

**ADA TOWNSHIP ZONING BOARD OF APPEALS  
MINUTES OF THE TUESDAY, AUGUST 14, 2018, REGULAR MEETING**

A regular meeting of the Ada Township Zoning Board of Appeals was held on Tuesday, August 14, 2018, 4:30 p.m., at the Ada Township Office, 7330 Thornapple River Drive, Ada, Michigan.

**I. CALL TO ORDER**

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

**II. ROLL CALL**

Present: Dixon, Burton, McNamara, Smith, Nuttall

Absent: None

Staff Present: Bajdek, Winczewski

Public Present: 8 Members

**III. APPROVAL OF AGENDA**

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

**IV. APPROVAL OF MINUTES**

Moved by Burton, supported by Nuttall, to approve the June 5, 2018, minutes as presented. Motion carried unanimously.

**V. UNFINISHED BUSINESS**

None.

**VI. NEW BUSINESS**

- 1. Request for variance from private road standards to allow the subject parcel to be divided into two (2) parcels on a private road, serving as the primary access to more than four (4) parcels, that does not meet current standards for driveway width, cul-de-sac radius, and maintenance agreement requirements, David & Melissa Pettijohn, 1085 Fernridge Ave. SE, 41-15-31-476-055**

Applicant, David Pettijohn, summarized his request to the Board and explained that the proposed division of his property into two (2) parcels would allow his daughter's family to construct a home on the newly created parcel. He stated that a private road maintenance agreement exists, which was notarized and signed by everyone who lived on the street at the time of its draft.

Zoning Administrator, Bajdek, gave an overview of request stating the applicant is seeking to divide his 3.6-acre site into 2 parcels on an existing private road, Fernridge Avenue, which does not comply with the current private road standards of the Zoning Ordinance.

Bajdek stated the improved width of the private road varies from 21 feet near Hall Street to 13 feet at its end and it does not comply with:

- the minimum improved width standard of 22 feet for a private road, serving as the primary access to four or more parcels and up to the point along its course where the road will only serve three (3) parcels at which point it only needs to be 10 feet;
- the requirement for a cul-de-sac turn-around area; and
- maintenance agreement requirement.

Dixon inquired if the Township has a standard for a private road maintenance agreement.

Bajdek stated per the Township's private road standards:

*“Provision shall be made to ensure the continued repair and maintenance of the private road, and financing of the costs thereof by those property owners benefiting from the private road. This shall be accomplished through use of a recorded agreement between the parties in interest to the private road, or through a restrictive covenant, which shall run with the land. A copy of such agreement or restrictive covenant shall be provided to the zoning administrator prior to issuance of a permit for construction of the private road.”*

The lack of a specified procedure for decision-making, and the lack of procedures to enforce collection of dues, such as a lien provision, may call into question whether the agreement “ensures the continued repair and maintenance of the private road, and financing thereof.”

Bajdek stated there is a private road maintenance agreement, but it is minimal in its provisions. It appears not to be recorded with the Kent County Register of Deeds and so the applicant is asking for a variance (from that standard).

Bajdek reviewed the criteria required to grant a variance: 1. Whether unique physical circumstances exist which cause a practical difficulty in complying with the Zoning Ordinance standards; 2. Whether granting the variance would alter the essential character of the area; 3. Whether the circumstances leading to the variance are self-created; and 4. Whether amending the Zoning Ordinance standards is a more appropriate remedy to the situation.

Bajdek stated the existing physical state of the private road and associated conditions, which have been in existence prior to current standards, cause a practical difficulty in meeting the Township's private road standards, while the construction of one (1) additional dwelling will not adversely influence the traffic flow on the existing private road, modifications to it would unnecessarily affect the natural landscape along its course, the essential character of the area would not be altered, the circumstances are not self-created, and an amendment to the Zoning Ordinance would not be a more appropriate remedy.

Bajdek stated Staff recommends approval of the variances subject to the approval of a land division.

Dixon opened the floor for public comment. There was no public comment.

Burton stated a lack of a recorded road maintenance agreement is concerning. Dixon agreed. Mr. Pettijohn stated the agreement has worked for them so far. There have been attempts to create a homeowners' association, including the drafting of a formal road maintenance agreement, but they have not been able to get everyone to agree.

Smith asked if a private road agreement was not a requirement at the time the private road was created, Bajdek stated that is correct.

Mr. Pettijohn explained that the easement creating the private road is recorded with the Kent County Register of Deeds; however, the current road maintenance agreement, which was created in 1991 and

notarized and signed by each of homeowners, when the road was paved, is not recorded with the Kent County Register of Deeds.

Cathy Meverden, 1111 Fernridge Avenue, stated she bought her home from her parents and that her father was instrumental in getting the road paved (Fernridge Avenue). Ms. Meverden stated she contacted the Kent County Register of Deeds today and it was confirmed that the road maintenance agreement is not attached to the deed to her property. She does not believe that the current agreement is attached to the deeds of the other properties along Fernridge Avenue. She expressed concern regarding the lack of the agreement being attached to the deeds of the homeowners along Fernridge Avenue.

Dixon read correspondence from Harry and June Kooyman of 1010 Fernridge SE, which stated their support of the requested variances with the understanding that it will not involve widening of the road, nor the turnaround at the end of it.

Nuttall inquired about the number of homes that are affected by a lack of a cul-de-sac. Bajdek stated 11 homes and soon to be 12 if the variance request and land division are approved.

Dixon asked if other properties along Fernridge Avenue could be split. Bajdek stated yes, however, if those property owners would want to split their parcels, they would have to come to ZBA to request variances as well.

Smith motioned, McNamara supported, to approve the requested variances, subject to the approval of a Land Division based on the findings that the required standards to grant the variances have been satisfied.

Ayes – McNamara, Nuttall, Smith, Burton

Nays - Dixon

Motion passed.

**2. Request for variance from maximum building height standard to allow construction of a new single-family dwelling with height of 39.7 feet rather than the maximum allowable height of 35 feet, Mosaic Homes, for Gregg & Jennifer Malicke, 8300 Revado Hills Ct. SE, 41-15-26-330-014**

Applicant, Brad Rottschafer of Mosaic Homes, stated the homeowners could not be in attendance due to their work schedules. Mr. Rottschafer stated that the variance is being requested due to exceptional topography conditions. He explained that the slopes on the parcel do not practically allow the building of a daylight basement, which would bring the home under the 35 feet requirement, and that if efforts were made to comply with the 35 feet requirement, it would create negative issues such as more grading and tree clearing. The homeowners would like to save as many trees as possible.

Bajdek stated that after a review of the building permit application submittal for the project, it was determined that the proposed height of the structure at 39 feet 7 inches exceeded the maximum allowable building height of 35 feet.

Bajdek explained that building height is measured from grade, lowest point at the “walkout” level and five (5) feet from the building, to the average height of the highest gable of a pitched or hipped roof. He stated in determining the midpoint, the measurement is taken mid-way between the bottom of the eave and the top of the ridgeline and reviewed the Zoning Ordinance definitions of building height and grade.

Bajdek stated that the subject variance request is similar to others that the Board has heard and approved over the last several years in terms of high floor to ceiling height, walkout level, and steep roof pitch that are customary in many current home designs.

Bajdek reminded the Board of the criteria required to grant a variance: 1. Whether unique physical circumstances exist which cause a practical difficulty in complying with the Zoning Ordinance standards; 2. Whether granting the variance would alter the essential character of the area.; 3. Whether the circumstances leading to the variance are self-created; and 4. Whether amending the Zoning Ordinance standards is a more appropriate remedy to the situation.

Bajdek stated the grade of the property at the walkout level and the high floor to ceiling height, which is commonplace with newer homes, creates a practical difficulty, the essential character of the area would not be altered, the circumstances are not self-created, and that an amendment to the zoning ordinances would not be a more appropriate remedy. In 2004, the Planning Commission spent several months considering whether to amend the building height regulations but did not take action on the matter. In August of 2016, the Planning Commission received communication from Zoning Board of Appeals regarding the revisiting of this matter; however, there has been no movement towards an amendment since that time; the last request for a building height variance was approved in June of 2016.

Bajdek stated Staff recommends approval of the building height variance request.

Dixon stated he has been in this neighborhood and there are an incredible number of slopes. Dixon requested Staff to work with the Planning Commission to revisit the possibility of creating an amendment to building height requirements.

Burton moved, McNamara supported, to approve the variance request for a building height of 39.7 feet as opposed to the maximum allowable height of 35 feet based on the findings that the required standards to grant a variance have been satisfied.

Motion carried unanimously.

## **VII. CORRESPONDENCE**

There was no correspondence.

## **VIII. PUBLIC COMMENT**

There was no public comment.

## **IX. ADJOURNMENT**

Motion by Nuttall, supported by McNamara, to adjourn at 5:20p.m. Motion carried unanimously.

Respectfully submitted,

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Jacqueline Smith  
Ada Township Clerk