

**ZONING BOARD OF APPEALS
JUNE 6, 2016**

MEMBERS PRESENT: Larry Fillinger, Larry Grunn, Linda Manson-Dempsey, Dan Lowe,
and Dan Rossbach
MEMBERS ABSENT: None
OTHERS PRESENT: Annette McNamara, Zoning Administrator
Mike Kehoe, Township Attorney

CALL TO ORDER

Larry Fillinger called the meeting to order at 7:30 p.m.

APPROVAL OF AGENDA

Linda Manson-Dempsey motioned to approve the agenda as presented. Larry Grunn seconded. **Motion carried 5-0.**

MEMBERS PRESENT

The members of the Zoning Board of Appeals introduced themselves.

CALL TO THE PUBLIC

No response.

APPROVAL OF MINUTES

May 2, 2016 Regular Meeting: Linda Manson-Dempsey motioned to approve the minutes as presented. Dan Rossbach seconded. **Motion carried 5-0.**

OLD BUSINESS

None.

NEW BUSINESS

ZBA Case #03-16—Gerald & Bridgitte Rutkowski, 1172 Peavy Rd., Tax ID #4710-02-401-002

Mr. Rutkowski was present to request a 10-foot rear yard setback variance to allow construction of an outbuilding. There is presently an older building in that location that will be removed. They are requesting a variance to the rear yard setback, *Section 8.04 E #3 a 3*.

Call to the Public

No response.

Motion

Dan Rossbach motioned for ZBA Case #02-16—Gerald & Bridgitte Rutkowski, 1172 Peavy Rd., Tax ID #4710-02-401-002, to relax the rear-yard setback requirement by allowing a 10-foot variance, considering the following criteria:

1. That the restrictions of the township zoning ordinance would unreasonably prevent the owner from using the property for a permitted use. *A variance is being granted due to the location of the house and pool, and the proposed location is the most reasonable.*
2. That the variance would do substantial justice to the applicant and a lesser relaxation than that requested would not give a substantial relief to the owner of the property. *The request is a reasonable one; a lesser relaxation of the ordinance would not give the owner substantial relief.*
3. That the request is due to the unique circumstances of the property. *The location of the house and the pool are unique.*
4. That the alleged hardship has not been created by a property owner. *The situation was not created by the property owner; it was created by the previous owner.*
5. That the difficulty shall not be deemed solely economic. *The difficulty is not economically based.*

Linda Manson-Dempsey seconded. Roll call vote: Lowe, Grunn, Fillinger, Manson-Dempsey, Rossbach—all yes. **Motion carried 5-0.**

ZBA Case #02-16—Michael & Evelyn Markarian, 4121 Cedar Lake Rd., Tax IDs #4710-29-200-027 and #4710-29-200-024

Cathy Riesterer, attorney for the Markarians, was present, along with Michael & Evelyn Markarian, to ask the ZBA for an interpretation of *Section 6.11 C*. If the ZBA concurs with the zoning administrator's interpretation, then the property owners would like a variance from *Section 8.01 F 2 (a)*.

The land division request was denied because the proposed Parcel 1 doesn't have the required 150 feet of frontage as required by the ordinance. The Markarians believe the parcel meets the definition of a flag lot; the zoning administrator disagreed.

There is also a problem with an encroaching driveway onto Parcel #2. The proposed configuration would rectify that situation. In order to meet the Livingston County Road Commission's standards, and due to the extreme topography, the Markarians believe the proposed configuration is the solution.

Ms. Riesterer pointed out that the frontage requirement for site condos or subdivisions is only 120 feet. She also referred to Mike Kehoe's letter dated June 12, 2014 suggesting the ordinance could be amended to more clearly state what constitutes a flag lot. Mr. Kehoe said his letter was based on Section 6.11 C 3, and commonly accepted terms.

Dan Lowe said he doesn't believe it's a flag lot, but would consider granting a variance for the frontage. Linda Manson-Dempsey said they have two conforming parcels and they aren't being denied anything; she believes the request is purely economic.

Call to the Public

No response.

Dan Rossbach said that granting the variance would create a non-conforming lot.

Charlie Decator, township assessor, said he feels the ordinance is vague and doesn't clearly define what a flag lot is.

Ms. Riesterer said topography is a classic reason to grant a variance.

Dan Lowe asked if John Shelton from the Road Commission gave any indication on why he wouldn't approve another location for the driveway. There is a steep hill on Cedar Lake Road at that location.

Motion

Linda Manson-Dempsey motioned for ZBA Case #03-16— Michael & Evelyn Markarian, 4121 Cedar Lake Rd., Tax IDs #4710-29-200-027 and #4710-29-200-024, that the interpretation of the flag lot equates to Figure 3-7; in addition, she referenced Section 6.11 C *"that the pole section of a flag lot (the narrow strip of land) providing access from the street to the dwelling unit on the flag lot shall be a minimum thirty (30) feet in width along the road frontage and throughout the length of the pole section of the lot; no pole section of a flag lot shall be longer than one thousand three hundred fifty (1,350) feet; all driveways shall include a turn-around area sufficient in size to accommodate local fire emergency vehicles."* Dan Rossbach seconded. Roll call vote: Lowe—no; Grunn—yes; Fillinger—yes; Manson-Dempsey—yes; Rossbach—yes. Motion carried 4-1.

This section of the ordinance will be sent back to the Planning Commission to consider the definition of a flag lot. Mrs. Markarian said they need clarification from someone on what a flag lot is.

Ms. Riesterer said she didn't hear in the motion that what was presented is not a flag lot and why not.

Dan Lowe said it's absolutely unfair when the ordinance gives no clear information.

Motion

Linda Manson-Dempsey motioned for ZBA Case #03-16— Michael & Evelyn Markarian, 4121 Cedar Lake Rd., Tax IDs #4710-29-200-027 and #4710-29-200-024, to deny the request for a variance to Section 6.11 C, considering the following criteria:

1. That the restrictions of the township zoning ordinance would unreasonably prevent the owner from using the property for a permitted use. *A completely legal parcel would be made non-conforming, and the owner is not being denied any use of the property.*
2. That the variance would do substantial justice to the applicant and a lesser relaxation than that requested would not give a substantial relief to the owner of the property. *The owner will still have two buildable lots, and there's no reason to take a conforming lot and make it non-conforming.*
3. That the request is due to the unique circumstances of the property. *There are no unique circumstances.*
4. That the alleged hardship has not been created by a property owner. *There is no hardship as the owner is not being denied use of the property.*
5. That the difficulty shall not be deemed solely economic. *The request is economic.*

Dan Ross seconded. Roll call vote: Lowe—no; Grunn—no; Fillinger—yes; Manson-Dempsey—yes; Rossbach—yes. **Motion carried 3-2.**

CALL TO THE PUBLIC

No response.

ADJOURNMENT

Linda Manson-Dempsey motioned to adjourn at 9:25 pm. Dan Rossbach seconded. **Motion carried.**