

**Cannon Township Zoning Board of Appeals  
Regular Meeting Held Tuesday, May 21, 2013 at 6:00 PM**

**Business Agenda Items:** ZBA 13-4 Mathew & Kristine Muldoon

The applicant appeals a decision under Zoning Ordinance section 15.03C2 (setback for URRA-1 of 450')

**Members Present:** Eslinger, Levan, McBrien (arrived at 6:13), Van Keulen, and Warmbier

**Members Absent:** None

**Staff Present:** Julie Lovelace, Zoning Administrator

The invocation was offered by Commissioner Warmbier.

**Motion to approve minutes from March 19, 2013 as written: Motion: Levan. Support: Warmbier  
Voice vote: Yes – 5, No – 0. Motion carried.**

**Public Comments:** None

**Pending Business:** None.

**New Business:** ZBA 13-4 Mathew & Kristine Muldoon

The applicant appeals a decision under Zoning Ordinance section 15.03C2 (setback for URRA-1 of 450')

**Public Hearing open 6:08 p.m.**

Mathew & Kristine Muldoon 3970 Dursum Ave Ada MI 49301.

The Muldoons reviewed their thoughts on the five standards as they apply to their property.

A) Exceptional/extraordinary circumstances. The entire house sits within the setback of 450'. The entire lot is nonconforming.

B) Unique Situation. The setback is on two sides of the property. There is an easement that runs down the side of the property. This easement does not allow them access to their own property. They tried in the past to build an unattached garage, but this was denied. The proposed attached garage is 26' x 40'. They have owned the house for 11 years.

C) Not self created. The lot was created and house was built prior to the ordinance. (McBrien arrived).

D) Substantial Justice. They are the only house on the street that does not have a garage. Eslinger asked if there were a lot of shots fired. They answered yes. The State Game Area does not allow target shooting, but they do.

E) Minimum Variance Necessary. They are asking for the opportunity to enjoy what their neighbors have. They are only asking for a 26' x 40' garage. They need storage. The proposed garage is 121' from Dursum on the west and 133' from the north property line.

**Public Hearing closed 6:21 p.m.**

**Board Comments:** Warmbier stated that this home was purchased six years after this ordinance was in place. He questioned whether or not a 26' x 40' garage is the minimum variance required. Eslinger questioned whether or not the dimensions on the blue print include the breezeway. They do. The garage would be approximately 27'4" x 20'. McBrien stated the theory behind the setback is that we do not want to lose the state game area by encroaching upon it. It was meant to protect the game area for future generations, but was not meant to control existing residences. He feels this is different than if someone wanted to build a new house in that setback. Warmbier stated that, if the overlay district were removed, the proposed garage would comply with RR setback. Levan stated that the garage would actually buffer the house from any hunting across the street.

Eslinger did not feel that we should question if the square footage is the minimum required. Other neighbors have much more. Warmbier suggests that this overlay should be reviewed by the ordinance review committee. He struggles most with the self-imposed standard because they bought the house with the ordinance in place. McBrien sees that differently. He thinks “self-imposed” would be something like someone taking an action that then limited them from enjoying something they now want.

**Motion to grant the Muldoon application for a dimensional variance to build a garage, subject to the site plan presented, with the understanding that the applicant has met all five standards, specifically as it relates to:**

- A) Extraordinary circumstance – there is a 450’ setback on two sides.**
- B) Unique situation - the location of the garage is not accessible from the north east side of the property.**
- C) Not self created - house built prior to the ordinance.**
- D) Substantial justice - several neighboring homes have garages and pole barns on their property within the setback.**
- E) Minimum variance necessary - applicant presented evidence that this is the minimum.**

**MOTION: McBrien. SUPPORT: Levan. Roll call: Eslinger - Yes, Levan - Yes, McBrien - Yes, Van Keulen - Yes, Warmbier - No. Motion carried 4-1.**

**Adjournment:** 6:58 p.m.

**Next Meeting:** TBA. No ZBA applicants for the next month.

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Julie Lovelace  
Zoning Administrator

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Wade Van Keulen  
Chair, Zoning Board of Appeals