

**SCHOOLCRAFT TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF MEETING HELD JUNE 4, 2015**

A meeting of the Schoolcraft Township Zoning Board of Appeals was held on June 4, 2015 at the Schoolcraft Township Hall commencing at approximately 7:00 p.m.

Members Present: Terry Blodgett, Chairman
Raymond Hocevar
Gary Steensma
Ken Hovenkamp
John Gardner

Members Absent: none

Also present were Craig A. Rolfe, Township Attorney, Zoning Administrator Chris Hamilton, Supervisor Don Ulsch, variance applicant Peggy Neale and her builder Jeff Hansen, and six interested citizens.

MINUTES OF OCTOBER 3, 2013 MEETING

On motion by Mr. Hovenkamp, supported by Mr. Hocevar, the minutes of the Zoning Board of Appeals meeting on October 3, 2013 were unanimously approved as submitted.

**PEGGY NEALE VARIANCE APPLICATION
(15031 BARTON LAKE DRIVE, PARCEL NO. 3914-23-360-475, FORMERLY 3914-
23-360-470)**

Chairman Blodgett indicated the only item of new business was the request of Peggy Neale 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) set back of four feet. 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.

It was noted that this variance request is identical to the applicant's previous variance request (through W. Pennings & Sons, Inc.) granted June 13, 2013, but expired due to the construction project for which the variance relief was granted not having been initiated/completed within the required time limits. This present zoning request was therefore viewed as essentially requesting a re-granting of the variance relief granted June 13, 2013 for a substantively identical proposed project.

Area residents had several questions regarding the proposed setback from the actual roadway, as compared to the setback from the road right-of-way, which were addressed based on the plan submitted with the application.

In response to other questions regarding lot coverage, the Township Attorney clarified that the lot coverage calculation made by the Zoning Administrator was based on the area of the portion of the subject property on the side of the road where the construction project was proposed, and did not also include the area of the separate parcel on the other side of the road.

The comments from the residents were clearly supportive of the construction project for which the variance relief was requested, and they expressed support for the demolition of the existing building at the earliest feasible opportunity.

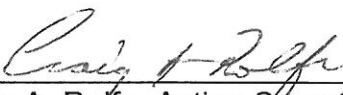
Upon the closing of the public hearing the Township Attorney suggested the Board could consider simply incorporating by reference the Board's findings and conclusions as determined with respect to the substantively identical request for this same property on June 13, 2013, as there were no apparent changes in any of the underlying facts or the applicable ordinance provisions and requirements. Board members concurred with this approach.

Mr. Hovenkamp made a motion to grant the requested variance relief based on the findings and conclusions at the June 13, 2013 meeting. This motion was supported by Mr. Gardner, and carried unanimously. Note: the relevant part of the June 13, 2013 meeting minutes are attached for reference purposes.

Chairman Blodgett noted the Board would have a meeting on July 9 to address another variance application (Dawson).

There being no further business to come before the Zoning Board of Appeals, the meeting was adjourned at approximately 7:20 p.m.

Approved: July 9, 2015



Craig A. Rolfe, Acting Secretary
Zoning Board of Appeals

EXTRACT FROM APPROVED MINUTES OF JUNE 13, 2013 ZBA MEETING

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.