



**ADA TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF THE TUESDAY, JANUARY 3, 2023 REGULAR MEETING**

A regular meeting of the Ada Township Zoning Board of Appeals was held on Tuesday, January 3, 2023, at 4:30 p.m. at the Ada Township Hall, 7330 Thornapple River Dr. SE, Ada, Michigan

I. CALL TO ORDER

The meeting was called to order by Chair McNamara at 4:30 p.m.

II. ROLL CALL

Members present: Burton, Courtade, McNamara, Nuttall, Smith

Members absent: 0

Staff Present: Bajdek, Buckley, Said

Others Present: 6

III. APPROVAL OF AGENDA

Moved by Nuttall, supported by Burton, to approve the agenda as presented. Motion carried.

IV. APPROVAL OF MINUTES OF NOVEMBER 1, 2022 REGULAR MEETING

Moved by Nuttall, supported by Burton, to approve the November 1, 2022, meeting minutes as presented. Motion carried.

V. UNFINISHED BUSINESS – none

VI. NEW BUSINESS

1. Administrative Appeal regarding Staff determination of Sec. 78-808 of the Zoning Ordinance (regarding lots not abutting roads), Kelly Kuiper on behalf of Krause Family Trust

Jordan Bush, Attorney, on behalf of the Krause Family Trust, said the applicant has appealed to the Zoning Board of Appeals to determine the setback requirements for a proposed improvement on their property.

Mr. Bush stated the issue is the definition of 'abut' found in Sec. 78-808 of the Zoning Ordinance. He referred to the narrative and supporting documents submitted with the application from Kelly Kuiper. He also referred to aerial shots of the property at 7000 Ada Drive.

Bajdek stated for clarification purposes this is not a variance request and is not site specific. It is an Administrative Appeal regarding Staff's determination on how Staff interprets Sec. 78-808 of the Ordinance, lots not abutting roads.

Courtade arrived meeting at 4:34 p.m.

Mr. Bush said the principal issue is the interpretation of the proposed setbacks at 7000 Ada Drive. He explained that the Zoning Administrator's determination is the drive does not abut a private road right-of-way for its entire length and therefore must adhere to 40-foot setbacks on each property line. He read the Ordinance Sec.78-808, Lots not abutting roads.

Mr. Bush went into details of different sections of the Ordinance and how they relate to public and private roads/setbacks, went through some dictionary definitions of the word abut, and noted the current setbacks for the R-2 Zoning District (side yards, front yard and rear).

Bajdek summarized the staff report and reiterated for clarification purposes that it is not a variance request, it is a request for Administrative Appeal, not site specific.

Bajdek read Ordinance Section 78-808 on Lots not abutting roads, "*For any lot which does not abut a public road, or private road right-of-way, no building or structure shall be located less than 40 feet from all property lines.*" Bajdek explained that Staff has interpreted that as: "For any lot line which does not abut a public road, or private road right-of-way (**for its entire length**), no building or structure shall be located less than 40 feet from all property lines.

Bajdek concluded that staff interpreted Sec. 78-808 of the Zoning, due to the spirit and intent of it to ensure that all properties within the Township are properly separated from one another and have adequate yard space between them. Many properties within the Township have unique configurations that only minimally abut a public or private road right-of-way, including 'flag pole' type parcels. This language will affect all unique properties within the Township.

There was ZBA member discussion regarding clarification between an Administrative Appeal vs. variance request, how the interpretation of abut was determined, and shared concerns of some of the language in the Zoning Ordinance and possibly have it reviewed by the Planning Commission.

McNamara opened the public hearing at 4:49 p.m.

Jim Wierenga, Attorney, represents Whitmore Homes, spoke of the Sec. 78-802, subsection 2, and requested ZBA's review to help reconcile what seems to be an internal definition of abut, but not repeated in Sec. 78-808.

There was no other public comment and the public hearing was closed at 4:51 p.m.

There was discussion between ZBA Board, Planning Staff and Mr. Bush. McNamara asked Mr. Bush why they were handling as an Appeal and not a variance – Mr. Bush answered that you don't need to appeal something that does not exist in the Ordinance, since there was nowhere in the Ordinance that it says "for its entire length".

Said addressed the inquiry from Mr. Wierenga about Sec. 78-802 and explained that section refers to access and the access requirement and does not refer to specific setbacks.

There was additional ZBA Board discussion regarding the Zoning Ordinance and different examples of when the language would require Staff consulting for interpretation, the spirit and intent of the Ordinance, required criteria for a variance request, standard setback rules vs. the 40-foot setback rule, and whether to possibly table decision to discuss further.

Following extended ZBA discussion it was moved by Courtade, supported by Smith, to deny the request for Administrative Appeal based on what we have heard from Staff's consistent interpretation of this provision of the Ordinance. Motion carried by a roll call vote 5-0.

VII. CORRESPONDENCE

Said provided an update on the Master Plan in that the process is continuing to move forward through review and consideration and encouraged the ZBA to keep updated on its status. Said stated the Master Plan should be done in the spring and hopefully completed and adopted by this summer.

VIII. PUBLIC COMMENT - none

IX. ADJOURNMENT

Moved by Burton, supported by Nuttall, to adjourn meeting at 5:28 p.m. Motion carried.

Respectfully submitted,

Jacqueline Smith
Ada Township Clerk

rs:eb