

**ADA TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF THE TUESDAY, May 1, 2018, REGULAR MEETING**

A regular meeting of the Ada Township Zoning Board of Appeals was held on Tuesday, **May 1, 2018**, 4:30 p.m., at the Ada Township Office, 7330 Thornapple River Drive, Ada, Michigan.

CALL TO ORDER

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

ROLL CALL

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

Members absent: None

Staff Present: Bajdek, Winczewski (Ferro arrived at 5:08 p.m.)

Public: 6 community members

APPROVAL OF AGENDA

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

APPROVAL OF MINUTES

Moved by McNamara, supported by Burton, to approve the March 6, 2018, minutes as presented. Motion carried unanimously.

OLD BUSINESS

None.

NEW BUSINESS

1. Request for variance to permit a building/coop housing chickens (10' X 10') less than the required 150 feet from all property lines, in the Rural Residential (RR) zoning district; the building/coop is planned to be located at the southeast corner of the property and setback a minimum of 25 feet from the east and south property lines, Kevinn & Janine Donovan, 410 Greentree Lane Ave. NE, 41-15-26-227-003

Emma Donovan, daughter of applicants, Kevinn and Janine Donovan, stated she would like permission to build a chicken coop so she can take home her chickens from Goodwillie Environmental School at the end of the school year.

Kevinn Donovan, of 410 Greentree Lane Ave, stated he and his wife are the applicants and most of his position is stated in the original submission and subsequent revisions.

Chair Dixon opened for comments from planning staff.

Brent Bajdek, Planner/Zoning Administrator, stated that it should be noted that the site plan as well as the applicant's narrative statement, stated the chicken coop was to be no more than 10' X 10' at the time of initial submission. However, since that time, the applicant has determined more accurate dimensions.

The building coop is proposed to be 5' X 6', and the connected run, 4' X 10', is proposed for the South East corner of the approximately 1.8 acre site. The property is zoned RR Rural Residential. The keeping of poultry as well as other livestock and farm animals are allowable in that zoning district, however, farm buildings that house poultry, livestock/farm animals are required to be 150 feet from all property lines to meet the setback requirements. The property is slightly less than the current 2-acre minimum requirement. It is not possible for the coop to be 150 feet from the front and rear property lines due to the depth of the property being less than 300 feet. The width of the lot, the rear yard, is greater than 300 feet and the coop could meet the 150-foot setback from the north and south property lines, however, physical site improvements and natural site conditions could make it challenging.

The chicken coop is planned to be located a minimum of 50 feet from the eastern property line and 30 feet from the southern property line, while the chicken run which will be connected to the building is planned to be located a minimum of 42 feet from the eastern property line and 25 feet from the southern property line.

The structure is planned to occupy a relatively level and naturally cleared area of the forested southeast corner of the property. The structure would be located around 125 feet from the dwelling immediately to the east and 200 feet from the dwelling located on the property to the south. It should be noted that these are approximate dimensions.

It was stated by the applicant that no more than 10 chickens are intended to be kept on the property, as well as no roosters.

There are several standards that are required to be met to grant a variance:

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

Although the property is zoned properly for the keeping of poultry, the physical configuration of the property, as well as existing site improvements and natural site conditions create a "practical difficulty" in meeting the 150-foot dimensional requirement from all property lines.

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

The granting of a variance from the 150-foot setback requirement for buildings housing poultry would not alter the essential character of the area. Although the subject neighborhood and immediate area is of a higher density than other areas of the Township zoned RR Rural Residential, the proposed poultry housing, for 'hobby/recreational' purposes, is not unreasonable.

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

Circumstances leading to the variance are not self-created.

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 to the situation. The conditions leading to this variance request are not so common or recurring, which would indicate that amending the zoning regulations would be a more appropriate solution.

Dixon opened the floor for public comment at approximately 4:39 p.m.

Attorney, Steve Grimm, representing the Hindmans who live immediately to the east of the applicant, stated they are in no way opposed to the Donovans raising chickens. The Hindmans request that the coop come closer to meeting the exact language and requirements to the ordinance rather than putting the coop as close to the lot line as it is. The Hindmans are immediately to the east, he believes there is a house to the south, and the coop is 125 feet from the Hindman house and approximately 200 feet from the house to the south. Grimm stated that if you look at the topographical drawing, there are flatter areas closer to the Donovan house than where they currently propose to put the chicken coop. The Hindmans ask that the coop be closer to the circular drive and that would make it much closer to the actual language of the variance without denying the Donovans the right to raise the chickens. Grimm stated that where the garage is currently under construction, seems to be the least intrusive area to put the chicken coop as it is flat between the new garage and the house and would be shielded by the garage.

Grimm stated the clear intent, in his opinion, is that the ordinance has 150 feet setbacks in order to not be an imposition on neighboring properties. Grimm requested the board to do everything possible to grant the Donovans their variance, but, follow the intent of the ordinance by finding a way to place the coop in a place that is as unobtrusive as it would be if they were able to meet the ordinance.

Grimm stated he has drawn out alternative places to put the coop and they include by the circular driveway and even closer to the front of the house towards Greentree, or by the new garage. Grimm stated he approves a variance but that the coop be the Donovans' coop and not the neighbors'.

Jeff Suerth of 400 Greentree Lane NE, stated he lives south of the Donovans and he likes and approves the location of the proposed chicken coop.

The public hearing was closed at approximately 4:47 p.m.

Applicant, Kevinn Donovan, stated they went to two neighbors on Bailey and several on Greentree. The neighbors reviewed the Donovan's application and original location, not the revised location, different by a couple of feet. The revised location was determined after he walked the property and decided he could not do the original 25 feet from the property line without doing some landscape work and he has no interest in doing landscaping. Every neighbor but the Hindmans have supported the coop in the location that is proposed. Mr. Donovan stated that if the board wanted to reconsider locations, he would feel responsibility to go back to his neighbors and talk to them again because there was one neighbor who hand-wrote specific comments. While inward looks good on the topographical map, they are doing a lot of construction. The new garage is 8 feet into the hill. The suggested location by Mr. Grimm is planned to be their yard. They do not currently have a yard. The only grass is in the front where their septic tank is. They have 4 children who enjoy outdoor activity and putting the chicken coop in the center of their yard is not ideal.

Burton asked how far the coop is from the proposed location to the Hindmans. Dixon stated 42.46 feet from the property line. Bajdek stated it is approximately 125 feet from the Hindman's house.

Nuttall asked if the chicken coop has a concrete floor. Mr. Donovan stated no but it will likely have pavers or bricks of some sort. It is technically a portable building but is very heavy.

Bajdek stated a building means any structure having a roof. Based on the zoning definition, a structure is anything constructed or erected with a use that requires a permanent location on the ground or attached to something having a permanent location on the ground. This coop is considered permanent as Mr. Donovan would not be able to easily move the structure and therefore this needs to meet the requirements for a structure. Bajdek noted that the keeping of animals is allowed on the Donovans' property regardless if there is a coop on the property. If the chicken run did not have a roof or cover, the run could go right up to the property line as it would not be considered a structure.

Nuttall asked if free-range chickens are allowed. Bajdek stated there is nothing in the Township ordinances that prohibits free-range chickens.

Smith asked how far the proposed coop is from the Donovan's house. Mr. Donovan stated 80 feet.

Bajdek reiterated that as far as the physical configuration of the property, from the front and side yard, it is impossible to meet the 150 feet requirement. From the north and south, it could be met but there is some difficulty in meeting those requirements in that it would basically put the coop in an area of their driveway. It could possibly be shifted further from the eastern property line but it would be where their driveway is and closer to the center are mature trees and would not be a viable location. That is the general area if they were to meet the 150-foot setback requirements.

Chairman Dixon asked the Donovans to explain the stairs area that appear to come from a deck. Why would the coop not be able to sit closer to the stairs while keeping the draft space immediately adjacent? Mr. Donovan stated that area is under construction and is currently a ramp.

Mr. Donovan stated he still does not understand to what the Hindmans are objecting. He feels the coop is proposed in a really great location. He could build a coop on the corner of the property and have a chicken-run along the whole property line with 100 chickens. He feels this coop is not a hinderance.

Smith requested confirmation of where the Hindman's house is located. Mr. Grimm pointed out the location on the map he provided. He stated the Hindmans have a deck on the corner, which would be directly across, and facing the coop. He stated that although Mr. Donovan said he did not want to do any landscaping for the coop, he has recently removed trees where the coop is proposed to be. He requested the laws be as closely followed as possible.

Bajdek reminded Dixon that correspondence was received regarding the variance request. Dixon noted that all 8 neighboring properties, with the exception of the Hindmans (who provided a letter of opposition of the variance), have supported this application with their signatures.

Smith asked how far along the garage is under construction. Mr. Donovan stated the joists have been delivered, the slab will be prepped tomorrow, and framing is planned for Friday or Monday.

Smith asked if there was any way, in this stage of the planning, that the chicken coop could be moved closer to the garage. Mr. Donovan stated that everywhere around the garage is a hill. He would have to do more dirt work to make a flat spot for the coop. He stated where the coop is proposed to be can be flattened with a shovel and a rake but anywhere else on the property would require a piece of equipment.

Smith stated that it appears the area to the left is flatter and the coop could be located there. Mr. Donovan stated that yes, it is flatter, however, they intend to plant grass there and make that space their yard. He still does not understand their objection. He noted that he is in an active lawsuit with the Hindman's and feels he is being harassed.

Dixon stated that the goal of a variance is to try to approach the proper setback to the zoning ordinance as best as possible. There is a planned lawn area that is flat.

Smith stated she is not opposed to chickens or a coop. She is concerned that the structure is too close to the property lines and it could be moved somewhere else further away from property lines. She is concerned about the "self-created" issue. Advanced planning, knowing the chicken coop was coming, could have created a situation where the coop was closer to compliance with the ordinance.

Dixon stated that this type of variance involving chickens has never come up before the Board. Bajdek stated that staff is aware that keeping chickens is becoming more popular. The Planning Commission could re-look at the township's zoning ordinance pertaining to the keeping of chickens and the proper setback for those types of buildings or coops. At this time, however, we are bound to the 150 feet.

Dixon asked how long it would take for the planning commission to review and possibly amend the ordinance given that school is out of session in a month and that is when the chickens would be coming. Bajdek stated amending the ordinance is a fairly lengthy process and would not be done within a month's time.

Burton asked if there is an odor with keeping chickens. Emma Donovan stated there is no odor outside the coop, only inside the coop. Burton stated that with no rooster there would not be a noise issue. Nuttall stated that hens do make noise as well.

Smith asked what our options are with this variance request and if conditions can be added. Bajdek stated we could add conditions; require a greater setback to move it farther to the north/northwest. The flattest portion of the property is the southern portion. There is more terrain on the northern portion of the property but the coop could be moved further north/northwest.

Mr. Donovan stated his measurements are not totally accurate as he was using a wheel measuring tape. He stated the actual linear measurement would be more. Smith stated a level reading would actually be less. Mr. Donovan agreed.

Mr. Grimm stated that since the southern neighbor, Mr. Suerth, doesn't object to the coop, it could be moved further down the property line and directly south of the Donovans' deck. Mrs. Donovan stated they have plans to make a sled hill in that space.

Dixon asked Mr. Donovan if he is open to moving the coop. Mr. Donovan stated no.

Bajdek stated the Board could vote to approve or deny; or table it until the ZBA special meeting on May 15. If the Board denies the variance request, the applicant could submit a new application but the conditions of the variance request would have to change. Smith stated the Donovans would be better off if the board tabled it and came back in 2 weeks for more discussion. Donovan stated he already revised the location once and will not move it again.

Burton stated that their desire for a sledding hill and play yard are insurmountable reasons to not move the proposed coop in those directions.

Burton stated that since there is no willingness to move the proposed chicken coop, she feels the variance should not be granted. Mr. Donovan stated he could put a run on the property line. He also stated the coop is not a cheap building.

McNamara asked if staff is recommending the variance. Bajdek stated the staff can not make a decision as far as approving, denying or tabling. Bajdek stated he brought up tabling if the applicant is open to moving the location of the coop and that would give the ZBA more time to discuss.

Dixon stated we the Board are bound by the standards.

Moved by Burton, supported by Smith, to deny the variance based on the findings that the required standards to grant a variance have not been met. Motion carried unanimously.

CORRESPONDENCE

There was no correspondence.

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

Meeting was adjourned at 5:32 p.m.

Respectfully submitted,

Jacqueline Smith
Ada Township Clerk

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Dixon stated we the Board are bound by the standards.

Moved by Burton, supported by Smith, to deny the variance based on the findings that the required standards to grant a variance have not been met. Motion carried unanimously.

CORRESPONDENCE

There was no correspondence.

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

Meeting was adjourned at 5:32 p.m.

Respectfully submitted,

Jacqueline Smith
Ada Township Clerk