



ROBINSON TOWNSHIP ZONING BOARD OF APPEALS

Ottawa County, Michigan

October 1, 2024

The special meeting of the Robinson Township Zoning Board of Appeals was called to order at 7:00 P.M. at the Robinson Township Hall.

Present:

Rich Saddler
Briana Fowler
Bill Maschewske
John Wood
Doug Putnam

Absent:

None

Also present were Zoning Administrator Julie Lovelace, Supervisor Frank Johnson, and seven members of the public. The attendance sheet is attached.

Approval of Agenda

A motion was made by Doug Putnam and seconded by John Wood to approve the agenda as written.

The motion carried unanimously.

Approval of Minutes

A motion was made by Briana Fowler and seconded by John Wood to approve as written the Zoning Board of Appeals minutes from the May 29, 2024 meeting.

The motion carried unanimously.

Action Items

A non-use variance request was received from Brett and Kaylee Hodgkinson to add a basement to an existing non-conforming dwelling in the Village of Robinson.

The public hearing was declared open by Chairperson Saddler and the rules of procedure were explained.

Chairperson Saddler requested the applicant to make a brief presentation of the request.

Applicant Brett Hodgkinson stated they want to replace their existing crawlspace foundation with a basement. The house would be raised about 9 inches. The reasons for the basement were for safety during storms and to add additional space to their house. He noted the majority of their neighbors have basements. He further stated they are on a corner lot but the addition of a basement would not interfere with the neighbors and would not increase the non-conformity of the existing dwelling. If the variance would not be granted, they would need to seek a new residence and move since they wish to expand their family. They are unaware of any neighbor opposition to their variance request.

John Wood – Do you plan to remove the soil under the house yourself?

Brett Hodgkinson – No, they will have a contractor do it.

John Wood – Will the soil remain on the site?

Brett Hodgkinson – Yes.

Tony Rainko of Black Creek Homes (contractor for Mr. Hodgkinson) – The overburden will be hauled away. Some soil will be used to regrade the lot.

John Wood – What are you planning to do about basement wall support?

Tony Rainko and Bill Maschewske– The house will be lifted, the soil removed larger than the basement, the basement walls constructed, the house lowered on the walls, and then the earth backfilled against the basement walls.

Doug Putnam – How much setback do you have from neighbors and will the digging interfere with the neighbors?

Tony Rainko – There is adequate room without interfering with neighbors. They will dig from the garage end and remove soil from there.

John Wood – Do you have a utility plan for water, sewer, and power.

Tony Rainko – Power is overhead and undisturbed. Water and sewer will be reconnected. The applicants will not live in the house during construction.

Hearing no more questions, Chairperson Saddler requested any comments in favor of the variance request.

Frank Johnson – Stated he was in favor of the applicant’s variance request and the Township should revise the regulations. The homes in the Village of Robinson were non-conforming since they were built and should not be required to obtain a variance for virtually everything. This is bad government and bad procedure.

Doug Putnam – It is the Planning Commission and not the Zoning Board of Appeals that should correct this.

Frank Johnson – There needs to be an Overlay District for the Village of Robinson.

Doug Putnam – Wants input from Frank Johnson on an issue when we get to it.

Chairperson Saddler – We cannot discuss the issue with the public after the public hearing is closed.

Zoning Administrator Lovelace – Frank Johnson is a member of the public for tonight.

Chairperson Saddler – Requested comments in opposition to the requested variance. There were none.

The Chairperson then called for any follow-up discussion.

Brett Hodgkinson – He agrees with Frank Johnson after they were denied a Zoning Permit.

Chairperson Saddler – Requested additional comments and there were none.

A motion was made by John Wood and seconded by Briana Fowler to close the public hearing. The motion carried unanimously.

Bill Maschewske – Is troubled by not knowing the arrangements under which the Village of Robinson was developed. He reviewed lot and required yard sizes in the 1949 Zoning Ordinance and while the Required Yards possibly could have been conforming at the time, the lot sizes in general were non-conforming. He suspects there was some arrangement that made the newly created non-conforming lots (two original lots combined into one) legal and conforming since variances were not found for each home constructed. If we cannot determine the circumstances under which the lots were created and determined buildable, then we should make a Zoning Ordinance amendment to recognize the lot sizes within the Village of Robinson.

Zoning Administrator Lovelace – Noted the subject lot was originally two lots that were combined prior to the construction of the dwelling.

At this time, the Standards for Variances in Section 40.6 of the Zoning Ordinance were reviewed. Numbering follows the numbering in Section 40.6. Zoning Board of Appeals responses are in *Italics*.

1. There are exceptional or extraordinary circumstances or conditions applying to the property in question, as to the intended use thereof, that do not apply generally to other properties or classes of uses in the same zone.

The non-standard lot is an extraordinary circumstance due to the development of the Village of Robinson. The lots are very small for the Rural Residential Zoning District. The Zoning Board of Appeals unanimously finds this standard is met.

2. Such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties or classes of uses in the same zone. The possibility of increased financial return shall not of itself be deemed sufficient to warrant the granting of a variance.

A basement is a substantial property right for a dwelling as possessed by other properties in the same Zoning District. Many dwellings in the same Zoning District have basements. A basement also provides shelter during severe weather. The Zoning Board of Appeals unanimously finds this standard is met.

3. Such variance, if granted, will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this Ordinance or the public interest. Approving the construction of the basement does not increase the non-conformity of the property or the building. The creation of a basement is not believed to extend the natural life of the building since the current foundation appears to be in good repair.

The Zoning Board of Appeals unanimously finds this standard is met.

4. The condition or situation of the property or the intended use thereof is not of so general or recurrent a nature as to make reasonably practicable a general regulation for such condition or situation.

This is the first known variance request to add a basement to a dwelling on a non-conforming lot.

The Zoning Board of Appeals unanimously finds this standard is met.

5. Any exceptional or extraordinary circumstances applying to the property in question are not self-created.

The current owner did not create the non-standard parcel or build the dwelling. The lot was created and the dwelling was permitted and built under the requirements of a previous Zoning Ordinance and the applicant was not responsible for the revised requirements.

The Zoning Board of Appeals unanimously finds this standard is met.

A motion was made by Brianna Fowler and seconded by John Wood to approve the Non-Use Variance Request from Brett and Kaylee Hodgkinson at 11644 Buchanan St. to replace a crawl space foundation with a basement under the non-conforming dwelling. The Zoning Board of

Appeals finds that all five of the Standards for Variances in Section 40.6 of the Zoning Ordinance are met. The following conditions apply.

1. Compliance with all Federal, State, County, and Township Ordinances.
2. Compliance with the application.
3. Compliance with the verbal representations of the applicants in the minutes.

A roll call vote was taken.

Briana Fowler – Yes

Doug Putnam-- Yes

Bill Maschewske – Yes

Rich Saddler – Yes

John Wood – Yes

The motion carried unanimously.

At 8:25PM., the Borta Dimensional Variance Request to Section 4.9(B)(A)(7) to construct a Private Roadbed closer than 15 ft. to the easement boundary was considered.

Chairperson Saddler declared the public hearing open and explained the rules of procedure for the hearing. The applicant was requested to make a presentation of the variance request.

Cody Borta – Noted he recently purchased parcel no. 70-08-05-300-036 which has a 66 ft. wide easement off 132nd Ave. for access. A Private Road needs to be constructed. A utility pole and an AT &T utility box are located on a property boundary line which is in the middle of the easement and within the 132nd Ave. right-of-way (ROW). He has gotten an estimate and it will cost tens of thousands of dollars to relocate the utilities. He is requesting to violate the required 15 ft. setback of the roadbed from the North easement boundary as required in Section 4.9(B)(A)(7) and reduce the 15 ft. setback to 5 ft. to avoid moving the utilities.

The Chairperson requested questions from the Zoning Board of Appeals.

Bill Maschewske – Inquired for what distance from the 132nd Ave. ROW Mr. Borta intends to violate the 15 ft. setback requirement.

Cody Borta – After some consideration, he decided that he would need to violate the 15 ft. setback requirement for 30 ft. from the 132nd Ave. ROW or 63ft. from the centerline of 132nd Ave.

Bill Maschewske – Does the easement exist today since it does not show up on Ottawa County GIS?

Zoning Administrator Lovelace – Yes, the easement legally exists, however, it does not show up on GIS since there is no Private Road yet.

Chairperson Saddler requested comments from the public in favor or opposition of the requested variance and there were none. There were also no more questions from the Zoning Board of Appeals.

A motion was made by Briana Fowler and seconded by Doug Putnam to close the public hearing.

The motion carried unanimously.

At this time, the Standards for Variances in Section 40.6 of the Zoning Ordinance were reviewed. Zoning Board of Appeals findings are in Italics.

Bill Maschewske – When was the easement created?

Zoning Administrator Lovelace – The easement was created in 2001 and predated the Zoning Ordinance requirement for a setback of 15 ft. from the easement boundary.

Section 40.6 of the Zoning Ordinance

1. There are exceptional or extraordinary circumstances or conditions applying to the property in question, as to the intended use thereof, that do not apply generally to other properties or classes of uses in the same zone.

The Zoning Board of Appeals accepts the findings of the Zoning Administrator (copy attached) and adds that the easement and the location of the utilities predate the recent revision to Section 4.9(B)(A) requiring the road bed to be at least 15 ft. from the easement boundary.

The Zoning Board of Appeals unanimously finds this standard is met.

2. Such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties or classes of uses in the same zone. The possibility of increased financial return shall not of itself be deemed sufficient to warrant the granting of a variance.

The Zoning Board of Appeals accepts the findings of the Zoning Administrator.

The Zoning Board of Appeals unanimously finds this standard is met.

3. Such variance, if granted, will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this Ordinance or the public interest.

There is no public opposition and the property owner to the North, where the easement would violate the setback, is not in attendance. The applicant states that the Private Road will meet the required 15 ft. setback of Section 4.9(B)(A)(7) beyond 30 ft. from the public road ROW or 63 ft. from the 132nd Ave. road centerline. The Zoning Board of Appeals also accepts the findings of the Zoning Administrator.

The Zoning Board of Appeals unanimously finds this standard is met.

4. The condition or situation of the property or the intended use thereof is not of so general or recurrent a nature as to make reasonably practicable a general regulation for such condition or situation.

The Zoning Board of Appeals accepts the findings of the Zoning Administrator.

The Zoning Board of Appeals unanimously finds this standard is met.

5. Any exceptional or extraordinary circumstances applying to the property in question are not self-created.

The Zoning Board of Appeals accepts the findings of the Zoning Administrator and adds that the property was divided and the easement was established in 2001 prior to the Zoning Ordinance amendment that required the 15 ft. setback of the Private Road roadbed from the easement boundary.

The Zoning Board of Appeals unanimously finds this standard is met.

A motion was made by John Wood and seconded by Briana Fowler to approve the variance request from Cody Borta for parcel no. 70-08-05-300-036 to Section 4.9(B)(A)(7) of the Zoning Ordinance to construct a Private Roadbed 5 ft. from the North Easement line for a distance not to exceed 30 ft. from the 132nd Ave. ROW or 63 ft. from the 132nd Ave. road centerline. The following conditions apply.

1. Compliance with all Federal, State, County, and Township Ordinances.
2. Compliance with the application.
3. Compliance with all verbal representations made by the applicant and recorded in the minutes.

A roll call vote was taken.

John Wood – Yes

Rich Saddler – Yes

Bill Maschewske – Yes

Doug Putnam – Yes

Briana Fowler – Yes

The motion carried unanimously.

Any and All Other Business That May Come Before the Board -- None

Adjournment

A motion was made by Doug Putnam and seconded by John Wood to adjourn the Zoning Board of Appeals meeting at 9:25 PM.

The motion carried unanimously.

Respectfully submitted,

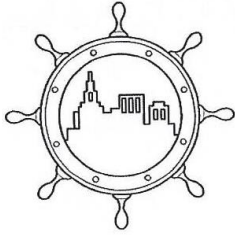
Bill Maschewske
Secretary, Robinson Township
Zoning Board of Appeals

Attachment: Sign-In Sheet for October 1, 2024 Zoning Board of Appeals Meeting
Zoning Administrator Lovelace Memorandum dated September 22, 2024
regarding the Borta – Dimensional Variance Request.



SIGN IN SHEET
Robinson Township
Zoning Board of Appeals Meeting
October 1, 2024 - 7:00 pm

PRINT NAME	SIGNATURE
Greg Borta	<i>Greg Borta</i>
Sue Borta	<i>Sue Borta</i>
Anthony Reink	<i>Anthony Reink</i>
Brett Hodgkinson	<i>Brett Hodgkinson</i>
Haylee Hodgkinson	<i>Haylee Hodgkinson</i>
Mansa Reinhold	<i>Mansa Reinhold</i>
Coby Borta	<i>Coby Borta</i>
Frank Johnson	<i>Frank Johnson</i>



Fresh Coast Planning

1/2 Washington Avenue, Studio B
Grand Haven, MI 49417
www.freshcoastplanning.com

Gregory L. Ransford, MPA
616-638-1240
greg@freshcoastplanning.com

Julie Lovelace
616-914-0922
julie@freshcoastplanning.com

Kevin Yeomans
616-821-4969
kevin@freshcoastplanning.com

Alexis Gulker
616-773-4638
alexis@freshcoastplanning.com

MEMORANDUM

To: Robinson Township Zoning Board of Appeals
From: Julie Lovelace
Date: September 22, 2024
Re: Borta – Dimensional Variance Request

Per Section 40.5 *Variances* of the Robinson Township Zoning Ordinance (RTZO), the Zoning Board of Appeals (ZBA) has received a request by Cody Borta for a dimensional variance from Section 4.9B(A)(7) of the RTZO *Private Roads* install a private road bed closer than fifteen feet from the outer boundary of the private road easement. The property is located at parcel #70-08-05-300-036, Grand Haven. An aerial view of the property is shown below outlined in yellow:



Background and Considerations

This 4.85-acre parcel is located just east of 132nd Avenue and has a 66-foot easement through the eastern parcels for access. It is zoned Rural Residential (RR). The Applicant states the power pole and phone box are right in the middle of the easement (survey attached). The Applicant states the cost of moving the pole is excessive and could leave neighbors without power for a couple of days to move it.

Applicable Zoning Ordinance Sections *(Staff comments in italics)*

4.9B(A) Private Roads (in part)

- (7) The private road easement shall be located at least in part on any lot to which the private road provides access. The road bed of the private road shall be located no closer than fifteen (15) feet from the outer boundaries of the private road easement.

As the Section above states the road bed SHALL be located no closer than fifteen feet from the outer boundaries of the private road easement. Staff does not have the authority to approve this administratively.

Dimensional Variance Review Standards

Section 40.6 STANDARDS FOR VARIANCES

The Zoning Board of Appeals may grant a dimension variance or a use variance from the provisions or requirements of this Ordinance, only if the Zoning Board of Appeals finds from reasonable evidence that all of the applicable facts and conditions exist.

(A) For a dimension variance, the Zoning Board of Appeals must find that all of the following facts and conditions exist.

- (1) There are exceptional or extraordinary circumstances or conditions applying to the property in question, as to the intended use thereof, that do not apply generally to other properties or classes of uses in the same zone.

Staff finds the placement of a power pole within the 66-foot easement may be an extraordinary circumstance and not a condition applying generally to other properties in the same zone. If the ZBA agrees, this standard may be met.

- (2) Such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties or classes of uses in the same zone. The possibility of increased financial return shall not of itself be deemed sufficient to warrant the granting of a variance.

Staff find that a private road is required for access to this parcel, which is a substantial property right. If the ZBA agrees, this standard may be met.

- (3) Such variance, if granted, will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this Ordinance or the public interest.

Staff finds that moving the private road bed northward only far enough to accommodate the utility pole may not be a substantial detriment to adjacent property. If the ZBA agrees, and pending public comment, this standard may be met.

- (4) The condition or situation of the property or the intended use thereof is not of so general or recurrent a nature as to make reasonably practicable a general regulation for such condition or situation.

Staff is unaware of a similar request. Therefore, creating a general regulation for this condition is not necessary. If the ZBA agrees, this standard may be met.

- (5) Any exceptional or extraordinary circumstances applying to the property in question are not self-created.

Staff finds the property was recently purchased with the property having been previous divided and the easement location already in place. It was only when the Applicant began the permit process for the private road that he discovered Section 4.9B(A)(7) applies. Therefore, the situation is not self-created. If the ZBA agrees, this standard may be met.

Recommendation

Given that the above five standards may be met, we believe approval of a dimensional variance may be in order. Should the ZBA agree, and in an effort to assist in that regard, we offer the following motion for your consideration.

Borta – Dimensional Variance Request

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Motion by _____, seconded by _____ to approve the dimensional variance request by Cody Borta at parcel #70-08-05-300-036 to locate a private road bed within five to seven feet of the easement boundary only to such point as to circumvent existing utilities, and then move back to no less than 15 feet from either easement boundary.

This has been scheduled for an October 1, 2024 public hearing. We expect the Applicant to be in attendance.

Julie Lovelace
Planner