

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF A REGULAR MEETING HELD
THURSDAY, APRIL 1, 2021

LOCATION: VIRTUAL MEETING

PRESENT: CHAIRMAN: AARON TUCKFIELD
PRESENT, MACOMB TOWNSHIP, MACOMB COUNTY, MI
MEMBERS: DAVID PIEPER
PRESENT, MACOMB TOWNSHIP, MACOMB COUNTY, MI
DAVID DeCOSTER
PRESENT, MACOMB TOWNSHIP, MACOMB COUNTY, MI

ABSENT: SECRETARY: DAWN SLOSSON
MEMBER: KRISTI POZZI

ALSO PRESENT: JOSH BOCKS, PLANNING DIRECTOR
DAVE SCURTO, PLANNING CONSULTANT
BEN ALOIA, TOWNSHIP LEGAL COUNSEL

1. Call Meeting to Order.

Member DeCOSTER called the meeting to order at 7:00 P.M.

2. PLEDGE OF ALLEGIANCE.

Member DeCOSTER led the Pledge of Allegiance.

3. Roll Call.

Member DeCOSTER called the roll. Members POZZI and SLOSSON were absent.

MOTION by TUCKFIELD seconded by PIEPER to eliminate Member POZZI and Member SLOSSON'S name from any roll call votes.

FOR THIS MOTION

AYES: TUCKFIELD, PIEPER, DeCOSTER.

NAYS: NONE.

ABSENT: POZZI, SLOSSON.

MOTION carried

4. Approval of Agenda Items. *(with any corrections)*

Note: All fees have been received and all property owners were notified by mail.

MOTION by PIEPER seconded by TUCKFIELD to approve the agenda as presented.

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FOR THIS MOTION

AYES: PIEPER, TUCKFIELD, DeCOSTER.

NAYS: NONE.

ABSENT: POZZI, SLOSSON.

MOTION carried.

5. Approval of the previous meeting minutes.

MOTION by TUCKFIELD seconded by PIEPER to approve the minutes of March 4, 2021 as presented.

FOR THIS MOTION

AYES: TUCKFIELD, PIEPER, DeCOSTER.

NAYS: NONE.

ABSENT: POZZI, SLOSSON.

MOTION carried.

6. New Business:

A. VARIANCE REQUEST FROM ZONING ORDINANCE

Section 10.0704(D) - Request to reduce a corner side yard setback from 25 feet to 10 feet to allow for the installation of an inground pool. The variance is for a 15-foot encroachment into the required side setback. Located at Westwood Pointe, Lot 2, 51076 Battanwood Drive, north of 23 Mile Road and east of Romeo Plank Road; Section 16, Michael Lieblang, Petitioner. Permanent Parcel 08-16-379-001

Josh Bocks, Planning Director, presented a powerpoint presentation of the variance being sought. He indicated that the departments were recommending approval.

The petitioner submitted a letter of practical difficulty dated February 17, 2021 as follows:

"We are hoping to have an inground, fiberglass pool installed in our fenced in lot at 50176 Battanwood Drive. Our lot is a corner lot, and our planned location encroaches upon a 25 foot side lot setback. It is my understanding that a corner lot is considered a "double front", and this is the reason for the 25 foot setback. In our case, the street to the north of our lot has no outlet/through traffic (nor even a name to my knowledge). We are located directly west of the new senior living center next to the fire station. We are asking for a variance of 15 feet to said setback to allow for installation of the pool and concrete surround. In our research, we found that the township has granted variance in a similar (nearly exact) instance. The difference between our lot and that of the one we found is that as I mentioned above, we have no through traffic on the side lot. I've attached a PDF file of a Zoning Board of Appeals meeting dated August 6, 2020. Please reference section 6-B beginning near the bottom of page 3 or the PDF. I've also highlighted it. Please find the ZBA decision on page 5.

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We are working with Lisa from Sun and Fun Pools. The pool we have chosen is a freeform shape pool, measuring 14 x 30 feet. We've included in the application package the site plan developed by Sun and Fun Pools. It shows the location of the pool, oriented in such a way as to give the required clearance to the house and existing brick paver patio. It is due this location that we are requesting the variance of 15 feet to the side lot.

My wife and I purchased this home as a new construction in March of 2012 about a year and a half after we were married, with the intention of starting a family and raising our children here. We've made several significant aesthetic enhancements to the home, the a fore mentioned brick paver patio as well as a paver walk and beautiful landscape at the front. We installed a 52" high fence immediately. The reasons were twofold. We had a dog at the time and had anticipated at one point down the road to install a pool for our future kids to enjoy. Since that time we've had 3 wonderful children, between the age of 3 and 8. It was always our goal to provide them with the excitement and exercise that owning a swimming pool brings. Many of their friends have pools, and they're excited to have their own. We would very much love to be able to afford our children the same physical, mental and social stimulation that many other children in our neighborhood and surrounding neighborhoods have.

In addition to the pool, we plan to add additional landscaping to add privacy to the pool area as well as beautify the yard. We've purposely held off on major landscape in the yard knowing well that there will be significant excavation involved in the pool process, so we wanted to wait until installation to complete the look. We love our neighborhood and have great relationships with all our neighbors, as most of them have children of similar age. We have talked with many of them regarding installing a pool, and none of them have voiced any concerns. Some of them have pool of their own, and some are looking forward to spending time in ours."

Mike Lieblang, petitioner, was in attendance and stated the request had been explained perfectly

Public Portion: None.

Member DeCOSTER closed the public portion.

The following resolution was offered by TUCKFIELD and seconded by PIEPER:

Whereas, it has been satisfactorily presented that special conditions prevail that would cause a practical difficulty if the request would be denied, and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance under the findings and facts herein set forth;

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Now, therefore, be it resolved, that the action of the Board is to grant the requested variance of Section 10.0704(D) - Request to reduce a corner side yard setback from 25 feet to 10 feet to allow for the installation of an inground pool. The variance is for a 15-foot encroachment into the required side setback. Located at Westwood Pointe, Lot 2, 51076 Battanwood Drive, north of 23 Mile Road and east of Romeo Plank Road; Section 16, Michael Lieblang, Petitioner. Permanent Parcel 08-16-379-001. The variance is granted based upon the recommendation of the Consultants and that the lot is unusual due to the fact that lot is a corner lot and that the street will not cut through and the requested variance is less than what would be allowed on a standard side yard.

FOR THIS MOTION

AYES: TUCKFIELD, PIEPER, DeCOSTER, PIEPER.

NAYS: NONE.

ABSENT: POZZI, SLOSSON.

MOTION carried.

B. VARIANCE REQUEST FROM ZONING ORDINANCE

Section 10.0504(A) – Request to allow a lot depth to width ratio of 3.2:1. The maximum allowable lot depth to width ratio is 3:1. Located on the north side of 23 Mile Road, east of North Avenue; Section 13. Mooney Real Estates Holdings, Petitioners. Permanent Parcel 08-13-300-056

Josh Bocks, Planning Director, presented a powerpoint presentation of the variance being sought. He indicated that the departments were recommending approval.

Michael McInerney, petitioner, was in attendance and stated the house that sits on Parcel 1 is currently a chapel for the parish of St. Francis and that is also used by the Regional Bishop as his office. He noted they are interested in selling off the surplus land but are very interested in keeping the house for the purpose of the parish and for the Regional Bishop's office. He also indicated that they were currently working on a potential land purchase that could be tied in with surrounding property.

Member TUCKFIELD asked why the need for the 3:1 ratio was for if they were working on a potential land sale.

Michael McInerney, petitioner, stated that nothing has been secured at this time and that the application had been submitted prior to the potential sale of the surplus property.

Member PIEPER asked if the residence on Parcel 1 planned on staying there.

Dave Scurto, Planning Consultant, stated that the Archdiocese of Detroit would own both parcels and are under the understanding that a chosen Bishop would live at the residence.

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Kelly Lockman, petitioner, 1901 St. Antione, indicated that the potential property buyers had provided them with a letter indicating that they had no issue with the property split.

Public Portion: None.

Member DeCOSTER closed the public portion.

Member DeCOSTER wanted to indicate to the petitioner that with only 3 of the 5 members present that all three members would have to vote in favor in order for the variance to be granted. If the petitioner wanted to have the item tabled they may indicate prior to a motion being made.

Member TUCKFIELD stated he was willing to make a motion but wanted to make sure the petitioner was willing to move forward.

Michael McInerney, petitioner, stated he was satisfied to move forward.

The following resolution was offered by TUCKFIELD and seconded by PIEPER:

Whereas, it has been satisfactorily presented that special conditions prevail that would cause a practical difficulty if the request would be denied, and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance under the findings and facts herein set forth;

Now, therefore, be it resolved, that the action of the Board is to grant the requested variance of Section 10.0504(A) – Request to allow a lot depth to width ratio of 3.2:1. The maximum allowable lot depth to width ratio is 3:1. Located on the north side of 23 Mile Road, east of North Avenue; Section 13. Mooney Real Estates Holdings, Petitioners. Permanent Parcel 08-13-300-056. The variance is granted based upon the fact they maintain the use of the lot for the house and to maintain the boundaries set by nature and the ratio being requested is reasonable for the lot and that doing otherwise in maintaining the ordinance to create a parcel that does not match the surrounding area.

FOR THIS MOTION

AYES: TUCKFIELD, PIEPER, DeCOSTER.

NAYS: NONE.

ABSENT: POZZI, SLOSSON.

MOTION carried.

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C. VARIANCE REQUEST FROM ZONING ORDINANCE

Section 10.0504(B) – Request to allow 200 foot of road frontage where 300 feet is required for acreage parcels over 10 acres. This parcel is 35.562 acres. Located on the north side of 23 Mile Road, east of North Avenue, Section 13, Mooney Real Estates Holding, Petitioners. Permanent Parcel 08-13-300-056

Josh Bocks, Planning Director, presented a powerpoint presentation of the variance being sought and that the existing structure would not allow for 300 feet of frontage and allow a split to occur.

Member TUCKFIELD asked Josh Bocks, Planning Director, if there was any place in the Township where there was a street that had residential homes on just one side.

Member PIEPER stated that Gloede development has homes on just one side of the street.

Public Portion: None.

Member DeCOSTER closed the public portion.

Member DeCOSTER wanted to indicate to the petitioner that with only 3 of the 5 members present that all three members would have to vote in favor in order for the variance to be granted. If the petitioner wanted to have the item tabled they may indicate prior to a motion being made.

Michael McInerney, petitioner, stated he was satisfied to move forward.

The following resolution was offered by PIEPER and seconded by TUCKFIELD:

Whereas, it has been satisfactorily presented that special conditions prevail that would cause a practical difficulty if the request would be denied, and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance under the findings and facts herein set forth;

Now, therefore, be it resolved, that the action of the Board is to grant the requested variance of Section 10.0504(B) – Request to allow 200 foot of road frontage where 300 feet is required for acreage parcels over 10 acres. This parcel is 35.562 acres. Located on the north side of 23 Mile Road, east of North Avenue, Section 13, Mooney Real Estates Holding, Petitioners. Permanent Parcel 08-13-300-056. The variance is granted since they can't get the 300 feet without removing the residence on the other parcel. The parcel does seem wide enough that it can be utilized to develop the property for residence and that a practical difficulty exists that makes

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it proper for a variance.

FOR THIS MOTION

AYES: PIEPER, TUCKFIELD, DeCOSTER.

NAYS: NONE.

ABSENT: POZZI, SLOSSON.

MOTION carried.

D. VARIANCE REQUEST FROM ZONING ORDINANCE

Section 10.0704(A)(3)(d) – Lots where public water and sanitary sewer are available: ratio: All lots shall not be three (3) times longer than their width. The lot is proposed with a depth to width ratio of approximately 4.6:1. This ratio exceeds the maximum allowable ratio of 3:1. Located east side of Romeo Plank and 1700 feet south of 21 Mile Road; Section 33, Salvatore DiMercurio, Petitioner. Permanent Parcels 08-33-151-002 and 08-33-151-004

Josh Bocks, Planning Director, presented a powerpoint presentation of the variance being sought. He indicated that the departments were recommending approval.

Bill Thompson, representative, was in attendance and stated that Josh Bocks, Planning Director, had explained the variance request very well.

The petitioner submitted a letter of practical difficulty dated March 2, 2020 as follows:

“The developers of Villa Toscana Site Condominiums are asking for a variance in the length to width ratio for four lots in the proposed development. The site lies on the east side of Romeo Plank Road, about 1,700 feet south of 21 Mile Road and extends from Romeo Plank Road to the Middle Branch of the Clinton River. The Middle Branch at this location has an easement of 100 ft. (total width) and an adjacent flood plain (including wetlands) which extends onto the project site from between 120 ft. to 240 ft.

The floodplain/wetlands on this site are isolated from public access and most of the adjacent properties are developed, leaving the floodplain/wetlands in their natural condition.

It is the request of the developers to include the floodplain/wetlands within the boundaries of the individual lots, eliminating any burden on the development or the Township of any maintenance issues with the area. In order to do this we need a variance on the length to width ratio for the four effected lots.

Explanation of difficulty

1. The strict enforcement of the provisions of the Township Zoning Ordinance would leave a strip of land adjacent to the Middle Branch varying in width from about 17 feet to about 113 feet. Maintaining and taxing this property would be problematic.

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2. Conditions and circumstances unique to the property are applicable to other properties in the area and zoning district. These other properties exist with length to width ratios in excess of 3 to 1.
3. The conditions and circumstances were not created by the owner.
4. As referenced earlier, other properties in the area, having similar circumstances, exist with length to width ratios greater than 3 to 1.

We appreciate your willingness to consider our variance request and hope you concur with our request.”

Public Portion: None.

Member DeCOSTER closed the public portion.

Member DeCOSTER wanted to indicate to the petitioner that with only 3 of the 5 members present that all three members would have to vote in favor in order for the variance to be granted. If the petitioner wanted to have the item tabled they may indicate prior to a motion being made.

Bill Thompson, representative, stated they wanted to proceed forward.

Member TUCKFIELD asked for clarification on the number of lots seeking a variance for 3 to 1 ratio and if it would be appropriate to use the parcel numbers provided or to use the lot numbers within the proposed development.

Josh Bocks, Planning Director, stated he believed the lot numbers could be used.

The following resolution was offered by TUCKFIELD and seconded by PIEPER:

Whereas, it has been satisfactorily presented that special conditions prevail that would cause a practical difficulty if the request would be denied, and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance under the findings and facts herein set forth;

Now, therefore, be it resolved, that the action of the Board is to grant the requested variance of Section 10.0704(A)(3)(d) – Lots where public water and sanitary sewer are available: ratio: All lots shall not be three (3) times longer than their width. The lot is proposed with a depth to width ratio of approximately 4.6:1. This ratio exceeds the maximum allowable ratio of 3:1. Located east side of Romeo Plank and 1700 feet south of 21 Mile Road; Section 33, Salvatore DiMercurio, Petitioner. Permanent Parcels 08-33-151-002 and 08-33-151-004. This variance is granted for lots 8, 9, 10 and 11 based on the fact that these lots have natural features which

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restrict normal building and would make granting this variance equitable and has presented a practical difficulty.

FOR THIS MOTION

AYES: TUCKFIELD, PIEPER, DeCOSTER.

NAYS: NONE.

ABSENT: POZZI, SLOSSON.

MOTION carried.

E. Request for Consideration of Meeting Time

Member DeCOSTER stated he was looking to table this item since there were only three members in attendance.

MOTION by TUCKFIELD seconded by PIEPER to table the Consideration of Meeting Time Change to May 6, 2021.

FOR THIS MOTION

AYES: TUCKFIELD, PIEPER, DeCOSTER.

NAYS: NONE.

ABSENT: POZZI, SLOSSON.

MOTION carried.

7. OLD BUSINESS:

A. **VARIANCE REQUEST FROM ZONING ORDINANCE**

Section 20-6.A.1- Request to allow a building mounted sign on a side that does not have road frontage to exceed the size permitted. Located at 51113 Industrial Drive, west side of Industrial Drive and north of 23 Mile Road; Section 18; Lawrence Worden, Petitioner. Permanent Parcel 08-18-326-002.

Josh Bocks, Planning Director, presented a powerpoint presentation of the variance being sought.

Owner of Sunny's Pool and More, was in attendance. He indicated they wanted to put a sign on the side of the building due to the building not have a building next to them along

with the surrounding property not having sufficient lighting within the area. He noted there was no sense in having a sign on the front of the building because there is no street lamp at 23 Mile Road and Industrial Drive making that intersection dark and there is no way to see a building sitting that far back.

Bryan Duquet, representative, was in attendance.

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Member TUCKFIELD highlighted many of the items that had been previously discussed such as moving from commercial into industrial, going more e-commerce, parking and having less foot traffic. He noted that with all of the previous discussion held, this request being made for a larger sign is a move for more commercial rather than e-commerce.

The owner of Sunny's Pool and More, replied that having a sign on the side of the building prompts thoughts to consumers about the products being offered. It's the purpose of getting their name out there so when a google search is done, the name is out there and it pops up.

Member TUCKFIELD stated the Sunny's Pool and More wants to use this as a commercial location and that with the current regulations in place they are not able to use it at the place they desire.

The owner of Sunny's Pool and More stated he did not understand the question. He went on to say that they are doing business the same way they did when they started operation.

Public Portion: None.

Member DeCOSTER closed the public portion.

Member DeCOSTER stated that he does not see a practical difficulty and suggested that they could adjust the sign's design to just include the word "pool" rather than "hot tubs" or "swim", and they would fit within the 17.5 square footage permitted to meet the intent of the ordinance.

Member DeCOSTER wanted to indicate to the petitioner that with only 3 of the 5 members present that all three members would have to vote in favor in order for the variance to be granted. If the petitioner wanted to have the item tabled they may indicate prior to a motion being made.

The owner of Sunny's Pool and More indicated that he wanted to proceed forward with the variance request.

Member TUCKFIELD mentioned the extra sign boards that are out at the site in question

Member DeCOSTER stated that he did not necessarily see a practical difficulty but asked if there would be a precedence being set for the neighboring properties

Ben Aloia, Township Attorney, referred to associations that oversee the industrial site and their requirements.

Lengthy discussion followed.

The following resolution was offered by TUCKFIELD and seconded by PIEPER:

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Whereas, it has been satisfactorily presented that special conditions prevail that would cause a practical difficulty if the request would be denied, and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance under the findings and facts herein set forth;

Now, therefore, be it resolved, that the action of the Board is to grant the requested variance of 20-6.A.1 - Request to allow a building mounted sign on a side that does not have road frontage to exceed the size permitted. Located at 51113 Industrial Drive, west side of Industrial Drive and north of 23 Mile Road; Section 18; Lawrence Worden, Petitioner. Permanent Parcel 08-18-326-002. This variance is granted for a sign to be located on the side of the building that exceeds the square footage, to allow the square footage as requested with several conditions. The first is that they maintain a square footage no larger than that allowed on the front until that sign is removed and that the front wall signage maintain square footage of no larger than that which is permitted on the side. That the sign be removed from the side within a reasonable time period if the lots to the south or any of the lots to the south are developed and that any other miscellaneous signage that would otherwise count towards the allowable sign area be removed if its in excess of the allowable signage. This would be based upon the fact that this is a commercial use and that to allow for proper visibility a larger sign should be orientated towards the main portion of traffic.

Ben Aloia, Township Attorney, suggested that an actual date period be stipulated. Member Tuckfield thanked Ben Aloia, and asked Josh Bocks, Planning Director and Dave Scurto, Planning Consultant, whether they had thoughts on what that date would be. He further suggested a time period from when the building is constructed.

Josh Bocks, Planning Director, suggested something along the lines of 30 days from the time a Certificate of Occupancy was issued.

Member TUCKFIELD said the sign will be removed no later than 30 days that a Certificate of Occupancy was issued for any building built to the south of this building, between this building and 23 Mile Road.

FOR THIS MOTION

AYES: TUCKFIELD, PIEPER.

NAYS: DeCOSTER.

ABSENT: POZZI, SLOSSON.

MOTION failed.

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8. PUBLIC COMMENTS

None.

9. ZBA MEMBER COMMENTS

None.

10. PLANNING DIRECTOR COMMENTS

None.

11. ADJOURNMENT

MOTION by PIEPER seconded by TUCKFIELD to adjourn the meeting at 8:01 p.m.

FOR THIS MOTION

AYES: PIEPER, TUCKFIELD, DeCOSTER.

NAYS: NONE.

ABSENT: POZZI, SLOSSON.

MOTION carried.

Respectfully submitted,

David DeCoster, Acting Chairman

Beckie Kavanagh, Recording Secretary
Bk