

ZONING BOARD OF APPEALS  
Regular Meeting  
December 19, 2023

The meeting was called to order by Chairman Russ Boersma at 5:30 p.m.

Present: Chairman Russ Boersma, Members Elliott Church, Ross De Vries, Robert De Vries and Jack Vander Meulen. Also present were Community Development Director Corey Broersma, Assistant Planner and Zoning Administrator Kate White, and Recording Secretary Laurie Slater.

Absent: None

There were no public comments.

\*\* It was moved by Ross De Vries and supported by Boersma to approve the minutes from the October 24, 2023, meeting as printed. Motion carried with 3 Yes and 2 Abstained (Vander Meulen and Robert De Vries).

\*\* It was moved by Vander Meulen and supported by Robert De Vries to approve the minutes from the November 21, 2023, meeting as printed. Motion carried with unanimous roll call vote.

Chairman Boersma explained the Public Hearing process to the audience.

Chairman Boersma asked Staff for updates on the tabled items.

12350 James Street is working on a new survey with final dimensions for a future project. They are adding a new element to the park. They will be at the February meeting with a revised plan.

3717 Beeline Road is waiting for the Planning Commission to look at the required interior storage area of apartments. It is currently 120 square feet per unit whether it is a studio apartment or a three-bedroom apartment. The Planning Commission is planning to take that up at their next meeting on January 2, 2024.

**Next on the agenda** is a petition for a Nonuse Variance submitted by William A. Sikkel on behalf of Great Lakes Partners, Inc for property located at 4467 96th Ave, known more specifically as Parcel Number 70-16-01-200-006. Petitioner is requesting a variance of 3.3 acres from the minimum lot area of 5 acres required within the AG Agricultural zoning district, resulting in a lot area of 1.7 acres. The variance is being requested for a land division to create a new lot of record containing an existing single-family dwelling. The subject property is zoned AG Agriculture. (Item was originally tabled in September and again in November.)

\*\* It was moved by Church and supported by Ross De Vries to remove this item from the table. Motion carried unanimously with a roll call vote.

Present for this request was Bill Sikkel on behalf of Great Lakes Partners, Inc.

There was a full board for tonight's meeting. Since some of the members had been absent when the request was presented, Chairman Boersma allowed the applicant to present a summary of his request even though the public hearing had been closed previously.

Mr. Sikkel explained that Mr. Janssen owns approximately 80 acres of land that he farms except for the 2.47 acres with the old farmhouse and barn on it. There is no one living in the house at this time. Mr. Janssen would like to be a good steward to the house by splitting it off, making it as affordable as possible while retaining as much farmland as possible. At the September ZBA meeting, the Board had asked the

applicant to present a site plan in which the existing buildings would be in compliance with the setbacks. The applicant has done that. Mr. Sikkel explained that they would not like to straddle the creek with the split. It appears other properties created kept the property to one side of the creek. The applicant kept a 15-foot-wide separation from the proposed split from the northwest corner to the creek for ease of access to get the equipment around the corner and to the farm area to the south.

Mr. Sikkel noted the practical difficulty is the County drainage ditch that runs through the property. It is approximately six feet deep. The creek runs to the south and branches to the east. Mr. Sikkel presented maps that show that creek and surrounding properties. He stated that other property owners have split off new lots with houses on them using the creek as a property line. The farm equipment needs to have access to the bridge that goes over the creek to work the land to the east. Splitting off 5 acres would create a parcel on both sides of the creek. They are asking for 2.47 acres instead of 5 acres to be split off for the farmhouse and barn. Mr. Sikkel presented a map showing other properties in the area that were split into smaller parcels for the purpose of splitting the house from the farmland (Map in file). These parcels were created under the previous ordinance. However, there are a number of other parcels in close proximity that are 2 ½ acres or smaller. Staff noted that some of parcels indicated on the map were not within the jurisdiction of Holland Charter Township and would therefore be subject to different zoning requirements.

There was discussion from the Board that Mr. Janssen could lease the acreage on the east side of the creek from the new owner while complying with the ordinance of a 5-acre split. It would be more complicated, but not impossible. He could rent out the farmhouse and barn rather than sell it, giving him access to the bridge to cross the creek. Or he could sell it with an easement to allow him to get to the bridge and farm the land on the proposed split parcel.

Mr. Vander Meulen noted the intent of this Ordinance is to preserve the farmland and keep the density low in the farming area. It was written with the intent to preserve farmland. The ordinance states 5 acres, they are asking for 2 ½ with one house, that is low density. Ross De Vries noted that less land with the house means more to farmland to preserve.

Robert De Vries stated that we should not confuse preserving farmland with using farmland. To him preserving farmland means open space. He further noted that the property to the south has the same situation with the creek crossing it and it gets farmed on both sides of the creek.

The Board asked Staff if we have granted a similar request to others since this zoning ordinance has taken effect. Community Development Director, Corey Broersma, stated not that he is aware of. There was a potential request, but our lawyer informed us that it would create a nonconforming lot, so the request was never submitted.

When Mr. Church asked why 5 acres is required, Mr. Broersma stated that the Agricultural areas usually have road infrastructure of two-lane roads and need to consider space for an available area for the septic field and separation of wells. Generally, the intent is to keep density low and allow room for agricultural practices. Agriculture is the nature of the area. The 20-year vision for this property is Agriculture Preservation, it is not anticipated to change.

There was further discussion of easements from the future property owner if Mr. Janssen were to sell the house and barn. Mr. Sikkel stated that easements for farm equipment make it complicated and feels that it would encumber the property and could confuse homebuyers. Mr. Sikkel noted that an easement for utilities is totally different.

The Board went over the standards to review when considering a nonuse variance request.

1. ***That compliance with the Zoning Ordinance would result in practical difficulties due to exceptional, extraordinary, or unique characteristics or conditions of the land or lot of record, including but not limited to:***
  - a. *Exceptional narrowness of the width or depth of a lot of record, or irregular shape.*
  - b. *Exceptional natural or topographic features located on the lot of record, such as steep slopes, water, existing significant trees, or other unique or extreme physical conditions of the land.*
  - c. *Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.*
  - d. *Other exceptional or extraordinary dimensional conditions or characteristics of land or lot of record.*

The existing county drain is a unique feature. The creek does make it difficult to make the parcel 5 acres. There would be areas of land that would be difficult to reach without updates to the land.

2. ***That the unusual circumstances do not apply to most other lots of record in the same manner to the same extent to other lots of record in the same zoning district.***

The county drain does cross several properties. That is typical.

3. ***That the variance is necessary for the preservation and enjoyment of a substantial property right. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.***

The right of the property owner is to try to preserve and farm this land. There are a number of solutions to preserve this right: 1) don't sell; 2) sell with an easement that allows you to farm; or 3) sell with a lease. It is not simple, but it is a solution, just not what they want to do.

There is some merit to it but not enough to grant the variance.

4. ***That the granting of the variance will not be of substantial detriment to adjacent and nearby land uses and properties.***

The Board members had different opinions:

Mr. Vander Meulen commented about what kind of precedent would be set by granting this variance. The ordinance says 5-acre splits for agricultural land. There could be future requests.

Mr. Church asked if the ordinance was correct in requiring the split to be 5 acres. He noted that the ordinance requirements were thought about for a year before setting on these requirements. The question of whether the ordinance is right (should it really be 5 acres) is not for the Zoning Board to consider. Is that an avenue worth exploring for the applicant, challenging the ordinance? That would be a different Board/Commission.

Russ Boersma stated that granting this request would not be of substantial detriment as there are nearby splits of less than what is being asked for.

**5. *That the applicant shall not have created the problem for which the variance is being sought.***

Yes, the problem was created by the applicant in that he would desire a smaller lot with the house and barn to preserve more of the land to farm and have access to that land by means of a 15 foot wide piece of property on the west side of the county drainage ditch.

Ross De Vries noted that it is not an absolute, and he doesn't see it as a detriment. Yes, they are the cause of the problem but does not feel that it is a reason to deny the request.

**6. *That the granting of the variance will not be contrary to the public interest and that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done for both the applicant and other property owners in the district.***

The spirit of the ordinance is 5 acres, to preserve farmland and low-density housing. Some members felt this request does preserve the farmland; it does keep the housing to a low density.

Some members felt it is in the public's interest to make this a 5-acre piece of property.

Ross De Vries noted to a certain extent we are given the ability to remold, make it fit and grant the request. Robert De Vries countered that there are some things we can't arbitrarily do, our hands are tied by the standards.

\*\* It was moved by Ross De Vries and supported by Boersma to approve the modified request for a variance of 2.2 acres based on the reasons stated and the applicant's desire to preserve as much continuous farmland as possible and make a reasonably priced saleable piece of real estate for someone else to homestead. Motion failed with a roll call vote of 3 No to 2 Yes.

\*\* It was moved by Church and supported by Robert De Vries to deny the request as presented. Motion carried with roll call vote of 3 Yes to 2 No. Motion carried.

The meeting adjourned at 6:30 p.m.

Respectfully submitted,

Laurie Slater  
Recording Secretary