



ROBINSON TOWNSHIP ZONING BOARD OF APPEALS

Ottawa County, Michigan

September 5, 2017

Meeting called to order by 7:00 p.m. by Chairperson Rich Maike.

Present: Rich Maike, Chair
Rich Saddler, Vice Chair
Bill Maschewske, Member
Briana Fowler, Secretary
John Wood, Alternate Member

Absent: Shannon Felgner, Member

Ron Bultje, Township Attorney
Kathy Kuck, Township Supervisor
Eric Hayward, Township Resident
Bonnie Hayward, Township Resident

Reading and Approval of Previous Meeting Minutes

The March 7, 2017 draft of the meeting minutes was discussed.

A motion was made by Rich Saddler to accept the March 7, 2017 minutes as written and seconded by Bill Maschewske. Roll call vote: Briana Fowler – yes, Rich Maike – yes, Rich Saddler – yes, Bill Maschewske – yes, and John Wood – yes. Motion carried unanimously.

Approval of the Agenda

A motion was made by Rich Maike to accept the agenda for the September 5, 2017 meeting and seconded by Rich Saddler. Motion carried unanimously.

Public Hearing/Comment

Variance request from minimum road frontage requirement for a building lot; parcel 70-08-17-400-048 located on 128th Ave.

Public Present: Bonnie Hayward, address of 12871 Buchanan Street, Grand Haven, MI
Eric Hayward, address of 12871 Buchanan Street, Grand Haven, MI

Bonnie Hayward stated her and her husband are presenting to the Robinson Township Zoning Board of Appeals (ZBA) in hopes of a variance for the minimum road frontage for a buildable lot. Parcels A (70-08-17-400-049) and Parcel B (70-08-17-400-048) were split in 2003 and the Haywards purchased parcel B. According to Bonnie Hayward, the current Zoning Administrator for Robinson Township, Brian Werschem, deemed their parcel (parcel A) as a non-buildable lot

based on the current Surveyor's Certificate. However, the split of parcels A and B was approved by the previous Robinson Township Assessor, Debra Bly, and by the previous Robinson Township Zoning Administrator, Greg Randsford, back in 2003. Bonnie Hayward stated that 250 feet of frontage was approved on the wrong parcel, on parcel B instead of being on parcel A.

Ron Bultje, Township Attorney, stated he suggested to Eric and Bonnie Hayward that if the 250 feet of frontage/easement could not be resolved between the property owners of parcel A and B then the Haywards should bring their issue up at the Robinson Township ZBA to seek resolution. Ron Bultje stated the easement was wrongly put on parcel B and the only relief the township would be able to do is grant a variance to the 250 feet frontage requirement.

Bill Maschewske asked Eric and Bonnie Hayward if they attempted to try resolve the issue with the current property owner of parcel A.

Bonnie Hayward was adamant and stated it is not her responsibility because the previous Robinson Township Zoning Administrator and Assessor did something incorrectly.

Bill Maschewske asked the group if Greg Randsford created the easement for the parcel back in 2003.

Bonnie Hayward replied to Bill Maschewske's question stating no he did not create the easement, but Greg Randsford and others within the township missed the error.

Ron Bultje asked the group who was responsible for paying the owner of parcel A for the townships mistakes? And suggested that is why he thought it made more sense for the Haywards to present their case to the ZBA, speaking a variance.

Rich Saddler asked Ron Bultje if he suspected there were other inaccuracies like this out there made by previous zoning administrators and would this variance be setting a precedence.

Ron Bultje responded to Rich Saddler by stating he believes the ZBA will need to take a case-by-case approach to this sort of variance request because although there may be similar situations out there not everything is going to be identical to this particular property owner's circumstances.

Bill Maschewske stated he understands the easement was placed on the wrong parcel, but asked if functionally it could be the same.

John Wood asked if the surveyor is the responsible party for the legal description/error. Bill Maschewske pointed out there are actually two easements on parcel B, and questioned if it was drawn wrong by the surveyor and if the legal description by the surveyor was inaccurate.

Bill Maschewske agreed the property is drawn as described in the legal description, but was hopeful the picture was incorrect and did not match the legal part in regards to parcel A.

Bonnie Hayward pointed out the legal descriptions for parcel A and parcel B are identical, which they should not be.

Ron Bultje agreed the legal descriptions on the survey are poorly written in its entirety, but accurately drawn which includes parcel B not having frontage or an easement.

Bonnie Hayward and Eric Hayward pointed out there is a current easement/road to the property, Permit for the driveway was given by the Ottawa County Road Commission in 2003.

Rich Maike suggested it was time for the ZBA to vote and closed the meeting to public comment.

Robinson Township Zoning Board of Appeals – Variance Request Outcome

The ZBA reviewed and considered the following five factors/standards contained in Section 40.6(A) of the Zoning Ordinance pertaining to the applicant's request for a variance from the minimum road frontage requirements for a buildable lot.

The five factors/conditions and the discussion relating to the factors/conditions are as follows:

- A. For a dimension variance, the Zoning Board of Appeals must find that all of the following facts and conditions exist:
1. There are exceptional or extraordinary circumstances or conditions applying to the property in question, as to the intended use thereof, that do not apply generally to other properties or classes of uses in the same zone.
 - a. Rich Saddler confirmed the applicant was requesting a dimensional variance, and agreed the circumstances were exceptional and extraordinary based on the fact the previous Robinson Township Zoning Administrator and Assessor made mistakes.
 - b. Rich Maike pointed out the mistake was unintentional.
 - c. Ron Bultje stated the township approved it from a zoning and assessor standpoint and it would be inequitable to not allow tax paying property owners to build at this time.
 - d. Bill Maschewske stated that because the township approved the easement on the wrong parcel, which is the crux of the problem, the fact the Haywards paid taxes is not valid.
 - e. Ron Bultje stated since the township approved it years ago, resident Bonnie and Eric Hayward have relied on the approval for years without question.
 - f. Roll Call Vote: Briana Fowler – Yes, John Wood – Yes, Rich Maike – Yes, Rich Saddler – Yes, and Bill Maschewske – Yes.

2. Such 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 granting a variance.
 - a. Rich Maike stated the Haywards deserve a buildable lot and stated they are asking for nothing more or less.
 - b. Rich Saddler agreed the circumstances surrounding the request for the variance is similar to that possessed by other properties in the same zone.
 - c. Ron Bultje stated that for those property owners who have gone through the land/lot procedure, they have relied on the township's approval and want to be in the same position.
 - d. Roll Call Vote: Briana Fowler – Yes, John Wood - Yes, Rich Maike - Yes, Rich Saddler – Yes, and Bill Maschewske – Yes.

3. Such variance, if granted, will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of the Zoning Ordinance or the public interest.
 - a. Rich Maike reiterated that all the Haywards are asking for is a buildable lot, which will harm no one.
 - b. Rich Saddler stated the adjacent property owners has always known this parcel was also going to be a buildable lot when he sold parcel B to the Haywards.
 - c. John Wood stated the variance will not harm the owner of parcel A.
 - d. Bill Maschewske stated the variance will actually benefit the owner of parcel A.
 - e. Roll Call Vote: Briana Fowler – Yes, John Wood – Yes, Rich Maike – Yes, Rich Saddler – Yes, and Bill Maschewske – Yes.

4. The condition or situation of the property or the intended use thereof is not of so general or recurrent a nature as to make reasonably practicable a general regulation for such condition or situation.
 - a. Rich Maike stated there has not been anything identical to have come to the ZBA, not recurrent as of this date.
 - b. Bill Maschewske stated this is the first request to come to the ZBA.
 - c. Roll Call Vote: Briana Fowler - No, John Wood - No, Rich Maike - No, Rich Saddler - No, and Bill Maschewske - No.

5. Any exceptional or extraordinary circumstances applying to the property in question are not self-created.
 - a. John Wood stated the current situation was created by the prior Robinson Township administration.
 - b. Rich Saddler agreed the situation was created by the previous township official(s).
 - c. Rich Maike stated there were also errors made by the surveyor.

- d. Roll Call Vote: Briana Fowler - Yes, John Wood - Yes, Rich Maike - Yes, Rich Saddler - Yes, and Bill Maschewske - Yes.

Rich Maike made a motion to grant the requested variance, after satisfying the five standards/criteria in Section 40.6, without criteria. The motion was not supported and therefore did not pass.

Rich Saddler made a motion to approve the variance, with the compliance of the five standards/criteria of Section 40.6, and treat the twenty foot easement on parcel B, running north/south, as if it were an easement on Parcel A for the benefit of Parcel B. The easement on parcel A and B will be subject to the conditions set forth in Section 4.9A, as it was intended to be. Motion was seconded by John Wood.

Roll Call Vote:

John Wood – Yes
Bill Maschewske – Yes
Rich Maike – Yes
Rich Saddler – Yes
Briana Fowler – Yes

The motion to accept the variance with the requirement that the applicant also be in compliance with the conditions set forth in Section 4.9A was passed unanimously.

Any and All Other Business That May Come Before the Board

The ZBA did not have any other business at this time.

Adjournment

Rich Maike made a motion to adjourn and seconded by John Wood. Motion carried unanimously. Meeting adjourned at 7:59 p.m.

Respectfully Submitted,
Briana Fowler
Secretary of the Robinson Township Zoning Board of Appeals

Approved 