

**ADA TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF THE TUESDAY, NOVEMBER 13, 2018, REGULAR MEETING**

A regular meeting of the Ada Township Zoning Board of Appeals was held on Tuesday, November 13, 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, and Smith

Members absent: Nuttall (arrived at 4:33 p.m.)

Staff Present: Bajdek, Winczewski, Ferro

Public: 5 community members

APPROVAL OF AGENDA

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

APPROVAL OF MINUTES

Moved by Burton, supported by McNamara, to approve the August 14, 2018, minutes as presented. Motion carried unanimously.

Nuttall arrived at 4:33 p.m.

OLD BUSINESS

None.

NEW BUSINESS

- 1. Request for variance from the minimum lot width of 270 feet for the RP-1 zoning district to 168 feet, to allow the creation of an additional parcel with driveway access via a 30-foot ingress and egress easement, John Halland of Halland Homes LLC, for Gayle R. Eaton Trust, 6930 Knapp St. NE, 41-15-09-400-034**

Dixon invited the applicant to state his request. John Halland of Halland Homes LLC, stated he is the applicant and Sandy and Gayle Eaton are the owners of the subject property. He is seeking a minimum lot width variance to allow a parcel split.

Bajdek summarized the variance request as outlined in the staff memo. Bajdek stated the 11.14 acre-site is zoned RP-1 Rural Preservation 1, which requires a minimum lot width of 270 feet. The property owner is requesting to split the property into two parcels. The property is irregularly shaped, somewhat of a backwards 'L-shape', that greatly widens in width from north to south, with the narrowest portion of the property being located at the northernmost extent of the property which abuts the Knapp Street right-of-way. The parcel is at its narrowest width of 198 feet at 315.74 feet from the centerline of the Knapp Street right-of-way; the existing single-family home is

located in this area of the site. The 'new' parcel is intended to be created by splitting off the southernmost five acres of the site, with private driveway access to it via a 30-foot access easement running along the western edge/portion of the 'parent/remainder' parcel.

Bajdek stated it should be noted that the property does not currently meet the minimum lot width of 270 feet for the subject zoning district at 198 feet. The splitting of the property into two parcels, with a 30-foot access easement for the 'new' parcel, increases the 'parent/remainder' parcel's nonconformity with the lot width standard. The lot width for the proposed 'parent/remainder' parcel is 168 feet, measured at both the front building setback line and established front building line where the home currently exists.

Bajdek reminded the board that through prior decisions made by the Zoning Board of Appeals, it was determined that land within an access easement does not contribute to meeting the minimum lot width requirements of the Zoning Ordinance. A 1988 opinion from the Township's legal counsel, regarding this issue, concluded that the question of whether land within an access easement should contribute toward meeting lot width requirements was a proper question for the Zoning Board of Appeals to decide.

Bajdek also reminded the board that the required standards to be met for granting a variance are: 1.) Whether unique physical circumstances exist which cause a practical difficulty in complying with the zoning ordinance standards. Bajdek stated the existing shape and configuration of the expansive parcel, as well as the physical location of the 'improved area' of the property, which is located in the narrowest portion of the site along its eastern extent, creates a "practical difficulty" and differentiates this site from other sites justifying the requested variance. 2.) Whether granting the variance would alter the essential character of the area. Bajdek stated the granting of the variance would not alter the essential character of the area. 3.) Whether the circumstances leading to the variance are self-created. Bajdek stated circumstances leading to the variance are not self-created, and 4. Whether amending the zoning ordinance standards is a more appropriate remedy to the situation. Bajdek stated 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.

Bajdek stated that staff is recommending approval of this variance request.

Dixon opened the floor for public comment at 4:38 p.m. There were no comments. Public comment was closed.

Dixon asked Halland what the grades (*of the private driveway*) will look like when finished. Halland stated they will not exceed 10%.

Smith asked what the minimum lot size is for the subject property and does it comply. Bajdek stated yes, it does comply and the minimum lot size is 5 acres.

Burton asked when the home was built. The homeowners, Mr. & Mrs. Eaton, stated it was built in 1988 or 1989.

Moved by Smith, supported by Burton, to approve the variance based on the findings that the required standards to grant a variance have been met. Motion carried unanimously.

2. Request for variance from private driveway standards, to allow a driveway to exceed the maximum permitted grade of ten (10) percent, Gary L. Sherman, 9170 Bennett St. SE, 41-15-36-300-044

Dixon invited applicant to state his request. Gary Sherman, property owner, stated he is here to present a variance request to allow his driveway to exceed the 10% maximum grade. He built a home which sits on top of a hill. The hill was cut down to lessen the grade and he believes he can get the grade down to 13%.

Bajdek summarized the variance request as outlined in the staff memo. A new single-family home was recently constructed on the formerly vacant, topographically varied, and moderately forested 3.38-acre site, zoned RP-1 Rural Preservation 1. The subject property fronts Bennett Street along its entire extent, with access to it gained by a private driveway, not a shared driveway.

Bajdek stated the terrain of the site naturally slopes downward from south to north, with the existing dwelling being centrally situated on the property. Prior to the development of the property, substantial land cutting excavation was conducted to permit temporary vehicular access to the construction area of the site and in preparation of the permanent onsite driveway. Per the applicant, the majority of the 'unimproved' driveway's course was at a grade of approximately 15 percent, until recently.

The Zoning Ordinance allows a maximum permitted grade of ten percent for a private driveway that is greater than 125 feet in length, with the exception that the maximum grade within 30 feet from the intersection of the driveway with a public street or private road shall be four percent.

Bajdek stated a variance is being sought by the applicant to maintain an even 13 percent grade along the majority of the private driveway's centerline course due to a determination that achieving the maximum allowable ten percent would be most challenging with the existing physical conditions of the site. Bajdek reminded board members that this information is documented on the Proposed Driveway Plan prepared by Nederveld, dated October 31, 2018, and is enclosed in their board packets.

Bajdek stated the standards that need to be met to grant a variance are: 1. Whether unique physical circumstances exist which cause a practical difficulty in complying with the zoning ordinance standards. Bajdek stated the natural terrain of the property and its relationship with the physical location of the right-of-way and dwelling creates a practical difficulty. Altering the grades of the site to meet the ten percent maximum grade for the driveway is not easily achievable. Meeting the grade requirement would require more extensive land cutting excavation, which appears would result in a meandering course driveway. 2. Whether granting the variance would alter the essential character of the area. Bajdek stated the granting of the variance would not alter the essential character of the area. 3. Whether the circumstances leading to the variances are self-created. Bajdek stated 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.

Bajdek stated that staff is recommending approval of the request.

Dixon opened the floor for public comment at 4:47 p.m. There were no comments. Public comment was closed.

Nuttall asked what the reasoning is behind the maximum allowable grade of 10%. Dixon stated it is for safety reasons, to prevent accelerating or sliding into the street, and also allow for emergency vehicles to get up the hill.

Mr. Sherman stated he will also be doing some drainage in the driveway to help prevent ice buildup on the first 30 feet from the road.

McNamara asked if the first 30 feet of the driveway would meet the 4% grade. Bajdek stated yes.

Smith asked if the Fire Chief has looked at the driveway plan. Mr. Sherman stated he has not.

Burton asked if the ZBA can approve with a contingency of Fire Chief approval. Dixon stated yes.

Moved by Burton, supported by Smith, to approve the variance, subject to the approval of the driveway plan by the Fire Chief prior to the obtainment of a certificate of occupancy permit for the dwelling from Cascade Township, based on the findings that the required standards to grant a variance have been met. Motion carried unanimously.

CORRESPONDENCE

There was no correspondence.

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

Moved by Burton, supported by McNamara, to adjourn at 4:58 p.m. Motion carried unanimously.

Respectfully submitted,

Jacqueline Smith
Ada Township Clerk