

ZONING BOARD OF APPEALS

Regular Meeting

February 26, 2019

Present: Vice-Chairman Russ Boersma, Members Jack Vander Meulen and Ross DeVries. Also present were Community Development Director John D. Said, Assistant Community Development Director Corey Broersma and Recording Secretary Laurie Slater.

Absent: Chairman Steve Haberkorn, Bob Swartz and Elliott Church

The meeting was called to order by Vice-Chairman Boersma at 5:30 p.m.

The Minutes of January 22, 2019 were approved as written.

Vice-Chairman Boersma explained the Public Hearing process to the audience and that due to the minimum number of members present for a quorum, an applicant must have a unanimous approval by the 3 members present. He further indicated that an applicant could be request their petition be tabled after the public hearing was held.

Hearing declared open to consider a petition for nonuse variances submitted by Dave Freehafer for vacant property located at River Hills Drive (unaddressed parcel), known more specifically as parcel number 70-16-20-476-031. Petitioner is requesting a variance of 35 feet from the required 35-foot front yard setback; resulting in a front setback of 0 feet, for a proposed single-family residential dwelling and attached garage. The subject property is zoned R-2 Moderate Density Residential.

Present for this request was Dave Freehafer.

Mr. Freehafer explained that he bought the lot with every intention of building on it. He is asking for the zero front yard setback because of the position of the road and the drastic elevation change on the lot. It drops off on the west end. He is concerned that if he moves the house back too far, they won't be able to get plumbing in the lower level.

The garage door would be right on the lot line.

They had planned a smaller house, but their needs have changed as they are taking care of a family member now. They also want a safe side yard for the dogs and the kids to play in. The proposed position puts the side yard in a relatively level spot.

He explained that this property has been a designated fill area in the past. So, the further back they build on the property the more difficult to find a solid place for the foundation. The road right-of-way is much wider in front of this parcel. It is approximately 72 feet on the east to 80 feet on the west side.

Mr. Freehafer further stated that there are other houses in the neighborhood with similar variances. He also stated that maybe a zero-lot line was a bit much. He would agree on a lesser variance of between 5 feet and 7.5 feet from the lot line.

Mr. Vander Meulen stated that GIS Mapping is off when it comes to showing the lot lines and that this is quite common. These lots are along a ridge. Filling of the lots is not uncommon, but the type of fill that went on this lot would never be allowed today. He further stated that some variance is a possibility in keeping with the neighborhood, but a zero-lot line is not appropriate due to roof lines and rain runoff.

Mr. De Vries stated he was not comfortable with a zero-lot line with the garage door right on the lot line.

The Board asked staff about the wider road right-of-way and how it came to be and why. Staff did not know.

Mr. Freehafer did talk with Ottawa County Road Commission about an abandonment. He would have to get authorization from all the property owners effected by the abandonment. The neighbor to the east does not live in Holland, but in Tucson, AZ. He has reached out to her and has gotten no response. The abandonment process would cost \$1,200 and take six months to schedule a hearing if he could get in touch with her. Mr. Freehafer has a window of opportunity with the construction company to get his proposed house built that does not fit with a six month wait.

There was no one in the audience to speak to this request.

Mr. Boersma read a letter of opposition stating concerns about this parcel not being stable enough to build on because of the fill dumped there in the past.

** It was moved by Mr. De Vries and supported by Mr. Vander Meulen to close the hearing. Motion carried.

The Board went over the standards to review when considering a nonuse variance request.

That compliance with the Zoning Ordinance would result in practical difficulties due to exceptional, extraordinary, or unique characteristics or conditions of the land or lot of record, including but not limited to:

Exceptional narrowness of the width or depth of a lot of record, or irregular shape.

Exceptional natural or topographic features located on the lot of record, such as steep slopes, water, existing significant trees, or other unique or extreme physical conditions of the land.

Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.

Other exceptional or extraordinary dimensional conditions or characteristics of land or lot of record.

The topography does play a role.

That the unusual circumstances do not apply to most other lots of record in the same manner or to the same extent to other lots of record in the same zoning district.

Most of the houses on that side of River Hills Drive do not meet the front yard setback requirement.

That the variance is necessary for the preservation and enjoyment of a substantial property right. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

A zero (0) foot variance is not necessary for the preservation of a property right. A reduced variance could be considered to avoid setting a precedence based on this proposal. Other property owners have asked for the same thing.

That the granting of the variance will not be of substantial detriment to adjacent and nearby land uses and properties.

It would not be detrimental to adjacent or nearby land uses or properties. It would be in line with others.

That the applicant shall not have created the problem for which the variance is being sought.

The applicant did try to make sure the property was okay before purchasing it.

That the granting of the variance will not be contrary to the public interest and that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done for both the applicant and other property owners in the district.

The granting of the variance will not be contrary to the public interest. It is risky to grant a zero front yard setback because of the precedent it would set. It is a unique neighborhood and the road right-of-way is wider than 66 feet.

** It was moved by Mr. De Vries and supported by Mr. Vander Meulen to grant the request with a setback of 7.5 feet instead of the zero requested, giving the applicant a variance of 27.5 feet.

Motion carried unanimously.

Hearing declared open to consider a petition for nonuse variances submitted by Adam Potter for property located at 168 Aniline Avenue, known more specifically as parcel number 70-16-19-300-036. Petitioner is requesting the following: (1) A variance of 33 feet from the required 66-foot wide residential private street easement, resulting in a 33-foot wide residential private street easement; and (2) A variance of 4.2 feet from the required 35-foot front setback, resulting in a front setback of 30.8 feet for an existing residential dwelling. The subject property is zoned R-1 Low Density Residential and AG Agricultural, with a pending rezoning petition for a portion of the AG Agricultural land to rezoned R-1 Low Density Residential.

Present for this request was Adam and Julie Potter.

Mr. Potter explained to the Board that they are actually requesting two variances. One for a front yard setback on an existing house and one for three proposed parcels. The existing house has a front yard setback of 30.8 feet instead of the required 35 feet. The only thing possible to bring the house into compliance would be to move it.

The second variance is for a private drive to access the three parcels of which two are proposed to have houses on them and the larger 1.2-acre parcel is vacant. They are asking for a 33-foot easement instead of the required 66-foot easement.

Mr. Vander Meulen asked the applicant his plan for getting utilities to the back parcels. In his experience a smaller easement makes it difficult for the utility companies to do this.

Mr. Potter stated he had thought about installing a septic field and a well if the County would allow it rather than municipal water and sewer. He was leaving it to whoever purchases the lot. He further stated that the utilities would come along the proposed easement.

The Board had further concerns with the smaller easement in regards to emergency equipment being able to access the parcels in the back and getting back out.

The aerial view shows several buildings on parcel A, which Mr. Potter stated have been or are going to be torn down. The only thing that will be left on parcel A is the house.

Staff informed the Board that these variances are contingent on the applicant getting Parcels A, B and C rezoned from AG Agricultural to R-1 Residential. They further stated that the request for a front yard variance on Parcel A is for the existing house only. Any additions or garage would need to comply with current ordinances.

The Board asked why a 33-foot easement versus a 66-foot easement. Mr. Potter replied that there is some sloping of the property. It is for better building sites.

Kathy Potgeter of 162 Aniline has lived there 32 years. The Potters land has natural wet lands on it, as does her property. She is concerned about drainage. Where is the storm runoff going to go? She does not want it in her back yard or flooding her basement. She too had concerns about access of emergency vehicles. She further stated that she was hoping that when the houses get built municipal water and sewer would be a requirement.

Also present was Alexis Dodd of 458 W Lakewood Blvd. Her concerns were of safety for her children. They would now have a road behind their house.

Mr. Potter replied that they want to keep the property as natural as possible. They intend to keep as many trees as possible and keep the property user friendly. They are very concerned about where the houses are positioned and that is why they are asking for the easement where it is.

** It was moved by Mr. Vander Meulen and supported by Mr. De Vries to close the hearing. Motion carried.

There was discussion with the applicant about tabling the request for the smaller easement. That would give them time to explore how much room emergency vehicles need to access the property and how much space is needed for the utility easements as well. As the applicant stated this is their first time doing anything like this and they appreciate the Board giving them direction.

** It was moved by Mr. Vander Meulen and supported by Mr. De Vries to table the variance request of 33 feet from the required 66-foot wide residential private street easement, resulting in a 33-foot wide residential private street easement. Motion carried.

The Board went over the standards to review for the front yard setback variance.

That compliance with the Zoning Ordinance would result in practical difficulties due to exceptional, extraordinary, or unique characteristics or conditions of the land or lot of record, including but not limited to:

Exceptional narrowness of the width or depth of a lot of record, or irregular shape.

Exceptional natural or topographic features located on the lot of record, such as steep slopes, water, existing significant trees, or other unique or extreme physical conditions of the land.

Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.

Other exceptional or extraordinary dimensional conditions or characteristics of land or lot of record.

The house is existing. It is not realistic to ask the applicant to relocate it.

That the unusual circumstances do not apply to most other lots of record in the same manner or to the same extent to other lots of record in the same zoning district.

The house is older than the zoning.

That the variance is necessary for the preservation and enjoyment of a substantial property right. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

The variance is appropriate to authorize the setback for the existing home, which currently has a nonconforming status, and there is no resulting financial return.

That the granting of the variance will not be of substantial detriment to adjacent and nearby land uses and properties.

The variance is being requested for an existing house that has been there for many years.

That the applicant shall not have created the problem for which the variance is being sought.

The applicant did not build the house. It is not self-created.

That the granting of the variance will not be contrary to the public interest and that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done for both the applicant and other property owners in the district.

Granting this request is not contrary to the public interest. It is an existing house. ** It was moved by Mr. De Vries and supported by Mr. Vander Meulen to grant the request for the lot size as presented that any new structures or additions abide by current zoning setbacks.

Motion carried.

Hearing declared open to consider a petition for nonuse variances submitted by Grassmid Builders, Inc. on behalf of Chyy Tang for vacant property located on Spruce Avenue (unaddressed parcel), known more specifically as 70-16-28-251-016. Petitioner is requesting the following for each of two proposed residential lots: (1) A variance of 14 feet to the required lot width of 64 feet, resulting in a lot width of 50 feet; and (2) A variance of 1,030.5 square feet to the required lot area of 8,400 square feet, resulting in a lot area of 7,369.5 square feet. The subject property is zoned R-2 Moderate Density Residential.

Present for this request was Steve Grassmid on behalf of Chyy Tang.

Mr. Grassmid explained to the Board that this would be a good lot for the development of affordable housing. Half of the neighborhood has a lot width of 50 feet. With the lot split, the applicant would be able to build two affordable houses. It's a good neighborhood, close to everything.

The Board stated that the building footprint for the two proposed lots would be very small and would he then be back requesting variances from the required setbacks?

Present in the audience was Bill Goorman of 144 Spruce Avenue. He agreed that there is a need for affordable housing, but there is already a problem with the 50-foot wide lots in the neighborhood with parking. Cars are parking on the streets because of the lack space. Plows can't plow because of the cars parked on the road. He is not in favor of this request. Also, he has concerns of the properties being rentals in which case, they are not as concerned about the upkeep since it's not theirs.

Next Rhonda Hayes of 134 Spruce Avenue spoke. She was in opposition of the request. There is already enough traffic on their street from the Salvation Army. Also, how close to the property line would the houses be, the position of the houses and driveways. It's more stuff in a small space. Two lots is not appropriate in that area.

Judy Beukema of 127 Spruce Avenue spoke next. She had concerns with parking on the street.

Mr. Boersma read a letter of opposition from Amador Briseno of 146 Spruce Avenue.

** It was moved by Mr. Vander Meulen and supported by Mr. De Vries to close the hearing. Motion carried.

Mr. Grassmid explained that the two houses would share a T driveway with side loading garages in the back.

Mr. Vander Meulen stated that this is a unique area in Holland Charter Township where 64' lot widths make sense. There are already so many 50' wide lots in this neighborhood. Case study shows smaller lots will work.

Mr. Boersma had concerns with the surrounding neighborhood's property rights.

The Board went over the standards to review when considering a nonuse variance request.

That compliance with the Zoning Ordinance would result in practical difficulties due to exceptional, extraordinary, or unique characteristics or conditions of the land or lot of record, including but not limited to:

Exceptional narrowness of the width or depth of a lot of record, or irregular shape.

Exceptional natural or topographic features located on the lot of record, such as steep slopes, water, existing significant trees, or other unique or extreme physical conditions of the land.

Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.

Other exceptional or extraordinary dimensional conditions or characteristics of land or lot of record.

There is nothing extraordinary about the lot – you could build a house there.

That the unusual circumstances do not apply to most other lots of record in the same manner or to the same extent to other lots of record in the same zoning district.

Most places are not appropriate for a 50' wide lot, but because of the number of existing 50' lots in the area this is the exception.

That the variance is necessary for the preservation and enjoyment of a substantial property right. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

A single-family house could be built there. That is not really the issue here. They are looking for affordability, affordable housing.

That the granting of the variance will not be of substantial detriment to adjacent and nearby land uses and properties.

Concern of parking have been raised and could be an issue, particularly with a shared driveway.

That the applicant shall not have created the problem for which the variance is being sought.

They are trying to make good use of the property. They could build without a variance.

That the granting of the variance will not be contrary to the public interest and that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done for both the applicant and other property owners in the district.

The spirit of the ordinance is not to have smaller lots when new land is being developed. Not to change what's already in a neighborhood. Allowing the 50' wide lots fits with the existing neighborhood.

Discussion continued among the Board members.

Mr. Vander Meulen stated that there are not many areas where this could work, but it could here. There is a need for affordable housing. Going forward we need to figure out how to do something. The applicant needs to work with the local jurisdiction and the local jurisdiction needs to work with the applicant.

Mr. Boersma stated that there are standards to go over and if it doesn't meet the standards the petition should not be granted.

Mr. De Vries commented there is a need, don't know the answer. The solution is not one lot here and one lot there.

** It was moved by Mr. Vander Meulen and supported by Mr. DeVries to approve both variances with an understanding there will be no parking on the street. Motion denied with opposition from Mr. Boersma.

Public comment was opened to the audience.

Bill Goorman had concerns about the Salvation Army. He wanted to know when they would be putting in the gate to keep the traffic down on their road. Mr. Broersma will contact the Salvation Army about putting in their gate. He advised Mr. Goorman that if he any further concerns to follow up with Staff.

The meeting adjourned at 7:20 p.m.

Respectfully Submitted,

Laurie Slater

Recording Secretary