

Vergennes Township
Zoning Board of Appeals

July 14, 2014

The meeting was called to order at 7:00 pm. by Pete Gustafson, Chairperson.

The Pledge of Allegiance was said.

Roll Call – Gustafson, Jernberg, Odell, Schreur, and Wester were present. Gillette was in audience ready to serve as alternate to replace Schreur when his application is started on the agenda.

Approval of March 3, 2014 minutes – Odell moved that the minutes be accepted as written. Jernberg seconded. Motion carried 5-0.

1. Variance request from Bill Schreur

Bill Schreur left the member table and went to the audience. Rick Gillette took Bill's chair at the member table to act as alternate. Gustafson explained that he is abstaining from this agenda item because he has done legal work for the Schreur family. He will still moderate the proceedings.

Mr. Schreur explained that a neighbor turned him in for the river deck and other things not related to the river deck such as the pavilion he recently built. The State of Michigan Natural Rivers Administrator stated that a variance was needed to keep this deck/overlook because it is in the 100 foot river setback for structures.

Gustafson noted that there is a letter of explanation and history in the application from Bill and the issue is not the stone dam abutment structure but the railing, trellis and ramp that were added on top of it. Bill explained that he has a mile of river frontage, is preserving the property, fixed the stone abutment over the years and wanted the safety aspect by adding the ramp and railings. This abutment has been used for many years to sit on and fish from. When the previous owner got older, Bill fixed the loose stones and put a cement cap on top for stability 4 years ago. He added the ramp for safer access and a gate. People have commented that he has done a good job on it. He just recently added the railings and trellis system for vines to grow up and over the top. He said that Mr. Potter is here to stop the upcoming weddings in the recently built pavilion.

Odell asked Vandersloot what about building codes? She explained that the Inspector has looked at it and if Bill adds fencing panels that have no larger than 4 inch holes and up to 36 inches high on the deck and ramp, that will meet the building code and he needs a permit to do this work. The railings are 38 inches high.

Wester asked what it is used for. Bill said the Bed & Breakfast people can use it along with his family. The gate is self-latching but could be locked. Wedding people will not be allowed to use it.

Bill also explained that on the back side and over the top are fence panels that have bittersweet vines growing on them. The vines are nearly to the top already and once grown over, will partially screen the deck. He does not plan on any other work except the fencing for the building code. His application shows some photos of the dam on the Flat River which has the same type of pipe railings. Jernberg

noted that those were put up with the codes at that time and the codes would not be met today for that railing. Codes change.

Gustafson opened the public hearing at 7:15. Ron Potter, who lives downstream on Washington St, was in Florida when the notices were sent and meeting held for the pavilion so did not know about it until it was under construction. He is opposed to it. He does not want to hear loud music at night. The building is not that far from the river. He also saw the deck with railings when it was put up and asked the Township about it. He said that when he built his house, he had to stay away from another old dam part and the State nearly lived at his house watching him. He had to get all sorts of special permits. He stated if he hears music in his house, he will call the police. At another location, a party was shut down with music sound decibels of over 62. This visual look to this property is offensive, the pavilion is too close to the river, and it is a Natural Beauty River. Why is forgiveness being allowed after the fact? He will call the police if the music is loud and he can't enjoy his yard and home due to it.

Gustafson noted that the request is for the railings only, it is not their jurisdiction on noise or approvals of building permits or special use permits for activities in the ordinance.

Next speaker was Gary Deitzel who lives downriver at 990 N Washington. Mr. Potter and he have had personal issues with Mr. Schreur in the past. The river is a sacred designated Natural Beauty River. The railings/deck should never have gone in, no violation should be permitted, variances should not be allowed, leave the river alone, stop this deck/railing. Many River boaters have said how terrible it is.

Mary Schreur said that the family supports keeping the river natural and Bill has done a good job of doing this.

Brenda Schreur said that they own the B&B, their family and the customers just love going there and seeing and viewing the river. They have a mile of frontage with a natural area along it. Other people love it. Boaters that have gone by when they are on the deck shout out only good comments that it looks nice. They have not had any bad comments from boaters.

Gustafson closed the public hearing at 7:27 pm. He asked Bill to do his rebuttal comments. Bill said that the pavilion meets the natural river setbacks and has passed inspections and permits. Mr. Potter is here to shut them down and has called the Health Dept. and other to try and shut them down. He is shocked at the dirty tricks that a neighbor would do this. He has passed all other inspections from Mr. Potters calls. He also noted that Mr. Potter has a huge bright light that shines right onto his property and it needs to be shielded. He said again that the abutment has been used for many years and he has improved it for his family, the previous owner and including the B&B people.

Gustafson reiterated why he is abstaining and asked the Vice Chair Jernberg to take over at this point. Some questions from the members were: was the catwalk original? No, there was an old one but was in poor condition; he put it in for Abe, the previous owner.

Odell said that he visited the property today to look it over for the meeting. He remembered fishing off the abutment when a child and it was in poor condition. It is now in good condition. The request is for the railings, it was tastefully done, and a fence is good for the safety of the people using the structure.

Vandersloot explained that when the deck was brought to her attention, she talked to the State Natural Rivers Administrator about it. He stated that it was not permitted as it was a structure within the 100

foot setback and not natural materials. To keep it, he said that a variance would be required. He had no issue with the stone part of it, just the railings, ramp and trellis.

Jernberg asked when it was repaired. Bill said about 6 years ago he started the repairs with the stones. It has been used for 70 or so years by Abe and others; it became too unsafe over time so he repaired it and added the railings and trellis. He said that other people have docks in the river. Jernberg would define it as a deck, not a dock as there is not boat access to it. Jernberg said it was a pre-existing structure and maintained over the years.

Gary Deitzel interrupted the Board 4-5 times but was told the public comment time was over with.

Gillette noted that the railings were added for safety; the structure was used before and was not very safe.

Being no further questions, Jernberg motioned and Gillette seconded to grant a variance to permit applicant to maintain the metal approach ramp, railing and wire mesh trellis screen installed by applicant as safety measures on the existing dam abutment structure on applicant's property along the Flat River in the Natural River zone, as those safety improvements are depicted in the application and photos submitted therewith; provided, that applicant obtain a building permit from the Township for such safety improvements; and, install, as recommended by the Township Building Inspector, the four inch wire mesh screen around the railing on the deck and approach, together with any present or future safety requirements for the deck. Motion carried 4-0 with Gustafson abstaining.

Gustafson filled out the decision form and all signed it and copies were distributed. Gillette stepped down and Schreur came back to the table for the next agenda item.

2. Variance request from the Wittenbach's

Tim Wittenbach and his parents Glenn and Lois Wittenbach were in attendance for their request to split out the farm house onto a separate parcel and keep the farm fields and barns on another parcel. Tim will take the farm fields and barns portion and his sister will take the house portion. Tim lives next door. The land is actively farmed with crops and raising of steers. The new lot line would run about even with the power poles between the house/garage and the barns. The east power pole was moved farther north than shown some years ago. The house portion would be a little over one acre in a 3 acre minimum zoning district. Tim said his house was originally on one acre then later combined with the adjoining 20 acres. Many other homes in the nearby area are on one or less than one acre parcels so it is not out of character for the area. It will still look like a big farm from the road view. The old school is on 1 acre, the old church on ½ acre, the pastor lives on 1.4 acres and so forth.

Question on if the well and septic will be on the house parcel? Yes, it is on the east side of the house – he showed on map.

Tim said the variance is also for setbacks as the garage of the house will be very close to the new lot line and the one barn will be slightly closer than allowed. There would be an easement so both parties could share the existing driveways. It is planned to always keep both parcels in the family with agreements.

Gustafson opened the public comment time at 7:57 pm.

Duane Rasch spoke in favor of the request. He said farm land is difficult to send down through the generations and would like to see it granted.

Rick Gillette said he can understand what they are doing and glad to see provisions written in the estate to keep the lands in the family if one wants to sell.

Public hearing was closed at 7:58 pm.

Jernberg said the character of the farm will look the same and continue to be farmed in agriculture. This is a way to keep it in the family and is in favor of the request. Schreur said it was a reasonable request. Odell said he went through a similar estate situation with family property some years ago to keep land in family and it is a good thing to do.

No more questions were forthcoming from the members and public comment closed at 8:01 pm.

Odell motioned, Schreur seconded, to approve the applicant's variance to permit them to split a portion of their property at 13077 3 Mile Rd, Lowell such that the resulting property and split parcel will be less than the minimum lot size and setback provided for in the RA District of the zoning ordinance. The split is to be accomplished in connection with applicant's estate planning and to enable applicants remaining property to be maintained in its historic farming use. Applicant will furnish a copy of the land contract and survey to the Township for the record of the variance proceeding. Motion carried 5-0.

Decision form was filled out and signed and copies distributed.

Schreur mentioned that they have had 2 weddings so far and they closed up at 10:00 pm.

A motion to adjourn the meeting was made by Jernberg, seconded by Schreur. The meeting was adjourned at 8:15 pm. Motion carried 5-0.