

MINUTES OF THE SCHOOLCRAFT TOWNSHIP ZONING BOARD OF APPEALS

MEETING ON DECEMBER 3, 2020

A meeting of the Zoning Board of Appeals of Schoolcraft Township was held on December 3, 2020, virtually.

Members Present: Terry Blodgett, attending virtually from Schoolcraft Township, MI
Ray Hocevar, attending virtually from Schoolcraft Township, MI
Jack Westendorp, attending virtually from Schoolcraft Township, MI
Gary Steensma, attending virtually from Vance, MS
Steve Fryling attending virtually from Schoolcraft Township, MI

Members Absent: None.

Also Present: Applicants, Matthew and Catherine Pinto, Zoning Administrator, Chris Hamilton; Township Attorney, Mike Homier.

Chairman Blodgett called the meeting to order at 7:00 p.m.

Review and Approval of Minutes

A Motion was made by Comm. Westendorp to approve the minutes of the October 15, 2020 meeting, supported by Comm. Hocevar. Motion carried 5-0.

Public Hearing on Zoning Variance Request of Patrick Hunter.

Chairman Blodgett opened the hearing and asked the applicant to describe the request. Patrick Hunter stated that he purchased three lots to build an approximately 3,000 square foot walk out ranch but due to set-back requirements requires a variance because of the shape of the lots.

Comm. Blodgett asked how many square feet were on the mail level, to which Mr. Hunter responded 2,600 square feet with a two car garage.

Comm. Blodgett asked if there was any reason they couldn't make the house smaller to fit the side-yard setbacks. Mr. Hunter stated that to meet all of the setbacks he would have to build a house no larger than a double wide, and that wouldn't make economic sense due to the lots being valued over \$400,000.

Comm. Blodgett explained that one of the things the Zoning Board of Appeals does not consider is the value for the resident or for the Township, but instead look at the hardships.

Mr. Hunter stated that while driving around the lake near the proposed build site he noticed around 50 homes that don't meet the setback requirements. That being said they do not see the issue with adding another home that is outside compliance considering that is has been allowed for others.

Comm. Blodgett mentioned that in the past Zoning setbacks in that area might have been different, and that they Township is trying to reduce the number of non-conforming properties. They would like for new homes to be built within the criteria that the Township requires. Additionally the Zoning Board does not set the zoning rules, but just interprets them.

Zoning Administrator Chris Hamilton stated that the Mr. Hunter was asking for a variance on the lot coverage to be 30% instead of 25%, and a water front set-back of 40 feet instead of 50 foot setback on the lake-side, and is asking for a 20 foot set-back on the road instead of a 25 foot set-back.

Additionally Zoning Administrator Chris Hamilton asked is the Health Department was alright with placing the septic tank on the far side of the road.

Public Comment

Geoffrey Clapp 14589 North Barton Lake Road stated that he lives two doors down would like to see the property developed and would welcome a new neighbor.

Comm. Westendorp made a motion to close the Public Hearing, supported by Comm. Hocevar. Motion carried 5-0.

Board Consideration

Comm. Blodgett stated that in the survey and there was an intermediate transverse line and asked if that had any impact on the setbacks. Zoning Administrator Chris Hamilton stated that this was historically an area that was added to allow access to the lake without trespassing upon the individual's property and was looked at like a promenade. Additionally, it did not have any impact on the set-back requirements because the lake set-back was from the ordinary high-water mark and the transverse area.

Township Attorney, Mike Homier stated that he agreed with Zoning Administrator Chris Hamilton and that typically the intermediate transvers line is an imaginary line. The reason the line is on the survey is due to the fluctuating lake levels providing you with a mid-point to which you can measure that would likely never be submerged. Mr. Homier stated that he would have to look at the plat to see if there was any dedication of portions of the lots for public use, but considering the surrounding properties, he would be surprised he found any sort of dedication for that to remain open space for use of the lot owners.

Comm. Blodgett asked Zoning Administrator Chris Hamilton how many square feet the proposed home would be over the buildable amount to which Zoning Administrator Chris Hamilton responded that the maximum lot coverage would be 3,061 square feet, and the proposed home would have a lot coverage amount of 3,625 square feet, including the garage.

Comm. Hocevar stated that what the Board might have done in the past may no longer be allowable, and how much of a legal issue would it be to allow the applicant to build the home. Additionally, he stated that the size of the property that the applicant would like to build looks very nice. Comm. Hocevar asked the applicant if he was asking for a variance of 5 and half feet on one lot and 16 feet on the other at the road.

The applicant responded that he is asking to build with a 9 feet from the lot line, so on one end 16.5 feet from the road and on the other end the home would be 25.5 feet from the road.

Township Attorney Homier stated that when he looks at the survey dated August 31, 2020, the property line is platted to the edge of the road. The applicant responded that the survey is not accurate then, because the property has been staked out, and that the road is north of the lot line by 7.5 feet on one side and 16.5 feet from the road on the other.

Zoning Administrator Hamilton stated that when you look the property up on GIS the road or private drive is on the other side of the north of the easement. Zoning Administrator Hamilton added that the lots in question are shallower than most of the lots around the lake.

Attorney Homier shared the GIS view of the parcels with the Board and explained that the road does not line up with the easement. Additionally he mentioned that the road is not located on the easement.

Mr. Hunter stated that there are several homes that are not even on their lots, but instead on the area where the private drive was supposed to have been constructed. Mr. Homier stated that he is confident in the Board's understanding of the standards including the practical difficulty that was mentioned by Zoning Administrator Hamilton with the narrow lots, but also acknowledges the equally compelling question by the Board Chair regard building a smaller home on the property to comply with the zoning ordinance.

Jake Westendorp stated that he believed that they had a unique situation with the road not being where it is supposed to be, and that the other properties along the same street were built before the zoning ordinance was updated.

Chairperson Blodgett stated that the lots are very shallow and if a home were to comply with the setback on both the street and the lake side it would only be 24 feet wide by 100 feet long which would be a practical difficulty. Although there is a practical difficulty, this seems to be a case where they are trying to pack a large home on a small lot. A smaller home could be built with some relief from the board. For instance if they pushed the east side back with a smaller home the board would only need to grant one variance.

Gary Steensma stated that if the Hunter's put their garage on the East side and shrink the house to fit the lot coverage requirement.

Township Attorney Homier read the variance standards located in the Schoolcraft Township Zoning Ordinance as section 28.9 as following:

Standards: No variance in the provisions or requirements of this ordinance shall be authorized by the ZBA unless the ZBA finds from reasonable evidence that:

- By reason of the exceptional narrowness, shallowness, or shape of the property in question, or by reason of exceptional topographic conditions or other extraordinary conditions of the property in question, there are practical difficulties preventing compliance with the strict letter of the Ordinance.
- The exceptional or extraordinary conditions applying to the specific property do not apply generally to other properties that are subject to the requirement at issue.

- The variance will not be of substantial detriment to adjoining property.
- The variance will not materially impair the intent and purpose of this ordinance, or the public health, safety and welfare.
- The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties that are subject to the requirement at issue.

In determining whether the standards for variance relief have been shown to be satisfied the ZBA shall be governed by the following additional legal principles:

- The circumstances or conditions submitted by the applicant to justify the variance relief must pertain to the property at issue, and not the personal circumstances of the applicant and/or other occupants or users of the property.
- The circumstances or conditions submitted by the applicant to justify the variance relief must not have been self-created by the applicant or some other person under the control of the applicant or for whose conduct the applicant is responsible.
- Increased costs associated with complying with the strict letter of the ordinance are not a basis for variance relief.
- Increased financial return if variance relief is granted is not a basis for variance relief.
- The ZBA may find the standards for relief from the strict letter of the ordinance have been shown to be satisfied, but not to the extent of the variance requested by the applicant, and in such circumstances the ZBA shall grant only such lesser variance relief as is necessary.

The Board discussed the standards:

Chairperson Blodgett stated that when reviewing the standards for the lot coverage variance he does not find an undue hardship, and that this is more a personal issue of the applicant since a smaller home would meet the lot coverage and meet the intent of the zoning ordinance.

Chairperson Blodgett asked Zoning Administrator Hamilton if the lot coverage totals were determined with the area from the third lot across the street included. Zoning Administrator Hamilton stated that she did not evaluate the lot coverage with the 3rd lot included because the lot across the street is a metes and bounds lot versus the two platted lots on the lakeside.

Chairperson Blodgett asked if the board could use the square footage of the metes and bounds lot to increase the lot coverage allowance. Township Attorney stated that since the metes and bounds lot cannot be combined with the platted lots then no, they could not use the square footage of the metes and bounds lot to increase the lot coverage area.

All of the Board members agreed that the lot coverage variance was due to a self-created hardship and therefore does not meet the standards.

A Motion was made by Hocevar supported by Westendorp to deny the variance request of the lot coverage ratio of 25%. Motion carried 5-0.

On the 50 foot lakeside setback, Chairperson Blodgett stated they he believed that if the home's size was smaller to meet the lot coverage amounts it could easily meet the 50 foot lakeside

setback. Zoning Administrator Hamilton asked if the neighboring homes were closer to the lake of farther away and would line of site be an issue.

Comm. Steensma stated that he lives four houses down from the vacant property in question and that several of the homes farther down the private drive have setbacks much closer to the lake than 50 feet due to their age.

Citizen Larry _____, of _____ stated that the home adjoining the vacant lot is over its boundaries by several feet, and several of the homes along the lake have been built well over the 25% lot coverage ratio.

Comm. Fryling stated that he has no issue granting the 40 foot lakeside variance because it would clean up the site lines along the lake when the small boathouse is removed and the new property is built. Additionally, he stated that he did not have an issue granting the variance on the road side due to the fact that the road is a private drive. Additionally he was surprised that no one was concerned with what would happen to the road when the new septic system is installed. When you look at the neighboring properties that built their homes over their lot lines Comm. Fryline stated that we are holding the applicant to a standard that others aren't subject to.

Chairperson Blodgett stated that he would be willing to grant the variance on the lake side, but would like to see a setback

Township Attorney stated that it is hard to make a determination on setbacks without updated plans, and any variance should also be conditional upon the septic permits being approved by the County Health Department.

Mr. Hunter stated that if he received a variance of allow a 40 foot set-back on the lakeside and 10 feet on the road side he would still be able to build the home.

A motion was made by Hovecar to deny the variance on the front and rear setbacks, supported by Westendorp. Chairperson Blodgett asked if the vote could be tabled until the applicant was able to redesign the property to comply with the lot coverage ratio and present the new site-plan to the Board.

Township Attorney, Homier stated that it would be acceptable to make a motion to approve the 40 foot lakeside setback and the 10 foot road setback conditionally upon the septic permits being approved by the County Health Department, to which Zoning Administrator Hamilton stated that the current lot coverage was determined without including the area for the elevated screened porch. Zoning Administrator Hamilton asked if an updated rendering could be submitted with accurate representations of the foundation size to determine lot coverage.

A vote was taken on the Motion made by A motion was made by Ray Hoveca to deny the variance on the front and rear setbacks, supported by Westendorp. Motion failed 3-2.

Steve Frying made a motion to approve a 40 foot setback on the lakeside, and a 10 foot setback on the road side with the contingency upon approval and permits granted for the septic system by the County Health Department, seconded by Gary Steensma. Motion carried 4-1.

Adjournment

There being no other business a motion to adjourn the meeting was made by Gary Steensma, seconded by Comm. Jack Westendorp. Motion carried 5-0.

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DATE: N-1-21

SIGNED: Jw Bledgett