

**PRAIRIEVILLE TOWNSHIP
ZONING BOARD OF APPEALS**

October 6, 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 June 2, 2021. Ms. Dalke moved to approve the minutes as presented. Mr. VanNiman 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 - Rogers

The next matter to come before the Board was the request of Phyllis Rogers for variance approval to allow the establishment of a parcel that fails to meet the requirements set forth in Section 4.41 – *Schedule of Lot, Yard, and Area Requirements*. The subject property is located at 12715 West Pine Lake Road and is within the R-2 District.

Chairperson Grimes opened the public hearing.

Phyllis Rogers was present on behalf of the application. She provided an overview of the request, noting the following:

- The original parent parcel, owned by her father, was approximately 13.7 acres in area with 638 ft frontage on Pine Lake and 415 ft frontage on Pine Lake Road.
- In 2009, land division application was made by her father to create 2 parcels: Parcel A - a .708-acre waterfront lot (with the existing dwelling) and Parcel B - a 12.97-acre lot (remaining parcel).

The waterfront lot was provided 155 ft of frontage on Pine Lake but did not possess the requisite 100 ft of frontage on a public road. A 66 ft wide ingress/egress easement extending from Pine Lake Road to the lot was granted. (Reference 10.06.09 Boundary Survey)

The land division application received approval from Barry County and Prairieville Township in 2009, and the land division was executed (deeds recorded) in 2020.

- Her father had also identified three additional waterfront lots (out of the parent parcel) by survey . . . to be divided and passed down to the three children. (Reference 'Undated Boundary Survey' – New Parcel B, Parcel C, and Parcel D) The remainder of the property (12.52 acres) was bequeathed to a neighboring property owner.
- Land division application was approved and executed in 2020 for one of the three waterfront lots (New Parcel B). The lot is provided 363 ft of frontage on Anson Point Drive and 282 ft of frontage on Pine Lake.
- The remaining two waterfront lots (Parcels C and D) have not received land division approval from Barry County nor do they have the requisite 100 ft lot width/road frontage required by the Prairieville Township Zoning Ordinance.
- Variance approval from the 100 ft lot width/road frontage is requested to allow the establishment of Parcel C (80 ft lot width/0 ft road frontage).

In response to Board questions, Ms. Harvey clarified that Parcel A was 'lawfully' established because it received County/Township approval in 2009 but was not 'buildable' in that it was not provided any frontage on a public/private road . . . and New Parcel B was a lawfully established conforming lot.

Mark Sherman, owner of the 'remainder' parcel, stated that he understood the proposed land divisions to have already been approved and recorded. He noted that there is a driveway present on the ingress/egress easement that extends across his property from West Pine Lake Road to the proposed waterfront lots and that he is willing to allow use of the driveway by the owners of Parcels C and D.

Ms. Rogers stated that she currently owns the property adjacent to the west of Parcel C and that Parcel C would be provided the requisite road frontage if the two properties were combined. She elaborated, however, that the adjacent property is occupied by a mobile home park and that she would prefer to keep the properties separate to facilitate a future sale of Parcel C.

Lengthy discussion ensued regarding the history of the division of the property; the options for access to the proposed Parcels C and D; and the status of the 'remainder' parcel given Parcels C and D have not been approved/established.

Mr. Sherman suggested a relocation of the ingress/egress easement that currently extends through the middle of the 'remainder' parcel to the west side of the property along the common property line. This easement could then be used for the extension of a private road which could provide the requisite frontage to Parcels A, C and D. It was further noted that adequate width exists between Parcels A, C and D to create three waterfront lots that comply with all applicable dimensional requirements of the R-2 District. Ms. Harvey confirmed that the proposed arrangement would negate the need for the requested variance.

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 variance were noted:

#1 – The requested dimensional variance will not serve to 'permit the establishment of a use' which is not allowed within the R-2 District.

#2 – It was recognized that a denial of the variance would prevent the proposed land division, but will not render the original parent parcel 'unbuildable'. It was further noted that reasonable options for lawful divisions of the parent parcel are available, including the ability to combine the proposed Parcel C with the applicant's parcel adjacent to the west.

#3 – In determining substantial justice, it was recognized that surrounding properties are generally provided frontage on a public/private road, even though some may be provided less than the required 100 ft.

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

#5 – The proposed land division (Parcel C) represents an ‘affirmative action of the property owner’ . . . or a self-created hardship.

#6 – The intent of the lot width/road frontage requirement was referenced and the following noted:

: The lot width/road frontage requirement is intended to regulate density, affect building separation, limit the quantity and spacing of driveways, and provide for life-safety access by emergency vehicles.

: The proposed lack of road frontage raises concerns regarding accessibility and safety.

: The proposed reduction in lot width raises concerns regarding building separation and the ability to comply with setback requirements.

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

Ms. Dalke then moved to deny variance approval from the 100 ft lot width/road frontage requirement so as to allow the proposed establishment of Parcel C based upon the findings of the Board on the variance criteria set forth in Section 7.5, Zoning Ordinance. Mr. Mitchell seconded the motion. The motion carried unanimously.

VARIANCE REQUEST - Flanders

The next matter to come before the Board was the request of Patricia Flanders for variance approval to allow the establishment of a parcel that fails to meet the requirements set forth in Section 4.41 – *Schedule of Lot, Yard, and Area Requirements*. The subject property is located at 12715 West Pine Lake Road and is within the R-2 District.

Chairperson Grimes opened the public hearing.

Patricia Flanders was present on behalf of the application. She explained that she is a sister of the previous applicant (Phyllis Rogers) and is similarly requesting variance approval from the 100 ft lot width/road frontage requirement to allow the establishment of Parcel D referenced on the 'Undated Boundary Survey' presented previously.

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 variance were noted:

#1 – The requested dimensional variance will not serve to 'permit the establishment of a use' which is not allowed within the R-2 District.

#2 – It was recognized that a denial of the variance would prevent the proposed land division, but will not render the original parent parcel 'unbuildable'. It was further noted that reasonable options for lawful divisions of the parent parcel are available.

#3 – In determining substantial justice, it was recognized that surrounding properties are generally provided frontage on a public/private road, even though some may be provided less than the required 100 ft.

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

#5 – The proposed land division (Parcel D) represents an 'affirmative action of the property owner' . . . or a self-created hardship.

#6 – The intent of the lot width/road frontage requirement was referenced and the following noted:

: The lot width/road frontage requirement is intended to regulate density, affect building separation, limit the quantity and spacing of driveways, and provide for life-safety access by emergency vehicles.

: The proposed lack of road frontage raises concerns regarding accessibility and safety.

: The proposed reduction in lot width raises concerns regarding building separation and the ability to comply with setback requirements.

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 deny variance approval from the 100 ft lot width/road frontage requirement so as to allow the proposed establishment of Parcel D, 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 unanimously.

UNFINISHED BUSINESS

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

NEW BUSINESS

Chairperson Grimes state that no 'New Business' was scheduled for consideration. No Board/staff communications were offered.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 8:55 p.m.