

**PRAIRIEVILLE TOWNSHIP
ZONING BOARD OF APPEALS**

April 6, 2022

PRESENT: Chairperson Dale Grimes, Alternate Ted DeVries, Dan Jeska, Dave Mitchell, Richard VanNiman

ABSENT: Jaci Dalke

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

Harvey advised that Public Hearing Items b) and c) have been withdrawn by the applicants and can be removed from the agenda. Mr. VanNiman moved to approve the agenda as amended. Mr. DeVries seconded the motion. The motion carried unanimously.

APPROVAL OF MINUTES

The next matter to come before the Board was consideration of the proposed minutes of October 6, 2021. Mr. VanNiman moved to approve the minutes as presented. Mr. Jeska seconded the motion. The motion carried unanimously.

PUBLIC COMMENT CONCERNING NON-PUBLIC HEARING ITEMS

James Parker questioned Township policy regarding members serving on more than one township board/committee and the requirements of the Open Meetings Act. He further expressed concern regarding communications outside of the public hearing by Planning Commission and Zoning Board of Appeals members on pending applications.

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

PUBLIC HEARING ITEMS

VARIANCE REQUEST - Milhelich

The next matter to come before the Board was the request of Mark Milhelich for variance approval to allow the establishment of a parcel that fails to meet the dimensional requirements set forth in Section 4.41 – *Schedule of Lot, Yard, and Area Requirements*. The subject property is located on the south side of Alling Road and is within the R-1 District.

Chairperson Grimes opened the public hearing.

Mark Milhelich was present on behalf of the application. He provided an overview of the request, noting the following:

- The site in question is approximately 2 acres in area and is provided 349 ft of frontage on Alling Road. There is currently a barn on the property.
- He resides opposite the 2-acre site on a lot that does not have a garage. He purchased the site in question for the accessory building and with the intent of splitting the property with a neighboring property owner.
- The site in question is technically of adequate size and frontage to divide in compliance with Ordinance standards, but the grade of Alling Road along the property frontage and the existing location of the barn create limitations in providing the requisite road frontage for both proposed parcels.
- Variance approval from the 150 ft lot width/road frontage requirement is requested to allow the division of the 2-acre site into two parcels – Parcel 1: 1 acre; 319 ft frontage and Parcel 2: 1 acre; 30 ft frontage.

In response to Board questions, Ms. Harvey confirmed that the dimensional requirements of the R-1 District are: minimum lot area – 1 acre; minimum road frontage – 150 ft; and, minimum lot width – 150 ft. She clarified that the lot width requirement is applied at the 35 ft required front setback line.

Chairperson Grimes requested clarification as to how the grade of Alling Road is limiting the ability to create two parcels that meet the 150 ft road frontage requirement.

Mr. Milhelich explained that the extreme grade of Alling Road in this area (30 ft drop) prevents access (from Alling Road) to the eastern side of the property. Consequently, access to any 'eastern parcel' would have to be

achieved through an easement across the 'western parcel', which would limit the way the 'eastern parcel' could be used.

He further explained that the buildability of the eastern portion of the property is very limited due to grade, which would essentially render a large portion of any proposed 'eastern parcel' useless.

Lengthy discussion then ensued in consideration of land division options that would address both road frontage and access needs, including non-contiguous frontage options and securing additional frontage from the parcel adjacent to the west.

Chairperson Grimes noted that dividing the property at the point along the frontage where the road curves would provide the proposed Parcel 2 with 117 ft of frontage, only 33 ft shy of the required 150 ft. He felt such a point of division would result in a compliant Parcel 1 that could be provided road access and have buildable/usable area . . while also providing Parcel 2 with a road frontage more in line with the 150 ft requirement.

Andrew Hart, neighboring property owner, stated that he is the neighbor interested in purchasing the proposed Parcel 2, noting that he, too, resides opposite the property. He provided supporting statements as to the dimensions of the property; the grade of Alling Road along the property frontage; and the grade limitations on the eastern portion of the property. Mr. Hart noted that many properties in the area have limited road frontage and lot width and that the proposed configuration of Parcel 2 would not be out of character with the area.

A review of the parcel layout in the area ensued in consideration of lot frontages and lot widths in the vicinity.

Mr. VanNiman agreed that the portion of Alling Road (a private road) under discussion is already washing out and that the grading required to establish a driveway in that area would only cause more instability and erosion.

Lengthy discussion then ensued regarding use of the existing 'ingress/egress easement' that extends south from the property to Lakeway Drive. Mr. Milhelich and Mr. Hart observed that limiting access to Lakeway Drive would eliminate the ability to use the property for overflow off-street parking, which is one of the attractions of the property. In response, it was noted that access from Alling Road could still be provided, and therefore off-street parking options would still be present, but rather the Lakeway Drive easement offers an access that expands parcel configuration options.

Chairperson Grimes questioned if the proposed Parcels 1 and 2 could be combined with the applicants' platted waterfront lots opposite the property as a means of complying with the frontage requirement. It was determined that the

Rules of Interpretation set forth in Section 3.0 indicate that lots/parcels separated by a road cannot be defined as 'adjoining' or 'contiguous' lots/parcels.

Mr. Jeska advised that the eastern portion of the property is actually an abandoned gravel pit. Mr. Mitchell noted that the property has been largely unused for 70 years, which may be an indication that some support is necessary.

Mr. Milhelich and Mr. Hart stated that they would willing to limit use of the proposed parcels to accessory buildings as a condition of the requested variance approval.

Josh Walker, neighboring property owner, opined that the proposal appears to be beneficial to the neighborhood as well as the applicants. He stated that the property has been cleaned up since purchased and represents an improvement in the area. Further, he sees no need to burden the property with unnecessary easements.

Kurt Howland stated that the proposal seems reasonable to accommodate use of the property for accessory buildings. He questioned the reasonableness of the standard and suggested that maybe an amendment of the Ordinance is in order.

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

In response to questions, Ms. Harvey confirmed the following:

- The proposed division is consistent with the objectives of the dimensional requirements in that the standards allow two 1-acre parcels that are provided a total of 300 ft of frontage.
- Variance approval could be conditioned upon compliance with setback requirements, limiting the number of future driveways, and/or limiting any future division of Parcel 1.

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-1 District.

#2 – It was recognized that a denial of the variance would prevent the proposed land division, but will not render the property 'unbuildable' or prevent reasonable

use. It was noted, however, that reasonable options for a lawful division of the property are limited due to 1) the grade of Alling Road along the parcel's eastern frontage; 2) the lack of legitimate access options from other than Alling Road; and 3) the uncertainty of if/how Alling Road could be modified to correct the grade problem.

#3 – In determining substantial justice, it was recognized that many surrounding properties are provided the requisite frontage along Alling Road, however, there are currently at least 7 lots nearby that have only 50 ft lot width/frontage.

#4 – It was noted that the elevation of the Alling Road along the frontage of the property, which limits access options and therefore land division options, represents an 'exceptional physical circumstance of the property' preventing compliance.

#5 – The proposed land division 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 land division will create two parcels with a total road frontage of 349 ft, consistent with density and frontage objectives.

: The minimal frontage/width (30 ft) of Parcel 2 raises concerns regarding building separation, the ability to comply with setback requirements, and safe access.

: Improved access to the site will create off-street parking opportunities, which will improve safety in the area.

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 then moved to grant variance approval from the 100 ft lot width/road frontage requirement so as to allow the proposed establishment of Parcel 2 based upon the findings of the Board on the variance criteria set forth in Section 7.5, Zoning Ordinance, and subject to the following conditions:

1. The frontage, as well as the width . . . for a depth of 109.79 ft south from Alling Road, of Parcel 2 shall extend from the existing west boundary of

the subject property east to a point 10 ft west of the existing barn . . . representing an increase in the 30 ft frontage/width proposed for Parcel 2.

2. The resulting Parcel 1 and Parcel 2 shall comply with the 1-acre minimum lot size requirement.
3. No additional/future divisions of Parcel 1 shall be allowed.
4. Compliance with all applicable setback requirements on both Parcel 1 and Parcel 2.

. Mr. VanNiman seconded the motion. The motion carried 4 to 1, with Chairperson Grimes dissenting.

UNFINISHED BUSINESS

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

NEW BUSINESS

ANNUAL ELECTION OF CHAIRPERSON

Mr. VanNiman moved the nomination and election of Dale Grimes as Zoning Board of Appeals Chairperson. Ted DeVries seconded the motion. The motion carried unanimously.

ZBA BYLAWS

Mr. VanNiman moved the approval of the Zoning Board of Appeals Bylaws, as presented. Mr. Mitchell seconded the motion. The motion carried unanimously.

COMMUNICATIONS

Mr. VanNiman provided an update on the Planning Commission's work on the proposed "PC" Prairieville Creek Overlay District.

Mr. DeVries provided an update on the recent work of the Township Board, including the allocation of ARPA (American Rescue Plan Act) funds.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 10:01 p.m.