

**VEVAY TOWNSHIP
ZONING BOARD OF APPEALS
Public Hearing/Special Meeting via ZOOM
Tuesday, February 16, 2021
Vevay Township Hall – 7:00 p.m.
ZOOM ID #897 3338 1182**

MINUTES

Members Present: Chair Jack Cady (Mason), Vice Chair Ilene Thayer (Mason), Secretary William Potter (Mason), and Members Richard Lacasse (Marinette, WI), Robert Schnabelrauch (Mason), and Alternate Gary Howe (Mason)

Members Absent: None

Staff Present: Clerk JoAnne Kean and Supervisor John Lazet; David Revore, Legal Counsel

Others Present: Builder David Cowing, Advanced Construction & Services, and two interested persons

Call to Order: The meeting was called to order at 7:08 p.m.

Pledge of Allegiance: The Pledge of Allegiance was recited.

Roll Call: All members were present via Zoom, as noted above with locations as required.

Set/Amend Agenda: The order of business was switched; Section 18.04 was conducted first, then Section 18.03.

Approval of 12-7-2020 Regular Minutes:

MOTION Howe, seconded Lacasse, to approve the December 7, 2020 minutes as presented.

Roll Call Vote: Ayes - Thayer, Schnabelrauch, Lacasse, Potter, and Cady
Nays – None

MOTION CARRIED.

Chair Cady announced he would recuse himself from the ZBA Board for this meeting as he owns property within 300 feet of the parcel requesting the variance, and the conflict of interest by-laws require him to not participate. Therefore, Vice Chair Ilene Thayer would now Chair this meeting.

Recess to Public Hearing regarding: Application #21-01 for an appeal as provided under Zoning Ordinance 68, Section 18.03, Appeals, Decision or Determination made by the Zoning Administrator and Section 18.04 Variances. The property is located at 3265 Rolfe Road, Mason, MI, Parcel #33-10-10-30-326-003 requested by owner Thelma Hines and Builder David Cowing.

Explanation of Appeal 21-01

Vice Chair Thayer explained the appeal was for a variance to allow a residential building infringement in the front yard setback, Sec. 5.03 (A), at 3265 Rolfe Road. The foundation of the garage infringes by about 10 feet in the front yard setback. V/Chair Thayer stated a close neighbor has provided written confirmation of support and approval. V/Chair Thayer stated the Board would hear public comment on the Appeal for the variance to the setback. (Letter attached to minutes as part of file.)

Public Comment: There were no public comments on the appeal.

Adjournment of Public Hearing: There being no further comments, the public hearing was closed at 7:16 p.m. and the regular meeting recommenced.

Appeal 21-01 - Section 18.04 Variances

Mr. David Cowing, builder of the house and on behalf of Mrs. Hines, filed the application for the variance. The Township issued the building permit on December 9, 2020, and Mr. Cowing explained that he and an employee laid out the stakes for the foundation. There is a Consumers Energy easement on the east side of the property, a barn on the west side, and the parcel is hilly, limiting placement of the house. The previous house was about 6 foot down from the highest point, and the previous basement excavation was still there. Mr. Cowing knew that 93' from the center of the road is the setback but made a mistake by measuring from the edge of the road rather than the edge of the right-of-way, leading to the estimated 10-foot infringement into the front yard setback. Mr. Cowing asserts that his intent has always been to be in compliance with the Zoning Ordinance, and Mrs. Hines did not ask to move the house forward, nor even know of the mistake until after the Stop Work order was issued.

The parcel is hilly, and there is standing water in the low area behind the poured foundations even now after lower-than-average precipitation. In an effort to avoid the water and low spot, Mr. Cowing was aware of the location of the previous house, and Mr. Cowing admitted that he measured the distance from the wrong starting point, and based on the topography went too far near the road, and into the front yard setback. Mr. Cowing asserts that the footings were inspected and approved prior to being poured, and afterwards, the backfilling of the foundation was approved. Mr. Cowing is not faulting the Township for not catching his mistake earlier but offered his explanation of the circumstances leading rise to the variance request.

Mr. Gary Howe, ZBA member, had visited the site and noticed the low spot holding water appears to be hardpan. Mr. Cowing noted that across the parcel the clay starts within 12" of grade, and as a result the septic system will need to be an engineered mound.

Mr. ~~Robert Schnabelrauch~~, William Potter, ZBA member, asked if the garage could be squared off flush with the house and move the garage to the side. Mr. Cowing noted that this would require discarding already purchased trusses and tearing out already poured foundations and would be a hardship.

V/Chair Thayer noted that requiring the foundation to be moved would be economically unfeasible.

Legal Counsel – questioned moving the garage. Mr. Cowing responded that the topography makes moving the garage difficult, and the subsequent stabilizing of the new driveway location more difficult. Discussion followed that relocating the garage further south, away from the present foundation and further from the road would place the garage in the lower level of the parcel in a wet flooded area.

Legal Counsel – asked if the home design was a common design? Mr. Cowing – yes, it is common, the uneven front building lines adding to “curb appeal”, as has been the trend for about 20 years. The home design indicated a common design enjoyed by others in the district.

Mr. Howe reviewed the checklist pursuant to the Ordinance, and found positive answers, indicating “yes” to all questions, but questioned whether the situation was created by the homeowner. It was noted that Mr. Cowing clearly stated that the issue was not the fault of the petitioner/homeowner. It was also noted that the parcel has a fairly small area allowing for building and the wet lower area of the parcel where the garage would need to be placed to satisfy is not a condition created by the property owner, but a natural state.

The Board discussed the limited buildable area of the parcel. ZBA Member Howe presented a comprehensive explanation of his onsite inspection. Another member noted that the topography was not created by the builder, and thus was not his “fault”.

Legal counsel recommended perfecting the record by answering the seven items listed in Section 18.04 (A) (1-7). Discussion followed on the seven items listed in that Section by using the ZBA checklist as adopted in 2018. The findings of the Board are detailed in a separate document, Attachment A, appended to these minutes.

Recess: Chair Thayer called for a recess at 7:59 p.m. to prepare the Zoning Board of Appeals motions.

Recommended: Chair Thayer recommenced the meeting at 8:28 p.m. for the purpose of reviewing the Zoning Board of Appeals motion.

MOTION Lacasse, supported by Potter, to adopt the Findings of Fact as detailed in Document A granting the variance for Sec. 5.03, Development Requirements, Minimum Front Setback.

**Roll Call Vote: Ayes - Potter, Lacasse, Schnabelrauch, Howe, and Thayer
 Nays – None**

MOTION CARRIED.

Section 18.03, Appeals, Decision or Determination made by the Zoning Administrator

As the Board had voted to grant the variance for building, the Stop Work Order is no longer valid and dismissed, and it was noted that the builder could resume work immediately.

Any Other Business: No other business was discussed.

Adjournment: The meeting adjourned at 8:45 p.m.

William Potter – Secretary

Recording Secretary
John Lazet