

MINUTES OF THE SCHOOLCRAFT TOWNSHIP ZONING BOARD OF APPEALS

MEETING ON MARCH 21, 2019

A meeting of the Zoning Board of Appeals of Schoolcraft Township was held on March 21, 2019, at the Schoolcraft Township Hall, 50 East "VW" Avenue, Vicksburg, Michigan.

Members Present: Terry Blodgett, Greg Feldmeier, Gary Steensma, John Gardner and Jack Westendorp (sitting as an alternate).

Members Absent: Ray Hocevar

Also Present: Applicant, Tom Scott; Zoning Administrator, Chris Hamilton; Township Attorney, Michael Homier.

Chairman Blodgett called the meeting to order at 7:00 p.m.

Review and Approval of Minutes

A Motion by Comm. Feldmeier was made to approve the minutes of the June 7, 2018 meeting, supported by Comm. Gardner. Motion carried 5-0.

Variance request of TC Scott Construction/Robert and Karen Bailey of 14671 North Barton Lake Drive, Vicksburg, Michigan 49097, for determination if a deck is an attached accessory structure. Chairman Blodgett opened the public hearing and asked the applicant to provide background on the request.

The applicant stated that there needs to be a determination by the ZBA with respect to decks and patios as part of lot coverage; whether retaining walls count as part of the house and/or a variance for lot coverage. The applicant read the definitions for decks and patios and felt they are the same. He then checked with other townships to see whether lot coverage includes a deck and whether setbacks apply.

Zoning Administrator Hamilton asked the applicant if he was talking about principal structure setbacks or accessory building setbacks. The applicant stated these were principal structure setbacks. She explained how she conducted her inspection and reached her determination.

The applicant asked the ZBA to determine that the zoning ordinance says that the definition of building is considered part of lot coverage.

Attorney Homier stated that that is not what the applicant's application says. The application says "1. Determine if engineered retaining walls are considered to be part of home." The applicant responded that the Notice of Public Hearing stated that the ZBA can take up any other subject they determine at the meeting. Attorney Homier pointed out that it depends on the nature of the request. Attorney Homier stated that there are different aspects of the ZBA's jurisdiction, one of which is to hear and decide interpretations. Others are to hear variance requests. Variance requests require a public hearing. Interpretations do not. In looking at the interpretation question, the question before the ZBA is to determine if the engineered retaining walls are considered to be part of the home. When questioned about the notice, Attorney Homier stated that the notice says "for purpose of interpreting an unidentified section of the Township Zoning Ordinance to determine whether a deck attached to an engineered retaining wall is an attached or detached accessory structure."

The applicant then questioned the content of the Notice, to which Attorney Homier read the entire Notice of Public Hearing into the record. The applicant then apologized for misunderstanding the Notice. Attorney Homier reminded him that at this point, the ZBA is only considering the interpretation issue.

The applicant then went on to discuss the packets of information he provided and subsequent issues they encountered. A lengthy discussion followed regarding the new site plan, lot coverage ratio, setback violations, septic system and exterior doors.

Next followed a discussion of item 2 of the variance request.

A motion by Comm. Gardner to deny the interpretation request because the ordinance is not vague or ambiguous as it pertains to this project and what the applicant called a retaining wall is in fact building foundation, supported by Comm. Steensma. Motion carried 5-0.

Public Hearing

Comm. Blodgett opened the public hearing concerning the variance request.

Kevin Bell, 14641 North Barton Lake Drive, Vicksburg, Michigan, stated that he is concerned about potential future building along the lake. They used to have a view of the lake; however, the size of the new homes blocks his view. Comm. Blodgett stated that although he is sympathetic, the new structures do comply with zoning requirements.

Holly Sanders, 14681 N. Barton Lake Drive, Vicksburg, Michigan, asked about the issue of practical difficulty when seeking the variance.

Cheryl Barker, 14661 N. Barton Lake Drive, Vicksburg, Michigan, stated her retaining wall was destroyed by this construction, but no one has contacted her to do any repairs. The other homeowners have had to comply with the zoning ordinances and thinks Mr. Bailey should too.

Applicant in response to the publics concerns over the destroyed retaining walls stated that the retaining walls will be rebuilt.

A motion to close the public hearing was made by Comm. Feldmeier, supported by Comm. Steensma. Motion carried 5-0.

A Motion was made by Comm. Blodgett, supported by Comm. Steensma to approve a variance of lot coverage ratio in the additional amount of 2.5% on the condition that the only deck permitted on site shall be open air and not covered or enclosed. The variance document shall be in recordable form and recorded at the register of deeds. Motion carried 4-1.

Public Comment

Written comments were received from Bill Sanders, Cheryl Barker and Kevin and Shawney Bell and entered as part of the record.

Adjournment

There being no other business, a Motion was made by Comm. Feldmeier, supported by Comm. Steensma to adjourn the meeting.

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T. W. Blodgett

DATE: 1-9-2020