

FINDINGS OF FACT AND CONCLUSIONS OF LAW
Village of Ephraim Zoning Board of Appeals

Findings of Fact

Having heard the testimony and considered the evidence presented the Board finds the following facts:

Case No. 157
Filing Date. 5/8/2024
Notice Date. 8/12/2024
Hearing Date. 8/22/2024

1. The applicant or appellant is (name and address)
Pamela Mache et al, 9859 Hoganson Lane, Ephraim, WI 54211
2. The applicant or appellant is the owner of the following described property which is the subject of the application or appeal: **121-01-24312723X**, Village of Ephraim, Door County, known as (street address): **9859 Hoganson Lane.**
3. The property is presently in use as. **Single-family residence/zoned R1**
4. The property includes a nonconforming structure/use described as:
5. The property has been the subject of a prior appeal/variance/conditional use described as: **N/A**
6. The applicant or appellant proposes: **A 12' variance from the 40' front yard setback minimum.**
7. The appellant requests:
 - an appeal of the Zoning Administrator's determination
 - a use variance
 - an area varianceunder Section **17.17(s)(a)** of the ordinance.

The features of the proposed construction and property that relate to the grant or denial of the appeal are (language/standards of the ordinance in question): **The proposal is for the construction of a new entry deck with an overhead metal awning. This new proposed work does not meet the 40' rear setback and requires a 12' variance. The deck is a replacement for the existing but is 18" larger to the East and 12" larger to the South.**

CONCLUSIONS OF LAW

Based on the above findings of fact, the Board concludes that:

Variance – the variance (does/does not) meet all three of the following tests:

Unnecessary hardship

- For an area variance, unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions unnecessarily burdensome. The Board of Appeals must consider the purpose of the zoning restriction, the zoning restriction's effect on the property, and the short-term, long-term, and cumulative effects of a variance on the neighborhood, the community, and the public interests. This standard reflects the new *Zievogel* and *Waushara County* decisions.
 - For a use variance, unnecessary hardship exists only if there is no reasonable use of the property without the variance.
- A. Unnecessary hardship (**is/is not**) present in that literal enforcement of the terms of the Ordinance (**would/would not**) be unnecessarily burdensome to the applicant because **the current deck is not to code and is unsafe.**
- B. The hardship (**is/is not**) due to physical limitations of the property rather than the circumstances of the appellant because **the location of the house and entry porch is within the setback.**
- C. The variances (will/**will not**) be contrary to the public interest and will observe the spirit of the ordinance, secure public safety, and welfare, and do substantial justice, because **this improvement is not harmful to anyone, and it aesthetically improves the structure. It will have no impact on traffic. It will provide unnecessary safety. It will make the appearance more pleasant.**

ORDER AND DETERMINATION

Based on the above findings of fact, conclusions of law, and the record in this matter, the Board orders:

~~Appeal/Interpretation – the Zoning Administrator's order/interpretation of the Zoning Ordinances or map is (affirmed/modified/reversed) and the administrator is ordered to:~~

Variance – the requested variance is denied/**granted**/granted-in-part) subject to the following conditions/mitigation:

- 1.
- 2.
- 3.

Unless denied, the Zoning Administrator is directed to issue a Zoning Permit incorporating these conditions and certifying by the petitioner/applicant's signature that he/she understands and accepts the conditions.

Expiration of permit. Any privilege granted by this decision must be exercised within ____ months of the date of this decision after obtaining the necessary building, zoning, and other permits for the proposed construction. This period will be extended if this decision is stayed by the order of any court or operation of law.

Revocation – This order may be revoked by the Board after notice and opportunity to be heard for violation of any of the conditions imposed.

Appeals – This decision may be appealed by a person aggrieved by this decision or by any officer, department, board, or bureau of the municipality by filing an action in certiorari in the circuit court for this county within 30 days after the date of filing of this decision. The municipality assumes no liability for and makes no warranty as to the reliance on this decision if construction is commenced before the expiration of this 30-day period.

ZONING BOARD OF APPEALS

Signed _____
Chair

Attest _____
Clerk

Dated _____

Filed _____