

VILLAGE OF EPHRAIM

FOUNDED 1853



EPHRAIM BOARD OF APPEALS MINUTES **Thursday, June 15, 2017, 4:00 p.m.** **Village of Ephraim Office – 10005 Norway**

Present: Chair-Karen McMurtry, Debbie Eckert, Diane Kirkland, Sara Glenn

Staff: Brent Bristol-Administrator

Guests: Paul Lynch, Walt Fisher, Michael McCutcheon

1. **Call to Order:** Meeting called to order by chair McMurtry at 4:00 P.M.
2. **Quorum:** A quorum of the Ephraim Board of Appeals is present for this meeting.
3. **Compliance with open meeting law and public notice requirements**
Bristol confirmed that the agenda was posted in accordance with open meeting law and that public notice requirements have been met.
4. **Changes in Agenda:** None.
5. **Announcement of Proceedings:**

Chair McMurtry read the Announcement of Proceedings Role of the Board

The Village Board of Appeals is an appellate board required by state law in any municipality that has adopted a zoning ordinance. The board does not have authority to amend or repeal any provision of the zoning ordinance. Its authority is limited to appeals regarding interpretations of ordinance provisions, and considerations of variances. The board functions like a court. Its purpose is to give a full and fair hearing to any person whose property interests are affected by these matters. Its job is to apply the zoning ordinance and appropriate legal standards to the facts of each case. The board meeting and public hearings are open to the public. A taped recording is being made of the proceedings.

Appeal of the Board Decisions

A decision of the board may be appealed by commencing an action in the circuit for this county within 30 days after the date of filing of the decision in the office of the board.

Instructions for Witnesses

Anyone wishing to speak should wait until called upon as a witness; address your comments and questions to the chair and state: Your name and place of residence, your qualifications to speak on this matter, the source of your information, and whether you favor, oppose, or are only providing information in this matter and your concerns.

6. Jeff Dickenson – 3014 Anderson Lane – Variances from 15' side setback
Public Hearing opened by Chair McMurtry. The notice was read into the record.

This is case number 141, notices were sent out June 2, 2017 and the hearing date is June 15, 2017.

The subject property, parcel #121-01-13312731J, is owned by Jeff and Kathy Dickenson and located at 3014 Anderson Lane. The property is zoned R-1, the lot is approximately 1.1 Acre in size.

The building in question is currently in the process of being renovated and existing decks are being repaired/replaced. The proposed addition/alternation to this structure is considered new construction and is subject to the current setbacks. As a part of this renovation the applicant desires to add a new attached screen porch/deck/gazebo on the west side of the structure. This work as planned does not meet the 15 foot side yard setback per 17.24(1) of the village code of ordinances. The project is subject to the setback restriction because it is a physical projection from the principal structure..

A regular zoning permit cannot be issued because the proposed construction is not in compliance with the village ordinance as it applies to dimensional standards for setbacks.

The Dickenson's are requesting a 4 foot variance from 17.24(1) to encroach on the 15 foot side setback.

There was clarification that there were no site inspections.

Statement by the Applicant

Dickenson explained in his application that he was respectfully seeking an area variance from the Village of Ephraim in order to site a screened-in deck approximately 3-4 feet inside the 15 foot set back limit on the east border of their property.

The house is situated approximately 26 feet from the property line. They are requesting variance for two reasons:

The access from the house is directly off the family room through large sliding doors. Their mother is no longer mobile and thus the access to the screened room needs to be as direct as possible to take advantage of this living space.

The placement is further complicated by the fact that the only access door to the foundation/crawl space is also directly off the family room. As a result the screened deck has to begin beyond this access appoint.

Accommodating both, the need for mobility and access to the foundation causes them to request the encroachment.

Compliance with the ordinance is prevented by the unique feature of the property; the property line runs parallel to the ridge top and is not uniform as it follows the contours of the ridge; 75 feet above the valley floor. The request is to site the screened room in a

flat and open part of the ridge line which blends in comfortably with the ridge top and existing trees. The proposed location would not unduly disturb the current vegetation or be unduly visible to neighbors on the valley floor.

The Dickenson's believe that the requested variance will not be contrary to the public interest. The proposed location for the deck and screened room is in the back portion of their one acre lot. The closest neighbors are approximately 100 yards from proposed deck and 75 feet below the site on the valley floor. Visibility of the deck will be shielded by mature trees growing along the ridge top and down the side of the slope.

Correspondence:

Bristol reported that there was no related correspondence received in regard to this matter.

It was confirmed that there was no ex parte communication.

Witness or Visitor Statements:

Brief discussion between audience member and zoning administrator about permitting process.

Glenn asked if there was any other location where the gazebo could go and still be functional. Paul Lynch, project contractor, explained that there are many places where the screened deck could go but they wanted to make it most accessible to their mother.

Kirkland questioned if the gazebo part could be moved back 4 feet to meet the 15 foot side setback. Lynch stated that it could not be moved back because the only access door to the foundation/crawl space is directly off the family room. As a result the screened deck has to begin beyond this access appoint.

Public Hearing Closed by Chair McMurtry

Findings of Fact:

The Zoning Administrator Bristol filled in the statistics of the property on the findings of fact form. This is an area variance under section 17.24(1) of the ordinance.

Conclusions of Law:

Unnecessary Hardship:

Kirkland believes that shape of the gazebo could be changed or it could be moved to other places on the property. Kirkland went on saying that she does not see a problem as far as public interest; neighbors and public in general.

Glenn agreed with Kirkland and also believes that there is enough space on 1.1 acre land to build the gazebo that would meet the setbacks. The zoning ordinances in place have to be upheld, added Glenn.

McMurtry noted that this is not a living space but deck and gazebo.

Eckert agreed what was said regarding this matter. The setbacks are there for a reason and gazebo should be moved where setbacks are met.

Members of the Board of Appeals stated that there is not unnecessary hardship present in that a literal enforcement of the terms of the Ordinance would not be burdensome to the applicant because the applicant could change either the shape or the location of his project and meet the Ordinance. Furthermore, there is use of the property without it.

The hardship is due to physical limitations of the property rather than the circumstances of the appellant because there are no physical impediments on the property that will prevent the project to go to other places.

Members of the Board of Appeals agreed that variance will not be contrary to the public interest and would not pose as a threat to the public safety. However, it would not secure and observe the spirit of the ordinance without upholding the setback.

Motion per Kirkland to deny the requested variance without any conditions/mitigations from the Board of Appeals, seconded by Eckert; Kirkland – aye, Glenn – aye, Eckert -aye, and McMurtry –aye, and motion carried.

7. Adjournment

Motion per McMurtry to adjourn the Board of Appeals meeting at 4:26 P. M., seconded by Kirkland, and motion carried.

Recorded by,
Andrea Collak - Clerk/Treasurer