

-DRAFT-

Minutes

Zoning Board of Appeals Public Hearing

401 First Street | ELBERTA, MI 49628

January 16th 2025 at 6pm

Call to Order 6:03 pm

Roll Call

The following members of the Zoning Board of Appeals were present:

President Jennifer Wilkins – PRESENT | Pro Tempore Emily Votruba – PRESENT | Ken Holmes – PRESENT | Ryan Fiebing – ABSENT | Brett McGregor – ABSENT

Audience

Dan Carter, 303 Steele St. Elberta, Steve Stephens ZBA from Benzonia Township, Rachel Perkins (Clerk).

Corrections or additions and, approval of minutes of previous meeting – None

Approval of Agenda:

Motion by Votruba, seconded by Wilkins, **to approve the January 16th 2025, Zoning Board of Appeals Agenda.**

All Ayes. Motion passed.

New Business: Public Hearing on Request for Variance:

Dan Carter 303 Steele St. Elberta, Mi. 49628

Tax ID# 10-06-501-017-00 (R-1 District)

Article 19: Front Yard Setback

Article 22.04: Nonconforming Structures

1. Summary by Chairperson

Wilkins summarized the purpose of the hearing and the nature of the request for zoning variance:

“The purpose of zoning ordinances are to establish zoning districts throughout the Village of Elberta, which the use of land, the use size, type, and location of structures and the use of natural resources are regulated to promote the health, safety and general welfare of the public and of the village.

Realizing that one size does not fit all, or in fact there may be legitimate exceptions. The State of Michigan has established the Zoning Board of Appeals: so that the Zoning Board of Appeals may examine any special circumstances that may allow a VARIANCE from the zoning rules.

The zoning board of appeals has a UNIQUE status; sort of quasi-judicial. Once a decision is rendered, the decision of the zoning board can only be reversed by Circuit Court in Benzie County. Since this hearing is a legal procedure, the following meeting format is followed.

2. Open Public Hearing 6:06p.m.

a. Applicant Presentation

Applicant Dan Carter, presented his request for a variance to add a covered porch to the front of his existing dwelling at 303 Steele Street. He presented a framed original photo of the home and current map to scale, showing his home as one of the most conforming structures on the block, and his wish to create a porch that supports the character of the original home circa 1895.

b. Comments from Zoning Administrator concerning Variance

Elberta Zoning Administrator, Josh Mills, outlined the specific requirements of Articles 19 and 22.04, addressing side and front yard setbacks and nonconforming structures. Questions

- 48 related to administrative processes for future requests were also raised.
- 49 c. **Read letters concerning variance**
- 50 Two letters in support of the structure from Tom and Lynne Webster; both at 351 Crapo St.
- 51 were received and read.
- 52 d. **Comments from audience in favor of granting variance**
- 53 One comment in favor of granting the variance provided by Steve Stephens in the audience (as a
- 54 very reasonable request)
- 55 e. **Comments from audience objecting to granting variance** – No objections
- 56 f. **Rebuttal by those in favor of variance** – No rebuttal
- 57 g. **Rebuttal by those opposed to variance** - No rebuttal
- 58 h. **Questions from members of the Appeals Board** Members of the appeals board queried the
- 59 Zoning Administrator on several aspects, including what assurance we have that Dan will build
- 60 the porch in keeping with the 1895 photo? Josh Mills answered, the board could set reasonable
- 61 conditions in their motion. Dan commented that he plans to build it as closely as possible to the
- 62 original look.
- 63 i. **Additional comments by Zoning Administrator** - None
- 64 3. **Close Public Hearing** - Wilkins closed the public hearing at **6:28 pm**
- 65 4. **Discussion by members of the Board**
- 66 The board held a detailed discussion weighing the implications of the zoning ordinance and the
- 67 extraordinary circumstances. Clarifying if our ordinance differentiates between a deck and a porch.
- 68 Conversations revolved around the existing set back line being non-conforming. There is only one other
- 69 structure on Steele Street that is more conforming than Dan's. Of the 30 notices sent out to neighbors,
- 70 the only responses were from 351 Crapo Street, located behind and around the corner from 303 Steele
- 71 Street. Josh Mills also imparted that Frankfort has changed its ordinance to a 14' setback, allowing
- 72 residents to put porches on their homes.
- 73 5. **Findings of Fact (Section 6.05)**
- 74 ZBA members went through each associated criterion to determine whether the request should be
- 75 granted or denied. Substantial consideration and voting on each section were conducted.
- 76 Criteria Applicable to Nonuse Variances are as follows followed by the votes of ZBA members:
- 77 a. Practical Difficulties: **All- Votruba, Holmes, Wilkins- Yes**
- 78 b. Substantial Justice: **All- Wilkins, Votruba, Holmes - Yes**
- 79 c. Public Safety and Welfare: **All, Votruba, Holmes, Wilkins- Yes**
- 80 d. Extraordinary Circumstances: **All- Votruba, Wilkins, Holmes- No**
- 81 e. No Safety Hazard or Nuisance: **All –Votruba, Wilkins, Holmes- No Safety Hazard**
- 82 f. Relationship to Adjacent Land Uses: **All- Wilkins, Votruba, Holmes- Yes**
- 83 6. **Motion to approve, disapprove or postpone action on the variance request**
- 84 Motion by Votruba, seconded by Wilkins to approve the variance request with the condition that it
- 85 resembles the 1895 photo presented by Dan Carter. Roll Call: Holmes- Aye, Votruba- Aye, Wilkins- Aye
- 86 Motion carried unanimously.
- 87 7. **Any other business to come before the Zoning Board**
- 88 No additional business was raised or discussed.

89 **Adjournment**

90 6:41 pm by Holmes

91 *Draft minutes prepared and posted by*

92 *Rachel Perkins, Village Clerk*

93

94

95

96

97

98

99

100

101

102

103

104

105

106

107

108

109

110

111

112

113

114

115

116

117

118

119

120

121