



Zoning Board of Appeals Staff Report

Sylvan Township
18027 Old US 12, Chelsea, MI 48118
734-475-8890

AGENDA ITEM: 946 Ridge Court



TO: Zoning Board of Appeals (ZBA)

FROM: Zoning Administrator

HEARING DATE:

July 21, 2021 [revised and resubmitted August 25, 2021](#)

SUBJECT: Variance

PROJECT SITE: 946 Ridge Court
Chelsea MI. 48118

**APPLICANT/
Owner:** Andrea Miller/ Glen Grassley
946 Ridge Court

Chelsea, MI 48118

AGENT: Scott McElrath
Dangerous Architects
Chelsea, MI Chelsea, MI
48118

STAFF Carol Konieczki

REFERENCE: Zoning Administrator

PROJECT: Consideration to rebuild the existing structure. The lot does not comply with the 1 acre lot area requirement (Section 30-841). Lot width required is 150 feet
South lakefront 25.87; North roadside width 48.83; West 172 ft. length; East 158 ft. length = 7,003.31 sq.ft.= .16 Acres

- 1 Non-conforming lot size, non-conforming lot width less than 150 feet.
- 2 Variance required for rear yard setback from 49 feet 6 inches to ~~31 feet 9 inches~~ [35 feet 1 inch](#).
- 3 Variance required for front yard (lakeside) setback due to unapproved deck ~~49 feet 11 inches~~, front yard required 50 feet. [Survey does not indicate front yard setback.](#)
- 4 Variance required for west side yard setback-existing house is 3 feet 2 inches on survey; 2 feet 8 inches for existing house on site plan with proposed new garage at ~~3 feet 1 inch~~. [3 feet 5 inches](#) (Ord. requirement 20 ft.)
- 5 Variance required for east side yard setback-existing house 6 feet 8 inches-proposed ~~6 feet 10 inches~~ [6 feet 11 inches](#). Unapproved deck setback not defined. (Ord. requirement 20 ft.)
- 6 Variance for Lot Coverage: existing 18.05% to ~~23.3%~~ [22.42%](#)
- 7 Variance for Floor to Area Ratio: existing 18.05% to ~~30.9%*~~
~~*see notes in Table 2 different than application of 29.33%~~ [28.8%](#)

ZONING: LR-Low Density Residential

LOT SIZE: Small nonconforming lot

.16 Acres = 7,003.3 sq. ft.

PROPERTY TAX #
F-06-08-207-007

COMMISSION MEMBERS RESIDING WITHIN 500 FEET OF SUBJECT PROPERTY: None

Project Description

Variance request for front, rear and side yard setbacks, lot coverage and floor area ratio. Renovation of existing structure, and addition of second story and attached two car garage. The property is not a lot of record; it is a lot that was amended when the road was relocated. It is identified as an amended lot of the platted Woodland Park Subdivision.

Table 1

Areas	Existing Square Footage	New Square Footage	Total Square Footage
Main Residence Main Level w/ stairs and mudroom: Garage 2 nd floor Shed to be removed Uncovered / unapproved deck	1,014 ** N/A (sq.footage is not provided)	1009.6 375.5 631.9 649 Dimensions not provided	1009.6 1,014 ** 375.5 533 631.9 649 Dimensions not provided
Total Square Footage:	1,014 does not include unapproved porch and shed	1,152 (does not include attic space above first floor living room, bedroom, and sitting room)	2,166** 2,017.0 (does not include attic space above first floor living room, bedroom, and sitting room)

The uncovered deck is not included in the square footage calculation for floor to area ratio or lot coverage, but is included to determine setback calculation.

***Sylvan Townships Zoning Ordinance
Sec. 30-2. - Purposes.**

This chapter has been established for the purposes of:

- (1) Promoting and protecting the public health, safety and general welfare;
- (2) Protecting the character and the stability of the agricultural, recreational, residential, commercial and industrial areas within the unincorporated portions of the township and promoting the orderly and beneficial development of such areas;**
- (3) Providing adequate light, air, privacy and convenience of access to property;
- (4) Regulating the intensity of use of land and lot areas and determining the area of open spaces surrounding buildings and structures necessary to provide adequate light and air and to protect the public health;**
- (5) Lessening and avoiding congestion in the public highways and streets;
- (6) Providing for the needs of agriculture, recreation, residence, commerce, and industry in future growth;
- (7) Promoting healthful surroundings for family life in residential and rural areas;
- (8) Fixing reasonable standards to which buildings and structures shall conform;**
- (9) Prohibiting uses, buildings or structures which are incompatible with the character of development or the uses, buildings or structures permitted within specified zoning districts;**
- (10) Preventing such additions to or alteration or remodeling of existing buildings or structures in such a way as to avoid the regulations and limitations imposed hereunder;**
- (11) Protecting against fire, explosion, noxious fumes and odors, heat, dust, smoke, glare, noise, vibration, radioactivity, and other nuisances and hazards in the interest of the public health, safety, and general welfare;
- (12) Preventing the overcrowding of land and undue concentration of buildings and structures so far**

as is possible and appropriate in each zoning district by regulating the use and bulk of buildings in relation to the land surrounding them;

(13)Conserving the taxable value of land, buildings, and structures throughout the unincorporated portions of the township;

(14)Providing for the completion, restoration, reconstruction, extension or substitution of nonconforming uses;

(15)Creating a zoning board of appeals and defining the powers and duties thereof;

(16)Designating and defining the powers and duties of the official in charge of the administration and enforcement of this chapter;

(17)Providing for the payment of fees for zoning permits; and

(18)Providing penalties for the violation of this chapter.

Sec. 30-5 Definitions

(6)Yard measurements. Required yards shall be measured on a line that is perpendicular to a lot line to the face of a building or structure if the roof overhang or other projections is three feet or less, or to the outer edge of the roof or other projection if the overhang or other projection is more than three feet from the face of the building or structure. Required yards shall be measured in the preceding manner from the high water line of a body of water or a stormwater retention or detention basin or a wetland boundary, provided no part of a principal building or structure may be less than 25 feet from such high water line or wetland boundary.

Sec. 30-838. - Purpose and general intent.

Certain existing lots, structures and uses of lots and structures were lawful before this chapter was adopted, but have become nonconformities under the terms of this chapter and its amendments. It is the intent of this chapter to permit such nonconformities to remain until they are discontinued or removed, but not to encourage their survival or, where discontinuance or removal is not feasible, to gradually upgrade such nonconformities to conforming status. Nonconformities shall not be enlarged, expanded, or extended, except as provided herein, and shall not be used as grounds for adding other structures and uses of lots and structures which are prohibited. Nonconformities are declared by this chapter to be incompatible with the structure and uses permitted in the various districts.

Sec. 30-839. - Nonconforming lots of record.

(a)A principal structure and customary accessory structures may be erected on any single lot of record at the effective date of adoption or amendment of this chapter, notwithstanding limitations imposed by other provisions of this chapter. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirement other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the zoning board of appeals.

(b)If two or more lots or combinations of lots and portions of lots are contiguous and are in single ownership and are of record at the time of adoption or amendment of this chapter, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an individual parcel for the purposes of this chapter, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this chapter, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this chapter.

(Comp. Ords. 1994, § 15.842; Ord. No. 1, § 57.02, 8-19-1974; Ord. of 5-15-1980)

Sec. 30-841. - Nonconforming structures.

(a)A nonconforming structure shall be a structure which was lawful on the effective date of adoption or amendment of this chapter and which does not conform to the new chapter regulations for lot area, lot area per dwelling unit, lot width, lot coverage, floor area ratio, height, transition and landscape strips, off-street parking, loading space, and yard requirements of the zoning district in which it is located.

(b) A nonconforming structure may continue after the effective date of adoption or amendment of this chapter. A nonconforming structure which is damaged by any means to an extent of more than 50 percent of its replacement cost shall not be reconstructed except in conformity with the provisions of the district in which it is located, unless the lot is a nonconforming lot of record, in which case [section 30-840](#) will apply. Any structure which is damaged to an extent of 50 percent or less of its replacement cost may be replaced in its location existing prior to such damage, provided such replacement is commenced within three years of the date of damage and is diligently pursued to completion. Failure to complete replacement shall result in the loss of legal, nonconforming status.

(c) A nonconforming structure which is moved within a site or to another site shall thereafter conform, after it is moved, to the regulations of the district in which it is located.

(d) Expansion. Nonconforming structures may be expanded in compliance with the following regulations:

(1) Nonconforming buildings used in farm operations may be expanded if approved by the township zoning inspector subject to the following requirements:

a. Farming shall be a permitted use and the intended use of the structure shall be a permitted use in the district in which it is located.

b. The expansion shall meet all requirements of the zoning district in which it is located. The existing structure and the expansion shall not exceed the ground floor coverage or floor area ratio limits of the district in which they are located.

(2) A single-family detached residential dwelling unit and accessory buildings may be expanded if approved by the zoning inspector, subject to the following requirements:

a. The single-family residence shall be a permitted use in the district in which it is located.

b. The expansion shall meet all yard requirements of the zoning district in which it is located.

(3) All other nonconforming structures, in any zoning districts, may be expanded only after approval by the zoning board of appeals, as provided in [section 30-845](#).

(e) A nonconforming structure may be altered to decrease its nonconformity.

Sec. 30-843. - Alterations and repairs.

Except as provided in sections [30-841](#) and [30-842](#), alteration or repair work may be done on a nonconforming structure containing a nonconforming use in any period of 12 consecutive months to an extent not to exceed ten percent of the replacement cost of the nonconforming structure at the time of the repair, provided that the floor area or volume of such building, or the number of families housed therein, or the dimensions, height, or number of stories of such structure as it existed on the date of adoption or amendment of this chapter shall not be increased. No other alterations or repairs shall be permitted unless the structure or use is made to conform to all requirements of this chapter. A nonconforming structure or portion thereof, or a structure or portion thereof which contains a nonconforming use and which has structurally deteriorated to an extent that it has been condemned by a duly authorized official, and the cost of repair to meet standards for occupancy exceeds 50 percent of the structure's replacement cost, shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.

Sec. 30-845. - Expansion and substitution.

(a) Where the zoning board of appeals is required to determine whether a nonconforming structure may be enlarged, expanded, or extended, the following provisions shall apply:

(1) The reasons for a nonconformity shall be limited to minimum lot area, lot width, required yards, off-street loading and parking requirements, and transition or landscape strip requirements. In no case shall a structure that is nonconforming because of lot coverage, floor area ratio, lot area per dwelling unit, or height requirements be permitted to expand without removing the nonconformity, except as permitted under a variance.

(2) The existing and proposed uses of such buildings and structures shall be permitted in the district in which they are situated.

(3) The proposed improvement shall conform to all requirements of the district in which it is situated.

(4) The board of appeals shall determine the following in approving a request:

a. That the retention of the nonconforming structure is reasonably necessary for the proposed

improvement or that requiring removal of such structure would cause undue hardship;
b. That the proposed enlarged or otherwise improved nonconforming structure will not adversely affect the public health, safety and welfare; and
c. That the proposed improvement is reasonably necessary for continuation of the use on the lot.

(5) The board of appeals shall have authority to require modification of the nonconformity, where such requirement is reasonable, as a condition for approval. The board of appeals may attach other conditions for its approval which it deems necessary to protect the public health, safety, and welfare.

(6) All expansions permitted under this section shall meet all requirements of article II, division 2 of this chapter, if a site plan is required. The site plan may be a final site plan and shall be first reviewed by the planning commission. Upon completion of its review, the planning commission shall transmit the site plan and a summary of its review to the zoning board of appeals. The board of appeals shall then act upon the request and return the site plan and the board's findings on the request to the planning commission for its action on the site plan.

(b) A structure which does not conform to zoning chapter regulations shall not be substituted for, or replace, any conforming or nonconforming structure.

(c) A nonconforming use of a structure may be substituted for another nonconforming use upon permission of the board of appeals, provided that no structural alterations are made, and provided further, the board of appeals finds that such other nonconforming use is more appropriate than the existing nonconforming use in the district in which it is located. The board of appeals may require appropriate conditions and safeguards in accordance with the intent of this chapter. A nonconforming use, when superseded by a more appropriate use as provided in this subsection, shall not thereafter be resumed.

Please see the following development review compliance table:

Table 2: Development Review Compliance Table

Minimum Setbacks	Required	Existing	Proposed	Request for Variance or ✓ = compliance
(SE) Front (lakeside):	50 ft.	49.11 ft	49.11 ft 50ft	Variance - existing unapproved lakefront deck
(NW) Minimum Side:	20 ft.	3.2 ft. (survey)	2.8 ft 3.5 ft	Variance
(SW) Minimum Side:	20 ft.	6.8ft.	6.8ft 6.11ft	Variance
(E) Rear:	35 ft.	49.6 ft	31.9 ft. 35.1	Variance
Height:	2 story or 35'	2 story	2 story house – 25 23.5 feet to peak	✓
Criteria/Regulation	1 acre	.16 acres	unchanged	Amended plat lot Nonconforming lot
Floor Area Ratio *Includes existing unapproved porch and shed	20% of Lot Size	18% * 1,264* sq.ft./7,003sq.ft.=18%	30.9%** 28.8% 2,166 sq.ft./7,003sq.ft.=30.9% 2,017 sq ft/7002sq ft = 28.8%	Variance
Lot Coverage *Includes existing unapproved porch and shed	20% of Lot Size	18%* 1,264 sq.ft./7,003sq.ft.=18%	22% 22.42% 1,547sq.ft./7,003sq.ft.=22% 1,570.4/7,003sq ft = 22.4%	Variance

** ~~First floor Main flo 1,014 sq ft~~ Sheet T-1 / 901.47 sq ft sheet: Sheet A-1 = discrepancy of 112.53 sq. ft.

~~Dimensions/sq. footage for existing first floor not provided.~~

~~New garage 368 sq ft~~

~~Stairs and mudroom 165 sq. ft.~~

~~**Total first floor 1,547 sq. ft.**~~

Second floor New Master Bdrm	176.3 sq. ft.
New Master bath	98.8 sq. ft.
New Office	115. sq. ft.
Hall, stair, closets	229.12 sq. ft.
Total second floor	619.22 sq. ft.

1,547 sq. ft. + 619.22 sq. ft. = 2166.22 / 7,003 sq. ft. (lot size) 30.9% FAR

This calculation does not include the accessible attic space square footage above the first floor living room, bedroom and sitting room.

Staff has reviewed the project for compliance with the quantitative criteria of the Township Ordinance and finds it does not meet the setback standards. Furthermore, the increase in the total volume and bulk of the structure is significantly greater than what currently exists on the site, there is a 46% increase on a lot that is 7,003 sq. ft. The applicant is requesting variances to renovate the existing first floor, add a two car garage and mud room in addition to a second story of 619 631 sq. ft.

The lot is nonconforming, but it is not a lot of record since it has been reconfigured with the relocation of the road and amendment to the Woodland Park Subdivision.

Standards of Review

The Zoning Board of Appeal's (ZBA) decision in this matter is to be based on the findings of facts to support the following standards. Each applicable discretionary standard and guideline is in bold typeface followed by staff's analysis of the project as it relates to each respective standard and guideline when necessary. A variance may only be granted if the ZBA finds that all of the following requirements are met.

1 Special conditions and circumstances exist that are unique to the land, structures, or buildings involved, and are not applicable to other lands, structures or buildings in the same district. If such unique circumstances exist, that favors granting the variance.

The site is a nonconforming lot, but it is no longer a lot of record due to an amended Woodland Park Subdivision plat. The lot is very narrow and similar to other narrow lakefront lots. The applicant wishes to expand the livability of the existing structure by adding a garage and mudroom to the first floor and adding a second story with an accessible attic. The proposed NE side yard setback is shown as 2 feet 8 3 feet 5 inches on the site plan but is and indicated as 3 feet 2 inches on the survey. The rear yard setback which is the at the road meets does not meet the required 35 foot setback because the new garage encroaches into the rear yard setback and is quite close to the property line for the side yard setback which may impact structural maintenance.

2 The special circumstances and conditions on which the variance request is based do not result from the actions of the applicant. If the circumstances are not self-created, that favors granting the variance.

The lot is narrow and long; 25.87 ft. width at the lake and 48.83 ft. at the road. The principal structure is an existing non-conforming structure that has an unapproved porch and shed. The shed will be removed as will the porch. The proposed expansion to the house will create a much larger structure in bulk and volume on the small lot expanding the size by 46% of the existing structure and does not include the square footage of the interior accessible attic. No ceiling height for the attic has been provided.

The applicant is proposing a north east side yard setback that will further encroachment into the side yard from 3 feet 2 inches according to the survey to 2 feet 8 inches 3 feet 5 inches which is somewhat restrictive

to access the exterior of the structure to conduct regular building maintenance. The required side yard setback is 20 ft in the Low Density Residential zoning district.

3 Literal interpretation of this chapter would deprive the applicant of rights commonly enjoyed by other property owners in the same district under the terms of this chapter. If applicant would be deprived of rights given owners in same district that favors granting the variance.

It appears that literal interpretation of the chapter would be difficult to conform to because the property is a nonconforming lot; however, the proposed design of the new construction significantly increases the overall bulk and volume of structural improvements on the site ~~and creates a more nonconforming north east side yard setback than the existing structure.~~

4 Granting the variance requested will not confer upon the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the same district. If the variance would not confer special privileges on applicant, that favors granting the variance.

The lot is non-conforming in width and overall acreage. The variances requested by the applicant increase the non-conformity of structure in bulk, volume and rear and side yard setback beyond the existing nonconforming status.

5 The existence of nonconforming uses of neighboring lands, structures, or buildings in the same district; permitted or nonconforming uses of land, structures or buildings in other districts; and nonconforming structures, shall not be considered grounds for the issuance of a variance. If variance is not based on fact that there are nonconforming uses or structures in same district, then that favors granting the variance.

The applicant cannot change the width or size of the lot. While there are other nonconforming structures in this area, the applicant is increasing the encroachment into the rear yard and side yard setback with the principal structure and garage.

6 A variance granted must be the minimum variance that will make possible a reasonable use of the land, building, or structure. If request seeks the minimum variance needed to make a reasonable use of the land, then that favors granting the variance.

A residential use is a permissible use of the land, however, the proposed structural design increases the bulk and volume on the site; ~~the project encroaches into the rear yard required setback and further encroaches into the side yard setback.~~

7 The variance granted must be in harmony with the intent of this chapter and will not be injurious to the neighborhood, or otherwise detrimental to the public interest. If request would not injure neighborhood and not injure the public interest, then that favors granting the variance.

The ZBA may wish to consider if the overall size of this project is in keeping with the intent of this chapter and the neighborhood.

Staff Analysis:

- The new construction ~~will increase the encroachment into the north side yard setback and significantly~~ increases the overall bulk and volume of structural improvements on the site.
- The lakeside deck will remain and was constructed without ZBA approval or building permits.

Recommendation

Staff recommends the Board open the public hearing, take testimony, close the public hearing, evaluate the proposal for conformance with the applicable regulations, and (approve/deny) the application. The ZBA

should make the findings in the staff report and the finding stated during the ZBA's discussion on this project at tonight's hearing into their decision on this project.

1. Acknowledgment of non-conforming lot size less than 1 acres and less than 150 feet in width.
2. Approval of variance for N E. side yard setback Denial of variance for N.E side yard setback
3. Approval of variance for S.W side yard setback Denial of variance for S.W side yard setback
4. Approval of variance for deck front yard setback Denial of variance for lakeside front yard setback
5. Approval of variance for rear yard setback Denial of variance for rear yard setback
6. Approval of variance for lot coverage ratio Denial of variance for lot coverage ratio
7. Approval of variance for floor to area ratio Denial of variance for floor to area ratio

Findings of fact for each variance approval or denial: _____
