

**PRAIRIEVILLE TOWNSHIP
ZONING BOARD OF APPEALS**

March 3, 2021

PRESENT: Chairperson Grimes, Dan Jeska, Dave Mitchell

ABSENT: Jaci Dalke, Myron Kokx,

ALSO PRESENT: Rebecca Harvey, Township Planning Consultant

CALL TO ORDER

Chairperson Grimes called the meeting to order at 7:00 p.m.

APPROVAL OF AGENDA

The agenda was approved as presented.

APPROVAL OF MINUTES

The next matter to come before the Board was consideration of the proposed minutes of December 2, 2020. Mr. Mitchell moved to approve the minutes as presented. Chairperson Grimes seconded the motion. The motion carried unanimously.

PUBLIC COMMENT CONCERNING NON-PUBLIC HEARING ITEMS

No public comment was offered on non-public hearing items.

PUBLIC HEARING ITEMS

VARIANCE REQUEST - Kokur

The next matter to come before the Board was the request by Jeff DeKoning of Eaglecrest Homes, representing Chris and Shelley Kokur, for variance approval from the 25 ft side yard (streetside) setback requirement for nonconforming waterfront lots set forth in Section 6.17 E – *Nonconforming Lots of Record*. The subject property is located at 11710 Lindsey Road and is within the R-2 District.

Jeff DeKoning of Eaglecrest Homes, project contractor, was present on behalf of the application. Mr. DeKoning detailed the unusual elements of the subject property, noting the following:

- The property is a relatively large waterfront corner parcel (1.31 acres) with 173 ft frontage on Lindsey Road and 300 ft frontage on Breezy Point Drive.
- A Consumers Energy gas line bisects the lot.
- The property experiences some grade limitations.
- A recent survey of the property revealed that the fence/tree line along the north side of the property does not indicate the location of the north property line; instead, a 20 ft wide 'unnamed court' right-of-way is present along a portion of the north side of the property, effectively 'moving' that portion of the north property line 20 ft to the south.
- The 20 ft x 100 ft 'unnamed court' right-of-way is recorded in the adjacent plat as 'off-street parking' . . but it is not currently used as such.
- 473 ft of street frontage (2 sides); 66 ft of water frontage; 100 ft of frontage along an undeveloped right-of-way ('unnamed court'); and the gas line all present setback requirements applicable to development of the property.

Mr. DeKoning stated that he has worked to situate a proposed 2332 sq ft single-family dwelling/garage/deck on the site and was able to meet all applicable setbacks, until the discovery of the 'unnamed court' right-of-way. He noted that the proposed building location exceeds the 95.5 ft waterfront and 25 ft streetside setback requirements; the 6 ft setback requirement from the south property line; and, the 5 ft setback from the gas line required by Consumers Energy. He added that the proposed building location is also responsive to the grade of the property.

Mr. DeKoning explained that the presence of the 'unnamed court' right-of-way has, however, introduced a setback issue with the proposed building placement. Specifically, the required 6 ft setback from what was originally thought to be the north property line, is now a required 25 ft setback . . applicable the length of the 20 ft wide 'unnamed court' right-of-way. He stated that the grade that exists mid-lot and the location of the gas line essentially serve to frame the building envelope on the site . . and that adequate room does not exist within that building envelope to respond to the increased setback requirement along the north side of the property.

Mr. DeKoning stated that he is requesting variance approval from the 25 ft setback requirement applicable to the 'unnamed court' right-of-way so as to allow a 10 ft setback from same. He emphasized that the proposed 10 ft setback would exist only along a portion of the 'unnamed court' right-of-way, and that the

setback would increase from 10 ft to 25 ft east of the gas line (along Breezy Point Drive).

In response to a question, Mr. DeKoning informed that the applicant intends to construct an accessory building east of the gas line, in compliance with applicable setback requirements.

Chairperson Grimes questioned the details surrounding the Consumers Energy gas line. Mr. DeKoning stated that he was advised by Consumers Energy that moving the gas line 'would be very expensive' and that they 'have no desire to move the line again.' He noted that they have instead agreed to a 5 ft setback from the utility. He referenced the February 9, 2021 letter from Consumers Energy detailing the agreement.

Chairperson Grimes inquired if modifications to the floor plan to allow for compliance had been explored. Mr. DeKoning explained that quite a bit of effort has gone into a redesign of the proposed building and its situation on the lot in response to the locational limitations. He noted that the current proposal places only 58 ft of the dwelling/deck within the 25 ft setback area.

In further discussion regarding the area east of the gas line as an alternate building location, Mr. DeKoning stated that the presence of the sewer line in that area places the allowed building envelope on the far east end of the property, far in back of other houses in the area and without a view of the lake.

Chairperson Grimes inquired as to the lawful nonconforming status of the property. He noted that a variance request involving division of the subject property was considered and denied in April, 2011 and yet the current parcel is now provided 66 ft of water frontage, insufficient to comply with R-2 District standard of 100 ft. He questioned why the parcel was considered 'lawfully nonconforming'.

Following discussion of the land division/combination history of the parcel, it was determined that the land division approval status of the property is unknown. It was agreed that consideration of the requested setback variance could not proceed until the status of the property as a lawful building site could be confirmed.

Mr. Mitchell then moved to postpone consideration of the setback variance request to the April 7, 2021 ZBA meeting to allow time for staff to confirm the status of the property as a lawful building site. Chairperson Grimes seconded the motion. The motion carried unanimously.

UNFINISHED BUSINESS

Chairperson Grimes stated that no 'Unfinished Business' was scheduled for Board consideration.

NEW BUSINESS

Mr. DeVries, Township Board Trustee, reported that Dave Mitchell, ZBA Alternate, has been appointed to serve as a regular member of the ZBA. Additionally, Ted DeVries and Richard VanNiman have been appointed as new ZBA Alternates.

It was noted that Mr. Kokx (current ZBA member) and Mr. VanNiman are both members of the Township Planning Commission. It was questioned if the appointment of two Planning Commission members to the ZBA is authorized by the Michigan Zoning Enabling Act. Mr. DeVries agreed to seek direction from the Township Attorney on the matter.

Chairperson Grimes reminded that ZBA member receipt of public hearing notices when they are published is helpful in allowing members to know in advance when a scheduled ZBA meeting is going to be held. He requested the reinstatement of the practice of forwarding said public hearing notices to ZBA members. Ms. Harvey and Mr. DeVries acknowledged.

No further communications were offered.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 8:01 pm.