

THORNAPPLE TOWNSHIP ZONING BOARD OF APPEALS

Thursday, August 29, 2019

1. The meeting was called to order by Vice Chairperson Linda Gasper at 7:00 p.m. at the Township Hall. Vice Chairperson Gasper welcomed those attending.
2. Present: Curt Campbell, Linda Gasper, Craig Stolsonburg, and Martin Wenger. Absent: Tim VerHey - excused. Also present: Catherine Getty, Stephanie Skidmore, Ken Kollar, Eley Kollar, Linda Boogaard, Christy Stewart, Andrea Landon, Ken Moore, Judy Moore, Carolyn Getty, Joseph Booher, Sylvia Elderkin, and Ryan Bylsma.
3. **MOTION** by Stolsonburg, support by Wenger to approve the Agenda as printed. **MOTION CARRIED** with 4 yes voice votes.
4. **MOTION** by Wenger, support by Stolsonburg to approve the June 24, 2019 Minutes as printed. **MOTION CARRIED** with 4 yes voice votes.
5. Public Comments – No comments.
6. New Business – None.
7. Public Hearing
  - a. Variance #111 – 2575 Valley Ridge Drive Parcel 08-14-032-017-50
    - i. Fence Height Variance, Article XXI, Section 21.12(c)
    - ii. Getty provided an overview of the Variance request and indicated that the applicant 's property is located at 2575 Valley Ridge Drive in Valley Ridge Estates. Valley Ridge Estates is a private road development with twelve residential lots. The parcel is zoned Rural Residential (RR). The property owner started construction of a 9ft tall privacy fence enclosure which measures 64'x34'. The applicant did not apply for the necessary zoning permit prior to construction of the structure and a Stop Work Order was placed on the fence enclosure on July 22, 2019. No work on the structure is permitted until the structure is brought into compliance or is granted a variance. Craig Stolsonburg asked what is the size of the parcel and Getty indicated that it is roughly a 10-acre parcel. Jeff Sluggett, Township Attorney reminded the board that the fence height is the only issue facing the board and that they use of the parcel is outside its scope. Sluggett stated that all conditions on the variance checklist must be met in order to approve the variance.
    - iii. Applicant's comments: Applicant's mother (Christy Stewart) was in attendance since applicant was currently out of the country. Mrs. Stewart stated that her son's friend Ryan Bylsma was also in attendance to discuss the fence size issue. Mr. Bylsma stated that per the medical marijuana code, the medical marijuana must be locked and has to meet certain standards, including that the neighbors can not see the marijuana plants.
    - iv. Gasper opened the Public Hearing at 7:09 p.m.
      1. **Sylvia Elderkin, 11381 Davis Road**, is concerned about trust even though the applicant is a very nice man, however, should have been aware of the permit process.

2. **Joseph Booher, 11396 Ridge Point Drive**, was concerned about trust and felt that it was easier to do something and ask for forgiveness afterwards. As a retired police officer, he stated that he was familiar with marijuana grow facilities and was worried about the young children in this neighborhood. Mr. Booher was against the fence and concerned for the safety for his neighbors since he claimed that this kind of activity might bring criminal activity into this neighborhood.
3. **Linda Boogaard, 2778 Valley Ridge Drive**, stated that she can't see the fence from her property. Ms. Boogaard does not feel that this property is protected since no one currently lives at this property. Ms. Boogaard is concerned that no one is overseeing the operation of the marijuana activity and concerned for the neighborhood's safety. Ms. Boogaard inquired to the applicant's mother as to who is operating the marijuana activity, whether the property owner or someone else. The applicant's mother stated that the property owner is not operating the marijuana activity, but it is actually Ryan Bylsma who does not live on-site.
4. **Ken Moore, 11224 Davis Road**, stated that his property is adjacent to the applicant's property and concerned that he may have criminals trespassing through his woods to gain access to the applicant's property. Mr. Moore is against this issue since it's a residential area.
5. **Ken Kollar, 2659 Valley Ridge Drive**, distributed pictures to the board that depicts the fence that can be seen from the front of their house. Mr. Kollar is concerned about declining property values due to the fence situation and the marijuana activity. Further, it is a residential neighborhood with young children. He understands that the purpose of the meeting is to discuss the fence height, but he appreciates the board listening to the neighborhood's concerns regarding the activity within the fence. Mr. Kollar submitted written correspondence to the Zoning Board of Appeals detailing his concerns and viewpoint.
6. **Carolyn Getty, 2522 Valley Ridge Drive**, wrote a letter to the Zoning Board of Appeals which is included in the meeting packet. Ms. Getty is against the approval of the variance request.
7. **Andrea Landon, 11475 Ridge Point Drive**, stated that she lives two houses down from the applicant's property and has young children so she is concerned for their safety. Ms. Landon is concerned whether it will bring in additional traffic or criminal activity to the neighborhood since the applicant's property is unoccupied. Ms. Landon is uncertain who is operating the marijuana business and is concerned about declining property values.
  - i. Gasper closed the Public Hearing at 7:20 p.m.
  - ii. Deliberation: Campbell stated he is focused on fence height issue and asked whether the property was occupied. Applicant's mother stated that Mr. Stewart is only home every six months for a couple of weeks. Applicant's mother stated that the applicant's mail is currently received at her physical

address as listed in the application. Applicant's mother stated that Ryan Bylsma is running the marijuana business and it's a cultivation center for his personal use. Mr. Bylsma stated that the fence structure is built for 12 plants. Mr. Bylsma stated that he would like to grow medical marijuana outdoors to reduce production overhead in terms of electricity and gas usage. Campbell asked Mr. Bylsma to verify that he is the sole patient that would be utilizing the medical marijuana grown in this fence structure. Mr. Bylsma verified that he is the sole patient. Gasper asked for verification of the size of the fence (64'x32'). Mr. Bylsma verified the size of the fence. Wenger asked where Bylsma resides. Mr. Bylsma stated that he lives in Grand Rapids, however, since he just had a baby, his wife asked him to move the operation from his residence. Applicant's mother stated that a former renter had grown medical marijuana in the pole barns previously. Gasper stated that Ordinance 21.12 dictates that fencing should not exceed 6 ft and that is the focus of our meeting. Gasper further inquired to Mr. Bylsma whether there was anything that would inhibit him from working within grade or options such as installing a berm with a six-foot fence on top of it or having a lower grade within the fence to keep it at a six-foot fence. Mr. Bylsma stated that a nine-foot fence would inhibit the plants and would be willing to install fast growing plants around the nine-foot fence, however, he doesn't feel that it will appease the neighbors with the options that Gasper proposes. Campbell asked the applicant what is unique about this property that causes Mr. Bylsma to grow medical marijuana at this location rather than at a different location. Mr. Bylsma stated that he would like to grow his marijuana outside and that this property has the space to allow this to occur. Gasper stated that per Section 27.6 Dimensional Variances, that if an applicant seeks a dimensional variance from the provisions or requirements of this Ordinance because of dimensional characteristics of the lot or parcel of land, or because of exceptional topographic or other conditions of the land, buildings or structures, the applicant must demonstrate through competent, material and substantial evidence on the whole record that all of the criteria must exist.

- i. **MOTION** by Stolsonburg, support by Wenger to deny Dimensional Variance Request #111 for relief from Section 21.12(c) based upon Section 27.6 dimensional variance criteria checklist and commission discussion/votes surrounding the information presented to the Zoning Board of Appeals.
  8. That the enforcement of the literal requirements of this Ordinance would involve practical difficulties. Board Consensus: NO, there are decent alternatives to growing product in question outdoors.
  9. That special conditions or circumstances exist which are peculiar to the land, structures or buildings involved and which are not applicable to other lands, structures or buildings in the same zoning districts? Board Consensus: NO, there is nothing peculiar to this parcel's land.
  10. That literal interpretation of the provisions of this ordinance would deprive the applicant of property rights commonly enjoyed by other

properties in the same zoning district. Board Consensus: NO, it doesn't deprive the property owner from having a fence.

11. That the authorizing of such variance will not be of substantial detriment to other lands and uses and will not be contrary to the spirit and purpose of this Ordinance. Board Consensus (except for Stolsonburg): NO, it will be of substantial detriment to neighbors and adjacent property owners as well as to the spirit and purpose of this Ordinance.
  12. That the conditions or situation of the property or the intended use thereof is not of so general or recurrent a nature as to make reasonable practicable a general regulation for the conditions or situation. Board Consensus: YES, this is not of so general and re-occurring nature.
  13. **ROLL CALL VOTE:** Campbell, yes; Gasper, yes; Stolsonburg, yes; VerHey, absent - excused; Wenger, yes. **MOTION CARRIED.**
8. ZBA Member Comments:  
a. Getty stated that the next meeting will be September 16<sup>th</sup> at 7:00 p.m.
9. Adjournment: **MOTION** by Stolsonburg, support by Campbell to adjourn the meeting at 8:02 p.m. **MOTION CARRIED** with 4 yes votes.

Respectfully submitted by:

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Curt Campbell  
Secretary

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Stephanie L. Skidmore  
Recording Secretary

Approved: 9/23/2019