

MINUTES

Monterey Township Zoning Board of Appeals

Monday March 23, 2020 at 7:00PM

Location: Monterey Township Hall

Executive Order 2020-15: Due to the COVID-19 pandemic, Monterey Township Zoning Board of Appeals, under Executive Order 2020-15 signed by Governor Whitmore on March 18, 2020; will be conducting Business Live and via Conference Call (see attached).

Call to Order: Meeting was called to order at 7:00PM by ZBA Secretary Scott Boeve

Roll Call: Kyle Bockheim & Scott Boeve present in person. Bill Leach present via conference call.

Note: Henry Reinart Township Supervisor & Heather Mitchell Zoning Administrator also present

Approve Agenda: Motion made by Bockheim to approve agenda, Leach seconded. Bockheim, Boeve, & Leach in favor. Motion Carried. 7:06PM

Approve November 9th 2019 Minutes: Motion made by Leach to approve, Boeve seconded. Bockheim, Boeve, & Leach in favor. Motion Carried. 7:07PM

Jack & Patricia Dendel Variance Request: Parcel number 16-027-021-01

Jack & Patricia Dendel, owner of Parcel Number 03-16-027-021-01; presented the request for relief from Section 5.05D of the Monterey Township Zoning Ordinance, Area regulations within the Agricultural Zoning District to create a new parcel greater than Two (2) acres. The new parcel would exclude (2) 2 acre (approximate) areas, one of which is not connected to the original parcel property line.

Public Comment: Motion by Boeve to open, Bockheim Seconded. Bockheim, Boeve, & Leach in favor, motion carried.

Public opposition present:

Kevin Smith, owner of Parcel Number 16-026-013-00; voiced his opposition to the proposed relief due to the fact that there was "Blight" present along the Southern border of the proposed parcel (letter & photographs presented). Smith also indicated his opposition to the non-connected 2 acre area on the South East corner of the proposed parcel. Smith was not opposed to using 127th Avenue as a parcel boundary.

Mark Granger, owner of Parcel Number 16-027-001-00; voiced his opposition to the proposed relief due to the disconnected areas excluded from the proposed parcel. Granger was not opposed to using 127th Avenue as a parcel boundary.

Motion by Bockheim to close Public Comment, seconded by Boeve. Bockheim, Boeve, & Leach in favor, motion carried. 10:17AM

Board Review of finding of practical difficulties:

1. Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with the Ordinance unnecessarily burdensome. Board unanimous, proposed complies. Reason: Using 127th Avenue as the parcel boundary brings both the original parcel and newly created parcel into compliance with Township standards.
2. The variance will do substantial justice to the applicant, as well as to other property owners. Board unanimous, proposed complies. Reason: Using 127th Avenue as the parcel boundary allows the current owner and future owners to utilize each parcel as needed.
3. A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners. Board unanimous, proposed does not comply. Reason: The lesser Variance of using 127th Avenue as the parcel boundary will give substantial relief. The splits remaining on the parent & child parcel will allow the owner to split off the originally requested non connected areas.
4. The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district. Board unanimous, proposed complies. Reason: A variance using 127th

Avenue as the boundary will follow Monterey Township standards using public roads as natural dividing lines.

5. The problem and resulting need for a variance has not been self-created by the applicant and/or the applicant's predecessors. Board unanimous, proposed complies. Reason: The original parcel has been in the current state for over 40 years, well before Monterey Township zoning rules.

Based on the findings of fact per Section 14.04E, the lesser Variance of using 127th Avenue as the natural parcel dividing line to split parcel 16-027-021-01 sharing the remaining splits with the newly created parcel is approved with the following condition. PCI, Monterey Township Zoning Administrator; to do a blight inspection of the proposed newly created parcel.

Motion by Leach to approve the Jack & Patricia Dendel lesser Variance with condition, seconded by Boeve. Bockheim, Boeve, & Leach in favor, motion carries. Jack & Patricia Dendel Variance to split parcel number 16-027-021-01 utilizing 127th Avenue as the parcel dividing boundary with the conditional PCI Blight inspection, approved.

Round Table Discussion: Motion by Boeve to open Round Table Discussion Seconded by Bockheim, all in favor, motion carries. No Round Table Discussion present. Motion to close Round Table Discussion by Bockheim, Seconded by Boeve, all in favor, motion carries.

Public Comment: Motion by Bockheim to open Public Comment seconded by Leach, all in favor, motion carries. No Public Comment present. Motion to close Public Comment by Boeve, Seconded by Bockheim, all in favor, motion carries.

Adjourn: Motion by Boeve, Seconded by Bockheim. All in favor, motion carried. Adjourn Monterey Township March 23, 2020 ZBA Meeting Adjourned. 8:12PM

March 23, 2020

Kevin R. and Katherine M. Smith

2576 28th Street

Allegan, MI 49010

The above are owners of adjoining property to the south of that indicated on the petition for a dimensional variance.

Concerns and questions:

- 1) The property should stay in agriculture in accordance with current zoning, not be divided off for residential use.
- 2) There are orange ribbons marking a section of the property on the southeast corner. Ribbons can be seen in two places. In one place ribbons are approximately 235 feet from the center of the road to the west (28th Street) and approximately 400 feet north of the southeast corner along 28th Street. What is the intent for these ribbons?
- 3) There is an unsightly junk pile (please see pictorial documentation, pictures taken by owners of adjoining property) which has accumulated more items recently. This junk pile is on the parcel of land under consideration and can clearly be seen by the owners of the adjoining property. The junk pile should be removed in its entirety.

MONTEREY TOWNSHIP ZONING BOARD OF APPEALS

FINDINGS OF FACT

Section 14.04.D The ZBA shall have authority in specific cases to authorize one or more variances from the strict letter and terms of this Ordinance by varying or modifying any of its rules or provisions so that the spirit of this Ordinance is observed, public safety secured, and substantial justice done. A dimensional or non-use variance allows a deviation from the dimensional (i.e. height, bulk, setback) requirements of this Ordinance. A use variance authorizes the establishment of a use of land that is otherwise prohibited in a zoning district. The ZBA is not authorized to grant use variances by this Ordinance. Such authority shall be exercised in accordance with the following standards:

The ZBA may grant a requested "non-use" variance only upon a finding that practical difficulties exist. A finding of practical difficulties shall require demonstration by the applicant of **all** the following:

1. Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with the Ordinance unnecessarily burdensome.

The proposed use Complies Does Not Comply with this standard. Reasons:

using 127th as the boundary line
Brings requested split into township standards.

2. The variance will do substantial justice to the applicant, as well as to other property owners.

The proposed use Complies Does Not Comply with this standard. Reasons:

using 127th as the boundary line allows
Property owner to utilize property as needed

3. A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.

The proposed use Complies Does Not Comply with this standard. Reasons:

The lesser variance originally requested
will give the property owner the splits
necessary to do as planned.

4. The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.

The proposed use Complies Does Not Comply with this standard. Reasons:

The lesser variance will follow township
standards in using public road as natural
dividing lines.

5. The problem and resulting need for the variance has not been self/created by the applicant and/or the applicant's predecessors.

The proposed use Complies Does Not Comply with this standard. Reasons:

This property has been in the current state
for over 40 years, not created by
current owner.

Section 14.04.E Conditions of Approval

The ZBA may impose reasonable conditions in connection with an affirmative decision on an appeal, interpretation or variance request. Conditions shall be necessary to meet the intent and purposes of the zoning ordinance, be related to the standards established in the ordinance, be related to the standards established in the ordinance of the land use or activity under consideration and be necessary to insure compliance with those standards.

Based upon the above Findings of Fact, the proposed variance is:

Denied

Approved

as presented

with the following conditions (If the variance is granted, conditions of approval should be clearly stated within the minutes and upon the application):

PCI is to do a blight inspection

Date: March 23, 2020

Zoning Board of Appeals Chair: [Signature]

Zoning Board of Appeals Secretary: [Signature]