

Factors That Are Considered (continued)

The board wants to ensure that all landowners comply with the intent of the Natural Rivers Zoning but is willing to discuss and consider options, alternatives, conditions, and other means of assisting landowners without depriving them of the right to use their land.

Special Use and Land Use Permits

All Special Use and Land Use permits are reviewed by the ZRB. A Special Use Permit is required to establish commercial campgrounds; a Land Use variance is required to establish other business or commercial uses. Land Use variances require a supermajority of at least 2/3 of the eligible voting members; that is, at least five of the seven members must concur for approval. If only five or six members are in attendance, five affirmative votes are still necessary. An applicant may request adjournment or postponement until a full board is present. Variances such as these are not often approved.

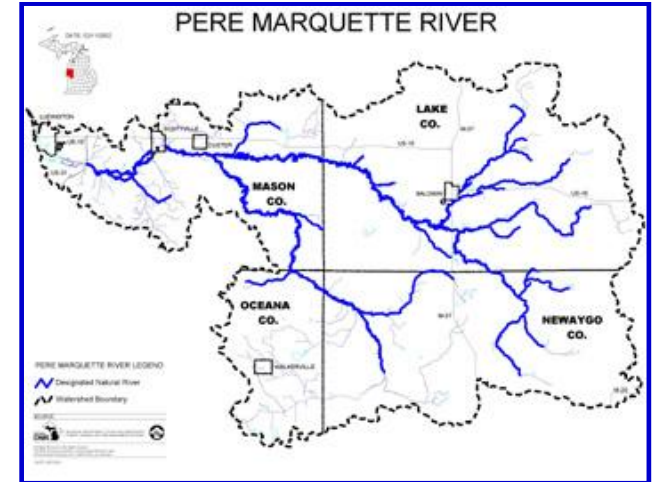
Contesting the Decision

If the applicant is not satisfied with the decision of the ZRB, and wishes to contest the decision, he/she may file a Petition for a Contested Case Hearing within 60 days of notification of denial. Petitions are reviewed at a hearing by an Administrative Law Judge in Lansing. The judge's ruling is then submitted to the Director of the Department of Natural Resources who may accept or reject the decision. The applicant may appeal the Director's decision in Circuit Court. An approved project may not be undertaken until the Zoning Permit is issued by the DNR office. County and township building authorities are instructed not to issue their necessary permits until the DNR Zoning Permit has been received.

Natural Rivers Administrator
Fisheries Division
Gaylord, MI
www.michigan.gov/dnrnaturalrivers

Procedures the Board will Follow at the Public Hearing

Each applicant will receive a copy of the agenda. The ZRB members will introduce themselves and state their affiliation. Members representing other localities will likely be present but will not vote unless the application is from their jurisdiction. The Chair will announce who is voting, the votes that are necessary for approval, and offer the opportunity for the applicant to request a postponement if all voting members are not present. The Chair will introduce and read the application as requested. The applicant will be asked to briefly summarize his/her request and the reason(s) for it. The Chair will then ask for public comments from the audience, both those in favor and those opposed. The Zoning Administrator will read any written correspondence received regarding the application. The public will not be allowed to comment after given this final opportunity. The discussion is then opened among the ZRB members and may include questions to the applicant. A variance criteria checklist will then be reviewed by the ZRB with discussion on each of the deviations from the review criteria. The Chair will then call for a motion based on the information gathered at the hearing and the site visits, and after review of the variance criteria which are the basis for an official finding of fact. The motion will address the application. Possible outcomes will be approval, approval with conditions, denial or tabling for more information or investigation. Action on an alternative or modified proposal will not take place until the submitted application has been addressed. Following each motion a roll call vote will be taken of those board members eligible to vote. The chair then announces the results of the vote on the motion and the results of the proposed variance request.



The Pere Marquette River

Natural River Zoning Review Board and Process

Lake County
RIVERSIDE
Property Owners Association



[Michigan's Natural Rivers Act Background](#)

The Pere Marquette River system, including all of its main branches, and many of its tributaries, was designated a state Natural River in 1978 under the authority of the Natural Rivers Act (Part 305, NREPA). The Natural Rivers Program is administered by Fisheries Division of the Michigan Department of Natural Resources (DNR). Management of the Pere Marquette River system is guided by the Pere Marquette Natural River Management Plan (Plan). However, while the Plan provides guidance, it is the Natural River Zoning Rules (Rules) that provide the legal framework for all decision making related to Natural Rivers zoning on private lands. The Rules define zoning restrictions in unincorporated areas that include setbacks, minimum lot widths, natural vegetation strips and limitations on certain commercial and other usages. The designated area includes the river or tributary and all lands within 400 feet of the river on either side. The Rules became effective on July 15, 1981. Both the Plan and the Rules can be found at www.michigan.gov/dnrnaturalrivers

[Consolidation of Natural Rivers Zoning Rules](#)

In 2013 a consolidation of zoning rules across the 16 state natural rivers was completed, resulting in minor changes to several standards established in 1978 on the Pere Marquette River system. A consolidated listing of the changes can be found at www.lcrpoa.org and www.pmwc.org

[Application for Natural River Zoning Permit](#)

Most construction or other developmental activities within 400 feet of the water require a zoning permit. This permit along with a Natural River Site Plan Sample, Checklist and requirements is also available on the Natural Rivers Program website (www.michigan.gov/dnrnaturalrivers).

There is no fee to apply for a permit from the state.

The individual responsible for reviewing applications for a Natural River Zoning Permit is the Natural Rivers Administrator in the Fisheries Division of the DNR. The

administrator has the authority to act upon requests for construction permits that are within a 25% or less reduction in the zoning standard allowed by the Natural River Zoning rules

[Pere Marquette Natural Rivers Zoning Review Board](#)

In those areas without a local Natural River zoning ordinance, the state appointed Zoning Review Board (ZRB) administers the Natural River Program. The ZRB has the authority to act upon requests for special use permits, grant variances from certain dimensional and land use standards, and interpret the official zoning map.

The ZRB consists of seven voting members; however, representatives may vary based on the location of the site under consideration. On the Pere Marquette there are:

- Two at-large or Citizens' Interest members, one of which represents the Pere Marquette Watershed Council
- A DNR employee who works in the watershed. These members vote on all applications.
- One member representing each local Conservation District (Mason/Lake, Newaygo, Oceana, Osceola/Lake)
- Two members represent each county. The county commission appoints these members: Lake County has historically named one of their commissioners, and one member of the Lake County Riverside Property Owners Association. One of the two must be someone involved in planning, zoning, public health, soil erosion, or a related field.
- One member represents each township appointed by the township board.

Conservation District, county, and township representatives vote only on those matters within their respective jurisdiction.

[Construction Variance Requests and Approval](#)

When proposed construction does not meet the zoning standards a variance is required before a permit is issued.

Projects undertaken without a permit are subject to modification or removal. Minor variances, those that are a 25% or less reduction in the zoning standard, are approved by the Rivers Administrator.

Major variances (greater than 25%) require a public hearing and a vote by the ZRB. Typical examples include additions or alterations to cabins that were constructed prior to July 15, 1981, when minimum building setback rules for the Pere Marquette were established. The zoning standards permit non-conforming structures to be enlarged between 25% and 75% of the original gross floor area depending on the distance from the river. These dimensional variances require a simple majority for approval; that is, 4 of the 7 eligible voting members of the ZRB must vote for approval for a variance to be granted.

[Factors That are Considered](#)

In reviewing variance requests, the ZRB evaluates numerous factors specific to the proposed site as well as the magnitude of the deviation to the standard in the rules. Each Board member is expected to visit the site to inspect the proposed changes. The visual impact of the development, removal of trees and vegetation for construction, the potential for storm water runoff and impact on floodplain will be taken into consideration. Also taken into account are the following variance criteria from the Rules:

- Does a condition exist on the property that prevents the development standards from being met?
- Can the practical difficulty be overcome by some reasonable method other than a variance?
- Have the standards been met to the greatest extent possible?
- Will the variance cause a substantial change in the character of the area?
- Will the interests of justice be served by allowing the variance?
- Is the practical difficulty unique to the property, or is it self-created?
- Will there be a material adverse effect on the environment?

Each board member will complete a checklist answering those questions. The board's function is to consider requests to do something which the zoning rules restrict.