

**ALPINE TOWNSHIP ZONING BOARD OF APPEALS**  
**Regular Meeting**  
**In Person and by Electronic Remote Access**  
**Tuesday, December 20, 2022**

**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, Lisa Frizzell, Bill Schweitzer, Bill Homrich and Ted Spangenberg. Also present: Planner Sue Becker and Recording Secretary Barb Griswold.

**APPROVAL OF MINUTES**

The Board reviewed the September 26, 2022 minutes, with corrections. Schweitzer motioned, supported by Spangenberg to approve the minutes.

**Ayes: 5                      Nays: 0                      Motion carried**

**NEW BUSINESS**

**CASE #22-ZBA-05**

**A request by Anna VanAgtmael to allow for front yard setback variances for three accessory buildings in conjunction with an anticipated request for a private road and rezoning to RA, Rural Agricultural. The required front setback is 60 feet and the requested setbacks are zero, zero, and 36.7 feet on property at 7196 Vinton Avenue, within the A, Agricultural zoning district.**

Planner Becker gave a brief review of the variance request and the request stems from the applicant's desire to create a lot on Mead Lake to build a house. All buildings regardless of use, size or zoning district have setback requirements to property lines and road right-of-way/access easements.

Per state law, the depth of a new lot may not exceed more than four times its width; except a remainder lot. In other words, the creation of a narrow and deep lot is not permitted. All lots for houses in the A, Agricultural zoning district must abut a public road for a minimum of 330 feet and no private roads may be created in the A, Agricultural zoning district. Property in the RA, Rural Agricultural zoning district may have a private road. A new private road creates new road frontage for existing buildings. The front yard setback of 60 feet is the same in the A, Agricultural and RA, Rural Agricultural zoning districts.

Applicant Anna VanAgtmael said she would like to use the existing main farm drive on her Aunt and Uncle's neighboring property to access a new Rural Agricultural zoned split on 7296 Vinton Avenue. This will make the existing three agricultural buildings non-conforming because there is a required 60-foot front yard setback for all agricultural structures. She would be creating a new front yard with the private road and would like to request front yard setback variances for the three agricultural buildings.

Mrs. VanAgtmael said the approval would allow a reduced front yard setback from 60 feet to 36.7 feet for a 44'x48' existing building and 0 feet for a 32'x48' building and 0 feet for a 8.5'x6.1' building. The 8.5'x6.1' building is a well house. These agricultural buildings on the neighboring lot that is zoned Agricultural (and will be requested to be approved to Rural Agricultural) and the loss or decrease in front yards will not negatively impact any farm workers or property owners.

This is the only location for a private road that would not require removal of apple tree due to the fact that most of the drive already exists.

Mrs. VanAgtmael said her parents, along with her Aunt and Uncle plan to keep the farm within the family and in its current state as a working farm. If there should be any future splits to be planned for residential builds, they would be able to use this existing private road.

Motion by Homrich to open the public hearing, supported by Spangenberg.

**Ayes: 5                      Nays: 0                      Motion carried**

Phil Schwallier, uncle of applicant, 1185 9 Mile Road said he is the property owner of 7196 Vinton Avenue. He supports the request from the applicant and thinks the variance request should be granted.

John Weis, father of applicant, 7296 Vinton Avenue said he supports the variance request and would like to have his daughter closer to home.

Motion by Schweitzer to close the public hearing, supported by Homrich.

**Ayes: 5                      Nays: 0                      Motion carried**

Stachowiak said he drove the property and the driveway in the rear is in rough shape from what he could see. He said the driveway would need to be able to support emergency vehicles. Spangenberg said zero setbacks is a concern and how that would impact safety vehicle's ability to use the driveway.

Stachowiak asked how busy is the driveway currently? Mr. Schwallier said there are semi-trucks that use the driveway and workers will park in the orchard, no one parks on the driveway. He thinks the driveway is plenty wide enough for emergency vehicles too.

Homrich said he isn't sure there is anything about the property that makes it unique. Schweitzer said the property is a working farm and that could make it unique. Spangenberg said the orchard trees are already existing and the applicant doesn't want to damage the trees; it could create a unique situation.

Frizzell said there are many farms with orchard trees in Alpine Township so she doesn't feel that is a unique situation. She feels zero setbacks are extreme.

Mr. Weis said they do not want to create an additional driveway and are trying to stay away from existing orchards. They just want to find a way to the back of the property and using the existing driveway works. No one else is going to be concerned about it and the use won't change.

Mr. Schwallier said the property is unique because the back part of the orchard is really steep. They took apples trees out from that area because of the steepness and it is also slippery.

Schweitzer said the applicant's choice could be to put in a road that will meet the setbacks or move the buildings to meet the setbacks.

Frizzell said the request could set a precedent going forward because any property owner with an orchard could make the same request. Homrich agreed saying there are many orchards in the Township.

Homrich said there could be more lots in the future to develop and would want to use the private drive and still have zero front lot lines. Stachowiak said they could make it a condition of approval the driveway could only serve one lot.

Frizzell said the request could set a precedent. The applicant and her family have all that land to put in a road that meets the setback requirements but they do not want to cut down trees.

**MOTION: FRONT YARD SETBACK VARIANCE AT 7196 VINTON AVENUE  
CASE #22-ZBA-05**

Spangeberg made a motion, supported by Homrich to DENY the requested variance from Section 2.01(b) to vary the required front yard setback from 60 feet to zero, zero, and 36.7 feet, to allow for the creation of a private road in the proposed zoning district of RA, Rural Agricultural for the property located at 7196 Vinton Avenue, PP#41-09-12-200-026.

**FINDINGS OF FACT (CHOOSE AS APPROPRIATE):**

1. The requested variance *does not* meet Standard # 1, that "There must be unique circumstances or conditions about this property, not the use of the property." There is nothing unique in the circumstances or condition of the property.
2. The requested variance *does not* 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 would have the same continued rights as others in the same zoning district.
3. 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." A private road being created does not harm the public interest.
4. The requested variance *does not* meet Standard # 4, that "The variance cannot set a precedent." The variance request could set a precedent as there are many properties in the Township with orchards and trees and they may want zero setbacks too.

**Ayes: 5**

**Nays: 0**

**Motion carried**

**NEW BUSINESS**

**CASE #22-ZBA-06**

**A request by Carol Schoenborn to allow for a rear setback variance from the required 85 feet to 54 feet for a rear deck at 5280 Baumhoff Avenue within the A, Agricultural zoning district.**

Applicant Carol Schoenborn said she purchased the property in 2015 and wanted to replace the wood siding on the house and replace the deck that was in disrepair. She began the process in early 2020 and hired a contractor to do the needed work. The contractor pulled a permit but she

was not aware the permit did not include the replacement deck, even though it was included in the contract and pricing.

Ms. Schoenborn was told by the contractor the deck would be out of the question due to unavailability of lumber because of the COVID pandemic. Earlier this year lumber became available and she purchased what was needed and she decided to take on the project herself. She wanted a deck big enough for patio furniture for family entertainment and flowers, she did not know the size of the deck was too big.

Ms. Schoenborn said the surrounding neighbors have comparable size decks and patios. She lives in a rural environment where there is considerable distance between her house and the neighbors to the north and south of her property. The neighbor to the east is approximately a half mile away with 30 to 40 acres of alfalfa fields between them.

Motion by Spangenberg to open the public hearing, supported by Homrich.

**Ayes: 5                      Nays: 0                      Motion carried**

Devin Rich, 5790 Baumhoff Avenue said he is a neighbor and has no issues with the request. He thinks the deck looks nice and improved the house.

Motion by Homrich to close the public hearing, supported by Schweitzer.

**Ayes: 5                      Nays: 0                      Motion carried**

Spangenberg said the request could be a unique situation because there were different rules that existed before the current zoning ordinances.

Stachowiak said at a ZBA meeting on August 24, 2009 a similar request was made at 5758 Baumhoff Avenue for a 3-season room that did not meet the setback requirements and that request was denied. Spangenberg said that request involved a structure and he thinks a deck is different because there is not sides or a roof. Stachowiak said the request was against the ordinance in 2009 for setbacks, regardless of a roof or no roof.

Homrich said the lot is non-conforming to begin with, so it is unique in the Agricultural zoning district. Frizzell said half of the setbacks are for lots that are double in size, at least 2-acres lots where the applicant's lot is only 1-acre.

Schweitzer said this property lot depth is less than many properties in the area and would not be a re-occurring situation.

Spangenberg said the location, structure and depth of the property are unique enough not to set a precedent.

**MOTION: REAR YARD SETBACK VARIANCE AT 5820 BAUMHOFF AVENUE  
CASE #22-ZBA-06**

Schweitzer made a motion, supported by Spangenberg 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 54 feet to allow for a rear deck that the applicant installed (building permit is required) in the A, Agricultural zoning district for the property located at 5820 Baumhoff Avenue, PP#41-09-22-200-010.

**FINDINGS OF FACT (CHOOSE AS APPROPRIATE):**

- 1) The requested variance *does* meet Standard # 1, that "There must be unique circumstances or conditions about this property, not the use of the property." The property is unique because it is non-conforming and too small for the ordinance for A, Agriculture zoning. The setbacks are meant for a parcel twice the size and restricts buildable area.
- 2) 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 should have the right to build 15-feet into the setback.
- 3) 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 request is not damaging to the neighbor's properties and the deck does not impact the neighbor's properties.
- 4) The requested variance *does* meet Standard # 4, that "The variance cannot set a precedent." The variance request will not set a precedent because the request will not be a re-occurring situation in the Agricultural zoning district.

**Ayes: 5**

**Nays: 0**

**Motion carried**

**ZONING BOARD OF APPEALS ADMINISTRATIVE ITEMS**

Becker said there will be a meeting in January and introduced Paul Flanery as the new alternative member.

**ADJOURNMENT**

Motion made to adjourn the meeting at 9:15 PM by Schweitzer, supported by Spangenberg.

**Ayes: 5**

**Nays: 0**

**Motion carried**



Susan Becker, Planning Director



Bill Stachowiak, Chair



Barb Griswold, Recording Secretary