

**Vergennes Township
Zoning Board of Appeals Minutes
October 28, 2010**

Draft Until Approved

A meeting of the Vergennes Township Zoning Board of Appeals was held on October 28, 2010 at the Township Offices. Chairman Gustafson called the meeting to order at 7:02 pm. Also present were members Baird, Jernberg and Wester. Odell attended as the continuing alternate from the first meeting of this application for member Schreur. Schreur attended in case there was a new absent member.

Approval of last meeting minutes:

Wester motioned, Baird seconded, to approve the last meeting minutes of May 25, 2010 as presented. Motion carried 6-0.

11914 4 Mile Rd – lot area variance

Applicant Doug VanPortfleet is back after the May 25 meeting with the information that the members wanted him to work on. He brought a new large aerial map of the foreclosed property that he purchased from Chemical Bank. This is the major remaining portion of the same property that neighbor Harrison bought and received a lot area variance at the March meeting. He wants to split up the property in the manner shown so that four of the lake front lot owners across the street in Grattan Twp could purchase the approximately matching frontage width and land area of this land that abuts their frontages. The land division law will allow a maximum of 4 parcels and that is what he is proposing.

He went over the current lot widths that the owners want but it may change slightly. He will retain parcel A which is the hill they want to protect and mostly taken up by the private road. He handed out paperwork to support the 4 items that the members asked him to do for this meeting. His responses to these 4 items are listed below:

1. *Letter of intent signed by land owners to agree to go forward and sign a final document to obtain a right of way easement from 4 Mile/Alden Nash to as much of the road as possible for ingress/egress.*

He found a survey by Roosien & Associates for a 50 foot easement from Alden Nash west down the private road to the Y intersection, then 40 feet wide to the northeast. This easement was recently signed by the neighboring property owners and recorded. It came about in 2008 because Jan DeVries, who lives in the northeast branch of the private road, could not get a mortgage due to title work not finding any recorded easement to her property. He is proposing to create a 20 foot wide easement along his portion of the private road and will note in it to refer to the Roosien easement legal description.

2. *Write a draft maintenance agreement.*

He created a simple maintenance agreement and distributed it to all the property owners. He talked to as many of them as possible. None were interested in signing an agreement. They informally maintain the road and it has worked for many decades. None felt that they needed a written formal agreement. There was also no interest in forming any type of association. He had earlier proposed an association for parcel A so that all would own it. He will retain ownership of A.

3. *Work on agreement for road width easement of at least 20 feet.*

He has obtained a quote from Nederveld surveyors to create the proposed 4 parcels, create the 20 foot wide easement and include with it the Roosien easement. He owns the parcel now so he can give the 20 foot easement width.

4. *New proposed parcel splits to be deed restricted to no houses, be always sold with the adjoining lake front lots and allowing accessory buildings if the ordinance allows.*

He typed a sworn statement that he will include in the deed restrictions that will go with the sale of the lots that each of the Vergennes new lots must be attached to the Grattan lake front lots and always be sold and bought together. He will also restrict the building of a house on the lots and only allow accessory structures as permitted by the Township ordinances.

Chairman Gustafson said the main issue for a variance is the split request of 4 lots. There is an existing easement from the east to the Y intersection and up through the northeast part of the private road. Lots will be deed restricted to be bought and sold together with the lakefront lots. The landowners do not want a maintenance agreement, which would be beneficial. The Township has had problems with private roads without agreements and is glad the applicant asked the other landowners if they wanted to adopt one. The ZBA is not willing to try and force such an agreement if the owners are opposed to it. There does not need to be any more discussion on an association.

VanPortfleet said the other properties title work is very vague on describing an access easement – some have none and others have the vague wording. He suggests that the rest of the owners to the west do the same thing he is doing and have the road surveyed and described and recorded. A mortgage could be affected same as Jan DeVries was.

The Chairman asked the attending audience for any public comment.

Dave Steinbrecher owns the land above this property to the south. He can look down the hill and see some junk on some of the lots along the private road. He does not want to look at junk. He made an agreement during the bidding process for the land with VanPortfleet that he would bow out of the bidding as long as no houses would be built on the land.

Gustafson and Vandersloot noted that there is a junk ordinance and this can be looked into. Vandersloot suggested that the attendees spread the word that there is a junk ordinance and begin any needed clean ups.

Gary VanLeeuwen is Jan DeVries sister, asked if the hill will remain the same. VanPortfleet said that is the intent of purchasing it and to protect the road and keep it open to the owners.

Odell asked the ownership of the lakefront lots and who planned to buy these new adjoining lots. VanPortfleet said that he will retain ownership of parcel A, Stevens at 11191 will buy B, Benson of 11889 will buy C but may buy more than shown and Meyers of 11855 will buy D once the exact line between them are decided on.

Kay McDonald asked if a garage could be built on any of the new lots. Answer was if the ordinance allows it and setbacks and so forth would be applicable.

Baird asked about the existing road widths. Upper part is about 12 feet wide, parts 14 foot wide. He inquired about snow plowing, etc on the Harrison part of the land. VanPortfleet said that Harrison signed the 50 and 40 foot easement before he purchased the land. So the easement part is open for road maintenance. He also mentioned the problems on Pheasant Valley private road and did not want to see problems on this road. The applicant said that those splits were for homes and this is for preservation of a hill and road.

Jernberg said it is always best to have a recorded maintenance agreement for protection but in this case, the people don't want it.

Odell asked how was the road paved. They all met and planned it out and agreed to it. A few did not and the rest paid for it together. Joe Susnak was against an association, lives in one now – would have to collect money, have liability, and even if get a judgment, still have to try and collect the money from someone that will not or is not able to pay.

There were no more public comments. The members concluded that they prefer a maintenance agreement but the owners do not want one, there will be deed restrictions that the lots will stay together with the adjoining lakefront lots and no homes permitted, there is an easement for the front part of the private road and an extension will be added for this new property. All were in agreement to approving the variance to split the land into 4 parcels. Jernberg motioned, Odell seconded, to approve the variance application to split the parcel with conditions as written below. Motion carried 6-0.

Granted a variance from the lot area and lot width requirements of the zoning ordinance permitting applicant to split an adjacent existing nonconforming parcel of less than 3 acres, located at 11914 4 Mile Rd (part of parent parcel # 41-16-04-226-012) into 4 smaller parcels which are to be conveyed to owners of adjacent parcels across the private road with contiguous boundaries. The parcels to be split, as depicted on the attached

Nederveld survey and photos, are on the south side of the private road in Vergennes Township and the abutting landowners who will acquire the newly created parcels are on the north side of the private road in Grattan Township. This variance is subject to the following conditions:

1. The conveyances of the split lots shall be made subject to a 20 foot wide recorded easement for ingress and egress over the private road now in existence.
2. The conveyances shall contain deed restrictions providing that no houses shall be constructed on the split parcels which shall adjoin to the permanent lake front lots to the north, and such split parcels may not be sold separately from the lake front lots to which they will be adjoined; provided that owners of the adjoined parcels may construct accessory buildings on the spit parcels south of the road but only if and as permitted by the zoning ordinance.
3. Applicant will provide a survey and description of the 20 foot wide private road easement over and across the split parcels, and that description will also confirm the existence of recorded right of way easements to the east leading to Alden Nash, as described on the Roosien & Associates survey attached hereto.

Motion carried 6-0.

No other business came before the Board.

Adjournment:

Jernberg motioned, Baird seconded, to adjourn the meeting at 8:18 pm. Motion carried 6-0.

Respectfully submitted,
Jeanne Vandersloot, Recorder