

**NORTHFIELD TOWNSHIP
ZONING BOARD OF APPEALS
Minutes of Regular Meeting
June 16, 2014**

1. CALL TO ORDER

The meeting was called to order by Chair Ken Dignan at 7:00 P.M. at 8350 Main Street.

**2. ROLL CALL
AND DETERMINATION OF QUORUM**

Roll call:

Tim Anderson	Absent with notice
Doug Del Favero	Present
Ken Dignan	Present
Jacqueline Otto	Present
Athena Trentin	Present
Gary Wellings, Alternate	Present

Also present:

Recording Secretary Lisa Lemble
Members of the public

3. PLEDGE OF ALLEGIANCE

4. ADOPT AGENDA

Dignan removed *Review of By-Laws* from the agenda and said this will be discussed in the future when planning consultant Douglas Lewan is present.

- **Motion:** Del Favero moved, Otto supported, that the agenda be adopted as amended.
Motion carried 5—0 on a voice vote.

5. CORRESPONDENCE

None.

6. PUBLIC HEARINGS

- 6A. Case #JZBA140002; Applicant: Brian Trim; Location: 254 Lake View; Request for variances to separate two parcels under one ownership, as follows:**
- **Article 3, Section 3.11, Divisions and Consolidation of Land,**
 - **Article 65, Section 65.02(B), Non-Conforming Lots of Record,**
 - **Article 21, Section 21.04(A), Regulations and Standards, Lot Area, and**
 - **Article 21, Section 21.04(E), Yard and Setback Requirements.**

- **Motion:** Del Favero moved, Trentin supported, that the public hearing in Case #JZBA140002 be opened. **Motion carried 5—0 on a voice vote.**

Brian Trim said he asking for an internal boundary adjustment between his parcels 009 and 010. He said he leased the property from 2001 to 2006 and bought it in 2010. He said he was always told the two parcels could be divided to allow parcel 010 to be developed.

He said he has repaired the house on parcel 009 so that it has been restored to original condition, and his proposal would still leave enough land—a quarter acre—to allow parcel 010 to be buildable while improving parcel 009. He said almost all homes on the lake do not comply with zoning ordinances. He said he asked his neighbors to come to the meeting to speak about the proposal. He said he thinks his proposal is reasonable and good for the community.

Dignan said he spoke with both zoning administrator Kurt Weiland and planning consultant Douglas Lewan about this proposal. He said Weiland reported he has denied similar requests for Horseshoe Lake lots because they do not comply with the ordinance, but none of the other property owners requested a variance.

He said Weiland and Lewan also pointed out that it is the clear intent of the zoning ordinance to always move toward making lots more conforming, and that is the heart of this issue. He said the Planning Commission may want to consider whether that should be reconsidered.

Bob Erickson, 7803 Lakeshore Drive, said he has known Trim for several years and served on the Horseshoe Lake Board with him. He said Trim did a beautiful job restoring another house in the subdivision, and Trim's plan would not have any significant effect on the vacant lot or other lots in the subdivision, but it would have a positive impact on lot that has the house on it. He said he has no problem with Trim making this internal property line adjustment.

Vince Crowell, 246 Schrum Drive, said he owns parcels 002 and 003, and he has been neighbors and friends with Trim since he started renting the house. He said Trim should be allowed to whatever is feasible with these lots. He said most houses are no more than 20 feet from the lake, and the lot lines run out into the lake.

**Northfield Township Zoning Board of Appeals
Minutes of Regular Meeting
Public Safety Building; 8350 Main Street
June 16, 2014**

Lisa Craft, 260 Lake View Drive, said she has known Trim for many years and also served on the Horseshoe Lake Board with him. She said he has upgraded his house and she is in full support of the proposal.

George Brown, 7868 Shady Beach, said Trim has been active in their community and is a man of integrity. He said Trim has worked on many projects and works with the Township to address blight in their neighborhood.

Trim said Dave Taylor, 8102 Park, also owns two contiguous parcels (one on Lakeshore Drive), built houses on each of them, and the two parcels are now titled separately. He said Taylor has done all of that since the zoning ordinance regulation went into effect regarding division of adjacent parcels.

He said he would like to be able to build a retirement home on parcel 010 and asked the Board to approve his application.

- ▶ **Motion:** Del Favero moved, Otto supported, that the public hearing in Case #JZBA140002 be closed. **Motion carried 5—0 on a voice vote.**

7. NEW BUSINESS

7A. Case #JZBA140002; Applicant: Brian Trim; Location: 254 Lake View; Request for variances to separate two parcels under one ownership, as follows:

- **Article 3, Section 3.11, Divisions and Consolidation of Land,**
- **Article 65, Section 65.02(B), Non-Conforming Lots of Record,**
- **Article 21, Section 21.04(A), Regulations and Standards, Lot Area, and**
- **Article 21, Section 21.04(E), Yard and Setback Requirements.**

Dignan said both parcels are non-conforming, and while parcel 010 has the necessary square footage it does not have the necessary lot width, and both parcels have been used as a single parcel in light of the well and part of the deck for the house on parcel 009 and being placed on parcel 010. Trentin said Section 3.11 regarding consolidation of land, and she said she feels it is not applicable to this situation because it refers to lots, not parcels, when it discusses land division, and there are actually several lots that make up these parcels. Dignan said, however, that Section 65.02 addresses this and makes it clear that parcels 009 and 010 are one parcel under the zoning ordinance because they are adjacent, under one ownership, and neither of them separately meets the minimum requirements of the zoning ordinance. He said it seems unambiguous to him under that section of the ordinance that that this

is one parcel, but he agreed that Section 3.11 does not apply in this case.

Wellings said he and Del Favero have dealing with this issue as ZBA members for decades. He said the requirement in Section 65.02 seems discriminatory and the Planning Commission should have addressed this decades ago. He said the parcel map tells you everything you need to know—there is not a conforming lot anywhere in the area and parcel 010 is the size of any other three lots in the area. He said the ZBA was put in place by the State to allow remedies because every situation cannot be predicted, and it is the Zoning Board of Appeals, not the Zoning Board of Denials. He said approving this request would bring parcel 009 more into conformance with the ordinance.

Del Favero said he completely agrees with Wellings. He said if these parcels were not contiguous Trim could use them separately, and Trim is trying to improve the properties. He said this request would decrease the non-conformity of parcel 009, and this section of the zoning ordinance definitely needs to be changed.

Otto said she knows this area very well, and while she does not have a problem with land being added to parcel 009, but she is concerned with the limited access to parcel 010. Trim said the utility line in that area would be moved and there is 20 feet of access there which is plenty of room for fire truck access.

Otto said she is also concerned about whether a house could actually be placed on parcel 010 without impinging on neighbors. Trim noted that the neighbors on both sides and across the street from his property all spoke in favor of this proposal earlier in the meeting. He added that the well and deck for the house on 009 each extended less than one foot onto parcel 010 and both have been remedied. He said his hope is to build the most ecologically-sound and historically spirited house possible on parcel 010.

Trentin said if the ZBA approves this request she doubts the ZBA would approve variances in the future if any were requested to build the house on 010, so she cautioned Trim against selling the parcels before he knows he can build on 010. Trim said he is aware of that and the variances he is requesting are all that will be needed. Dignan said he believes any house built on parcel 010 will require variances, and he added that any project proposed as part of a variance request would have to be built within a specific time period, so Trim could not request variances far in advance of actually building a home there.

Trim noted that parcel 011 will never built on because it used for lake access by many members of the Kelley family. Trentin said she thinks adjusting the property line as requested will be good for both parcels.

**Northfield Township Zoning Board of Appeals
Minutes of Regular Meeting
Public Safety Building; 8350 Main Street
June 16, 2014**

Dignan said the Standards for Determination require that no special privileges be bestowed that are denied to any other property in the district. Wellings said he does not see that special privilege is being granted. Trentin agreed saying the purpose of the ZBA is to consider the specifics of each request. Trim said a similar request has never been brought to the Northfield Township ZBA before.

Dignan noted that the Planning Commission has made many adjustments to the zoning ordinance recently to eliminate inappropriate regulations, and the Commission should address this regulation as well.

Otto said to Trim that it may very well be true that additional variances would be required to build a house on parcel 010 even if this request is approved. She noted that the ZBA may well consist of different members at that time, too. Dignan said the ZBA has historically been very accommodating in granting variances in these situations.

Wellings said the defining issue for him is that if these parcels were owned separately houses could be built on both of them. Dignan said, however, that ownership of these parcels has changed six times, and each of those times they were transferred together. Trentin asked whether Trim can sell one of these parcels—with the current property line location—separately from the other. Dignan said the zoning ordinance does not allow that.

Trim again brought up the case of Dave Taylor owning non-conforming adjacent parcels and being allowed to sell them separately.

Dignan said it seems that a variance is required only from Section 65.02, because setback variances cannot be granted until it is known what will be built on parcel 010, and Article 3 does not apply because it refers only to lots, not parcels. Wellings questioned whether the advertised setback variances are for the existing house on Parcel 009.

Trentin said even if the ZBA approves this lot line adjustment both parcels will still be under one ownership. She said all utilities required for parcel 009 should be completely located on that parcel so parcel 010 could be sold separately. Trim said the ZBA can make the determination that this property line adjustment can be made administratively.

► **Motion:** Dignan moved, Del Favero supported, that in Case #JZBA140002 the appellant has demonstrated that special conditions exist and identified the uniqueness of parcels B-02-08-350-009/010, being lakefront parcels on Horseshoe Lake, with one being vacant and the other containing a home. The ZBA has determined the literal interpretation of the current ordinance

denies the appellant a right that is commonly enjoyed by other surrounding properties with lake frontage on Horseshoe Lake. The existence of this non-conformity was not the result of an action by the appellant, and the ZBA finds that the appellant has met each of the Standards of Determination as outlined in Article 66, Section 66.11.D.

Therefore, we grant the applicant's request for the following variance: Article 65, Section 65.02.B, Non-Conforming Lots of Record. Let it be noted that we advised the appellant to work with the Township office to administratively adjust the property line as indicated on the plan, and if it is found that there was something that needed to be addressed by ZBA that was not addressed the appellant has the right to return to this Board without additional cost to the appellant.

Motion carried 5—0 on a roll call vote.

Trim said his understanding is that this can be handled administratively and his \$850 fee can be returned to him. Dignan said only the Township Board can refund his fee, and the zoning ordinance required that he request this interpretation of the ordinance from ZBA. In answer to another question from Trim, Dignan said if in the case of Dave Taylor adjacent non-conforming parcels were allowed to be transferred from one ownership to two separate ownerships, that was an error, and errors are not a foundation for a variance.

8. REVIEW OF BYLAWS

Removed from the agenda.

9. BUDGET AND TRAINING

None.

10. UNFINISHED BUSINESS

None.

11. MINUTES

► **Motion:** Dignan moved, Trentin supported, that the minutes of the February 24, 2014, regular meeting be approved as presented.

Motion carried 5—0 on a voice vote.

12. ZBA MEMBER COMMENTS

Del Favero thanked the other ZBA members for approving this request. He said the zoning ordinance needs to be amended to eliminate the need for this. Otto said the Board has refunded the fee for a ZBA request at least once in the past.

**Northfield Township Zoning Board of Appeals
Minutes of Regular Meeting
Public Safety Building; 8350 Main Street
June 16, 2014**

Dignan said these are important matters and they should come to the attention of the Planning Commission for potential action.

13. CALL TO THE PUBLIC

None present.

14. ANNOUNCEMENT OF NEXT MEETING

July 21, 2014, at 7:00 PM at the Public Safety Building was announced as the date and time of the next regular meeting of the Zoning Board of Appeals.

15. ADJOURNMENT

- ▶ **Motion:** Del Favero? Moved, Trentin supported, that the meeting be adjourned.
Motion carried 5—0 on a voice vote.

The meeting was adjourned at 8:16 P.M.

Prepared by Lisa Lemble.

Corrections to the originally issued minutes are indicated as follows:

Wording removed is ~~stricken through~~;
Wording added is underlined.

Adopted on August 18, 2014.

Kenneth Dignan, Chair

Tim Anderson, Secretary

Official minutes of all meetings are available on the Township's website at http://www.twp-northfield.org/government/zoning_board_of_appeals/