

## ROME CITY BOARD OF ZONING APPEALS

### Regular Meeting

July 11, 2019

The Rome City Board of Zoning Appeals held their regular meeting on Thursday, July 11, 2019 at 7:02 p.m. in the Rome City Town Hall. The meeting was called to order by Chair Judy Fox.

Members Present:

Leigh A. Pranger-Secretary

Kelly Morris

Christine Coe

Barb Tatman

Judy Fox

Members Absent:

Mike Friskney

Rollcall determined a quorum was present.

Interested Parties in attendance: Town Attorney Bill Eberhard, David Wolfe-engineer for Ann Fordeck, Ann Fordeck, Scott Zeigler-Surveyor for the Town, Lonnie Tackett, Bob Blum, Robin Hayes, and David White

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

### OLD BUSINESS

Blum 2018-19 and Hayes 2019-21 Variances on Lions Drive-Deck/Dock.

Chair Fox informed the Town Attorney Eberhard that the Board of Zoning Appeals did meet on site at 870 Lions Drive to check out the deck/docks that are up for variances at tonight's meeting. Chair Fox called for Mr. Blum and Mrs. Hayes to present their petitions to the board.

Mr. Blum stated the main reason for the deck was for safety reasons, the access is close to the road and people drive very fast through the area. He wanted a safe place to get on and off his boat. He further stated that he did contact the IDNR (Indiana Department of Natural Resources) and they said he did not need a permit. He did not understand he needed to get a building permit and/or variance for the deck. Mrs. Hayes stated, it was also a safety factor for their grandkids and elderly Mother in law who likes to fish. Attorney Eberhard stated the board can require the Blum's and Hayes' to sign an indemnity clause to release the town from any liability caused by the deck/docks. Member Morris asked does Mr. Blum/Mrs. Hayes actually own the property. Attorney Eberhard stated that Mr. Blum does own property and he is paying taxes on a piece of property along the water, however, where it is specifically located is unknown, the area might have even eroded over time. Member Coe stated so if they had installed a seawall, they would have to pay taxes? Attorney Eberhard stated yes. Member Coe then stated there should not have been anything built along the edge since we can't determine where they own? Attorney Eberhard stated the town has jurisdiction from the high-water mark. Member Morris stated

concern over the road right of way (ROW) and the infringement into it with the deck/dock. Mr. Blum stated the walkways are not any closer to the road than the previous walkways. Attorney Eberhard stated we can have the Blum's/Hayes' go to the Town Council and request a consent for encroachment. If the BZA desires this to be done.

Chair Fox called for Mr. Zeigler to address the board regarding what he determined from the surveying. Mr. Zeigler directed the board to the survey showing the yellow/orange lines-this is the first ROW which straddled the shoreline. Routsong's must have recognized you can not build a road in the water so when they replatted in Routsong's it does not show the old ROW as vacated and the south line shown in pink, but the plat does not show a north line therefore it did not designate the width of the ROW. However, if you look at the plat (Routsong's) all the roads around it are a 20' width and the road known as Lions Drive was shown as 30' ROW on other plats. The plat adjacent to South Bend Drive shows the ROW at 30'. He stated if in fact the original road was 30'ROW then why would you replat with a lesser amount of ROW. The Original Plat did leave some land along the shore as fee title for six access lots (T1-T6). Nobody can say the ROW is only 20' but we can't conclusively state it is 30'. Mr. Ziegler then referred to old deeds which transferred rights to the water and or land. Mr. Sherbondy's deed calls out a strip of land 5' along the water, on his deed but does not designate where the access is located. He added a number of deeds mention a right of ingress and egress but does not give them fee title, only gives them the right to use the land. Mr. Zeigler stated the deeds state no boathouses and allows ingress/egress from the road to the water to dock a boat. Mr. Zeigler stated while working on this survey he found a note from Ed Doyle-Lagrange County surveyor stated he can not locate the parcels along the water.

Attorney Eberhard stated a case involving Ellettsville, said to look at how people are using the land in the area and determine if the use is consistent with the existing and prior uses then we should allow the use to continue.

Secretary Pranger/Plan Director stated she is against allowing the deck/dock so close to the edge of the road as it encourages people to use the area. The board then discussed how close the deck is to the lake and how we do not allow other decks this close to the water. Member Morris stated the railing could be removed it would then be level with the ground and nothing would be sticking up. Mr. Blum asked if the board was requesting, they remove the hand rails also. The board stated a handrail along the steps is different than a rail along the deck. Attorney Eberhard asked if the Blum's/Hayes would be willing to remove the railings around the deck? Mr. Blum stated yes. Mrs. Hayes stated the reason the railing is on the deck is to make it safer, so she is not willing to make a decision tonight. Secretary Pranger stated the town would be willing to install a guard rail along the road, with one opening so they Blum's/Hayes' will need to decide where the opening will be located.

Member Morris stated she has struggled with this petition since it was brought to the board as the area has a lot of traffic and this does help with the safety factor, however we do not want to encourage others to ask to build close to the edge of the water. Member Tatman stated she is only in favor of the petitions if the railings are removed. Attorney Eberhard stated to the Blum's/Hayes the board is saying you will have to execute an indemnity clause, remove all railings except the hand railings.

Member Tatman made a motion to approve Variance #2018-19 and Variance #2018-21 as long as the waiver, indemnity clause is signed and returned to the town hall within 10 days and all the

railing is removed within 45 days, except for the stair railings. Second by Member Coe. All in favor-aye. Motion Carried.

**NEW BUSINESS**

**Variance #2019-09**

Ann Fordeck Revocable Trust, 670 Lakeside Drive, Rome City, IN 46784 is requesting a variance for relief from the Rome City Unified Development Code, Article 2.12 Lake residential District Development Standards; minimum street yard setback of twenty-five feet down to nineteen feet. This will allow for an addition of an 11'x14' room and 26'x24' garage on the east side of the house. 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. Chair Fox call for Mrs. Fordeck to present her petition to the board. Mr. David Wolfe-engineer for Ann Fordeck presented the board with a plot plan of the proposed garage, mud room and his completed findings of fact. Mr. Wolfe stated the reason for the variance is to add an attached garage to the house. He stated the existing shed shown on the plot plan is to be removed, a concrete drive will be installed from the garage to the road. He noted that the original variance request was for 6 feet on the Southwest side of the garage which has been reduced to 2 feet due to his measuring error. He noted that Mrs. Fordeck is her own adjoining owner as she owns the property on both sides of the proposed construction. Mr. Wolfe then noted that Mrs. Fordeck will be relocating the property line 15 feet in on west side of Lot 11 in Barber's Bluff (660 Lakeside Drive). Secretary Pranger stated since Mrs. Fordeck owns both properties, she can do a property line adjustment. Mr. Wolfe showed the board both the existing house and Mrs. Fordeck's house (670 Lakeside Drive) will still have more than enough sideyard setback with the lot line adjustment. Member Tatman asked how the garage will be used? Mr. Wolfe stated it will be for storage. Mr. Wolfe noted to the board the six-foot door on the front of the proposed garage will be use for lake toy access and easier access to store outdoor furniture in the winter. Mr. Wolfe informed the board Mrs. Fordeck currently has a garage but it is across the street and not very convenient during the winter months. He added that Mrs. Fordeck's children asked her to add the attached garage so she will be safer coming home after dark and during the winter. Mr. Wolfe showed the board the existing house has a side door on the east side where they want to attach the garage. He added the house is a prefabricated home and a load bearing beam is located to the west of the doorway. So Mrs. Fordeck was limited in where she could add on while still keeping the same building setback line on the front side of the home (Lakeyard). Chair Fox called for interested parties on Variance #2019- 09. Secretary Pranger informed the board since Mrs. Fordeck owned all the adjoining property, she notified the next property owners around the property Mrs. Fordeck owns. She noted only one of the three returned the notice and this was without comment. No one was present on Variance #2019-09. There being no further comments or questions, Chair Fox called for a motion and vote. Member Tatman made a motion to approve Variance #2019-09 for the requested two-foot variance. Second by Member Morris. All in favor-aye. Motion Carried.

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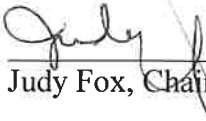
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**MISCELLANEOUS BUSINESS**

Secretary Pranger reported Shane Tyler's sheds on State Road 9 south of town have both been removed as of June 21, 2019. The Blaising's building is for sale.

Next Meeting: August 15, 2019 at 7:00 p.m.

There being no further business Member Tatman made a motion to adjourn the meeting at 8:29 p.m. Second by Member Coe. All in favor-aye. Motion Carried.

  
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Judy Fox, Chair BZA

Attest:   
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Leigh A. Pranger, Secretary