

MINUTES OF THE SCHOOLCRAFT TOWNSHIP ZONING BOARD OF APPEALS

MEETING ON MAY 13, 2021

A meeting of the Zoning Board of Appeals of Schoolcraft Township was held on May 13, 2021, virtually.

Members Present: Gary Steensma, John Gardner, Terry Blodgett, Ray Hovevar, and Steve Fryling, attending virtually from Schoolcraft Township, MI

Members Absent: None.

Also Present: Applicant, Steve Slesinski, Zoning Administrator, Chris Hamilton; Township Attorney, Leslie Dickinson.

Chairman Blodgett called the meeting to order at 7:00 p.m.

Review and Approval of Minutes

A motion was made by Comm. Hovevar to approve the minutes of the April 1, 2021 meeting, supported by Comm. Steensma. Motion carried 5-0.

Public Comment

Chairman Blodgett stated that the Township received a letter from Tim Baker who lives on North Barton Lake Drive in support of Steve Slesinski's variance request.

Public Hearing on Zoning Variance Request of Steve Slesinski.

Chairman Blodgett opened the public hearing as a continuation of the April 1st meeting regarding the Steve Slesinski's variance request for his property at 14811 North Barton Lake Drive.

Chairman Blodgett asked Zoning Administrator, Chris Hamilton to provide any comments she may have. Ms. Hamilton stated that the home sitting on 14811 North Barton Lake Drive is currently a legally non-conforming building. The applicant desires to raise the wall height by 2 feet and add in a room in attic on top, but by doing so he would be adding to the non-conforming nature of the property.

A member of the public, Chris Snow, who was attending remotely asked if there was a way to present the photo of the proposed building.

The applicant Steve Slesinski shared a photo of the current building in relation to the surrounding properties. Additionally he stated that he recently found the pin marking the property line near the front corner of the home.

Comm. Fryling stated that the Township Board has been discussing private drives like North Barton Lake Drive that are non-conforming private drives and their impact on zoning. Comm. Fryling asked if the house was non-conforming to the road, or is the road non-conforming to the house. Mr. Fryling stated that as in previous variance requests, this property sits on a private drive, so not every property is going to conform to specific set-backs. It is Comm. Fryling's opinion that the road is more non-conforming than the house.

Zoning Administrator, Chris Hamilton responded that she would normally be in agreement with Comm. Fryling's assessment of how ambiguous the property lines are with the road not conforming, but in this instance Mr. Slesinski stated that he found the pin that indicated where the property line is, therefore there isn't any ambiguity. Comm. Fryling remarked that he understood what Ms. Hamilton was explaining, but he felt like the road being non-conforming played a role in why the property was non-conforming. Ms. Hamilton stated that the zoning dictates that set-backs are from the property line, not from the road way.

Comm. Steensma stated that he was confused by Comm. Fryling's comments since the portion of the road that this property sits on is not a private drive, but is actually a county road.

Mr. Slesinski shared additional renderings regarding the proposed building. Mr. Slesinski stated that he would like to remove the old wood roof structure which only allows for a 7 foot roof height of the existing building and raise it. The proposed roof structure would have a 12 by 12 roof pitch with a dormer. That would make the roof 10 feet higher than it is currently with a total height of 23'4", therefore it would still be under the 35' max allowed. Mr. Slesinski stated that the purposed remodel would bring the ceiling height into compliance and would also create storage within the property that does not exist currently.

Comm. Fryling asked the applicant if the footprint of the remodeled structure was remaining the same, to which Mr. Slesinski responded in the affirmative, that the footprint of the property was remaining the same.

Mr. Slesinski stated that he submitted building permit application on January 5, 2021, and the Zoning Administrator's report was completed on January 27, 2021. A zoning field inspection was completed on January 27, 2021 and it identified the issues with the setbacks. Mr. Slesinski went on to present the site plan layout with the current setbacks indicated. Additionally he indicated where on the property a building would be allowed if it conformed to all of the current Zoning Ordinances. Mr. Slesinski showed that the topography of this property includes a steep hill that he believes would impede building within the allowed areas causing a hardship.

Chairman Blodgett asked if Mr. Slesinski's current home to the north of property line was a walk-out that had been built into the hill on the property. Mr. Slesinski stated that, yes his property has multiple levels with several stairways due to being built into the hillside. Mr. Slesinski stated that the Zoning Ordinance based the setbacks for properties in the Township on lots that are 100' wide by 200' long, instead this property is only 50' wide and 177' feet long creating an additional hardship when trying to conform to the current standards. Mr. Slesinski presented an aerial view of the surrounding properties and outlined how the majority of them do not comply with the front or side setbacks. Among the properties along North Barton Lake Drive 48 out of 53 do not meet the current 40 foot set back requirements, which Mr. Slesinski believes is unreasonable.

Mr. Slesinski stated that he believed the proposed building will eliminate multiple non-conforming issues, including the ceiling height and storage space. Additionally he stated that he believed the proposed alteration of the roof height would not be detrimental to the adjoining properties. Mr. Slesinski believes that rebuilding the roof structure would be less disruptive both to the neighboring properties and the environment. Mr. Slesinski stated that the variance

approval would prevent undue hardship and afford him similar rights consistent with 90% of the other properties along North Barton Lake Drive and other waterfront properties in the township.

Zoning Administrator, Chris Hamilton thanked the applicant for the detailed presentation. She stated that when it comes to non-conforming properties the intent of the zoning ordinance is to try and bring them into compliance over time as they outlive their previous uses. She also stated that at one time the Township allowed a 25 or 30 foot setback along the Canal Zone featured in Mr. Slesinski's presentation and along Barton Lake, which resulted in the amount of non-conforming properties.

Chairman Blodgett closed the public hearing and asked for discussion among the Board.

Board Consideration

Chairman Blodgett stated that the ZBA does not create the zoning rules, those are set by the Township's Planning Commission. Additionally he stated that the Township desires for non-conforming properties to be brought into compliance over time. Even though he can find some hardship, this is probably one of the non-conforming structures that should come down and be built in the correct location. Mr. Blodgett stated that he was concerned with setting a precedent for all of the other non-conforming properties along North Barton Lake Drive if the variance were to be approved.

Comm. Hovevar remarked that the board could not factor the cost of changing a property from non-conforming to conforming into their decision. Additionally, Mr. Hovevar stated that if the ZBA allows this variance they might as well throw out the zoning ordinances entirely. Mr. Hovevar also commented on the fact that this property was built on a foundation that is only a foot and a half deep and may not support a larger structure properly. Mr. Hovevar explained that allowing a variance of a few feet here or there due to the nature of a property is the purpose of the ZBA, but that Mr. Slesinski's request is a great deal larger than a few feet. Additionally the roll of the ZBA is to look out for the best interest of the Township, instead of only considering what is in the best interest of the applicant.

Comm. Blodgett asked the applicant about a previous variance request that had been approved for the same property back in 2007. Mr. Slesinski stated that their original plan was to remove the current building and build a home into the steep hill, but since that time, he was able to purchase the home to the south of the property eliminating the need to build a large home on the property.

Comm. Gardner mentioned that when he visited the property he realized that the applicant could remove the current building and add onto the garage located on the property the project would be much more compliant with the Zoning Ordinance and therefore more likely to receive a variance from the ZBA. Mr. Gardner asked the applicant if altering his plans and enlarging the garage would be an acceptable alternative. The applicant responded that he is not looking to remove the home, gazebo, deck, as well as move the well and septic system; he was just trying to improve what currently exists.

Comm. Gardner remarked that he did not think that the Board should grant this variance as it would set a precedent allowing 23% of the other homes in similar situations to say that if the

ZBA allowed this variance, then they should also be allowed to build up to their property lines as well.

Comm. Fryling stated that the applicant made a valid point that these properties along North Barton Lake Drive were built during a different era, and to make these properties go from nonconforming to conforming would take a sizable investment from a wealthy individual who would be willing to purchase multiple lots, demolish the old structures, and start over. For an average citizen that is not something that is feasible. Mr. Fryling asked what about the proposed changes to the property that makes it less conforming than what is currently. Comm. Blodgett responded that the proposed structure wouldn't be more or less conforming, according to the zoning ordinance this home is non-conforming all the way around. Therefore if a variance was granted you would be extending the life of a building that is beyond what is reasonable and delaying for many years the chance to turn it into a conforming building.

Zoning Administrator, Hamilton remarked that according to the Article 27 of the Zoning Ordinance, it states that a "non-conforming use or nonconforming building/structure shall not be expanded, extended, enlarged, or otherwise altered, unless such expansion, extension, enlargement or alteration is, by itself, in conformity with the provisions of this ordinance and does not aggravate the existing nonconforming condition". Therefore the applicant is requesting to extend the nonconformity by extending the ceiling height of the property. As Comm. Gardner pointed out if the applicant were to build a new home attached to the garage on the property that was compliant with the current zoning, he would not need a variance even though the garage is nonconforming because the new structure would be conforming.

Township Attorney, Dickinson explained the variance standards located in the Schoolcraft Township Zoning Ordinance as section 28.9. Additionally she pointed out the Article 27.3 that states that "the Zoning Board of Appeals pursuant to Article 28 of this Ordinance and upon a showing that the requested expansion, extension, enlargement or alteration will not substantially extend the otherwise reasonably anticipated useful life of the nonconforming use of building/structure."

Comm. Blodgett asked Attorney Dickinson if the Board could make a determination based on the fact that the applicant does not meet Article 27.3 without reviewing the standards in Article 28, to which Attorney Dickinson responded that it doesn't hurt to go through the Article 28 variance standards as additional evidence upon which the Board based their decision.

The Board discussed the standards:

Comm. Gardner asked that if one of the standards were met but not all of the others, then would the Board be required to deny the requested variance. Comm. Blodgett responded that, yes to grant a variance they had to establish that all of the conditions were met. According to Attorney Dickinson the zoning ordinance states that "No variance in the provisions or requirements of this ordinance shall be authorized by the ZBA unless the ZBA finds from reasonable evidence that" all of the listed conditions have been met.

Standards 1 & 2. By reason of the exceptional narrowness, shallowness, or shape of the property in question, or by reason of exceptional topographic conditions or other extraordinary conditions of the property in question, there are practical difficulties

preventing compliance with the strict letter of the Ordinance. The exceptional or extraordinary conditions applying to the specific property do not apply generally to other properties that are subject to the requirement at issue.

Comm. Blodgett stated that even though there were some topography issues, they aren't extraordinary since most of the homes built along Barton Lake Drive faced similar issues and built their homes into the steep hillside.

Standards 3 & 4. The variance will not be of substantial detriment to adjoining property. The variance will not materially impair the intent and purpose of this ordinance, or the public health, safety and welfare.

The Board was in agreement that the proposed structure would not be of a substantial detriment to the adjoining properties, but they did feel that granting the variance would materially impair the intent and purpose of the ordinance.

Standard 5. The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties that are subject to the requirement at issue.

Comm. Blodgett remarked that the applicant still could build a house on the property, as evident from the 2007 variance that was granted. Additionally the ZBA isn't opposed to granting some type of variance due to the fact that this lot is only 50 feet wide, but again there is a difference between a variance of a few feet and allowing a home with no setback at all.

Having reviewed the standards, a motion was made by Comm. Gardner, supported by Comm. Hocesvar to deny Mr. Slesinski's variance requests. Motion carried 5-0.

Adjournment

There being no other business a motion to adjourn the meeting was made by Comm. Steensma, seconded by Comm. Gardner. Motion carried 5-0.

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Date: 3-17-2022

Signed: Zw Blodgett