed to have 2 parking spaces. They each have at least one parking space at their unit, then there is a parking lot, but in that parking lot there are boats, wood, and racks for jet skis, so it gets pretty full. When there is a large holiday weekend, they tend to begin to encroach onto her property and park on her grass and have even had people park in her driveway. Mrs. Ross said she is concerned because she has 3 small children and she doesn't want people parking on her property where her children might end up getting harmed. Also, with the units being so close together, if there were to be a fire, neighboring units would end up being affected as well. Mrs. Ross said her husband works for the fire department and they have had at least 2 calls back in Maplewood Cove in the past year. There is not enough driveway width to allow emergency vehicles to get back there so the fire department has had to use her driveway. Mrs. Ross began to conclude by saying she hopes the Board considers all of these things when determining if this unit should be allowed to be taken out and replaced.

Ms. Grentzer indicated she had a question and asked exactly where Mrs. Ross's home is. Ms. Dale pointed it out on the map. Ms. Grentzer asked how long Maplewood Cove has existed as it is now. Mrs. Ross said she is unsure, but they purchased their home from the Schmiel's 5 years ago who also owned Maplewood Cove. She said upon their death, their children separated the house from the Cove and that is also when the LLC was formed. She asked if it was all there when they purchased the property. Mrs. Ross said yes. She said there are 2 units that are encroaching onto her property, but that's just how it's been. Ms. Grentzer asked if her whole concern is just the idea that there are too many units on too small of a property, which makes them too close together. Mrs. Ross agreed with that along with the fire department not being able to adequately access the units. Ms. Grentzer stated though that the replacement of this one unit isn't going to correct or make any worse all the issues that she's raised because all the other units are still going to remain on the property as is. Mrs. Ross agreed to that being true.

The chair asked Ms. Kuenzli if there was anything more she'd like to say or add based on Ms. Ross's testimony. She indicated she would. She said she appreciated Mrs. Ross's comments. Ms. Kuenzli said that she does happen to be part of the Board of Directors of Maplewood Cove, LLC. She said they have met with Mrs. Ross before and her husband, a couple of times in the past about a couple of things and they have tried to work that out. Ms. Kuenzli assured Mrs. Ross that they are always there and willing to talk about any of these issues. Ms. Kuenzli said she wasn't aware that anyone was still parking on the Ross's property, but they can take care of that if it is occurring. Ms. Kuenzli said she thinks Maplewood Cove has been around for 60-70 years. She said it was a family oriented property with a lot of fishermen. She said the LLC purchased the property 20 years ago from the Schmiel's as a land contract before they passed away. Ms. Kuenzli said that they have always called the fire lane the west lane and near her place which was also referred to the same way by the Schmiel's. Ms. Kuenzli said when this was purchased from the Schmiel's it was all grandfathered in, so some of the zoning restrictions that are there now she is sure any new property would have to meet those restrictions. Ms. Kuenzli shared that the Schmiel's dream was to have a family oriented community, so they are doing the best they can to continue that. Ms. Kuenzli said she's not real sure where 2 cars per place comes from because even when they rented back there from the Schmiel's it was always 1 car parking at each of the units. She agreed that they have boats, wood, trailers and lifts, but that's because it's a seasonal community. She also said she would have to disagree and thinks fire trucks could get down both lanes and they have their own driveway entrance off Bayshore, just as Ross's have their own. She concluded by saying she can get their LLC Board together at any time to discuss things with the neighbors, but because they were grandfathered in, there are just some things that aren't going to change.

Mrs. Ross said she got the 2 parking space requirement from the zoning resolution and information that was in the Board's packet this evening.

Ms. Roberts said she thought Mrs. Ross referred to something about not being able to do a total replacement and was wondering where that information came from. Mrs. Ross said that they had a unit right next to their property that was being built onto and when that happened, they came to the zoning office and spoke to Ms. Dale and were told at that time if more than 75% of the structure was taken down, they would have to conform to the zoning regulations. Ms. Kuenzli said she thought that one had been taken care of. Mrs. Ross said that it was. Ms. Dale spoke up and said that what Mrs. Ross is referring to is the Resort language in Art. 4. Ms. Dale said that if this property were to be developed today, they would be required to have 5 acres minimum, and this is one reason why this property is

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nonconforming because it is undersized. Another reason is as Mrs. Ross pointed out, you are allowed to have 5 units per acre, and this one does have about double the density it would be allowed. Ms. Dale said the issue of what occurred a couple of years ago was that just to the west of the Ross's home were 2; single-wide manufactured home units. Someone had purchased one of the units and started to demolish it and then rebuild it without any permits. She said a stop work order had been issued because the unit had literally been torn down to the axels. Because that unit had been demolished by more than 75%, it lost its nonconforming protections. It was not allowed to go back unless it met the current setback requirements or they came before this Board and requested a variance. Part of the issue in that case is that the property is very narrow up there and there was no way to meet the 45' side-yard setbacks. Ms. Dale said she doesn't know all the circumstances to that particular unit owner's finances or agreements they may have had in place, but they ultimately decided to take the unit down all the way and not attempt to replace it or ask for any variances.

Ms. Roberts said she's not worried about what once was, but it looks as though Ms. Kuenzli will be conforming. Ms. Dale said no, that one variance being requested from 7.12 is in regards to replacing a nonconformity, and the other variance from 4.16 being requested is a setback variance because the new unit will be located nearly, entirely in the south, rear yard setback. Ms. Dale pointed out on the shared screen the site plan showing the required setback and the proposed unit location. She explained that even though Ms. Kuenzli is proposing to put the new unit is generally the same location, she completely removing the old unit, so to put it back it needs the variances from Section 7.12. & 4.16. Ms. Roberts said so basically, what your saying is if it's more than 75% it has to meet current code, which this will be more than 75% and she's not meeting current code. Ms. Dale said correct – that's why she's asking for these variances.

Ms. Kuenzli said the other situation Ms. Dale shared, she believed that that unit owner initially started out with doing basic maintenance but he ended up going overboard and the LLC also asked him to then remove everything. Ms. Roberts said, right, but he did 100% and now we have someone who wants to do the same and vary from the code.

Ms. Grentzer asked Ms. Ross that her list of concerns really apply to the entire property, not just this unit. Ms. Ross said she is just as concerned with one unit at a time because they aren't following the zoning requirements then that the Township has put in place. By doing this with this one unit, she would guess that others on this property will want to do it too and they still won't comply with the zoning regulations.

Ms. Kuenzli said she recognizes that this is a special consideration and she just would like to update the site. She feels some of Mrs. Ross's concerns need to come to Maplewood Cove, but not something like this where she's trying to do the right thing, following the proper procedure and update her site. Ms. Kuenzli said she had no idea Mrs. Ross had so many complaints about Maplewood Cove and feels it would be best to handle that civilly but for right now she'd like to focus on her request. Ms. Ross said she doesn't really see it as complaints, simply facts of what has occurred. Ms. Grentzer said it seems like the concern is the implication of this application because all the other units will want to do the same. Ms. Ross said that is true. Ms. Roberts said what she thinks she's (Mrs. Ross) really saying, and Ms. Robert's thinks Ms. Ross is just asking this Board to live by the code, not complaining.

There were no further questions from the Board. Mr. Fetzer asked if there was anyone with standing who wished to testify. Ms. Dale indicated that there was no one else on the Zoom meeting for this case and there were no letters submitted.

Ms. Bauer made a motion to close the public comment segment of the hearing, seconded by Ms. Roberts. All were in favor and the motion carried.

Ms. Grentzer motioned to recess into executive session to deliberate the merits of the case. Mr. Shetler seconded the motion and the roll call vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Ms. Roberts – yes; Mr. Fetzer – yes. The motion carried and the Board recessed at 6:26p.m. Ms. Dale reminded the applicant and attendees that they would now be placed in the Zoom waiting room and not to disconnect from the meeting.

All participants were removed from the waiting room and brought back into the meeting. Ms. Roberts moved and Ms. Bauer seconded the motion to reconvene. The roll call vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Ms. Roberts – yes; Mr. Fetzer – yes. The Board reconvened at 6:51 p.m.

The Chair asked Mrs. Dale to read the Findings of Fact for BZA Case #2020-117:

With regard to BZA-2020-117 being a request for an Area Variance from Section 7.12 and Section 4.16 to allow for the removal and replacement of a nonconforming resort unit (RV Camper) to encroach into the required 55' rear-yard setback (20' proposed) for the property located at 7618 E. Bayshore #26:

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1. The property in question **will** yield a reasonable return and **can** be used beneficially without the variance because the property can continue to be used as Resort and units may be maintained.
2. The request **is not** substantial because the proposed unit will be placed no closer to the property line than the existing unit and it will become more conforming with the separation requirements.
3. The essential character of the neighborhood **would not** be substantially altered by the variance and adjoining properties **would not** suffer a substantial detriment as a result of the variance because there is no increase in density, this particular unit is a substantial distance from other homes in the area and this particular unit would be more conforming to separation requirements.
4. There is **no** indication the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.) because all utilities are available to the property.
5. The applicant states they **were not** aware of the zoning restrictions at the time they purchased the property.
6. The property owner's predicament **cannot** feasibly be obviated through some method other than a variance because if they moved the unit to meet the setback requirement, it would block the roadway access to other existing units.
7. The spirit and intent behind the zoning requirement **would be** observed and substantial justice done by granting the variance because it makes the unit more conforming to separation requirements.

Mr. Shetler moved that the Board adopts and makes the findings of fact as read by the recording secretary and that after considering and weighing these factors, the Board finds that Decision Standards(s) (2) (3) (6) (7) weigh more heavily to show that:

- a. Practical difficulty **is** sufficient to warrant granting the Variance requested.
- b. There **is** a preponderance of reliable, probative and substantial testimony; and
- c. There is evidence that **does** support the applicants request for a variance.

Therefore, the Variance should be accordingly **APPROVED**.

Motion Seconded by Ms. Bauer. Roll Call Vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Ms. Roberts – yes; Mr. Fetzer – yes. Vote 5-0 the motion passed. The Chair stated that the application has been approved and the applicant can pick up permits following the Board's next meeting which is August 19, 2020.

Ms. Dale explained that the applicant from this case was now free to leave the meeting or they were welcome to stay on to watch the Board complete the rest of their regular business.

Mr. River Roubiax and Ms. Diane Pamer joined the meeting.

**Adjudication Hearing
Case BZA #2020-126
341 Willowdale
Roubiax**

Request for an Area Variance from Section 5.2.1.C.ii to allow for a garage addition to encroach into the west, rear-yard setback (2' proposed/ 5' required).

The Chair asked if there were any Board members who would have a conflict and wished to abstain from this hearing. There were none. Ms. Bauer moved and Ms. Roberts seconded the motion to open the public hearing. All were in favor and the motion carried.

The Chair asked the Zoning Administrator to give an overview of this application. Ms. Dale shared that the applicant is proposing to square off and construct a 6' x 14' garage addition which will be 2' from the west, rear property line where 5' is required. Looking at the plot plan towards the end of the packet, originally there was a grandfathered 12'x 14' shed that is 3' from this same west, rear property line. In 2016 (Permit #2016-091) the owner added a 14' x 18' addition onto the east side of the shed, making it more like a garage. That addition met all the requirements. The owner is now asking to put a second addition onto the original building (marked with a red rectangle) which will essentially square up the whole building, however this new addition would align with the west wall of the original

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structure which is 3' (2' once the overhang is taken into consideration) from the west property line. Ms. Dale concluded by reviewing the Duncan Standard decision criteria the Board would be considering during their deliberations.

River Roubiax, Owner/Applicant, 341 Willowdale, Marblehead, was called upon and sworn in. Mr. Roubiax reviewed the paperwork via the “shared screen” option from Ms. Dale’s computer and stated it was as he submitted. Mr. Roubiax said he would just like to improve the looks of this building and make it look like one building instead of separated. He reiterated that he’s just asking for a 6’ x 14’ space to be filled in.

Mr. Fetzer asked if there were any questions from the Board. There were none.

Mr. Fetzer asked if there was anyone with standing who wished to testify. Ms. Dale indicated that there was no one else on the Zoom meeting for this case and there were no letters submitted.

Ms. Grentzer made a motion to close the public comment segment of the hearing, seconded by Ms. Roberts. All were in favor and the motion carried.

Mr. Shetler motioned to recess into executive session to deliberate the merits of the case. Ms. Bauer seconded the motion and the roll call vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Ms. Roberts – yes; Mr. Fetzer – yes. The motion carried and the Board recessed at 7:04p.m. Ms. Dale reminded the applicant and attendees that they would now be placed in the Zoom waiting room and not to disconnect from the meeting.

All participants were removed from the waiting room and brought back into the meeting. Ms. Roberts moved and Ms. Bauer seconded the motion to reconvene. The roll call vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Ms. Roberts – yes; Mr. Fetzer – yes. The Board reconvened at 7:09 p.m.

The Chair asked Mrs. Dale to read the Findings of Fact for BZA Case #2020-126:

With regard to BZA-2020-126 being a request for an Area Variance from Section 5.2.1.C.ii to allow for a garage addition to encroach into the west, rear-yard setback (2' proposed/ 5' required) for the property located at 341 Willowdale:

1. The property in question **will** yield a reasonable return and **can** be used beneficially without the variance because the property can continue to be used for a single-family residence and there is space to accommodate an accessory structure.
2. The request **is not** substantial because the proposed addition will be placed no closer to the property line than the existing structure and 1’ of the encroachment is due to the roof overhang.
3. The essential character of the neighborhood **would not** be substantially altered by the variance and adjoining properties **would not** suffer a substantial detriment as a result of the variance because there are other sheds in the neighborhood along this same western property line that are very close to the property line. Additionally, this shed backs up to a private street and there are no other buildings around that the encroachment would effect.
4. There is **no** indication the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.) because all utilities are available to the property.
5. The property owner states they **were not** aware of the zoning restrictions at the time they purchased the property because of the existing shed that was already there, but they were aware zoning existing in the Township since other permits have been received.
6. The property owner’s predicament **can** feasibly be obviated through some method other than a variance by setting this addition in 2’.
7. The spirit and intent behind the zoning requirement **would be** observed and substantial justice done by granting the variance because there is no negative impact on adjoining properties.

Mr. Shetler moved that the Board adopts and makes the findings of fact as read by the recording secretary and that after considering and weighing these factors, the Board finds that Decision Standards(s) (2) (3) (7) weigh more heavily to show that:

- a. Practical difficulty **is** sufficient to warrant granting the Variance requested.
- b. There **is** a preponderance of reliable, probative and substantial testimony; and
- c. There is evidence that **does** support the applicants request for a variance.

Therefore, the Variance should be accordingly **APPROVED**.

Motion Seconded by Ms. Bauer. Roll Call Vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Ms. Roberts – yes; Mr. Fetzer – yes. Vote 5-0 the motion passed. The Chair stated

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that the application has been approved and the applicant can pick up permits following the Board's next meeting which is August 19, 2020.

Ms. Dale explained that the applicant from this case was now free to leave the meeting or they were welcome to stay on to watch the Board complete the rest of their regular business.

**Adjudication Hearing
Case BZA #2020-127
327 Shrock
Pamer**

Request for an Area Variance from Section 5.2.1.C.ii to allow for a shed to encroach into the south, side-yard setback and east, rear-yard setback (0' proposed/ 5' required).

The Chair asked if there were any Board members who would have a conflict and wished to abstain from this hearing. There were none. Mr. Shetler moved and Ms. Bauer seconded the motion to open the public hearing. All were in favor and the motion carried.

The Chair asked the Zoning Administrator to give an overview of this application. Ms. Dale shared that the applicant is proposing to remove an existing 8' x 10' shed and replace it with a new 10' x 14' shed which will be 0' from the east, rear property line and 0' from the south, side property line where 5' is required. The current shed is 0' from both these property lines. The applicant has approximately 18' from the back of the house to the rear property line. If the 5' setback and 5' separation requirement from the house were met, this would allow for an 8' wide shed. Ms. Dale concluded by reviewing the Duncan Standard decision criteria the Board would be considering during their deliberations.

Diane Pamer, Owner/Applicant, 327 Shrock, Marblehead, was called upon and sworn in. Ms. Pamer reviewed the paperwork via the "shared screen" option from Ms. Dale's computer and stated it was as she submitted. Ms. Pamer thanked the Board for their time and stated they would like to have a slightly bigger shed. She said their family is growing with husbands and grandchildren and they are bursting at the seams and need more storage. Ms. Pamer said their recently purchased a new golf cart and would like to store it in the shed. She said they are planning on putting gutters on the shed, which the existing shed also has. They have spoken with their neighbors and everyone is okay with it. Ms. Pamer said she believes a few submitted letters. The back of the shed, the shed is not permanently affixed to the ground, so they can move it if they have to maintain the back of the shed. The shed will have decent siding on it for ease of maintenance. They are going to have it match the home and kind of feel it will bring up the property value because it will be a lot nicer than the shed currently there.

Mr. Fetzer asked if there were any questions from the Board. Ms. Grentzer asked if they are putting it right up against the fence. Ms. Pamer said yes, which is where the shed is right now. Ms. Grentzer asked if the overhang of the shed will be over the fence. Ms. Pamer said that it would be and they recognize this could be an issue, however, when the neighbor behind them installed the fence, they placed the fence on our side of the property line. There is another neighbor two lots south who recently had a survey done and where his property line was pinned 2-3 feet east of the fence, which would be a continuation to this same property line. Ms. Pamer said part of the reason for the gutters is so there is no runoff or drainage into the neighbor's yard. Ms. Grentzer asked if there is a fence along the side of the shed as well to the south. Ms. Pamer said the fence is only to the east. Ms. Grentzer asked if drainage would go onto the neighbor's property to the south, or would there not be an overhang on that side. Ms. Pamer said they would have a gutter on that side as well.

There were no further questions from the Board.

Mr. Fetzer asked if there was anyone with standing who wished to testify. Ms. Dale shared that in order to ensure the adjoining property owners had a chance to have a say in this hearing who may not have been able to participate in the Zoom format, she allowed written statements due to the health crises situation. She reported that two emails were received. The first, which will be identified in the record as Baer Ex. 1, was received 07/07/20 from Dennis & Valerie Baer, 335 Shrock. Ms. Dale read the email verbatim, which was in support of the request. The second email will be identified as Eucker Ex. 1, which was received 07/08/20 from Elizabeth "Betty" Eucker, 319 Shrock. Ms. Dale also read this email verbatim, which was also in support of the request.

Ms. Dale indicated that there was no one else on the Zoom meeting for this case.

Mr. Shetler made a motion to close the public comment segment of the hearing, seconded by Ms. Bauer. All were in favor and the motion carried.

Ms. Roberts motioned to recess into executive session to deliberate the merits of the case. Ms. Bauer seconded the motion and the roll call vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Ms. Roberts – yes; Mr. Fetzer – yes. The motion carried and the Board recessed at 7:25p.m. Ms. Dale reminded the applicant and attendees that they would now be placed in the Zoom waiting room and not to disconnect from the meeting.

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All participants were removed from the waiting room and brought back into the meeting. Ms. Roberts moved and Mr. Shetler seconded the motion to reconvene. The roll call vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Ms. Roberts – yes; Mr. Fetzer – yes. The Board reconvened at 7:33 p.m.

The Chair asked Mrs. Dale to read the Findings of Fact for BZA Case #2020-127:

With regard to BZA-2020-127 being a request for an Area Variance from Section 5.2.1.C.ii to allow for a shed to encroach into the south, side-yard setback and east, rear-yard setback (0' proposed/ 5' required) for the property located at 327 Shrock:

1. The property in question **will** yield a reasonable return and **can** be used beneficially without the variance because the property can continue to be used for a single-family home and there is room for an accessory structure on the property.
2. The request **is not** substantial because the proposed shed will be placed in the same location as the existing shed and would be no more impactful than what exists.
3. The essential character of the neighborhood **would not** be substantially altered by the variance and adjoining properties **would not** suffer a substantial detriment as a result of the variance because to the east the shed is blocked by a fence and there is already a shed in this same location.
4. There is **no** indication the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.) because all utilities are available to the property.
5. The property owner states they **were not** aware of the zoning restrictions at the time they purchased the property because of the existing shed that was already there.
6. The property owner's predicament **can** feasibly be obviated through some method other than a variance by installing a smaller shed.
7. The spirit and intent behind the zoning requirement **would be** observed and substantial justice done by granting the variance because there is no negative impact on adjoining properties.

Mr. Shetler moved that the Board adopts and makes the findings of fact as read by the recording secretary and that after considering and weighing these factors, the Board finds that Decision Standards(s) (2) (3) (7) weigh more heavily to show that:

- a. Practical difficulty **is** sufficient to warrant granting the Variance requested.
- b. There **is** a preponderance of reliable, probative and substantial testimony; and
- c. There is evidence that **does** support the applicants request for a variance.

Therefore, the Variance should be accordingly **APPROVED**.

Motion Seconded by Ms. Roberts. Roll Call Vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Ms. Roberts – yes; Mr. Fetzer – yes. Vote 5-0 the motion passed. The Chair stated that the application has been approved and the applicant can pick up permits following the Board's next meeting which is August 19, 2020.

Ms. Dale explained that the applicant from this case was now free to leave the meeting or they were welcome to stay on to watch the Board complete the rest of their regular business.

Mr. Kevin Clere, Mrs. Melissa Cerny-Clere, Ms. Amanda Cerny, Mrs. Stacey Streeter, Mr. David Streeter, Mr. Kurt Cerny & Mrs. Rani Cerny joined the meeting.

Adjudication Hearing
Case BZA #2020-128
255 Hamilton
Cerny/Clere

Request for an Area Variance from Section 5.2.1.C.ii to allow for a shed to encroach into the south, side-yard setback and east, rear-yard setback (0' proposed/ 5' required).

The Chair asked if there were any Board members who would have a conflict and wished to abstain from this hearing. There were none. Ms. Roberts moved and Mr. Shetler seconded the motion to open the public hearing. All were in favor and the motion carried.

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The Chair asked the Zoning Administrator to give an overview of this application. Ms. Dale shared that the applicant is proposing a 15' x 23' deck on the front of the house which will encroach into the north, front-yard setback requirement. The proposed setback of the new deck is 7' where 20' is required. The applicant's applied for and received a new house permit in 2016 (Permit# 2016-060) and the house was sited 22.05' from the north, front-yard setback. The lot is irregular in the sense that it technically has no true street frontage. Ms. Dale pointed out on the site plans included in the packet, this particular lot is essentially land-locked. She said there is a very small lot at the end of the dead end street that currently has a very old cottage on it. This particular lot use to have 2 cottages on it until those were removed and the new house was constructed. Based on our code, some sort of front yard setback was required, even though there wasn't technically street frontage. Due to the small size of these lots, when the house was built in 2016, it utilized the entire buildable envelope. There is no risk that placing a deck in this location eliminates on-site parking because the owners have a recorded agreement that allows them parking on an adjoining lot to the west where there is a garage. Just as a notation, the owners originally applied on their permit to have a 6' fence installed on the east side of the deck, which would have resulted in an 8' high fence from grade, but have decided to withdraw that request and are not asking for a fence height variance. Rather, they will install a standard handrail around the top of the deck. Ms. Dale concluded by reviewing the Duncan Standard decision criteria the Board would be considering during their deliberations.

Kevin Clere, Part Owner/Applicant, 255 Hamilton, Marblehead, was called upon and sworn in. Mr. Clere reviewed the paperwork via the "shared screen" option from Ms. Dale's computer and stated it was as he submitted. Mr. Clere said Ms. Dale did a great job explaining their request and the challenging layout and dimensions. He concurred they are land-locked, but they have parking on another lot. To the north, there is one remaining cottage left at the end of the dead end street, but many of them have invested quite a bit of money into these lots for new homes. He said that while the north side of the lot is considered the front for zoning, that's not technically where people enter from, which is from the west. He said they feel it is a doable project, it is a family property and they have support from all the members. Numerous of them are present here on Zoom and the ones who are not have submitted letters. Mr. Clere said that the last cottage to the north of them is on a non-buildable lot and once it is removed, it will not be replaced. The point of this is that there would never be any conflict with access or from the property lines of that lot. He said they have a large family; there are 12 of them that share this property. They all come in once or twice a year as a full group and there really isn't anywhere for them to all gather, which is the reason for the deck. Mr. Clere shared that the lot to the NW of them just recently built a new home and were granted a variance years ago to treat the north property line as a side-yard with a 5' setback. This deck would be very similar in that request.

Mr. Fetzer asked if there were any questions from the Board. There were none.

Mr. Fetzer asked if there was anyone with standing who wished to testify. Ms. Dale suggested calling upon each person on the Zoom feed. The only person who indicated they wish to say something was Mr. David Streeter.

David Streeter, 241 Hamilton, Marblehead, was sworn in by the chair. Mr. Streeter stated that they do own the property that does not share a boundary with this lot, but they are in close proximity. He said he just wanted to add for the record that he does not feel there is any substantial impact to any of the neighboring parcels, especially their own. He does feel the spirit and intent of the zoning ordinances would be met by this and values will not decrease. Mr. Streeter stated he also feels the improvement will increase the value and use of the property, not only to the subject parcel, but to the adjacent parcels. As Mr. Clere was indicating, there is a small deck to the north of the new house built on the NW lot and he believes this deck will align with that deck will reinforce the continuity of the overall site plan of their little group back here.

Ms. Dale also shared that in order to ensure the adjoining property owners had a chance to have a say in this hearing who may not have been able to participate in the Zoom format, she allowed written statements due to the health crises situation. She reported that two emails were received. The first, which will be identified in the record as Claus Ex. 1, was received 07/14/20 from Jill Claus, 261 Hamilton. Ms. Dale read the email verbatim, which was in support of the request. The second email will be identified as Cerny Ex. 1, which was received 07/14/20 from Don & Marlene Cerny, 279 Hamilton. Ms. Dale also read this email verbatim, which was also in support of the request.

Ms. Dale indicated that there was no one else on the Zoom meeting for this case.

There were no further questions from the Board.

Ms. Grentzer made a motion to close the public comment segment of the hearing, seconded by Ms. Bauer. All were in favor and the motion carried.

Ms. Roberts motioned to recess into executive session to deliberate the merits of the case. Mr. Shetler seconded the motion and the roll call vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Ms. Roberts – yes; Mr. Fetzer – yes. The motion carried and the Board recessed

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at 7:59p.m. Ms. Dale reminded the applicant and attendees that they would now be placed in the Zoom waiting room and not to disconnect from the meeting.

All participants were removed from the waiting room and brought back into the meeting. Ms. Roberts moved and Mr. Shetler seconded the motion to reconvene. The roll call vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Ms. Roberts – yes; Mr. Fetzer – yes. The Board reconvened at 8:04 p.m.

The Chair asked Mrs. Dale to read the Findings of Fact for BZA Case #2020-128:

With regard to BZA-2020-128 being a request for an Area Variance from Section 5.1.7 to allow for a deck to encroach into the north, front-yard setback (7.05' proposed/ 20' required) for the property located at 255 Hamilton:

1. The property in question **will** yield a reasonable return and **can** be used beneficially without the variance because the property can continue to be used for a single-family residence.
2. The request **is not** substantial because the lot is small and any improvements to the property be it a deck, shed, or other ancillary structure will require some sort of variance.
3. The essential character of the neighborhood **would not** be substantially altered by the variance and adjoining properties **would not** suffer a substantial detriment as a result of the variance because the deck will not be causing any negative impact to surrounding properties.
4. There is **no** indication the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.) because all utilities are available to the property.
5. The property owner states they **were** aware of the zoning restrictions at the time they purchased the property.
6. The property owner's predicament **can** feasibly be obviated through some method other than a variance by installing a concrete patio at grade, but have expressed in their narrative statement this would posed greater detriments onto surrounding properties due to poor drainage and low elevations.
7. The spirit and intent behind the zoning requirement **would be** observed and substantial justice done by granting the variance because there is no negative impact on adjoining properties.

Mr. Shetler moved that the Board adopts and makes the findings of fact as read by the recording secretary and that after considering and weighing these factors, the Board finds that Decision Standards(s) (2) (3) (7) weigh more heavily to show that:

- a. Practical difficulty **is** sufficient to warrant granting the Variance requested.
- b. There **is** a preponderance of reliable, probative and substantial testimony; and
- c. There is evidence that **does** support the applicants request for a variance.

Therefore, the Variance should be accordingly **APPROVED**.

Motion Seconded by Ms. Grentzer. Roll Call Vote was as follows: Mr. Shetler – yes; Ms. Grentzer – yes; Ms. Bauer – yes; Ms. Roberts – yes; Mr. Fetzer – yes. Vote 5-0 the motion passed. The Chair stated that the application has been approved and the applicant can pick up permits following the Board's next meeting which is August 19, 2020.

Ms. Dale explained that the applicant from this case was now free to leave the meeting or they were welcome to stay on to watch the Board complete the rest of their regular business.

Approval of June 16, 2020 and June 17, 2020 Board of Zoning Appeals Meeting Minutes

Mr. Shetler made a motion to approve both meeting minutes as presented, Ms. Roberts seconded. All were in favor and the motion carried.

Signing of Decision Sheets

The Chair asked if the Board had the opportunity to review the Decision Sheets presented for the following case. Mr. Shetler motioned for approval of the decision sheet as presented. Ms. Grentzer seconded. All were in favor and the motion carried.

- a. **BZA-2020-083 201 Elizabeth.** Request for an Area Variance to Section 5.2.C to allow for a detached garage to be 2' from the principal structure where 5' is

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required. **William Beatty & Christine Costello, Owners/Applicants; Pete Johnson, Agent.**

- b. **BZA-2020-088 660 Walnut.** Request for an Area Variance to Section 5.5.8 to allow for a 6’ high fence to be 100% opaque where 66% opacity is required. **Carol Raber, Owner/Applicant.**
- c. **BZA-2020-082 602 E. 2nd Street.** Request for an Area Variance to Section 3.5 to allow for a second story & covered porch addition to encroach into the west, front-yard setback (4’ proposed/ 5’ required) and to Section 7.12.3.A. to allow more square footage than permitted onto a nonconforming structure (289.2s.f. [20%] permitted/ 408s.f. [28%] proposed). **Roger & Patti Gilcrest; PNGilcrest LTD, Owners/Applicant; John Feick, Agent.**
- d. **BZA-2020-089 602 Lakefront.** Request to for an Area Variance to Section 3.5 to allow for a storage addition to encroach into the east, side-yard setback (2’ proposed/ 3’ required) and to exceed the allowable lot coverage (59.8% proposed/ 55% required). Also requesting a variance from Section 7.12.3.C. to allow for more than 75% of the floor area contained in the nonconforming structure to be demolished, removed or structurally altered. **William Williams, Owner/Applicant; John Feick, Agent.**

Old Business

There was none.

New Business

There was none.

Other Business

Ms. Roberts stated that she would send the minutes and Decision Sheets around to everyone to sign via DocuSign and that Ms. Dale would end up with the final copy for the official records.

Mr. Fetzer asked if it’s looking like we will only have 1 hearing date for August. Ms. Dale said she sure hopes so, but the deadline for that isn’t until July 31.

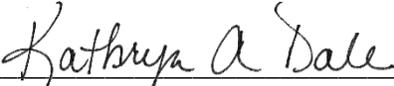
Reports and Communications from Members and Staff

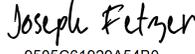
There were none.

Adjournment

Ms. Bauer moved to adjourn the meeting and Ms. Roberts seconded the motion. All in attendance were in favor and the motion carried.

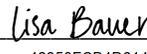
The meeting was adjourned at 8:14p.m.


RECORDING SECRETARY

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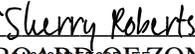
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BOARD OF ZONING APPEALS