

ACME TOWNSHIP
Zoning Board of Appeals
March 21, 2003

Friday, 3:00 p.m.
Acme Township Hall
Acme, Michigan

Meeting called to Order at 3:08 p.m.

Members present: J. Kuncaitis (Chair), L. Belcher, P. Collins (3:10 p.m.), N. Knopf, H. Smith

Members excused: None

Staff present: S. Corpe, Zoning Administrator/Recording Secretary

1. **Review and approval of the agenda, inquiry as to conflicts of interest:** Approved with no conflicts noted.
2. **Correspondence:** None
3. **Reports:** None
4. **Hearings:**

- a) **Public Hearing on Application #2003-2Z by Richard & Karen Kane, 9851 Kay Ray Road, for a non-use variance of Section 7.2.3, Accessory Buildings, to allow construction of a 36' x 36' storage building within the front yard of property currently zoned R-2, One Family Urban Residential and located at 9855 Kay Ray Road** (Attachment A included and incorporated by reference). Corpe read the legal notice into the record. Kuncaitis noted that this type of variance has been granted many times before, in recognition that waterfront property owners generally consider the water side of their property as the "front."

The Board noted that the lot on which the structure would be placed is not actually a waterfront lot. Corpe had missed this due to some confusion in the application over the correct parcel number for the request. The subject parcel was carved out of the waterfront parcel that surrounds it at some point in the past. Even so, consideration of the request seemed advisable.

Public Hearing opened and closed at 3:20 p.m., there being no public comment.

Motion by Knopf, support by Belcher to approve Application #2003-2Z, all Basic Conditions and Special Condition A having been met. Motion carried unanimously.

- b) **Public Hearing on Application #2003-3Z by Steve Davis, 9127 Shaw Road, for a non-use variance of Section 6.11.1, Schedule of Regulations, to permit discontinuation of a 100' x 20' section of private access easement across property currently zoned R-2, One Family Urban Residential and located at the northwest end of Shaw Road** (Attachment B included and incorporated by

reference). Corpe read the legal notice into the record. Kuncaitis noted that the staff report mentioned an existing utility easement and suggested that it should remain on the property. Kuncaitis asked Mr. Davis if this easement runs concurrent with the access easement. Mr. Davis replied that the easement can be continued, albeit perhaps moved to the east closer to the eastern lot line.

Corpe assisted the Board with clarification on the status of Shaw Road (some portions are public, while others are private) and the configuration of parcels to the south of the subject property that make it reasonably certain that there would be no reason to create a connecting access easement from the existing easement on Mr. Davis' property to areas farther south. There is a steep bluff, and the plat of Bayridge has lots that continue to the ordinary high water mark that would prohibit creation of a through road.

Public Hearing opened and closed at 3:30 p.m., there being no public comment.

Motion by Belcher, support by Knopf to approve Application #2003-3Z varying the road frontage requirement to allow 20' of road frontage for the subject parcel. All Basic Conditions and Special Condition A have been met.

- c) **Public Hearing on Application #2003-4Z by Nelson V&A, Inc., 3515 Jefferson Road, Traverse City, for a non-use variance of Section 6.11.1, Schedule of Regulations, to permit sale of a portion of the parcel currently zoned B-2, General Business and located at 3597 Bunker Hill Road** (Attachment C included and incorporated by reference). Corpe read the hearing notice into the record. Kuncaitis asked if there are doors on the back side of the Ace Hardware storage building. There are two overhead doors and a service door that can be accessed via the 33' wide easement that would be transferred from the Nelsons to Mr. Pishney.

Darryl Nelson and Don Pishney presented their request. Mr. Pishney handed out color-coded copies showing his current property in purple, the proposed property to be sold to him in yellow, and the access easements in red. The 33' easement would change from Nelson ownership to Pishney ownership, and Mr. Pishney would grant access to the Nelsons in return.

Kuncaitis asked about the status of the 66' wide easement along the southwest side of the parcels. Corpe reported that the easements in this area are the subject of some notable debate. There is a 66' wide easement that connects through

Public Hearing opened at 3:47 p.m.

Gwyn Besner, 3651 Bunker Hill Road, stated that it is true that the 66' wide easement does run to the edge of the Holiday Inn property off Bunker Hill Road. She is concerned for her personal driveway, which come from the 20' wide easement which overlays the 66' wide easement. She has problems with her driveway washing out onto the Ace Hardware property, and is concerned that access to her property is maintained. Ms. Besner stated that topography issues

cause their driveway to be somewhat raised above the rest of the 66' wide easement area.

Neither Mr. Pishney nor Mr. Nelson intend for the easement to become a paved road with steady car traffic. Corpe noted that it would not be impossible for this to become a road through to Mt. Hope at some point, with the agreement of the property owners involved, but that there are no known plans for this to occur.

Public Hearing closed at 4:00 p.m.

Belcher felt comfortable that preservation of the 66' wide easement is secured. He asked what the impact would be if the land sale were configured differently. The response was that as long as the rear of the hardware store storage was kept 25' from a lot line, there would be no need for ZBA review. Belcher understands the concerns of the neighbors regarding easement rights and intrusion of commercial uses. He feels that the desire to both square off some parcels and create a greater-than-required 41' setback from the existing building. He supports the application.

Motion by Belcher, support by Smith granting a 17' variance of the rear lot line setback, contingent upon maintenance of the existing 33' easement for as long as a storage building continues to exist in the current location on the Nelson property, All Basic Conditions and Special Condition B have been met. Motion carried unanimously.

5. Other Business:

- a) **Request for Interpretation of Sign Ordinance Requirements:** Corpe reported to the ZBA that McDonald's Corporation has purchased the Rupp & Keen property near the intersection of US 31 and M-72. They are seeking someone to remove the house that was used as a real estate company from the property, and seek to create a service drive from M-72 to the rear of their property. The Township has long hoped that at some point a service drive could be created to serve the businesses on the east side of US 31 in this area, so this is a step towards achieving that dream.

If McDonalds is going to accomplish this, they naturally would like to be able to place a small logo directional sign at the entrance to the service drive from M-72. Our sign ordinance states businesses may erect one sign on any one major thoroughfare. Corpe asked for an interpretation as to whether this meant one sign per thoroughfare or only one freestanding sign per property. The practical application of the interpretation is that if a freestanding sign along US 31 could be considered conforming, McDonalds could apply for a sign permit immediately without further hearings. If such a sign would be considered non-conforming because McDonalds has a freestanding sign on their US 31 frontage, they will seek a variance.

Smith's notes indicate that on October 8, 1998 the ZBA issued an interpretation on this issue that each property may have only one freestanding sign, and it may be on one road. The current membership concurred that this interpretation should stand. If McDonald's would like to place signage at the entrance to a service drive from M-72, they should apply

for a variance hearing.

- b) Amend schedule to provide for an alternative meeting date in April:**
Three of the five ZBA members (Knopf, Smith and Collins) are attending the Citizen Planner meetings on Thursday evenings through late May. Corpe anticipates some upcoming hearings, so an alternative meeting date should be set for April. The Board consented to hold a special meeting on April 11, 2003 at 3:00 p.m.
6. **Approval of minutes from the February 13, 2003 regular meeting** (Attachment included and incorporated by reference D).

Motion by Smith, support by Belcher to approve the minutes of the February 13, 2003 as printed. Motion carried unanimously.

Meeting adjourned at 4:40 p.m.