

RECORD OF PROCEEDINGS

Minutes of

Meeting

Danbury Township Board of Zoning Appeals

GOVERNMENT FORMS & SUPPLIES 844-224-3338 FORM NO. 10148

Held

April 16, 2025

The Danbury Township Board of Zoning Appeals Meeting was called to order at 6:00 p.m. by Vice Chair, Ms. Sherry Roberts at the Township Hall. The Pledge of Allegiance was recited.

The roll call showed the following members present: Vice-Chair, Ms. Sherry Roberts, Secretary Gregory Huffinan, Member, Mr. Joseph Fetzer, Alternate, Julie Cottingham and Alternate, James Switzer. Chair, Clyde Shetler and Member Joe Kruse were excused. Ms. Kathryn Dale, Zoning & Planning Administrator and Dawn Connor, Zoning Assistant, were also present. Visitors present included Kevin Lamb, Cheryl Furnas, Carolyn Morey, Dave Roush, Joe Nejd, Debora Hensman, Courtney Boova, Linda Merckens and Russell Merckens.

Ms. Dale read the rules of order for the meeting proceedings. The Vice Chair asked Ms. Dale if all the documents relating to the cases had been received and were in proper order. She indicated that they were. The Vice Chair swore in Ms. Dale.

The Vice Chair introduced the first case of the evening.

Adjudication Hearing  
Case BZA #2025-040  
253 Worthy  
Tim & Lori Kleman

**Request for an Area Variance to Section 5.2.D.iii to allow for an accessory building to encroach into the south, side-yard setback (3' proposed/ 5' required). Area Variance to Section 5.1.7 to allow for a porch & carport addition to encroach into the side-yard setbacks (north 2.7' proposed/ south 4.9' proposed/ 5' required) and to Section 7.12.3.A to exceed the square footage permitted onto a nonconforming structure [580s.f. (62.7%) proposed/ 185s.f. (20%) allowed]. Additional Area Variance from Section 3.5 to exceed the maximum 40% lot coverage (41.7% proposed).**

The Vice Chair asked if there were any Board Members who would have a conflict and wished to abstain from this hearing. There was none. Mr. Switzer moved, and Ms. Cottingham seconded the motion to open the public hearing. All were in favor and the motion carried.

Ms. Dale stated the applicant received a variance in December 2024 (BZA-2024-312) to install an 8' x 10' (80s.f.) shed in the SE corner of the property that at the time met the required 5' side and rear-yard setback requirements but did not meet the 5' separation requirement from the house. The variance request was granted. The applicant would now like to rotate the shed on the property. The shed will continue to be 2' from the house where a 5' separation is required in accordance with BZA-2024-312. However, by rotating the shed, the shed is proposed to be 3' from the south, side property line where 5' is required, and thus is required to have another variance.

In addition to rotating the shed, the property owner would also like to add a covered front porch and carport onto the front of the home. The property is part of Channel Grove Subdivision which was platted in 1926. The existing house is grandfathered because it was built prior to zoning, but it is also nonconforming according to their survey, because the roof overhang is 1.5' from the east, rear property line, 2.6' from the north, side property line and 4.9' from the south, side property line, where 5' is the required setback from each of the property lines.

The applicant is proposing to construct 2; 5' x 10' (100s.f.) covered porches, one of which is recessed (50s.f.) under the existing house roof line and a 20' x 24' (480s.f.) carport addition. The proposed porch & carport additions will align with the existing house and overhangs. The additions will be 2.7' from the north, side property line and 4.9' from the south, side property line. The original, existing house contains 925s.f. Twenty (20%) percent of this would allow an 185s.f. addition. The applicant is proposing 580s.f. (62.7%) in total for the additions. With these additions and the shed, the 40% maximum lot coverage will also be exceeded by 65s.f. or at 41.7%. Ms. Dale concluded by reviewing the decision criteria the Board would be considering during their deliberations.

The Vice Chair called upon the applicant to come forward and be sworn in.

**Kevin Lamb, Contractor, 4475 Marin Harbor, Catawba, Ohio**, came forward and was sworn in. Mr. Lamb reviewed the paperwork and stated it was as he had submitted. The Vice Chair asked if there were any additional or supplemental documents that he wished to enter into the record. There was none.

Mr. Lamb said he understood where it gets a little congested with the number of variances. He stated in the simplest term; the shed was to be rotated just for simple use and access to get more room. There is no fixed foundation for it, and it could be spun if needed, for any emergency. He continued that there is no access to that back area and he and the homeowner did not see that it would be an issue. Mr. Lamb then said that in designing the carport, they were trying to keep continuity with the look of the structure that pre-exists. They are trying to match the current roof lines and cover the porch that already has concrete under it. Mr. Lamb stated that on paper, it probably seems worse than what he thinks it is, but did not want to negate anyone's opinion based on that.



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The Vice Chair asked if any Board Member had any questions for the applicant.  
Mr. Switzer asked about the placement of the neighboring structures and if this will still be set back from those existing buildings. Mr. Lamb answered that it would be.  
The Vice Chair asked if any Board Member had any other questions for the applicant. There were none.  
The Vice Chair asked if there was anyone present with standing who wanted to testify.

**Cheryl Furnas, Owner, 261 N. Worthy, Marblehead, Ohio** came forward and was sworn in. She provided four photos to the Board. Ms. Dale confirmed that she had submitted three photos on one legal sized piece of paper which showed the south side of her house and the front of the applicant's house. One additional photo was submitted showing the survey stake in the ground. Ms. Dale entered the four photos into the record, and they were marked Furnas Exhibit #1, photos A, B, C and D. Ms. Furnas stated she is concerned about how close the applicant's house is to her property right now and with extending out more, where all the rooftop water was going to go.

The Vice Chair asked if there were any other questions, comments or members of the public that wished to add anything further. Mr. Switzer asked if the carport could be completely seen through. Ms. Dale stated she believed it would remain open and not enclosed. Ms. Furnas asked if there was going to be a cement pad underneath the carport. Ms. Furnas stated she had no further questions for the applicant, she is just concerned about the closeness of the existing structure and new parts being built so close to her house. Ms. Dale asked if there was any particular significance with the photos she had submitted to the Board. Ms. Furnas said one was to show the property line. There was another photo showing the area near the air conditioners and how close the houses were together. Mr. Switzer asked if Ms. Furnas had front and rear downspouts, if they went into gravel and if she had any existing water issues now. Ms. Furnas stated she does have downspouts and does get water near her house there. Mr. Switzer asked if she had any free-standing water issues outside. Mr. Furnas said she did not.

Mr. Lamb came back before the Board to respond to the questions that had been asked. The Vice Chair asked him if the carport was going to have a cement pad. Mr. Lamb stated it was going to be coarse aggregate limestone. Ms. Roberts asked if that could change in the future. Mr. Lamb stated he has no control over what a homeowner might do in the future, but there has been no intention to put in concrete that he is aware of. The only concrete that would be required is for the foundation columns to hold up the structure and that is all subgrade. Mr. Fetzer asked if there would be gutters running alongside Ms. Furnas' house just like they had on the side of the applicant's house. Mr. Lamb stated there would be gutters and they would run along the side and then come down the front column facing the road and in the existing gravel.

**Dave Roush, Owner, 262 Sackett St., Marblehead, Ohio**, came forward and was sworn in. Mr. Roush stated that the applicants just bought the house for a little over \$200,000 and it is one of the houses raising the tax value. He stated there are issues with the water, but it is because there are no storm sewers. He said it was something that would be important to talk to the Township about at some point, especially with Ms. Furnas' situation when there is nowhere for the water to go, but there is no solution to that currently. He stated he knows the Kleman's well and he knows it sounds like they want to make a lot of changes, but he is aware of their plans and the design will really fit aesthetically. Mr. Roush said the shed, in particular, is hidden from anyone but him and he does not have any problems with how they want to place it. He continued that he knows that Mr. Kleman does high quality work and is confident that they will do a good job on the additions; it will look good and add value to the neighborhood. Mr. Switzer asked Mr. Roush about existing water problems. Mr. Roush said that they have a lot of water drainage problems. He stated that they need storm sewers on Channel Grove. Mr. Switzer asked if they ever tried dry wells and explained how they are constructed. Mr. Roush gave details regarding some landscaping he had done to help with the drainage but stated it all eventually runs to the lake, usually with the assistance of the area homeowners pushing it down that direction.

There were no further questions or public comments.

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

Ms. Cottingham motioned to recess into the executive session to deliberate the merits of the case. Mr. Huffman seconded the motion, and the roll call vote was as follows: Mr. Switzer – yes; Ms. Cottingham – yes; Mr. Fetzer – yes; Mr. Huffman – yes; Ms. Roberts – yes. The motion carried and the Board recessed at 6:25 p.m.

Mr. Switzer moved, and Mr. Fetzer seconded the motion to reconvene. The roll call vote was as follows: Mr. Switzer – yes; Ms. Cottingham – yes; Mr. Fetzer – yes; Mr. Huffman – yes; Ms. Roberts – yes. The Board reconvened at 6:56 p.m.



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The Vice Chair asked Ms. Dale to read the Findings of Fact for BZA Case #2025-040:

**With regard to BZA-2025-040 being a request for an Area Variance to Section 5.2.D.iii to allow for an accessory building to encroach into the south, side-yard setback (3' proposed/ 5' required). Area Variance to Section 5.1.7 to allow for a porch & carport addition to encroach into the side-yard setbacks (north 2.7' proposed/ south 4.9' proposed/ 5' required) and to Section 7.12.3.A to exceed the square footage permitted onto a nonconforming structure [580s.f. (62.7%) proposed/ 185s.f. (20%) allowed]. Additional Area Variance from Section 3.5 to exceed the maximum 40% lot coverage (41.7% proposed) for the property located at 253 N Worthy St:**

1. The property in question **will** yield a reasonable return and **can** be used beneficially without the variance because the property can be used for a single-family residence and the zoning resolution is not denying the owner reasonable use of the property or the ability to provide an accessory structure or make some improvement to the house.
2. The request is **not** substantial because the additions and shed will be no closer to the property lines than the existing house and the addition size allowed is not enough to allow a functional addition.
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 carport & porch structure meet the front-yard setback and appears to remain relatively open and not a solid, walled addition.
4. There is **no** indication the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.) because utilities are existing, and any utility extensions or upgrades will require approval from the appropriate County agencies.
5. The applicant stated in their narrative statement that they were not aware of the zoning restrictions at the time they purchased, but they were aware of zoning in the Township because they were previously before this Board.
6. The property owner's predicament **can** feasibly be obviated through some method other than a variance because the carport can be slightly reduced, then the lot coverage could be met, eliminating the need for one of the variances. Also, the shed was previously approved in December 2024 showing that it could meet the side-yard setbacks, thus eliminating the need for 2 of the 5 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 known negative impact on adjoining properties.

Mr. Huffman 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 Conditional Use should be accordingly **APPROVED**.

Motion Seconded by: Mr. Switzer. Roll Call Vote was as follows: Mr. Switzer – yes; Ms. Cottingham – yes; Mr. Fetzer – yes; Mr. Huffman – yes; Ms. Roberts – no. Vote 4-1 the motion carried.

The Vice Chair stated that the application has been Approved, and the applicant can pick up permits following the Board's next meeting which is May 21, 2025.

The Vice Chair introduced the second case of the evening.



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Danbury Township Board of Zoning Appeals

GOVERNMENT FORMS & SUPPLIES 844-224-3338 FORM NO. 10148

Held April 16, 20 2025

Adjudication Hearing  
Case BZA #2025-045  
292 Gravel Bar  
Joseph Nejdl

**Request for Area Variances from Section 5.1.7 to allow for the rebuild of a single-family home to encroach into the south, side-yard setback (1'8" proposed/ 5' required) and to Section 7.12.3.C to raze an existing nonconforming structure more than 75% of the existing floor area and rebuild in the same location.**

The Vice Chair asked if there were any Board Members who would have a conflict and wished to abstain from this hearing. There was none.

Ms. Dale stated the property is part of the Port Ann Subdivision, which was platted in 1951, and the existing structure was nonconforming because the house sat at 2'8" to the south, side property line (1'8" if an overhang was present) where 5' was required. The applicant came before the Board of Zoning Appeals in October 2024 (BZA Case# 2024-245) requesting variances to allow for a 23' x 36'4" (831s.f.) addition to encroach into the south, side-yard setback and to exceed the 20% addition limitation onto a nonconforming structure. These variances were approved. A zoning permit for the addition, which included an "L" shaped covered porch, was issued in November 2024 (#2024-304).

Upon inspection of the property January 22, 2025, the footer and foundation had been poured for the addition. Upon inspection of the property March 3, 2025, the existing home that was identified on the plans as remaining, had been torn down and was in the process of being rebuilt (See Township Ex. #3). The architect was contacted immediately before leaving the job site, providing him a verbal "Stop Work Order." He indicated to me that day he was not aware of what took place because he was not contracted on this project to oversee it, like he is in many others at Lakeside. The architect did reach out to the homeowner to notify them of my contact and to explain the issues the teardown posed, not only for zoning but also for the Building Department because the plans they were issued a permit on were no longer being followed. The applicant has provided in your packets 3 pages of photographs A-P and their explanation on how and why it was decided to tear down the original part of the house.

A nonconformity is defined in Section 2.2. of the zoning resolution as *"A building, structure or use of land existing at the time of enactment of this Resolution, and which does not conform to the regulations of the district or zone in which it is situated."* This is reiterated in Section 7.12.1 and the Purpose Statement, which states *"The purpose of this section is to (1) define the legal status of buildings or land uses which do not conform to this Resolution but which were in operation prior to the enactment of this Resolution and (2) to provide either for the conversion of nonconforming uses into conforming uses as soon as reasonably possible or for their eventual and equitable elimination."* Modifications to a Nonconformity are explained in Section 7.12.3.C., *"A nonconforming use or structure which has been damaged by fire, explosion, act of God, or the public enemy or demolished, removed, or structurally altered voluntarily, to the extent of seventy-five (75) percent or more of the floor area contained in the building or structure at the time of damage shall not be restored, rebuilt or enlarged except in conformity with the regulations of the district in which it is located."*[emphasis added with the underline].

The applicant is proposing to rebuild the single-family home, including the 2024 proposed addition in the same location of the former structure which will be 2'8" to the south, side property line (1'8" if an overhang is present) where 5' is required. Essentially with the tear down of the original part of the house, the previous variances granted in 2024 are now null-in-void since we are no longer dealing with an existing, nonconforming structure, and this is now viewed as all new construction that should have been brought into compliance. The only change from the last application is that the applicant is now proposing a larger wrap-around porch in this application, which meets the setback requirements. The porch portion and "addition" is no longer subject to the 20% addition limitation since we no longer have a protected nonconformity. Lot coverage and building height requirements are all satisfied for the new construction.

Ms. Dale concluded by reviewing the decision criteria the Board would be considering during their deliberations.

The Vice Chair asked if there were any other questions for Ms. Dale. There were none.

**Joseph Nejdl and Debora Hensman, Applicants, 3230 W. Wallings Road, Broadview Heights, Ohio**, were both called upon and both sworn in. Mr. Nejdl said that they were there to ask the Board to grant them a variance for their house. Mr. Nejdl asked if the Board Members had received the packet with pictures that he had submitted as evidence.

The Vice Chair, upon realizing that there had not been a motion to open the public hearing asked for it to be opened. Mr. Huffman moved, and Mr. Switzer seconded the motion to open the public hearing. All were in favor and the motion carried.



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Mr. Nejdl and Ms. Hensman reviewed the paperwork and stated it was as they had submitted. The Vice Chair asked if there were any additional or supplemental documents that they wished to enter into the record. There was none.

Mr. Nejdl said that they had no intention of knocking the original house totally down. He said when the foundation was being dug for the new addition, which they had gotten a variance for in 2024, he and the builder were walking around the original structure. The builder pointed out how spongy the floor was and advised Mr. Nejdl to pull up some of the floor to see what was going on with it. Mr. Nejdl said upon removing some of the floors, which included old linoleum and four layers of one-half inch plywood, he discovered there was black mold everywhere on the joists and the plywood underneath. Mr. Nejdl said he was able to remove additional flooring because there was no insulation in the original house. The house had been on its foundation for 74 years and the more he opened the area, the more black mold they discovered. At that point, he got together with the builder and his wife to come up with a solution on what to do about the black mold. A decision was made to save the north wall and east wall. Mr. Nejdl said after thinking about it, he realized that it would be ridiculous to try and save those two walls because they needed to get rid of all the mold. Mr. Nejdl said mold is bad and everyone knows you cannot just get rid of it. He told the builder to just knock it down and start over, so they could ensure a mold-free home. Mr. Nejdl continued that the floor joists were also the wrong size due to the house being built without modern standards. The builder agreed that the mold damage, joist rot and poor floor construction needed to be fixed. He said the builder started working on the new house and then they received a call that they had received a stop-work order. Mr. Nejdl said they contacted Mr. Feick because he had made the original plans for their addition. Mr. Nejdl asked if he could back up a bit in his timeline. He said they hired Mr. Feick to do their original plans, and they gave those plans to the builder they hired. While building the addition, their builder pointed out that the roof lines did not match up. Mr. Nejdl said he asked the builder if it was going to give him a vaulted ceiling on one side, because that is what he had discussed with Mr. Feick. The builder said it would not give him that, but it was okay, and changes could be made to the original design to accommodate that because no changes would be made to anything load bearing on the walls, and it would be all stick built. Mr. Nejdl trusted what the builder told him. The builder constructed the new walls and that is when they were notified about the stop-work order because the center wall and roof lines did not match up to what the plans were. Mr. Nejdl continued that this is going to be their forever home, and they plan to move here full-time. He stated they just want a safe environment for themselves and their grandkids. Mr. Nejdl said the photos he had submitted to the Board would show the mold and stuff that was going on with the original structure. He went on to state that the house has been there for 74 years, and he just wants to rebuild the house like it was, but with a different roof line, but no bigger than what they had planned. He said the porch stopped in a strange spot on the original plans, so after consulting with the architect, they continued the porch to the front door.

The Vice Chair asked why the applicant had not come to the Board when he originally found all the damage and mold, especially after having to get a variance for the addition last fall. Mr. Nejdl stated that he had no idea that he would have to do that. Ms. Hensman stated they did not think there would be an issue since they were rebuilding on the same foundation as the old house. She said she thought it would be okay since they had gotten the variance for the addition and were using the same foundation. Ms. Hensman continued that if they had known, they would have come to the Board after the original house was knocked down and during the two months that the house was sitting there without work being done due to the weather. Ms. Hensman repeated that they just did not know they would need another variance.

Mr. Switzer asked if they had consulted John Feick when they decided to tear the house down. Mr. Nejdl said they let the builder and John Feick do the communication and he was not privy to what they had discussed. Mr. Nejdl said he is not sure if the builder knew about getting a variance or if there was miscommunication. Ms. Roberts asked who the builder was. Mr. Nejdl said it was Joe Vassallo. Mr. Switzer stated that if John Feick had not been involved, he would have been able to advise the appellant and his builder on the 75% demolition provision. Ms. Dale asked the Nejdl's if they knew if the builder spoke to Mr. Feick about tearing down the house. Mr. Nejdl and Ms. Hensman both answered that they do not know if he spoke to Mr. Feick and just trusted what the builder had told them.

Ms. Hensman said that she and her husband had been in turmoil about knocking down the house because that was never their intention. After the materials were delivered, she said everything got into a rush due to weather and she wishes the builder would have told them about needing a variance. Ms. Roberts asked if the applicant had gone back to their builder and questioned him since they now had to appear before the Board of Zoning Appeals to ask for a variance. Mr. Nejdl answered in the affirmative. Ms. Robert's asked if they asked the builder why he did not give them the information they needed at the time the original structure was knocked down. Mr. Nejdl said the builder answered that he guessed he should have advised the applicants at that time and was sympathetic to the applicants for having to go back in front of the Board to get another variance. Mr. Nejdl stated that he asked the



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builder if he knew that a variance was needed, and the builder said yes and no. Mr. Nejdl said he told the builder that although he (Mr. Nejdl) was solely responsible for what happens on the property, he was not in it alone and the builder had some of the responsibility. Ms. Hensman stated that they have learned that after reading everything, they are the responsible ones and had been ignorant of that fact. She stated they had never built a home before.

Ms. Roberts asked if John Feick had ever said anything to the applicant's and if he knew what was going on. Mr. Nejdl answered that he is now aware of what is going on and has recently drawn up the new correct plans to submit to the Zoning Administrator. Mr. Nejdl said this situation is why they hired people to take care of these things regarding this house. He stated they were unaware of all the zoning rules when they originally came in because they had never built anything before. He continued that they got the original variance completed, but then everything happened with the black mold. The mold, coupled with the rot, caused Mr. Nejdl to conclude that he could not put the new addition on when the original building had rotten wood full of black mold. He said the pictures he submitted should show the damage they found and why they had just said to tear it down. Ms. Hensman said they never even thought that they would have to go back and get another variance from the Board of Zoning Appeals.

Mr. Switzer asked how devastating it would be to pick up the house and move it three foot three inches. Ms. Hensman said it would be devastating. Mr. Nejdl said it would be very devastating to the project, to themselves and to the community. Ms. Roberts asked how it affected the community. Mr. Nejdl said it is about to be prime season and if they had to move the house, it would mean having all the equipment coming in, concrete trucks, trucks to haul debris away, trash going up and down the road and noise from the equipment. It would affect the community because of the time of year it is when tourism booms. Mr. Fetzer asked if the builder had offered to come to the hearing. Mr. Nejdl said he did not, but told the applicant to call him with the results. Mr. Switzer asked what the impact would be on the applicants if the Board denied their variance. Mr. Nejdl said they did not know what they were going to do emotionally and financially if the Board voted no. Ms. Hensman said they had their neighbors in the audience here to support them and they did not know what else to do from there.

The Vice Chair asked if there were any other questions from the Board. There were none.

The Vice Chair asked if there was anyone present withstanding who wanted to testify.

**Courtney Boova, Owner, 310 Gravel Bar, Marblehead, Ohio and 9551 Mikenna Run, Macedonia, Ohio** was called upon and sworn in. Ms. Boova stated she owns the home to the north of the applicants. She said she has been alongside the applicants through the whole building process and has seen the toll it has taken on them. Ms. Boova stated that as a neighbor, she is concerned about having them move the house. She said it would be closer to her, but still on their property and she understands all of that, but she has three children, and they stay here all summer. The idea of the applicant's having to tear down their house and then move it all over does not thrill her. Ms. Boova confirmed the applicant's statement that they really had no idea they would need an additional variance and said none of them, including her, thought about it because they were putting the new build in the same spot as the old. Ms. Boova stated she came to the support the applicant's because she knows it was an honest mistake and as a neighbor, she would really like to not have the house moved.

The Vice Chair asked if there were any other questions from the Board. There were none.

**Linda and Russell Merckens, Owners, 1675 Church Rd, Marblehead, Ohio and 286 Gravel Bar, Marblehead, Ohio** were called upon and both sworn in. Ms. Merckens stated they own the property to the south of the applicants. She said they have no issue with the distance between the houses and no problems. Ms. Merckens stated her daughter lives in the house, and they own it. She said the applicants have been great neighbors and always been honest and upfront with them. Ms. Merckens said they had talked to them about the building project and had seen their excitement about becoming full-time residents. Ms. Merckens said they had gone from the excitement to devastation with the mold and rot being discovered and she had seen the toll it took on them emotionally to know their house was falling down. Ms. Merckens reiterated that they had no issue with the location of the building on the applicant's property.

Mr. Merckens said the applicants have been good neighbors. He said when they bought their property, they had seen how close the applicant's house was to theirs and still bought it. Mr. Merckens stated that truthfully, if they finish the house where it is currently at it would improve the neighborhood. He said it would be a big improvement for the whole area and not cause any problems at all. Ms. Merckens said it is a great neighborhood with neighbors who take care of each other.

The Vice Chair asked if there were any other questions from the Board. There were none.

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



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Ms. Cottingham motioned to recess into the executive session to deliberate the merits of the case. Mr. Fetzer - seconded the motion, and the roll call vote was as follows: Mr. Switzer – yes; Ms. Cottingham – yes; Mr. Fetzer – yes; Mr. Huffman – yes; Ms. Roberts – yes. The motion carried and the Board recessed at 7:28 p.m.

Ms. Cottingham moved, and Mr. Huffman seconded the motion to reconvene. The roll call vote was as follows: Mr. Switzer – yes; Ms. Cottingham – yes; Mr. Fetzer – yes; Mr. Huffman – yes; Ms. Roberts – yes. The Board reconvened at 8:02 p.m.

The Vice Chair asked Ms. Dale to read the Findings of Fact for BZA Case #2025-045:

With regard to BZA-2025-045 being a request for Area Variances from Section 5.1.7 to allow for the rebuild of a single-family home to encroach into the south, side-yard setback (1'8" proposed/ 5' required) and to Section 7.12.3.C to raze an existing nonconforming structure more than 75% of the existing floor area and rebuild in the same location for the property located at 292 Gravel Bar:

1. The property in question **will** yield a reasonable return and **can** be used beneficially without the variance because the property can be used for a single-family residence and has the equivalent of two full lots to be able to fit a conforming structure.
2. The request **is** substantial because this is all new construction and there is ample space to meet the underlying 5’ side-yard setback.
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 house is proposed to be located in the same location as the existing structure prior to it being razed.
4. There is **no** indication the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.) since utilities are existing and available to the property.
5. The property owner states they **were not** aware of the zoning restrictions at the time they purchased the property in 2010 but were aware zoning existed in the Township after having previously been before this Board for a variance in 2024.
6. The property owner’s predicament **can** feasibly be obviated through some method other than a variance because a new, conforming structure can be placed on the property without variances.
7. The spirit and intent behind the zoning requirement **would not be** observed and substantial justice done by granting the variance because the owner wants the protection of nonconforming status to apply to new construction.

Mr. Fetzer 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) (6) (7) weigh more heavily to show that:

- a. Practical difficulty **is not** sufficient to warrant granting the Variances requested.
- b. There **is not** a preponderance of reliable, probative and substantial testimony; and
- c. There is evidence that **does not** support the applicants request for a variance.

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

Motion Seconded by: Ms. Roberts. Roll Call Vote was as follows: Mr. Switzer – no; Ms. Cottingham – no; Mr. Fetzer – yes; Mr. Huffman – no; Ms. Roberts – yes. Vote 3-2 the motion failed.

Motion remade in the affirmative.

With regard to BZA-2025-045 being a request for Area Variances from Section 5.1.7 to allow for the rebuild of a single-family home to encroach into the south, side-yard setback (1'8" proposed/ 5' required) and to Section 7.12.3.C to raze an existing nonconforming structure more than 75% of the existing floor area and rebuild in the same location for the property located at 292 Gravel Bar:

1. The property in question **will** yield a reasonable return and **can** be used beneficially without the variance because the property can be used for a single-family residence and has the equivalent of two full lots to be able to fit a conforming structure.



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- 2. The request **is not** substantial because they are using the same foundation and the house will be no closer to the south property line than the original, existing home.
- 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 house is proposed to be located in the same location as the existing structure prior to it being razed.
- 4. There is **no** indication the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.) since utilities are existing and available to the property.
- 5. The property owner states they **were not** aware of the zoning restrictions at the time they purchased the property in 2010 but were aware zoning existed in the Township after having previously been before this Board for a variance in 2024.
- 6. The property owner’s predicament **can** feasibly be obviated through some method other than a variance because a new, conforming structure can be placed on the property without 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 known negative impact on adjoining properties.

Mr. Huffman 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/is not** sufficient to warrant granting the Variances requested.
- b. There **is/is not** a preponderance of reliable, probative and substantial testimony; and
- c. There is evidence that **does/does not** support the applicants request for a variance.

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

Motion Seconded by: Mr. Switzer. Roll Call Vote was as follows: Mr. Switzer – yes; Ms. Cottingham – yes; Mr. Fetzer – no; Mr. Huffman – yes; Ms. Roberts – no. Vote 3-2 the motion carried.

The Vice Chair stated that the application has been Approved, and the applicant can pick up permits following the Board’s next meeting which is May 21, 2025. Ms. Dale stated that the applicant has requested the Board to sign the decision sheet tonight so they can secure their necessary permits from the Township and County. Vice Chair, Ms. Roberts declined to sign the decision sheet tonight. Ms. Dale stated a motion and vote could be taken. Mr. Fetzer made a motion to sign the decision sheet tonight. Mr. Huffman seconded the motion. Roll Call Vote was as follows: Mr. Switzer – yes; Ms. Cottingham – yes; Mr. Fetzer – yes; Mr. Huffman – yes; Ms. Roberts – no. Vote 4-1 the motion carried. Ms. Dale advised the applicants that the decision sheet would be signed this evening and the paperwork would be completed the next few days, or early next week.

Approval of Board of Zoning Appeals  
March 19, 2025 Regular Meeting Minutes

Mr. Fetzer made a motion to approve the March 19, 2025, regular meeting minutes as presented. Mr. Switzer seconded the motion. All were in favor, motion carried.

Signing of Decision Sheets

The Vice Chair asked if the Board had the opportunity to review the Decision Sheets presented for the following cases. Mr. Fetzer motioned for approval of the decision sheet as presented. Mr. Huffman seconded. All were in favor and the motion carried.

- a. **BZA-2025-009 355 S. Bridge.** Request for an Area Variance from Section 5.10.3 to reduce the parking size to 9’ x 18’ for 71 of the parking spaces where 10’ x 20’ is the size required. Section 5.10.3.C.ii to reduce the number of parking spaces required to 79 (85 required). Section 5.10.4.A.i to allow the edge of the parking area to be 3’ from the property line where 5’ is required from the west, front property line and east rear property line. **Peninsula Endeavors/ Roberta Bero, Owner/Applicant; Jill Stevenson, Co-Owner/Agent**



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Held

April 16, 2025

- b. **BZA-2025-014**      **10240 E. Bayshore Road.** Request for a Conditional Use for a Resort Expansion in accordance with Section 3.4 & 4.17 to allow for 2 new cabins. **Stuckert's Bay Willo Lodges, LLC, Linda Brown Trustee, Owner/Applicant; Tim Brown, Agent.**
- c. **BZA-2025-022**      **7620 Downend.** Request for Area Variances to Section 5.2.1.A.i.b. to allow more cumulative accessory building space than permitted (1,200s.f. allowed/ 1,418s.f. proposed) and to Section 5.2.1.D.iii. to allow for a leanto addition to encroach into the south, side-yard setback (5' required/ 3.75' proposed). **Richard Zilch, Owner/ Applicant.**
- d. **BZA-2025-026**      **272 Lighthouse Oval.** Request for Area Variances from Section 4.5.3 to allow for an addition to encroach into the required rear-yard setback (18' proposed/ 25' required) and to Section 4.5.6 to allow an addition and shed to exceed the maximum lot coverage (45.5% proposed/ 40% allowed). **Jonathan & Natalie Earl, Owners/ Applicants.**
- e. **BZA-2025-045**      **292 Gravel Bar.** Request for Area Variances from Section 5.1.7 to allow for the rebuild of a single-family home to encroach into the south, side-yard setback (1'8" proposed/ 5' required) and to Section 7.12.3.C to raze an existing nonconforming structure more than 75% of the existing floor area and rebuild in the same location. **Joseph Nejdil, Owners/ Applicants; John Feick, Architect/Agent.**

Unfinished Business

There was none.

New Business

There was none.

Other Business

There was none.

Reports and Communications from Members and Staff

There was none.

Adjournment

Mr. Fetzer moved to adjourn the meeting and Mr. Switzer seconded the motion. All in attendance were in favor and the motion carried.

The meeting was adjourned at 8:13 p.m.

*Kathryn A Dale*  
RECORDING SECRETARY

*Sherry Roberts*  
Sherry Roberts  
*Gregory Huffman*  
Gregory Huffman  
*Joseph R. Fetzer*  
Joseph Fetzer  
*Julie Cottingham*  
Julie Cottingham  
*James Switzer*  
James Switzer  
BOARD OF ZONING APPEALS



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