



**ADA TOWNSHIP ZONING BOARD OF APPEALS AGENDA
TUESDAY OCTOBER 2, 2007, 4:30 P.M.
ADA TOWNSHIP OFFICES
7330 THORNAPPLE RIVER DR. SE, ADA, MICHIGAN**

MEMBERS PRESENT: Hartley, Pratt, Boman, Fields
STAFF PRESENT: Kushion, and Thompson
COMMUNITY PRESENT: 7
ABSENT: Member Korth

I. CALL MEETING TO ORDER: 4:30 pm

II. APPROVAL OF AGENDA-Moved by Member Hartley, supported by Member Pratt
Yes: 4 No: 0 Absent: 1 Motion Carried

III. APPROVAL OF THE SEPTEMBER 4, 2007, ZBA MEETING MINUTES-Moved by Member Pratt, supported by Member Hartley. Yes: 4 No: 0 Absent: 1 Motion Carried.

IV. OLD BUSINESS

- 1. Request for Variance from Accessory Building Standards to allow an Accessory building to be the principal structure on a parcel, Andy VanderWeide, 9381 Bennett St. SE, 41-15-36-200-061.**
Zoning Administrator Kushion stated the applicant could not get on the October Planning Commission agenda as it was full and will look to get it placed on the November 15th agenda for the Planning Commission Meeting. Chairman Boman suggested tabling the request until the December Zoning Board of Appeals meeting. Moved by Co-Chair Fields to table the variance request until the December meeting, supported by Member Hartley Yes: 4 No: 0 Absent: 1 Motion Carried.

V. NEW BUSINESS

- 1. Request for Variance from Land Division standards to allow the creation of a lot with a length to width ratio of 3.3 to 1, in excess of Ada Townships 3 to 1 length to width ratio, Warner Norcross and Judd, LLP for VanderWeide Properties, 6869 Ada Dr., 41-15-33-251-007.**
James Rabaut, attorney with the law firm of Warner Norcross and Judd, LLP, is present to represent the applicants. Attorney Rabaut stated the applicants would like to keep the depth from the existing parcel and build an accessory building on their front lot. Attorney Rabaut stated if they have more depth the applicants can tuck the accessory building into the woods and have it not visible from Ada Drive where neighbors would not have to look at it and make for a much nicer results with their plans.

Open to Public comment.

Closed to Public comment.

Open for Board discussion.

Zoning Administrator Kushion stated there had been a prior residence on this property but it had been demolished.

Co-Chair Fields moved to approve the variance request, supported by Member Pratt. Yes: 4 No: 0
Absent: 1 Motion Carried

2. Request for Variance from Private Road Standards to allow a parcel to be accessed from an easement with only 12 feet of width, smaller than the 30 feet required, Bette Roberts, 2455 Pettis NE, 41-15-07-251-001.

The applicant is present for the variance request. Mrs. Roberts stated she was here for the third time and the last time she was here was on March 7, 2006. Mrs. Robert stated she owned and lived on this property since 1975 (32 years). This is one piece of property and there are two easements serving this particular piece of property, one on Knapp Street to the river section and one on Pettis which services her home. Mrs. Roberts gave the Zoning Board of Appeals an overview of her property and this is on file in the minutes of March 7, 2007. The Niedzwiecki's bought her son's home which was on this property. Mr. Henry Davis drew up a sales contract for Mrs. Robert and Mr. Davis did not clear it with the township that she had the right to the access to the river and through the years requirements had changed. The township had denied the split but had added McCloskeys name to her tax bill and assessment statement and her estate is in trouble. Mrs. Roberts stated she has not had access to the river since 2003 and has bills showing the information regarding the McCloskeys and her name on the bills. The last time she was here, the decision was rather than using the 12 foot easement from Knapp, which she knows is legal, (as she has a letter from George Haga which is on file in the Clerk's office,) but the problem is the 12 feet and there is no way to get additional footage on either side because in 2004 the Zoning Board of Appeals granted the Niedzwiecki's the right to buy a small piece of property which is boxed in this 12 feet. Then the Zoning Board of Appeals decided Mrs. Roberts should build a new bridge. She stated she has a DEQ bridge near her home, but the decision was rather than use the Knapp Street access, she was to build a new bridge instead of using the Knapp Street easement. Mrs. Roberts requested to read a letter from the DEQ for the record which is on file with the Zoning Board of Appeals minutes in the Clerk's office and Chairman Boman asked her to summarize the letter and Mrs. Robert read the paragraph from the DEQ "there are two non conforming easements in your name that access the subject 20-acre parcel located west of your home. The LWMD views the easement off Knapp Street that does not impact regulated resources as a feasible and prudent alternative to the Pettis Avenue easement that would impact regulated resources." Mrs. Roberts asked for suspension for the 30 foot rule and is asking for 12 ft for access to the 20 acres, then stated if the rules had been in place for the open space she would have made a contract with the township. Mrs. Roberts stated as far as the DEQ is concerned there is no reason for another bridge.

Chairman Boman asked Mrs. Roberts given that this board already declined the request for 12 ft easement and the Zoning Board of Appeals declined it previously wouldn't that negate her ability to use the 12 ft easement. Bette stated she has no access through that easement since 2004 and stated since 1979 the easement has been there.

Zoning Board of Appeals Meeting

October 2, 2007

Page 3 of 4

Chairman Boman stated the letter Mrs. Robert provided from the DEQ states “that in order for LWMD permit to be issued, the easement accessed off Knapp Street would have to be disqualified somehow as a feasible and prudent alternative.

Mrs. Roberts stated the issue was she uses the easement off of Knapp and Pettis Street rather than the Knapp Street easement.

Mrs. Roberts stated the Knapp Street easement was not disqualified which would need to be done before approving the Pettis easement.

Chairman Boman stated they would not take away the easement from Mrs. Roberts as it is her easement but the Zoning Board of Appeals would not provide a variance.

Zoning Administrator Kushion stated the only way to the Zoning Board of Appeals would sign off on a building permit and a split to build on the back parcel is with a Zoning Board of Appeals variance which the Zoning Board of Appeals denied and the township would not sign off on a building permit or split and looking at the letter it looks like a feasible alternative, but it didn't.

Co-Chair Fields stated the Zoning Board of Appeals denied a variance request and that is all the Zoning Board of Appeals does.

Member Pratt stated she called Mr. Day from the DEQ and asked him specifically about this paragraph and questioned “what would happen if Ada Township did not grant a variance for the Knapp Street easement?” She stated he said “there are two non conforming easements on this property and one of them, as he clearly states, does not impact regulated resources which the other one would.” Member Pratt stated he was also imposing why would Ada Township not allow an easement on 12 ft which is not going to impact wetlands but granting an easement on the 16 ft which is also non conforming on Knapp Street, would have an impact on the natural resources but not on the Pettis easement? Member Pratt stated Mrs. Roberts is in a situation she did not make. Member Pratt stated Mrs. Roberts attorney who tried to handle this situation properly for her did not and Mrs. Roberts sold the parcel of land and is now land lock which is not of her doing.

Open to Public comment.

Don Niedzwiecki, attorney for Joe and Stacey Niedzwiecki who own the property where the easement is located, stated the land is not land lock as there is an easement to the property and the sale of the property is not contingent on the Zoning Board of Appeals granting Mrs. Roberts this variance. Attorney Niedzwiecki stated there is no practical difficulty or undue hardship and the Niedzwiecki's are willing to sit down and negotiate a sale price of the property with Mrs. Roberts. Attorney Niedzwiecki asked to deny the variance.

Joe Niedzwiecki, 5451 Knapp Street, stated in order to reapply there had to be changes.

Chairman Boman stated the applicant had a letter from the DEQ which she is suggesting a new practical difficulty being the Knapp Street road.

Chairman Boman stated the Zoning Board of Appeals had received written communications from Daniel Bergsma, David Aupperlee, Ernest Chernoby, and Gayle Chernoby stating opposition to the request for the variance.

Closed to public comment

Open to Board Discussion

Co-Chair Fields stated for the Zoning Board of Appeals to reconsider the request there would have to have been a new set of facts. Co-Chair Fields stated the letter from the DEQ does not state new facts and the facts regarding the easement we dealt with in our zoning requests before are the same as the previous requests.

Chairman Boman stated he agreed with Co-Chair Fields the letter from the DEQ does not change the previous request. He understands there may be some difficulty in preparing easement from that direction but that is an economic issue and not necessarily one that changes any other consideration on this in the past.

Member Hartley stated he recognizes the situation as such but the situation is not different from our first decision.

Member Pratt stated she has a different opinion which she voiced earlier.

Moved by Co-Chair Fields to deny the variance request, supported by Member Hartley. Yes: 3
No: 1 Absent: 1 Motion carried to deny the variance request.

VI. CORRESPONDENCE-None

VII. PUBLIC COMMENT-Bette Roberts stated she had a letter from the Kent County Road Commission dated June 28, 2005 which is on file in the Clerk's office with the Zoning Board of Appeals minutes.

VIII. ADJOURNMENT: Moved by Co-Chair Fields, supported by Member Hartley to adjourn at 5:15 pm.
Yes: 4 No: 0 Absent: 1 Meeting adjourned.

Deborah Ensing Millhuff, CMC
Ada Township Clerk

RS/DT