

BEDFORD TOWNSHIP BOARD OF ZONING APPEALS
REGULAR MEETING MINUTES
8100 JACKMAN ROAD, TEMPERANCE, MICHIGAN
APRIL 7, 2014

PRESENT:

BRAD GREELEY, CHAIRMAN, CITIZEN AT LARGE
BOB POTTER, VICE-CHAIRMAN, CITIZEN AT LARGE
RICK STEINER, TOWNSHIP BOARD LIAISON
JEFF BIGGS, PLANNING COMMISSION LIAISON
KYLE PARSONS, CITIZEN AT LARGE

ALSO PRESENT:

PHIL GOLDSMITH, LEGAL COUNSEL, LENNARD, GRAHAM & GOLDSMITH PLC
DENNIS KOLAR, BUILDING OFFICIAL
KAREN M. KINCAID, PLANNING, RECORDING SECRETARY

Greeley called the Bedford Township Board of Zoning Appeals meeting to order at 7:00 p.m. The Pledge of Allegiance was said. Kincaid called the roll. Quorum present.

APPROVAL OF THE AGENDA

Motion by Steiner, supported by Biggs, to approve the agenda. Motion carried.

APPROVAL OF THE MINUTES

Motion by Potter, supported by Steiner, to approve the minutes of February 3, 2014. Motion carried.

NEW BUSINESS

A) OPEN THE PUBLIC HEARING AT 7:02 P.M. REGARDING THE APPEAL OF SHANNON GOLDAY (ARNOLD), 2451 OAKDALE AVENUE, TEMPERANCE, MI 48182, REQUESTING A SETBACK VARIANCE TO ALLOW A POOL IN A FRONT YARD ON A CORNER LOT PER SECTION 400.401.7, R-1 THROUGH R-3 ONE-FAMILY RESIDENTIAL, PRIVATE POOLS, AND ACCORDING TO THE SCHEDULE OF REGULATIONS, SECTION 400.1800, ON LAND DESCRIBED AS 5802-430-070-00, 2451 OAKDALE AVENUE, TEMPERANCE, MI 48182

Kincaid went over the variance analysis, saying the request is to place a pool with a pool deck in a front yard on a corner lot, further saying the placement of the home on the lot created approximately a 10' deep rear yard. Kincaid said a letter of no objection was received from the property owner directly across the street from the subject parcel, and no letters or calls of objection were received.

Kolar said while the home was constructed prior to him becoming the Building Inspector, it appears that through the platting process the intention may have been for the home to be placed with the front of the home facing Dunbar rather than Oakdale. Kolar said while placing the home perpendicular to Oakdale would not alter the fact that there are two front yards on a corner lot; it would not have reduced the rear yard as drastically. Kolar said the pool and deck have

already been erected, and they have been located in the only option the applicant has to put the pool on the lot.

Duane Golday, 2451 Oakdale, said Dunbar in that area has two homes on it and is not a through street or a developed road. Mr. Golday said they did not build the home and they believed the area where the pool was installed was their side yard, not realizing you could have two front yards. Kolar concurred Dunbar has not been developed and appears to be a drive rather than a road to the east of the subject site.

When asked, Shannon Golday, said they were unable to make contact with the neighbors behind their home to get a letter of no objection, saying she did obtain verbal support from the neighbor to the west of their home.

Further discussion took place regarding the undeveloped Dunbar Avenue, with Mr. Golday saying the drive that is supposed to be Dunbar Avenue dead ends into a home. When asked, Mr. Golday said the pool does not extend beyond the front building line on Oakdale. Potter asked if Dunbar will ever be developed as a road. Ms. Golday reiterated there is a home in the area where the road would be developed. Kolar concurred, saying the Plat was approved in 1928.

Parsons asked if the shed on the property belongs to the neighbors or is part of the subject site. Ms. Golday said the shed belongs to them, and it was there when they purchased the home. Steiner asked for specifics on the pool and setbacks. Mr. Golday said the pool walls are 48" in height, is more than 30' from the road, has a locking gate, and the sliding door to the patio is alarmed. Further discussion took place regarding setback requirements. Ms. Golday said they made sure the setbacks were met from Oakdale, not realizing that the driveway to the homes to the south of them was actually an undeveloped road, thus creating a second front yard. Biggs commented on the need for screening between the road and the pool area since the pool is located within a front yard. Greeley said if the variance is granted, as the pool was erected in a front yard without a permit on a parcel that realistically according to the Township ordinances could not have a pool without it being placed in a front yard, amenities should be supplied for the neighbors to create an area that is more aesthetically acceptable, while attempting to meet as much of the criteria of the ordinance as possible.

When asked, Goldsmith said legally Dunbar is a paper road that in the future could be developed; further saying the practical aspect is that Dunbar is a driveway that currently serves as access to the properties within the plat to the south in its current state. Discussion took place regarding the likelihood that Dunbar would ever be improved after this many years since the road in its current state provides access to all the properties that were designed to be accessed from Dunbar.

Further discussion took place regarding the requirement of screening and the possibility of further adding to materials/structures that would be placed in the front yard along Dunbar. Ms. Golday said the previous owner of the property to the south complained about a privacy fence that was along their rear yard that did not extend beyond the front building line on Dunbar, and it was removed to satisfy the neighbor. Kolar said a 3'6" fence is permitted within a front yard, but is to be kept out of the road right-of-way. Further discussion took place regarding a live plant/tree buffer.

When asked about abandoning the road, Goldsmith said there is a statutory procedure that must be followed which begins with the MCRC, further saying abandoning the road would remove required road frontage for the homes to the south of the subject site and, therefore, is not an option in this case and it is unlikely the road will be improved because it effectively serves as access to the homes to the south.

Discussion ensued regarding the practical difficulty unique to the geography of this lot, in that the home is situated on the lot with a reduced rear yard, the home is on a corner lot where Dunbar has not been improved to road standards, and the difficulties were not self-created.

Motion by Biggs, supported by Steiner, to close the public hearing at 7:30 p.m. Motion carried.

A lengthy discussion took place regarding setbacks and screening, where Ms. Golday said they have a string of evergreen trees that runs along their south property line to screen the pool area from the home immediately to south. Further discussion took place regarding screening from Oakdale. When asked, Goldsmith said the screening requirement would be at the discretion of the board as a condition of granting a variance so long as all plantings are located outside of the road right-of-way.

Motion by Potter, supported by Biggs, to grant the appeal of Shannon Golday (Arnold), 2451 Oakdale Avenue, Temperance, MI 48182, requesting a setback variance to allow a pool in a front yard on a corner lot per Section 400.401.7, R-1 through R-3 One-Family Residential, Private Pools, and according to the Schedule of Regulations, Section 400.1800, on land described as 5802-430-070-00, 2451 Oakdale Avenue, Temperance, MI 4818, based on the practical difficulty being the unique geography of the subject parcel which causes a severe limitation of the owner's use of the lot, which was not self-created. The variance shall be conditioned upon providing a live material screening wall that shall be an extension of the existing type of plantings and mounding to the west, parallel to Oakdale, to align with the eastern edge of the decking and run easterly from the existing mound a minimum of five feet or to align with the existing shed.

The motion includes a friendly amendment that was accepted by Potter.

Roll call as follows: Voting Aye: Potter, Biggs, Steiner, Parsons, Greeley. Voting Nay: None. Motion carried.

PUBLIC COMMENT - None.

BOARD / STAFF COMMENT –

Kincaid said no variance applications have been received for the May meeting. The board welcomed Mr. Parsons to the board.

ADJOURNMENT -

The meeting was duly adjourned at 7:55 p.m.

Respectfully submitted, Karen M. Kincaid, Recording Secretary