



12803 S. Wacousta Rd., Grand Ledge, MI 48837
517-626-6593
517-626-6405 (Fax)
www.WatertownTownship.com

ZONING BOARD OF APPEALS REGULAR MEETING MINUTES
Wednesday, January 13, 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

COMMUNICATIONS RECEIVED: None.

AGENDA APPROVAL:

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

Roll call vote:

Yes: Cooley, Openlander, Lowell, Walling, Zarkovich

No: None; Absent: None

Motion carried.

PUBLIC COMMENT, NON-AGENDA ITEMS: None

APPROVAL OF MINUTES:

1. August 12, 2020 Regular Meeting

Motion by Cooley, seconded by Lowell, to approve the minutes of August 12, 2020, as presented.

Roll call vote:

Yes: Lowell, Openlander, Zarkovich, Cooley, Walling

No: None; Absent: None

Motion carried.

ADVERTISED PUBLIC HEARINGS:

1. Case No. 20-07 ZBA – Fairfax Variance Request

Zarkovich opened the public hearing at 7:10pm. The public hearing procedure was summarized.

Zarkovich asked Polverento to summarize the facts of the case. Polverento described the location of the request, a vacant parcel, south of the railroad tracks, and approximately a quarter mile south of the intersection of West Grand River Avenue and Felton Road. The subject parcel abuts the southern township/county line with Delta Township in Eaton County. She described the surrounding properties and the utilities that serve the property.

Polverento described the nature of the request, and reviewed the 2018 variance request for the same parcel, which was approved in part and denied in part. This request is different from the previous request, in that this request is for three private driveways to abut three stubs of a private street, Trillium Drive, originating in Delta Township. A variance is necessary because private driveways are not permitted to abut private streets, and this request differs from the 2018 approval in that there are two additional proposed stubs of the private street.

Tim Lebel, 3424 Trillium Drive, noted that the private street would not be named Trillium Drive, that a new name would be assigned. Mr. Fairfax noted that the new name would likely be Rachel Lane, in memory of his daughter.

Polverento also described the number of divisions that Mr. Fairfax would be able to complete over ten years, per the Land Division Act, the state law which governs the division of property. She explained that four parcels may be created from the existing parcel now, and in ten years, two additional parcels could be created, for a total of six parcels. She explained that zoning may also limit the number of divisions possible if minimum requirements cannot be met.

Polverento described the variance, or possibly variances, which would be necessary. She explained that how the Zoning Board of Appeals would view each private road stub would determine if one variance or two would be necessary. If the Board considers each stub to be a separate entity eligible for one private driveway serving a maximum of three parcels, only one variance would be necessary. However, if the Board considers that each stub is part of one entity, then two variances may be necessary to consider. She suggested that the Board consider that matter first, following the conclusion of the public hearing.

Polverento asked the Board members if they had any questions for her. There being none, Zarkovich asked Mr. Fairfax if he had any comments regarding his request.

Gary Fairfax, 4918 Delta River Drive, applicant, referenced the map he had provided with his application. He mentioned his variance that was received in 2018, which allowed him to develop lots along the western stub from Trillium Drive. He reiterated that the street would be called Rachel Lane. Fairfax said that he has received permits from Delta Township, and from Clinton and Eaton Counties, for soil erosion permits for the road development. The road will start from Trillium Drive, then go north, and east. The road is finished up to where it is proposed to turn to the north. From there, the road will extend further east. At the proposed end of the private road extension, lots may also be served in Eaton County. He described the layout, with a western, center, and eastern stub.

Fairfax described the wetland delineation and the likelihood of developing septic systems for the lots he is proposing. The delineation shows that the soils are okay in some places, and there are upland areas potentially eligible for development. Septic systems are likely to require engineered, elevated systems. The land to the east is higher than on the western side.

Fairfax explained that COVID has slowed his ability to continue his road development. He is hoping to get the road construction completed this year. He referenced the middle stub, and stated that he hopes to develop three parcels from the middle stub. He can only develop one parcel on the easternmost stub, which amounts to about 1.4 acres. The western stub will likely only support one or two parcels, because there is a wetland right in the middle of the parcel that runs northwest and southeast.

Fairfax reviewed the parcels he has described on the map he included with his applications, and described the topography and the general layout of each.

Zarkovich asked for clarification on Mr. Fairfax's development of the western parcel(s). Fairfax stated that because of the wetlands being widespread in that area, it's likely that only parts of the two parcels shown would be buildable. Zarkovich said that the drawing contained seven parcels, and only six are permitted. He asked Fairfax which one would not be developed. Fairfax said that he was unsure at this time which parcel would not be developed. He thinks it may depend some on sales, and on which parcels were most desirable to potential buyers. He does not plan to develop the western side now. He expects to develop the four parcels above the eastern and middle stub, and will likely wait the ten years to develop the lots on the western side.

Lowell asked Fairfax about the two western stubs of the private road, what would the longest distance be along the private drive to where a house may be located. Fairfax responded that the proposed western parcels are the farthest from utilities, which is another reason why he was planning to leave that area undeveloped for now. The eastern parcels can be served easier with electricity and other utilities. Lowell stated that his concern had more to do with emergency vehicle access than with utilities. He asked what the width and depth of the current parcel is. Fairfax responded that the parcel is approximately 600 feet by 1,100 feet.

Fairfax also explained that the private road in Delta Township will be built to their specifications, with a 20-foot wide traveled surface, which would be suitable for emergency vehicle access. Polverento described the requirements in Watertown Township which address emergency vehicle access, and stated that the driveways would be required to be constructed to that minimum standard.

Lowell asked Fairfax about the preliminary conversations with the Mid-Michigan District Health Department regarding the potential for well and septic to serve these proposed parcels. Fairfax stated that they had done several digs along the western stub to determine the options several years ago. Lowell asked if there were any specific results, as he is concerned about being able to locate a primary and backup drainfield for each proposed lot. He is concerned about the prevalence of hydric soils in the area. Isolation distance for a well also appears complicated, and Lowell is concerned this may be an aggressive approach to developing the area.

Fairfax said that the soils work he has completed is on the western boundary, and not on the eastern side. That land is higher, and he does not anticipate the same issues. Lowell said that soils can be spotty, and he is unsure of the water table in that area. Polverento noted that prior to any construction, the township would require that the health department approve a well and septic permit. The health department will also require the proposed lots to be staked before conducting perc tests. Fairfax said he is still in the early stages of the development process and will conduct all these tests before proceeding.

Lowell asked Fairfax to describe what has changed since the 2018 consideration, and what hardships are present to justify going from the three lots to possibly six lots. Fairfax answered that he was unsure how the development would proceed in 2018, as the western stub was the first stub he expected to build. When the wetland delineation came back and showed the western side being low, he considered other paths forward. COVID also slowed down his ability to move forward. The eastern portion will support development better, and he is working with a retired engineer to plan how to bring utilities to the area. He has shifted his emphasis to the eastern lots given these issues. He also believes the eastern portion will be

more profitable for him. Lowell asked Fairfax if it would be fair to say that he has reevaluated his options, and this proposal would be the best way to maximize the development opportunities of the overall parcel rather than it being a hardship. Fairfax said that developing the eastern portion is the smarter path forward. Fairfax said that once he got into the process after the 2018 hearing and variance, that the actions he took then made this proposed path more clear.

There being no further questions for Mr. Fairfax, Zarkovich asked if any other members of the public wished to speak on the matter.

Lebel said that he is supportive of Mr. Fairfax's request. He asked if the variance that was approved in 2018 was bound by geography, or if he could develop the single private driveway anywhere on the parcel. Polverento responded that the motion for approval did not include a specification of location, and it could be inferred that one stub could be constructed in any location. Fairfax stated that while it was useful that the driveway could be located anywhere, he still wished to have up to six parcels over ten years, rather than the three previously approved. Lebel stated that he supported Mr. Fairfax's right to develop his parcel to the maximum extent, he was just looking for a possible alternative should the request be denied.

Lebel said that he had some questions about a possible second variance, but he was not prepared to comment on that possibility. Polverento explained the need for the second variance may or may not be necessary, as it will depend on how the Board classifies the individual stubs. If the Board deems each stub eligible for up to three parcels, the second variance is not necessary. If the Board deems the three stubs to be a single road, then a second variance would be necessary to develop more than the three-parcel maximum limit.

There being no further public comment, Zarkovich closed the public hearing at 8:10pm.

UNFINISHED BUSINESS: None.

NEW BUSINESS:

1. Case No. 20-07 ZBA – Fairfax Variance Request

The Zoning Board of Appeals discussed the matter and 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 it being landlocked, with access from a private road in another municipality and county.
- 4.) There is evidence of practical difficulty as described below:

- (a) The parcel has exceptional topographic conditions in that it is environmentally sensitive, with widespread wetland areas and an open county drain with floodplain implications.
- (b) The parcel immediately south is in a neighboring municipality and county, and the only access to this parcel is from a private road in Delta Township in Eaton County.
- (c) The parcel is landlocked.

5.) The requested variance is necessary to allow access to the property. The property is landlocked with no public access from Watertown Township available. Granting a variance to allow a private road in Delta Township to be extended per their code requirements would allow the applicant to develop this property as would be permitted for 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.

7.) Each stub of the private street in Delta Township in Eaton County is being considered a separate private street eligible for one private driveway to serve a maximum of three parcels each.

8.) The parcel in question is eligible to be divided into four parcels at this time. In ten years, per the State of Michigan Land Division Act, the remaining parcel will be eligible for two additional parcels, for a total of six parcels over ten years.

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

Motion by Cooley, seconded by Walling, that the application of Gary Fairfax, for vacant property with Parcel No. 19-150-036-300-020-00 and issued Case No. 20-07 ZBA, a request for a variance from Sec. 28-5.1.3 to allow three private driveways as defined by Sec. 28-2.2 to abut a private road, "Rachel Lane," with three stubs originating in Delta Township, for the purposes of developing the vacant land 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.

Conditions of Approval:

1. Applicant shall provide documentation that Delta Township has approved the private road construction and that it is in compliance with all Delta Township codes pertaining to its development prior to issuance of a Watertown Township zoning permit for private driveway construction.
2. Applicant shall meet all applicable regulations of the Department of Environment, Great Lakes and Energy; Clinton County Drain Commission; Mid-Michigan District Health Department; and any other applicable federal, state or local agencies with regulatory authority over the construction of a private driveway in a wetland and/or floodplain area.
3. Applicant shall provide a certified survey describing the parcels to be created. This survey shall be submitted to the Township Zoning Administrator to determine concurrence with the draft layout submitted with this variance application. If there are substantial differences, the Township Zoning Administrator shall submit this survey to the Zoning Board of Appeals for review to determine compliance with this variance.
4. The remaining parent parcel shall be unbuildable until such time as additional divisions are authorized by the Land Division Act.

5. Permits shall be obtained for each private driveway easement, which are required to be legally recorded. Private driveway maintenance agreements shall also be submitted.

Roll call vote:

Yes: Walling, Zarkovich, Cooley, Openlander, Lowell

No: None; Absent: None

Motion carried.

2. 2020 Annual Report of the Planning Commission

The Zoning Board of Appeals reviewed the 2020 Annual Report of the Planning Commission, and Polverento gave a verbal update on the case that was considered in August 2020.

No action taken.

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 8:46 pm.

Date approved: _____

Mark Zarkovich, Chair

Charles Openlander, Secretary