

**DAVISON TOWNSHIP
ZONING BOARD OF APPEALS
SEPTEMBER 14, 2021**

MEMBERS PRESENT: Chairman John Jelinek, Vice Chair Carol Hagler, Secretary Eric Hernandez, Richard Hill, Treasurer Tim Green, Paul Cooper
Planning/Zoning Admin. Charm Healy
Building Official Matt Place
Attorney David Lattie
Recording Secretary Jami Vert

MEMBERS ABSENT: Nancy Davis

OTHERS PRESENT: Patricia Ogg, Chris Hough, Cassie Batterbee, Chris LaBrie

CALL TO ORDER

The regular meeting of the Davison Township Zoning Board of Appeals was called to order at 6:00 P.M. at the Davison Township Municipal Center, 1280 N. Irish Road, Davison, MI 48423.

ADOPT THE AGENDA

MOTION BY HILL, SECOND BY COOPER to adopt the September 14, 2021 board agenda as presented. Motion carried unanimously.

PREVIOUS MINUTES

MOTION BY HILL, SECOND BY HERNANDEZ to approve the August 10, 2021 regular board meeting minutes as presented. **MOTION BY HILL, SECOND BY GREEN** to approve the August 10, 2021 regular board minutes with the revision of page 6 to change time from 6 P.M. to 7 P.M. Motion carried unanimously.

UNFINISHED BUSINESS

- A. Discussion on meeting time change
 - a. Hill – wants to move back to 7 P.M.
 - b. Hagler – we mentioned we want to move meeting back to 7 P.M.
 - c. Lattie – township board has the authority to make the time change; you can pass motion to bring up time change to township board.
 - d. Hagler – yes; we want to change it back.
 - e. Green – it was not put on the agenda; thought we just talked about it; the township board approved 6 P.M. for the regular board.

**DAVISON TOWNSHIP
ZONING BOARD OF APPEALS
SEPTEMBER 14, 2021**

MOTION BY HILL, SECOND BY COOPER to go back to 7 P.M. for meeting time and bring up in front of the township board.

Ayes – Cooper; Hernandez; Hagler; Hill

No – Green

Motion carried.

Hill – just to clarify the township board sets the times?

Hagler – now I guess; changed since the new board.

Lattie – open meetings act the township sets the times each calendar year; they prefer uniformity.

Hagler – before each board set their own times.

CASE #16-V-2021-4 – HEATHER HAREMZA – 9326 VARODELL DR – A VARIANCE REQUEST FOR A 5-FOOT SIDE SETBACK OF THE REQUIRED MAXIMUM 10-FOOT SIDE SETBACK

– Removed and pulled off agenda; withdrew application.

NEW BUSINESS

CASE #16-V-2021-6 – PATRICIA OGG – 7243 E MAPLE RD – A VARIANCE REQUEST OF 415 FEET OF THE MAXIMUM 4 TO 1 WIDTH TO DEPTH RATIO

Patricia Ogg – 7243 E Maple Rd – husbands health has been compromised; owned property since 1992; needs to downsize; wanting to sell 40 acres; by selling the 40 acres would allow us to be able to stay where we live; his property runs from Irish Rd all the way to the back of our property; if he is able to buy this, we would be able to stay here; there was a question back about this causing a flag lot.

Hagler – applicant has a burden of proof through their affidavit, exhibits, and testimony to show that a variance in from the requirements of zoning ordinance are caused by conditions and circumstances unique to the property, and a variance would not be contrary to the spirit of the ordinance.

Place –Planning and Zoning- this variance request is for Patricia Ogg; owner of 7243 E Maple Rd; requesting a dimensional variance of section 1714 of the Davison Township Zoning Ordinance in which a lot width to depth ratio of 4 to 1 is required to be the maximum permitted in all zoning districts; Mrs. Ogg bought the property in 1992; consisted of 54.32 acres; parcel is zoned RSE (Residential Suburban Estate) and is surrounded by the same; Mrs.

**DAVISON TOWNSHIP
ZONING BOARD OF APPEALS
SEPTEMBER 14, 2021**

Patricia Ogg is requesting a 415-foot variance of the maximum 4 to 1 ratio to split her property; she will sell 40.26 acres and keep 14.08 acres for herself; Mrs. Ogg stated her hardship/practical difficulty is downsizing their maintenance, and give buyers road access off Maple Rd; Planning and Building would support a recommendation for denial based on the following:

1 Mrs. Ogg has not proven hardship/practical difficulty exist.

2 Ordinance 26-2010 The Land Division Ordinance Section 7-A: standards for approval of land division states a proposal land division shall be approved if following criteria is met; all parcels to be created by the proposed land division fully comply with the applicable lot (parcel) yard and area requirements of the applicable zoning ordinance including but not limited to minimum frontage/width, minimum road frontage, minimum lot area, minimum lot width to depth an minimum lot coverage and setbacks for existing building and structures; variance is contrary to the spirit and intent of the zoning ordinance.

Hagler – reading a letter from Courtney LaBrie – 7376 E Bristol Rd – they have been Davison Township residents for 10 years; they have two children; they grew up on a farm and learned the value of hard work; they want to provide the same to their children; we currently own 18 acres on Bristol Rd and a connecting 36 acres on Irish Rd; majority of acres are planted in hay which feed our beef cattle; we lease additional land and this would let us forgo leasing land and give ability to harvest all the hay needed on annual basis directly behind our home; please consider granting Mrs. Ogg variance request.

PUBLIC COMMENT PERIOD

Public comment period opened at 6:12 P.M.

Chris Hough – 7337 E Maple Ave – just moved here in January; need clarification; legal stuff don't understand; are they asking to rezone.

Hagler – lot depth ratio of 4 to 1; what she wants to do would not meet those criteria.

Chris Hough – so that variance would just go in the front?

Hagler – 4 to 1 and go back so far.

Chris Hough – so they are not asking to rezone this land?

Place – the zoning is not being changed; they are just asking for a variance to split the property.

Cassie Batterbee – 7287 E Maple Ave – I'm confused and disturbed; don't know what the letter means; I presume that part would be in question only part on Maple; is that section the reason this is all in question?

**DAVISON TOWNSHIP
ZONING BOARD OF APPEALS
SEPTEMBER 14, 2021**

Healy – showing Cassie the drawing on what is going on; explaining what has to be done the proper way.

Jelinek – apologies for coming in late; has the township given their decision yet?

Place – yes, we have.

Jelinek – talked with Charm this afternoon and asked if they have the wrong number article.

Place – yes, we talked with the attorney on that; lot as it's currently configured is a legal conforming, but you cannot make the lot nonconforming by the proposed division without a variance.

Lattie – act of dividing the lot into a new configuration removes the non-conforming status.

Jelinek – what is the township recommendation?

Place – denial.

Jelinek – is there anything that can be done; not changing the use of it; do you propose any alternative?

Place – spoke with Mrs. Ogg; gave her an option of dividing the parcel so she wouldn't need a variance, she said she didn't want to do that.

Jelinek – You're still recommending a denial?

Place – yes, we are.

Patricia Ogg – the main reason for the 40 acres is what they wanted; there are 17 other splits like this.

Place – what we proposed would be a legal split.

Jelinek – if it is denied tonight, we can come back for another variance?

Lattie – if it is denied tonight; she has the right to proceed with the configuration that was recommended as it doesn't require a variance.

Chris LaBrie – from 40 acres to 46 acres I don't understand what the difference would be for that flag lot; it would still provide same road just a jog behind her house.

Place – chairman can I show what the legal lot would look like; showing diagram to Chris LaBrie.

Chris LaBrie – okay, that makes sense to me now; thanks for showing me.

**DAVISON TOWNSHIP
ZONING BOARD OF APPEALS
SEPTEMBER 14, 2021**

Place – legal split would be 1200-foot from this point; attached all this to the main parcel and shorten up this it would be a legal split.

Jelinek – does everyone understand?

Patricia Ogg – how is this helping me; that doesn't work; he does not want more than 40 acres; I will potentially have to sell the whole thing and move; I explained to Charm and all you, I have a very compromised health issue; we need to downsize; upset that they won't even consider this; how am I supposed to prove his health situation?

Lattie – hardship/practical difficulty is about the property itself, not the occupants. The board does not have the ability to consider personal or financial issues, they are limited to property characteristics when reviewing hardship/practical difficulty.

Patricia Ogg – they are supposed to care about the people; don't understand how this will have any negative effect on the community; there are 17 splits just like mine that I am asking for; they are uncompassionate to the community.

Jelinek – sorry about that but we have a way of working it out; make an appointment to come in and discuss.

Public comment period closed at 6:32 P.M.

MOTION BY HAGLER, SECOND BY HILL to support a denial based on Mrs. Ogg has not proven a hardship/practical difficulty exist; Ordinance 26-2010 The Land Division Ordinance Section 7-A. Motion carried unanimously.

INFORMATIONAL ITEMS

Jelinek – I've been on this board for a long time; it has been a long time since the board has had any instructions on what we can do or not do; Wade Trim came in a long time ago to show us; could they give us an hour or so of instruction some evening?

Place – I can contact them and find out.

Jelinek – secondly have you dealt with the meeting time?

Hagler – Tim did not realize we made a motion, so another motion was made to go in front of the board.

Jelinek – so it is recommended by the board to move to 7?

Hagler – not yet.

Hill – this board recommended it.

**DAVISON TOWNSHIP
ZONING BOARD OF APPEALS
SEPTEMBER 14, 2021**

Hagler – the motion we made last month was not brought up to the board on the agenda.

Hill – Mr. Lattie, the township board has the authority to set the times?

Jelinek – page 288 number 2 section 2204.

Lattie – when you read that the Chairman calls the meetings. The open meetings act requires township to adopt regular meeting schedules each calendar year, and that statute overrides your ordinance that; request is not unreasonable; staff and planning commission prefer 6 P.M.

Hagler – each year a schedule goes out?

Lattie – yes, it is supposed to.

Hagler – would we have received them?

Lattie – I would have thought so; but since the meetings have been this way for plus years.

Hagler – since we were not notified should it be in effect this year?

Lattie – they can amend the meeting schedule; they prefer uniformity.

Jelinek – it would be nice to be back on regular schedule; could we pass the motion?

Lattie – you did today to go back in front of the township board; might not have a meeting next month.

Jelinek – looking at possibility the one we just approved; looking at rescinding what we did last month; don't know if the board is up on procedures; like the secretary to make copies on how to rescind; what it is to rescind.

Lattie – is that from Robert's Rules?

Jelinek – yes.

Lattie – you guys formally adopted Robert's Rules?

Jelinek – yes.

Lattie – basically the successful side of a motion can move to reconsider, and the decision was 6 to 1.

Jelinek – it didn't happen yet; wondering what is happening across the road; making a PUD.

**DAVISON TOWNSHIP
ZONING BOARD OF APPEALS
SEPTEMBER 14, 2021**

Lattie – the township board acted on it; they are rezoning to RU-1; it is going to be reviewed by the Planning Commission; if there is a PUD the township board has to approve.

Jelinek – Planning Commission gets involved; we didn't have a lot of information; who is the developer?

Lattie – is there a confidentiality agreement?

Healy – until it goes to the Planning Commission there is.

Place – the township still owns the property.

Jelinek – that's what bothers me it failed once and we don't want that again; we will have to go through all the steps again; are we getting into something that won't work out again?

Jelinek – any other comments to bring in front of the board?

ADJOURNMENT

MOTION BY HAGLER, SECOND BY HILL to adjourn at 6:47 P.M. Motion carried unanimously.

Eric Hernandez, Secretary