

**ALPINE TOWNSHIP ZONING BOARD OF APPEALS  
REGULAR MEETING  
Monday, May 23, 2011**

**CALL TO ORDER / PLEDGE OF ALLEGIANCE**

Chair Stachowiak called the meeting to order at 7:30 PM with the Pledge of Allegiance. Members present: Jim May, Doug Pointer, Howard Roobol, Bill Stachowiak, and Matt Van Heulen. Also present were Mike O'Malley (Alternate #1) and Eric Paquette (Alternate #2). Planning Director Sue Thomas and Recording Secretary Patricia Kolkman were also in attendance.

**APPROVAL OF MINUTES / APPROVAL OF AGENDA**

The Board reviewed the draft minutes from the March 28, 2011 regular meeting, with Roobol noting a correction on page 1. **Roobol then moved, with support from Pointer, to approve the Minutes of the March 28, 2011 regular meeting with the correction noted. Motion carried 5- 0.**

**Roobol then moved, with Van Heulen's support, to accept the Agenda as presented. Motion carried 5-0.**

Chair Stachowiak first asked everyone to turn off cell phones and pagers. He explained the Zoning Board of Appeals process, emphasizing that a variance request must meet all four standards to be approved.

**OLD BUSINESS**

**Case #11-ZBA-01**

Request for a side yard variance from required 100 feet to 23 feet to allow for existing farm labor housing to be closer to side lot line after land division.

Applicant: Chuck Rasch on behalf of Rosemary Rasch  
4724 Hayes St. PP # 41-09-18-300-010

ZBA members Stachowiak, Roobol, Pointer, Van Heulen and O'Malley (alternate #1) presided over Case 11-ZBA-01. These are the same members that presided over the case when it was previously tabled in February 2011. Stachowiak asked the applicant to present his request.

Chuck Rasch of 452 Harding in Conklin, said that he wants to purchase the portion of his mother's farm containing migrant housing to expand his own farming operation. He has had a land survey done which provides a full 330 feet of width for the full depth of the proposed lot for his mother's home and the portion he intends to purchase. The revised survey also corrects an error to his sister's lot to the east by adding a small piece of land for her garage. The land divisions he proposes result in reducing the side lot line setbacks for at least one of the pre-existing migrant housing buildings to 23 feet. Stachowiak confirmed with the applicant that this variance request is for a setback reduction from 100 feet to 23 feet to the proposed new side lot line.

Roobol asked Rasch if he will only be buying the land with the migrant housing and not the total farm. Rasch said he is not interested in the new lot with his mother's home on it.

Thomas directed ZBA members to the survey map included in their packets to define both the requested lot configurations and the locations of the migrant housing structures.

Stachowiak confirmed that all proper notices had been sent. Thomas stated they had been sent again for this meeting. **Van Heulen moved, with support from Pointer, to close the public hearing.**

**Ayes: 5**

**Nays: 0**

**Motion carried.**

Stachowiak directed ZBA members to begin the discussion of the variance request. He first commented that the survey gives Mrs. Rosemary Rasch's parcel the required 330 feet of lot width throughout. He also noted that the requested lot for farm labor housing has several existing structures which will become less than the required 100-foot side yard setback, but that the closest one will be 23 feet from the side lot line.

O'Malley asked Thomas to explain the notation to Mr. Rasch on the last page of her staff report. Thomas said it is her practice to advise applicants of how their variance request might impact future land use issues if approved. In this case, Thomas had pointed out that when the purchase of the balance of the farm takes place, with the farm dwelling excluded, careful planning of that last land division must take place. There is not adequate distance between the barn used in the farming operation and the current home for a lot line to be located between them.

O'Malley said he thinks the location of the Laubach county drain with its 40-foot easement between Mrs. Rasch's residence and the proposed parcel with the migrant housing on it provides a natural border between these two parcels. Roobol agreed that the creek effectively separates the two lots and creates a natural border.

Van Heulen thought there could be more family farms facing similar land division issues during their estate planning. He didn't think the reduced migrant housing setback request was unique in that regard. Pointer agreed that other farms might also request variances for setback reductions and didn't think the creek itself created a unique enough condition for the land.

Stachowiak stated that he thinks it is unique because the entire area is agriculturally zoned, but Van Heulen and Pointer thought the agricultural zoning covered a large part of the Township.

Roobol thought ordinance amendments after this farm was established imposed more restrictive standards for the property owner. Stachowiak confirmed with Thomas that the creek on this property has been designated an inter-county drain since 1903.

O'Malley again pointed out that the creek itself is a natural feature the farm can't control, and creates a "natural lot line". Van Heulen agreed that because farmers try to use every piece of farmable land for crops, migrant housing is built on "un-farmable" land. In this case, to maximize the land for migrant housing, the structures were placed as close to the creek as possible before any lot line was envisioned.

Pointer noted that most of this farm labor housing was built years ago on land with the lowest grade and very near the 40-foot drainage easement boundaries.

Stachowiak asked ZBA members to first consider whether they agree that the creek's status as an inter-county drain and its location creates a unique condition for this land. He also asked them to independently review the four standards and to consider drafting text for the variance motion clarifying the unique nature of this land. Stachowiak said in his opinion the creek/drain's location creates a unique condition for the farm, as it is a natural feature, and the 40-foot easement for the creek/drain is neither farmable nor buildable.

ZBA members then took several minutes to individually consider the four standards for a variance.

**O'Malley then moved, with support from Roobol, to approve the requested variance from Section 5.02(l)(4) for a side yard setback from the required 100 feet to 23 feet to allow existing farm labor housing to be closer to the side lot line as the result of a yet-to-be-applied-for land division in the A, Agricultural zoning district for the property located at 4725 Hayes Street, PP # 41-09-18-300-010, with the following FINDINGS OF FACT:**

- **The requested variance does meet Standard # 1, that "There must be unique circumstances or conditions about this property, not the use of the property". The unique condition of the property is based on the location of the Laubach inter-county drain with its 40-foot easement to the east of the existing farm labor housing;**
- **The requested variance does meet Standard # 2, that "In giving the variance, the Zoning Board of Appeals will be assuring that the applicant has the same rights that other property owners in the same zoning district or vicinity have";**
- **The requested variance does meet Standard # 3, that "The variance will not create a situation that may be harmful or damaging to the neighbors' properties or the public interest" as surrounding land is all agriculturally zoned and used; and**
- **The requested variance does meet Standard # 4, that "The variance cannot set a precedent" since there exists the unique natural feature of the long-designated inter-county Laubach drain on the property.**

**Ayes: 4 (O'Malley, Pointer, Roobol, Stachowiak)**

**Nays: 1 (Van Heulen)**

**Motion carried.**

**NEW BUSINESS**

**CASE # 11-ZBA-04**

Request to allow for five loading spaces within a front yard; i.e., to locate loading docks along east walls facing Fruit Ridge Ave.

Applicant: Fritz Wahlfield, Jr. on behalf of Jack Brown Produce

8035 Fruit Ridge Ave. NW PP# 41-09-06-200-037

*ZBA members Van Heulen and O'Malley left the dais and were replaced by May and Paquette (Alternate #2). Paquette sat in for VanHeulen, who had already voted on the Jack Brown project as a Planning Commissioner. .*

Chair Stachowiak then introduced **Case #11-ZBA-04**, requesting a variance from Section 19.09 (e) for loading spaces within the front yard at 8035 Fruit Ridge Ave. He asked the applicant to present the request.

Fritz Wahlfield Jr., of Wahlfield Construction, 4475 Westshire Dr., and a lifelong Township resident said he represents the owners of Jack Brown Produce. The business has been operating in the Township for many years and expanded recently for additional storage space and the creation of an oversized storm water pond for its anticipated additions. The business has purchased a new apple grader which requires an addition to the main building, loading docks at both the north and southeast ends of the building on the larger industrially zoned parcel, and an updated access and truck traffic circulation plan encompassing the smaller agriculturally zoned lot to the south. During the Site Plan Review meeting at the Planning Commission, the addition of the loading spaces on the Fruit Ridge frontage was noted as requiring a variance.

The site is limited by its size, configuration, zoning, and is surrounded by agriculturally zoned land. The smaller agriculturally zoned piece of land lies at the southern border of the larger industrially zoned parcel, and will be used as a driveway into the business. No additional land is available for expansion to the west for loading spaces at the rear. Trucks delivering apples in crates for processing and packing will do so at the north end in the rear of the building and those picking up the refrigerated boxed apples will do so at the southern loading area. The northern loading dock facing Fruit Ridge Avenue will be used for material deliveries.

Zach Voogt, of Moore and Bruggink Engineering, said he prepared the plans for this expansion. He added that one way this property is unique is that it is an industrial use surrounded by agricultural land. It also has a creek on the site, a large pond and wetlands and no further land for expansion. The business is considered “a fixture” in the Township at this location for many years, and has successfully expanded in recent years. Similar businesses in the Township already have front yard docks and Jack Brown Produce would also like to add them for its business expansion.

Voogt said approving this request would not create any damage for any of the neighbors are primarily the farmers who use the facility. No precedent would be set as the property itself is unique due to its location, size and zoning.

Stachowiak confirmed with the applicant that there is a grade drop at the north end for the enclosed loading dock. Wahlfield commented that the façade plan will be aesthetically pleasing.

Roobol asked if there was any estimate of truck traffic volume. May commented that as a farmer who uses Jack Brown for processing his apple crop but is not a stockholder, the traffic volume depends on the harvest season. Fall months generate the most traffic.

Stachowiak confirmed with Thomas that all notices had been sent. Thomas added that several businesses have requested front yard loading docks in recent years and those have been approved. These include Riveridge Produce Packing on Venture Drive, and Centerline Engineering at the corner of 7 Mile Rd. and Rhino Drive.

**May then moved, with Paquette’s support, to close the public hearing.**

**Ayes: 5**

**Nays: 0**

**Motion carried.**

Commissioners continued their discussion of the request, with Roobol commenting that he had also seen 4 businesses with front loading docks on Comstock Park Drive. Thomas pointed out that the “old” Comstock Park Drive had originally been built as a private driveway for several businesses, but did not develop under today’s ordinance. May said Jack Brown Produce has been an asset to both the Township and its agricultural businesses. Paquette said he was not clear on what makes the land unique.

Roobol pointed out that the business occupies two adjacent parcels with different zoning designations. The smaller agriculturally zoned parcel to the south will be used for an access point to the business. A pond and some wetlands are at the north end of the larger industrial lot, which restricts future expansion, and another industrial business is adjacent to Jack Brown to the west, eliminating the opportunity for using the rear of the building for loading docks. In addition, Jack Brown Produce is in a very small area zoned industrial in the Township surrounded by agricultural land on three sides and Sparta Township to the north.

After individual review of the case materials and the four standards required for a variance, **May moved, with support from Roobol, to approve the requested variance from Section 19.09(e) to allow loading docks in the front yard of Fruit Ridge Avenue for the yet-to-be built industrial building additions at Jack Brown Produce, in the I-1, Light Industrial zoning zoning district for the property located at 8035 Fruit Ridge Avenue NW, PP # 41-09-06-200-037, with the following FINDINGS OF FACT:**

- The requested variance does meet Standard # 1, that “There must be unique circumstances or conditions about this property, not the use of the property,” since there is no other available location on this lot to place the docks due to a limited amount of industrially zoned land surrounded by the agriculturally zoned portion of the Township;
- The requested variance does meet Standard # 2, that “In giving the variance, the Zoning Board of Appeals will be assuring that the applicant has the same rights that other property owners in the same zoning district or vicinity have.” The loading docks are a necessary part of an apple packing operation and other businesses have gotten approval for them;
- The requested variance does meet Standard #3, that “The variance will not create a situation that may be harmful or damaging to the neighbors’ properties or the public interest.” The surrounding neighbors are farmers who support the request, as this business supports the farming community; and
- The requested variance does meet Standard # 4, that the “variance cannot set a precedent.” There are already other businesses in the Township with front yard loading docks.

Ayes: 5

Nays: 0

Motion carried.

**PUBLIC COMMENT/STAFF UPDATE/ ADJOURNMENT**

No public comments were offered.

Thomas said no ZBA cases have been received for the June meeting at this time.

**May moved, with support from Pointer, to adjourn at 9:30 pm.**

**Ayes: 5**

**Nays: 0**

**Motion carried.**

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Susan Thomas, Planning Director

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Bill Stachowiak, ZBA Chair

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Patricia Kolkman, Recording Secretary