

Village of Lake Isabella
Zoning Board of Appeals Minutes
Regular Meeting: April 13, 2009

1010 Clubhouse Drive
Lake Isabella, MI, 48893

The Meeting was called to order at 5:00 PM by King.

Members Present: Hiither, Dunham, Kuhn, Colby, Nurski, Shannon and King

Members Absent: None

A motion was made by Hiither, which was seconded by Kuhn to approve the minutes from the September 8, 2008 meeting as presented without modification. ROLL CALL VOTE: MOTION CARRIED UNANIMOUSLY

Business:

1. Public Hearing for Variance Application 2009-01; 3003 Castle Lane

King opened the public hearing at 5:02 PM.

The applicant presented his request for a 20' reduction in the 35' required front yard setback. Due to the odd shape of their property, the slope of the terrain, and the distance to the paved area of the right-of-way the applicant feels a hardship and unique situation exist.

Hiither asked if the area staked off on the property marked the area proposed for the home. The applicant responded by stating "yes."

Public Comments:

Michael & Ann Early of Lansing (3006 Castle Lane South): Submitted a letter in objection to the request. The nature of their objection was that by granting a variance their view of the lake would be reduced and thereby decrease their property value.

Michael Early of Lansing (3006 Castle Lane South): Was present and stated that he does not feel there is a unique circumstance as his home on the opposite side of the cul-de-sac has the same issue with the slope of the terrain and required front yard setback. He also stated that he built a similar size home on his property which he feels is the same size. He also stated that his view of the lake would be greatly reduced, thereby decreasing his property value. He stated he doesn't understand why a home cannot be suited on the lots without a variance.

Kuhn asked Mr. Early if he feels that by making the applicant build at the required setback line would have less of an effect on obstructing the view of the lake. The applicant responded by stating "yes."

With no further public comments, King closed the public hearing at 5:19 PM.

2. Variance Application 2009-01; 3003 Castle Lane South

Dunham requested to be excused from voting on this matter as he sold the lot to the applicant. The request was granted without objection. Alternate member Shannon was selected to replace Dunham as the voting member.

King asked about the drain field location. *Wolff responded by stating the health department determines that.*

King requested that Mitch Panchula discuss the septic system requirements as he has built several homes at Lake Isabella. Mr. Panchula talked about the need for a reserve field from the health department, and the location they require for drain fields in relation to wells.

A motion was made by Colby as the odd dimensions of the property and the slope of the property create a hardship to the applicant if required to build at the required setback, which was seconded by Shannon, to grant a 20' reduction in the front yard setback.

Hiither asked if the full 20 feet is needed? *Wolff responded that based on his measurements, a reduction of only 15' is needed to build the proposed home of the applicant.*

A friendly amendment to the motion was made by Shannon, which was seconded by Colby, to reduce the variance granted from 20' to 15'. VOICE VOTE: MOTION CARRIED UNANIMOUSLY.

With the motion amended, the Board voted on the original motion, as amended, ROLL CALL VOTE: YEAS; Shannon, Colby, Kuhn, Hiither, and King. NAYS: None. MOTION TO GRANT A 15' VARIANCE CARRIED UNANIMOUSLY

3. Public Hearing for Variance Application 2009-02; 1238 Queens Way

King opened the public hearing at 5:32 PM.

The applicant's representative (Mitch Panchula) presented his a request for a 35' reduction in the rear yard setback due to the large white oak tree on the property.

Public Comments:

John Berry of Queens Way: Stated his objection to the request as it does not fit with the neighborhood. He also questioned with no rear yard where would the well and septic field be located.

Tom & Marie Kelly of Queens Way: Mrs. Kelly stated her objection to the request as she feels there is ample room on the lots to build without a variance. She also stated that by granting the variance the use of the property would encroach into the park.

Al Apsitis, LIPOA Manager: Stated the objection of the LIPOA (which is the owner of the abutting park in the rear yard). He voiced concerns over liability with the development being on the property line. He also voiced concern that just because the park is underutilized today, that doesn't mean it will be in the future.

Dan Grisdale of Castle Drive (LIPOA Parks Committee Chairman): Stated his objection to the request as by placing the home right on the park is not fair to the rest of the LIPOA members who use the park.

Alain Shannon of Lincoln Drive: Stated his objection to the request as the health of the tree is suspect in his opinion. He believes that the tree is actually two trees that have grown together. He also stated that as a member of the LIPOA Parks Committee he is opposed to any development on the park line. He also questioned whether or not since the property is still owned by two parties, if this house were not built could a home be built on each lot one the rear lot line with the 35' variance. *Wolff responded by stating that if the ZBA granted a variance, they could require as a condition of approval that*

the properties be permanently combined with the Village as a party of interest to such deed restriction.

Tim McGee of Grand Rapids (1242 Queens Way): Submitted a letter in objection to the request. Mr. McGee stated his objection as strong zoning control is an asset to the community, and was one of the factors which led to the purchase of their property.

Andrew Asselin of Queens Way: Submitted a letter in objection to the request. He stated his objection to the request, if granted, would lower the value of his property, diminish the sight line enjoyed and protected by the required setback, and hinder the ability to sell his property in the future.

John Berry of Queens Way: Submitted a letter in objection to the request. He stated his objection by noting that the request is not in harmony with the neighborhood as it would situate the home in a different manner than the rest of the homes in the area.

King requested Mr. Panchula address the concerns raised in objection to the request. Mr. Panchula stated that the purpose of the request is to save the tree, and that if a ~~smaller~~ lesser reduction request could be granted, they would work to try and save the tree.

Dunham asked Mr. Panchula and Mr. Berry to show on the map where the well for Mr. Berry's property.

Keith Meadows, the applicant discussed his desire to live at Lake Isabella. He further discussed that he does not see many trees like this around Lake Isabella.

King closed the public hearing at 6:02 PM.

4. Variance Application 2009-02; 1238 Queens Way

Hiither requested that he be allowed to abstain from voting on the issue as he is the President of the LIPOA and thereby represents an abutting owner. The request was granted without objection. Nurski was selected to take the place of Hiither in voting on the application.

Dunham requested that he be allowed to abstain from voting as he represented one of the sellers in the transaction. The request was granted without objection. Shannon was selected to replace Dunham in voting on the application.

Hiither stated that the parks are for the members of the LIPOA, and by allowing people to build on any park property line gives the impression that the park is not for the full membership, but rather their property.

Shannon stated that one of the neighbors is the park, not just the residents. She talked about the park near her home and how it has changed over the years.

Colby stated that he feels a zero setback is not warranted, and should not be granted. He feels a 15' variance can be justified if the tree is considered a hardship.

A motion was made by Nurski, which was seconded by Kuhn, to deny the request as the applicant did not demonstrate hardship. ROLL CALL VOTE: YEAS; Shannon, Colby, Kuhn, Nurski, and King. NAYS: None. MOTION TO DENY THE REQUEST CARRIED UNANIMOUSLY

5. Public Hearing for Variance Application 2009-03; 50 N. Coldwater Road

King opened the public hearing at 6:15 PM.

Scott Slasor (the applicant) presented his request to allow a single side yard with a zero setback. He discussed how Sunset Plaza has developed and his desire to separate the gas tanks and station from the rest of the Plaza.

Public Comments:

Al Apsitis, LIPOA General Manager: Asked if there were issues with the underground fuel storage tanks to any of the businesses located in the plaza. *No*

With no further public comments, King closed the public hearing at 6:26 PM.

6. Variance Application 2009-03; 50 N. Coldwater Road

Dunham discussed the future split possibly being down the middle of the reserve drain field. There was discussion with the applicant regarding the reserve drain field and the access drive.

A motion was made by Kuhn to grant a zero foot side yard setback as strict compliance with the zoning code would be unreasonably burdensome with the following conditions, which was seconded by Hiither:

1. Each future parcel retain at least 10 feet in total side yards.
2. For purposes of the sign code of the Village, the code shall apply to all future parcels as if it were still the original property size.
3. All previously granted variances shall only apply to the parcel with the gas station at the corner of Baseline and Coldwater Roads, and none of the previously granted variances be conveyed to the new parcel.
4. If the parcel is re-divided, or otherwise partitioned, only the existing development be grandfathered, and all new development and changes to the parcel(s) be fully conforming to the ordinances of the Village of Lake Isabella.
5. If the structure(s) are ever destroyed or damaged per the non-conforming provisions of the zoning code, all redevelopment conform fully to the adopted standards at that time.

ROLL CALL VOTE: YEAS; Dunham, Colby, Kuhn, Hiither, and King. NAYS: None.
MOTION TO GRANT A 15' VARIANCE CARRIED UNANIMOUSLY

Public Comments:

None

With no further business before the ZBA, the meeting was adjourned at 6:31 PM.

Jeffrey P. Grey
Village Clerk

Timothy R. Wolff
Zoning Administrator

Village of Lake Isabella
Zoning Board of Appeals Minutes
Second Meeting: April 13, 2009

1010 Clubhouse Drive
Lake Isabella, MI, 48893

The Meeting was called to order at 6:41 PM. by King.

Members Present: Dunham, Colby, Hiither, King, Nurski, Shannon, and Kuhn

Members Absent: None

A motion was made by Dunham, which was seconded, to approve the minutes from the 5:00 PM meeting of April 13, 2009 as corrected. ROLL CALL VOTE: YEAS; Dunham, Colby, Kuhn, Hiither, and King. NAYS: None. MOTION APPROVED UNANIMOUSLY

Business:

None

Public Comments:

None

With no further business before the ZBA, the meeting was adjourned at 6:48 PM.

Jeffrey P. Grey
Village Clerk

Timothy R. Wolff
Zoning Administrator

Village of Lake Isabella
Zoning Board of Appeals Minutes
Regular Meeting: November 9, 2009

1010 Clubhouse Drive
Lake Isabella, MI, 48893

The Meeting was called to order at 5:00 PM by King.

Members Present: Hiither, Dunham, McGrath, Colby, Nurski, and King

Members Excused: Shannon

A motion was made by Colby, which was seconded by Dunham to approve the minutes from the second meeting of April 13, 2009 as presented without modification. ROLL CALL VOTE: Hiither, Dunham, Colby, and King MOTION CARRIED UNANIMOUSLY (4-0-0)

Business:

1. Public Hearing for Variance Application 2009-04; 1012 Pueblo Pass

In the absence of Shannon, Nurski was seated as the alternate member for this case.

A staff report was given by Wolff. He reviewed the application and the criteria established in the zoning ordinance for granting a variance.

The applicant was not present.

King opened the public hearing at 5:06 PM.

Public Comments: NONE

With no public comments, King closed the public hearing at 5:07 PM.

2. Variance Application 2009-01; 3003 Castle Lane South 2009-04; 1012 Pueblo Pass

Colby stated that in his opinion there was no hardship shown by the applicant, and that during his time on the ZBA he cannot recall a variance being granted on the waterfront side of a parcel.

Nurski stated that he felt the proposed accessory structure was too close to the lake and is not harmonious with surrounding properties.

Hiither agreed with Nurski.

A motion was made by Nurski, seconded by Colby, to deny the variance request of application 2009-04 as granting the variance would bestow a right not commonly enjoyed by other parcels and the request is the result of a self-created problem. ROLL CALL VOTE: Hiither, Dunham, Colby, Nurski, and King MOTION CARRIED UNANIMOUSLY (5-0-0)

3. Public Hearing for Variance Application 2009-05; 1052 Isabella Vista

In the absence of Shannon, McGrath was seated as the alternate member for this case.

A staff report was given by Wolff. He reviewed the application and the criteria established in the zoning ordinance for granting a variance. He also showed photographs of the neighborhood to the ZBA.

The applicant was not present.

King opened the public hearing at 5:16 PM.

Public Comments: Mike Scherba of Lincoln Drive: Stated that the home he built on Isabella Vista was done so prior to the code requirements which prohibited garages being built nearer the street than the dwelling.

A letter of support from Ed Woods (not in attendance) was presented to the ZBA.

With no further public comments, King closed the public hearing at 5:18 PM.

4. Variance Application 2009-05; 1052 Isabella Vista

Hiither questioned whether or not lots 63 and 64 would need to be combined if a variance were granted. *Wolff replied that even with a variance, the Village would still require the lots to be permanently combined.*

Dunham questioned where the location of the septic field was. *Wolff stated that he did not know, but believed that it was located on the north side of the house.*

Colby questioned why the lot and proposed garage was not staked and strung. He stated that it is a requirement of the application. *Wolff replied that while the Village does request that of applicants, the Michigan Zoning Enabling Act does not require it. As such, if an applicant elects not to stake and string their property, they do so to their own detriment.*

King asked if the ZBA should table action until the applicant was present.

A motion was made by Dunham, seconded by Hiither, to deny the variance request of application 2009-05 as granting the variance would not be in harmony with surrounding parcels within 300 feet, and that in light of the applicant owning lots 63 and 64 the parcels combined can be reasonably developed without the granting of a variance. ROLL CALL VOTE: Hiither, Dunham, Colby, McGrath, and King MOTION CARRIED UNANIMOUSLY (5-0-0)

5. Public Hearing for Variance Application 2009-06; 1102 El Camino Grande

In the absence of Shannon, Nurski was seated as the alternate member for this case.

A staff report was given by Wolff. He reviewed the application and the criteria established in the zoning ordinance for granting a variance. He also showed a series of photographs of the location.

The applicant was not present.

King opened the public hearing at 5:36 PM.

Public Comments:

Bill Juran of El Camino Grande: Stated he was opposed to the request, and that he was told by the previous owner the parcel was unbuildable.

Robert Grewette of Weidman: Stated his objection to granting a variance.

Bernie Baldwin of El Camino Grande: Stated his objection to the request.

A letter of support was received by Larry Rescoe (not in attendance).

A letter of objection was received by Bernie Baldwin.

A letter of objection was received by William Zehnder.

The applicant arrived at 5:38 PM. He stated that his request was based on the odd shape of the lot, and having about 20 feet of lot depth to a build a home. He also stated that he felt the request was in line with other homes on adjacent properties and that his request was similar to the request granted by the ZBA to lot 101 in Lake Isabella North.

With no public comments, King closed the public hearing at 5:42 PM.

6. Variance Application 2009-06; 1102 El Camino Grande

King stated that he visited the site, but it was not strung.

Dunham asked the applicant to clarify the size of the parcel. He also stated that he believes the two easements sold from the east side of the property comprise the area where a home could be built.

Nurski stated that he would like to view the property with it staked.

Hiither asked if there were plans filed for the proposed home. *Wolff stated that none were on file. The applicant stated that he had met with the Village Manager several times to discuss the home but had not submitted plans. He is considering 30' x 60' with an attached garage.*

A motion was made by Dunham, seconded by Hiither, to table action Variance Application 2009-06 until the applicant has strung the lot. ROLL CALL VOTE: Hiither, Dunham, Colby, Nurski, and King MOTION CARRIED UNANIMOUSLY (5-0-0)

Wolff asked that the applicant inform the Village when the property was staked and he would inform the ZBA to set the next meeting.

Public Comments:

None

With no further business before the ZBA, the meeting was adjourned at 5:55 PM.

Jeffrey P. Grey
Village Clerk

Timothy R. Wolff
Zoning Administrator

Village of Lake Isabella
Zoning Board of Appeals Minutes
Special Meeting: November 13, 2009

1010 Clubhouse Drive
Lake Isabella, MI, 48893

The Meeting was called to order at 9:04 AM. by King.

Members Present: Dunham, Colby, Hiither, King, and McGrath

Members Absent: Shannon and Nurski

A motion was made by King, which was seconded by Hiither, to approve the minutes of the November 9, 2009 meeting as amended.

Business:

The board was informed that Dave Shoemaker had staked his parcel at 1102 El Camino Grande. Wolff also reviewed the survey of the property. He informed the members that the survey contained in the meeting packet had an error on the scale. The survey showed a scale of 1" = 60' and it should have shown 1" = 50'.

Wolff also discussed with the board the average sized home that has been built in that area of the Village in recent years. He reported that homes in that area have averaged over 2,200 for a footprint. He noted that the properties immediately adjacent to the site were developed prior to incorporation and no permits were on file.

Dunham stated his objection to meeting again on the request. He stated that he believes the problem is self created due to the applicant selling easements over the property which compromises the building envelope.

With no further discussion, the Board agreed to meeting again on Thursday, November 19, 2009 at 10:00 AM.

Public Comments:

None

With no further business before the ZBA, the meeting was adjourned at 10:02 AM.

Jeffrey P. Grey
Village Clerk

Timothy R. Wolff
Zoning Administrator

Village of Lake Isabella
Zoning Board of Appeals Minutes
Special Meeting: November 19, 2009

1010 Clubhouse Drive
Lake Isabella, MI, 48893

The Meeting was called to order at 10:02 AM. by King.

Members Present: Dunham, Colby, King, and McGrath

Members Absent: Shannon, Hiither, and Nurski

A motion was made by King, which was seconded by Dunham, to approve the minutes of the November 13, 2009 meeting as amended.

Business:

1. Variance Application 2009-06: 1102 El Camino Grande

Wolff presented an updated report to the Board.

Dave Shoemaker was recognized by the Chair, and was asked to give the Board a summary of his application. Mr. Shoemaker stated that the parcel was legally created in 1981, and that it was purchased in 1995 from Jim Munzer when the Bonita Bay Land Company was formed. He discussed the encroachments onto the original parcel by the adjacent properties, and the resulting property transfers that were done. The resulting parcel still meets the requirements of the zoning code. He stated that he had reviewed the zoning ordinance and believes that an odd shaped structure resembling an "L" could be built without a variance. However, he would like to build something more harmonious with the surrounding structures. He also stated that he could not build on the eastern side of the parcel as soils would not support a drain field and the Health Department would prefer him to build on the western side of the parcel.

Wolff noted that there was nothing on file with the application from the Health Department to verify the claim of the applicant.

Dunham stated his objection to granting any variance on as there is sufficient room to build a home on the eastern side of the parcel and that by granting the two easements, Mr. Shoemaker had created this problem himself. Mr. Shoemaker responded by stating that the easements were legal as the Village did not have a funneling ordinance at the time the easements were recorded, and that since the easements were restrictive to only the parcels granted it could not result in more funneling that what is presently occurring.

Dunham also asked Wolff to clarify how many docks could be placed on the parcel. Wolff replied by stating the Waterfront Shoreland Overlay limits each parcel to 1 dock. He stated that since the easements were part of the parcel, and not separate parcels, the parcel and easements are allowed 1 dock.

King asked Wolff to define the term funneling. Wolff referenced the adopted funneling ordinance.

A motion was made by King to grant a 15 foot variance. After calling for support from other members of the board, the chair ruled that the motion died for lack of support.

A motion was made by Dunham to deny the variance as it was a self created problem. After calling for support from other members of the board, the chair ruled that the motion died for lack of support.

Colby stated that a 20 feet or 15 feet reduction was too much, and that when he visited the site, his measurements showed that only a 12 foot variance was needed.

A motion was made by Colby, seconded by McGrath, to grant a 12 foot variance to the required street yard setback, thereby reducing the setback from 35 feet to 23 feet as the applicant demonstrated that the property contained a unique physical feature resulting in a narrow building envelope, and that according to the applicant the soil conditions of the site require the home to be located on the western side of the parcel where the narrowness is extreme. ROLL CALL VOTE: YEAS: King, Colby, and McGrath: NAYS: Dunham. MOTION TO GRANT A 12 FOOT VARIANCE TO THE REQUIRED STREET YARD SETBACK CARRIED 3-1-0.

Public Comments:

- Dave Shoemaker of Isabella Vista: Thanked the Board, and stated that 12 feet will help, but requested that if after working on plans 12 feet would not be sufficient, could he present the Board with additional information or drawings which they would consider sufficient to possibly grant a larger variance.

A motion was made by Dunham, which was seconded by Colby, to allow the applicant to submit additional drawings to the Board, which shall include a floor plan, site plan, and elevations, that the Board may consider “new evidence or proof of changed conditions” to reconsider the request of the applicant. VOICE VOTE: MOTION CARRIED UNANIMOUSLY 4-0-0.

With no further business before the ZBA, the meeting was adjourned at 11:20 AM.

Jeffrey P. Grey
Village Clerk

Timothy R. Wolff
Zoning Administrator

Village of Lake Isabella
Zoning Board of Appeals Minutes
Regular Meeting: December 14, 2009

1010 Clubhouse Drive
Lake Isabella, MI, 48893

The Meeting was called to order at 5:00 PM. by Colby.

Members Present: Dunham, Colby, Nurski, and McGrath

Members Absent: Shannon, Hiither, and King

A motion was made by Dunham, which was seconded by McGrath, to approve the minutes of the November 19, 2009 meeting as presented.

Business:

1. Election of Officers

A motion was made by Dunham, seconded by McGrath, to retain the current slate of officers. VOICE VOTE: MOTION CARRIED 3-0-1 (Colby abstained).

2. Variance Application 2009-07: 1038 Cantabrian Drive

Wolff presented a staff report to the board.

Xiaoming Hou, the applicant was present, but did not make a presentation.

Colby opened the public hearing at 5:10 PM.

Public Comments:

- Garl Perelberg of 1031 Cantabrian: Stated that in his opinion he feels Mr. Hou has had to overcome a lot of obstacles with the site, he stated that he feels all of the improvements to the lot have been to the benefit of the neighbors. He stated he did not see a reason why the variance should not be re-granted.
- Ken Mientkiewicz of 1036 Cantabrian: Submitted via email: stated his objection to granting a variance.

With no further public comments, Colby closed the public hearing at 5:12 PM.

3. Variance Application 2009-07: 1038 Cantabrian Drive

Dunham stated that he felt the Zoning Administrator acted properly in denying the permit application in November, however based on the legal opinion of the Village's attorney, the 90 day time frame in the old ordinance was unreasonable.

McGrath stated that he agrees with Dunham.

Dunham also noted that the Planning Commission when reviewing this matter at their December 8, 2009 meeting requested that an ordinance be drafted setting the expiration time frame at 1 year with a 6 month extension.

A motion was made by Dunham, seconded by McGrath, to reverse the action of the Zoning Administrator as the expiration period previously contained in the ordinance was unreasonable, and to give the applicant 1 year from today's date to complete his home

with the previously granted variance. ROLL CALL VOTE: YEAS: Dunham, Nurski, Colby, and McGrath: NAYS: None. MOTION CARRIED UNANIMOUSLY 4-0-0.

Public Comments:

- None

With no further business before the ZBA, the meeting was adjourned at 5:16 PM.

Jeffrey P. Grey
Village Clerk

Timothy R. Wolff
Zoning Administrator