

**ADA TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF THE TUESDAY, OCTOBER 27, 2020, SPECIAL MEETING**

A special meeting of the Ada Township Zoning Board of Appeals was held on Tuesday, October 27, 2020, at 4:30 p.m. at Ada Township Offices, 7330 Thornapple River Drive SE, Ada, MI.

CALL TO ORDER

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

ROLL CALL

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

Members absent: 0

Staff Present: Bajdek, Buckley, Ferro, Suchy

Public: 3

APPROVAL OF AGENDA

Moved by Nuttall, supported by McNamara, to approve the agenda as presented. Motion passed unanimously.

APPROVAL OF MINUTES

Moved by Burton, supported by Smith, to approve the September 15, 2020 meeting minutes as presented. Motion passed unanimously.

UNFINISHED BUSINESS – None.

NEW BUSINESS

- 1. Request for variance to permit accessory buildings as principal buildings, prior to the construction of single-family dwellings, on two (2) parcels being created from the subject properties included in a 13 parcel Land Division, 3050 and 3046 Pettis Ave NE, parcel numbers 41-15-05-300-028 & 029, Michael C. Bieker, for the Michael C. Bieker Trust & Stephen A. Bartz**

Dixon invited the applicant to present his request. Michael Bieker stated he lives at 3050 Pettis Avenue and that Stephen Bartz would not be attending the meeting tonight. An overview of the variance request for the proposed accessory buildings as principal buildings was given by Mr. Bieker. He explained he had a site plan approval for a land division of his 100-acre property going from 2 lots to 13 lots. Two of the parcels each have a barn on them and the problem being is you can only have an accessory building if you first have a primary residence, but there is no primary residence, thus the variance request to allow the barns to remain as principal buildings.

Bajdek summarized the request as included in his staff memo. Bajdek stated a land division request was recently submitted and approved by the Planning Commission allowing for the creation of 13 parcels from the subject properties. The property is zoned RP-1 Rural Preservation 1. The two parcels that are included in the land division are a 95.2-acre parcel and a five-acre parcel; both parcels contain existing homes. The larger parcel is occupied by several accessory buildings, including the one previously granted zoning approval as a private heliport, and a large red barn. All of these improvements are proposed to be retained.

Bajdek stated the two accessory building are desired to remain on parcels without principal structures, as the applicant stated, one would be on proposed Parcel 'B' and the other on Parcel 'J'. The intent is to construct new

single-family homes/principal structures on those parcels within 24 months/2 years and at that time the buildings would become accessory to the dwellings once they are constructed.

Bajdek added there was a condition of the approval of the land division and it was that the splitting of proposed parcels 'B' and 'J,' with the existing accessory buildings remaining, shall only be permitted if a variance to permit this condition is granted by the ZBA, since the Zoning Ordinance does not allow an accessory building on a parcel without a principal structure. If the variance request is granted by the ZBA, the time in which the properties would be brought back into compliance would be when the single-family homes are constructed on the properties. Bajdek also pointed out the zoning approval for the private heliport was terminated and became null and void with the approval of the land division.

Bajdek stated since the request is related to use, it is considered a **use variance**. A **use variance** is a variance that permits a use of land or structure that would not otherwise be allowed in the zoning district in which the parcel is located. He added the zoning administrative decisions are permanent; they cannot be made on a temporary basis or have an expiration date.

Bajdek reviewed the following criteria which must be met in order for the ZBA to grant a variance:

1. Whether unique circumstances exist which cause a "hardship" in complying with the Zoning Ordinance standards.

Literal enforcement will create a hardship by requiring the accessory buildings to be removed from the property due to a land division of a property, which satisfies the Land Division Act and Township regulations. The existing buildings that are intended to become accessory buildings to dwellings once they are built, have remaining value which will be lost if required to be removed from the property.

2. Whether granting the variance would alter the essential character of the area.

The granting of the variance would not alter the essential character of the area. No physical modifications to the exterior of the existing buildings.

3. Whether the circumstances leading to the variance are self-created.

New homes are planned to be constructed on both parcels no later than 24 months/2 years from now. The only circumstance/action creating the non-conformities is by the land division of a property, which satisfies the Land Division Act and Township regulations.

4. Whether amending the Zoning Ordinance standards is a more appropriate remedy to the situation.

An amendment of the Zoning Ordinance is not deemed as an appropriate remedy in this situation.

Zoning Board Chair Dixon opened the floor to public hearing. Chris Barlow spoke. Mr. Barlow stated he is the neighbor of Mike's just to the south at 3000 Mela Via Court which is on the northern end of the cul-de-sac. He said they are good neighbors and he is not opposed to Mike's request with his property. Mr. Barlow's concern/request is that on the site plan for lot J it shows a owner restricted building envelope; he wants to be sure the variance approval has the requirement that when the home is built, the house must be **in front of** the accessory barn.

Bajdek confirmed receipt of correspondence via email from Mr. Barlow and referenced the email verbage to the Board.

Bajdek concluded the literal enforcement will create a hardship by requiring the accessory buildings to be removed from the property due to a land division of a property, which satisfies the Land Division Act and Township regulations. Allowing the existing accessory buildings to remain on proposed Parcels 'B' and 'J' until single-family dwellings are constructed will not alter the essential character of the area.

Approval of the variance request is recommended by Staff, subject to the condition that the accessory buildings shall not be used for any purposes.

Dixon referred to the site plan drawing and asked if the owner-placed deed restrictions are deeded blocks. Pete Faber spoke. Mr. Faber is the realtor working with Mike Bieker on the property. Mr. Faber stated those are written into the deed restrictions as the building envelope.

Smith asked to clarify if the variance is approved the two buildings are allowed to stay, but not allowed to be used for two years until the homes are built; then they can be used but not for a heliport. Bajdek stated that is correct, but as stated earlier, zoning administrative decisions are permanent and cannot be made on a temporary basis or have an expiration date.

Following Board member discussion, it was moved by Burton, supported by McNamara, to approve the variance request to permit accessory buildings as principal buildings, prior to the construction of the dwellings on the two parcels with one condition that the accessory building shall not be used for any purposes. Motion carried unanimously.

CORRESPONDENCE

No correspondence was received.

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

Moved by McNamara, supported by Nuttall, to adjourn meeting at 4:55 p.m.

Respectfully submitted,

Jacqueline Smith
Ada Township Clerk

rs:eb