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ZONING BOARD OF APPEALS REGULAR MEETING MINUTES
Wednesday, March 10, 2021 | 7:00pm

CALL TO ORDER: The electronic meeting was called to order at 7:00pm by Chair Mark Zarkovich with the Pledge of Allegiance.

ZBA MEMBERS PRESENT: Chair Mark Zarkovich, Vice-Chair Don Lowell, Secretary Charles Openlander, Chad Cooley, and Robert Walling.

STAFF PRESENT: Planning Director Andrea Polverento

Per the requirements of SB 1108, each member of the Zoning Board of Appeals stated their physical location for the record. Polverento also reminded the Board that all votes would be roll call votes, and that barring any objection, she would act as recording secretary and would call the names for recording purposes. There was no objection.

COMMUNICATIONS RECEIVED: None.

AGENDA APPROVAL:

Motion by Cooley, seconded by Lowell, to approve the agenda as presented.

Roll call vote:

Yes: Lowell, Cooley, Walling, Zarkovich, Openlander

No: None; Absent: None

Motion carried.

PUBLIC COMMENT, NON-AGENDA ITEMS: None

APPROVAL OF MINUTES:

1. January 13, 2021 Regular Meeting

Lowell noted a small typo in the first paragraph on page two of the draft minutes. Polverento will make the correction.

Motion by Lowell, seconded by Cooley, to approve the minutes of January 13, 2021, as amended.

Roll call vote:

Yes: Cooley, Walling, Openlander, Zarkovich, Lowell

No: None; Absent: None

Motion carried.

ADVERTISED PUBLIC HEARINGS:

1. Case No. 21-01 ZBA – Variance Request – 4995 Howe Road

Zarkovich opened the public hearing at 7:06pm. The public hearing procedure was summarized.

Zarkovich asked Polverento to summarize the facts of the case. Polverento described the location of the request, on the southeast corner of Howe Road and Grove Road, in Section 12. The house is located on the east side of the parcel, and the western edge of the parcel runs along an angle. In the rear yard, behind the house, the drainfield serving the property and a geothermal loop take up the majority of that area. Polverento referenced a map which was included in the meeting packet.. To the west of the house, there is a substantial drop off, and during rain events, a significant amount of water moves through that area, serving the adjacent properties.

Polverento explained that Mr. Calewarts is seeking a variance from the front yard setback requirements, to be able to construct an outbuilding approximately 25 feet from the edge of the road right-of-way for Howe Road. This is being requested to avoid having to bring in a significant amount of fill dirt, which would be difficult to stabilize and could negatively affect the drainage function of that area.

The preferred location of an outbuilding would not affect required clear vision areas, for any traffic coming into or out of the driveway serving the property. There is a significant road ditch along Howe Road as well, which is full of brush and is not currently affecting any sight lines.

Polverento noted that Calewarts would be permitted to construct an accessory building up to 2,400 square feet in size under the requirements of the zoning ordinance Sec. 28-5.24. According to his application, Mr. Calewarts is proposing an accessory building which is 32'x40', or 1,280 square feet, just over half the size of what would be allowed.

Polverento asked the members of the Zoning Board of Appeals if there were any questions for her. Cooley asked if any public comments or objects from any of the neighbors had been received. Polverento stated that she had not received any calls or emails with any comments at all from anyone, and that there were no persons on the electronic meeting or in the waiting room relative to this case.

Lowell asked Calewarts about the specific location of the drainfield and the reserve drainfield area. Calewarts described their location in the back yard, behind the house. He stated that there was sufficient area for a replacement drainfield should that ever become an issue. Calewarts stated that the reason the backyard was ruled out as a possible location for the pole barn was a result of the drainfield and reserve drainfield area.

Lowell asked Calewarts if he expected that stormwater runoff from a new building could be accommodated without causing any concerns with the existing drainage patterns. Calewarts did not think that there would be any concerns there, as a substantial amount of water already moves through the area south of the proposed building site. Polverento also noted that drainage could be diverted to the road ditch if necessary as well.

Calewarts thanked the Board of Appeals for considering his request.

There being no further public comment, Zarkovich closed the public hearing at 7:17pm.

The Zoning Board of Appeals briefly discussed and decided to conduct the deliberations for this case next, and then return to the public hearing for Case No. 21-03 ZBA. Mr. Daly, applicant for Case No. 21-03 ZBA agreed to this change in the order of the agenda.

NEW BUSINESS:

1. Case No. 21-01 ZBA – Variance Request – 4995 Howe Road

This request being for a dimensional, non-use variance, the members of the Zoning Board of Appeals considered and discussed the review standards described by Sec. 28-7.6 of the Zoning Ordinance. A determination of fact was made for each of the six review standards. The Zoning Board of Appeals determined the following findings of fact:

- 1.) The requested variance is unlikely to be contrary to the public interest and the spirit of the ordinance can be observed.
- 2.) The requested variance is unlikely to cause an adverse effect to property or improvements in the vicinity or in the AG - Agricultural Zoning District.
- 3.) The variance request is not so recurrent in nature as to require an amendment to the Zoning Ordinance. The request is specific to this parcel due to locations of the drainfield, reserve drainfield, geothermal loop, drainage patterns, and the significant changes in topography throughout the western side of the property.
- 4.) There is evidence of practical difficulty as described below:
 - (a) The parcel has exceptional topographic conditions in that there are significant changes in topography from east to west. There is a significant drop off of 15 feet or more and bringing in fill to stabilize a construction site is likely to negatively affect local drainage patterns. The parcel also has an odd configuration with an angle limiting the potential locations for an accessory building.
- 5.) The requested variance is the minimum amount necessary to allow the applicant to build an accessory building which is a right possessed by other properties in the vicinity in the same zoning district.
- 6.) The requested variance is not the result of intentional action taken by the applicant.

Having considered the facts of the case, the following motion was made:

Motion by Cooley, seconded by Walling, that the application of the Jay Calewarts, for property located at 4995 Howe Road, with a Parcel No. of 19-150-012-200-025-08 and issued Case No. 21-01 ZBA, a request for a variance from Sec. 28-3.1.3D to permit an accessory building to be constructed a minimum of 25 feet from the edge of the road right-of-way in the AG – Agricultural Zoning District, be approved, based on the findings of fact which indicate a practical difficulty in accordance with Section 28-7.6 of the Watertown Charter Township Zoning Ordinance and pursuant to the Michigan Zoning Enabling Act.

Roll call vote:

Yes: Cooley, Openlander, Walling, Zarkovich, Lowell

No: None; Absent: None

Motion carried.

ADVERTISED PUBLIC HEARINGS:

2. Case No. 21-03 ZBA – Variance Request - 4337 W. Grand River Avenue

Zarkovich opened the public hearing at 7:29pm.

Zarkovich asked Polverento to summarize the facts of the case. Polverento described the location of the request on Grand River Avenue, south of Royal Scot and directly west of the Pacific Pride refueling station. The subject property is Lot No. 1 of Supervisor's Plat No. 5, which was established in 1942. This lot does not have rail access but many of the other lots within this plat do.

Polverento continued that since this plat was established, the type of development that was expected for this area has changed a great deal. Dating back to the '40s and '50s, many of these uses were residential, and the lot to the west and south of the subject property remains a legal, non-conforming residential use, however, most of the current businesses in this area are typical industrial users.

This lot is among the smallest in this plat, and has, until recently, been in common ownership with the Pacific Pride refueling station to the east. The past two uses on this lot have been a Lansing Ice and Fuel terminal and a Spartan cab dispatch center. The applicant owns and operates an automobile transport company, which is permitted under the ordinance, and holds a used automobile dealers license. He is seeking the opportunity to apply for a special land use permit to operate an open air business, which the use category under which a car dealership of any size/type would be classified.

Polverento stated that there are two issues with the special land use specific requirements for an open air business. First, the minimum lot size is one acre, and this parcel is .78 acres in size, a difference of about 9,500 square feet. Second, the minimum frontage on a public road is 200 feet. This parcel only has approximately 106 +/- feet of frontage, and it does not utilize an access point from that area – it uses an easement across the property to the east, the Pacific Pride property, for access. If you take the easement area into account, the lot width is within the required dimension.

Polverento stated that she received no calls or emails with regard to the notices which were sent out, and no other individuals were on the electronic meeting to participate or offer any public comments.

The applicant states that his business is relatively small, and that he would be offering no more than 5-6 used vehicles for sale at any time. He currently operates his business from a site in Lansing. His sales hours are listed as noon-5pm, Monday-Friday only.

Pete Daly, applicant, stated that he has had a used automotive dealer's license since 1976, and he operates the business with his wife, and they are semi-retired. They only offer about 5-6 cars for sale at any point, and they are clean vehicles, mostly light duty pickup trucks, and he has no interest in having cars all over the property.

Walling asked the applicant if he planned to establish a new driveway or if he planned to use the existing drive via the easement. Daly responded that he did not plan to change the current setup, using the easement for access.

Lowell asked if they intended to live at the facility. Daly responded that it would only be used as office space, that it was not setup for residential use.

Lowell asked about the automotive transport business also owned by the applicant. Daly stated that he also has a automotive broker's license, and he acts as a broker to transport vehicles across the country. The office space would also serve this business, but it would be very rare for any vehicles in transport to be stored at the location for any amount of time. Daly stated he has no employees besides himself and his wife, they are a small operation.

Lowell asked if the property was served by sewer and water. Polverento responded that it was.

Lowell asked the applicant if he would be open to a reasonable limitation on the number of vehicles for sale. Daly responded that he would have no problem with that.

Lowell asked where the cars for sale would be parked. Daly responded that he intended that they would be backed in against the building facing Grand River Avenue. There is enough space for about six vehicles there. There is also an area off to the side where he and his wife would park their cars, and a parking area for anyone coming to look at a vehicle. There is a handicapped space available as well.

Walling asked about the hours of operation. Daly responded that the broker/transport business was a 9-5, Monday-Friday operation, and that his license requires hours of operation to be posted for the sales, and those hours are noon-5pm, Monday-Friday.

Zarkovich asked if the Pacific Pride facility would cause any issues for the use. Daly stated that they had owned the building for a few months and had been cleaning it up, but that no issues had arisen and none were expected. He said that the station gets quite a lot of use, with semi trucks coming and going regularly.

Daly commented that he thought the site was a great location for his small business, that with all the industrial uses in the area, the light pickup trucks he sells would have a good base of customers. He sells only clean used vehicles, nothing salvaged.

There being no further questions or comments, Zarkovich closed the public hearing at 7:53pm.

NEW BUSINESS:

2. Case No. 21-03 ZBA – Variance Request - 4337 W. Grand River Avenue

This request being for a dimensional, non-use variance, the members of the Zoning Board of Appeals considered and discussed the review standards described by Sec. 28-7.6 of the Zoning Ordinance. A determination of fact was made for each of the six review standards. The Zoning Board of Appeals determined the following findings of fact:

- 1.) The requested variance is unlikely to be contrary to the public interest and the spirit of the ordinance can be observed.
- 2.) The requested variance is unlikely to cause an adverse effect to property or improvements in the vicinity or in the LI – Light Industrial Zoning District.
- 3.) The variance request is not so recurrent in nature as to require an amendment to the Zoning Ordinance. The request is specific to this parcel due to an outdated plat layout, and a long-standing easement for ingress/egress.
- 4.) There is evidence of practical difficulty as described below:
 - (a) The parcel is exceptionally narrow.
 - (b) The parcel had previously been held in common ownership with the adjacent parcel to the east. In that capacity, all requirements had been met for previous similar uses.
 - (c) The parcel is part of a Supervisor's Plat dating to 1942, which was amended to shrink the parcel at some point since that time, which was prior to the applicant's purchase of this parcel.

5.) The requested variance is the minimum amount necessary to allow the applicant to allow the applicant to apply for a special land use permit for an open air business, which is a right possessed by other properties in the vicinity in the same zoning district.

6.) The requested variance is not the result of intentional action taken by the applicant.

Having considered the facts of the case, the following motion was made:

Motion by Cooley, seconded by Walling, that the application of the Pete Daly, for property located at 4773 W. Grand River Ave., with a Parcel No. of 19-150-280-1000-001-00 and issued Case No. 21-03 ZBA, a request for a variance from Sec. 28-4.38.1 to permit an application for a special land use permit for an open air business on a parcel which is .78 acres in size with a minimum lot width of approximately 106 feet be approved, based on the findings of fact which indicate a practical difficulty in in accordance with Section 28-7.6 of the Watertown Charter Township Zoning Ordinance and pursuant to the Michigan Zoning Enabling Act.

Conditions of Approval:

1. The number of vehicles for sale are limited to a maximum of six; and
2. The business hours of operation are limited to 9am-5pm, Monday – Friday.

Roll call vote:

Yes: Openlander, Lowell, Zarkovich, Cooley, Walling

No: None; Absent: None

Motion carried.

UNFINISHED BUSINESS: None.

COMMITTEE REPORTS: Polverento reviewed the committee and staff reports.

COMMENTS AND QUESTIONS FROM AUDIENCE, STAFF, AND BOARD MEMBERS: None.

ADJOURNMENT:

The meeting was adjourned at 8:16 pm.

Date approved: _____

Mark Zarkovich, Chair

Charles Openlander, Secretary