

**ALPINE TOWNSHIP ZONING BOARD OF APPEALS
REGULAR MEETING
Monday, November 28, 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, Alternative Bill Homrich and Ted Spangenberg. Also present: Planner Sue Becker and Recording Secretary Barb Griswold.

APPROVAL OF MINUTES

The Board reviewed the Monday, October 24, 2016 minutes. Spangenberg motioned, supported by O'Malley to approve the minutes.

Ayes: 5 Nays: 0 Motion carried

APPROVAL OF AGENDA

Spangenberg 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.

STAFF UPDATES

Planner Becker introduced new Recording Secretary Barb Griswold to the committee. Each member introduced themselves to Griswold.

At 7:10 p.m., the Board took up case #16-ZBA-02 as noticed in the newspaper and public notices.

NEW BUSINESS

CASE #16-ZBA-02

Gerald and Adele Byrne have requested a rear setback variance to allow for a house addition at 5525 Fruit Ridge Ave. (PP#41-09-19-400-028) within the RA, Rural Agricultural zoning district.

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

Ayes: 5 Nays: 0 Motion carried

Applicant Gerald Byrne, 5525 Fruit Ridge Avenue, presented his request by stating: the house was built in 1990, and the property consists of 9.33 acres. The home sits 110 feet from the rear property line and he is asking for a 6 foot variance to add a 16-foot deep addition to the existing living room.

Byrne said they have an unusual circumstance regarding the septic system permit requirements by the Kent County Health Department. Soil testing by the previous owner close to Fruit Ridge Avenue revealed no suitable soils for a septic system. The house had to be located as far west as possible on the site where there was 4 feet of sandy loam soil. The front yard is used for the primary septic drain field, while the backyard to serve as a replacement drain field location. Another unusual circumstance is regarding the ANR Gas Pipeline easement. This easement runs diagonally across the property, and contains a 22" main and a 30" main and 42" loop gas

pipeline. Per the gas company's guidelines, the house had to be built as far back from the easement as possible. On October 31st there was a controlled pressure release down to 400 PSI and gas was shooting up above the trees.

Provisions were made when the home was built to have an attached rear deck which was never installed due to him having a small beef operation, which is allowed in the RA zoning. An open deck would not be enjoyable due to the smell of manure and flies, so an addition to the living room would allow for the preservation and enjoyment of the property.

The property that adjoins to the west behind is 5530 Stage Ave and is located on 10 acres. Due to distance, tree line and natural vegetation the view of each home is obstructed from each other. He has spoke with the neighbor behind him and they are ok with the addition.

Byrne does not feel this variance would set a precedent in the Township due to soil suitability, water table and for the reason not many residents have large gas lines on their property.

Stachowiak asked what kind of room the addition would be, and Byrne said it would be a full addition with footings and it could be used all year round. Stachowiak also asked about the placement of the septic system and Byrne said due to Kent County Health Department requirements, it had to be pushed farther west on the property.

Stachowiak also asked Byrne about the size of the addition and Byrne said a 16ft wide addition makes most sense economically and is an extension of what is there currently a 16 ft wide living room.

It was verified that meeting notices were sent to neighboring properties. No other audience members were present.

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

Ayes: 5 Nays: 0 Motion carried

Chair Stachowiak asked Zoning Board Members to review the information presented. Board members discussed the location of the home on the property.

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

O'Malley stated the property has an unique situation with the ANR gas lines and the Kent County Health Department requirements. He said the request was reasonable.

Spangenberg stated Byrne took into account of the lot lines and set back requirements at the time the home was built since his house is 110 feet from the rear lot line, not 100 feet. They probably never thought they would want to build an addition to the home. Homich added they didn't have a choice where they could put their home.

Pointer suggested Byrne did know of the ANR pipeline and soil for the septic system, did it matter he elected to build there anyway? He did know those situations existed on the property.

Motion for a Rear Setback Variance at 5525 Fruit Ridge Ave. Case #16-ZBA-02

Variance Decision:

Stachowiak motioned, supported by O'Malley to APPROVE the requested variance from Section 6.05(c) to vary the required rear yard setback from 100 feet to 94 feet, to allow for a rear addition in the RA, Rural Agricultural zoning district for the property located at 5255 Fruit Ridge Avenue NW, PP# 41-09-19-400-028.

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 ANR Gas Pipeline easement running diagonally across the property and the requirement by Kent County Health Department on the placement of the septic system and drain field.

- 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 to build onto an existing home in the same zoning district is due to the Kent County Health Department standards for septic systems and ANR gas pipeline easement guidelines also apply to other properties.

- 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 addition 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 existing easement of ANR Gas Pipeline easement and the Kent County Health Department guidelines..

VOTES: AYES: 5 (Stachowiak,O'Malley, Pointer, Homrich and Spangenberg)
 NAYS: 0
 Motion passed to approve the requested variance. 5-0

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

Motion made to adjourn the meeting at 7:45 PM by Pointer, supported by O'Malley.

Ayes: 5 Nays: 0 Motion carried

Susan Becker, Planning Director

Bill Stachowiak, Chair