

MINUTES SILVER CREEK TOWNSHIP
ZONING BOARD OF APPEALS MEETING – SEPTEMBER 14, 2021
VARIANCE REQUEST BY VICARY BLACKMOND

Thom Brown called the meeting to order at 7:00 p.m.

The Pledge of Allegiance was recited.

Members present – Nick Barnes, Thom Brown, Wendy Fitzgerald, Mike Glynn, Jean Rowe

Members absent – Dave Grabemeyer

Others present – Zoning Administrator Mark Davis, Recording Secretary Liberty Nevins, members of the public

APPROVAL OF AUGUST 31, 2021 MINUTES

Mike Glynn motioned to approve the previous Zoning Board meeting minutes.

Nick Barnes seconded.

Motion passed by voice vote.

PUBLIC HEARING NOTICE

Wendy Fitzgerald read the request: The request of Vicary Blackmond, respecting the property at 55586 Indian Lake Road, Dowagiac, MI within the Township (Parcel No. 14-130-510-003- 00) in the WD Waterfront District Zoning Classification for variances from the district standards contained in Section 6.04 of the Township Zoning Ordinance as follows: --a 2-foot variance from the required 5-foot side yard setback for lots less than 40 feet in width on the north side of the parcel in order to place a new residence 3 feet from the property line*; and --a 1 ½ foot variance from from the required 5-foot side yard setback on the south side of the property in order to place a new residence 3.5 feet from the south property line*: and --a 1-foot variance from the required 23' building width in order to permit construction of a 22-foot wide residence; and --a 3% variance from the maximum 30% lot coverage in order to permit the new residence and attached garage to cover 33% of the parcel. * Please note that the side yard setbacks notices herein are inclusive of a 1-foot overhang planned on the north and south sides of the structure. The application did not contain this calculation, but rather calculated from the structure's walls without the 1-foot overhang.

STANDARDS OF REVIEW

Thom Brown read the 5 standards of review: (A) Granting of non-use variances. A non-use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are addressed. (1) The variance will not be significantly detrimental to adjacent

property and the surrounding neighborhood. (2) The variance will not impair the intent and purpose of this chapter. (3) The immediate practical difficulty causing the need for the variance request was not created by any action of the applicant or predecessor. (4) The variance requested is the variance necessary to meet the purpose and intent of the chapter and to meet the other standards of review in this section. (5) Would a lesser relaxation than applied for give substantial relief to the owner of the property involved and be more consistent with justice to other property owners, and whether relief can be granted in such fashion that the spirit of the chapter will be observed and public safety and welfare secured.

ZONING ADMINISTRATOR COMMENT

Mark Davis stated he was not familiar with the rental property situation, so it would be a learning experience.

PUBLIC HEARING

Ken Matthys stated he wants to build a new cottage because the current cottage is old and rotting. He commented a new structure would be safer and make the neighborhood look nicer.

Michael Rotroff spoke in favor of the variance, claiming that a new cottage would improve the township by raising taxes.

ZONING BOARD MEMBER DISCUSSION

Thom Brown mentioned section 155.051 B1, which in summary states a non-conforming building can be rebuilt on its same non-conforming footprint as long as it complies with as many requirements as possible of the zoning district.

Ken Matthys stated that the north side of the cottage would be expanded the most.

Wendy Fitzgerald motioned to take a vote on whether or not a practical difficulty existed.

Mike Glynn seconded.

YES (there is a practical difficulty): Mike Glynn

NO (there is no practical difficulty): Nick Barnes, Thom Brown, Wendy Fitzgerald, Jean Rowe

No practical difficulty established.

Nick Barnes motioned to approve or deny the variance as presented.

Thom Brown seconded.

Request denied by roll call vote, all members voted to deny.

Thom Brown motioned to “modify the variance to allow the building of the new structure to include the south wall to be built in the existing footprint, and that on the north wall it is to be

built no closer than 5 feet to the property line to maintain the 5 foot setback, and also allow for slightly over the 30% lot coverage, and to allow for a structure smaller than 23 feet wide”.

Mike Glynn seconded.

Motion passed by roll call vote, all members voted to approve the modifications.

Modifications approved.

ADJOURNMENT

Thom Brown adjourned the meeting at 7:45 p.m.

Liberty Nevins, Recording Secretary

Wendy Fitzgerald, Secretary