

Vergennes Township Zoning Board of Appeals

Minutes June 10, 1998

The meeting was called to order at 7:00 PM. Present were Chairperson Howard, and members Tap, Gustafson, Cook and Humphries. The minutes of May 13, 1998 were approved with an addition concerning the return of the \$300 fee to Barb Roth with a motion by Howard, seconded by Cook.

Scott Stephens, 10550 Bennett, was present to discuss his request to construct a storage barn in the front yard setback of his property. He recently purchased his property with an additional 1.2 acres for a total of 5. The home is set to the rear of the original acreage which is densely wooded, and the additional piece is an open field. There are overhead power lines behind the house in the area of the open field, which is where the ordinance would allow the building. Other problems the owner noted with this site were additional cost for a longer drive, more cutting of trees, visual from Parnell Rd., and would be inconveniently far from the road when he backed a boat up. Bill and Dottie Roth, former owners of the home and still neighbors, had written a letter of support for Stephens choice of sites.

Howard had visited the site and described several options, stating that it was important to keep the decision as much in line with the ordinance as possible. A lengthy discussion followed as to the best alternative site. Stephens was concerned about cutting more trees than necessary. Humphries noted that there are no topographical considerations on this property as there have been in recent cases like this. Tap suggested that the reason for the request seems to be more for convenience, and that if the proposed building were moved back 60 feet it would be in compliance. In attempting a compromise, Stephens was asked if 30 feet back would be agreeable, and Stephens stated that the view from his deck would be obstructed if it were moved back 30 to 60 feet.

Gustafson noted two factors to consider: 1. That the house is set to the rear of the lot, and has a large front setback. 2. That, in his opinion, preservation of trees is a good goal.

It was noted that the Planning Commission is in the discussion stage of an ordinance change in regard to front yard setback of accessory buildings in the RA District. Stephens was advised that if he waited a few months, his situation may be different.

Tap motioned to deny Stephens request for the proposed location, but to consider an alternative site that may need further variance, with no additional charge to the applicant. Humphries seconded, and the motion carried 4-1, with Gustafson voting no.

Michael and Colleen Lenihan were present to discuss their request to continue construction of a one-stall horse barn in the front yard set back of their home at 11960 Finn. The poles have already been set and a stop work order has been given by the Building Inspector. Lenihan believed that a stable was an agricultural use and would not require a permit. The proposed site is on the corner of Finn and Alden Nash, and is set back 43 feet from the ROW on Finn. The Lenihans described the problems in other sites on their property. There is clay present that causes water to pool at times, and the hill behind the house is a 30 degree angle. The Lenihans have no neighbors who are in disagreement with the site, and one of them had sent a letter of support. There is presently vacant land across Finn.

The ZBA was concerned about having the stable so close to the road. Odors can be a problem. Humphries pointed out that flies and other insects are an inherent problem with animal habitats.

There are two issues that need to be resolved. The front yard setback and the 150 foot setback from all property lines for stables.

Tap and Cook volunteered to view the site and report to the rest of the ZBA.

Tap motioned to table the decision until the site can be visited and the meeting is reconvened on June 17. Cook seconded, and the motion carried.

Stephens, who was still present, asked what his next step would be if he wanted to appeal his decision. He was told that he would need to go to Circuit Court. Gustafson, who stressed that he was not giving legal advice, explained that a ZBA decision can be overturned only if the court determines that the decision was arbitrary or capricious. He stated that the variance section in the Vergennes Township Ordinance is taken directly from the state statutes. 201.503 defines the criteria for a variance, and Gustafson encouraged Stephens to read this section.

Motion to adjourn by Humphries, seconded by Tap.

Mari Stone, Recorder