

## MINUTES OF THE ZONING BOARD OF APPEALS 3-6-14

Members Present: Dan O'Shea, Al Socha, Bob Lieber, Nancy Dalley and Jay Currie. Also present, Town Attorney, Don Armstrong, Eric Buck, Jack and Susan Gherardi, and Michael and Lynn Lenkiewicz, as well as Amy Bertini and Maureen Knapp.

**The Public Hearing** on the application of Jack Gherardi for an area variance was called to order at 7:30 PM by Chairman O'Shea who read the legal notice. Dan asked for any public comment and there was none. Al Socha said he had spoken with the fire chief and one consideration would be that the road needs to accommodate a 25 to 30 ton fire truck. For insurance purposes, it would carry a high rating if more than 100 ft. from a public road, with a lack of fire hydrants. The Hearing closed at 7:35 PM on motion of Bob Lieber, seconded by Al Socha, all in favor, the motion carried.

**New Business:** Application of Maureen Knapp. Maureen presented the background of the national marketing co-op they belong to that sells certified organic products, which goes by the name of Organic Valley. The co-op has been very successful and celebrated its 25<sup>th</sup> anniversary last year. The coop is based in La Farge, Wisconsin. Maureen stated she and her husband Paul have been very active in the co-op and have traveled cross country to speak at trade shows and conferences. Maureen said Organic Valley started a sign project and chose an artist to do the work which is a painting with the slogan "bringing the good". Their rendering would be on their Quonset building. Dan stated the board would need to schedule a public hearing and refer the application to County Planning. **Motion** made by Al Socha, seconded by Nancy Dalley to refer to County Planning, all in favor the motion carried. **Motion** by Al Socha, seconded by Nancy Dalley to hold a Public Hearing on April 3, 2014, all in favor, the motion carried.

The Board then discussed the Gherardi application. Dan O'Shea stated we have the variance application and have held the public hearing. County Planning has indicated they will return to the Town of Preble without further review, as it is technically adequate and has no State or County-wide impact. Al Socha said you have non-conforming lots and you are turning those lots into more con-conforming lots without access to a public road. Eric Buck then asked if he and Mr. Gherardi could have a chance to address the Board. Mr. Buck believes that because the lots were existing prior to the adoption of the current zoning regulations, the lots were grandfathered. Dan O'Shea noted the lots still were not on a public highway but rather a private drive. Don Armstrong stated that if the applicant applies for a building permit and meets the side yard set backs, and meets well and septic codes, he is not precluded by the fact they are non-conforming lots. Dan O'Shea asked about the three year rule and Don believes that has to do with a subdivided lot. Don further stated the Town's subdivision regulations allow for a lot line adjustment, moving within a certain percentage. It is his understanding the applicant is here because the lines are being moved more than 10%, noting they start with (3) lots and end up with (3) lots. He further stated he had discussed the matter with the Town's code enforcer who agrees. Bob Lieber asked if the issue is that the lots are not a public road and was advised by Don that only applies if the land was further subdivided. Mr. Gherardi noted that the new lot 1 will be 2.5 acres and lot 2 will be less than 2 acres but still meets the other requirements for well and septic provided a waiver is obtained from County Health. Don reiterated his opinion that

since the lots were buildable prior to the current zoning regulations, it is still buildable after. He further stated the zoning amendment would not take away any prior use of the property and if it did, it could be considered a “taking” by destroying all economically viable use of the property. Nancy stated she does not understand how he can build on a 1.5 acre parcel when the regulations state a lot must be 2 acres. The applicant was then asked why he can’t make the new lots 2 acres each. He stated that it would make one lot long and narrow and just does not lay out well. Al Socha asked why not make one big conforming lot? Mr. Gherardi wants the ability to sell the other lot or keep it for his family as two separate lots. He further noted that he is unable to acquire any additional property from the Potter family as they are not interested in selling. Eric Buck asked if the Board was saying that Mr. Bernhard, the current owner, could not build on his property as it currently stands. Don said he could and would only need a variance if he further subdivided. He further stated the Board does not need to determine if Mr. Gherardi can build or not, it is just ruling on the lot line adjustment. Don then said the lot was in existence before the 2008 ordinance and is grandfathered. Mr. Buck asked how the Town could take the property away and make it not buildable and of no value, especially since the landowner has been paying taxes all these years. He further said the purpose of the R1L zone is not for blocking residential development.

**Motion** made by Bob Lieber to grant the variance for a lot line adjustment, for a change of lot lines greater than 10%, with the clarification that any restrictions or prohibitions, if any, will still apply and that items 1 and 2 on page one of the application are not being addressed (1. Lot #1 has no road frontage and 2. Lot 2 not a 2 acre minimum), seconded by Nancy Dalley, all in favor except for Al Socha who votes no, the motion carried.

The applicant is advised the next step is to speak to the code enforcement officer and go back to County Planning. He will need to submit an application to Planning.

**Motion** to approve the minutes made by Al Socha, seconded by Nancy Dalley, all in favor the motion carried. **Motion** to adjourn made by Jay Currie, seconded by Bob Lieber, all in favor, the motion carried and the meeting adjourned at 9:25 PM.

Respectfully submitted,

Mary Anne McCloskey, Secretary.