

DRAFT 7-16-08  
APPROVED

**GRATTAN TOWNSHIP  
ZONING BOARD OF APPEALS  
REGULAR MEETING  
JULY 16, 2008**

The meeting was called to order by Chairman Pat Mooney at 7:02 p.m. followed by the Pledge of Allegiance.

Members present: Glen Jonker, Al Berry, Brian Johnson, Brian Heethius, Nancy Benner, and Pat Mooney. John Jakeway arrived at 7:12 p.m.

Members absent: none.

Frank Force Township supervisor also present at the meeting

Approval of Agenda: Motion by Al Berry to approve the agenda as submitted, second Brian Johnson. All ayes. Agenda approved.

Approval of Minutes: Motion by Nancy Benner to approve the amended minutes from March 19, 2008, second by Brain Johnson. All ayes. Minutes of March 19, 2008 approved.

VARIANCE REQUEST

**1. Applicant's/Property Owners Name; Address and/or Property I.D. No.**

Mr. Cory Deeds

11460 Bowers Drive, Lowell Michigan 49331

Parcel # 41-12-21-353-007

Zoned A-2

**2. Summary of Variance Sought**

Mr. Deeds is requesting a variance from Article 6B.04E to construct an accessory structure in the front yard requiring a variance of 25-feet from the required 70-feet. Al Berry read the notice as it appeared in the paper.

**3. Summary of Written Documentation. See Attached.**

Frank presented a second version of the property lay out that was submitted to the township but was not in the packets for each ZBA member. There were photos of the property also presented to the ZBA by the applicant.

4. **Overview of Application**-This is very unique property, due to the fact that it is bordered by 3 streets and has 2 corners.

5. **Summary of Applicant's Presentation.** There is an association within the Site Condominium and they have signed a letter to approve the construction of the building. Mr. Deeds also stated neighbors with in the development have no objections to this construction. The association does restrict the cutting of trees with a diameter over 4 inches. The proposed building will match the house with 20-foot in height, 10-foot side walls and 7/12 pitch roof. Pat Mooney asked the distance between the building and the house. Mr. Deeds did not have an exact distance. There is a large maple tree that he would prefer not to cut down and also a propane tank that limits where the building can be placed. The proposed building size is 32' x52'. The applicant was told that the ZBA would like exact distance from the house to the building,

Al Berry stated that there is a hardship and understands that Mr. Deeds does not want to remove any trees or the propane tank; there is also a utility transformer that would have to be moved and that could be costly. He also stated that he can see why Cory wants the building where he wants it, the area chosen is already clear of any growth.

Brian Johnson asked clarification where the drain field it and Mr. Deeds drew it out for the ZBA on the site plan.

Pat Mooney still would like exact distance from home and where the power line is located.

Nancy Benner stated that there is wiggle room on the site plan and could move the proposed building 70-feet across to the west and there are 15-feet to go to the north. The variance request would not be as big and moving it eastward there would be no reason to call Miss Dig. There still would be a need to move trees.

Pat Mooney still would like exact measurements and asked to table the meeting until the end of the night as to give Mr. Deeds time to run home and measure. The applicant agreed as did the ZBA.

Mr. Deeds left the meeting to go get a measurement and when he returned and the other variance requests were done the ZBA continued to work on this request. The exact measurement from the house to the building is 56-feet.

6. **Comments from Public Hearing.** No verbal comments made from the public.

#### 7. **BZA Discussion and Deliberation**

-Glen Jonker stated that there are many ways to place the building with out a variance, and would move some trees.

-Nancy Benner stated that site condominium rules do not apply to Township rules.

-Al Berry stated that it has 3 front yards and it does cause a dilemma, there is a natural clearing where the applicant would like to place the building and this is not a self imposed hardship.

-John Jakeway asked what defines a front yard, the street address?

The building could fit to conform to ordinance.

-Nancy Benner states it would be wrong to approve a variance when it could fit the lot. The rear yard is 50-feet in A2 district and there is wiggle room.

-Al Berry asked the size of the building, the applicant said it is 32' x 52'.

-Brian Johnson asked is there was an option to transplanting trees to conform to the site condo or perhaps replace the ones that need to be cut.

-Brian Heethius asked if we can justify for a side yard set back. For example with a home that is on a lake, the front yard is lake side.

Pat Mooney asks the ZBA for a show of hands for 40-feet and not any of the ZBA members were in favor.

## **8. BZA Discussion and Deliberation.**

After consideration of the application by the BZA, the BZA hereby concludes as follows:

The enforcement of the literal requirements of the Zoning Ordinance *would not* involve practical difficulties because of the exceptional narrowness, shallowness or shape of the land, or because of exceptional topographical conditions or other extraordinary situation of the land or premises. In support of that determination, the BZA hereby makes the following findings of fact:

1. Mr. Deeds has ample amount of land to place the proposed building.

Exceptional conditions or extraordinary circumstances *does not* exist which are unique to the land, structures or buildings involved, and which are not so general or recurrent in nature so as to make reasonably practicable an amendment to the Zoning Ordinance. In support of that determination, the BZA hereby makes the following findings of fact:

1. Extraordinary circumstances with 3 roads and the association rules in regards to tree cutting.

Literal interpretation of the provisions of the Zoning Ordinance *would not* deprive the applicant of a substantial property right commonly enjoyed by other properties in the same zoning district. In support of that determination, the BZA hereby makes the following findings of fact:

1. Location and size

The authorizing of the requested variance *will not* be of substantial detriment to adjacent and nearby properties and *will not* be contrary to the spirit and purpose of the Zoning Ordinance. In support of that determination, the BZA hereby makes the following findings of fact:

1. Unique property, with 3 roads.

#### **9. Motion and Voting.**

Motion to Deny: “Motion made by member Brian Heethius and seconded by member Brian Johnson to deny variance based on application not meeting all four standards for a variance, as stated in [*Section 18.06 (for dimensional variances) or Section 18.07 (for use variances)*] of the Zoning Ordinance, and based on the BZA’s factual findings, as stated above.”

Roll call vote: Glen Jonker-yes, Nancy Benner-yes, Al Berry-yes, Pat Mooney-yes, Brian Johnson- yes, Brian Johnson-yes and John Jakeway-yes. Variance request was denied.

## VARIANCE REQUEST

### 1. **Applicant's/Property Owners Name; Address and/or Property I.D. No.**

Kelly and Emily McNally

7094 Larned Dr. Belding Mi 48809

Parcel # 41-12-10-426-012

Zoned: RL

### 2. **Summary of Variance Sought.**

Mr. and Mrs. McNally request a variance to construct an addition to their cottage style home for a larger bathroom, a laundry room and bedroom requiring a side yard set back of 5-foot.8 inches from the required 10-feet under Article 7.03C side yard.

### 3. **Summary of Written Documentation.** See Attached.

4. **Overview of Application** - There is a very steep hill in the back and the side of the property.

### 5. **Summary of Applicant's Presentation.** See attached.

### 6. **Comments from Public Hearing.**

Kurt and Elmars Kalnaraups 7100 Larned- positive comment.

### 7. **BZA Discussion and Deliberation.**

Nancy Benner stated she did not like the size of the survey included in the packet, as it was too small. Asked clarification of dimensions and wanted to know if they can achieve what they want by going 10- feet to the south, or can he turn the addition to go the long way. The applicant explained that there is a steep hill that does not allow them to do that.

Brian Heethius stated there is no safety concern, no other land can be purchased and they are unable to move lot lines. Brian also asked if the roofline would be maintained, the applicant stated that is their intent.

Glen Jonker wanted to know if there would be footings. The applicant stated there would be pole style with concrete mixed at the site.

Brian Johnson and Brian Heethius stated they could go either way

John Jakeway would like this to go in from of the Planning Commission for a special use, but at this point he could go either way.

Al Berry stated the 403.B bothers him but can be swayed if making it a more non conforming lot, and maintaining 4.4 moving south.

Nancy Benner agrees with Al and also should go to the Planning Commission.

Glen Jonker agrees with Al and Nancy.

Pat Mooney asked for a straw vote going 5.8 feet from 10-feet, maintaining some side yard set back as is now and not go closer to side yard with new addition of 4.-feet 4 inches: Glen-yes, Nancy-no, Al -maybe, John -yes, Pat -yes. Brian Johnson-yes and Brian Heethius-yes.

## 8. BZA Discussion and Deliberation.

After consideration of the application by the BZA, the BZA hereby concludes as follows:

The enforcement of the literal requirements of the Zoning Ordinance *would* involve practical difficulties because of the exceptional narrowness, shallowness or shape of the land, or because of exceptional topographical conditions or other extraordinary situation of the land or premises.

1. Very steep hill in back and south side of property.
2. The shape of the property is not square; the original structure/footprint is not parallel to property lines.

Exceptional conditions or extraordinary circumstances *do* exist which are unique to the land, structures or buildings involved, and which are not so general or recurrent in nature so as to make reasonably practicable an amendment to the Zoning Ordinance. In support of that determination, the BZA hereby makes the following findings of fact:

1. Unique steep hill, shape of property and slope of hill.
2. Existing structure is close to property lines. And the non conforming structure already makes this unique.

Literal interpretation of the provisions of the Zoning Ordinance *would* deprive the applicant of a substantial property right commonly enjoyed by other properties in the same zoning district. In support of that determination, the BZA hereby makes the following findings of fact:

1. Deprive them of same rights enjoyed by others

The authorizing of the requested variance *will not* be of substantial detriment to adjacent and nearby properties and *will not* be contrary to the spirit and purpose of the Zoning Ordinance. In support of that determination, the BZA hereby makes the following findings of fact:

1. Access for emergency vehicles for neighbors houses
2. Building will not block anyone's view.

**9. Motion and Voting.**

“Motion made by member Brian Heethius and seconded by member Al Berry to approve variance based on application meeting all four standards for a variance, granting 4 feet 4 inches in lieu of 7-0 feet., as stated in [*Section 18.06 (for dimensional variances) or Section 18.07 (for use variances)*] of the Zoning Ordinance, and based on the BZA's factual findings, as stated above.”

Roll call:

Glen Jonker-yes, Nancy Benner-no, Al Berry-no, Pat Mooney-yes, Brian Johnson-yes, Brian Heethius-yes and John Jakeway-yes. Request for variance granted.

## VARIANCE REQUEST

### **1. Applicant's/Property Owners Name; Address and/or Property I.D. No.**

Ross Holst 4852 Abrahams Dr. Lowell, Mi 49331

Parcel # 41-12-29-277-023

Zoned: RL

### **2. Summary of Variance Sought.**

Mr. Holst desires to construct a home that would require a front yard variance of 20-feet and a house front wall variance of 10-feet under Article 7.03B.

### **3. Summary of Written Documentation.** See Attached

**4. Overview of Application-**This property has a sloping grade from front to rear. The applicant would like to keep driveway and garage to the back of the house which pushes house foot print forward. The applicant stated that the proposed location lines up with the front of the neighbor's house on both sides.

### **5. Summary of Applicant's Presentation-** See Attached.

### **6. Comments from Public Hearing.**

John and Anitra Malindine 4830 Abrahams-positive letter and statement from the hearing.

Andy Pope 4836 Abrahams- positive comment

Don Kurylowicz 4821 Abrahams- positive comment

Adam English 4800 Abrahams – positive comment

### **7. BZA Discussion and Deliberation**

Glen Jonker asked the square foot of the house. The applicant stated it is approximately 1993 square feet but no number has been nailed down. Glen stated that the new house won't be inconsistent with what is going on down the road

Pat Mooney asked if there will be future decks. The applicant stated that one will be lake side. Pat stated the deck is not a requirement and then asked what the size of the garage will be. The applicant stated it will be 22' x 24'. The total front yard set back will be 10-feet to deck and 20 foot to the eve of the structure.

Nancy Benner appreciated the over view maps, and liked the house and deck which aligns giving consistency.

Brian Johnson asked if the applicant was using the natural use of the topography for the basement and the garage. The applicant stated that bringing the house out of the ground the driveway would not match up with the neighbors drive causing an unnatural water way.

Al Berry commented he would like to see the house match the lot.

John Jakeway asked if the 100x100 lot was conforming.

Brian Heethius asked the ZBA if the basis is softly on previous decisions in the neighborhood

Straw vote:

Glen Jonker-no,

Nancy Benner- is hung up with character of neighborhood even though it does not match the ordinance and it is the last lot.

Al Berry- 1900 square foot home could be built on the lot.

John Jakeway- yes based on the spirit of the neighborhood and the sloop.

Brian Johnson-agrees with Nancy and that it is the last lot.

Brian Heethius- mixed emotions, but will go either way.

Pam Mooney- leaning yes, the hill is a killer. Parking not on same level and it is a hard sloop.

## **8. BZA Discussion and Deliberation.**

After consideration of the application by the BZA, the BZA hereby concludes as follows:

The enforcement of the literal requirements of the Zoning Ordinance *would* involve practical difficulties because of the exceptional narrowness, shallowness or shape of the land, or because of exceptional topographical conditions or other extraordinary situation of the land or premises. In support of that determination, the BZA hereby makes the following findings of fact:

1. Definite steep sloop slowly from rear lot to road right of way.

Exceptional conditions or extraordinary circumstances *do* exist which are unique to the land, structures or buildings involved, and which are not so general or recurrent in nature so as to make reasonably practicable an amendment to the Zoning Ordinance. In support of that determination, the BZA hereby makes the following findings of fact:

1. Step Sloop

Literal interpretation of the provisions of the Zoning Ordinance *would* deprive the applicant of a substantial property right commonly enjoyed by other properties in the same zoning district. In support of that determination, the BZA hereby makes the following findings of fact:

1. View, if placed behind the neighbors homes he could not enjoy the same view of his neighbors.

The authorizing of the requested variance *will not* be of substantial detriment to adjacent and nearby properties and *will not* be contrary to the spirit and purpose of the Zoning Ordinance. In support of that determination, the BZA hereby makes the following findings of fact:

1. Fits in with other houses.
2. Road set far away of right of way
3. Keeps with spirit and is being very careful not to have run off issues.

#### **9. Motion and Voting**

“Motion made by member Brian Heethius and seconded by member John Jakeway to approve variance based on application meeting all four standards for a variance, as stated in [Section 18.06 (for dimensional variances) or Section 18.07 (for use variances)] of the Zoning Ordinance, and based on the BZA’s factual findings, as stated above.”

Roll Call vote:

Brian Heethius-yes, Brian Johnson-yes, John Jakeway-yes, Pat Mooney-yes, Al Berry-no, Nancy Benner-yes, Glen Jonker-no. Variance request approved.

Old business- none

Next Meeting- as needed

Adjourned: 10:20 p.m.

Respectfully Submitted,

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Shari Miller, ZBA recording secretary