I. Call to Order

The meeting was called to order by Ketchum at 7:01 p.m.

II. Adopt Agenda

Mierle moved to adopt the agenda as presented. TenCate seconded the motion, which passed unanimously.

III. Approval of Minutes

Dela-Rosa-Pearn moved to approve the minutes of the October 27, 2022 meeting as presented. Mierle seconded the motion, which passed unanimously.

IV. Public Comment

A time for public comment was provided. There were no comments.

V. McCabe – Setback Variance – 18427 North Shore Estates Rd

Kathryn McCabe presented her request for a new garage. The existing garage has the laundry room, water heater and furnace in an unconditioned space. The garage would be rebuilt to allow for conditioned space for the laundry, to make the floor level with the front door and to lessen the driveway slope. The current garage door is 76 inches high, and the wheelchair van is 77 inches high. Also, the garage is not large enough for the van and an additional vehicle. The garage renovation is part of a larger project to make the first floor of the house accessible. Due to the shape of the lot and the path of the road, the setbacks are close to the house. The setback on the side abuts the beach access, which does not have a residence on it.

Postmus asked if the homeowners association has offered an opinion about the change. Hill stated the association has decided to allow the Township to make these decisions, as the association does not have the expertise. McCabe stated that is correct, and noted that she is secretary of the association.

Ketchum asked if the van could be backed into the garage. McCabe stated that was impractical, and it would take too long to deploy the manual ramp. She is concerned about carbon monoxide emissions.
Ketchum asked about pivoting the garage to the south. McCabe stated that would require the removal of mature trees and a retaining wall. Also, she believes that it would look odd on the house.

McCabe noted that the garage extension will still be 45 feet from the road. There was a catastrophic rain two years ago that flooded the road drain and caused erosion of the dune. Moving the garage will allow the driveway to be raised to minimize flooding. The floor of the garage will be about 1.5 feet lower than the road. Drainage will be added by the garage door. The association has upgraded their drain to allow the water to flow better.

Ketchum asked if there will be a slab or crawl space under the garage. McCabe said that will be determined with the final garage design, depending on cost.

TenCate asked how the wheelchair will enter the house from the garage. McCabe stated it can enter either to the front porch or to the mud room.

TenCate asked if the south wall could be moved further south. McCabe stated she is adding a window because the house is dark. Also, she wants seating on the front porch where it’s out of the wind. Therefore, she prefers to keep the garage location as presented.

TenCate noted that the house is already encroaching on the south side yard setback. This change will have the house encroaching on the north side yard setback, making the nonconformity worse.

Ketchum asked the location of the septic field. McCabe stated it is in the setback and access. She anticipates the health department will require that it be moved.

Postmus asked if a second floor is being added. McCabe stated it is, but the second floor will not be accessible. The main floor will be fully accessible.

Dela-Rosa Pearn asked if the house is considered nonconforming. Hill stated that a portion of the south side of the house is nonconforming.

The public hearing was opened at 7:34pm.

Kathy Labozzetta, 18450 North Shore Estates Rd, stated she is concerned about the change and the speed of the change. Everyone on the dune side of the street uses the access to access the beach. She is concerned nobody is considering the residents on the dune side. Every move closer to the access reduces the aesthetics. She would like no variance granted, as there is no hardship.

Two letters were received.

Tim and Barbara Hiller, 18415 North Shore Estates Rd, support the request.

Lynne Deur, 18332 North Shore Estates Rd, supports the request.

Hill clarified that the notices for the public hearing were mailed on November 10.

Motion by TenCate, support by dela-Rosa Pearn, to close the public hearing at 7:46pm. The motion passed unanimously.
Mierle asked if the corner of the garage could be moved to meet the setback. McCabe stated it could, but that would destroy the sitting area by the front door.

Mierle asked if the garage could be made narrower. McCabe stated that only one car could be parked in the garage if it is narrower. Most people have access to the house from the garage, and she wants a reasonable accommodation.

Ketchum stated he is concerned about the side yard setback.

Dela-Rosa Pearn stated the access to the beach is 25 feet wide, and the garage will not be infringing on the access.

TenCate stated he believes there is a way to redesign the garage to minimize the side setback issue. Looking at Section 335B, a nonconforming structure cannot be made more nonconforming.

Postmus stated they have spent four years considering the best option for them.

The Board considered the criteria. There was not agreement that there are exceptional or extraordinary circumstances or conditions, and whether the exceptional or extraordinary circumstances were self-created.

TenCate stated he would like to see a new plan that is less nonconforming.

Hill clarified that in the Township setbacks are measured to the eaves. What was presented considered the setback to the foundation, and the eaves will add another foot.

Motion by Postmus, support by TenCate, to approve a variance for the rear yard setback at 14 feet (6-foot incursion) as presented and to approve a variance for the side yard setback at 8 feet (2-foot incursion) at 18427 North Shore Estates Rd with the following conditions:

a. An as-built survey be supplied to the Township after the foundation is constructed (prior to framing) to ensure compliance with the site plan.

b. The applicant comply with all state, county and local laws.

c. The applicant will comply with all written and verbal representations.

A roll call vote was taken. With dela-Rosa Pearn as the only dissenting vote, the motion passed.

TenCate left the meeting at 8:28pm.

VI. Osterhaven – Accessory Building Authorization – 18809 N Fruitport Rd

Joseph Geelhoed, representing Jim Osterhaven, presented the request for an 864 square foot addition to the existing barn. Counting the waterfront accessory structure, the total accessory building area will be 1920 square feet in two buildings. The barn will have a gable added on the south side of the addition. Windows will be located on the north and south walls. Landscaping has been added on the south and east sides of the existing building. This request will meet the lot coverage standards. The soil is very sandy, so stormwater will be handled with gutters and downspouts.
Ketchum asked about the shipping container on the property. Geelhoed stated it was temporary until the new building is built. Hill stated that a zoning permit is required for shipping containers that are on a property for longer than about two weeks. Board members could consider it as part of the authorization.

Ketchum asked how the proposed red maples will fit in with the existing fir trees. Geelhoed stated they will integrate the new trees with the existing landscaping.

Dela-Rosa Pearn asked if there will still be equipment stored outside after the barn is expanded. Geelhoed stated the shipping container will need to be removed, and he is not sure if everything will fit inside the barn.

Mierle noted that when the authorization was granted for the attached garage in November of 2020, the conditions included that no additions could be made to the accessory building. Hill stated he reviewed the conditions of approval with the Township attorney, and the opinion was that the owner was able to make a new request.

Geelhoed stated that during the time the approval was tabled in October of 2020, the accessory building request was withdrawn. It was never denied.

Dela-Rosa Pearn asked if the 2020 decision was relevant to this decision. Hill stated it was relevant if the ZBA determined it was relevant.

The public hearing was opened at 8:51pm.

Alex Palladino, 18833 Legacy Point Dr, representing several owners in Legacy Point, stated that there has been a lot of construction since the new owner took possession. More concrete has been added, which reflects toward his house. He is concerned about additional construction and another large building. Water runoff has been a problem in the area. While they do not want another large building, they also do not like looking at the equipment sitting outside. They are a condo association and are responsible for the private road. Therefore, they are concerned about the construction equipment damaging the road.

Jeff Boot, Dan Vos Construction, stated that the items behind the barn will be moving inside after the barn is expanded.

Motion by Postmus, support by dela-Rosa Pearn, to close the public hearing at 8:58pm. The motion passed unanimously.

Hill stated that the Board could consider the oversized attached garage and the oversized accessory building as compared to the living space in the house. There should be a balance between the storage areas and the living areas.

The Board reviewed the criteria for an accessory building authorization. By consensus, the Board found that the area, height, and massing of the proposed accessory building were not consistent with other residential buildings in the area, including the house on the same lot.
Motion by Postmus, support by Mierle, to deny the accessory building authorization for failure to meet Condition 5, area height and massing, and because the previous approval for the oversized attached garage allows for additional storage.

A roll call vote was taken. The motion passed unanimously.

VII. Adjournment

Dela-Rosa Pearn moved to adjourn the meeting at 9:15pm with support from Postmus. With a unanimous vote, the motion passed.

Respectfully submitted,

George Postmus, Secretary
Zoning Board of Appeals