

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

August 24, 2016

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, Bob Slikkers, Casey Kimes, Jim Johnson, Richard Swanson  
MEMBERS ABSENT: Carl Blauwkamp, Ed Stielstra  
STAFF PRESENT: Diane Ybarra – Recording Secretary

ARTICLE II. APPROVAL OF MINUTES

The Zoning Board of Appeals members reviewed the minutes of the July 27, 2016 meeting. **A motion was made by Slikkers 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

A. CHAMBERLAIN VARIANCE REQUEST

James E. Chamberlain, owner or agent of property located south of 3988 64<sup>th</sup> Street, that being tax parcel #0311-027-001-00, requests a variance from section 38-214(4) of the zoning ordinance. This section requires a minimum road frontage and land area. Mr. Chamberlain requests confirmation the above parcel is grandfathered for building and requests permission to change the property lines on the parcel.

Chair Weishaar asked Mr. Chamberlain if he had any new information to submit and he did not.

Johnson stated he walked the property and was surprised at the varying topography of the land. Chamberlain stated that the elevations fall to the southeast. Johnson stated it was helpful to see the property now that it had been somewhat cleared to the point that he found the creek. Beyond that, it is very thick and difficult to see the bulk of the parcel.

Swanson stated that creek is Halfway Creek which cuts across 140<sup>th</sup> Avenue and flows to Lake Michigan, he went back to the road where the pond is and it feeds several ponds beyond that. Swanson asked if it fed Chamberlain's pond and he said it does not. Chamberlain said on 64<sup>th</sup> Street the lot line is directly on the thru pipe on the road. Chamberlain said according to the Drain Commissioner, it does not connect to Halfway Creek, it runs into a flat area and the creek starts to the southwest. The Drain Commissioner stated it does not connect but Halfway Creek does connect to Lake Michigan. The quadrangle map details this.

Johnson asked where along 64<sup>th</sup> Street the proposed driveway would be. Chamberlain stated the 66 foot frontage has about 5 feet left clear of the guardrail going north. An easement would have to be provided as a condition to approve the lot. Slikkers confirmed that there would have to be an easement on the other lot. Johnson confirmed that the guardrail would not have to be changed. Chamberlain stated coming at an angle from the north is a corrugated steel culvert potentially beneath the ditch. Slikkers stated that as it becomes Halfway Creek it is primarily spring fed and not from the drainage. Chamberlain stated it looks like it has always been a ditch until 66<sup>th</sup> Street was created.

Swanson stated there are a lot of streams crossing 64<sup>th</sup> Street heading south. He stated the pond across the street is a constant feed as are two more ponds further down the road. Swanson is concerned about the DEQ, do its guidelines allow for a road to go through on this parcel and how it would be impacted. Chamberlain said he does not feel it will be an issue until he applies for a land change permit at which time they could require enhanced drain control.

Slikkers questioned the history of the non-conforming lot and if it occurred before or after the change in the Township Code. Slikkers stated the owner in 1988, made the change without making the Township aware or obtaining its approval and he is concerned that it was not created with the Township sanction and should not have been done. Where the deeds are registered, it is not their business to understand individual township codes. It is a non-conforming lot and should we endorse the actions of someone who did something improper and Slikkers is inclined not to endorse the split. The DEQ concern is a separate matter. If the approval is given, the condition would be that it is approved by the DEQ regarding the creeks, ponds and water drainage.

Swanson stated that what has happened in the past, in hindsight is wrong but it is a fact and cannot be changed. We must look at it today and determine if we should approve what is there. Slikkers stated we must examine the consequences of both approval and denial. The property can be used adequately as one lot but may not be able to be split for two suitable building lots. Swanson stated what we are looking at is a reasonable request for the building but a dilemma.

Chamberlain stated it will bring his current lot where his home is now to conformance. If granted, Slikkers stated that either approval or denial can result in conforming lot(s).

Johnson supports the same concerns of Slikkers. Kimes also supports the same concerns and takes into consideration the outcomes for those affected. Based on comments made, it appears to have been a known issue when ownership changed that it had been a non-conforming lot and potentially priced accordingly.

Chamberlain stated that he was not informed that it was not a buildable lot when he purchased it thinking it was a good investment. Swanson stated the title search was not as accurate as it should have been. Slikkers stated that things are not always as they are told or seem to be. Slikkers stated that he leans toward not approving this request.

Chair Weishaar asked for further comments or questions.

Slikkers asked if Chamberlain checked with any other people, realtor or anyone else regarding the conformance of the lots. Chamberlain stated that he purchased it from a former board member, Lalley and assumed he was following the Township Code. Slikkers asked what committee Lalley had been on and was he on it at the time of the sale in 1995. Chamberlain responded the Zoning Board of Appeals but prior to the sale of the property. Chamberlain added that the proposed plan would only benefit the Township and would not obstruct any neighboring view or privacy. Johnson asked if Lalley sold both lots at the same time and Chamberlain said yes. Johnson asked if Philipus has one house on the lot with driveway on 140<sup>th</sup> and Philipus said correct with the house on the highest point of the parcel. Swanson asked if the creek came through the Philipus property and he stated it does not. Kimes asked what year the split was made and Chamberlain stated in 1988 and he was not aware of the non-conformance. Philipus stated his lot size is 2.68 acres. Johnson asked if the 10-acre piece of property to the west is still intact and Cammenga stated it is their lot.

Chamberlain said it was a crime committed a long time ago and he only sees what he is trying to do is bring improvements and revenue to the Township. He is willing to make whatever covenant is needed to ensure the privacy of the neighbors. Slikkers reiterated that the job of the ZBA is to make sure things are within the guidelines of the Township Code while trying to enable property owners to do what they want to do, again within the code. This particular situation is ambiguous and while an error has been made in the past, is it the right thing to do. Chamberlain asked if the board has any suggestion to result in an approval. Slikkers stated that he has examined the consequences of both decisions. Chamberlain stated his intentions for the property are more beneficial for the neighbors than what could be developed on the 6-acre lot should it be sold as that. Slikkers stated that no matter what, DEQ permits must be obtained as a contingency.

Swanson stated he does not feel it is necessary to put a stipulation because the DEQ are statewide. Slikkers stated it makes it a stipulation that DEQ permits must be obtained and closes the option of not going at all, a clear requirement. Chamberlain stated that a land change permit is pretty well scrutinized.

Following discussion, **a motion was made by Swanson to approve the Chamberlain Variance Request contingent on DEQ permit approval and required easement. There was no second to the motion.**

Slikkers reiterated that the intent is to reconfigure 3.9 acres to make the front lot a conforming lot so two 2.8 acre lots with the variance needed for 66 ft. road frontage when code requires 200 ft. frontage. Swanson commented that it would make an unbuildable lot buildable which in turn adds to the tax base.

Following discussion, **a motion was made by Slikkers and seconded by Johnson to deny the Chamberlain Variance Request. Chair Weishaar called for a vote on the motion. Vote 4 to 1 – MOTION APPROVED**

ARTICLE IV. NEW BUSINESS - None

ARTICLE V. CITIZENS COMMENTS

Frank Delhaye of 3971 64<sup>th</sup> Street thanked the board for their hard work on this request.

ARTICLE VI. ADJOURNMENT

**A motion was made by Weishaar and seconded by Slikkers to adjourn the meeting at 7:48 P.M. Chair Weishaar called for a vote on the motion. UNANIMOUS DECISION – MOTION APPROVED**