

SAUGATUCK TOWNSHIP ZONING BOARD OF APPEALS

THURSDAY, August 29, 2013 5:00 p.m.
LAKETOWN TOWNSHIP HALL
4338 BEELINE ROAD, HOLLAND, MI 49423

MINUTES

Chairman Shawn Powers called the meeting to order at 5:07 p.m.

Members present: Shawn Powers & Kathleen Miller Cook. Mark Putnam arrived at 5:40.

Also present: Zoning Administrator Al Ellingsen, Saugatuck Township Attorney Ron Bultje, Singapore Dunes Attorney James Bruinsma, Land Planner Hank Byma, Singapore Dunes Attorney Stephen Neumer and various members of the general public.

Approval of minutes: **Motion by Putnam, seconded by Powers to approve the minutes of May 30, 2013.**
Unanimously approved.

Chairman Powers read the notice:

A request from James Bruinsma, Meyers Nelson Dillon & Shierk, Suite 270, 125 Ottawa Ave., NW, Grand Rapids, MI 49503, acting as agent for Singapore Dunes, LLC, for a variance from the maximum height of 35 feet for a residential building. The applicants wish to construct 4 multi-family structures to a maximum height (as defined in the Saugatuck Township Zoning Ordinance) of 60.5 feet from the average grade plane. Due to the settlement agreement between Singapore Dunes, LLC and Saugatuck Township the variance request will be adjudicated as if this portion of the property was zoned R-2. Therefore, the variance request is from Section 40-276.

The applicant has eliminated all of the previous variance requests and is now seeking only dimensional variances with respect to four proposed multi-family buildings on the site of the former Broward Marine facility (Parcels 0320-004-002-00 & 0320-004-006-00). A site plan of the property and structures is available at the Saugatuck Township Hall, 3461 Blue Star Highway, Saugatuck, MI 49453.

Land Planner Hank Byma, presented a slideshow showing the Preliminary Master Plan of the proposed four multi-family buildings on the site of the former Broward Marine facility. Byma stated this was phase 2 of Singapore Dunes. He stated this is an early part of the process before going to the Planning Commission for the PUD submittal. He also stated that the Inn has been removed from the previous plans. It has been replaced by a residential building similar to the others. The location is bordered by 135th and 66th St. During Byma's slideshow he discussed the layout of each building. Three of the buildings are a 16-unit condominium and the fourth being a 24-unit condominium. The residential units would have parking below which would make the buildings higher. The configuration of the marina has changed due to the outlay of the critical dune and also the layout of the road. The residential buildings have the 75 foot set back from the river which complies with the ordinance. Building one (16-unit condo) is the closet to the water and is extending the building height 21.5' beyond permitted maximum. Building two (16-unit condo) is extending the building height 25.5' beyond permitted maximum. Building three (24-unit condo) is extending the building height 20.5' beyond permitted maximum. Building four (16-unit condo) is extending the building height 21.5' beyond permitted maximum. The other amenities for the common area would be a swimming pool, tennis courts, lawn bowling, and a storage

shed for storage and watercrafts.

Discussion took place with the audience asking Mr. Byma questions regarding the building structure and the area that is pertaining to the PUD.

Attorney James Bruinsma, spoke regarding the legal analysis for the non-use variance and how the legal standards are met by going through each of the questions in Section 40-76. Bruinsma stated that there are practical difficulties; he gave examples of non-use variances granted. Bruinsma stated that they have multiple decision makers because of going through the DEQ for permits, the ZBA for height variance and then the PC for the PUD project.

- 1) **That there are exceptional or extra-ordinary circumstances of conditions applying to the property in question as to the intended use of same that do not apply generally to other properties in the same zone district.** Bruinsma replied that this is the only R-2 property subject to critical dune regulation.
- 2) **That such variance is necessary for preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zone district and in the vicinity; provided that the possibility of increased financial return shall not of itself be deemed to warrant variance.** Bruinsma replied that the applicant's property is surrounded by non-conforming uses. Ox-Bow and Pine Trial Camp and Ken Denison have been granted variances to best use their properties. He said the critical dune regulations require the owner to preserve dunes, avoid slopes, be creative with parking, etc.
- 3) **That the authorizing of such variances will not be of substantial detriment to adjacent property and will not materially impair the intent and purposes of the Zoning Ordinance of the public health, safety, and welfare.** Bruinsma stated that this parcel is isolated. Bruinsma pointed out that the ZBA should consider the topography; he noted that the area in question is low, and that height is measured from the ground up. Thus, taller buildings would actually be lower than shorter buildings constructed on the dunes.
- 4) **That the condition or situation of the specific piece of property or the intended use of said property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation.** Bruinsma stated that the height limitations apply to every zoning district. Under certain circumstances height variances are required in unique situations.
- 5) **That an exceptional or extraordinary circumstance applying to the property in question was not self-created.** Bruinsma stated that the practical difficulties caused by the dunes is not a self-created hardship, even if the dunes were on the property when it was purchased by the developer.

Attorney Stephen Neumer, stated the height variance is only in the old Broward Marine area where the land is flat and has been disturbed. Neumer addressed he wants what is good for Singapore Dunes and also for the township. Neumer addressed he wants to commit to a condition if the variance is granted and set 132 acres to the north of the old Broward Marine as a permanent conservation district. Original Singapore Dunes purchased 405 acres, sold 170 acres to the land conservancy, 235 acres is now left on the north side of the Kalamazoo River. The permanent conservation district would only be for the Singapore Dunes residents. Neumer explained that there will be 19 homes on the beach, 4 condo buildings, housing 72 families, overall giving up 59 homes from the original plan. Neumer also mentioned that there would be community involvement, which includes the fire dept., DNR fishery boat and also a homeland security boat.

Public Comment:

Janet Rund, 6127 Kings Way, Saugatuck Township, opposes the variance. She thought the presentation showed the development in an unrealistic manner.

Jill Winston, 2975 Lakeshore Dr., Saugatuck Township, read a letter from Cynthia McKean, 3498 Riverside Dr., Saugatuck Township. The letter answered the 5 questions from Sec. 40-76 that there was no hardship and should not be granted a height variance. Both Winston and McKean both oppose the variance.

Rachelle Jenneker, 3581 65th St. Unit #14, Goshorn Lake Condominium, Saugatuck Township, opposes the variance and feels it will set a precedent; she said the Township is quaint and unique, and the developer should not be allowed to construct vertically.

Norm Deam, 3463.5 Park St., & 3530 Oval Dr. Saugatuck Township. Lives directly south of Singapore Dunes property. Submitted a letter. He opposes the variance. Feels the development will destroy the character of the area.

Kay Smalley, 3423.5 Park St., Saugatuck Township, Submitted a letter. Opposes the variance. Stated that the noise would be bothersome.

Tracey Shafroth, 1015 Park St. Saugatuck City, opposes the variance. Feels it should go to the Planning Commission first.

Marsha Perry, 6248 Blue Star Hwy, Laketown Township, Representing the Coastal Alliance. Read a letter from attorneys, Scott Howard and Kate Redman from Olson, Bzdok & Howard. States that the applicant should go before the Planning Commission to see what is permitted and that it should go through the PUD process.

Fritz Royce, 144 Lake Shore Dr., Douglas City, opposes the variance. Feels it should be brought to the Planning Commission as a PUD process.

Greg Janik, Fire Chief, submitted a letter commenting on the four proposed multi-family buildings on the site of the former Broward Marine factory.

Attorney Bultje explained that variances generally run with the land. He said if the land was sold, the variance and any conditions would go with the purchaser. The Broward Marine variance was assumed by Singapore Dunes when it bought the land. The variance is given to land use not to the property owner.

Attorney Bruinsma commented on the Fire department letter and that the Planning Commission would address all the safety requirements when it goes to the PUD process.

Miller Cook questioned what the reason is behind the height variance request. She questioned why couldn't there be a fifth building in the same area so then you wouldn't have to have the height variance. She wondered if Singapore Dunes is asking for financial reasons and not for hardship. Miller Cook asked the applicant if there might be some alternative development plan that would allow the developer to achieve the goal of increased density, while still preserving the critical dune area, but not require them to seek a height variance. She then further questioned Mr. Byma, whose response stated in part: "... buildings not facing right on the marina would not have the same market value as those situated further back." Miller Cook then cited the possibility of financial return as motive for seeking the height variance.

Attorney Bruinsma replied to the Miller Cook's question by stating that you design developments that will be financially viable. He stated he has no interest in proposing a fifth building in the same area because of the layout of the proposed PUD, stating "... we are not going to build a building no one wants to live in." Attorney

Bruinsma commented that Singapore Dunes could build homes in the dunes where they would benefit financially. He stated that they have two financially viable options, but that would not include a fifth building in the former Broward Marine area.

Zoning Administrator Ellingsen stated that the buildings may vary in location in that area depending on where the DEQ will put the road.

Chairperson Powers closed the public portion of the hearing at 7:40 p.m.

The Board asked for legal counsel from Attorney Bultje.

Attorney Bultje went over his memo which he addresses three options.

- 1) PUD option to allow the Planning Commission to grant increased height to buildings in a PUD
- 2) Which comes first, the variance application or the PUD application? If the ZBA finds that a variance is needed for a PUD which includes buildings which exceed 35 feet in height, then the ZBA would have to consider that variance first, before the Planning Commission should consider a PUD application with buildings which exceed 35 feet in height.
- 3) If the ZBA finds that a variance is necessary for the buildings proposed by Singapore Dunes, which exceed 35 feet in height, even though Singapore Dunes will be submitting a PUD to the PC, then the ZBA must consider the factors in Sec. 40-76(a) of the Zoning Chapter. The ZBA must find all the facts satisfied if a variance is to be granted.

Chairperson Powers discussed with the ZBA the numerous documents that were given to them at a short notice. They all agreed to table the meeting so they could digest the newly received material.

Discussion took place on the next date and time. The ZBA decided Thursday, Sept. 5, 2013 at 5:00 pm. at Laketown Township Hall would be the next meeting.

Discussion took place among the ZBA members and Attorney Bultje regarding the meeting and the options that Attorney Bultje had in his memo.

Motion by Putnam, seconded by Miller Cook to table the height variance to the September 5, 2013 meeting. Motion Carried unanimously.

There being no further business meeting adjourned at 8:17 pm

Lori Babinski, Recording Secretary