

**PRAIRIEVILLE TOWNSHIP  
ZONING BOARD OF APPEALS**

**June 2, 2021**

**PRESENT:** Chairperson Dale Grimes, Jaci Dalke, Dan Jeska, Dave Mitchell,  
Richard VanNiman

**ABSENT:** None

**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 April 7, 2021. Mr. Jeska moved to approve the minutes as presented. Mr. Mitchell 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 of Eaglecrest Homes, representing Chris and Shelley Kokur, for variance approval to allow for the construction of a single-family dwelling on a parcel that fails to meet the water frontage requirement set forth in Section 4.24 – *Waterfront Lots*. The subject property is located at 11710 Lindsey Road and is within the R-2 District.

Chairperson Grimes opened the public hearing.

Chairperson Grimes stated that at the April 7, 2021 ZBA meeting the Township was able to confirm that the subject site had been created through a series of property line adjustments . . . or 'property transfers between adjacent parcels'. It was explained that, although the parcel was established by lawful means, it was established in violation of the water frontage requirement. As a result, the parcel is not 'buildable' without variance approval from the standard.

Chairperson Grimes noted that the applicant has applied for variance approval from the 100 ft water frontage requirement so as to render the subject site with 66 ft of water frontage 'buildable'.

Chris and Shelley Kokur were present on behalf of the application. Ms. Kokur stated that they purchased the property in October, 2020 with an understanding that it was a 'buildable' walk-out lot. She noted that the survey clearly shows the site is provided 66 ft of water frontage and that in the closing process the title company confirmed its buildability. She expressed support for the Township's interest in requiring property transfers to obtain zoning approval.

Joe Tobin stated that he believes the 100 ft water frontage requirement was established in 2008, which left many waterfront lots lawfully nonconforming. He estimated that approximately 20% of the lots around the Township's lakes are provided less than 100 ft of water frontage, suggesting the Kokur lot is not out of character with the area.

Jeff Cooper stated that he was the owner of the parent parcel when the property transfer was made. He stated that he purchased the property in 2007, and was informed by Barry County at that time that a corner parcel had existed since 1944 and that adjustments to the property lines could be made and would be considered 'property line transfers' under the Land Division Act. He suggested that the current configuration of the Kokur parcel (achieved through property line adjustments) does not alter the situation of the property that has existed since 1944 (i.e., the land area still consists of only 2 building sites).

In response to questions, Harvey provided a recap of the land division/property transfer process outlined at the April meeting and the role of zoning in the land division process.

Nancy Green, neighbor, stated that the lot has been stagnant for some time and that she appreciates the improvements the applicants have already made to the property. She noted her support for use of the lot as a residential

building site and suggested an exception from the frontage standard was in order.

Jeff McPherson, neighbor, also expressed support for a variance that would make the subject site 'buildable'.

No further public comment was offered on the matter and the public comment portion of the public hearing was closed.

The Board then proceeded with a review of the variance criteria set forth in Section 7.5. Specifically, the following findings with respect to the requested waterway frontage variance were noted:

#1 - Residential use of the property is proposed and is permitted within the R-2 District.

#2 – It was recognized that a denial of the variance would prevent use of the property for any allowed use within the R-2 District. It was further noted that the subject site was created by a 'property transfer between adjacent parcels' and exists as a lawfully established parcel, with Township consent.

#3 – In determining substantial justice, it was recognized that many platted lots to the north and south of the subject site (and around the lake as a whole) are provided less than the required 100 ft water frontage, in some places averaging only 50 ft in width. It was understood, however, that many of the lots referenced pre-date the frontage requirement and exist as lawful nonconforming lots. The support for the variance expressed by neighboring property owners was also noted.

#4 – It was noted that an 'exceptional physical circumstance of the property' preventing compliance was not present.

#5 – It was realized that the property transfer that created the subject site was an affirmative action of the property owner, but it was noted that the site exists as a lawfully-established parcel that did receive Township approval through the assignment of a property number.

#6 – It was noted that the property line transfer still resulted in 2 building sites, as did exist in 1944, suggesting that, in granting the variance, the intent of the water frontage standard to regulate density would still be observed.

It was noted that the above findings were based on the application documents presented and the representations made by the applicant at the meeting.

Mr. VanNiman then moved to grant variance approval from the 100 ft water frontage requirement so as to render the subject site with 66 ft of water frontage 'buildable', based upon the findings of the Board on the variance criteria set forth in Section 7.5, Zoning Ordinance. Mr. Mitchel seconded the motion. The motion carried unanimously.

#### *VARIANCE REQUEST - Kokur*

The next matter to come before the Board was the request of Eaglecrest Homes, representing Chris and Shelley Kokur, for variance approval to allow for the construction of a single-family dwelling that fails to meet the side yard setback requirement set forth in Section 4.41 – *Schedule of Lot Yard and Area Requirements*. The subject property is located at 11710 Lindsey Road and is within the R-2 District.

Chairperson Grimes opened the public hearing.

Ms. Harvey provided an overview of the request, noting the following:

- Applicant proposes the construction of a 2332 sq ft walk-out single-family dwelling with an attached garage and lakeside deck.
- The building is proposed to be located in compliance with applicable front (waterfront) and rear setback requirements.
- Variance approval from the following side setback requirements is requested:
  - Side (south) setback: 10 ft required; 6 ft proposed
  - Side (streetside) setback:
    - 'Unnamed Court' 35 ft required; 25 ft proposed

Chris and Shelley Kokur were present on behalf of the application. Ms. Kokur reminded that they had appeared before the Board on April 7, 2021 requesting relief from what they understood at that time to be a 25 ft setback (streetside) requirement applicable to the 'Unnamed Court' r.o.w.

She stated that the Board denied the variance, noting the available options for compliance. Specifically, it was reasoned that available options for compliance included: 1) construction of a smaller house; 2) placement of the house east of the gas line; and/or 3) relocation of the gas line.

Ms. Kokur explained that, in an attempt to be responsive to the Board's comments, they made arrangements to move the gas line (at a cost of \$11,000-\$12,000) and then shifted the house back to meet the 25 ft and 6 ft side setback requirements.

However, with the finding that the subject site was not a lawfully nonconforming lot but rather a lawfully established parcel that was not 'buildable' due to water frontage, they have learned that the reduced streetside setback requirement of 25 ft and reduced side setback requirement of 6 ft applicable to lawfully nonconforming lots no longer apply. Instead, the standard streetside setback requirement of 35 ft applies to the 'Unnamed Court' r.o.w. and the standard side setback requirement of 10 ft applies to the south property line.

Ms. Kokur stated that, accordingly, they are now asking for variance approval from the 35 ft and 10 ft side setback requirements to allow for the proposed 25 ft and 6 ft setbacks, recognizing that all suggested efforts have been made to comply and further, in recognition of the recent discovery that a 15 ft wide sewer easement exists approximately 50 ft east of the gas line, limiting options for relocation of the proposed house.

Mr. VanNiman requested clarification of the noted utility easement locations. He expressed concern that the easements were not flagged limiting the ability to assess the request.

Chairperson Grimes questioned if the proposed house would 'fit' east of the sewer easement in compliance with setback requirements. Ms. Kokur stated that such a relocation would place the house in excess of 400 ft from the lake, significantly reducing the value of the property as a waterfront lot.

Jeff Cooper stated that locating the house closer to the road would not be consistent or in alignment with the homes on adjacent/surrounding lots and would not be in keeping with the character of the area. He added that the 'Unnamed Court' is vacant and functions/appears as yard area and should not be treated as a street.

Ms. Harvey clarified that pursuant to Section 4.24 B., on corner waterfront lots, the 'rear lot line' is the boundary line of the lot 'adjacent to the street right-of-way on that side of the lot which has the narrowest frontage'. For the subject property, the boundary line with the narrowest frontage is that which fronts Breezy Point Drive. Accordingly, the 35 ft setback requirement would only apply to the boundary line of the site along Breezy Point Drive.

Section 4.41 (Footnote C) would then dictate the setback along the 'Unnamed Court' r.o.w., requiring a 25 ft setback 'on the streetside of a corner lot'. As such, the applicant's proposed 25 ft setback from the 'Unnamed Court' r.o.w. does not require variance approval. Ms. Harvey clarified that the only variance required would be from the 10 ft side setback requirement to allow the proposed 6 ft setback from the south property line.

Joe Tobin remarked that a 6 ft side setback is common to the area, likely due to the fact that many waterfront lots are nonconforming lots on which a 6 ft setback is allowed.

Chairperson Grimes asked if any modifications had been made to the footprint of the proposed house to better meet setback requirements. Jeff DeKoning of Eaglecrest Homes noted that the footprint had been adjusted to meet the 25 ft and 6 ft setbacks but that additional changes would be difficult. He suggested a willingness to shift the house 4 ft to the north to meet the 10 ft setback requirement from the south property line, if the ZBA would consider a 4 ft encroachment into the 25 ft setback from the 'Unnamed Court' r.o.w.

No further public comment was offered on the matter and the public comment portion of the public hearing was closed.

The Board proceeded with a review of the variance criteria set forth in Section 7.5 with respect to the requested side yard and streetside yard setback variances. The following findings were noted:

#1 – The proposed residential use of the property is permitted within the R-2 District.

#2 – It was noted that an 'adequate-' or 'reasonably'-sized building envelope in compliance with applicable setback requirements was available on the subject property for construction. A reduction in the size of the footprint of the proposed house remained a reasonable option for compliance.

#3 – In determining substantial justice, a review of building arrangements on surrounding property was completed. It was recognized that the proposed 21 ft setback from the 'Unnamed Court' r.o.w. would be similar to the setback provided the detached garage on the lot adjacent to the north of the r.o.w.. The support for the 21 ft setback expressed by neighboring property owners was also noted.

#4 – In consideration of unique physical circumstances, it was recognized that the size, configuration and elevation change attributed to the lot are similar to many properties in the general area and are not 'unique' to the site.

#5 – The proposal is at the discretion of the applicant and represents a self-created hardship.

#6 – The intent of the side yard (streetside) setback requirement was referenced and the following was noted:

: The side yard (streetside) setback requirement is intended to afford adequate area for off-street parking, provide building/roadway separation for safety, and establish consistency of building lines.

: The proposed 21 ft setback from the 'Unnamed Court' r.o.w. will not result in a reduced off-street parking area; minimize building/roadway separation; or affect building alignment.

It was noted that the above findings were based on the application documents presented and the representations made by the applicant at the meeting.

Mr. Mitchell moved to deny variance approval from the 10 ft side yard setback requirement so as to permit the proposed 6 ft setback from the south property line based upon the findings of the Board on the variance criteria set forth in Section 7.5, Zoning Ordinance. Ms. Dalke seconded the motion. The motion carried 4 to 1, Mr. Jeska dissenting.

Mr. Mitchell then moved to grant variance approval from the 25 ft side (streetside) setback requirement so as to permit the proposed 21 ft setback from the 'Unnamed Court' r.o.w. based upon the findings of the Board on the variance criteria set forth in Section 7.5, Zoning Ordinance. Mr. Jeska seconded the motion. The motion carried unanimously.

### UNFINISHED BUSINESS

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

### NEW BUSINESS

#### *Communications:*

Chairperson Grimes advised that all vacant seats on the ZBA have been filled and one Alternate appointed. He noted that a second Alternate position remains available.

### ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 9:38 p.m.