

Milton Township
Zoning Board of Appeals
Regular Meeting
August 27, 2025
5:00 PM

7023 Cherry St. / Kewadin, MI

1. Call meeting to order
2. Pledge of Allegiance
3. Roll Call
4. Public Comment
5. Approval of Agenda
6. Election of Officers
7. Approval of Minutes dated July 15, 2025
8. Old Business
9. New Business
 - a) #2025-01 Mario and Annette Sciberras, 4557 N West Torch Lake Dr, Parcel Number 05-12-430-016-00, Appeal of Zoning Administrator's decision regarding dock length to allow for a 130 ft long dock. (Section 117.320 Item C. #2 General Regulations)
10. ZBA Member Comments
11. Report from Planning Commission Representative
12. Adjourn

Milton Township
Zoning Board of Appeals
July 15, 2025
Special Meeting

Agenda

Present: Chairman Anderson, Atkinson, Hefferan, Kopkau and Jankowski
Also present: Jackie Peterson and ZA Sara Kopriva, and one audience member.

1. Call Meeting to Order: Anderson called the meeting to order at 4:03 pm
2. Pledge of Allegiance
3. Roll Call
4. Public Comment: None
5. Approval of Agenda: Motion to approve the agenda by Hefferan/Atkinson. Motion carried.
6. Election of Officers
Hefferan nominated Anderson for Chair. Seconded by Jankowski
Hefferan nominated Jankowski for Vice Chair. Seconded by Kopkau.
Kopkau nominated Hefferan for Secretary. Seconded by Anderson.
Motion to approve all nominations by Kopkau/Hefferan
Roll Call:
Jankowski: Yes
Hefferan: Yes
Atkinson: Yes
Anderson: Yes
Kopkau: Yes
Motion carried 5-0
7. Approval of minutes dated February 26, 2025: Motion to approve the minutes by Hefferan/Jankowski. Motion carried. Kopkau abstained from the vote as he didn't attend the meeting in question.
8. Old Business: None
9. New Business: #2025-02 Steven and Ann Pearsall, 12172 S. West Torch Lake Drive, Parcel Number 05-12-006-015-00, 16 ft front yard variance from the required 50 foot setback (Section 117.603B)

Anderson explained the variance procedure to audience members.

Steve Pearsall asked a question and said they have a concrete pad. It's grade level. There are no footers. Would that be considered a preexisting structure? It's within a footprint of what we are asking for. Kopriva said you can't add volume or add additional space.

Steve Pearsall brought two boards showing the setbacks for the property. He said they have lost 81% flexibility on the lot. There is no way he can put another bathroom on the main floor of this house without a variance approval. After the last meeting we had a year ago, Kopriva recommended other ways to alleviate the problem. They spent money to bring the laundry up into the dining area. This further confines the kitchen area. The request is a 16 foot front yard variance from the 50 foot setback. The motivation is that his mother will be moving in with them and she cannot navigate stairs. They'd like to stay in the house and age in place, but if they can't they have to figure out where to go from there. Their insurance policy, if the house burns down, they cannot rebuild it. If they cannot rebuild it, what is the value of the property? The footprint is all non-conforming.

Doug Trozack, CPA for the Pearsalls spoke. He sees the taxes for his client. Steve brought up the idea to rebuild if there is a fire. But if he wants to sell the property, how would someone buy it if they can't get a mortgage because it's non-conforming. Trozack said you've taken his property from him with your ordinance. How does the township have jurisdiction to take private property and make it public property? The road could go anywhere on lot 13. The township can't dictate where it is. Lot 13 could have the private drive anywhere. Does the township say that private drive has to be there? How did the township get the right to dictate the right to that private drive. You've made his home non-conforming so it can't be sold.

Anderson asked it's a legal easement? Yes. But it doesn't say where it has to be. It can be anywhere on lot 13. Jankowski said it has to be 41 feet from the easement. Jankowski asked if you could move the easement? Pearsall said they don't own the easement. The three properties behind them own it. The deed said the people behind have the right to use the easement. The gravel happens to be here, but it can't be here? Anderson said we do not make the ordinance. Kopriva said the PC drafts the ordinance and she enforces it. The ZBA can provide relief. You're making a case that this lot needs a setback. Kopriva fully explained the structure of the township. If the home were to burn down, there are regulations within the ordinance to work on that. You're here to work on the current variance request.

Trozack asked if people in this township understand this ordinance. Kopkau said you must understand the property when you buy it. Mr. Pearsall said this is more of a problem of interpretation. When he applied for a building permit in 2020, which is within the footprint, it was approved and he got an occupancy permit. He assumed based on that fact, that in the future when he could afford to build the bathroom, it would be okay. That is when everything went south. Is it my fault that I didn't know this? Yes. If I knew it was a problem, I would have done something. I don't understand how I can go from being a homeowner with the rights I have to now being handcuffed and losing the vast majority of the value of my property. Anderson said our hands are tied on the dimensional regarding the ordinance. We cannot change the ordinance. I see what you are saying, but that is out of the scope of what we can do for you here.

We've been coming to the realization that this is bigger than the dimensional variance. I know you can't change the ordinance. We aren't alone. This is happening to more people than to just us. We are looking for some relief. Atkinson said going forward if there are other requests for variances, it would encourage the township to look at changing the ordinance. In all fairness to our applicants, most wouldn't know the setbacks changed due to the easements. Mr. Pearsall stated the title company didn't even understand how this ordinance impacted their property.

Anderson said there are certain protocol we need to follow. We must interpret the ordinance. If the ordinance is written in such a way that we cannot help you, you do have other options. You can file in circuit court. You can go to the planning commission and request a zoning change. Hefferan said the PC meets once a month. Trozack asked if the zoning board has jurisdiction over that piece of property. How did the township get to put an ordinance on private driveways. Hefferan asked if this is an easement or a driveway. It's an easement. The ordinance says there is a setback from that, according to Kopriva. With the application, we have to use the ordinance we have in place at the time. Hefferan said Kopriva is doing her job. If he was granted a building permit in 2020, it was issued in error. There is case law on this, and Kopriva is not obligated to continue case law for a decision made in error to move forward.

Letters in support:

Three letters were presented. Anderson read these letters. One is from Mark Anderson. The second letter is from Richard and Bronwyn Todd. A third letter was received in support from Jordan Barany.

No letters were received in opposition.

Trozack asked about another property owner and the three people behind were granted ingress and egress. How did the township take control of the situation? Anderson said we have nothing to do with jurisdiction granting the easement.

Those speaking in support: The applicants are in support of the variance request.

Those speaking opposed: None

Anderson closed the public comment period and began board deliberations.

Atkinson said this situation is very unique and it is not shared by any neighboring properties in the same zone. Granting this variance is the minimum necessary to permit reasonable use of this property. If there are no objections by their neighbors, then we should approve this variance. In the future, the township may need to take another look at the ordinance. It's not reasonable to have two or three 50 foot setbacks unless you're on a main road.

Regarding the standards of review, they meet all of the standards, according to Atkinson. Atkinson said she considers this a practical difficulty. Anderson asked if the 16 feet will

include the overhang? Steven said yes. Anderson said we go to the edge of the roof line and it will be no more than 16 feet? Yes.

Jankowski said this is difficult to deal with because of the setbacks that have eliminated the building envelope. 117.502B1 said you can't enlarge a non-conforming structure. However, strict compliance will result in practical difficulty and deny them use of their property. Will the variance render justice to the applicant? Yes, it does because it allows them to add this structure to their property. It doesn't encroach on anyone. The setback still remains. Is the plight of the applicant due to unique characteristics of the property? Yes. I've never seen this in any situation we've had. Has the need been self-created? No. The change of the ordinance did this. I'm in favor of granting the variance.

Kopkau said he visited the property and gone over the notes, I don't see where the 13 feet will do anything. I don't like granting a variance for a non-conforming lot, what about all the others. This ordinance changed in 2012 without your knowledge. Hopefully you've learned your lesson to stay more involved in your local politics. You live here and I encourage you to come to local meetings. The need for a variance is due to the unique characteristics of the property and it's not something they caused. He would vote to approve it.

Anderson said he walked the property also and it comes down to a safety issue and use of your property. This issue is not self-created. It was created by the ordinance change. If someone were to come back on the precedent, this is a very unique circumstance. He would be in favor of the variance request.

Motion by Hefferan/Kopkau to approve a 16 foot front yard setback variance and expansion of a nonconforming structure, requested by Steve and Ann Pearsall at 12172 SW Torch Lake Drive Rapid City, MI 49676, parcel number 05-12-006-015-00 to allow for a 16 foot by 13 foot addition to a single family dwelling based on the finding in section 117.2205 of the Zoning Ordinance. Motion carried.

10. ZBA Member Comments: Board members discussed when this decision will become legal and binding. Kopkau said it seems to me we set our meeting dates and it says Thursdays at 7 pm or as amended. I'd like to see us go back to having meeting dates and the idea that Sara puts out a meeting request. We all signed up for this job. If we have to amend it, then we should. Kopriva said we started doing meetings as necessary. Kopkau said we need more trainings or meetings to go over these things. Kopkau said he's not seen any updates on training. Atkinson said she recommends everyone read ZBA handbook by the Michigan Municipal League.
11. Report from Planning Commission Representative: None.
12. Adjourn: Motion to adjourn by Kopkau/Jankowski at 5:02 pm.

Date:

08.20.2025

From:

Sara Kopriva, AICP, Planner

To:

Don Anderson, Chair
MILTON TOWNSHIP ZONING BOARD OF APPEALS

Application No.:

ZBA 2025-01

Project:

4557 N West Torch Lake

Request:

Appeal zoning administrator decision regarding dock length to allow for a 130 ft long dock

Owner:

Mario and Annette Sciberras
4557 NW Torch Lake Dr | Kewadin, MI

I. OVERVIEW

General Description

The applicant is requesting approval from the zoning board of appeals to allow for a dock to be longer than the minimum requirements. The zoning ordinance allows for a dock to be 80 ft long or the minimum necessary to get to 4 feet of water. The applicant would like to allow for a longer dock to get to deeper water.

Existing Conditions of Subject Property	
Zoning	
R-1	
Existing Uses	
Single Family Residential	
Site Conditions	
Site contains single family dwelling. Shoreline protection strip in the process of being installed.	

Subject Property Location

Address	Parcel Number
4557 N West Torch Lake	05-12-430-016-00

Legal Description

COM AT INTER OF E W 1/4 LINE AND THE E LINE OF W TORCH LAKE DR, TH E 248.76 FT TO SHORE OF TORCH LAKE TH S 2 DEG 02' 30S W 194.63 FT FOR POB TH W 212.76 FT TO CEN LINE OF W. TORCH LAKE DR, TH S 21 DEG 23' E 107.33 FT ON SD CEN LINE, TH E 200 FT M/L TO SHORE OF TORCH LAKE, TH NLY ALG SHORE TO PT E OF POB, TH W 30 FT TO POB SEC 30 T30N R8W

Aerial Image



(Source: Antrim County)

Adjacent Zoning & Land Uses

Location	Zoning	Land Use
North	R-1	Single Family Dwelling
East		Torch Lake
South	R-1	Single Family Dwelling
West	R-1	Single Family Dwelling

117.320 Waterfront Property and Boat Dockage Regulations.

3. Dock Length. No dock shall extend more than eighty (80) feet into a body of water, measured perpendicularly from the shoreline, unless necessary to reach water with a depth of four (4) feet, and then no further than necessary to reach such depth. Docks on a river shall conform to DEQ requirements.

II. SUBMITTED APPLICATION MATERIALS

The table below present the items submitted with the application for the proposed project. These items have been reviewed in accordance with the processes set forth in the Zoning Ordinance.

Additional Documentation
Submitted With Application Packet
- Application for Hearing/Notice of Appeal - Site Plan

III. Notices

15 Day Deadline- August 12, 2025
Publication
Elk Rapids News- August 7, 2025
300 Foot Notices
Mailed August 8, 2025

IV. ZONING ORDINANCE REVIEW

No variance in the provisions or requirements of this Zoning Ordinance shall be granted or authorized unless the Zoning Board of Appeals makes findings, based upon competent material, and substantial evidence on the whole record that a practical difficulty exists that prevents compliance with the requirements of this ordinance. In reaching such a finding, the Zoning Board of Appeals must find that all of the following standards are met:

§ 117.2205 Variances	
Standard	Finding
a. That strict compliance with area, setbacks, frontage, height, bulk or density requirements of this ordinance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity unnecessarily burdensome;	
b. That the requested variance, or a lesser variance, would do substantial justice to the applicant as well as to other property owners in the district and give substantial relief and be more consistent with justice to others; provided, however, that existing non-conforming conditions on nearby properties shall not be regarded as a basis for granting a variance that would not otherwise meet the requirements of this section;	
c. That the need for the variance is due to unique circumstances characteristic of the property;	
d. That the need for the variance is not occasioned by the actions of the current and/or previous owners, and	
e. That the granting of the requested variance, or a lesser variance will insure that the spirit of the Ordinance is observed and public safety secured.	

V. RECOMMENDATIONS

Following the Zoning Board of Appeals review and public hearing, the ZBA may make a motion for approval, approval with conditions, or denial of the application.

RECOMMENDED MOTION

Motion to approve/approve with conditions/deny a dock variance to allow for a 130 foot dock, request by Mario and Annette Sciberras at 4557 NW Torch Lake Dr, Kewadin, parcel number 05-12-430-016-00, based on the finding in Section 117.2205 of the Zoning Ordinance.

Milton Township Zoning
Board of Appeals

APPLICATION FOR HEARING/ NOTICE OF APPEAL

PERMIT# _____

OWNER:

Name Mario & Annette Sciberras

Street 4557 N West Torch Lake

City: Kewadin

Telephone 313-268-2369

AGENT:

Name _____

Street _____

City _____

Telephone/FAX _____

Mailing Address
4557 N West Torch Lake, Kewadin Mi

I. ACTION REQUESTED:

I (we) the undersigned request a hearing for the purpose indicated below:

_____ Dimensional Variance
_____ Ordinance or Map Interpretation
_____ XXXXX, Appeal of Administrative Decision

The applicant/ appellant requests: A waiver due to safety concerns
Of dock to water depth on section 117.320 Waterfront Property Dockage
Regulations.

II. PROPERTY INFORMATION:

A. Property Tax Number 05-12-430-016-00

8, List all Deed Restrictions or attach deed: NONE

C. Attach a SITE PLAN, with the proposed location of the building, measurements,
and all other pertinent information. (See "Example: SITE PLAN attached ☐)

D. Give any special directions required to locate your property: _____

E. Present use of property is: Our Summer Home:

III. JUSTIFICATION FOR GRANTING A DIMENSIONAL VARIANCE:

The applicant must show that strict application of the provisions of the zoning ordinance to the property would result in practical difficulty: That the variance would do substantial justice to the applicant and other property owners affected. That the plight of the owner is due to unique characteristics, and, That the problem is not self-created.

- A. Will strict compliance with the requirements of the Ordinance result in *practical difficulty*, depriving the applicant use of the property for a permitted purpose enjoyed by other owners in the same zoning district? _____

Strict Compliance will cause "Practical and Safety Difficulty. I have nine Grand Children that use the dock for enjoyment. The age ranges vary with about half of the nine grandchildren are teenagers. We also have many adult guests and along with the children many have hit the ground from jumping in the four feet of water. I needed to provide an adequate depth area to provide safety. Four feet contradicts professional opinions.

- B. Will the variance requested (or a lesser, agreed variance) render *substantial Justice* to applicant and to other property owners affected?__

Yes, I believe substantial Justice to me...Not certain to other properties

- C. Is the plight of the applicant due to *unique* characteristics of the property?

Not Certain'

- D. Has the need for the variance been *self-created* by some action of the applicant or previous owner_____

I bought the Home from the previous owner with the existing dock of one hundred and thirty feet and added one section when the steps were redone for safety.

IV. THE APPLICANT USUALLY PRESENTS INFORMATION SHOWING THAT THE REQUESTED Variance:

A. Will not be contrary with the intent and purpose of the Zoning Ordinance.

I do not believe that it was the intent of the ordinance to mandate a Safety Concern for the Torch Lake Residence and their guests. I can provide you with A multitude of documents written by professionals that state jumping Into the water needs to be more than four feet. I am also willing to survey some of the Milton Township residents on Torch Lake and get their written signatures agreeing That the four feet depth for docks is not adequate for safety

B. Will not cause a substantially adverse effect upon adjacent properties;

My neighbor to the South's dock exceeds the eighty foot requirement from the water's edge as Section 117.320 Waterfront Property Dockage Regulates.

My neighbor to the North dock exceeds the eighty-foot requirement from the water's edge as Section 117.320 Waterfront Property Dockage Regulates.

C. Will relate only to the property under the control of the applicant.

Yes, only affecting my property

D. Will not essentially alter the character of the surrounding area;

Will not alter the character of the surrounding area

And

E. Will not increase the hazard from fire, flood or similar dangers.

Will not increase the hazard from fire, Fire, Flood or similar dangers

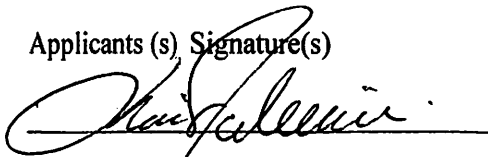
V. Affidavit:

The undersigned acknowledge that if a change *is* granted or other decision favorable to the undersigned is rendered, the said decision does not relieve that Applicant from compliance with all other provisions of the MILTON TOWNSHIP ZONING ORDINANCE;

The undersigned certify that answers and statements herin contained and the information herewith submitted are in all respects true and correct to the best of his/her or their knowledge and belief: and.

The undersigned acknowledge that he/she/they are either the owners or the owner's agent and have authority to and do hereby grant permission and consent for any Milton Township official and/or Milton Township Agent to ENTER UPON THE SUBJECT PROPERTY in preparation for the Public Hearing.

Applicants (s) Signature(s)

A handwritten signature in black ink, appearing to read 'Mario Sciberras', written over a horizontal line.

Mario Sciberras

A handwritten signature in black ink, appearing to read 'Annette Sciberras', written over a horizontal line.

Annette Sciberras

Date: May 28, 2025

[Click here to go to next page](#)

TEN
FEET

Water Depth Four Feet Three Inches

0

Storage Box

Four Feet

Shoreline = 100 Feet

Stairs