

Little Traverse Township Zoning Board of Appeals
May 30, 2019 5:30 PM
Township Hall
Minutes

Supervisor Dohm called the meeting to order at 5:30 PM.

Roll Call: Present: Matt Duran, Joe Leach & Joe Chattaway

Absent: None

Also present: Bill Dohm, Randy Frykberg, Joel Wurster, Bryan Walters and five members of the public, (*see attachment page 5*).

Election of Officers: Mr. Dohm advised that according to the ZBA rules of procedure, the first meeting following March 31st. of each year the Board shall elect a Chairperson, Vice Chairperson and a Secretary from its membership. A recording secretary may assist with the minutes.

Following discussion, Mr. Chattaway made a motion, with support from Mr. Leach, to nominate Mr. Duran Chairperson, Mr. Leach Vice Chairperson, and Mr. Chattaway Secretary. The nominations were closed. Upon a voice vote, the motion was unanimously carried.

The meeting was turned over to Chairman Duran.

Agenda: Upon a motion by Mr. Chattaway and support by Mr. Leach, the agenda was unanimously approved as presented (*attachment page 6*).

Minutes: Following review of the minutes of January 10, 2019 a motion to approve the minutes as presented was offered by Mr. Leach and supported by Mr. Chattaway. The motion was approved by unanimous voice vote.

Case #A-3-2018 Conduct a Public Hearing on an application by Varnum, LLP, for owner MLND Interests, to vary the 40,000. sq. ft. area requirement for a lot, to permit two lots that contain approximately 27,500 sq. ft. each, and/or to vary a single zoning lot to allow a split into two zoning lots. The property is zoned RR, is a conforming zoning lot located at 1351 Fern Ave., and is more particularly described as Lots 148, 149, 150, & 151 of Amended Plat of Ramona Park, tax parcel #24-08-16-17-401-017.

Mr. Dohm advised that notice of a Public Hearing had been published in the Harbor Light Newspaper, properly posted and distributed to all property owners of record within 300 ft. of the subject property.

Chairman Duran stated that the ZBA originally determined that it lacked jurisdiction over this variance application, and that the Emmet County Circuit Court has remanded it back for a hearing. He assured those in attendance that a decision by the ZBA will be made following a normal procedure of reviewing the matter, analyzing information received, and making findings of fact and a determination.

5:40 P.M. Chairman Duran opened the case to a **Public Hearing**.

Dr. Frykberg gave a description of the case and presented his Memorandum dated 5-21-2019 (*attached pages 7-11*).

There has been no written correspondence received regarding this case as of the opening of this hearing.

Mr. Bryan Walters, counsel for MLND Interests and Mary Lee Duda, presented his case, including a memo dated May 23, 2019, (*copy on file*). He outlined the summary on page 1, and referred to several exhibits included in his memo. He also referred to Twp. Zoning Ordinance, Section 1604 Jurisdiction (*of the ZBA*), particularly paragraph 2 and 3, and Section 1605 Exercising Powers.

Mr. Walters also presented a colored Ramona Park Zoning Lot Map indicating zoning lots over 40,000 sq. ft., park area and zoning lots under 40,000 sq. ft., (*attached pages 12*)

Chairman Duran asked if anyone had public input to present.

Public Comment:

Mr. Jeff James read from a prepared statement in opposition to granting this variance, (*see attached page 13-14*).

Mr. Steve Bush commented on his appearances at previous ZBA public hearings on this property. His concern was that he had explored the possibility of purchasing this property regarding the ability to split and create two single family homes on it, and was advised by Twp. staff and others that he could not. Therefore, he purchased another property in the area. He expressed his opposition to granting this variance when the Township zoning ordinance is designed to prevent changes in the neighborhood that increase density and reduce open space.

Sarah Krupa commented that the properties Mr. Walters talks of that are less than 40,000 sq. ft. are ones that were created before the new standards were put in place by the 2011 ordinance amendment.

6:25 PM. There being no further public comment, the Public Hearing was closed.

Supervisor Dohm requested an opportunity to make a staff comment. Permission was granted by the Chair.

Mr. Dohm stated that he was concerned about setting a precedent for varying from the intent, and language of the zoning ordinance amendment that was adopted in 2011 regarding zoning lots and non-conforming lots. He stated that the ordinance was adopted by the Planning Commission and the Township Board, (therefore the Township), to re-define zoning lots permitted, particularly for the purpose of providing for larger parcels, more open space, and less density in areas of concern. This was done to protect the Township from overcrowding effects on infrastructure, such as public roads and storm drains. By comparison to the small existing non-conforming lots, he pointed out an example of another property in the plat, across the road from smaller lots that had recently been split into 40,000. sq. ft. zoning lots based on the current zoning standards. The concern is that if this subject zoning lot is allowed to be split based on a majority of existing non-conforming lot sizes, what basis would the ZBA have for not allowing these example lots to be divided so they would compare in size to the majority of existing lots on the opposite side of the road. Thus, the 2011 amendment would be rendered ineffective.

Chairman Duran questioned if there was a difference between another single family dwelling on this parcel, and a customary accessory building on this lot that would add to lot coverage. Mr. Dohm explained that two family dwellings potentially could have additional customary accessory buildings, thus compounding the density.

The Board reviewed the proposed findings of facts. Discussion followed.

Motion: Mr. Leach offered proposed findings of fact indicated in Dr. Frykberg's 5-21-19 memo and incorporated them in the following:

Joe Leach moved, that due to the stated findings of fact (as more particularly stated in the Final Decision page 15-17), to deny Case #A-3-2018, MLND Interests ZBA variance application dated June 14, 2018 to vary the 40,000 sq. ft. area requirement for a lot, to permit two lots that contain approximately 27,500 sq. ft. each, and/or to vary a single zoning lot to allow a split into two zoning lots at 1351 Fern Ave in the Amended Plat of Ramona Park (ID # 24-08-16-17-401-017). Joe Chattaway seconded.

Roll Call Vote of ZBA members carried the motion resolution by the following vote:

(Yes) Joe Chattaway
(No) Matt Duran
(Yes) Joe Leach

6:35 PM. There was a discussion of whether to finalize the decision this evening or to wait for the later adoption of the meeting minutes. There was a recess called to allow the final decision to be typed up for signature by the Board.

6:45PM. The ZBA meeting reconvened with discussion of the proposed written decision. Mr. Leach requested that he be allowed to make an amendment to his

motion. Upon granting the request by the Chair, Mr. Leach made a motion to amend the original motion to include the following:

9) "The Board also finds and determines that the modification of the area regulation of the zoning ordinance is not necessary to secure an appropriate improvement as the subject zoning lot is already appropriately improved and is not of such shape, or is not so located with relation to surrounding development or physical characteristics, that it cannot otherwise be appropriately improved without such modification."

Mr. Chattaway seconded the motion, and it was carried by the following roll call vote:

(Yes) Joe Chattaway
(Yes) Matt Duran
(Yes) Joe Leach

6:55 PM. There was another recess called to allow the final decision with the amendment to be typed up for signature by the Board.

7:10 PM. The ZBA meeting reconvened and the Final Decision was read by Board members. Signature of the Final Decision of the ZBA was authorized and occurred, and a copy was provided to the applicant's representative. *(attached pages 15-17).*

Open Discussion for items not on the agenda:

Public Comment or Correspondence received. There were none.

Report by Planning Commission Representative: There was none.

Report by Twp. Board Members:

Mr. Dohm advised the Board that there was a pending ZBA case and the Board needed to schedule a meeting to hear it. It was agreed to hold another meeting on June 27, 2019 at 5:30 pm to hear the pending case.

Adjourn: There being no further business to be brought before the Board, Chairman Duran adjourned the meeting at 7:25 P.M.

Respectfully Submitted,



William P. Dohm, Recording

Secretary
Joe Chattaway, Secretary

6-27-19
Date Approved