

**Clearwater Township  
Zoning Board of Appeals  
Special Meeting of May 22, 2024  
As approved October 14, 2024**

**Call to Order, Pledge of Allegiance:**

Vice-chair Kurt Cox called the meeting to order at 7 pm, and opened with the Pledge of Allegiance.

**Roll Call of Members and Recognition of Visitors:**

Commissioners present: Seefried, Cox, Gerlach, Casassa, Alternate Schurman.

Chair Snyder recused himself due to possible perceived conflict of interest as he is a neighbor.

Township officials: Zoning Administrator John West, Planning Commission Chair Packer.

Public: Dale Harbour, Allan A. Cogan, Paulette Cogan

**Approval of Agenda:**

Motion by Casassa, second by Gerlach to accept the agenda as presented. Motion carried

**Call for Disclosure of Conflicts of Interests:**

All members of the board declared no conflicts of interests.

**Approval of Minutes:**

Motion by Seefried, second by Cox to accept the minutes of January 8, 2024, as written.

**Planning Commission Report:**

In February, a land use permit was granted to Mr. Copeland for a 40'X 80' storage warehouse at 7069 Rapid City Road, Rapid City, MI.

Property at 7726 Rapid City Road was rezoned from Village Commercial to Commercial Light Industry. This property is approximately 300' from current Commercial Light Industry

March meeting began discussion of our Noise Ordinance #29, section 6. b. The Commission suggested and sent to the board the addition of the following sentence: Each offense verified by a designated enforcement official shall constitute a separate violation.

In April the Lamar request for a Special Use Permit for a secondary residence at 7125 Gillett Rd NW was approved. Discussion and planning for the update of the Master Plan began with an emphasis on water quality and residential environmental quality.

May 2024 was Tina Field Norris's last Planning Commission meeting ending 22+ years of remarkable service for Clearwater Township. A land use permit for 6915 Rapid City Rd was approved for Alex Leuter to add on to existing storage units.

**Scheduled Variance Hearing:** Dimensional (Non-Use) Variance on property of 8283 Aarwood Trail NW, Rapid City, MI, parcel tax ID #40-004-776-005-0.

Vice-Chair Cox summarized the procedures to be followed during this hearing. He explained that a time limit may be imposed on individual speakers so that everyone has an opportunity to speak. He stated that comments were to be addressed to the Chair. The sequence is 1) the applicant presents his

case; 2) the Zoning Administrator presents his report; 3) those in support speak; 4) those in opposition speak. The open meeting is then closed and the ZBA members begin their deliberations.

The applicant, Allan Cogan, began by explaining their desire to add living space to the existing structure of their home on 8283 Aarwood Trail NW. They would like to add a bedroom on the main floor. Inspection of the crawl space found the floor joists failing due to years of exposure to excessive moisture. Because of an existing garage, driveway and the building's current septic system, the applicant does not feel able to comply with the 50' set back requirement. Mr. Cogan shared an attractive architectural drawing of the proposed west side of the structure, all 20' from the river.

Dale Harbour is a neighbor living on Aarwood Trail. He understood the local set back ordinance but did not feel the additions to the current structure would be a serious problem.

ZBA members engaged in discussion with the Cogan's regarding the potential use of the depth of their lot which is 385' deep. Time was spent by the board explaining Ordinance #22, Article VII, section 8.01 through 8.08, which covered destruction, reconstruction, maintenance, repair and enlargement of Non-Conforming Structures. Cogan's home is a non-conforming structure that was "grandfathered in" years ago.

The Public Hearing was closed at 7:38pm.

Vice Chair Cox then began the Standards For Review. He read the opening paragraph.

The standards for review are intended to ensure that variances are granted in only those circumstances where truly unusual conditions are present on a property. The applicant must prove that a unique aspect of the property itself creates a practical difficulty in complying with the ordinance and must provide evidence that all of the following conditions exist to establish the practical difficulty.

#### **Standard A**

The property is subject to exceptional or extraordinary circumstances or conditions that do not apply generally to other properties in the same zoning district (e.g., unique dimensional, topographical, and/or structural conditions) thus presenting the possibility of a practical difficulty.

Seefried	NO	There are no extraordinary conditions of this property to prevent enlarging the structure within Ordinance #22 requirements.
Cox	NO	Agreed, no exceptional condition of the property that would prevent compliance with Ordinance #22
Schurman	YES	Current position of the structure, driveway and creek make compliance difficult.
Gerlach	NO	The dimensions of the property provide more than adequate space to build within Ordinance #22 regulations. There is no presence of conditions that would present a practical difficulty
Casassa	NO	The property itself does not create a practical difficulty for adding on to the current structure. There is significant space within the dimensions of the lot to add on or rebuild while in compliance of the township's ordinances.

**Standard A is not met.**

#### **Standard B**

The requested variance is necessary to alleviate a condition which qualifies as a practical difficulty; i.e., without the variance the owner is deprived of a minimum practical legal use of his/her property such as is possessed by residents of other properties in the same zoning district.

Seefried	NO	Because the property has no condition that qualifies as a practical difficulty, the owner can build on the property the same as other properties in the same zoning district, within Ordinance #22 guidelines.
Cox	YES	The structure was grandfathered in because it was built years before the Township Ordinances were adopted. The building creates a practical difficulty where it sits so the owner should be allowed a variance to build.
Schurman	YES	There are other properties built less than 50 feet from the river and grandfathered in. They have been able to use their property and in fairness Alan and Paulette Cogan should have the same opportunity.
Gerlach	NO	There is adequate space within the owner's property to modify the size of the current structure while observing Ordinance #22 front and side setback requirements. There is no condition presenting a practical difficulty.
Casassa	NO	The property does not present a practical difficulty therefore a variance is not warranted.

**Standard B is not met.**

#### **Standard C**

The requested variance is the minimum variance necessary to mitigate the condition on which the claim of practical difficulty is based.

Seefried	NO	The property has no evidence of practical difficulty.
Cox	NO	
Schurman	NO	There is no unique condition of the property that calls for a variance. The property presents no practical difficulty to repair or enlarge the current structure.
Gerlach	NO	Examination of the property reveals no dimensional or topographical condition that creates a practical difficulty so a variance is not fitting.
Casassa	NO	Because the property presents no practical difficulty a variance is not appropriate.

**Standard C is not met.**

#### **Standard D**

The condition on which he/she bases the claim of practical difficulty was not created by any action of the current property owners.

Seefried	YES	All ZBA members agreed the current structure was built years before the Township Ordinances were adopted and the current owners were not involved then.
Cox	YES	
Schurman	YES	
Gerlach	YES	
Casassa	YES	

**Standard D is met.**

**Standard E**

The requested variance will not be detrimental to adjacent property and the surrounding neighborhood.

Seefried NO

The ZBA members were in general agreement that to grant a variance would be detrimental to the community because it would weaken the importance of the setback restrictions and future implementing of them. This ordinance was adopted to help protect our lakes, rivers and streams and for ZBA members to apply it.

Cox NO

Schurman NO

Gerlach NO

Casassa NO

**Standard E is not met.**

The variance request is denied.

Vice-Chair Cox will complete the decision form and submit it to the Clerk.

**ZBA members present New/Old items for discussion:**

It was unanimously agreed to table new and old items for discussion until the July 8, 2024 meeting.

The next regular meeting of the ZBA will be July 8, 2024.

Meeting closed at 8:17 pm.

Respectfully submitted,  
Gianine A Casassa  
Clearwater Township  
ZBA Secretary