

## ZBA MINUTES TO VARIANCE REQUEST ON 02-16-09

1. Meeting called to order; 7:00 PM by Jim Lautenschleger.
2. Roll Call: Jim Lautenschleger, Chuck Andrysiak, John Vandyke, David Carter
  - a. Absent: James Kelsey
3. Approval of Agenda:
  - a. Motion made by: Chuck Andrysiak
  - b. 2<sup>nd</sup> by: David Carter
  - c. All in favor: motion carried
4. Proper Notification of Meeting
  - a. Newspaper notices were made in appropriate time line
  - b. Neighbors were within 300 feet of properly notified in advance of meeting
5. Review Purpose of Meeting
  - a. To hear the variance request from Sarah Jennings to waive the current frontage requirements on M222 parcel # 03-23-022-012-20 located at 1669 116<sup>th</sup> Ave, Otsego, MI 49078, to allow building on said parcel which has only 60 feet of road frontage. Also, to hear interested parties comments regarding proposal variance.
6. **Public Comment:**
  - a. Ron Mehalski, neighbor to west of Sarah Jennings land along M222. He opposes variance request. Their pond abuts the neighbor's property; the pond is full year round. The proposed variance would be going against township frontage standards and building on said property would destroy the rural look. The property is designated as wetlands and there would be sewage drainage issues if someone built on the property.
  - b. Dave Deater: property owner owning land to north, south, and east bordering property in question. He opposes variance. There is not sufficient footage along frontage. It would destroy the agricultural appeal of the area. There is no build able site on property as it is all wetlands. Tires were removed from this area. It is a farming community and it would be setting new precedent for necessary road frontage-developers would take advantage of this.
  - c. Cathy Pardee: made comments regarding history of property. Who first owned it put tires on it. In 1995 property was deeded over to someone in Florida and taxes were not paid so the property was sold at tax sale. Jennings Real Estate purchased the property at the tax sale. Property was non-conforming at the time of the sale and had the tire dump on it when sold. Daryl Jennings owner of Jennings Real Estate willed the property to the township when he died. Township refused the willed property putting it back under the ownership of Jennings Real Estate. At a later time period the township assisted Jennings Real Estate in obtaining a State grant to clean up the property. The county administered the grant.
  - d. Christopher Stanke: entered into land contract with Sarah Jennings for property in question. Would like to see the variance approved. Claims that the land passed a perk test made in 1995. He showed evidence to board members. He would like to build on it as about two acres are on high ground. Perk test that met standard was in SE corner of property.

7 Lou McHugh: a real estate broker speaking for Sarah Jennings. Her thinking was that lot requirements only needed 75 ft of frontage. She was informed that road frontage requirement was 300 ft and that 75 ft was requirement for a cu-de-sac or curvilinear on a private road width. (Ch 6 (e) (1) page 6-3). Ms. McHugh also thought the area in question is zoned as R1- she was informed that the area in question is zoned as A2. Ms McHugh then showed ZBA board pictures of property indicating high ground in conjunction with a pond.

8. Candy Adrianson: explained to all that there was difficulty in scheduling ZBA meeting through errors of the newspaper publishing. On 2-2-09 Ms. Jennings called and requested another date for the meeting because her attorney would be out of town on the hearing. (Previous phone calls never indicated an attorney would be present). On 2-5-09 Candy called Ms. Jennings and she stated she would fax the letter from her attorney; however she was with someone and would have to do it later. On 2-9-09 Candy called Sarah and spoke with Lou stating meeting was still on for 2-16-09 since the letter was never received. On 2-16-09 @ 1:20 pm Sarah called the township office and stated she had not received a new date for the meeting. Candy explained that a call was made to her office on 2-9-09 stating meeting would be held as noticed.

Motion to close Public Comment

Motioned by: John Vandyke

2<sup>nd</sup> by: Chuck Andrysiak

All in favor motion carried.

### **Board Discussion on Request**

Jim Lautenschleger: opened up discussion for comments/questions under the findings of fact. He challenged the board to consider the following.

Does the property frontage meet the requirements of 6.04 subsection E? All members agreed that the standard is 300 feet and this property is far from the requirement. Grandfathered language does not support the 60 ft. variance.

b. Would a variance do justice to the township, the applicant, & any adjacent property owners? David Carter: according to township ordinance/adjacent property owners it is not justifiable. Chuck Andrysiak: it sets bad precedence. John Vandyke: concurs, not a good move as it sets a new standard. Jim Lautenschleger it would lay waste to the current zoning regulations and open the door for bad property management of the township.

c. Is the problem self created? The board felt as a group that this was the case as the property in question was non conforming in 1995 and that Daryl Jennings former owner of the property and new owner (Sarah Jennings) had to be aware of this status when the property was purchased.

### **Motion On Requested Variance:**

A motion was then made by David Carter to deny the variance request on the grounds that property did not meet the requirement of 300 ft of road frontage according to Section 6.04 'E' of the zoning ordinance. Under the finding of fact there wasn't any discovery that would suggest granting the variance was justifiable. Also, the property was designated as wetlands.

b. 2<sup>nd</sup> by Chuck Andrysiak

c. All in favor- motion carried

**Old Business**

1. Motion to approve ZBA Meeting minutes of March 4, 2008.
  - a. Motioned by Chuck Andrysiak
  - b. 2<sup>nd</sup> by: Jim Lautenschleger
  - c. Motion approved
  
2. Organizational meeting scheduled for March 3, 2009 @ 7PM.

**Motion to Adjourn:**

Motion by Chuck Andrysiak  
2<sup>nd</sup> by John Vandyke  
All in favor-motion carried.

Minutes Submitted By David Carter, Acting Secretary 03/03/09

  
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David Carter