

SAUGATUCK TOWNSHIP ZONING BOARD OF APPEALS

THURSDAY, September 5, 2013 5:00 p.m.
LAKETOWN TOWNSHIP HALL
4338 BEELINE ROAD, HOLLAND, MI 49423

MINUTES

Chairman Shawn Powers called the meeting to order at 5:00 p.m.

Members present: Shawn Powers, Kathleen Miller Cook and Mark Putnam.

Also present: Zoning Administrator Al Ellingsen, Saugatuck Township Attorney Ron Bultje, Singapore Dunes Attorney James Bruinsma, Singapore Dunes Attorney Stephen Neumer and various members of the general public.

Chairman Powers stated that the hearing closed at the August 29, 2013 meeting. This meeting is to discuss, deliberate, approve or deny the dimensional variance request.

Discussion took place among the board members reviewing their materials at their last meeting and the three options that Attorney Bultje had in his memo.

Chair Powers stated that since the last meeting there has been no discussion or meetings between the board members.

Putnam stated if they pass it on to the Planning Commission through the PUD process, Singapore Dunes is offering to do various things. The Planning Commission would be able to work with the actual development. He said he is leaning toward interpreting the Zoning Ordinance to allow the Planning Commission to approve a PUD with greater height than otherwise allowed. He said the ZBA deals with sketches, but the Planning Commission gets actual plans.

Miller Cook states by reading parts of the ordinance she is now comfortable interpreting the Zoning Ordinance to grant the Planning Commission authority to approve a PUD which includes buildings with increased height.

Chair Powers feels the ZBA would not be setting a precedent on height variance based on what they are looking at. The public has commented in last week's meeting that there is no formal plan and it needs to be sent to the Planning Commission for a PUD process. The Planning Commission would have the tools to work with that development as the ZBA does not.

Miller Cook stated the issue is whether or not the height variance should be decided by the ZBA, or is it intended to be in the PUD process through the Planning Commission. Miller Cook read portions of Section 40-772 from the ordinance from Article VIII. Planned Unit Development Article of the Zoning Ordinance to support her conclusion the height matter should be considered by the Planning Commission in the PUD process.

Attorney Bultje stated that the ZBA could be setting a precedent with the interpretation; any further PUD applicant could ask for an increased height in a PUD application. However, he said this is a unique piece of land and for the height of the building the parking underneath plays a role in making the buildings higher which helps in saving and preserving the dunes. Most applicants will not be able to recreate these facts.

Zoning Administrator Ellingsen stated the PUD process gives flexibility for dimensional requirement. He stated that the Planning Commission can allow flexibility. But for the ZBA they can only consider the 5 questions to grant a variance.

Attorney Bultje recited a list of reasons which the ZBA could use to support the interpretation of the Zoning Ordinance which would allow the Planning Commission to approve in a PUD buildings with increased height. Specifically, he stated essentially as follows:

Section 40-780(a) says a residential PUD allows more flexible zoning requirements, like setbacks.

Height is a dimension like setbacks.

Height isn't specifically mentioned in the Zoning Ordinance as something which can be varied in a PUD, but height is also not specifically excluded.

Section 40-78(c) says density cannot be varied in a PUD. No similar provision of the Zoning Ordinance says height cannot be varied in a PUD.

The objectives for a PUD in Section 40-780(b) address the types of arguments made by Singapore Dunes in favor of this height application: preserve natural character of land; preserve open areas; encourage a more creative approach to residential development; and encourage underground facilities.

The interpretation to allow height to be increased in a PUD doesn't set a harmful precedent. The interpretation simply sends the issue to the Planning Commission rather than the ZBA. The Planning Commission will still determine if the PUD objectives are satisfied before approving any PUD, with or without buildings which exceed 35 feet in height.

The interpretation is consistent with the argument made by counsel for the Saugatuck Dunes Coastal Alliance, specifically that this issue of the building height should be determined by the Planning Commission, per the Planning Commission's obligation to plan for the development of the Township, rather than by the Zoning Board of Appeals through permission to violate the Zoning Ordinance.

Certainly, the applicant can make the case under the standards for a dimension variance to be granted some amount of a variance (e.g., to have underground parking). How much would depend on the PUD approved by the Planning Commission. The Planning Commission should have the flexibility to consider the best PUD plan which allows the developer a reasonable use of the land while preserving the unique character of the land as much as possible. That can best be done through a PUD where the Planning Commission has the flexibility to allow the developer to develop vertically to some degree, rather than horizontally as any other developer.

Motion by Putnam, seconded by Miller Cook, to interpret the Zoning Ordinance to allow the Planning Commission to allow greater building height in a PUD for the reasons recited above by Attorney Bultje. Roll Call – Putnam, yes. Powers, yes. Miller Cook, yes. Carried unanimously.

Public Comment:

Janet Rund, 6127 Kings Way, Saugatuck Township, commented on the Attorney Bultje's opinion.

Attorney Stephen Neumer, commented to the ZBA that it was a thoughtful deliberation.

Norm Deam, 3463.5 Park St., & 3530 Oval Dr. Saugatuck Township, feels the height definition is misleading.

Kay Smalley, 3423.5 Park St., Saugatuck Township, complimented the ZBA.

Tracy Shafroth, 1015 Park St., Saugatuck City, complimented the ZBA.

There being no further business meeting adjourned at 5:46 pm

Lori Babinski, Recording Secretary