

Milton Township
Zoning Board of Appeals
Meeting Minutes
August 13, 2020

Members present: Chairman Anderson, Gray, Burdo, Kingon, Atkinson, Kopkau and Jankowski.

Members absent: None.

Also present: Weinzapfel and seven audience members.

Anderson called the meeting to order at 7:00 pm and the Pledge was recited

Approval of agenda:

Motion by Atkinson/Gray to approve the agenda as presented. Motion carried.

Approval of meeting minutes dated November 14, 2019

Motion by Kopkau to approve the minutes as presented by Kopkau/Jankowski. Motion carried.

Anderson discussed the variance request process.

Variance Request:

#2020-01 Tom and Sue Schowalter, Property Tax # 05-12-710-014-00: Address: 11818 Holiday Lane, Rapid City MI 49676 are requesting a (3) foot front yard variance for construction of a front porch.

Sue Schowalter gave a presentation on the need for the variance. They would like a three foot variance on the front of the home for a deck. It will improve the appearance and will improve community with neighbors. Photos of seven houses in the nearby area who are closer to the road than what we are asking for with our variance. I'm asking for something my neighbors already have. Our neighbors are also very supportive. This variance won't disturb any of our neighbors.

Those speaking in support of the variance:

Jerry Mensing of 11401 Orchard Dr, Rapid City, said the Schowalter's have greatly improved the property and he supports their request with a variance.

Linda VanKuiken, a neighbor, said she is thrilled that someone is taking care of the property. They are great neighbors.

Those speaking against:

No one wished to speak

Correspondence:

A letter of support from David Hintz of 11383 Orchard Dr, Rapid City, MI was read by Anderson

A letter of support from from David & Linda VanKuiken of 11815 Hollidan Ln, Rapid City, MI was read by Anderson

A letter of support from Mike Schowalter of 11355 Orchard Dr, Rapid City, MI was read by Anderson.

A letter of support from Donald & Nancy Balsy of 11847 Holliday Lane, Rapid City, MI was read by Anderson.

Jankowski asked about specific measurements and the overhang on the porch. Yes. There will be an overhang. Actually, they are requesting about an 11 foot variance. Atkinson stated it's 50 foot from the edge of the road right of way. The setback would be 83 feet from the center of the road. Weinzapfel said that's not correct. The measurements are taking from the edge of the road right of way. It's a 66 foot easement. It's a fixed point. The porch is okay right now. But truly it's about a 9 foot variance request into the setback. Kingon asked if the current porch is grandfathered in? Yes. It will be three feet beyond the current porch. Anderson said he's reviewed the ordinance and we must be mindful of those and our rules that we go by to make these decisions.

Anderson asked does practical difficulty exist, or is there a safety issue? No.

Atkinson said this would set a precedent. It's only three feet, but in granting three or one foot we are making that the new normal. The next person will ask for four feet and how would we deny that? The ZBA is tasked with upholding the ordinance and granting relief in extraordinary circumstances. Atkinson would deny the request.

Anderson cited 117.205. The existing nonconforming properties will not be considered.

Weinzapfel said because we are measuring from the center of the road, not the edge of the road right of way, the road could be way off in that 66 foot wide easement. To do it from the center of the road is inaccurate; it should be 50 foot from the edge of the road right of way.

Anderson asked if there are other options. The answer is yes. There could be a porch on the back. There are other choices.

Kingon said this is very similar to another case in Rex Terrace where they were asking for a deck to be placed within the 50 foot setback. An option for them was to have a patio rather than a deck. We denied the variance request. Kingon said the homeowners have done a great job with the property

No one else wished to speak.

Motion to deny variance request #2020-01 by Atkinson. Seconded by Kingon. based on 117.704 and the finding of facts as presented in the staff report.

Roll Call:

Kingon: Yea, it's not consistent with the ordinance and it would be setting a precedent.

Gray: Yea, based on 117.704 and 117.323.

Atkinson: Yea, based on the findings of fact in the staff report and ordinance 117.704.

Anderson: Yea, based on 117.704 and the necessary ordinances that are listed. We need to stay within the scope of the ordinance.

Jankowski: Yea, 117.603, #9, which sets setbacks for lots, and 117.704.

Kopkau: Yea, based on 117.704, and 117.603. It's a beautiful house, but we must maintain our precedent.

Burdo: Yea, based on 117.603. We feel for you but we cannot grant this variance request.

Motion carried, 7-0.

Variance Request:

2020-02 Paul and Suzanne Bruley are requesting a variance for the Suzanne Bruley Trust, Property tax # 05-12-311-075-00. Address: 7802 Elk Tip Rd. Rapid City, MI 49676.

They are seeking a variance from Chapter 19 Milton Township Private Road Ordinance to allow for a land division on their parcel now under one property tax # 05-12-311-075-00

Anderson read the staff report, which is supplied as a part of these minutes.

Paul and Suzanne Bruley gave their presentation. It's 275 feet of water frontage. We requested splitting the north end parcel and the split conforms in every way. Our plan was never to live on a property this big. We've talked with our neighbors and they didn't have any complaints. The Milton Township Fire Chief has no issues. We are hoping you would consider our request.

Additional correspondence:

None

No one wished to speak in support

No one wished to speak against

Kington said he's not clear about the issue with the road. Anderson read the letter from Chief Ball. Kington asked why the split was denied. According to the private road ordinance, when you exceed more than 25 lots, for one road exiting on to the public road. When that happens the planning commission has the ability to grant relief. But because they exceed more than 25 lots, relief couldn't be granted. The road would have to be brought up to Antrim County Road Commission (ACRC) standards. The only way to split is to bring the road up to ACRC standards. They are asking for a variance from the private road ordinance. Kington asked when the road relief ordinance took effect. Weinzapfel thinks it was 2005. Kington said it seems that past ZBAs have granted splits with the same issue with a road that's being asked for now.

Atkinson said the road concerns are beyond this property in question. There is no concern leading up to this property.

Anderson read through the allowed exceptions in the ordinance. All have to be met in order to allow any exception.

Atkinson said she personally doesn't have a problem with this split because we have approval from the fire chief, and the road meets the requirements leading up to the property.

Kington said it gets much narrower to the north. There is no turn around or anything of that nature. Kington said he would approve the variance.

Motion by Atkinson to approve the variance request #2020-02. Seconded by Kopkau.

Burdo: Yea, as per 117.905

Kopkau, Yea, as per 117.905 .

Jankowski: Nay based on 117.905. The road doesn't meet the standards for the road commission, there are 25 or more lots and there are obviously some challenges in providing fire service. The future connection roadways is not anticipated and you were talking about the Grammar property creating future developments in that area.

Anderson: Yea, as per the fact that it does meet the requirement as far as the size and it's in keeping alike with

what is in the area and the road narrows after their property, not before.

Atkinson: Yea, as per the finding of fact based on the staff report and 117.1905 and 117.1905B2.

Gray: Yea, based on the finding of fact and 117.1905, reading the private road was legally created prior to this section.

Kingon: Yea, based on the prior cited references and the survey created dated August 2020. This is not of their own doing. The only way to do this is to change the road in front of their house and that's not possible.

Motion carried 6-1.

Correspondence

None

ZBA Member Comments

None

Old Business

None

New Business

None

PC Representative Report

Kingon said we've had half a public hearing on the RV park. The continuation will be September 15th, with a decision to be made.

There is a subcommittee on winery/cidery. We are working to amend that ordinance.

There is also a proposal to convert Johnny's Gym into Condos/Apartments.

Adjourn

Motion to adjourn by Kopkau/Anderson. Motion carried. Meeting adjourned at 8:11 pm.