

**Vergennes Township
Zoning Board of Appeals Minutes
January 11, 2010**

Approved March 31, 2010

A meeting of the Vergennes Township Zoning Board of Appeals was held on January 11, 2010 at the Township Offices. Chairman Gustafson called the meeting to order at 7:06 pm. Also present were members Baird, Wester and Schreur. Jernberg was absent.

Approval of last meeting minutes: Baird motioned, Wester seconded, to approve the minutes of December 18, 2008 as presented. Motion carried 4-0.

Election of Officers: Wester motioned to keep the same officers, Baird seconded. Motion carried 4-0. Pete Gustafson as Chairman, Scott Jernberg as Vice-Chair and Bill Schreur as Secretary.

Frank Southwell – lot area variance

Presentation was given by applicant Frank Southwell and his daughter Gretchen Southwell. He owns a parcel at 1794 Fallasburg Park Dr and all records have listed it as 6.28 acres, including township records. He always thought he could split it into 2 parcels. Jeff and Chelly Martin rent the house and want to purchase it. The neighbor to the south wants to buy the vacant parcel for their son. When he had it surveyed to split into 2 parcels, it was found to be 5.5 acres. It has river frontage so maybe the river was lower or in a different path originally. They also surveyed the easement along this parcel.

The Chairman asked about some conflicts and confusion as to who owns the property. The Southwell's had purchased around 200 acres from the Debakey's in the 1970's with a life estate type of land contract. The Debakey's built a house on this property and the Southwell's built a house farther north. As the various parcels were paid off, then they went into the Southwell name. This is the last parcel in Franks name; the rest is in Wendy Southwell's name, his former wife. During the divorce, this parcel was put in her name by error and they showed a quit-claim deed giving it back to Frank to correct the error. Wendy Southwell owns the other parcels. Another paper was shown dated October 1, 2009 where the Debakey family received the final payment and the property then goes to Frank Southwell's complete ownership. The chairman said this was correct, the payoff now puts the land in the applicant's ownership. The records should be changed to reflect the new ownership. Gretchen and Wendy Southwell gave details on the land purchase and life estate process.

Kevin Roosien, the applicant's surveyor said that the 6.28 acres reduced to 5.5 acres could be several causes. The easement was originally 33 feet but the divorce judge required 66 feet be put in. River banks can erode, change course or water height can change.

The Chairman asked who owns the easement because it shows it to be abutting the parcel rather than 33 feet into it as most other parcels. Kevin noted that Wendy Southwell owns the northerly land and a long 66 foot wide piece of land that the easement is located within all the way to public Ike Rd. Wendy said that she has seen spring ice chunks take out whole large trees and soil. Question of partial building 7 feet from the south property line – what was it? Kevin said it was the Nowak house, built years ago.

Baird said that he would prefer one lot to be the minimum required 3 acres and the other smaller lot as shown at 2.5 acres rather than split the difference and have 2 smaller lots. He noted that there are also private road issues. This private road is a grandfathered road with 3 homes on it. It may have to be upgraded and there is no maintenance agreement. That may need to be worked out before a new house can be built. Wendy said she paid \$3000 to clean up some of the former soccer property and damage to the road. Ike is not a good road either, narrow and poor condition.

Chairman asked if there was any other public comment, none was offered, and the discussions above mostly covered it. Kevin said he had mentioned to the Southwell's that they should do a maintenance agreement. A question was asked if there is an easement from the soccer property out to Fallasburg Park Dr. There was a 20 foot one, they even have a survey of it and a lawyer is still looking into it.

After some more general discussion, Baird motioned to grant the variance request as shown on the survey for a property split to have a 3 acre parcel and a 2.5 acre parcel. Schreur seconded the motion. Motion carried 4-0.

While the Chairman filled out the decision form, Baird asked the surveyor Kevin why a parcel of 6.28 acres now would be 5.5 acres and many other parcels turn up smaller than thought to be. Kevin responded that in older times, many land boundaries were “paced” off and many would even weave side to side. Some old parcels were actually surveyed with old equipment using chains and links measurements. In the 1970's the County put in new section monuments to survey off from. Equipment is more accurate today. So those are reasons that land is not always where it was thought to be. River frontage lots can change with river course change, bank erosion and water depth.

Vandersloot noted that the applicant needs a land division application and other paperwork and will have the assessor call for an appointment. Copies of the private road ordinance would be mailed to the owners on the road.

There was not any other business to come before the Board.

Wester motioned, Baird seconded, to adjourn the meeting at 7:48 pm. Motion carried 4-0.

Respectfully submitted,
Jeanne Vandersloot, Recorder