

**ADA TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF THE TUESDAY, DECEMBER 3, 2019, REGULAR MEETING**

A regular meeting of the Ada Township Zoning Board of Appeals was held on Tuesday, December 3, 2019, 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: Ferro, Winczewski, Moran

Public: 7 community members

APPROVAL OF AGENDA

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

APPROVAL OF MINUTES

Moved by Burton, supported by Smith, to approve the September 3, 2019, minutes as presented. Motion carried unanimously.

OLD BUSINESS

None.

NEW BUSINESS

1. Request for a Variance from Private Road Standards to allow a new parcel to have access to a private road (Baer Dr.) which does not meet roadway width, easement width, or grade standards and does not have a recorded maintenance agreement, Parcel No. 41-15-27-200-054, Emily & Reed Dietrich, 201 Honey Creek Ave. NE

Emily and Reed Dietrich, homeowners at 201 Honey Creek Ave. NE, presented their request. Mr. Dietrich stated they would like to parcel off 2.5 acres of their land and have access to that land come from Baer Dr. which is a private road.

Planning Director, Ferro, summarized the applicant's request stating the applicants own slightly over 12 acres in which they would like to split off 2.5 acres, creating a new parcel. Ferro explained that the applicants currently use a driveway located on the north end of their property to access their home from an easement on adjoining property. The proposed parcel will have a driveway located south of the property on Baer Drive with about 83 feet of direct frontage. Ferro stated the 2.5-acre parcel is moderately sloped and provides a suitable building site that would

comply with setback requirements. The new parcel would be subject to the Riparian Protection Rules due to a secondary stream corridor that runs through the property. Ferro stated he believes there is sufficient area to build outside of those protection zones. He is not aware of any wetlands on the subject parcel; a qualified wetlands consultant would have to make that determination.

Ferro stated that Baer Drive is an informal name not approved by the Kent County Road Commission, however, it can be found on some maps as 'Baer Drive'. All the properties along Baer Drive are addressed as Honey Creek Ave. Baer Drive does not conform with several of the Township's current private road standards. The private road access rules state that any new lot that is created must have access that complies with current private road standards. In order for a new lot to be created, the private road would need to be modified to comply with the private road standards or a variance would need to be granted. Ferro summarized those private road standards with which it currently does not comply including: easement width, improved surface width, grade, and lack of a recorded private road maintenance agreement. Ferro also stated that Baer Drive connects to a location on Honey Creek Ave. that has very inadequate sight distance in both directions.

Chair Dixon opened the floor for public comments at 4:41 pm.

Ralph Crosby, 75 Honey Creek, stated that this same request was brought before the ZBA in 2006 by homeowners located at 117 Honey Creek, which is located at the end of Baer Drive. Mr. Crosby stated that at that time the Kent County Road Commission had issues with the project due to poor visibility on Honey Creek. He believes the same issues apply in this case. He also noted that there is already increased traffic on Baer Drive due to an in-home daycare at 117 Honey Creek which adds 12 additional cars on the private road.

Marti O'Brien, 61 Honey Creek, stated that she believes there are wetlands on the proposed 2.5-acre lot. She is concerned that construction will compromise the health of the creek and its tributaries. Ms. O'Brien stated the private road already has more cars than it can handle.

Public comments closed at 4:45 pm.

Ferro reviewed the criteria which must be satisfied in order for the Zoning Board of Appeals to grant a variance:

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

Ferro stated the existing private road, has been in place since approximately 1950. Nearly all of the existing homes accessed by the road were constructed prior to the Township's adoption of private road standards in 1990. Putting in place a recorded maintenance agreement between the property owners using the road would require unanimous approval by all of the owners which is beyond the applicant's control. There would need to be modifications to the private road in respects to grade, easement width and pavement width.

Ferro stated that one thing the applicant can control is where on their 12-acre property they choose to put an additional home site. There is a lot of additional land that is accessible from the same route that their existing driveway follows on their 33 ft. easement, which already complies with the Township's private road standards, that would easily accommodate another home site. Ferro stated there are no "exceptional" physical conditions associated with the property that necessitate the granting of a variance in order to create an additional home site from the parent parcel. Ferro stated that on that basis he recommends denial of the variance.

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

Granting of a variance would not alter the essential character of the area. A new home could be placed on the proposed 2.5-acre lot without major alteration of the existing natural features that are important to the character of the area.

3. Whether the circumstances leading to the variances are self-created.
The applicant has not taken any actions that have contributed to the non-conformity of the private road with the Township's standards.

4. Whether amending the Zoning Ordinance standards is a more appropriate remedy to the situation.
The type of variance requested is not so common or recurrent as to warrant amending the zoning regulations.

Mr. Dietrich asked Ferro if he had walked the property. Ferro stated he had not but he did view it on aerial and topographical maps. Mr. Dietrich stated splitting the property in a different location would mean bringing in large equipment and removing large trees, which he does not want to do. He also stated that while visiting the proposed 2.5-acre lot on 6 different occasions last month, only once did he see a vehicle using Baer Drive. He does not feel the road is overwhelmed with traffic.

Mrs. Dietrich stated it seems they have 2 separate issues. The first is parceling off the 2.5-acre lot in a way that won't affect the neighboring lots. That is why they are asking for the variance. They would prefer not damaging neighboring lots by widening the road. If there are any wetlands, that would be addressed in the building permit process. The second issue, which she feels is the most important, is the safety issue in regards to visibility. Mrs. Dietrich stated there are a significant number of private roads that have access to Honey Creek with inadequate visibility. The safety issue affects many more private drives than just Baer Drive.

Board reviewed aerial photos and discussed location of Baer Drive and proposed driveway access. Dixon asked how many homes have access on the private drive. Ferro stated 10 existing homes and there are two additional vacant lots.

Dixon stated there are a lot of issues with this request: width of private road easement, width of improved road surface, steepness of the terrain, and a lack of a recorded private road maintenance agreement. In addition, many neighbors have submitted letters of opposition for the variance. It's difficult to go against the zoning code when the community is also opposing what is being requested.

Burton inquired about the condition of Baer Road. Mrs. Dietrich stated the road is in need of maintenance. Burton stated she is also concerned with safety on Honey Creek Ave.

Mr. Crosby asked to address the Board about the two vacant lots previously mentioned. Dixon recognized Mr. Crosby. Mr. Crosby stated that years ago, five homeowners along Baer Drive purchased those two lots with the expectation of keeping them vacant. They do not have any plans of ever building on or selling those two lots.

Ferro reviewed two alternative building locations on an aerial photo where additional home sites could be situated on the applicants' property without accessing from Baer Dr.

Smith asked for clarification on the conditions. Dixon stated that a condition of approval could be that they must create a private road agreement. Ferro agreed but stated that the burden would be on the applicant to get agreement from all property owners along the private road.

It was moved by Smith, supported by McNamara, to deny the variance request. Motion passed unanimously.

CORRESPONDENCE

None

BOARD MEMBER/STAFF REPORTS

None

PUBLIC COMMENT

None

ADJOURNMENT

Meeting adjourned at 5:17 p.m.

Respectfully submitted,

Jacqueline Smith
Ada Township Clerk