

**SCHOOLCRAFT TOWNSHIP ZONING BOARD OF APPEALS  
MINUTES OF MEETING HELD JUNE 13, 2013**

A meeting of the Schoolcraft Township Zoning Board of Appeals was held on June 13, 2013 at the Schoolcraft Township Hall commencing at approximately 7:00 p.m. (Mr. Steensma arrived approximately 7:05).

Members Present: Terry Blodgett, Chairman  
Raymond Hocevar  
Gary Steensma  
Ken Hovenkamp  
Jack Westendorp, alternate

Members Absent: John Gardner

Also present were Craig A. Rolfe, Township Attorney, and 12 citizens (including Zoning Administrator/Supervisor Don Ulsh).

**MINUTES OF NOVEMBER 1, 2012 MEETING**

On motion by Mr. Hovenkamp, supported by Mr. Hocevar, the minutes of the Zoning Board of Appeals meeting on November 1, 2012 were unanimously approved as submitted.

**RALPH MANLEY VARIANCE APPLICATION  
(15271 SOUTH BARTON LAKE DRIVE, PARCEL NO. 3914-27-270-300)**

Chairman Blodgett indicated the first item of new business was the request of Ralph Manley for a variance from the 40' principal building minimum front yard setback requirement applicable in the R-1 Medium Density Residential zoning district to construct a proposed 32' x 50' garage attached to the existing single-family dwelling on the above-referenced property with a front yard (road) setback of 30'. The existing 22' x 22' detached garage is proposed to be removed. An addition to the existing dwelling is also proposed. The public hearing on this application was opened.

Jeff Teachout of Teachout Builders was present on behalf of the applicant. He generally introduced the request, as noted above, and indicated the subject property consisted of two contiguous lots.

In response to questions from Mr. Blodgett, Mr. Teachout referred to an updated building plan for the proposed project and clarified the proposed new garage would have a side yard setback of 12' (minimum required side yard setback is 10').

The Township Attorney made some comments on how the "zoning lot" aspects of the Zoning Ordinance affected the subject property and this variance request. In summary, he advised since both of the contiguous lots were under the same ownership both of those lots, together, were viewed as a single "zoning lot" for purposes of the Zoning Ordinance. Based on the information included with the variance application

packet it was noted the existing dwelling and existing garage are all located on Lot 38, and the only building on contiguous Lot 37 is the storage shed up by the road that is proposed to be removed. An area resident noted there once was a house on Lot 37 but it was torn down and is thus now vacant except for the storage shed.

Mr. Blodgett noted two written comments had been received with respect to this variance request (William Appel and Kevin Howden) and summarized each written comment for the audience. Copies of these written comments are made part of the record of these proceedings. The public hearing was then closed, as there were no further comments from people in the audience.

Mr. Blodgett inquired about the option to expand the existing garage, rather than remove the existing garage and build a new one. The Township Attorney reviewed Section 27.3 of the Zoning Ordinance, and noted the first part of that provision would allow the existing nonconforming garage to be expanded, without any variance relief being necessary, if the proposed new construction was itself in compliance with all applicable requirements of the Zoning Ordinance in effect at this time, and the proposed addition would not aggravate the existing nonconforming condition.

In the course of some follow-up discussion arising from this point of law Mr. Teachout said there could be a problem tying-in an addition to the existing garage depending on the type of slab or foundation on which the existing garage was built, but stated he was not sure if there would be any such problem. In response to the legal point raised by the Township Attorney, Mr. Blodgett raised the issue of a new garage being built on the vacant part of the subject property, whether attached or detached from the dwelling. After some discussion on the availability of Lot 37 and part of Lot 38 for new construction fully complying with all requirements of the present Zoning Ordinance, the Board decided to specifically discuss this issue in the context of the standards for the granting of any variance as specified in Section 28.9.1. of the Zoning Ordinance.

As to the first required standard Mr. Blodgett stated he could not find any "practical difficulty" relating to any exceptional conditions associated with the subject property itself, as there were some obvious options to build either an addition to the existing garage (and addition to the existing dwelling) or a completely new garage (attached or detached) in full compliance with all applicable requirements. He said he could not see any issue with the land itself preventing compliance with the strict letter of the ordinance.

Mr. Hocevar expressed similar views, and stated the only basis for the request he could see would be the owner's preference to line-up the proposed new construction with the setback of the existing garage.

Upon further discussion there was a clear Board consensus that the required "practical difficulties" preventing compliance with the strict letter of the ordinance had not been shown, so there was no need to proceed with factual findings on any of the

other standards for variance relief specified in Section 28.9.1. of the Zoning Ordinance. Mr. Hocevar then made a motion to deny the variance application due to the practical difficulties standard not being met. This motion was supported by Mr. Steensma, and carried on a unanimous vote.

Mr. Teachout asked what he could do pursuant to the denial of the variance application. Mr. Blodgett generally explained the options to add to the existing dwelling and garage with all of the new construction being at least 40' from the front yard setback line and 10' from the side yard setback line (and not exceeding the maximum lot coverage requirement); or to demolish the existing garage and build all new construction in compliance with all applicable requirements.

**W. PENNINGS & SONS, INC. VARIANCE APPLICATION**  
**FOR PEGGY NEAL AND SCOTT SHOALS**  
**(15031 NORTH BARTON LAKE DRIVE, PARCEL NO. 3914-23-360-470)**

Chairman Blodgett indicated the next item of new business was the request of W. Pennings & Sons, Inc. on behalf of Peggy Neal and Scott Shoals for a variance from the 40' principal building minimum front yard setback requirement applicable in the R-2 Medium Density Residential zoning district to construct a new single-family dwelling/attached garage on the above-referenced property with a front yard (road) setback of 4'. The existing dwelling and storage shed are proposed to be removed. The applicant is also requesting a variance to exceed the 25% maximum lot coverage limitation of approximately 1,578 square feet. The public hearing on this application was opened.

Brian Pennings generally introduced the request on behalf of his clients, as noted in the preceding paragraph. He also noted the proposal included constructing a detached accessory building on the lot across the road owned by his clients.

In response to an initial question from Mr. Pennings about the buildable status of the lake lot (Lot 101) the Township Attorney confirmed the lot was a buildable nonconforming lot, despite not meeting the requirements of the present Zoning Ordinance relating to minimum required lot frontage/width, and minimum required lot area, if the lot was legal when it was created many years ago (which was presumed to be the case, because the lot is part of the Buzeks Plat created decades ago).

The Township Attorney also clarified the only aspects of the project necessitating variance relief were the front yard setback and maximum lot coverage issues associated with the proposed new dwelling on the lake lot. He stated there were no variance issues arising from the proposed construction on the other lot across the road, for reasons he would explain later. Mr. Pennings also noted the variance application included a request for relief from the requirements in the Zoning Ordinance imposing a time a limit on starting and completing a construction project for which variance relief was granted.

Mr. Pennings reviewed the characteristics of the lake lot affecting the ability to comply with the setback requirements imposed by the present Zoning Ordinance, and especially the severe drop-off in elevation. In response to a question from the Township Attorney asking how the topographic issue related to the proposed front yard setback of 4', Mr. Pennings explained how the location of the severe drop-off required the proposed new dwelling to be located much closer to the road than the minimum road setback of 40' would allow, while also fully complying with the 50' waterfront setback requirement.

In the course of discussion the Township Attorney advised that because the lake lot is a platted lot it does not have a common boundary line with the separate parcel on the other side of the road, and those two properties are therefore not "contiguous" as that term is defined in the Zoning Ordinance. He advised it was therefore not permissible to treat both of these properties as a single "zoning lot" for purposes of calculating the total lot area from which the 25% lot coverage limitation is determined. He advised each property must be treated as a stand-alone lot for the 25% calculation. He clarified this did not mean the proposed accessory building could not be located on the property across the road, because Section 22.1.8. of the Zoning Ordinance allows accessory buildings to be on the same lot as the principal building, or on a contiguous lot, but for purposes of this specific provision that includes a lot separated from the main lot by a street. Since the proposed accessory building itself meets all applicable requirements, such as setbacks and lot coverage, he advised that aspect of the project did not involve any variance issues. The only variance issues associated with the project involved the front yard setback and lot coverage of the proposed new dwelling (and the start/completion timing issues).

On the lot coverage issue, it was determined the footprint of the proposed new construction, including the attached deck, would have an area of 1,980 square feet, which calculated-out to about 31.3% of the area of the lake lot. It was noted the 25% maximum building coverage limitation would correlate to about 1,578 square feet.

In reviewing the lot coverage issue, and also the front yard setback issue, it was noted the lake lot has a width of about 50', which is only half of the current minimum required lot frontage/width of 100'. It was also noted the lot has an area of about 6,314 square feet, which is less than one-third of the current required minimum area of 20,000 square feet for a lot in the R-2 zone.

Mr. Pennings then reviewed the aspects of the subject property supporting the requested variances pursuant to each of the variance standards specified in Section 28.9.1. of the Zoning Ordinance, with reference to Exhibit A of the variance application package (incorporated by reference herein).

During the public hearing the owner of the adjoining lot southwesterly of the subject lake lot made some comments relating to his view of the lake side of the subject property from his house, if the new dwelling was built at the proposed location. Board

members noted the proposed location for the new house was compliant with the 50' waterfront setback requirement.

Another resident of the area commented on the aesthetic benefit of maintaining reasonable consistency with the actual waterfront setback of other existing dwellings in the area. Mr. Blodgett again reiterated the applicant's plan complies with the waterfront setback requirement, and noted if the plan was revised to eliminate the deck the house itself could actually be extended about 10' closer to the lake, resulting in the house itself being setback 50' from the lake instead of 60' as presently proposed.

Another neighbor made some comments about the septic system for the proposed new house being located on the property across the road, as his water-well is situated on his adjoining lot across the road from his lake lot. Mr. Blodgett stated the county administers separation requirements for water-wells and septic systems.

The public hearing was closed, and the Board began deliberating and making findings on the variance standards specified in Section 28.9.1. of the Zoning Ordinance. On the initial "practical difficulties" standard Mr. Blodgett stated the proposed house with a footprint of 1,024 square feet and a 20' garage is not a large house by today's standards. He observed the lake lot is very narrow and small in area relative to the current requirements, and also has a severe drop-off in elevation from the road to the lake. He stated these exceptional conditions clearly affect complying with the strict letter of the ordinance, and as a practical matter require a new dwelling on this lake lot to be pushed closer to the road than would ordinarily be allowed, especially where the side yard setback and waterfront setbacks are being fully met. The other Board members all agreed with this analysis.

On the second required standard Board members found the proposed variance would not create any substantial detriment to adjoining property, because the reduced front yard setback is not inconsistent with existing construction on adjoining property, and the plan is fully compliant with the side yard and waterfront setback requirements.

On the third required standard Board members referenced the findings on the previous standards to conclude granting the requested variances would not materially impair either the intent and purpose of the Zoning Ordinance or the public health, safety and welfare.

Having found the first three mandatory variance standards had been shown to be met, the Board moved-on to discuss the next set of three standards specified in Section 28.9.1. of the Zoning Ordinance, only two of which need to be met for the variance relief to be granted. On the first of those three additional standards the members all agreed the extremely severe drop-off in elevation on the subject property (approximately 28') was definitely not typical for property in the R-2 zone, generally. They also noted although lots with a substandard lot width and lot area are not unusual in the Buzeks Plat, those circumstances are not typical of the R-2 zone, generally.

On the second of these three standards the Board noted the single-family dwelling and attached garage proposed by the applicant was not excessive in size, and was proportional to the size of the property. The Board concluded granting the requested front yard setback and lot coverage variances was therefore necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the R-2 zone.

Having found these two standards were satisfied the Board determined the third standard (subsection c) was moot. Mr. Hovenkamp then made a motion to grant the requested front yard setback and maximum lot coverage variances as per the site plan dated 5-15-13 submitted by the applicant. Mr. Hocevar also remarked on the benefit to the lake by putting a septic system on the property across the road rather than on the lake lot itself. This motion was supported by Mr. Westendorp and carried unanimously.

On the timing issues arising from Section 28.13 of the Zoning Ordinance, it was noted the applicant was requesting a three month extension on the requirement to obtain the resulting building permits and also from the requirement to complete the resulting construction for which variance relief was granted within 12 months (for the reasons spelled-out in Exhibit A of the application package). After some discussion and legal guidance from the Township Attorney Mr. Hovenkamp made a motion to grant the requested three month extension to each of these time limitations, pursuant to the issues noted in the application (Exhibit A). This motion was supported by Mr. Steensma and carried unanimously.

There being no further business to come before the Zoning Board of Appeals, the meeting was adjourned at approximately 9:15 p.m.

Approved: 10-3-13

  
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Craig A. Rolfe, Acting Secretary  
Zoning Board of Appeals