

**SCHOOLCRAFT TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF MEETING HELD MAY 26, 2016**

A meeting of the Schoolcraft Township Zoning Board of Appeals was held on May 26, 2016 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; Chris Hamilton, Zoning Administrator; Don Ulsh, Supervisor; and Joyce Alling (Weinberg) and husband.

MINUTES OF DECEMBER 3, 2015 MEETING

On motion by Mr. Hovenkamp, supported by Mr. Hocevar, the minutes of the Zoning Board of Appeals meeting on December 3, 2015 were unanimously approved as submitted.

**JOYCE ALLING (WEINBERG) VARIANCE APPLICATION
(300 REEDS LANE, PARCEL NO. 3914-34-115-013)**

Chairman Blodgett indicated the item of new business for this meeting was the application of Joyce Alling (Weinberg) for variance relief from the provisions of the Schoolcraft Township Zoning Ordinance limiting the size and height of an accessory building in the R-1 Medium Density Residential District to a total floor area of 1,050 square feet and a roof peak height of 15'. The applicant is proposing to build a 50' x 56' detached accessory building (2800 square feet) with a peak height of 24' 6" on the premises at 300 Reeds Lane (parcel no. 3914-34-115-013).

The members of the Board indicated they had individually viewed the subject property in preparation for this meeting, or were otherwise familiar with the property.

Chairman Blodgett opened the public hearing for comments by the applicant. Mrs. Alling noted the proposed building would have a 6' roofed overhang on the 50' dimension. Chairman Blodgett confirmed the area of this overhang would be part of the area of the building, which would therefore be 3,136 square feet (56' x 56'). In response to a question Mr. Alling indicated the sidewall/eave height for the main part of the building would be 12'. Chairman Blodgett noted this part of the request also implicated variance relief, as the applicable eave height limit is 10'.

In response to some initial questions from Chairman Blodgett regarding the subject property, the access thereto, and the intended use of the proposed building, Mr. or Mrs. Alling indicated: the property is accessed by Reeds Lane, which is a private

road; they do not know whether the 14 acre parcel is splitable; about 30%-40% of the property is not buildable due to wetland characteristics; the building would be used to store boats, a vehicle, and for general storage.

Chairman Blodgett noted the site of the proposed accessory building met all applicable minimum setback requirements.

For some perspective on the size of the proposed building, relative to the size of the subject property, Chairman Blodgett noted if the property was zoned Rural Residential, rather than R-1 Medium Single Family Residential, the maximum size for a permissible accessory building on a parcel with more than 10 acres but less than 20 acres in area would be 5,400 square feet, with a maximum permissible eave height of 14' and a maximum permissible peak height of 30'. Chairman Blodgett commented the subject property has the "feel" of a Rural Residential property, although presently zoned R-1. He also noted the property did not seem to be amenable to creating R-1 type development lots.

Mr. Alling indicated he had not received any negative feedback from the neighbors to the north of the subject property. Chairman Blodgett indicated no written comments had been received by the Township with respect to this matter, and there were no persons present at this meeting to make any public comments. Mr. Hovenkamp stated he had spoken to one neighbor, and they did not express any concerns with the proposed building.

The Zoning Administrator noted the subject property is designated on the Master Plan Future Land Use Map with a Rural Preservation planning classification, which correlates to an intended Rural Residential zoning classification at some time in the future.

The public hearing was then closed.

The Township Attorney stated it was important to provide some initial legal guidance to the Board with respect to its consideration of this matter pursuant to the standards governing the authority of the ZBA on variance matters, as specified in Section 28.9 of the Zoning Ordinance. He stated that although the zoning requirements at issue with respect to this application were in the nature of dimensional/non-use requirements, and were therefore within the jurisdiction of the ZBA to consider, based on the record at this time the ZBA did not have any grounds to grant the requested relief in this particular instance that relate to some extraordinary condition of the subject property. He stated the record would presently indicate the applicant was suggesting the relatively large size of the subject property compared to a typical R-1 lake lot was the basis for the requested relief. However, he advised the relatively large size of the subject property did not prevent the applicant from complying with the strict letter of the ordinance and building an accessory building of conforming size (1,050 square feet) and roof height (15' peak/10' eave). He stated this instead seemed to be a situation where the applicant would just like to have a bigger accessory building than the elected

legislative body of the Township (Township Board) has determined to be appropriate in the R-1 zone, without linking that request to any relevant extraordinary conditions of the subject property itself, such as extreme shallowness, narrowness, topography, etc.

The Township Attorney also observed that in developing the current accessory building requirements the Township had considered, but rejected, basing the accessory building size rules for the R-1 zone on a sliding scale tied to parcel size, like the rules applicable to the Rural Residential and Agricultural zones. He advised this legislative history indicated the Township Board favored a flat size limit on accessory buildings in the R-1 zone and other Residential zones, without regard to the size of the property.

Mr. Gardner commented on the proportionality of the requested accessory building size to the size of the subject property, compared to a typical R-1 lot, and noted the characteristics of the subject property and the placement of the existing house and proposed location for the accessory building would present practical problems with any future splitting of the property into R-1 sized lots.

Mr. Steensma stated the standards in the Zoning Ordinance that control the authority of the ZBA with respect to granting variance relief require the ZBA to determine an extraordinary condition of the property, rather than the preferences of the applicant, creates "practical difficulties" preventing compliance with the strict letter of the ordinance.

The ZBA and Township Attorney then engaged in an extended discussion with the applicant regarding the planning classification of the subject property (Rural Preservation) and their option to seek a rezoning of the property to the corresponding Rural Residential zoning classification, and reiterated the zoning rules for the Rural Residential zone would allow them to build the proposed building, or even a larger building, without any apparent zoning issues.

A comment by Mr. Hocevar seemed to reflect the perspective of the entire ZBA--- the subject property is a fantastic piece of property, but wanting more room to store things is not a basis for the ZBA to grant any variance relief from the presently applicable requirements.

In the course of the discussion with the applicant about the legal parameters of Rural Residential zoning, as compared to the variance request under R-1 zoning, the Township Attorney suggested the ZBA offer the applicant the option to table the variance application to provide an opportunity to pursue a rezoning of the subject property to Rural Residential, instead of having the ZBA make its findings of fact and decide the application at this meeting based on the standards for variance relief specified in the Zoning Ordinance and the legal constraints on the authority of the ZBA to grant variance relief. He noted the variance request would be completely moot if the property is rezoned to Rural Residential.

In response to some questions and apprehensions on the part of the applicant with respect to the likelihood a rezoning application would be approved by the Township Board, the Township Attorney reiterated the subject property has a Rural Preservation planning classification according to the Master Plan, which correlates to the Rural Residential zoning classification. He stated the statutes governing planning and zoning matters require decisions on zoning matters, including a proposed rezoning, to be based on and guided by the Master Plan. He also observed the size of the subject property is more akin to other RR-zoned property in the Township than typical R-1 zoned lake lots.

In the course of further discussing with the applicant the rezoning option, Mr. Hovenkamp suggested the Township Board could consider applying the applicant's variance application costs to the rezoning application process, if they apply for a rezoning and the rezoning is approved. All other members of the ZBA supported this suggestion.

The applicant indicated she would contact the Township office to initiate a rezoning application, which the Township Attorney had stated could be noticed for the required public hearing and a Planning Commission recommendation at its July 11 meeting, and likely final action by the Township Board at its July 12 meeting. By unanimous vote the variance application was then tabled to the next regular or special meeting of the ZBA subsequent to July 12, if the applicant wishes to proceed with the variance application process after a likely Township Board decision on a rezoning application on July 12.

There being no further business to come before the Zoning Board of Appeals, the meeting was adjourned at approximately 7:50 p.m.

Approved: 11-3-16



Craig A. Rolfe, Acting Secretary
Zoning Board of Appeals