

ISABELLA COUNTY
ZONING BOARD OF APPEALS
September 15, 2010

Room 225
Isabella County Building

A regular meeting of the Isabella County Zoning Board of Appeals was held on September 15, 2010 in room 225 of the Isabella County Building, 200 North Main Street, Mount Pleasant, Michigan.

MEMBERS PRESENT: Jim Wynes, Gordon Gilchrist, Marilyn Fosburg, Tom Courser, Kelly Bean.

MEMBERS ABSENT: None.

SUPPORT STAFF PRESENT: Mike Zalewski, Planner/Zoning Administrator
Brandy Harger, Recording Secretary

The meeting was called to order by the chair at 9:00 a.m.

The Pledge of Allegiance was recited by the board.

APPROVAL OF AGENDA

The agenda was approved as submitted.

PREVIOUS MINUTES

The minutes of the August 18, 2010 meeting were approved as submitted.

PUBLIC COMMENTS

None heard.

VARIANCE REQUEST #10-07

Mr. Zalewski explained that Joyce Lahti is requesting a variance to allow an existing 26' x 48' single family dwelling to remain 17' from the front property line. The minimum front setback for this property located in the Lakes Area Residential (L-R) District is 20'. The property is located at 5019 Sunset Drive in Section 30 of Nottawa Township. This particular case dates back to 2006. In early 2006, Ms. Lahti inquired about the possibility of constructing an accessory building on her property. Upon review of the application it was noted that the existing home which was constructed in 2004 was only 17' from the front property line. A review of the permit application noted that the home was proposed to be 35' from the front property line which would have met the minimum 35' setback requirement. Ms. Lahti was advised that the home was constructed in violation of the Isabella County Zoning Ordinance. In an attempt to correct the violation, she applied for a variance from the setback requirement. On July 19, 2006 the Zoning Board of Appeals denied the request. After that case, it was our understanding that Ms. Lahti was pursuing action against the contractor. Our office did not pursue further enforcement action as we had contact with Ms. Lahti's attorney and it appeared they were in the process of taking action against the contractor. In June of 2008 our office sent notice to Ms. Lahti

requesting update on the situation. Ms. Lahti's attorney contacted our office and inquired about the possibility of applying for the variance again. The zoning ordinance allows for application of the same variance if one year has passed since the date of the last denial. Our office spoke with the Prosecutor's office and was advised that the ordinance is 'silent' in regards to whether or not the structure is already built and therefore the applicant could reapply for the variance. If the variance is denied again, enforcement action would be initiated immediately to have situation resolved, so the ZBA would not have to continue to hear the same variance request every year. Over the next year, our office sent notices to Ms. Lahti and had very little communication with her about the case. In July our office reviewed the file again and realized that the circumstances in this particular case have now changed. The setback requirements in the L-R District were amended in 2009 and the new front setback requirement for this property is now 20' and not the 35' that was required when the original zoning permit was issued or when the original variance request was denied. Ms. Lahti was advised of this in a notice sent in July. Our office has spoke with Ms. Lahti and her attorney since then and on August 11, 2010 the variance application was submitted. The request is to allow the existing 26' x 48' home to remain 17' from the front property line. The property is a corner lot and therefore it has two front setbacks (Littlefield Road and Sunset Drive) and two side setbacks. The structure meets all of the setback requirements, except the front setback on Sunset Drive. Sunset Drive is a private road with a 60' right of way.

Ms. Joyce Lahti stated that she had bought the property in 2003. In 2004 she hired Clark's Manufactured Homes to put a home for her on the property. They took care of all the permits, and it wasn't until a permit was applied for to put up a carport that it was discovered an error was made by the contractor. Later it was discovered that the well was put on the neighbor's property. When you are driving down the road it looks as if the house is in the center of the property. This road is a private road, not many people come down it and the property owners have to maintain it, the County doesn't. If the variance is not granted and the home has to be moved, this will cause other problems such as the well and septic having to be moved and there is no room on the property to move it back further.

The public hearing was opened at 9:14

Ms. Patricia Glassbrook, 5060 Sunset Dr., stated that this road is a private drive, nothing more than a driveway. There is no need to make Ms. Lahti move her house.

The public hearing was closed at 9:15

Mr. Courser stated that the septic would not be an issue because it is 10' from the house so moving the house back 3' would have no bearing on it.

Mr. Zalewski stated that the Health Department would determine the setback for a house from a septic tank.

Mr. Gilchrist stated that the required setback at the time of the original variance was 35'. The lot is 100' x 76' which is nonconforming. The lot is in a platted subdivision. There are other neighboring houses that are just about as close as this to the road. If the house is moved back 3' then the ZBA would have to grant a variance for the back lot line.

Mr. Zalewski stated that if the house was moved back 3' she would be able to meet all her setback requirements, with out granting any variances.

Mr. Gilchrist stated that the street has a 60' right of way, but the road is only 12' wide. The applicant was taken advantage of by the builders or the person who sold the lot to her. She really didn't have any control over the mistake that was made. Are the requirements for a private road/platted subdivision the same as for any other?

Mr. Zalewski stated that the requirements would be the same.

Mr. Courser stated that the problem is something that the builder needs to fix. At the time the first variance was requested it was denied because there was room on the property to correct the problem and meet the setbacks. The current setback has been reduced so there is still no justification to grant the variance.

Mr. Bean stated that the lot is 1/3 the size of the lot requirement. The builders could have originally fit the home on the lot to meet the requirements, but they didn't. If the house is moved it is likely that if any out buildings are put on the property Ms. Lahti would have to come back and get a variance for those.

Mr. Wynes asked if there was enough room on the property to meet the original setback requirements.

Mr. Zalewski stated that the original permit was approved based on the site plan that met the requirements of the zoning ordinance.

Mr. Bean stated that if the house was moved the 3' back to meet the requirements, then the owner decided to add a porch onto the front of it and requested a variance for it, he would be able to justify granting it.

Mr. Gilchrist stated that this issue was not created by the property owner.

Mr. Courser stated that this is the reason builders are required to have liability insurance.

A motion was made by Mr. Bean, supported by Mr. Gilchrist, to Approve Variance #10-07 because the lot size is smaller than the district requirements, it is not detrimental to neighboring properties, it does not impair the intent of the ordinance and the situation was not caused by the applicant.

Roll Call Vote:

Tom Courser: No
Marilyn Fosburg: Yes
Gordon Gilchrist: Yes
Kelly Bean: Yes
Jim Wynes: Yes

Motion carried.

Variance approved.

STAFF COMMENTS

None heard.

BOARD COMMENTS

Mr. Gilchirst stated that the L-R districts are a continuing problem; it is something that needs to be worked on.

Mr. Zalewski stated that these types of cases are going to continue to come before the board because these lots were platted years ago.

Mr. Kelly Bean asked what is a typical right of way.

Mr. Zalewski stated that it depends, but typically it is 66'.

Mr. Gilchrist stated that in tough economic times you see lots of building without permits.

ADJOURNMENT

A motion was made by Mr. Gilchirst, supported by Mr. Bean to adjourn at 9:48 a.m.

Yes: Wynes, Gilchrist, Fosburg, Courser, Bean.

No: None.

Motion Carried.

Marilyn Fosburg, Secretary

Brandy Harger, Recording Secretary