

TOWN OF EAST BLOOMFIELD

May 25, 2022

Zoning Board of Appeals Members Present, Sonja Torpey, Art Babcock, Mark Thorn, Tim Crocker, Rosemary Garlapow,

Others Present: Kimberly Rayburn (Secretary) Gary Pooler (Applicant) Gary Westerman

Torpey opened the meeting at 7:00 pm.

I. Review # TV4-22 Area Variance W. B. Creekside 2211 Creekside Airport Drive tax# 68.00-1-72.211 to allow for 5 houses on a private drive where 4 are allowed.

Rayburn stated that she asked one of the Town Attorneys about how to review this request. He stated that it can be categorized as a area variance and it seems to be the proper relief from a zoning perspective.

Torpey started by saying that what they are being asked to review is not really related to zoning. The design criteria in Chapter 86 under land development is not the purview of the Zoning Board of Appeals. This relates to the difference of a minor subdivision vs a major subdivision. Babcock stated that When Fish Brook Run was being subdivided there was a issue with the road being too long as a road could not be over a thousand (1,000) feet long at the time and it was given to the ZBA as a variance. When it was decided it came down to a Town development issue for specifications. At that time the ZBA was not going to take action on it. It was not up to the ZBA to make a ruling on development rules as they could not tell the applicant to use a different type pipe or width of road etc.

Thorn stated that the powers of the ZBA are area variances of dimension in the zoning regulations meaning chapter 135. You do not go the ZBA for relief of a hardship for Town land development regulations.

The Board took a poll and stated that there was a public hearing advertised for this meeting if for any reason they would like to discuss the topic, open the public hearing and deliberate.

Torpey opened the public hearing and waived the reading of the public notice.

Pooler asked for the floor. In 2018 he decided he wanted to move off of the lake. The airstrip had been existing for years. He owns three hundred feet of road frontage. He has a very long driveway and he is interested in putting in other lots to help offset the cost of the driveway. He would like to put houses on each side of the road and he stated it just worked out to have five lots. The build out will most likely take three years. He doesn't consider himself as one of the lots and he believes he meets the Towns requirements. He will have 4 houses that will each have 15ft to Co Rd 30 and they will have an easement to utilize Pooler's driveway. Currently there are two legal lots including his own.

Gary Westerman asked for the floor. He stated that he is against the project he does not want to listen to airplanes. He was under the impression that the property is agriculture and residential. He asked if he wanted to put in a road with multiple houses would it be allowed. The Board stated he could if he could meet the Town regulations.

Torn motioned Torpey seconded to close the public hearing. All Board members in attendance voted aye.

The Board Voted if they would review the application, all Board members present voted aye.

The Board discussed that allowing a 5th lot is an alternate use to the Land Development regulations. These are not located in Chapter 135; they are located in Chapter 86 of Town Code. The Board does not feel this should be an area variance. The ZBA is not tasked to review Chapter 86, just Chapter 135. 5 Lots on a Private Rd is covered under a major subdivision which is not the prevue of the ZBA. The Planning Board reviews subdivisions.

Thorn motioned Babcock seconded as discussed in meeting minutes and based on what they have heard the Board does not feel this application is a variance from a zoning regulation in Chapter 135.

Whereas:

- 1. The ZBA task is to review zoning regulations from Chapter 135 not Chapter 86.**
- 2. The ZBA does not have legislative powers**
- 3. The ZBA can not hear this particular variance application as they do not have jurisdiction**

Record of Vote:

Babcock **Aye** Thorn **Aye** Torpey **Aye** Crocker **Aye** Garlapow **Aye**

All Board members present voted Aye, Vote was carried unanimously.

II. Meeting Adjourned

Babcock motioned and Crocker seconded to adjourn at 8:15 pm. All Board Members present vote Aye. Vote was carried.

Respectfully submitted,

Kimberly Rayburn

Planning & Zoning Board Secretary