

SAUGATUCK TOWNSHIP BOARD OF APPEALS

December 8, 2005

The Saugatuck Township Zoning Board of Appeals met on December 8, 2005, at the township hall on Blue Star Highway, Saugatuck, Michigan 49453.

Present: Marczuk, Oyler and Wester.

Absent: None

Also present: Z. A. Ellingsen, Jim Sellman, Peter Palazzolo, John & Pat Huyge.

Chairman Oyler called the meeting to order at 4:05 P.M.

Approval of November 17, 2005 ZBA minutes, motioned by Marczuk, Oyler second.

Two hearings were scheduled: The first hearing was a request from Romvano, 1417 W. Taylor St., Chicago, IL 60607 for a variance from section 40-658(b) to allow for a 33 foot wide private road easement to serve four (4) parcels instead of the required 66 foot width from a public street. The parcel in question is located on 130th Ave(AKA Wiley or Riverside) just east of 64th Street(Parcel #0320-023-012-00). A second variance request is for a lesser setback from the proposed 33 foot private road from an existing accessory building in the A-2 zone as stated in Section 40-187(5). The building would be 16 feet away from the proposed road instead of the required 40 feet.

Z. A. Ellingsen explained the issue is the width of the private road, the situation that the ordinance defines a street as a public road. Ramvano comes in from 130th Ave into a private road that is in metes and bounds survey because the Planning Commission hasn't approved the parcels. Ramvano wants to take a portion of that and resection it off for more parcels and that the ordinance requires 66' wide easement to those parcels, Ramvano wants 33', it would allow the road to go between the pond and the existing building.

Jim Sellman representing Romvano, stated the main reason for the private drive going in between the building and the pond that there is already an existing drive coming in from 130th Ave (Peach Creek Ravines). It would be a safer ingress and egress to those 4 parcels. There is an existing drive but they would abandon that one and would only have the one existing private road going to the proposed private road.

Z. A. Ellingsen stated that the road ordinance states if it's over 4 parcels there is a 66 feet requirement due to the fact that if there is more parcels than it could get denser and fire trucks would have problems getting back there. Normal Circumstances the fire chief is notified when the building permit is issued, as long as the cul-de-sac is sufficient in radius.

Marczuk stated that Ramvano came before the Planning Commission to add docks and his intention is to add more homes. ZBA is not here to enrich Ramvano.

Z. A. Ellingsen stated Ramvano might lose a couple lots by adding a second driveway on a land division act that allows you to lose your bonus lots. It depends on the parent tract.

Oyler read through the questions on finding the facts for approval or denial of variance request:

- (1). Can the land be reasonably built or used in conformance with the Ordinance? Yes
- (2). Was the hardship self-imposed? Yes
- (3). Do unique circumstances exist for this parcel? No
- (4). Would a variance alter the character of the neighborhood? No
- (5). Do unique or exceptional extraordinary conditions apply to this property that generally do not apply to other properties in the same zoning district? No

Motion to deny the request for a variance. Motioned by Wester, Marczuk second. Carried Unanimously.

The second variance requested by Ramvano was rendered because the first variance request was denied.

The second hearing was a request from Peter Palazzolo, 2635 Blue Star Highway, Fennville, Michigan 49408 to erect a 10,000 sq. ft. addition to the existing non-conforming use known as Palazzolo's Gourmet Ice Cream (Parcel# 0320-360-007-00; 150' x 600'). The ZBA must deliberate the expansion of the non-conformity under the regulations set forth within Section 40-1012(b) of the Saugatuck Township Zoning Ordinance and may be requested for a variance from this Section.

Z. A. Ellingsen tried to reach Mr. Palazzolo by phone and could not get a hold of him. Chairman Oyler opened the hearing.

Z. A. Ellingsen stated that Palazzola bought this business on land contract in 1991; it was deeded over to them in 1996. 1272 sq. ft. was the original size building. It is in a platted sub-division, which in certain circumstances it was residential use. Around 1996 it went back to A-1. In 1996 he got a 1200 sq. ft. addition and in 1998 he got a permit for an expansion, both times they were A-1. In 2002 he was granted an expansion for a 10 x 24 ft. addition and that was over and above the expansion. Palazzola is way beyond the 50% allowed on a non-conforming and he's asking for a variance from that 50%.

John Huyge, 2643 Blue Star Hwy, neighbor on the North side, opposing the request, Mr. Huyge stated that Mr. Palazzolo will continue to grow and will out grow his building.

There were 3 letters submitted to the Township opposing the addition.

Peter Palazzolo arrived. Palazzolo discussed when he purchased the building it was called Diamond Ice zoned Commercial 18 years ago. He has built the business up and to be more competitive in today's market you have to buy supplies by the truckload, that means running out of space. Palazzolo discussed that he is displaying cafes, in which he

wants to make his business more presentable. Palazzolo explained what he would do to his business if the expansion were approved. Palazzola stated he employs 7 people and has invested a lot of money into that parcel. Palazzola said he's not changing anything but making things look better and more presentable. Palazzola mentioned he was not aware of the zoning change back when it happened.

Chairman Oyler stated that the ZBA does not grant a variance based on money or success. ZBA has to see according to the ordinance if we can see a way to permit an expansion based on the zoning. We cannot base it on money.

Z. A. Ellingsen said the original building was the base of the start of the 50% rule. 1996 expansion and the addition in 1998 were in the 50% rule. Joe Gorka signed off on that both times. The ZBA than granted the office space addition over and above the 50% rule.

Wester stated 3 negative responses from your neighbors were received. The ZBA looks at the neighborhood as what they think. A variance means changing the law. The ZBA hasn't seen any positive comments on this variance.

Marczuk stated that Palazzola had bought that building when it was zoned Commercial.

Oyler read through the questions on finding the facts for approval or denial of variance request:

- (1). Can the land be reasonably built or used in conformance with the Ordinance?
Yes
- (2). Was the hardship self-imposed? Wester & Marczuk-No, Oyler-Yes
- (3). Do unique circumstances exist for this parcel? No
- (4). Would a variance alter the character of the neighborhood? Marczuk & Oyler-No, Wester-Yes
- (5). Referred to the 2 criteria from section 40-1012.
 - A. Extend duration? Yes
 - B. Interfere with use of other properties? No

Chairman Oyler stated that by granting this variance would extend the duration of this non-conforming use. The way the ordinance is written we need to deny the variance.

Motion to deny the request for a variance. Motioned by Marczuk, Wester second. Carried Unanimously.

Oyler motion to adjourn, Wester second.

Meeting adjourned at 5:20 p.m.

Lori Babinski, Recording Secretary

