

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

May 24, 2017

ARTICLE I. CALL TO ORDER

Vice Chair Jim Johnson called the regular monthly Zoning Board of Appeals meeting to order at 7:02 P.M. Mr. Johnson introduced the members of the board to the audience.

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

ARTICLE II. APPROVAL OF MINUTES

The Zoning Board of Appeals members reviewed the minutes of the April 26, 2017 meeting. **A motion was made by Swanson and seconded by Stielstra to approve the minutes as submitted. Vice Chair Johnson called for a vote on the motion. UNANIMOUS DECISION – MOTION APPROVED.**

ARTICLE III. OLD 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 2.5 acres. Mr. Chamberlain is appealing this ordinance to make the parcel buildable.

Mark Zietlow represented the Chamberlains stating Mr. Chamberlain submitted a memo to respond to issues that were raised at the last meeting. Zietlow commented on two items: 1) extraordinary circumstances exist because the parcel was zoned and given a parcel number as a large rural estate, widely dense wooded 3.9 acres noting the structure would be in the center of the parcel so not in clear line of sight for others nor will it disturb the wildlife adding that Chamberlain has the same interests of others to maintain the rural feel; 2) Chamberlain did not create this extraordinary condition.

Zietlow explained that Chamberlain plans to use the parcel for its intended use per the zoning ordinance.

Mr. Chamberlain added that Ter Haar, who sold it to Los had every intention that this be used as a lot and it is not an accident that there is a flag lot across from our house and there are others in the township probably created before the ordinance in 1981. Chamberlain does not see any realistic threat for any more of these being created because we would not want it. Chamberlain will use the property for its intended purposes do not intend to use if for any other purpose than R-1 residential; hoping the board will see this as a reasonable reason for the request.

Johnson asked if the board had any questions. Johnson reviewed the process that will be used this evening, all five criteria will be reviewed and voted on, all of which must be met. If there is a no on any one of the five, approval should not be given.

- a. There are exceptional or extraordinary circumstances or conditions applying to the property in question, as to its intended use, that do not apply generally to other properties or classes of uses in the same zone.

Marcia asked for clarification of why a variance is requested. Meshkin explained Chamberlain owns a property that was issued a parcel number in the 1970's that was reconfigured in later years and eliminating the grandfather right for public road frontage that is less than 200 feet. The problem occurred in the 1980's when the parcels were reconfigured. Section 38.214 (4) requires 200 feet of frontage and 2 acres in R-1 Rural District and this particular parcel does not meet the standard. Stielstra added the split of the northern parcel was done by the prior owner of the land resulting in the non-conforming lot and at the time of purchase, Chamberlain either was not aware or chose not to raise it with the township so ended up with 66 feet of frontage. So in the case of the first condition, there are exceptional or extraordinary circumstances if Chamberlain assumed it was a buildable lot. The board members voted: Johnson - yes; Swanson - yes; Stielstra - yes; Perry - yes. Unanimous vote that the condition exists.

- b. The variance is necessary for the 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.

Johnson feels the variance is necessary in order to use the lot for its original intent; Stielstra stated that it addresses the property rights of the applicant and the neighbors to enjoy their property; Perry asked what is a substantial property right and Meshkin responded the condition is purposely written in this manner and the right to build a home may be considered substantial, but an accessory building may not be substantial, but have to read it in your own mind; Perry added that not every purpose of a lot is not intended for every purpose intended, not being restricted in my rights, seems like it's been enjoyed for many years in its present condition, altering the use of the property is causing the issues, what has changed so radically in terms of preservation and enjoyment; Stielstra commented that the enjoyment of the

property is in accordance with the zoning laws, your choice can be made clearing in accordance with the law. The board members voted: Johnson - yes; Swanson - yes; Stielstra - yes; Perry - yes. Unanimous vote that the condition exists.

- c. The variance, if granted, will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this chapter or the public interest.

Johnson said this particular one is fairly emotional so because of that and the strong feelings from the neighbors he has taken time to study the maps, home placements, splits in the past, use today, walked the property and his personal opinion with the size of the lot pretty substantial and expected placement of the home to be built there as it relates to existing homes, he does not feel it would create a detriment. Stielstra commented that this is also subjective and noted the possible pollution of the creek and asked if there should be a restriction of drainage reaching the creek. Johnson deferred to Meshkin who explained that if the home site is within 500 feet of a body of water, the County will require an Earth Change Permit. Swanson said he is not sure if the drainage would affect Delhaye's property and Meshkin added that their home was likely built before the earth change requirement was enacted. Perry disagreed noting that any change that affects the neighbors may be detrimental. Johnson and Swanson both feel that it is an unreasonable expectation to think the property would never be developed. Stielstra asked what assurance there would be that the home would be placed on the proposed building site. Chamberlain stated that he would make a covenant to provide assurance. Stielstra also expressed concern about proper drainage. Perry asked if there is sewer or septic and Meshkin replied only septic in that area. Stielstra asked if the attorney would draft the conditions and Meshkin responded it could be done in a report and resolution or in the minutes. The board members voted: Johnson - yes; Swanson - yes; Stielstra - yes; Perry - no. 3 to 1 vote that the condition exists.

- d. 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.

Johnson said this condition for a variance request is not so common that it would create a reason to create a change to the ordinance as there is not a groundswell of requests such as this one. The board members voted: Johnson - yes; Swanson - yes; Stielstra - yes; Perry - yes. Unanimous vote that the condition exists.

- e. Any exceptional or extraordinary circumstances applying to the property in question are not self-created.

Johnson said he does not feel it was self-created and believes that Chamberlain assumed it was a buildable lot when he made the purchase. Stielstra said he does not feel Chamberlain took an affirmative action to create this situation but it does not obligate us to grant his request. Perry said ignorance is no excuse and no way of knowing expectations on the purpose of that property but certainly feels that proper due diligence was not done. The board members voted: Johnson - yes; Swanson - yes; Stielstra - yes; Perry - yes. Unanimous vote that the condition exists.

Johnson stated the five items have been very fairly reviewed, discussed and votes have been expressed. Johnson would like to see certain conditions contingent on the approval such as assurance of the home placement on the lot as indicated on the drawing which would have the least impact on neighbors, an Earth Change Permit be obtained and proper drainage to protect the creek and natural features of the parcel. Perry asked who will oversee the conditions being defined and Meshkin responded that he issues the building permit which would require a site plan and necessary DEQ permits along with a plan for the drainage. Chamberlain added that he would see very little change in the natural conditions of the parcel and while he does not have an interested buyer at this time, hopes to in the near future.

Following discussion, **a motion was made by Swanson and seconded by Stielstra to approve the Chamberlain Variance Request finding the standards and requirements stated in Section 38.118 have been met, in compliance with the five standards reviewed and with the application, contingent upon the drainage from the driveway and house being directed towards the pond on the parcel, contingent upon the home being substantially located as shown on the plan, and compliance with all federal, state, county and township laws and ordinances and the verbal representation provided at this meeting and in the minutes. Vice Chair Johnson called for a vote on the motion. 3 to 1 VOTE – MOTION APPROVED**

ARTICLE IV. NEW BUSINESS - None

ARTICLE V. CITIZENS COMMENTS

Eric Cammenga of 6428 140th Avenue asked if there is an updated map of where the buildable site is located 6428 140th Avenue.

Patti Philippus of 6422 140th Avenue asked Chamberlain if he sells lot to someone else will all these things carry over to another buyer. Meshkin said these minutes could be recorded against the deed of the property so the next owner will have a clear understanding of the conditions.

Frank Delhaye of 3971 64th Street thanked the board for looking through the legal side and considering the neighbors. For the public record, he wants to say we have had an issue already where Chamberlain started clearing the land and damaged trees on property that is not his so he hopes he will spend the money to get a survey done so he knows where he is going.

ARTICLE VI. ADJOURNMENT

A motion was made by Stielstra and seconded by Swanson to adjourn the meeting at 8:08 P.M. Vice Chair Johnson called for a vote on the motion. UNANIMOUS DECISION – MOTION APPROVED