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WHITE LAKE TOWNSHIP

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WHITE LAKE TOWNSHIP ZONING BOARD OF APPEALS

June 26, 2014 at 7:00 p.m.

7525 Highland Road
White Lake, MI 48383

Ms. Spencer called the regular meeting of the White Lake Township Zoning Board of Appeals to order at 7:00 p.m. and led the Pledge of Allegiance. Roll was called: Mr. Artinian and Mr. Fine were excused.

ROLL CALL: Robert Artinian – Vice Chairperson - Excused
Joseph Erlich – Secretary
Mark Fine – Alternate - Excused
Gail Novak-Phelps
Scott Ruggles – Board Liaison
Josephine Spencer - Chairperson

Also Present: Jason Iacoangeli, Staff Planner
Lynn Hinton, Recording Secretary

Visitors: 5

Approval of Agenda:

Ms. Novak-Phelps moved to approve the agenda as presented. Mr. Erlich supported and the MOTION CARRIED with a voice vote. (4 yes votes)

Approval of Minutes:

- a. Minutes of regular meeting of May 22, 2014

Ms. Spencer moved to approve the minutes of May 22, 2014 as presented. Mr. Erlich supported and the MOTION CARRIED with a voice vote. (4 yes votes)

New Business:

Applicant: **File 14-003**
Douglas Russell-Olson (Tabled from 5/22/14 meeting)
1920 Hill Road
White Lake, MI 48383

Location: 2000 Hill Road, White Lake, MI 48383, identified as 12-17-326-009
Request: Variance to Article 5.5 frontage and for Article 4.51D for the minimum setback to any exterior property line.

Ms. Novak-Phelps moved to remove this case from the table. Mr. Erlich supported and the MOTION CARRIED with a voice vote. (4 yes votes)

Ms. Spencer noted for the record that 20 property owners within 300 ft. were notified of the request. There were no letters received in favor or opposition, and no letters were returned undeliverable by the US Postal Service.

Mr. Iacoangeli again reviewed his report dated May 13, 2014. This is a single-family residential property that uses a private well and private septic system. The home also has a cell tower located on the property behind the existing home.

The applicant is proposing to split the parcel into 4 total parcels with 3 new (SF) Suburban Farms parcels being created by the property split. The 3 new parcels would be deficient in the required road frontage of 165 ft., which is required for (SF) per the Zoning Ordinance 58. Also, one of the newly created parcels would have a cell tower located on the property and this tower's fall zone would cross an adjacent property line, which is prohibited by Section 4.51.B.

The applicant is asking for variances required to create 3 new parcels, one of which is encumbered by the existing cell tower. The applicant has surveyed in an easement for a road, which would service all of the new parcels and grant them the necessary road frontage. These parcels would need to have restriction recorded against them that states no parcel can be sold or developed until such time that the entire road is built to either private or public road standards per OCRC. Further, the easement for the road would need to be recorded for all of the newly created parcels. Also, a restriction would need to be recorded against the deed of the lot with the cell tower that states no dwelling unit or residential type structure can be erected on the property or within the fall zone of the tower on adjacent properties until the cell tower is completely removed from the property.

It is the opinion of the Assessing Department that the splits should be denied based on the fact that the proposed road servicing the parcels does not exist and that the lots can be split at such time the road is built and approved. The Community Development Department would require the above-mentioned conditions be attached to any approval that might be granted for this request.

Mr. Olson reviewed with the board the professional survey he had done and stated the house is outside the fall line of the tower, but the tower would encroach on another parcel if it were to fall. Mr. Iacoangeli noted that the chances of the tower falling completely over, is highly unlikely and it is engineered to crumble in on itself if it were to fall. Ms. Olson stated that the property line of 2 parcels already existed when the tower was erected prior to the ordinance. Mr. Iacoangeli added that the newly created parcels make the ordinance apply, even though the parcels pre-date the ordinance as it relates to the tower.

Mr. Olson stated that their main objective now is to isolate the parcel with the cell tower (#2), and the splits would do that. Secondly, the lease on the cell tower has 22 years remaining, at which could be dissolved at any time. At that point, it would then be a developable parcel. An easement would allow for construction of a road. And third, they would like to be able to sell the 2 parcels that have homes and make them 2.5 acres. They do not intend on developing the remaining parcels. They have offered those parcels to the neighbors, but have not received any offers. The 5 parcels will be left to each of their 5 children to do with what they want.

Mr. Ruggles asked Mr. Iacoangeli what the issues would be if this were approved without the road. Mr. Iacoangeli indicated that the Zoning Board would have to condition this that in the

future, when someone buys or develops one of the lots, they would have to put the entire road in. Future buyers will have to know that, and the \$180k cost of putting that road in. Mr. Ruggles felt that without a road, there wouldn't be much value in the property.

Mr. Olson indicated that communication with the township has been clear that the road must be installed, inspected, etc. He has no intention of developing the land and they would not do any advertising to sell it. Ms. Olson added that if they put the road in now and the land goes undeveloped, trees would overtake it. It just doesn't make sense.

Mr. Ruggles asked why the need for the smaller parcel split request. Mr. Iacoangeli stated that Parcel 1 and 2 could be split off, but then you've landlocked the remaining parcels behind it. At some point there would have to be a road built to give access to the parcels in the rear. Mr. Olson has applied to the Assessing Department according to the survey and the township Assessor had to deny the request because there is no road to access those parcels. Mr. Olson would like to split the parcels legally without having the required road frontage that the ordinance requires. The Zoning Board can deny the request, or allow with the idea that there has to be conditions that at any time a parcel is built on, the entire road has to be completed.

Mr. Ruggles doesn't feel the adjoining property owner would be interested in purchasing these parcels knowing he would have to put a road in. Mr. Olson stated they would consider selling for a fair and reasonable offer, but the seller would have to know they would have to put the road in before developing. They don't expect this to happen. They just want to isolate the parcel with the cell tower so they can sell the 2 homes.

Ms. Novak-Phelps stated the board could not grant this based on future intent of the property. Ms. Olson asked if they could allow the split with the condition they can't build without the road being constructed. Ms. Novak-Phelps asked why they would do this now and not wait until such a time there's interest. She thought they could sell the 2 homes without splitting the parcels. Mr. Olson said he understood they had to split. They want the benefit of only selling 2.5 acres and keeping the rest of the parcels. Also, they want to continue collecting rent on the cell tower.

Mr. Ruggles asked Mr. Iacoangeli whether this type of request has been done before. Mr. Iacoangeli stated he has not known of this being done before. There are some landlocked parcels, but he has not seen a request come through where the road was not constructed beforehand. There is a legal alternative to only build the road to bring it to parcel 2 and 7 and cul-de-sac it to give the parcels access that would allow the legal split. This would still give the ability to sell the 2 homes and give access to the rear parcels.

Mr. Erlich asked whether Mr. Olson was able to build half the road. Mr. Olson stated he could possibly draw on his retirement. Mr. Erlich said if we grant the ability to split the parcels, taking a road to parcel 2 is a viable option. Ms. Olson stated they considered doing this initially, but then decided to split all the parcels all at once. The cul-de-sac would run to parcels 3 and 6 and this could be doable and acceptable. Mr. Iacoangeli confirmed that this was Mr. Olson's original proposal. This would give him the needed road frontage to split the back parcels off and satisfy the Assessing Department requirements, but he would still need a variance for the cell tower fall to be able to do this. Even if the road frontage requirement were denied, granting the cell tower variance would enable him to go back to Assessing. The cell tower is legally non-conforming and crosses over property lines it shouldn't. Mr. Olson will still need to get a variance for this.

Ms. Novak-Phelps moved in File 14-003 to approve from Article 5.5 Frontage, a 165 ft. variance for an end result of 0. Mr. Erlich supported and the MOTION FAILED with a roll call vote. Ms. Spencer – no (she hasn't heard a hardship on this case); Ms. Novak- Phelps – no (there is no hardship at this point and she feels when the intent is to develop, they can come before the ZBA at that time); Erlich – no (he does not feel comfortable with how the plan is laid out); Ruggles – no. (4 no votes)

Ms. Novak-Phelps moved in File 14-003 to approve a variance to Wireless Communication, Article 4.51.B. Mr. Erlich supported and the MOTION CARRIED with a roll call vote. Spencer – yes (we are making a conforming situation); Novak-Phelps – yes (for the reason stated); Ruggles – yes; Erlich – yes. (4 yes votes)

File 14-004
Applicant: Douglas Russell-Olson (Tabled from 5/22/14 meeting)
1920 Hill Road
White Lake, MI 48383
Location: 1920 Hill Road, White Lake, MI 48383, identified as 12-17-326-010
Request: Variance to Article 5.5 frontage

Ms. Novak-Phelps moved to remove File 14-004 from the table. Mr. Erlich supported and the MOTION CARRIED with a voice vote (4 yes votes)

Ms. Spencer noted for the record that 4 property owners within 300 ft. were notified of the request. There were no letters received in favor or opposition, and no letters were returned undeliverable by the US Postal Service.

Mr. Iacoangeli stated the applicant is asking for variances required to create 3 new (SF) parcels and has surveyed in an easement for a road, which would service all of the new parcels and grant them the necessary road frontage. These parcels would need to have restriction recorded against them that states no parcel can be sold or developed until such time that the entire road is built to either private or public road standards per OCRC. Further, the easement for the road would need to be recorded for all of the newly created parcels.

Mr. Ruggles moved in File 14-004 to approve a Frontage variance from Article 5.5 for 165 ft. for an end result of 0. Mr. Erlich supported and the MOTION FAILED with a roll call vote: Ms. Spencer – no (there is no hardship); Novak-Phelps – no (there is no hardship and we cannot approve based upon future expectations of the property); Ruggles – no (for reasons stated); Erlich – no (for reasons stated). (4 no votes)

File 14-007
Applicant: Brian and Karen Thomas
9301 Gale Road
White Lake, MI 48386
Location: 9301 Gale Road, White Lake, MI 48383, identified as 12-11-451-021
Request: Variance to Article 3.1.6 R1-D Single Family Residential, for side yard setback

Ms. Spencer noted for the record that 23 property owners within 300 ft. were notified of the request. There were no letters received in favor or opposition and no letters were returned undeliverable by the US postal service.

Mr. Iacoangeli reviewed his report dated June 19, 2014. This is a single family residential home zoned (R1-D) Single Family Residential located on Pontiac Lake. The lot is a conforming lot of record located in the Callahan's Subdivision. The home uses a private well and public sewer system. The applicant is proposing to build an approximately 20x25 ft. (or 514 sq. ft.) attached garage addition to the existing home. The garage addition being added will require a side yard setback variance of 5 ft. The lot is conforming for the district and meets the required lot size and width. The applicant believes that the hardship is not self-created due to the fact the home was placed and built on the lot when the zoning restrictions were less restrictive, thus causing the issue of the existing non-conforming garage. The applicant believes that in order to continue to

use the existing garage and tie it into the existing home, he will need to see relief from the ordinance for the side yard setback.

Mr. Thomas stated he doesn't want to park his boat outside and behind the existing garage is the most likely spot to store it. He would prefer to store it inside the garage and he'd also like a walkway to the house without having to go outside. Mrs. Thomas added that the existing garage is in disrepair.

Mr. Ruggles asked how close the existing garage was to the property line. It was determined that it is 6 ft., which makes it non-conforming.

Ms. Spencer opened the public hearing at 8:00 pm.

Mike Roman, 7530 Cedar Creek Drive, asked if they were revamping the existing garage. Mrs. Thomas explained what they are proposing. Mr. Roman asked if they spoke with the neighbor on that side of the home. Mrs. Thomas stated the property is currently vacant, but there have been 2 renters in the past. They're not sure who the property owner is, but it appears the property will be going up for sale.

With no other comments, Ms. Spencer closed the public hearing at 8:05 pm.

Ms. Novak-Phelps moved in File 14-007 to approve a 5 ft. variance to the side yard setback for an end result of 5 ft. Mr. Erlich supported and the MOTION carried with a roll call vote: Spencer – yes (we are taking a non-conforming and not expanding it and it will be an enhancement); Novak-Phelps – yes (it seems apparent the existing garage is non-conforming and this would not block views of the water or any other property and improve the neighborhood); Erlich - yes (this is a well thought out and needed the garage); Ruggles – yes (there is no opposition from the neighbors). (4 yes votes)

Next Meeting Date:

- a. Regular Meeting – July 24, 2014 (possible cancellation)

Adjournment:

Ms. Novak-Phelps moved to adjourn the meeting at 8:07 pm. Mr. Erlich supported and the MOTION CARRIED with a unanimous voice vote. (4 yes votes)