

Minutes of Saugatuck Township Zoning Board of Appeals held March 24, 2005 at St. Peters Church.

Present: Wester, Marzuk, alternate Harrison

Absent: Oyler

The meeting was called to order at 4:05 p.m. by Vice-Chair Wester.

The public hearing for Jeff Klemm, project located at 3219 Blue Star Highway, Saugatuck, Michigan, requesting variance for driveway to be closer than 275' from adjacent existing driveway (section 40.849). Also wishes to have more than 20% parking in front yard (section 40.877-Buffer Yard) and wants to construct small buffer yard on side and front lot areas was opened by Wester at 4:08 p.m. Wester read the request.

Jeff Klemm explained they have been before the planning commission and have preliminary approval. Parking requirements are for 12 spots, the proposed site plan calls for 13 spots, however they are requesting more spots in front. It requires a 40' buffer and they are asking for a 30' buffer. They are able to meet all the landscaping requirements.

There were no written comments.

Audience:

Mike Oonk, Bradley Rd, asked where is water coming from.

Judith Schneider, Maple St, asked why they bought a non-conforming piece of property and then are coming in for a variance.

Cheryl Kaechle, Commercial Record, Blue Star Highway, stated water pressure is a problem, back of lot has a lot of standing water, and is concerned about drainage to her property.

Klemm stated there was a 12" main on Blue Star Highway, but Kaechle stated she did not believe there was. It was suggested to Klemm to contact either the KLSWA or Phil Quade at the Township.

The board went thru the application for the first variance:

- A. Current site is actually one drive almost all fronting Blue Star Highway. Applicant wants to reduce to one access drive at center of property.
- B. Not for monetary gain. Will combine two drives into one.
- C. They were no negative written or verbal comments received.
- D. Variance needed because existing lot is not large enough to fit ordinance requirements.

Motion by Harrison to approve request for driveway as it meets all the requirements, seconded by Marzuk, approved.

Second variance – parking – Applicant wishes to have more than 20% parking in the front yard. Applicant site plans call for more parking than required but not in the proper percentages regarding front and back.

- A. No unusual circumstances.
- B. Board felt there were problems with the buffer area. At this point the board chose to address the buffer instead of the parking.
- A. There are over 20 similar sites along Blue Star Highway. Board concerned if they allow a different buffer area to accommodate parking they would be defeating the ordinance and setting a precedent.
- B. No. Audience- Joan Saintz, 2225 63rd St,- Can fill be brought in to provide a buffer. Applicant not sure, however as part of the application process they do have to provide a drainage plan. Discussion regarding changing size of building. Applicant has already moved building back 10'. Meets side yard setback but not side yard buffer. Applicant states they have tried to increase landscaping to balance out the buffer issue and if they reduce size of building it would make an unusable building for a 2 unit building. Board asked Klemm if he was willing to table to address all the issues. He was not willing to table. Board felt the applicant does not meet all the criteria unless some modifications to the building are made. Jeff Voss, engineer asked again about buffer setbacks needed.
- C. Board asked Kaechle of Commercial Record if she had any problem with the parking the way it is and she did not. Adjacent property owner does like the landscaping plan.
Mike Oonk- If buffer is not met he is against.
- D. The board felt it should protect the integrity of Blue Star Highway and it is self-imposed as it was purchased knowing it was non-comforming.

The public hearing was closed at 4:46 p.m.

Motion by Harrison to deny buffer variance, seconded by Wester.

Marzuk doesn't agree with denial as it would be positive for the community.

Motion to deny was approved, with a 2 yes 1 no vote.

The parking variance was not address as the buffer variance was denied.

The public hearing for the continuation of a variance hearing from November 4, 2004 from Wolters Realty LTD to allow for the construction of “an automobile service station with convenience store and car wash, located on the north side of – 89 (124th Ave) just east of the I-196 northbound entrance ramp and is part of Parcel #0320-032-046-00. Currently a smaller part of the parcel is located in the C-1 Zone with the larger portion falling within the A-2 zones. The applicant is requesting a variance contrary to the provisions of the C-1 and A-2 zones. Presently, the use requested is only allowed as a conforming use in the Interstate Transportation Overlay District or as a SAU in the C-3 zone. The hearing was opened at 5:05 by Vice Chair Wester with Wester reading this notice.

The following letters were received, all against the variance:

Lake Michigan Shore Association
C.Larry Edris
Janet Schroeder
Lynn Kirkaldy
Lillian & Edward Fencl
Debbie & Don Snider
Paul Hourihan
Dr Frank Alferi
William Harrison/Margaret Hill

Several audience members spoke:

Lynn Kirkaldy, 2402 Lakeshore Drive
Larry Edris, 2534 Lakeshore Drive
Dr Frank Alferi
Janet Schroeder

The above audience members reiterated issues which were pointed out in their letters.

Rick Verell, 2315 Forest Trail
Tom Steele, 1664 Lake Michigan Drive
Joan Saintz, 2225 63rd St
John Noonan, 694 Pier Cove Lane
Bill Petter

All letters and audience members addressed issues such as: Is not a hardship,, not harmonious with area, does not meet Tri-Community Master Plan, truck traffic will escalate, noise will escalate, air light & ground pollution will escalate, property is not without re-zoning, contamination, has wells and septic and would be a detriment to the surrounding area.

Tom Sherear, attorney for Wolters Realty LTD addressed the following:

Family has owned in area for many years and has no desire to place undue burden but they also have rights. Have been to court winning in circuit court, but was reversed and is now at state level. Must exhaust all remedies at the local level. Not asking for a truck stop as there is no parking area for trucks, only 1 fueling area, and is an auto service station.

Wolters own other like business and have been very responsible in taking care of all issues including leaks. Area in question is not 7 acres, but 5 acres. Stated that at the time of winning the lawsuit, the Township changed the zoning to include gas stations only in I-1. They did not create the hardship. Variance necessary for preservation of property. Highway exchanges dictate other uses than residential and there is already a gas station. Will not be a detriment, does not come within view of lakeshore residents. Township has right to put conditions on the granting of the variance, such as lighting, hours of operation, sound and a variety of other things. Have MDEQ approval. Zoning change in 2001 took away right to put anywhere else except for a very few parcels. Will be an attribute to the community in terms of its view. Will abide by reasonable restrictions. Asking the board to consider a fair hearing and apply the standards. By granting can cut short thousands of dollars. Will be in circuit court if variance is not granted.

Audience asked Shearer questions: when zoning created, how many diesel pumps (only 2 now) how big car wash (cars only). Audience member stated according to the MDEQ there are 4 site problems still unresolved.

Township Attorney, Doug Donnell explained legalities. Previous request denied, Wolters took to court, won, Township appealed and won appeal. Basis of reversal was that Wolters had not exhausted all local remedies by seeking a variance by ZBA.

Harrison had some questions for Shearer: servicing vehicles over 26,000 pounds – There are only 2 diesel pumps and will not be servicing over 26,000. Will tractor-trailers be allowed? Shearer stated he could only address legal issues. Karen Wolters stated they do not allow at other sites.

The board reviewed the application including Exhibit C which is the applicant's answers to A-D.

- A. Zoned C-1 and A-2. The C-1 zoned land is too small to accommodate the applicant's use. Its proximity to the expressway limits its use for available C-1 and A-1 uses. In 2001 the Township amended its ordinance which prohibits the applicant's use.
- B. A variance is necessary to allow Wolters to use property in same manner as others similarly situated.
- C. Use will not be detriment to adjacent property nor impair the intent and purposes of the ordinance because:
 - 1. Property in immediate vicinity is already commercial and industrial use including a small gas station and convenience store.
 - 2. Proposed use is compatible with I-196 development.
 - 3. A-2 portion adversely affected by its proximity to I-196 expressway. Land north is adequately protected by natural green belt and drain.
 - 4. There are only 2 or 3 interstate interchanges locations within the Township. What is needed is extending to the property at this location the same designation

and permitted uses allowed at other interchanges in the Township.

Board Comments:

- A. Harrison stated there is nothing unique about the proposal.
- B. The board read and summarized a resolution prepared by Attorney Donnell. Changes were made.

Motion to deny variance with the exception of the adoption of the attached resolution and its changes by Marzuk, seconded by Harrison, carried. Variance denied.

Motion by Marzuk to approve the minutes of January 13, 2005, seconded by Wester, carried.

Meeting was adjourned at 7:01 p.m.

William Wester
Acting Chairperson

Tarue Pullen
Recording Secretary