

**CHARTER TOWNSHIP OF FENTON ZONING BOARD OF APPEALS
MINUTES FOR SPECIAL MEETING OF JANUARY 31, 2017**

FENTON TOWNSHIP CIVIC COMMUNITY CENTER
12060 MANTAWAUKA DRIVE, FENTON, MICHIGAN
MEETING HELD AT FENTON TOWNSHIP CIVIC COMMUNITY CENTER

Chairperson Cady called meeting to order at 7:01 pm.

Present: Cady, Baran, Matta, Marko, Reid, Spear
Recording Secretary, McDonald

Absent: Krug

Also present: Attorney Jack Belzer and Zoning Administrator Piggott

PLEDGE OF ALLEGIANCE:

Chairperson Cady led the pledge of allegiance to the flag.

APPROVAL OF AGENDA:

Motion to approve the agenda as written

Motion by: Cady

Seconded by: Baran

All in favor

Chairperson Cady explained meeting procedure

NEW BUSINESS:

ZBA17-005 Kerri Stiverson & Ralph Messer, 2316 Grove Park, Fenton:

06-14-551-014

2316 Grove Park

Requesting a 50 ft. sight line variance to rebuild home destroyed by fire.

Secretary Reid reviewed the file. Attorney Michael Gildner, 5206 Gateway Center #200, Flint was sworn in to represent Stiverson and Messer who were also present at the meeting. Gildner stated the home was totally destroyed in a fire in July of 2016. The applicants are requesting a sight line variance to rebuild. They appeared before the ZBA in November and were denied a 70 ft. sight line variance as well as additional square footage of the accessory building. This plan is for a 50 ft. sight line variance to place the new structure no closer to the water than the house that was destroyed. Gildner offered the variance be conditioned on a staked survey to establish the location of the structure that was demolished. He noted there is not a request for additional accessory building at this time. The proposed structure has been moved back toward the road so that the rear of the proposed structure is no closer to the water than the previous structure. Gildner referred to section 4.28 of the zoning ordinance that allows for a waiver of the sight line provision stating a waiver could be granted if the structure is being built on a peninsula, a point, or a bay. Gildner said this property is located in Black Bass Bay and should have qualified for the waiver. He also indicated the previous house was legally non conforming and the applicants are not increasing the non conformity. He said the request meets the standards for approval. The applicants need the variance to be able to construct a home similar in size, height and location to the home that was destroyed. He also stated this is a unique circumstance since the house was destroyed by fire and the property is located in a bay. It is not a self created hardship and the spirit of the ordinance is observed. Marko and Reid asked if the existing garage is to be removed or downsized to meet the requirements of the ordinance. Gildner said they are not asking for additional square footage at this time. Eric Sloan, 2399 Grove Park, stated he believes the stakes that are on the property now are closer to the water than where foundation was for the previous house. He said he and his wife do not object if the house is not closer to the water than the previous structure. Matta said he was in favor of the request the last time it was before the board and he is in favor of this request. Reid said this is a unique situation and she appreciated the fact that the proposed structure has been moved further away from the water to minimize the amount of the requested variance. Cady and Spear agreed.

Motion to approve no more than 50 ft. sight line variance to build a new house in the existing footprint of the house destroyed by fire with the condition that a staked survey is accomplished to locate the foundation of the house that was demolished.

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Motion by: Cady
Seconded by: Baran
Ayes: Baran, Krug, Matta, Marko, Reid
Nays: None
Absent: Krug

Motion carried

COMMUNICATION:

Discussion of ZBA17-002 Randall & Janice Rockman, 2460 Neal Ct. Linden:

This matter was postponed until February 28th for further information from the Township Attorney and Zoning Administrator.

Zoning Administrator Piggott reviewed his memorandum to the ZBA outlining his reasoning and interpretation of Section 4.31 of the Township Zoning Ordinance. Section 4.31 states: *Any parcel of land which is to be occupied by a use or building, shall have frontage on and direct access to a public street or road, or an approved private road existing prior to the effective date of this Ordinance or approved by the Township under the provisions of Section 4.23 of this Ordinance. All lots must have a minimum frontage equal to the lot width required in Section 3.26 except as otherwise permitted.* Assuming Regis Drive is an “approved” private road, Section 4.31 allows the road to be used to provide access to the two land locked parcels. Strictly speaking, the applicant’s parcel does not have frontage on Regis Drive since the drive runs through their property. Since the applicant has frontage on Jennings Road, it has the option of getting direct access off Jennings, so using Regis Drive as access would seem to be inconsistent with Section 4.31. In addition, if they are proposing to alter the private road, it can not still be considered an “approved” private road. Article 5 of the zoning ordinance addresses changes to legal nonconformities. It addresses changes to nonconforming lots, structures and uses but does not specifically address nonconforming roads or drives. Therefore, there does not appear to be any authority for approving changes to nonconforming drives. Based on this analysis, Piggott advised that it is his determination that the applicant could not modify Regis Drive or use a portion of it as their access from Jennings Road without a variance from the requirements of Section 4.31 to allow the three parcels to gain direct access off a private drive that could no longer be considered an “approved” private road. There was discussion about the language and the fact that in order to be considered a new private road the relocated Regis Dr. would have to comply with the standards of the ordinance for a private road. The ZBA stated the applicant could gain access from Jennings Rd. since the parcel has over 300 ft. of frontage and consist of over 6 acres of land. The ZBA concluded there is no hardship as there is plenty of area for a driveway off Jennings Rd. and a building site without the need for variance. Other considerations that the Township Attorney discussed is there has to be some assurance that the owners of the two parcels that have ingress/egress easements will continue to have access to their property and any new easements created and that standards for construction of the new private drive will applicable so it is safe and passable. Other things to consider is the two parcels have to retain the ability to use the drive easement to bring in utilities. Section 4.23 requires a private road that provides access to three or more lots be built to county road standards with a minimum width of 26 ft. of paved roadway. So, if the Rockmans are not intending to construct to that standard they would need a variance from that requirement as well. The ZBA instructed staff to contact the applicant and explain his options.

PUBLIC COMMENT – NON AGENDA ITEMS: 5 minute time limit. There were none.

ADJOURN: 7:46 p.m.

Chairperson Cady
Minutes Posted 02/02/17

Secretary Reid