

ROME CITY BOARD OF ZONING APPEALS

Regular Meeting

February 7, 2019

The Rome City Board of Zoning Appeals held their regular meeting on Thursday, February 7, 2019 at 7:00 p.m. in the Rome City Town Hall. The meeting was called to order by BZA Vice-President Kelly Morris 7:00 p.m.

Members Present:

Leigh A. Pranger-Secretary

Christine Coe

Barb Tatman

Kelly Morris

Mike Friskney

Members Absent:

Judy Fox

Rollcall determined a quorum was present.

Interested Parties in attendance: Attorney Eberhard, Attorney Steve Snyder-representing Terry Williams and Kim Angell, David and Suzette white, Chuck and Bonnie Woodcock, Chandra Wilson, Dave Kasper, Robert Gnau, Josh Lash, Surveyor- Mr. Freistroffer, Joe Freistroffer, Jerry Raber, Josh and Heather Molen.

Member Taman made a motion to waive the reading of the minutes and approved them as presented. Second by Member Friskney. All in favor-aye. Motion Carried. The minutes were posted on the bulletin board for everyone to read.

OLD BUSINESS

Complaints on Tackett/Eshelman, 4898 E 1100 N, Borrow Pit- The board agreed the complaints they received at the November meeting were adequately addressed by the board and Mr. Molen at the November meeting. Mr. Friskney stated his notes stated that Mr. Molen agreed to speak with his drivers regarding slowing down on 1100 N and being respectful of the property owners. Mr. Molen stated he did talk with his drivers and they are aware of the issues. He added he checks his computer program to make sure the drivers are where they are supposed be. Attorney Eberhard stated the owner is aware of the issues and has taken actions to help resolve the complaints.

Appeal by David White of the Plan Directors decision to allow a wall to be constructed on the Williams/Angell seawall-at 448 Spring Beach Road. Mr. White turned in a copy of his survey to the board. Attorney Eberhard suggested to the board they give him time to contact the Indiana Department of Natural Resource as he stated he cannot understand how the State of Indiana said the Williams/Angell's do not need a permit or at the very least go through the permit process. Attorney Snyder asked to be heard, he stated the law states the bottom of the wall must be below the legal lake level for a permit to be required, this wall is on top of the seawall. Mr. Snyder stated he worked with Jim Hebenstreit, IDNR, Division Chief in charge of the permit section. Attorney Eberhard asked for permission to send a letter and discuss this issue with the IDNR.

Member Tatman made a motion to instruct Attorney Eberhard to contact the IDNR pertaining to the wall issue. Second by Member Friskney. All in favor-aye. Motion Carried. Secretary Pranger asked Mr. Josh Lash, Surveyor, about the ownership of the property on Mr. White's property between the outer edge of the seawall and where the property pin is staked in the yard. Mr. Lash stated he will investigate and get back with the board. Member Tatman tabled the William/Angell issue to the next scheduled meeting. Second by Member Friskney. All in favor-aye. Motion Carried

NEW BUSINESS

Election of Officers-Member Tatman made a motion to retain the same slate of officers as 2019, those being President-Judy Fox, Vice-President Kelly Morris, Secretary-Leigh A. Pranger. Second by Member Coe. All in favor-aye. Motion carried.

Variance #2019-02

Joseph and Catherine Freistroffer, 10717 Old Colony Road, Fort Wayne, IN 46845, and 580 Lakeside Drive are requesting a variance for their back lot located at 535 Lakeside Court to have a 10' wide lake access lot located on the northeast side of Lot 13 in North View plat. They are asking for relief from the Rome City Unified Development Code, article 5; Section 5.34 Lakefront Access standards requiring one-hundred feet of lake frontage for one, single family detached unit down to a ten-foot-wide strip. This will allow for the home at 535 Lakeside Court to have access to Sylvan Lake. The petition, legal description, plot plan and variance are on file and may be examined at the Rome City Town Hall. All interested parties should attend to voice their opinion, or they may file written comments with the Town Hall prior to or at the meeting.

President Fox called for Mr. Freistroffer to present his petition to the board. Mr. Freistroffer deferred to Mr. Josh Lash, his surveyor to make the presentation. Mr. Lash presented the board with copies of a plot plan of the property involved and the adjoining properties. Mr. Lash stated the main reason for the request is to allow access for a back-lot home. The existing home was previously a rental home and in deplorable condition. Mr. Lash stated to bring back pride of ownership the house will need to be a home. Adding the lake access to the property will make it more attractive to a home owner. Mr. Lash informed the board the lake access and house property usage will remain residential. Mr. Lash stated Mr. Freistroffer's future plans include splitting off the lake access lot to be joined to the back-lot house and the next step will be to sell off the rest of the lake lot as a buildable lot.

Member Friskney stated that 10' is not enough property for an access. Once a pier is installed they owners will want to use both sides of the pier for docking boats and you will need at least a 30' access to fit everything in.

Mr. Freistroffer informed the board he purchased the back-lot home because it had become dilapidated and he would now like to sell the house but feels it would be more valuable and sell better if it had access to the lake. Mr. Freistroffer stated he is currently renting the home. He stated only the homeowners will be granted access to the lake. Mr. Lash stated that Mr. Freistroffer is only asking for one house to have access. Member Tatman asked if the current renters have access to the lake. Mr. Freistroffer stated no, the renters do not have access. Attorney Eberhard stated the board can add restrictions on the access. Member Friskney stated,

once a pier is put out they will use both sides and they will be encroaching on the neighboring properties.

There being no further comments. President Fox called for interested parties on Variance #2019-02. Mr. Robert Gnau, neighboring owner on the northeast side of the lake access was present to dispute the variance. Mr. Gnau stated the 10' access will be right next to his deck, and the angle of the lot will have any piers installed encroaching on my lake frontage. Mr. Gnau stated his lake home is old and when it was built they built is right next to the property line so the normal setback of five to seven feet does not exist. He also noted this 10' strip is overgrown by trees and there are two jogs in the access due to the original platting and placement of the road. He noted the owners of the access will have to come down his and his neighbor's driveway access to get to the access lot. He noted, most people will generally walk in a straight line to access the property and they will be trespassing. He further noted if the 10' access would have been placed on the south side of the property next to Mr. Freistroffer's home the access would be a straight line from Lakeside Drive to the lake. However, Mr. Gnau stated, Mr. Freistroffer does not want to be bothered by people using the access which is why he laid it out furthest from his home. Mr. Gnau informed the board Mr. Freistoffer was the neighbor who came in against the large pole building request on the lot behind their homes. He noted, Mr. Freistroffer is playing both sides of the coin. One of the main reasons Mr. Freistroffer was against it was the size of the building and the exterior lighting. But now it is ok, to add an access lot as far away from his property as he can so as not to interfere with his enjoy of his property. Mr. Gnau stated, he is against this variance as it will depreciate his home and effect the enjoy of his property.

Secretary Pranger informed the board she received a letter from Mr. Dennis Anderson, neighbor whose driveway will be used to access the lake access. Mr. Anderson wrote, he is not against the proposal, however he noted the access lot does not extend to Lakeside Drive and the access will have to be through a driveway. Mr. Anderson noted there is an access which grants ingress and egress of 85' x 23' from Lakeside Drive to his and his neighbors three driveways. Mr. Gnau informed the board the reason for the ingress/egress easement is due to how the lots were platted and where the road Lakeside Drive was actually built. Since the road was built to the east of the lots the easement was necessary in order for him and his neighbors to have access to Lakeside Drive.

There being no further parties on this issue, President Fox called for rebuttal from Mr. Freistroffer and Mr. Lash. Mr. Friestroffer stated he is not playing both sides of the coin. As he was representing all the neighbors in not wanting the huge building built. He noted he wasn't against building or the lights, he was against the size of the building. He added he had no problem with a building be built within the code requirement. Mr. Lash stated the requested access is the most minimal use for the access and it will be maintained to not be a nuisance. It will not be intrusive to the neighboring properties.

Member Tatman stated she does not live on the lake nor own rental property, but due to the narrowness of the access it doesn't seem the user will stay within the 10' and will cause issues with the neighbors.

There being no further input. President Fox called for Findings of Fact on Variance #2019-02. Attorney Eberhard noted to the board a yes vote is a vote in favor of the variance and a no vote is a vote against the variance.

MISCELLANEOUS BUSINESS

Rollcall for vote.

1. The Board finds, the proposed variance will not be injurious to the public health, safety, morals and general welfare of the community because: neighbors oppose use of the adjacent property and area is too small for pier and boating. Roll call for vote: Barb Tatman-No, Mike Friskney-No, Christine Coe-No, Kelly Morris-No.

2. The Board finds, the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner: too small for requested use, particular boating. Rollcall for vote: Mike Friskney-No, Christine Coe-No, Kelly Morris-No, Barb Tatman-No.

3. The Board finds, the strict application of the terms of the Zoning Ordinance will not constitute an unusual and unnecessary hardship if applied to the property of which the Variance is sought, because –property originally had no access. Roll call for vote: Christine Coe-No, Kelly Morris-No, Barb Tatman-No, Mike Friskney-Yes.

4. The board finds the variance granted does correct a hardship caused by an owner, previous or present, of the property, property originally had no access. Roll call for vote: Kelly Morris-No, Barb Tatman-No, Mike Friskney-No, Christine Coe-No.

5. The Board finds the variance granted is not the minimum necessary for the project because access to lake for use needs to be considerably wider. Roll call for vote- Barb Tatman-No, Christine Coe-No, Kelly Morris-No, Mike Friskney-No.


Variance #2019-02 Failed on all five findings of fact-Variance #2019-02 Denied

Next Meeting: March 21, 2019 at 7:00 p.m.-is we have items for the agenda.

There being no further business Member Tatman made a motion to adjourn the meeting at 8:00 p.m. Second by Member Coe. All in favor-aye. Motion Carried.



Kelly Morris, Vice-President BZA

Attest: 

Leigh A. Pranger, Secretary