

**Keweenaw County Zoning Board of Appeals
Regular Meeting Minutes
May 4, 2026**

Meeting called to order at 1:03pm.

Pledge of Allegiance was recited

Roll call:

Mark Ahlborn, Chair/present

Tom Bryant/excused absence

Larry Butala, Secretary/present

Harvey Desnick, PC Liaison/present

Frank Kastelic, Member/present

Mike Delesha, 1st alternate/present

Susan Hockings, ZA/present

Gary Russell, 2nd alternate/present

Mike Delesha is sitting in for Tom Bryant.

A quorum of five was present, and the meeting was properly posted.

Motion to approve the agenda was made by Frank Kastelic. Second/Mike Delesha.

Motion carried.

Motion to approve minutes from February 2nd, 2026, regular meeting made by Harvey Desnick.

Second/Frank Kastelic. Motion carried.

Guests: Steven Tinti, Tinti Law

Ryan Plesha, Butzel Long, P.C.

Mary Crampton, Court Recorder

ZA Report: No new variances requested

PC Liaison Report: None

New Business: None

Old Business:

Continuation of deliberations and findings of fact concerning the Eagle Inns, Inc. variance request.

The Public Hearing portion was held and completed September 4, 2025. The ZBA Chair, Mark Ahlborn, opened this portion by reading from Section 19.5 of the KCZO the following:

The Board of Appeals shall have the power to authorize upon appeal a dimensional non-use variance from requirements of the zoning ordinance, provided the applicant has proven a "practical difficulty" by demonstrating as follows; and we have items A through L here for discussion.

My intention here is that we discuss these. We don't have to come to a consensus at any point. We just want to work our way through discussing them. When we get to the next section, findings of fact, is when we'll deliberate and arrive at some kind of consensus if we can.

A. Would strict compliance with the ordinance unreasonably prevent the owner from using the property for a permitted purpose, or render conformity unnecessarily burdensome?

The owner continues to use the existing property for the restaurant. The request is for additional property to enhance operations, but strict compliance does not prevent permitted use.

B. Is the problem due to a unique circumstance of the property?

No. The lot is shallow and the restaurant is built up to the property line, but this is not unique; it is a property developed to its limits.

C. Are the specific conditions relating to the property so general or recurrent in nature in the zoning district as to require an amendment to the zoning ordinance instead of a variance?

No amendment is necessary. There is no desire to reduce setback requirements; the issue is specific to this property.

D. Was the problem created by the action of the applicant?

Yes. The applicant used an erroneous drawing to secure a zoning permit and constructed the addition on public property, creating the problem.

E. Will granting the variance cause a substantial adverse effect upon property values in the immediate vicinity or district?

Not likely. The restaurant has operated for many years, and there is no expert advice available indicating a substantial adverse effect.

F. Will the requested variance relate only to the property under the control of the applicant?

No. The applicant does not own the property; conditional control was requested, but the variance is for property adjacent to the restaurant.

G. Should the non-conforming dimensions of other lands, structures, or buildings in the same zoning district be considered grounds for the issuance of a variance?

No. Other public facilities (e.g., outhouse/changing station) are not considered grounds for this variance.

H. Is the variance the minimum variance that will make possible the reasonable use of the land, building, and structure in the zoning district?

No minimum size analysis was included. The addition could be sized to house the smoker and still respect the setback.

I. Is the proposed use of the premises in accordance with the zoning ordinance?

No. The non-conforming lot is grandfathered, but increasing the non-conformity is not allowed and violates Article 9. No use variance is before the board.

J. Would the variance do substantial justice to the applicant and other property owners in the district?

Substantial justice to the applicant is not applicable; the addition was constructed on public property. Other property owners benefit from preservation of public right-of-way.

K. Will granting the variance ensure the spirit of the ordinance is observed, public safety is secured, and substantial justice applied?

Absolutely not. The issue concerns public safety and public trust.

L. Will the requested variance amend the permitted uses of the zoning district?

No. No change in use is included with the variance request. It would increase a non-conforming property, not a non-conforming use.

These above answers reflect the board's reasoning for approving or denying the variance request, considering property ownership, creation of the problem by the applicant, concerns about public safety, and conformity with zoning ordinances.

Review of General Procedures:

- Notification of public hearing was posted on website and courthouse August 18th, 2025.
- Notification of Public Hearing in newspaper August 20th, 2025.
- Property owners within 300 feet were notified by letters deposited with USPS on August 18th, 2025.
- The public hearing was held on September 4th, 2025, at which point it was recessed and now has resumed today.

The chair read Section 19.13, Findings of Fact.

A. Board of Appeals shall grant no variance or make any determination on an appeal, ordinance interpretation, or other issue requested of it unless the board records specific findings of fact based directly on the evidence presented to it. These findings of fact must support conclusions that the standards imposed by the requirements of this ordinance have been met.

B. Said findings of fact shall include but are not limited to the following information:

1. How does the zoning ordinance create unnecessary hardship or practical difficulty in the use of the petitioner's property?

No hardship or practical difficulty exists for the current use; the applicant's actions created the issue by seeking expansion onto public property.

2. Are there unique physical circumstances or exceptional topography that create practical difficulties?

No unique physical circumstances or topography; the lot is simply developed to its capacity.

3. Do physical circumstances prevent the property from being developed in strict conformity with the zoning ordinance, making a variance necessary for reasonable use?

Reasonable use of the existing property continues. Expansion is desired of a legal nonconforming building which creates an illegal non-conformity as noted in Article 9 of the KCZO.

4. Was the practical difficulty created by the appellant and is it related only to property owned or occupied by the appellant?

The appellant created the problem by constructing an addition on public property, violating zoning requirements.

5. What are the impacts of the variance on property values, use and enjoyment, and public health, safety, and welfare?

Authorizing the variance would reduce public safety and trust; it would force pedestrians closer to the roadway.

6. Does the proposed variance permit the establishment of any use not permitted by right within the district?

No. The variance pertains to a non-conforming structure, not a non-conforming use.

7. Does the proposed development comply with requirements, standards, or procedures in the zoning ordinance for interpretation of disputed provisions?

No. The proposed smoker enclosure addition is considered illegal non-conforming under Article 9 of the zoning ordinance.

8. Were there errors in judgment or procedure in the administration of relevant zoning provisions?

Yes. Errors occurred on both sides: the applicant submitted an erroneous drawing, and the zoning administrator relied on it, leading to improper permit issuance.

9. What possible precedents or effects might result from approval or denial of the appeal?

Approval would set a negative precedent regarding setback requirements of KCZO and condone encroachment on public property.

10. What is the impact of approval on the ability of the county or other agencies to provide adequate public services and facilities in the future?

Approval would result in the loss of 20 feet of right-of-way, limiting space for future public services or facilities.

These answers reflect the board's findings of fact, emphasizing property ownership, adherence to zoning standards, and public safety concerns.

Discussion & Deliberation Summary:

Board members discussed concerns regarding the authority of the Zoning Board of Appeals to grant a variance involving property owned or controlled by another entity, specifically the Keweenaw County Road Commission. Members noted that the applicant did not currently own or control the affected property and expressed concern that approving the request could be subject to immediate legal challenge.

Discussion also referenced prior expectations that the applicant would pursue alternative solutions, including purchasing the property or seeking road abandonment, within the previously granted 90-day period. Members observed that approximately 240 days had elapsed without resolution of those issues. Several members stated that obtaining ownership or control of the property would provide a clearer path for any future request.

Following deliberation, the Board concluded that the variance request should be denied based on the applicant's lack of ownership or control of the property, and the Board's concerns regarding its lack of authority to approve a variance affecting property owned by another entity.

Motion was made by Frank Kastelic, Seconded by Mark Ahlborn as follows:

"I would make a motion that we do not issue a permit for that expansion. So, we would deny their variance request. And we're doing that because we don't have the authority. We don't have the authority to issue that."

A roll call vote was taken, and members unanimously denied the variance request.

Mr. Plesha and Mr. Tinti, the two attorneys present at the hearing, clarified that when members stated "Deny", (a double negative was used) it was not meant to deny the motion, but to deny the variance requested. This was also explained and heard by members of the public present, including Mike LaMotte and Al Utzman.

The Chair read the following: "Chair to advise any party having an interest affected by this order, determination, or decision by the ZBA may obtain a review in the circuit court, provided the application is made to the court within 21 days after delivery of a final decision."

Formal written denial of the variance request will be issued and approved along with the minutes of this meeting. Copies will be sent to both attorneys and Judge Brittney A. Bulleit. A transcript of this hearing will be made from the audio/visual recording.

Public Comments: A time for public comments was made available, and comments were heard from Kathy McEvers, AJ Kern, Al Utzman, John Kern, and Mary Long.

Chair announced next regular meeting date will be Monday, July 6, 2026 at 1:00pm in the Keweenaw County Courthouse.

Motion was made to adjourn at 1:47pm by Frank Kastelic and seconded by Mike Delesha.
Motion carried.

Recording Secretary: Susan M Hockings _____

ZBA Secretary: Larry Butala _____

Court Recorder: Mary Crampton _____

OFFICIAL DETERMINATION OF THE KEWEENAW COUNTY ZONING BOARD OF APPEALS

Applicant: Eagle Inns, Inc. and James LaMotte

Property Address: 5330 Front Street, Eagle River, Michigan

Parcel No.: 42-403-51-001-005

Request: Dimensional Variance – Front Yard / Right-of-Way Setback Reduction

At a duly noticed public hearing held on September 4, 2025, and continued for deliberation, findings of fact, and final action at the regular meeting of May 4, 2026, the Keweenaw County Zoning Board of Appeals considered the request of Eagle Inns, Inc. and James LaMotte for a dimensional variance from the setback requirements of the Keweenaw County Zoning Ordinance.

The request sought relief from the required front yard setbacks applicable to Front Street in order to permit an addition to the existing hotel and restaurant structure located at 5330 Front Street, Eagle River, Michigan.

The Board reviewed the application materials, zoning records, testimony from the Zoning Administrator, testimony and exhibits submitted by the applicant and counsel, public comments, attorney statements, and all applicable provisions of the Keweenaw County Zoning Ordinance.

Pursuant to Sections 19.5 and 19.13 of the KCZO, the Zoning Board of Appeals makes the following findings of fact and conclusions:

1. The subject parcel is a legally existing nonconforming waterfront parcel developed prior to adoption of the Keweenaw County Zoning Ordinance in 1975.
2. The existing hotel and restaurant structure already existed with reduced setbacks relative to Front Street, Pine Street, and Lake Superior prior to the requested addition.
3. The evidence presented established that the requested addition increased the existing nonconformity by extending the building footprint to and beyond the property line and into the Front Street right-of-way, while additional site accessory structures, including the propane tank, dumpster, and grease pit, encroach the Pine Street right-of-way.
4. The Board finds that strict compliance with the ordinance does not prevent continued reasonable use of the property as an existing hotel and restaurant. The request concerns expansion of the existing structure rather than continuation of the existing use.
5. The Board finds that the shallow nature and existing configuration of the parcel do not constitute unique physical circumstances sufficient to justify the requested variance, as the parcel has existed in substantially the same condition for many years.
6. The Board finds that the circumstances leading to the variance request were created, at least in part, through construction extending beyond the applicant's property boundaries based upon inaccurate or incomplete site information provided during the permitting process.

7. The Board further finds that the requested variance does not relate solely to property owned or legally controlled by the applicant and instead involves portions of public right-of-way under the jurisdiction or interest of other governmental entities, including the Keweenaw County Road Commission.
8. The Board considered testimony concerning public safety, pedestrian access, roadway width, and future public infrastructure needs and finds that preservation of public rights-of-way and avoidance of permanent encroachments into public property are legitimate public interests protected by the KCZO.
9. The Board finds that approval of the requested variance would establish an adverse precedent concerning encroachment into public rights-of-way and the expansion of nonconforming structures.
10. During deliberations, Board members discussed the authority of the Zoning Board of Appeals to grant variance relief involving property owned or controlled by another governmental entity. The Board concluded that the applicant did not possess sufficient ownership or legal control over the affected property interests for the ZBA to lawfully authorize the requested variance.
11. The Board additionally noted that alternative remedies, including abandonment proceedings, acquisition of property interests, or amendment of the underlying plat, had not been completed at the time of decision.

Following deliberation, a motion was made by Frank Kastelic and seconded by Mark Ahlborn to deny the requested variance on the basis that the Board lacked authority to grant variance relief affecting property not owned or legally controlled by the applicant.

A roll call vote was taken, and the motion carried unanimously.

DETERMINATION

Based upon the findings above, the Keweenaw County Zoning Board of Appeals hereby determines that the standards for granting a dimensional variance under Section 19.5 of the Keweenaw County Zoning Ordinance have not been satisfied.

Accordingly, the requested dimensional variance is DENIED.

Any party having an interest affected by this determination may seek review in Circuit Court as provided by law and the Michigan Zoning Enabling Act.

Dated: 5-15-2026

Signature: 

Mark Ahlborn, Chair
Keweenaw County Zoning Board of Appeals