

ISABELLA COUNTY
ZONING BOARD OF APPEALS

October 19, 2016

A Regular Meeting of the Isabella County Zoning Board of Appeals was held on October 19, 2016 in Room 320 of the Isabella County Building, 200 North Main Street, Mt. Pleasant, Michigan.

MEMBERS PRESENT: Jim Wynes, Brent Duffett, Tom Riley, Marilyn Fosburg,
Gordon Gilchrist

MEMBERS ABSENT: None

SUPPORT STAFF PRESENT: Tim Nieporte, Directory
Kim Kennedy, Recording Secretary
Ray Johnson, Planner/Zoning Administrator

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

The Pledge of Allegiance was recited by the Commission.

APPROVAL OF AGENDA

A motion was made by Mr. Riley supported by Mr. Gilchrist to approve the agenda.

Yes: Jim Wynes, Brent Duffett, Tom Riley, Marilyn Fosburg, Gordon Gilchrist
No: None

Motion carried.

PREVIOUS MINUTES

Minutes from the August 2016 regular meeting were circulated to the Commission prior to the meeting for their review.

A motion was made by Mrs. Fosburg and supported by Mr. Riley to approve the minutes as presented.

Yes: Jim Wynes, Brent Duffett, Tom Riley, Marilyn Fosburg, Gordon Gilchrist
No: None

Motion carried.

PUBLIC COMMENTS FOR NON-AGENDA ITEMS

None heard

VAR#16-08 Mike Pung – Nottawa Township

Mr. Johnson stated that an application was filed on September 20, 2016 by Mike Pung and included a site plan, deed to the property and Mr. Pung's written justification for the variance. The applicant is requesting a variance to allow for an accessory building with a side yard setback of 4 ft where 8 ft is required. The site is platted waterfront property on the north side Coldwater Lake, comprised of Lot 41 of Hyslop's Coldwater Lake Addition No. 3 and is approximately 33 ft in width address being 5489 W. Beal City Rd. Weidman.

Mr. Johnson stated in August of 2015 Mr. Pung was granted a variance for the construction of a new home on the property. During the construction, Mr. Pung removed the existing one-car garage from the property and now desires to place it back on the property. Since the garage was removed from the property, the Ordinance sees the placement of the garage as new construction. Because of the location on the property, Mr. Pung is applying for a variance for the side yard setback.

Mike Pung stated that the same structure that was there is going back in the same location. He stated that this location allowed for the natural flow of water shed and to keep it from entering any adjacent property. Mr. Pung also stated there are several building encroachments on his property and a neighbor's well on his property which prohibits him from locating the garage in a better location.

Public hearing opened 9:11am

Public hearing closed 9:11am

Mr. Duffett made comment that about all you can do with water flow is to put the garage back where it was to preserve the current flow of water.

Mr. Gilchrist asked Mr. Pung if the water flow was from the drain field to the water or from the drain field to the road.

Mr. Pung clarified the water flowed from the road and adjoining buildings towards the water. It used to pool in the rear yard but now flows towards water.

Mr. Gilchrist asked if it was an obvious ditch.

Mr. Pung stated it is not a dug ditch but is really only visible during heavy rains.

A Motion was made by Mr. Gilchrist supported by Mr. Riley to Approve Variance Number 16-08 (VAR#16-08) which was submitted by Mike Pung for the construction of an accessory building with a side yard setback of 4 feet where 8 feet is required for this parcel in the Lakes Area Residential (L-R) district. Based on the review section 14.04 C of the ordinance the applicant has provided evidence of practical difficulty being exceptional narrowness of the lot, variance is necessary for preservation and enjoyment of the property, it is not detrimental to adjacent property.

Mr. Wynes called for a roll call vote.

Tom Riley: Yes
Gordon Gilchrist: Yes
Brent Duffett: Yes
Marilyn Fosburg: Yes
Jim Wynes: Yes

No: None

Motion Carried

VAR#16-09 Stephen Thompson - Broomfield Township

Mr. Johnson stated the applicant is requesting a variance to allow for newly created parcel to have a width of 100 ft where 165 ft is required. The current parcel is wooded approximately 40 acres in size. The proposed addition to that parcel is also wooded and approximately 8 acres in size. The parcel is in the AG-2 district. Mr. Thompson submitted his application, site plan and written justification for the variance request. Mr. Johnson reiterated that the intent was to split the 10+ acres in size and combine the south 8 acres with the larger 40 + acre parcel, so the net change in the total number of parcels that would exist is zero. Mr. Johnson stated that if the board is going to make a motion to approve, staff would recommend a condition that parcel B on the application be combined immediately combined with the 40 acre parcel.

Mr. Duffett asked if this was a split where it was going to get a brand new tax id number and why couldn't this be done as a boundary adjustment so he wouldn't have to come for a variance request.

Mr. Johnson explained he did advise Mr. Thompson to speak to his township accessor and the information provided by the township accessor was that this would be a split of the parcels and not a boundary adjustment.

Mrs. Fosburg asked if this was a variance to create a driveway.

Mr. Nieporte clarified this is a split of one parcel and would be combined with an existing parcel.

Mr. Nieporte also clarified that this request is not increasing the degree of non-conformity as there are two parcels there now, and there would be only two parcels there in the end.

Mr. Wynes asked for clarification on the sizes of the parcels.

Mr. Johnson indicated to Mr. Wynes on the site plan the sizes of the parcels.

Mr. Wynes asked about the setback requirements on the existing house.

Mr. Johnson stated that although setback distances are not shown on the site plan, Mr. Thompson is required to meet the side and rear yard setbacks for this district.

Stephen Thompson owner, informed the board that his property is hunting property for his family and recently bought the home with land in front of their parcel. He is applying to have the back 8 acres of the new property added to his current parcel of 40 acres. He is not requesting for more parcels he will be adding the 8 acre to the current 40 to have a large parcel of almost 50 acres. There will only be two parcel numbers total. Mr. Thompson stated the property is not going to be detrimental to any surrounding properties as there are no developments on the property.

Public hearing opened 9:34 am

Linda Harris neighbor had questions to what was being requested by the applicant. After hearing the explanation from Mr. Thompson on how he wanted to add the back portion to his current parcel she was not opposed to that.

Christy Mathewson question if the parcel being split would meet the required 4:1 ratio.

Mr. Nieporte clarified that parcels don't have to be 4:1 law states that it cannot exceed a 4:1 ratio.

Jan Sanderson, Broomfield Township accessor, stated that this parcel was brought to her attention and it was disconcerting to her that it was being sold and it hadn't been divided yet. She stated that in her world she wants the parcel should be divided prior to being sold. Mrs. Sanderson informed the board that she contacted Brad Newman with Michigan State University Extension as he deals with land divisions. She stated Mr. Newman said that there is no one president set with any one variance approval. However variances are supposed to be very hard to get and a variance is the right to not have to follow the law that everyone is expected to have to follow.

Mrs. Sanders stated that the board holds a lot of power and a lot of common sense. She further stated that the common sense on this is that when this was first created years ago this parcel was created with a 100' frontage. She informed the board that there is no 100' it's a two track and she couldn't pull her car in and turn around, she had to back out. She stated the 100' may be there, but it's a two track and you can't get back there. A firetruck couldn't get back there.

Mrs. Sanderson informed the board they can give this guy a variance but it would never happen

in her world. She explained the property boundaries and the request by Mr. Thompson to the board using a few maps. She asked the board how she can justify that to the next person who wants to do something like this, she can't when this guy was able to.

Mr. Duffett stated that he was unclear of why this could not be accomplished as a boundary adjustment.

Mrs. Sanderson stated that she, as an accessor, certified by the State of Michigan cannot do a line adjustment.

Mr. Nieporte explained that Mr. Duffett is not asking or telling you to do a line adjustment but is stating that the applicant would be adding 8.39 acres to the current 42 acre parcel and this combination would have 100 ft of frontage.

Mr. Nieporte explained to Mrs. Sanderson that there is no ordinance requirement that states you have to build your drive way a certain way.

Mrs. Sanderson stated she was trying to clarify to Mrs. Fosburg that it may be a 100' and that may sound huge but if you drive back there it's a two track.

Mr. Nieporte stated that the condition of the 100' access is irrelevant to the issue of the applicant adding a piece from the back of the parcel to his current parcel.

Mrs. Sanderson stated she understood that.

Mr. Nieporte informed Mrs. Sanderson that first and for most he would never ask for her to explain to a citizen why a variance was granted or if there were questions on a variance. He asked her to direct them to the Zoning Board of Appeals or our office. Each situation is different and needs to be looked at on an individual basis.

Mr. Wynes asked if in the future the owner would want development lots would he be able.

Mr. Nieporte stated that the owner would have to create a private road for access. This current variance request does not restrict what the owner could do in the future. This variance is just for the adding of the 8.39 acres to the back parcel.

Mrs. Sanderson stated no, the owner could just come back for another variance, she questioned when does this stop and why do we have laws.

Mr. Nieporte stated that it appears Mrs. Sanderson does not trust the board's judgment.

Mrs. Sanderson stated that was not what she was saying.

Public hearing closed 9:52 am

Mrs. Fosburg asked for clarification on the 100 ft of road frontage.

Mr. Nieporte further clarified that the existing parcel in the rear already has an existing frontage of 100 ft.

A motion was made by Mr. Duffett supported by Mrs. Fosburg to approve Variance Number 16-09 (VAR#16-09) which was submitted by Stephen Thompson to allow for a newly created parcel to have a minimum width of 100 ft where 165 ft is required for this parcel in the General Agriculture (AG-2) district. Based on section 14.04 C review and that the applicant did not cause reason for a variance and it is not detrimental to adjacent property, it's not materially impairing the intent of the ordinance. Including the stipulation being that the after the proposed split and combining parcels as indicated in the application, there will be no more than 2 parcels.

Mrs. Sanderson attempted to ask a question.

Mr. Wynes indicated that public comment is closed.

Mr. Wynes called for a roll call vote.

Tom Riley: Yes
Gordon Gilchrist: Yes
Brent Duffett: Yes
Marilyn Fosburg: Yes
Jim Wynes: Yes

No: None

Motion Carried

STAFF COMMENTS – None

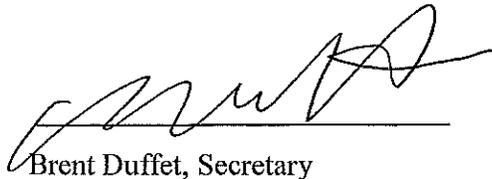
APPEALS BOARD MEMBER COMMENTS –

Mr. Gilchrist questioned if this variance prevented a land locked parcel.

Mr. Nieporte informed the board that you cannot create a landlocked parcel. Mr. Nieporte further explained that if the Township denies this split then the variance would be invalid.

ADJOURNMENT

A motion was made by Mr. Duffett and supported by Mrs. Fosburg to adjourn the meeting at 10:00 am.

A handwritten signature in black ink, appearing to read "Brent Duffet", is written over a horizontal line.

Brent Duffet, Secretary

Kim Kennedy, Recording Secretary