

I. **Call the meeting to order.**

Chairman Zuehlke called the meeting to order at 6:30 p.m.

II. **Roll Call.**

Present: Dave Zuehlke, Chairman
Garry Crake, Vice Chairman
Ralph Woznick, Secretary
Will Allen, Board Member
David Maloney, Board Member

Absent: None

Also Present: Bob Vallina, Community Planning and Development Director
Colleen Pote, Stenographer
Doug Bradley, Building and Engineering Director
Stacy St. James, Environmental Coordinator
Applicants and general public numbering approximately 20

III. **Approve the Minutes**

MOTION AND VOTE:

Moved by Allen

*Supported by Crake; RESOLVED, to **APPROVE** the Minutes of the October 20, 2009, regular meeting of the Zoning Board of Appeals as printed.*

MOTION CARRIED UNANIMOUSLY.

(5 – 0)

IV. **Approve the Agenda**

MOTION AND VOTE:

Moved by Allen

*Supported by Woznick; RESOLVED, to **APPROVE** the Agenda of the November 3, 2009, regular meeting of the Zoning Board of Appeals as printed.*

MOTION CARRIED UNANIMOUSLY.

(5 – 0)

V. PUBLIC HEARINGS

NEW BUSINESS**Case No. 4387-C**

Sidwell No. 13-12-353-019, Section 12, Ely ½ of Lot 68 & all of Lot 69, "Silver Beach", T3N, R9E, Waterford Township, Oakland County, Michigan.

Requesting a 3.85 ft. variance from Article 22 to allow the relocated existing house to come to within 5 ft. of the southeast side property line (8.85 ft. minimum setback required per 12/05/2006 ZBA decision).

Property Location: Vacant Parcel (North side of Silverside)
Property Zoned: R-1A, Single Family Residential
Applicant: Barry and Susan Pool

PUBLIC HEARING RECORD**Applicants and/or Representatives Present:**

Barry Pool, Applicant
Bill Horton, Representative

Chairman Zuehlke stated that the applicant was granted variances in 2006 to allow the existing house to be located on the subject property with the stipulation that the applicant resolve the legal issues regarding the easement over a portion of the subject property and hold clear title to locate buildings and/or structures within the specified lot 68 area of the subject property.

Mr. Horton stated that he represented Mr. and Mrs. Pool in Circuit Court regarding the easement issue on lot 68. The court ordered that the easement over lot 68 is declared to be 15 ft. wide through the center of lot 68. Therefore 7.5 ft. of the easement is on the Pool's portion of lot 68. This has resulted in requiring the Pools to shift their house further onto the lot 69 portion of the subject property, closer to the southeast side property line than what was currently proposed in 2006, and beyond the southeast side setback line established for the relocated house by the ZBA in 2006. After shifting the house to accommodate the easement area established by the Circuit Court, the Pools can relocate the house along the southeast side setback line established by the ZBA for a garage. Therefore the Pools are requesting a 3.85 ft. variance to extend the 5 ft. southeast side setback line established for the garage and allow the relocated house to come to within this same 5 ft. southeast side setback line.

During the public portion of the meeting the following comments were heard.

Neil Wallace, 39 S. Main, Clarkston MI, stated that he represented the Lauers in Circuit Court. He then stated that another appeal has been filed for the matter of the easement on lot 68 and that it is his opinion that the Circuit Court judge who decided the matter did not make an accurate ruling. He believes that the ZBA should deny the request in this case due to the fact that he has filed an appeal on behalf of the Lauers.

Mr. Wallace further stated that the ZBA denied a setback request in 2006 that would have allowed a 1ft. overhang to come to within 4 ft. of the southeast side property line. Now the applicants are requesting a 3.85 ft. variance to allow the relocated house to come to within 5 ft. of the southeast side property line with, in his opinion, no explanation as to why the variance is needed. He further stated his opinion that the proposal will have a profound negative effect on the neighbors.

Joe Begovich, 2530 Silverside, stated that he is opposed to the variance. He believes that the house is too large for the subject lot and that locating it where proposed will damage his property during the construction of the new basement.

Chairman Zuehlke stated that as part of the building permitting process, inspections have to be performed by the Building and Engineering Department and that the applicant would be responsible if any damage is done to adjacent properties during the construction of the new basement.

Mark Poulin, 3397 Clintonville Road, stated that in his opinion the property appears to be a small lot that is used for lake access for other houses and he does not believe that a house can be built on a lake access lot. He also believes that the Pools are relocating the house to the lakefront lot to increase their property value and then plan to redevelop the residential property on Dixie as a commercial use. He concluded by stating that he believes that building a house on the subject lot will have a negative impact on the environment and that an environmental impact study should be conducted for such a relocation project.

Joe Lauer, owner of 2860 Dixie Hwy, stated that he purchased the 2860 property in 2006 and that he believes that all of lot 68 should remain as a lake access easement for his property. He added that he believes that this case is unique in that it involves two properties, the lot the house currently sits on and the lot it is to be relocated to. He believes that the Board should consider what the applicant plans to do with the property where the house is currently located.

Chairman Zuehlke stated that the ZBA is limited in its decision-making to considering the variance request to allow the house to be relocated closer to the southeast side property line than what the ZBA allowed in December 2006. Chairman Zuehlke stated that the Dixie Hwy. property is not the subject of the variance request and therefore has absolutely no bearing on this case.

Mr. Lauer stated that sometime in the past the Township permitted the Tudor style houses to be built on Dixie Hwy and the lake access easement on lot 68 was part of that development. He believes that granting the variance to allow the house to be located on the subject property will contradict the Township's mission statement. He further stated that the house is not in keeping with the character of the neighborhood due to the fact that it is larger than other houses and should remain where it is.

Kathy Loftus 2554 Silverside, stated that she supports the request in this case to allow the beautiful house to be relocated to the subject property. She added that there are many different style and size homes in the neighborhood.

Mr. Wallace stated that he does not believe that the conditions of the stipulation the Board placed on the variance approvals have been met, therefore this case should be denied.

Hearing no further comments the public portion of the meeting was closed.

Chairman Zuehlke stated that the applicant has complied with the stipulation the ZBA placed on the variances granted in 2006 and a Circuit Court judgment has been made regarding the easement on lot 68. The applicant now is appearing before the ZBA with a request that is a result of the Circuit Court decision. While statements were made that the Circuit Court judgment is on appeal, the issue before the ZBA is the request for a variance to be located closer to the southeast side property line.

Board Member Allen stated that while he believes that the house will be in character with the surrounding neighborhood, he is not certain that the ZBA should act on this request until the litigation regarding the easement is settled.

Mr. Horton stated that the Lauer's appeals requests have been denied by the court and the court has refused to issue stay of proceedings.

Discussion ensued regarding that if the civil litigation regarding the easement is ongoing, it does not prohibit the ZBA from acting on the variance request in this case.

Board Member Maloney stated that the Circuit Court has made a decision on the matter of the easement on lot 68 and the legal issue regarding appealing a decision of the Circuit Court is a matter for the courts and not the ZBA. The ZBA is only considering the variance request made by Mr. and Mrs. Pool. Board Member Maloney stated that the ZBA has already expressed its support for the relocation of the existing house onto the subject property and that this variance will maintain a southeast side setback line established by the ZBA in 2006 for the proposed new garage. Because this setback line was already established for a portion of the property, it is his belief that compliance with the strict letter of the ordinance and with the southeast side setback variance established by the ZBA would unreasonably prevent the petitioner from using the property and would render conformity with the ordinance unnecessarily burdensome and would therefore support the variance request and will make a motion to approve accordingly.

MOTION AND VOTE:

Moved by Maloney

*Supported by Crake; RESOLVED, to **APPROVE** Case No 4387-C for the reason that compliance with the strict letter of the ordinance and with the southeast side setback variance established by the ZBA would unreasonably prevent the petitioner from using the property and would render conformity with the ordinance unnecessarily burdensome.*

MOTION CARRIED WITH ALLEN OPPOSED

(4 – 1)

Case No. 5122-B

Sidwell No., 13-16-101-069, Section 16, Oakland County Condominium plan No 1951, Hatchery Crossings, Unit 2 L 39531 P 755 9-5-07fr 030 & 031

Requesting

1. A 22 ft. variance from Article 22 to allow the proposed single family house to come to within 13 ft. of the right-of-way line (35 ft. setback required).
2. A 19 ft. variance from Section 2407 to allow the proposed single family house and its 1 ft. overhang to come to within 12 ft. of the right-of-way line (31 ft. minimum required).

Property Location: Vacant Parcel Hatchery Crossing Drive
Property Zoned: R-1A, Single Family Residential
Applicant: Joe Ashley

PUBLIC HEARING RECORD

Applicants and/or Representatives Present:

Joe Ashley, Applicant

Chairman Zuehlke stated that the variances in this case were granted in 2005, due to the economic conditions the applicant was not able to act on the variances within the timeframe of the variance approval. The applicant is now ready to move forward with the project; therefore he is re-requesting the variances.

Mr. Ashley made no comment.

During the public comment portion of the meeting, no comments were heard either in support of or opposition to the applicant's request.

MOTION AND VOTE:

Moved by Crake

*Supported by Woznick; RESOLVED, to **APPROVE** Case No 5122-B*

MOTION CARRIED UNANIMOUSLY.

(5 – 0)

VI. Adjourn the meeting.

Chairman Zuehlke adjourned the meeting at 7:02 p.m.

November 3, 2009**Case No. 4387-C**

Property: Vacant Parcel (North side of Silverside)

Applicant: Barry and Susan Pool

Zoning: R-1A, Single Family Residential

Site Use: Vacant Lakefront Residential Parcel

Proposal: To relocate and preserve the existing historic Tudor-style house from location on Dixie Hwy. parcel to the lakefront residential neighborhood north of its existing location.

Analysis: The applicant has previously appeared before the ZBA, requesting variances to enable them to relocate their Tudor-style home. The applicant has resolved the legal issues regarding the easement over a portion of the subject property and has prepared the house for the relocation process. However, as a result of the court decision, the applicant had to shift their house 3.85 ft. to the southeast to accommodate the width of the easement established by the court. This shift will result in the relocated house extending beyond the southeast side setback established by the ZBA at their December 5, 2006 meeting.

With the requested variance, the house can be located along the same southeast side setback line established for the proposed new garage by the ZBA. Since the ZBA has already expressed its support for the relocation of the existing house onto the subject property, staff has concluded that compliance with the strict letter of the ordinance and with the southeast side setback variance established by the ZBA would unreasonably prevent the petitioner from using the property and would render conformity with the ordinance unnecessarily burdensome. Therefore, staff is not opposed to the requested variance.

November 3, 2009**Case No. 5122-B**

Property: Vacant parcel Hatchery Crossing Drive

Applicant: Joe Ashley

Zoning: R-1A, Single Family Residential

Site Use: Vacant

Proposal: To allow the proposed parcel to have a reduced front yard setback.

Analysis: In 2005, the applicant developed a site plan that incorporated a multiple-family condominium on the west side of a private street and a property split of one parcel into three separate detached single-family residential lots on the east side of the street. The applicant requested and the ZBA granted front yard setback variances for each of the three proposed single-family parcels resulting from the property split. The applicant subsequently requested and received from the ZBA an extension of the variances for the single-family residential lots until April 17, 2009. The applicant completed two of the three single-family houses within the extended timeframe. However, the timeframe expired before the applicant could develop the subject property.

Therefore, the applicant has been required to re-request the original variances. The applicant's current request for the subject property is identical to his 2005 request. Since the ZBA has previously approved the requested variances and the same variances are now established on the adjoining properties, staff is not opposed to the requested variances.

Pote, Colleen

From: Nancy Kordus [cobrayosmom@comcast.net]
Sent: Monday, November 02, 2009 10:13 PM
To: Pote, Colleen
Subject: case #4387-C

I understand this case is to be determined at the board meeting Tuesday Nov. 3, 2009. Because my husband is having surgery the same day, I am unable to attend the meeting
I live in the subdivision where the property involved in this case exists. I have lived in the same house 33 years, and have known Barry and Susan Pool at least 18 of those years. I understand they have requested a variance to allow the home they have resided in to be moved onto the vacant property they also own. This house has been part of the subdivision and is of historical value to our community. The Waterford Historical Society has been researching the area for the last several years to determine exactly where the original site of the first school house was located. All homes in this area are important to their research. They are working with the Waterford School District to involve the school children in learning about the history of the area they live in. In addition, Susan and Barry are upstanding members of the community, having chosen to raise their family and continue to live here. I do not feel it is right that a "property owner" in name only, that does not even reside in the "house" they own, should be allowed to prevent the Pools from obtaining the variance.
As residents of the neighborhood involved, we wish to let it be known that we do not object to the variance in question. This would allow the house to remain in the area and good neighbors to continue to live in the home where they raised their family and shared so many memories.

Thank You
Ted and Nancy Kordus
3008 Dixie Hwy
Waterford , Michigan 48328

NOV-3-2009 17:51 FROM: DAN KEARNS 248-651-8862 TO: 12486744097 P. 1

Waterford Twp. Planning

R. Vallina

Fax # 248-674-4097

Waterford Twp. ZBA

David Zuehlke, Chairman

Ralph Woznick, Secretary

Fax # 248-674-4097

Gentlemen,

My name is Daniel Kearns and my wife, Anna Odrobina reside at 2378 Silver Pointe Dr. Waterford, MI . Our schedules prevents us from attending tonight's hearing Case# 4387-C for a variance on sidwell # 13-12-353-019, Applicant, Barry & Susan Pool.

We request that our position and opposition to approval of this variance be recorded in the public comments/ hearing portion of this Request for variance.

- 1) The ruling by the circuit court that the easement over lot # 68 is only 15ft. wide, is being appealed by Mr. Lauer, and until this matter is completely resolved, it would not be prudent for the ZBA or Planning Dept. to allow this structure to be placed on an easement that may be upheld by the appeals court. It is our position and that of 6-7 others that have this easement written into their deeds, that the easement is over ALL of lot # 68.
- 2) In the earlier request by the Pool's in 2006, a variance was granted, that was improper as the basic requirements for a variance were not met.
 - A) Would strict compliance prevent Pool's from using said property: NO
A home of a different plan could easily be built on said lot, there is NO NEED to move his existing home.
 - B) Uniqueness of property : Nothing, very suitable to build on
 - C) Variance requested is DUE ENTIRELY on Pool's actions, not on other Circumstances.
- 3) In their application the Pool's state their home is 'historical' by whom ?
Researching the National Registry of Historical Homes & Places, there is NO listing of this home, neither does the Waterford Historical society list Any mention of this home as a historical site, this designation seems to be Self appointed by the Pools.
- 4) This is an entirely new request for variance and as such should be carefully weighed by the ZBA as to its necessity and to the enormous financial Liability that could be brought on the Twp. & the Pool's if the appeals court overturns the finding of the lower court.



Fax: 586-825-5885

Nov 3 2009 17:39

P.01

To: Waterford Township Zoning Board (Robert Vallina)
Fax: 248-674-4097

From: Betty Begovich
Phone: (248)673-8709

Subject: November 3, appeals meeting
Regarding Case No. 4387-C (lot 68 & 69, "Silver Lake")

I plan to be at the meeting, but I'm sending this in advance in case something prevents me from attending.

See Page 2.

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Fax: 586-825-5885

Nov 3 2009 17:39

P.02

I am NOT in favor of granting a 5 ft variance.

Granting the 5 ft variance will reduce the resale value of my home.

Placing the house and garage as proposed will create a huge 74 ft continuous wall of housing along my property line.

The Pool's house is too big for the lot. (Or at least it is now since they lost several feet in their judgment).

This variance should have been resolved before they started to move the house. This hardship was self inflicted.

I'm told that they need to dig out 5 ft beyond the footings for the basement. So the basement hole will come right up to my property line.

If there is a 5 ft variance, what will prevent my fence from falling into their basement or being knocked down by equipment?

The soil is also very sandy.

With a 5 ft variance, what if the soil collapses and my yard falls into their basement?

What about water runoff from this large house?

And what will happen if the Pool's later lose the ongoing appeal and they are required to move the house back? All this mess will be for nothing.



Betty Begovich
2530 Silverside Rd.
Waterford, MI 48328

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