

**ALPINE TOWNSHIP ZONING BOARD OF APPEALS
REGULAR MEETING
Monday, October 24, 2016**

CALL TO ORDER / PLEDGE OF ALLEGIANCE

Chair Bill Stachowiak called the meeting to order at 7:00 p.m. with the Pledge of Allegiance. Members present: Chair Bill Stachowiak, Mike O'Malley, Doug Pointer, Bill Schweitzer and Ted Spangenberg. Also present: alternate members Greg Madura and Bill Homrich, and Planner Sue Becker.

APPROVAL OF MINUTES

The Board reviewed the Monday, March 28, 2016 minutes. O'Malley motioned, supported by Pointer to approve the minutes.

Ayes: 5 Nays: 0 Motion carried

APPROVAL OF AGENDA

Schweitzer motioned, supported by O'Malley to approve the agenda as presented.

Ayes: 5 Nays: 0 Motion carried

Chair Stachowiak explained the meeting procedures for the benefit of attendees.

OLD BUSINESS

CASE #15-ZBA-03

Request by Barry Glovick of 6 Mile Auto Parts LLC to extend variance approval that allowed for a new a 1,900-sq. ft. building on property addressed 2785 6 Mile Road.

Pointer asked if Mr. Glovick complied with all previous conditions of approval, including screening the gates? Becker replied the applicant had. Mr. Glovick indicated that he currently has between 350 and 375 vehicles on site. He stated that his resources are somewhat limited and he needs time to earmark financial resources to build the 1,900 sq. ft. replacement storage building as approved in the variance granted September 2015. He understands his request is for a one-time one-year extension on his previous variance request.

Schweitzer motioned, supported by O'Malley to approve the requested one-year variance approval extension per Section 23.11 of the Zoning Ordinance.

Ayes: 5 Nays: 0 Motion carried

STAFF UPDATES

Planner Becker updated the Board on Supervisor Alex Arends' and Recording Secretary Rose Kogge's retirements. An invitation to Alex's retirement open house was distributed. Becker highlighted changes in state law with regards to medical marihuana, new case law as it pertains to signs, changes in technology as it pertains to wireless communication towers, and the expiring terms of office for various ZBA members.

At 7:30 p.m., the Board took up case #16-ZBA-01 as noticed in the newspaper and public notices.

NEW BUSINESS

CASE #16-ZBA-01

Chad and Rachel Perkins have requested a rear setback variance to allow for a deck at 7323 Fruit Ridge Ave. (PP#41-09-07-200-004) within the A, Agricultural zoning district.

Motion by O'Malley to open the public hearing, supported by Schweitzer.

Ayes: 5 Nays: 0 Motion carried

Applicant Chad Perkins, 7323 Fruit Ridge Avenue, presented his request by stating: the house was built in 1968, is located almost entirely within the 100-foot rear yard setback and was built prior to 1969 when the rear 100-foot setback was established in zoning ordinance.

They had a cement patio behind the house, but it settled against house and caused flooding in the house. They removed the patio, added gutters to the back of the house and tiled the area. They don't want flooding again so they decided not to install another patio. They didn't want a deck on the front of the house facing the noisy traffic. Our next door neighbors, which also own the land to the rear, are here tonight and support our request.

He built the deck this past spring with moonlighting contractors he hired. The Building Official told him the deck needed changes which he completed this past weekend (he had to drill 60 holes for galvanized lag bolts). Chad stated his ignorance regarding the necessity of a building permit and complying with setbacks is no excuse.

Pointer asked the applicant if he could purchase additional land behind his house? O'Malley stated such a purchase would be a boundary adjustment. The applicant indicated he had not considered it.

It was verified that meeting notices were sent to neighboring properties.

Motion by O'Malley to close the public hearing, supported Schweitzer.

Ayes: 5 Nays: 0 Motion carried

Chair Stachowiak asked Zoning Board Members to review the information presented. Board members discussed how much land would be needed for a boundary shift? The width of the deck (40 feet) and 22 feet deep. The Board discussed previous cases where construction occurred without a building permit.

The Board discussed the fact there are not many neighbors in general and then the closest neighbors are not opposed.

Pointer commented there are many agriculturally-zoned lots that are unusually sized or shaped; therefore, there isn't a precedent.

Spangenberg stated condominium stairs infringing in a setback would be more of a precedent for because of the density of development.

Motion for a Rear Setback Variance at 7323 Fruit Ridge Ave. Case #16-ZBA-01

Variance Decision:

Stachowiak motioned, supported by O'Malley to APPROVE the requested variance from Section 5.04(c) in conjunction with Section 2.39(b) to vary the required rear yard setback from 85 feet to 63 feet, to allow for a rear deck in the A, Agricultural zoning district for the property located at 7323 Fruit Ridge Avenue NW, PP# 41-09-07-200-004.

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.”

There are unique circumstances about this property: the lot has a shallow depth as compared to most other agriculturally-zoned lots, the house is placed on the lot in a non-conforming manner with regards to the rear setback (the house is located in the rear setback), and the house was built before current zoning rules for a 100-foot rear setback.

- 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 applicant has the same rights that other property owners in the same zoning district have because the property is Agriculturally zoned and the house was built before ordinance changes, therefore everyone still has the same rights.

- 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 variance will not be harmful to the neighbors’ properties as the deck is not visible and the neighbors not opposed to the request.

- The requested variance *does* meet Standard # 4, that “The variance cannot set a precedent.

It would not set a precedent because of the uniqueness of the placement of the home within the rear yard setback and based upon the home was built before the current ordinance was in effect.

VOTES: AYES: 4 (O'Malley, Pointer, Schweitzer and Spangenberg)
 NAYS: 1 (Stachowiak)
 Motion passed to approve the requested variance. 4-1

PUBLIC COMMENT

Greg Madura and Bill Homrich commented on the application.

ADJOURNMENT

Motion made to adjourn the meeting at 8:55 PM by O'Malley, supported by Spangenberg.

Ayes: 5 Nays: 0 Motion carried

Susan Becker, Planning Director

Bill Stachowiak, Chair