

CHARTER TOWNSHIP OF HIGHLAND
ZONING BOARD OF APPEALS
APPROVED MINUTES
December 7, 2022

The meeting was held at Fire Station # 1, 1600 W. Highland Road, Highland, Michigan.

The meeting was called to order at 7:30 p.m.

ROLL CALL:

David Gerathy, Chairman
Michael Borg, Vice Chairman
Anthony Raimondo, Secretary
Peter Eichinger
Scott Green
Robert Hoffman
John Jickling
(Alternate) Mary Michaels

Kariline P. Littlebear, Zoning Administrator

Visitors: 8

Mr. Gerathy welcomed those in attendance and reviewed the procedures for addressing the Board. He stated that 4 affirmative votes are required to approve a variance. If a variance is approved the applicant has one year to act upon the variance. He asked if any member needed to recuse themselves for any of the agenda items and every member said no. He then stated that the alternate member may leave or stay. Mrs. Michaels chose to stay.

OLD BUSINESS:

1. CASE NUMBER: 22-26
COMPLAINT: **tabled from October 19, 2022**
ZONING: ARR – Agricultural and Rural Residential
PARCEL #: 11-32-200-015
PROPERTY ADDRESS: 1885 Lone Tree Rd
APPLICANT: Justin VanGordon
OWNER: Justin VanGordon
VARIANCE REQUESTED: A 69.3-foot variance from the required 75-foot front yard setback to 5.7-feet provided. (Sec. 4.15 Schedule of Regulations)
This request is for the reduction of the required front yard setback from an existing accessory structure (28' x 52' pole barn) to a proposed private road easement. This variance is requested to complete a land division and combination request.

Motion:

Mr. Raimondo moved to remove Case 22-26 from the table. Mr. Hoffman supported the motion and it carried with a unanimous voice vote.

Per Chairman Gerathy's request, Mrs. Littlebear explained that this variance request is before them because a land division/combination request has been presented to the zoning department. The division/combination requires that a 60-foot road easement be placed somewhere on parcels A or B to provide access to parcel C. The parties involved in the land division/combination would like that easement to run through parcel B bordering parcel A thus creating the need for a variance along what would become a front yard.

Chairman Gerathy introduced Case 22-26 and asked if the applicant had any additional information not included in the application.

Discussion from the Applicant:

Justin VanGordon, applicant, said that he didn't have anything new to add.

Discussion from the Public:

Aaron Sparks, 2015 Lone Tree Rd, stated that he is in favor of this variance for the road easement and explained that this proposed location is the best spot because of the topography of the land.

Discussion from the Board:

Mr. Jickling asked for clarification as to which parcel is the applicant's and which is the one with the road easement. Mr. VanGordon stated that his is parcel A and the road would be on Mr. Sparks' property which is parcel B. Mr. Jickling asked if there is another easement on the property to the west of parcel B where the driveway access to parcel C is located. Mrs. Littlebear explained that it is not an easement but the flag piece of Parcel C. She explained that state law no longer allows flag lots to be created so to complete a new land division/combination the flag piece would be absorbed into parcel B and the new road easement would be created. Mr. Jickling asked if the new road easement could be in the location of the existing driveway/flag piece and Mrs. Littlebear confirmed that it could be created there or anywhere on parcel B. Mr. Jickling asked if the owner of parcel C is planning to develop it. Mrs. Littlebear stated that the owner of that parcel does not plan to develop it for many years. Mr. Jickling and Mr. Eichinger asked for clarification as to what happens if the board chooses to deny this variance request. Mrs. Littlebear explained that if the variance is denied then the parties involved in the land division/combination would simply have to choose a new location for the road easement that meets ordinance requirements. Mr. Borg clarified that the road easement is not being split between the two parcels but would be solely on parcel B and Mrs. Littlebear confirmed that to be the case. Mr. Green asked if the road easement is for access only to parcel C or if it is also to access parcels A and B. Mr. VanGordon stated that it would be only for access to parcel C. Mr. Hoffman asked for clarification regarding the development of the road. Mrs. Littlebear explained that the access to parcel C could stay as a driveway until such time as parcel C is developed. Then the road would have to be constructed to access the development on parcel C. Mr. Jickling asked if parcel C could have access on the southeast corner from Craggs Lane. Mr. VanGordon stated

that the owner of parcel C told him that he tried to gain access, but the owners of that private road were not interested in selling him access.

Mr. Borg clarified that parcel A and parcel B would then have two front yards, one off Lone Tree and one from the new road easement. Mrs. Littlebear confirmed that to be the case. Mr. Green asked how many more times could parcel C be split. Mrs. Littlebear stated that because of the zoning parcel C could be split up to 5 times and parcels A and B could be split once. Mr. Raimondo asked if parcel C would still have a mailbox and garbage pickup on Lone Tree. Mrs. Littlebear confirmed that is the case until such time as parcel C is developed. Mr. Green and Mr. Hoffman do not believe that granting this variance would adversely affect the surrounding properties.

Mr. Jickling and Mr. Raimondo offered the following facts and findings: the need for the variance was self-created, compliance with the existing ordinance would not limit the full use of the property, there is nothing exceptional about the property to warrant a variance, the request is of a personal nature, and the request is not the minimum necessary.

Motion:

Mr. Hoffman made a motion in Case 22-26, Parcel Number 11-32-200-015, 1885 Lone Tree Rd., to grant a 69.3-foot variance from the required 75-foot front yard setback to 5.7-feet provided per Section 4.15. for the reduction of the required front yard setback to an existing accessory structure to a proposed private road easement to complete a land division and combination request. Mr. Green supported the motion. Mr. Borg-no, Mr. Raimondo-no, Green-yes, Mr. Hoffman-yes, Mr. Jickling-no, Mr. Eichinger-no, Mr. Gerathy-no (2 yes votes, 5 no votes). The motion fails and the variance is denied.

Mr. Raimondo made a motion in Case 22-26, Parcel Number 11-32-200-015, 1885 Lone Tree Rd., to deny a 69.3-foot variance from the required 75-foot front yard setback to 5.7-feet provided per Section 4.15. for the reduction of the required front yard setback to an existing accessory structure to a proposed private road easement to complete a land division and combination request. Mr. Borg supported the motion. Mr. Borg-yes, Mr. Raimondo-yes, Green-no, Mr. Hoffman-no, Mr. Jickling-yes, Mr. Eichinger-yes, Mr. Gerathy-yes (5 yes votes, 2 no votes). The motion carries and the variance is denied.

MINUTES:

Mr. Borg made a motion to approve the minutes of November 16, 2022, as corrected. Mr. Hoffman supported the motion and it carried with a unanimous voice vote.

DISCUSSION:

Mr. Raimondo stated that he appreciated everyone's work to revise the by-laws. Mr. Gerathy moved to approve the revised by-laws as presented. Mr. Borg supported the motion. Mr. Borg-yes, Mr. Raimondo-yes, Green-yes, Mr. Hoffman-yes, Mr. Jickling-yes, Mr. Eichinger-yes, Mr. Gerathy-yes (7 yes votes). The motion carries.

Mr. Green requested that staff arrange a presentation regarding "practical difficulty" for a meeting in 2023.

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ADJOURN:

Mr. Green made a motion to adjourn the meeting. Mr. Borg supported the motion and it carried with a unanimous voice vote. The meeting adjourned at 8:26 p.m.

Respectfully submitted,

Anthony Raimondo
Secretary
AR/kpl