

HOWELL TOWNSHIP ZONING BOARD OF APPEALS
Howell Township Hall, 3525 Byron Road, Howell MI, 48855
Meeting Minutes: September 23, 2019, 6:30 P.M.

MEMBERS PRESENT:

Kim Babcock	Chairman
Andrew Sloan	Vice-Chair & PC Representative
Evan Rudnicki	Board Representative
Alex Hansen	Member
Carrie Newstead	Member

MEMBERS ABSENT:

Also Present: Joe Daus – Zoning Administrator.

Chairman Babcock called the meeting to order at 6:30 P.M.

The roll was called.

All rose for the Pledge of Allegiance.

APPROVAL OF AGENDA: MOTION by Sloan, seconded by Newstead, “**TO APPROVE THE SEPTEMBER 23, 2019 ZONING BOARD OF APPEALS AGENDA AS PRESENTED.**” Motion carried.

APPROVAL OF MINUTES: MOTION by Rudnicki, seconded by Hansen, “**TO APPROVE THE JUNE 24, 2019 ZONING BOARD OF APPEALS MEETING MINUTES AS PRESENTED.**” Motion carried.

TOWNSHIP BOARD REPORT:

(Township Board Representative, Evan Rudnicki reported on the following)

- See past Township Board Synopses: 07.08.2019, 08.12.2019, 09.09.2019

PLANNING COMMISSION REPORT:

(Planning Commission Representative, Andrew Sloan reported on the following)

- See past Planning Commission Synopses: 06.25.2019, 07.23.2019, 08.27.2019

PUBLIC HEARING:

- A. PETITIONER – Jason Reed: PARCEL #4706-04-300-012, FILE #PZBA-2019-05, 5204 Crandall Rd.**
- Chairperson Babcock reviewed the application, the request is for a variance to Article XIV: Supplemental Regulations, Section 14.07: Accessory Building Provisions, Item B, to allow for construction of a detached accessory structure in the front yard.
 - Applicant and owner, Jason Reed describes: Wanted to construct an attached garage, but in order to do that the entire existing garage as well as 25% of the principal building would need to be re-trussed. Not possible to construct an accessory structure behind the property because house sits too close to the rear property line, and the septic leach field in the way of what would be the limited backyard space available for construction. Property is sloped, drainage is an issue. Wants access to structure so a truck could be backed up and ATV’s could be stored.
 - Chairperson Babcock stated the Findings of Fact for purposes of the ZBA’s decision: petitioner is present on their own behalf, location of the property has been identified, the preventing hardships have been stated, as well as the unique nature of their property, and the ordinance requirement has been identified as Section 14.07.
 - **MOTION** by Hansen, seconded, by Newstead “**TO APPROVE THE PETITIONER’S REQUEST: JASON REED, FILE #PZBA-2019-05, PARCEL ID #4706-04-300-012, LOCATED AT 5204 CRANDALL ROAD, TO A -170 FEET DIMENSIONAL VARIANCE TO ALLOW THE CONSTRUCTION OF AN ACCESSORY STRUCTURE IN THE FRONT YARD.**” Discussion followed.
 - Rollcall was taken: Newstead – yes, Sloan – yes, Hansen – yes, Rudnicki – yes, Babcock – yes. Motion carries.
- B. PETITIONER – Dan Davenport: PARCEL #4706-24-200-025, FILE #PZBA-2019-06, 2665 Fisher Rd.**

- Chairperson Babcock reviewed the application, the first request is for a variance to Article XIV: Supplemental Regulations, Section 14.07: Accessory Building Provisions, Item B, to allow the existing accessory structures to remain located in the front yard, ensuring a principal structure can be built once the property is split. The second request is a variance to Article XIV: Supplemental Regulations, Section 14.07, item G, to allow the existing principal structures to remain located on the property without a principal structure present.
 - Applicant and representative on behalf of the Heirs of Patricia Cholak's Estate, Dan Davenport, Associate Broker with REMAX Platinum in Brighton, describes: Heirs of Patricia Cholak's Estate are looking to sell the property and settle the estate. The property consists of 33 acres, 30 of those acres are located on the north side of Fisher Road, and the remaining 3 acres are located on the south side of Fisher Road. The northern 30 acres consists of a principal structure and an accessory structure. The southern 3 acres consists of three existing structures, two barns and an equipment den ^shed^. Both properties currently have pending transactions.
 - Comments from the Public: Tom Bull, 2704 Fisher Road, lives approximately two lots to the east of the property in question and states there is no objection to the variances being requested, feels the barns can stay.
 - Chairperson Babcock stated the Findings of Fact for purposes of the ZBA's decision: petitioner was present, location of property has been identified along with the unique nature of their property and the ordinance requirements have been identified as 14.07 b and g.
 - **MOTION** by Sloan, seconded by Hansen **"TO GRANT THE PETITIONER'S VARIANCE REQUEST: DAN DAVENPORT, FILE #PZBA-2019-06, PARCEL ID #4706-24-200-025, LOCATED AT 2665 FISHER ROAD, TO ARTICLE XIV, SECTION 14.07, ITEM B, PERMITTING THE EXISTING ACCESSORY STRUCTURES TO REMAIN LOCATED IN THE FRONT YARD."** Discussion followed.
 - Rollcall was taken: Hansen – yes, Rudnicki – yes, Sloan – yes, Newstead – yes, Babcock – yes. Motion carried.
 - **MOTION** by Sloan, seconded by Rudnicki, **"TO GRANT THE PERITIONER'S VARIANCE REQUEST: DAN DAVENPORT, FILE #PZBA-2019-06, PARCEL ID #4706-24-200-025, LOCATED AT 2665 FISHER ROAD, TO ARTICLE XIV, SECTION 14.07, ITEM G, PERMITTING THE EXISTING ACCESSORY STRUCTURES TO REMAIN LOCATED ON THE PROPERTY WITHOUT THE PRINCIPAL STRUCTURE PRESENT."**
 - Rollcall was taken: Newstead – yes, Sloan – yes, Hansen – yes, Rudnicki – yes, Babcock – yes. Motion carried.
- C. PETITIONER C – Tanger Properties: PARCEL #4706-29-400-008 FILE #PC-2019-07. 1475 N. Burkhart Rd.**
- Chairperson Babcock reviewed the application, the first request is for a -136 square-foot dimensional variance to Article XIX: Sign Regulations, Section 19.08: Permitted Signs in NSC, RSC, RT, HSC, HC, & I, to allow for the installation of a (7 ft. by 48 ft.) 336 square-foot wall sign, positioned to be visible to motorists traveling eastbound on I-96. The second request is for a variance to Article XIX: Sign Regulations, Section 19.08: Permitted Signs in NSC, RSC, RT, HSC, HC, & I, to allow for the installation of an additional sign.
 - Applicant and representative, Steve Schucknecht, Assistant General Manager and Treasurer of Operations at Tanger Outlets, described: Years ago the adjacent property to Tanger Outlets installed a backlighted billboard, which in turn blocked Tanger Outlet's sign at that time, in which Tanger Properties then tore their sign down which has been considered a hardship. The intent is to install a visible sign to travelers going eastbound on I-96, this sign is a wall sign and is elevated in a way that situates the wall to be visible from a distance. The number of sign frontage is permitted to and for individual businesses, this specific sign Tanger Properties is looking to install is not for an individual store but for Tanger Outlets itself. Tanger is allowed 22 signs facing the freeway, currently with about 6 spaces open for signage. Came up with the proposed sign square-footage by reviewing how to get maximum exposure from a sign visible from the freeway.
 - Chairperson Babcock stated the Findings of Fact for purposes of the ZBA's decision: petitioner was present, location of property has been identified, the preventing hardships have been presented, and the ordinance requirements have been identified as 19.08.
 - **MOTION** by Newstead, seconded by Hansen, **"TO APPROVE THE PETITIONER'S REQUEST: TANGER PROPERTIES, FILE #PZBA-2019-07, PARCEL ID #4706-29-400-008, LOCATED AT 1475 N. BURKHART ROAD, A -136 FOOT VARIANCE TO ARTICLE XIX, SECTION 19.08, GRANTING THE INSTALLATION OF A 336 SQ.FT. WALL SIGN POSITIONED TO BE VISUAL TO EASTBOUND MOTORISTS ON I-96."**
 - Rollcall was taken: Sloan – yes, Rudnicki – yes, Newstead – yes, Hansen – yes, Babcock – yes. Motion passed.

- **MOTION** by Hansen, seconded by Rudnicki, **“TO APPROVE THE PETITIONER’S REQUEST: TANGER PROPERTIES, FILE #PZBA-2019-07, PARCEL ID #4706-29-400-008, LOCATED AT 1475 N. BURKHART ROAD, A VARIANCE TO ARTICLE XIX, SECTION 19.08, GRANTING THE INSTALLATION OF AN ADDITIONAL SIGN.”** Discussion followed.
- Rollcall was taken: Rudnicki – yes, Newstead – yes, Sloan – yes, Hansen – yes, Babcock – yes. Motion carried.

D. PETITIONER D – Patty & George Londy, PARCEL #4706-21-400-015, FILE #PZBA-2019-08, 2061 Tooley Rd.

- Chairman Babcock reviewed the application, stating the request for a -220 foot dimensional variance to Article 14, Section 14.26, item E, to allow for construction of a fence in the front yard.
- The applicants, Patty & George Londy, along with their daughter Jenny, who lives on the property as well, were all present to speak on behalf of their request. Applicant’s property is 7.6 acres and abuts to the neighbor’s west and south property lines. Applicant is asking for permission to install a fence in their front yard, because a fence is permitted to rear and side property lines. Looking to construct a farm fence in the front yard. Intent is to keep the neighbors dogs off of their property. Referenced past situations in which the applicant, their family members and guests have felt fear of utilizing the space and property that is their own. The neighbor’s dogs believe the applicant’s property to be their territory because of repeated exposure. The applicant described their attempt on alternative solutions, talking with the neighbor on multiple occasions. The applicant claims the neighbor will not accommodate by using a leash regardless of the ongoing issue. Applicant does not wish to involve police because their intent is to block off property, not punish anyone. Applicant had surveyors come stake their yard and property lines.
- Chairperson Babcock stated the Findings of Fact for purposes of the ZBA’s decision: the petitioners were present to state their case, the location of the property has been identified, the preventing hardships have been stated along with petitioner’s unique circumstance of their property layout and the ordinance requirements have been identified as 14.26 item e.
- **MOTION** by Sloan, seconded by Hansen, **“TO APPROVE THE PETITIONER’S REQUEST: GEORGE & PATTY LONDY, FILE #PZBA-2019-08, PARCEL ID #4706-21-400-015, GRANTING THE VARIANCE TO ARTICLE XIX, SECTION 14.26 ITEM E, FOR -224 FT. TO ALLOW FOR THE INSTALLATION OF A FENCE IN THE FRONT YARD.”**
- Rollcall was taken: Hansen – yes, Sloan – yes, Rudnicki – yes, Newstead – yes, Babcock – yes. Motion carried.

CLOSED SESSION: **MOTION** by Rudnicki, seconded by Newstead, at 7:22 P.M., **“TO ENTER INTO A CLOSED SESSION TO DISCUSS TOWNSHIP ATTORNEY CONFIDENTIAL OPINION FOR FILE #PZBA-2019-09 PARCEL ID #4706-27-100-025, REQUEST FOR AN INTERPRETATION OF ARTICLE II, SECTION 2.02, THE DEFINITION OF STRUCTURE.”** Motion carried.

Discussion over the Township Attorney’s confidential opinion regarding the request for an ordinance interpretation of Article II, Section 2.02, definition of structure, from applicant Chestnut Development, file #PZBA-2019-09, parcel ID #4706-27-100-025.

MOTION by Hansen, seconded by Sloan, at 7:35 P.M., **“TO END THE CLOSED SESSION.”** Motion carried.

PUBLIC HEARING: **MOTION** by Newstead, seconded by Sloan, **“TO RE-OPEN THE PUBLIC HEARING.”** Motion carried.

E. PETITIONER E – Chestnut Development, PARCEL #4706-27-100-025, FILE #PZBA-2019-09, M-59 (W. Highland)

- Chairman Babcock reviewed the application, stating the request for interpretation on the following section as the petitioner asks for clarification on whether or not private drives and concrete slab patios are considered to be accessory structures based on what is written in the Zoning Ordinance: ARTICLE II, Section 2.02, definition of ‘structure’.
- Findings of fact regarding ordinance interpretation: applicant’s intention to locate a private road to service the residential development and the residential neighboring property. The ZBA came to the conclusion that private roads are not considered structures and therefore are not required to follow setback regulations in terms of accessory structures, per the language and intent of the Howell Township Zoning Ordinance. The definition of structure in the Howell TWP Zoning Ordinance includes a list of exclusions apply to the definition of structure, neither patio nor private roads were included in this list. The ZBA has decided that they do not consider private drives to be structures, if that were the case it would create an absurd zoning result in that if private drives were considered a structure, someone would always be

violating the ordinance in terms of setbacks. Private roads is also its own definition in the zoning ordinance, giving more reason to their interpretation and they could not serve their purpose if they were considered structures.

- The second portion of the interpretation request was challenging whether or not a concrete slab patio is considered a structure, by the conclusion of the ZBA: patios are included in the Howell Township Zoning Ordinance under the definition of structure. The definition of structure includes porches in Howell Township's ZO, the definition of 'porch, open' within the definition section of the ordinance includes patios. In conclusion, patios are porches, porches are accessory structures. If patios were not considered structures, patios could be placed close to plot lines and public roadways which would be contrary to the zoning ordinances purpose for early development.
- The ZBA finds that patios are structures under the ordinance and subject to the 30 ft. side yard setback requirement. Given the decision of those two interpretations, the ZBA is now faced with a request for a -6 foot dimensional variance to Article VII, Section 7.06 e, to allow for construction of concrete, grade-level patios for 24 out of 86 dwelling units in the developing housing complex.
- Roger Meyers, present on behalf of the applicant describes: the land in question has a sloping topography, going toward wetlands that wrap around the property. Easement agreement with Panhandle has been negotiated to reduce the radius of said easement, which helps with available space, but is still restrictive and reserved for Pandhandle's benefit. Without granting a variance, the amenities of each unit would not be the same. There is a natural buffer on the land, obscuring the vision of these patios. The encroachment is only impacting 8 out of the 24 units needing the -6 foot dimensional variance, out of 86 units total.
- Chairperson Babcock stated the Findings of Fact for purposes of the ZBA's decision: the representative of the applicant was present to state their case, the location of the property has been identified, the preventative hardships have been identified along with the applicant's alternative methods in attempt to solve their hardships, the unique layout of the land has been identified and the ordinance requirements have been identified as 7.06 item e.
- **MOTION** by Hansen, seconded by Sloan, **"TO APPROVE THE PETITIONER'S REQUEST, CHESTNUT DEVELOPMENT, LLC., FILE #PZBA-2019-09, PARCEL ID #4706-27-100-025, GRANTING THE -6 FOOT DIMENSIONAL VARIANCE TO SECTION 7.06 E, TO ALLOW FOR THE INSTALLATION OF GRADE-LEVEL PATIOS WITHIN _SETBACKS."** Discussion followed.
- Rollcall was taken: Sloan – yes, Newstead – yes, Rudnicki – yes, Hansen – yes, Babcock – yes. Motion carried.

MOTION by Rudnicki, seconded by Hansen, **"TO CLOSE THE PUBLIC HEARING."** Motion carried.

CALL TO THE PUBLIC: No response.

ADJOURNMENT: **MOTION** by Sloan, seconded by Hansen, **"TO ADJOURN."** Motion carried, meeting adjourned 7:47

Approved: _____ X _____

As Presented: _____

As Amended: _____ X _____

As Corrected: _____

Dated: _____ 10.28.2019 _____



Kim Babcock, Chairman



Andrew Sloan, Vice-Chairman



Josie Modrack, Recording Secretary