

ACME TOWNSHIP
Zoning Board of Appeals
June 12, 2003

Thursday, 7:30 p.m.
Acme Township Hall
Acme, Michigan

Meeting called to Order at 7:32 p.m.

Members present: J. Kuncaitis (Chair), L. Belcher, N. Knopf, H. Smith)

Members excused: P. Collins

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

1. **Review and approval of the agenda, inquiry as to conflicts of interest:**
Discussion of the Savage hearing continued from the May hearing will be held under Other Business
2. **Correspondence:** None
3. **Reports:** None
4. **Hearings:**
 - a) **Public Hearing on Application #2003-11Z by Mike Maasberg, 3800 Bay Valley Drive for a non-use variance of Section 7.2.3, Accessory Buildings to allow construction of a 22' x 24' detached garage within the front yard of property currently zoned R-2. One Family Urban Residential and located at 3800 Bay Valley Drive** (Attachment A included and incorporated by reference): Kuncaitis read the hearing notice into the record. Mr. Maasberg was present in support of his application, and briefly recapped his proposal.

Kuncaitis read into the record a letter from David Krause, 3855 Bay Valley Drive. Mr. Krause is an immediate neighbor to the subject property and expressed no objection.

Public Hearing opened and closed at 7:35 p.m., there being no public comment.

Smith noted that this application is typical of situations expressed by waterfront property owners.

Motion by Smith, support by Belcher to approve Application #2003-11Z, all Basic Conditions and Special Condition A having been met. Motion carried unanimously.

Corpe asked if an amendment to the Ordinance is in order. The ZBA unanimously said no, they wish to continue consideration of each such waterfront property request on a case-by-case basis.

- b) **Public Hearing on Application #2003-12Z by Jeff O'Brien, 4180 N. Five Mile Road to extend a non-conforming use as set forth in Section 9.5 to permit construction of a 20' x 20' addition to the rear of a grandfathered non-conforming structure on property currently zoned R-2, One Family Urban Residential and located at 4180 N. Five Mile Road** (Attachment B included and incorporated by reference): Belcher read the hearing notice into the record. Officer O'Brien was present in support of his application. Kuncaitis asked how much space is currently between the house and the driveway to the north; Officer O'Brien stated that there is less than 1'. He wishes to add a family room to the back of his home. His options for expansion are limited because of an existing handicap access ramp for some of his children. The current detached garage would not become attached to the structure; eventually he would like to remove the garage and build a new one on the other half of his property. The addition would continue the portion of the home that sits 6' from the north property line.

Public Hearing opened at 7:45 p.m.

Maxine Donick expressed confusion about the hearing notice, which contained a portion of a former hearing notice that Corpe was copying over when it was written.

Patricia Scharf, 4252 Five Mile Road, asked to verify that the home will not be coming any closer to the lot line than already. She also feels that at some point in the future the Township will need to consider the question of grandfathered homes that sit too close to the lot line more closely. Even though some people have purchased homes in the area knowing that there are encroachments from neighboring properties, they still complain. Some even want to encroach on a different lot line themselves. If variances continue to be granted, problems and conflicts will increase. Kuncaitis noted that while the ZBA does not seek to allow nonconformances to continue, they seek to give relief to individuals who inherit nonconforming situations when such relief doesn't increase the issue.

Public Hearing closed at 7:50 p.m.

Motion by Knopf, support by Smith to approve Application #2003-12Z to allow a 20' x 20' addition to the home at 4180 Five Mile Road to align with the current walls of the structure. Motion carried unanimously.

- c) **Public Hearing on Application #2003-13Z by Dan Kelly, Kelly Restaurants LLC, 1109 East Front Street, Traverse City MI 49686 for a non-use variance of Section 6.11.1, Schedule of Regulations, to allow placement of a new access easement to within 3' of an existing building and to within 10' of a proposed new building on property currently zoned B-2, General Business and R-3, Urban Residential and located at 4230 East M-72** (Attachment C included and incorporated by reference): Kuncaitis read the hearing notice into the record. Dan Kelly was present in support of his application.

There was much discussion and concern about size of variance requested in regards to the main building. Approval would bring an easement required to be 25' from the building to within 3' of the building. However, existing pavement is already in the area of the proposed access easement, which is necessary to preserve access to the rear, residentially-zoned portion of the property in the event that it is developed by the same owner or sold to a different owner. The best possible scenario would be for the southern portion of the property to eventually receive access through a potential town center development to the immediate east and not through the northern portion of this property from M-72. There was lengthy discussion about the placement of current and proposed structures, existing newly-defined wetlands areas and existing/required retention and snow storage areas.

Public Hearing opened and closed at 8:05 p.m., there being no public comment.

Belcher has no problem with the request, feeling it would be more of a hinderance to the applicant than to anybody else. In reality the easement wouldn't function any differently than that area of the property does as a driveway today.

Corpe also asked if handicapped parking spaces are supposed to be additional to the general parking space requirements or part of them. The ZBA unanimously felt that the handicapped spaces should be considered part of the overall number of spaces required.

Motion by Belcher, support by Smith to allow a variance of 22' from the existing building, All Basics and Special Conditions A and B having been met. Motion carried unanimously.

Motion by Belcher, support by Smith by to allow a variance of 15' from the proposed new buiding, All Basics and Special Conditions A and B having been met.

The ZBA recommends a future connection to the adjacent property to resolve the need to use the variances.

- d) **Public Hearing on Application #2003-14Z by Manitou Construction, 1402 Barlow, Suite B, Traverse City MI 49686 for a non-use variance from the conditions set forth in Variance #2001-5Z to allow construction of a attached deck for a single family residence within a required rear yard setback on property currently zoned R-2, One Family Urban Residential and located at 4109 Sherwood Forest Drive** (Attachment D included and incorporated by reference): Belcher read the hearing notice into the record. The request is essentially for an amendment of Variance #2001-5Z which established a 15' front yard setback and 45' rear yard setback for three parcels of land in Acme Township adjacent to East Bay Township and the new condominium development on Sherwood Forest Drive. Mark Dulac of Manitou Construction was present in support of the application. The original intent was to keep as much green space as possible between any homes and the residents of Acme Township down the hill, who had strong objections to

the development and concerns about the steep slopes. Mr. Dulac stated that at the time the lots were designed by their engineer, he was unaware of the need to maintain the required 15' setback from the access easement for the property. This has resulted in a smaller building envelope than anticipated for Parcel C. Currently, there is 6' available on the rear of the property for a deck. The owner would like to have a 12' wide deck.

Public Hearing opened at 8:20 p.m.

Kuncaitis read two letters of opposition to the request which were received by e-mail. The first was from Kathy Pilon, 3388 Hardwood Drive who felt that the original planning for the parcel was somewhat lacking and that protection of the steep, sandy hill is very important.

The second letter was from Dennis Sanderson, 3380 Hardwood Drive, who also objected. He is concerned by the density of the neighboring condominium development and the clearcutting that occurred in conjunction. He is concerned about property values, and felt that the original restrictions placed on the lot should be upheld.

Public Hearing closed at 8:23 p.m.

Kuncaitis noted that the road leading to this parcel of land is problematical, and the boards and commissions of Acme Townships have sought to keep housing density low. Holiday Hills Road is steep and twisty, and the levels of traffic are becoming more than it can safely handle. He asked Mr. Dulac how far through the condominium development one has to travel to reach the driveway for this property; one has to turn left after the first condominium. Kuncaitis noted that most of the trees were removed from the properties. Mr. Dulac responded that last year Manitou Construction won the Build Green award for the Sherwood Forest Condominiums. He asked Sherrin Hood earlier about a possible variance to change the location of the homes to preserve more trees, but could not accomplish this and seems to regret the number of trees that eventually had to be removed to accommodate the construction.

Smith felt that the proposal was "disturbing." He recalled the 2001 hearing and the involvement of the residents downhill. At that time the ZBA sought to protect them from overbuilding in their back yards. These lots were created by land division, and he can't really judge whether they could have been divided better.

Motion by Smith, support by Knopf to deny Application 2003-13Z, no Special Conditions having been met. Motion carried unanimously.

- e) **Public Hearing on Application #2003-15Z by Bryan Punturo, 1401 US 31 North, Traverse City MI 49686 for a Temporary Permit to allow placement of a temporary dwelling structure on property currently zoned R-2, One Family Urban Residential and located at 3399 Sail View Lane** (Attachment E included and incorporated by reference): Kuncaitis read the hearing notice into the record. Mr. Punturo was present in support of his

application. He would like to erect a mobile home on the rear of the property to live during the summer and work on the home.

Knopf asked Smith, who lives in the nearby subdivision, about the project. Smith reported that there hasn't been much project on finishing the home recently; Mr. Punturo replied that he and his work crews have had many projects to work on, but he hopes to make more rapid progress going forward.

Kuncaitis visited the site and found it to be secluded once you reached it. The presented application specifies a short period of time. Smith asked if a well is in place; Mr. Punturo replied that it was approved and only needs to be tested. He plans to put in a holding tank for wastewater and have it pumped by a porta-john contractor.

Public Hearing opened at 8:37 p.m.

Kuncaitis read into the record a phone message from Bill Fahl, Michael Drive expressing no objection to the application as long as the Township ensures that the temporary structures are removed on schedule.

Warren Goodell, 3313 Michael Drive, asked about the request for a trailer. In Florida, he lives in a mobile home, down in Florida there are specific definitions for mobile homes and travel trailers. Corpe read the definition of "motor home", "recreational unit", and "travel trailer."

Patricia Scharf asked if Mr. Punturo would need to ask for permission for a motor home. (there is a motor home on Five Mile Road)

Public Hearing closed at 8:45 p.m.

Motion by Knopf, support by Smith to approve Application #2003-15Z for placement of a temporary dwelling at 3399 Sailview Lane until November 30, 2003. Motion carried unanimously.

- f) **Public Hearing on Application #2003-16Z by Rick Valley, 4433 N. Wildwood Drive, Pinconning MI 48650 for a Temporary Permit to allow placement of a temporary dwelling structure on property currently zoned R-2, One Family Urban Residential and located on Shaw Road** (Attachment F included and incorporated by reference): Belcher read the hearing notice into the record. Mr. Valley was present in support of his application. He lives 125 miles away and want to have a local place to stay while they prepare the property for construction. Kuncaitis noted that he hopes that most of the trees will be retained on the property. Mr. Valley also stated that his fresh water will be taken from and his wastewater will be taken to Northern Pines Campground, and that he does not intend to use Saylor Park facilities. Only his wife and himself would be staying in the proposed 8' x 20' travel trailer; they will not rent it out.

A bridge already exists over the portion of Yuba Creek that runs through the property. Contrary to the requirements for the Bonaccini bridge, this one is

already and must be maintained for vehicular use as it serves as the only route to the Schopieray property.

Public Hearing opened and closed at 8:55 p.m., there being no public comment.

Motion by Belcher, support by Smith to approve application #2003-16Z for 9433 Shaw Road for a one-year period. Motion carried unanimously.

5. Other Business:

- a) **Continuation of Public Hearing on Application #2003-6Z for James Savage:** This hearing was continued pending further information, and should be on the agenda again next month.
 - b) **Motor home on Five Mile Road:** Many individuals have noticed that someone is living in an RV on Five Mile Road illegally. Corpe is in the process of enforcing this issue, which is a repetition of enforcement activity from last summer.
 - c) **Signs on pumps at Shell Station:** There is some signage on top of the gasoline pumps at the Shell station advertising an off-site watercraft rental business. The presents of the signage on the pumps usually relates to Shell products and may not be quite conforming but has generally been tolerated. The ZBA raised the question of whether enforcement should occur to at least remove the off-site advertising.
 - d) **Signs on telephone poles:** Sign on utility poles from internet scam businesses are a perennial problem. Belcher suggested that we ask the MTA to lobby for legislation banning such signage and imposing stiff penalties for violations.
6. **Approval of minutes from the April 11, 2003 regular meeting** (Attachment G included and incorporated by reference):

Motion by Smith, support by Knopf to approve the April 11, 2003 minutes as presented. Motion carried unanimously.

Meeting adjourned at 9:17 p.m.