

PROPOSED MINUTES
LAKETOWN TOWNSHIP
ZONING BOARD OF APPEALS
4338 BEELINE ROAD
ALLEGAN COUNTY
HOLLAND, MI 49423
(616) 335-3050

April 26, 2017

ARTICLE I. CALL TO ORDER

Chairman David Weishaar called the regular monthly Zoning Board of Appeals meeting to order at 7:00 P.M. Mr. Weishaar introduced the members of the board and staff to the audience.

MEMBERS PRESENT: David Weishaar, Ed Stielstra, Jim Johnson,
Casey Kimes, Marcia Perry
MEMBERS ABSENT: Carl Blauwkamp, Richard Swanson
STAFF PRESENT: Al Meshkin – Township Manager
Diane Ybarra – Recording Secretary

ARTICLE II. APPROVAL OF MINUTES

The Zoning Board of Appeals members reviewed the minutes of the March 22, 2017 meeting. **A motion was made by Stielstra and seconded by Johnson to approve the minutes as submitted. Chair Weishaar called for a vote on the motion. UNANIMOUS DECISION – MOTION APPROVED.**

ARTICLE III. OLD BUSINESS - None

ARTICLE IV. NEW BUSINESS

A. CHAMBERLAIN VARIANCE REQUEST

Mr. James E. Chamberlain, owner or agent of property located south of 3988 64th Street, Holland, MI, that being tax parcel #0311-027-001-00, requests variances from section 38-214(4) of the zoning ordinance. This section requires a minimum road frontage of 200 feet and land area of 2 ½ acres. Mr. Chamberlain is appealing this ordinance to make the parcel buildable.

Mark Zietlow represented Mr. and Mrs. Chamberlain stating he has known them for more than 20 years and feels they are good people. They feel they can turn this unusable lot into a productive lot and they have the same interest if not stronger interest for the best use of this lot. When an objection

is stated about privacy, they have given that concern good thought and feel that it will not affect the privacy and it will improve the quality of life along with property value which would improve the neighboring property values adding tax revenue to the township. The lot is 3.9 acres, larger than typical 2.5 acre requirement and the fact that it is larger; the dwelling will be further from the other lots. The picture provided readily shows it is a very densely wooded area making it difficult if not impossible for neighbors to see the other dwellings. Three things the Chamberlains would like to do: 1) they would restrict the location of a dwelling on this lot on a downward sloping topography, wooded and large lot; 2) comply with all MDEQ requirements and the lot would be cleaned up; 3) require adequate ingress and egress, totaling approximately 76 feet along 64th Street. The lot meets all building requirements except the 200' of road frontage which does not affect the neighboring property owners. Zietlow discussed the five factors for a dimensional variance as follows:

- 1) Exceptional or extraordinary circumstances exist which were not created by the Chamberlains or Lalleys but potentially Ter Haar. The lot is still exceptionally well suited for a rural estate and has unique features. The issue was not self-created so is an exceptional circumstance. The lot is not productive in its current state and could be if the variance requested.
- 2) Preservation and enjoyment of a substantial property right similar to that possessed by other properties or classes of uses in the same zone. The possibility of increased financial return shall not of itself be deemed sufficient to warrant the granting of a variance. If the variance is not granted, the land cannot be used as the ordinance intended.
- 3) A variance would not be of substantial detriment to adjacent property and would not materially impair the intent and purpose of the Ordinance or the public interest. The neighbors would not be negatively impacted by a single residence on the lot. Because of its width, it would be difficult for any neighbor to see a residence.
- 4) The condition or situation of the property or its intended use is not of so general or recurrent a nature as to make reasonably practicable a general regulation for the condition or situation. The circumstance that resulted in creation of this lot will not occur again due to the current Township ordinances.
- 5) The exceptional and extraordinary circumstances applying to the property are not self-created. Neither the Chamberlains nor the previous owners created this situation.

The factors are present and met. The Chamberlains would comply with the MDEQ so as not to create a detriment to the creek or ditch. The issue of a culvert is decided by Road Commission managers and had no involvement from the Chamberlains. A precedent is not being requested, only that the five factors for a variance be considered based on the facts. Another comment was to hold the Chamberlains responsible for what a previous landowner created an issue in the chain of ownership and the request is that the ZBA make the right decision to approve so the Chamberlains can make this lot useful. The county road right of way is met and exceeded by 10 feet. If the variance is not granted, it will sit unused and unproductive. The intent of the property is to comply with the R-1 district so ask that the dimension application be approved.

Correspondence was received from Frank and Wendy Delhaye of 3971 64th Street and Arthur J. Philippus of 6422 140th Avenue in opposition to the request; an email was received from Ken Bierema of 3983 64th Street stating he would not be in opposition to the project. Additional information was also submitted by Chamberlain.

Chair Weishaar opened the public hearing.

Frank Delhaye of 3971 64th Street stated that he agrees the Chamberlains are nice people up until now and there are a lot of other great neighbors in the area. They do not believe this will be beneficial to our neighborhood. The attorney mentioned the Chamberlains will control how the lot is used and construction is placed and I do not believe that is true. Delhaye stated that Chamberlain did create the situation as he could not have purchased the property. The previous owner registered it with the county only and not the township. Every owner should check before they purchase property. It adjoins his property so he could build on that property. The only reason he wants the variance is so he can sell the property and profit from it. Last year Chamberlain stated he wanted to build a pole barn, 40 x 40 and he could do that and no one would object. The road issue is a separate issue but he could put up a pole barn. My belief is that he will sell the property, he had a for sale sign up last summer until this became an issue. He could easily combine the lot and do whatever he wants with plenty of room. At the end of the day we can say they are nice people and they care about us but the ZBA should use the guidance of ordinance 38.118. Delhaye reviewed the details of the letter he submitted (see attached). The rules were put in place March 4, 1981 to protect the property owners of Laketown Township. This is strictly about the money and the five facts and conditions do not exist to warrant approval. The approval of this variance would set precedence for future requests. The important thing is that it takes only one of these to not be met for it not to be approved. This is certainly not good for us, this parcel has a purpose and it is for the Chamberlains to enjoy it as it is but not to put another home on it.

Jane Delhaye of 3970 64th Street stated that their family has had the land for about 70 years and there is a creek on the property. He said he was adding 10 feet to the driveway and if you ever saw the terrain in there, my land goes down and way up to get to the road. Everything goes downhill we are sitting on top of a sand dune so it will be all downhill when he goes down to the parcel. By the time you get to where the house would be it will be 10–15 feet lower than where the parcel would start from the driveway. A lot of filling would have to be used and it is close to my creek which would be detrimental to my property. Talking about the permit, last summer's request, there was a request for easement to the parcel and visibility to the south over the guardrail (Chamberlain) the size and width would be determined by the superintendent. It is very dangerous pulling out onto 64th Street particularly to see over the guardrail. An easement over his property would be necessary if he sold this parcel.

Zietlow submitted statements from neighbors.

Johnson said it would be helpful to take the Google earth map to overlay the lot lines. Delhaye provided the lot lines and Chamberlain provided clarification.

Patty Philippus of 6422 140th Avenue stated that she doesn't care about the frontage but does care about what gets built near the frontage. She is concerned about where the construction might be placed on the lot as she will see it from her property. It doesn't matter when we built our house we had to build it at the highest level so it could change for them. What is the deal with the productivity of the lot? My lot doesn't do produce anything other than we live there. Not sure why it has to be

productive. Last thing several references to things that could be put there, a business, a pole barn, smaller home, kept changing as to what could end up back there so would feel better if we knew what the actual end game is going to be.

Eric Cammenga 6428 140th Avenue stated we own 10 acres bought 30 years ago and knew the zoning ordinances. We have 650 feet of frontage and I know what I could do. The Chamberlains are great neighbors and they say it won't affect me but they don't know what other people would do on the property if they have guns, motorcycles, etc.

Zietlow concluded with the Chamberlain comments and responded to the residents' comments. It is kind of like anything can happen and that is true on any development in this township but is not knowing a reason to object and speculate the worse? All five factors have been met, the ZBA requirements will be complied with and there have not been any concrete reasons why anyone's privacy is going to be compromised. This is not just about the money but making a parcel productive for the benefit of the township and local businesses. Finally, it was created illegally and that was in the past and the current owner did not create the issue. The five factors are met and we ask that the variance be granted.

Frank Delhaye said there is the legal and emotional side. The legal side if I gave was choppy but hope I made the point, any one of the five not being met make it not being able to be approved. Certainly the Chamberlains have options for the property and fact that it was illegally divided years ago does have a factor in it. Chamberlain has seen the stack of documents and he probably knew that it was a property that could not be developed when he bought it. You heard from four surrounding property owners and hope you consider their concerns.

Jane Delhaye said they said they would have to follow the DEQ requirements and basically says the township cannot issue a building permit until all conditions are approved. I hope the DEQ requirements are enforced.

Jim Chamberlain addressed the concerns the neighbors brought up and said their concerns would be exactly my concerns. I have had a good relationship with all of the neighbors and would not sell to someone that would not maintain that.

Tom Delhaye of 3970 64th Street said nothing was ever surveyed we do not even know how close this road would go to the creek. He cut trees down without asking anyone and some of them were on my property.

Following discussion, **a motion was made by Stielstra and seconded Johnson by to close the public hearing. Chair Weishaar called for a vote on the motion. UNANIMOUS DECISION – MOTION APPROVED**

Stielstra confirmed the parcel is 3.9 acres as a standalone lot. The road frontage requirement is there for a good reason and there is a long standing policy of not allowing flag lots. The flag lots versus property rights versus privacy get mixed into one kettle. The road frontage precludes flag lots where homes could be built and create unfriendly relationships. As for the productivity, you could attack it

from different angles, not for the sake of the township for creating the tax base but for doing what is right by the ordinances and property owners.

Johnson asked what is the size of Chamberlain's current lot and it is 2.3 acres which is not a conforming lot. Johnson asked what the total frontage lot of that lot and the flag combined. Meshkin said it is 287.56 feet frontage; 66' for the other lot in question tonight for an approximate total frontage of 353.56 feet total frontage. Chamberlain said the road commission wanted to be sure I was not on top of the guard rail and not to obstruct vision. Johnson asked how that culvert came about. Did the county do it? Chamberlain requested the culvert in the new beginnings of the property.

Perry commented speaking to the notion of productivity, revenue and green space has been known to increase the property values. Also walked the property and tried to be aware of how close it would be have another house set in the middle of that green space and my observation was that it would be very obvious and hard to ignore by the neighbors to the northwest and south. It is not just sight but also sounds. Perry commented on the red shouldered hawks and it seemed the habitat had been disturbed. Was a road permit granted for a lot that is not there? Chamberlain said there is not a road there, just a path so you can gain access on foot. The road would have to comply and this path does not do that.

Following discussion, **a motion was made by Johnson and seconded by Kimes to table a decision to allow for additional time to further study the request. Chair Weishaar called for a vote on the motion. UNANIMOUS DECISION – MOTION APPROVED**

ARTICLE V. CITIZENS COMMENTS - None

ARTICLE VI. ADJOURNMENT

A motion was made by Stielstra and seconded by Johnson to adjourn the meeting at 8:11 P.M. Chair Weishaar called for a vote on the motion. UNANIMOUS DECISION – MOTION APPROVED