

**TALLMADGE CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS  
SEPTEMBER 15, 2005**

Toby Van Ess called the meeting to order at 7:30 p.m.

Members Present: Toby Van Ess, Shirley Bruin, Clifford Bronkema, Matthew Fenske and Mary Gavin

Member Absent: Charles Gilson

Toby Van Ess explained that since he has now been appointed as Township Treasurer, he will no longer serve on the Zoning Board of Appeals. Matthew Fenske, who is on the Planning Commission as well, will now also serve on the Zoning Board of Appeals.

The minutes of the August 18, 2005 meeting were approved as presented.

1. Jay and Sue Bagley are requesting a variance for the rear yard setback to construct a new dwelling. This parcel number 70-10-34-300-023 is located at 0-2301 Luce and is zoned Rural Preserve.

Matthew Fenske will be abstaining from the first request due to a conflict of interest. Mr. Van Ess explained to the first applicant that this leaves three members present to vote on their request. They will all three need to vote in favor of the request in order for it to be granted. Mrs. Bagley said they would like to proceed with their request this evening.

Mrs. Bagley referred to the site plan they had submitted and explained that theirs is a very unique and unusual piece of land. It is very long along the road and not very deep. Nederveld drew up the site plan, and they cannot meet the criteria for the rear yard set back. Mrs. Bagley feels that due to the shape of the property and the fact it is sandwiched between Sand Creek and Luce Street, they qualify for criteria #1 of Section 21.07, "Special conditions and circumstances exist which are unique to the land, structures, or buildings involved, and are not applicable to other lands, structures, or buildings in the same district." Also, criteria #2, "The special conditions and circumstances on which the variance request is based do not result from the actions of the applicant" would apply because that parcel has been in existence in its current form for over 70 years. The first person to own this property exactly as it is now was in 1839, at which time there was not a 100 foot rear yard setback requirement. Mrs. Bagley feels this is a special circumstance, which is not a result of the applicant; they just want to build a house and live on that parcel of land which has been in their family for many years. They are asking for the minimum variance in order to build a house on this property.

The meeting opened and closed to the public with no comment.

Shirley Bruin asked if additional land could be purchased adjacent to theirs. Mrs. Bagley

said there is a pie shaped piece of property in the back of their parcel, and she did talk to the neighbor about purchasing part of his property. He was only interested in trading them for land to have access to Sand Creek, and they did not want to trade, since this parcel has been in their family for so many years.

Clifford Bronkema said he paced off the property from a big oak tree to the stakes for the proposed house and came up with 63 feet. Mrs. Bagley said she also had the DEQ out to the property and they are 40 feet above the creek. She also met with Greg Ransford who recommended approving the variance. There had been an old house on the property, which had been her grandmother's house. It was 162 years old, and they tore it down four years ago due to safety issues.

Shirley Bruin noted that a variance had been granted in 1994 to build a house on less than 2 ½ acres.

Clifford Bronkema moved, Shirley Bruin supported, motion CARRIED to APPROVE the request based on the fact they meet criteria set forth in Section 21.07, and they had already been granted a variance, however no accessory building may be built in the front yard. Ayes: Shirley Bruin, Clifford Bronkema and Mary Gavin. Abstain: Matthew Fenske.

2. Richard Sikkema is requesting a variance for the rear yard setback to construct a new dwelling. This parcel number 70-10-07-400-023 is zoned Rural Preserve. The township recently approved Laurel Drive Site Condominium lots on this parcel.

Toby Van Ess pointed out that all four members would be voting on this request.

Mr. Sikkema said the proposed house would parallel the top of the bank to take advantage of the view; however it would encroach into the required 100 foot rear yard setback. He said this would not create a hardship for lot three, because there is a 50 foot strip of unusable land between them. Mr. Sikkema said the criterion for the request is just aesthetics, taking the most advantage of the view. He explained this is a 2 ½ acre parcel, but with the flood plain and the lay of the land, it leaves a very small building envelope. The rest of the property is across the creek and in the flood plain. They had a surveyor draw up a site plan which has an 81 foot front yard setback and one side of 25 feet. The other side has much more than the required setback.

Clifford Bronkema asked if they could move the house closer to Leonard Street. Shirley Bruin added that would only give them six more feet, and they still could not meet the rear yard setback requirement.

Toby Van Ess clarified that they are proposing a 62 foot rear yard setback, and it would be 68 feet if they moved the house 6 feet closer to Leonard Street, however they could not move it any closer and still meet the required front yard setback.

Shirley Bruin asked if the house could be turned within the building envelope. Mr.

Sikkema answered that it could be possible; however it would not give them as good of a view.

The meeting opened to the public.

A couple of neighbors were confused about the term "Site Condo" and feared that condominiums may be allowed on this site. Toby Van Ess explained that these would be single family residences, and the term refers to the way the property is developed.

The meeting closed to the public.

Mary Gavin asked if a variance could be avoided if the house were shifted. Mr. Sikkema said if the house were pivoted, it could possibly go beyond the western edge of the building envelope. Shirley Bruin asked if the garage could be brought around, then it would fit in the building envelope. Mr. Sikkema said they had the blueprints for the house drawn before they found this property. They were disappointed that the parcel had such a small building envelope given that it is a 2 ½ acre piece.

Mary Gavin moved, Matthew Fenske supported, motion CARRIED to DENY the request based on Section 21.07 (d) 6, "A variance granted shall be the minimum variance that will make possible a reasonable use of the land, buildings, or structure" since the request is not the minimum workable option. Ayes: Shirley Bruin, Clifford Bronkema, Matthew Fenske and Mary Gavin. Nays: none.

Meeting adjourned at 8:35 pm.

Respectfully submitted,

Denise L. Lanting, Secretary