

**Vergennes Township
Zoning Board of Appeals
September 21, 1999**

The meeting was called to order at 7:00 PM by Chairperson Howard. Also present were Schreur, Humphries, Tap, Gustafson, alternate member Odell, and Zoning Administrator Jeanne VanderSloot, who had asked for several interpretations of the ordinance. Gustafson motioned, and Tap seconded, to approve the minutes of the July 7, 1999 meeting. Motion carried.

Interpretation of Private Road Ordinance Section 202.002 - VanderSloot explained that many splits are occurring on private roads, and she is asking for an interpretation of the ordinance in respect to roads in existence prior to the adoption of this ordinance. The question is, should she view new splits on “exempt” private roads as continuing to be exempt? Planner Kilpatrick had given his opinion that any change causes the loss of exemption status. Discussion followed. **Motion** by Gustafson, seconded by Odell, that provisions of 202.002 (B), Private Road Ordinance be interpreted to provide that the grandfather provision that excludes lots on private roads existing prior to November 28, 1990, does not apply to splits. If such splits are made after November 28, 1990, they must comply with the private road requirements. Motion carried.

Interpretation of Private Stable Setback Section 201.419 - Discussion on the requirements applying to the RA District (is it considered residential?) Gustafson made the point that it doesn’t make any difference, and that the ZBA has determined in the past that stables in the RA District need to comply with the 150 foot setback, or apply for a variance. He suggested a change to B. to eliminate “on lots of less than 5 acres” to solve the discrepancy. **Motion** by Gustafson, seconded by Odell, to interpret that Section 201.419, regulating private stables, applies to the RA District as well as the R1 and R2 Districts. Motion carried. **Motion** by Gustafson, seconded by Tap, that the ZBA recommend to the Planning Commission and Township Board that section 201.419 be amended to delete the first phrase that reads “in any residential district”, and further that 201. 404, B., be amended to delete the phrase “on lots of less than 5 acres”, so that it reads “in the RA and R1 Districts a stable shall not...”. Motion carried.

Humphries questioned whether a situation is being created where people are restricted from using their property as equally as their neighbors. Odell responded that he likes to see these questions handled on a variance basis by virtue of the fact that a property owner with 1 acre can’t do the same things that someone with 100 acres can do with their land. Different situations can be evaluated on an individual basis with variance requests.

Interpretation of Definition of Lot Area - VanderSloot explained that the question is, on corner lots, do the zoning administrator and split administrator continue to use the elimination of both right-of-ways in the calculation of total lot area? The question came up after the recent clarification of which frontage is to be considered “front yard” and

which “side yard” on a corner lot. Discussion resulted in a consensus that the intent of the Ordinance is that road right-of-ways should not be included in the calculation of any lot areas. **Motion** by Gustafson, Seconded by Tap, that the ZBA interpretation of the intent of the Ordinance is that the portion of a lot encompassed by a public or private road right-of-way should not be included in the lot area for purposes of determining the minimum lot area in the particular zoning district. Motion carried.

A distinction was noted, that an easement would not be treated in the same way, in that easements can be to have casual traffic over a persons property.

Gustafson **motioned**, Humphries seconded, that the ZBA recognizes an ambiguity in the ordinance regarding the treatment to be given to public or private road right-of- ways when determining the lot area of corner lots. The Planning Commission and Township Board should give prompt consideration to clarification of Section 201.202, V., in this regard to indicate whether or not the side yard public or private road right-of-way of a corner lot should be excluded from lot area calculations. Motion carried.

Devonwood Lighting Issue Revisited - Determination of Compliance - Jack Tousignaut was present to update the issues. The wattage has been reduced to 15 watts per bulb, 45 per fixture along the entire road. On the West and North sides, timers will be installed shortly to turn off at 10:30 PM. Shields will also be installed within a short time. The neighbor to the West was also present, and he said the glare was significantly improved with the reduced wattage. A visual inspection had been done by several members who agreed. There was concern that several issues are awaiting completion, and that this matter could not be dispensed with until they are complete and an agreement is received. **Motion** by Odell, seconded by Schreur, that a civil infraction will be issued in this matter if timers are not installed and operating, and an agreement not signed by October 1, 1999. (Agreement will be attached to these minutes upon Township receipt) Motion carried.

Re-Interpretation of Driveway at 13367 Forrest River Dr. - Because of his concern regarding an appearance of a conflict of interest, Bill Schreur Jr. chose to abstain from discussion and voting on this issue. VanderSloot summarized that new language regarding driveway setbacks has been adopted (201.408), and in light of this, she was looking for clarification of the former interpretation. She has visited the site, and remains unconvinced that the cement slab is in fact part of the driveway. The owner, Mr. Marvel, spoke, and read a definition of driveway from Websters, noting that it is “a road, a private one, leading from a street to a parking area.” VanderSloot pointed out that the recently adopted driveway definition (201.202, YY.) supports this.

A lengthy discussion followed. The question became, is the slab an improved area of the property, or a driveway? **Motion** by Odell, seconded by Gustafson, that the previous decision regarding this issue is not changed by the new ordinance language. Yes - Odell, Gustafson, Howard. No - Humphries, Tap. Motion carried.

In further discussion, Tap pointed out that the intent of the driveway setback ordinance is to prevent a driveway from running along a neighboring property line. It was suggested that perhaps this is a policy question. Does the ordinance intend to restrict paving areas adjacent to driveways for parking or storage of vehicles? Gustafson **motioned** to recommend to the Planning Commission and Township Board that the issue of Township intent to restrict paving or improved areas contiguous or adjacent to driveways used for parking or storage be addressed as soon as possible. Odell seconded, and the motion carried.

VanderSloot asked regarding ZBA policy for use of Alternate Members. How are they notified if they are needed, and should she be sending them packets? Howard noted that all members should receive packets, and the chair is responsible to let the alternates know if they are needed.

Meeting adjourned at 8:50.

Mari Stone, Recorder