

PITTSFIELD TOWNSHIP ZONING BOARD OF APPEALS MINUTES

Members Present: Edward Resha, Robert Grosshans, Ishwar Naik, Alayna Stagg, Kenneth Brostrom.

Members Absent: None.

Others Present: Mary and Charles Leland, William Anderson, Robert Jacobs, Associate Planner Paul Montagno, Planning Director Bruce E. Fowler, and Recording Secretary Marge Burkheiser.

1.0 Call Meeting to Order/Determination of a Quorum

Chairperson Naik called the meeting to order at 6:37 p.m. A quorum was present.

2.0 Approval of Agenda

Motion by Member Resha, supported by Member Stagg, to approve the agenda, as presented.

MOTION CARRIED

3.0 Communications and Announcements

None.

4.0 Items from the Floor

None.

5.0 Old Business

5.1 ZBA #05-02 Orco Investments, Inc.
[submitted for a use variance]

Robert Jacobs, attorney representing the applicant, said that he took exception with item #7 of the resolution concerning the possibility of 46 units. He said that is from a report by Mr. Spencer dated October, 2004; he said 38 units would be difficult to achieve. He said it is impossible to use the open space option with this property.

Chairperson Naik asked Mr. Jacobs if they applied for a zoning change before coming to ZBA.

Mr. Jacob replied yes.

Chairperson Naik asked if the request was denied.

Mr. Jacob replied yes.

Chairperson Naik questioned the number of dwelling units.

Members and staff discussed briefly density, the zoning requested and the current zoning.

Member Resha asked for clarification of item 7 of the resolution.

Planner Montagno explained.

Mr. Jacobs stated that the open space option was not viable.

Motion by Member Resha, supported by Member Stagg, to deny ZBA #05-02 Orco Investments, Inc. (see attachment #1).

Discussion:

None.

ROLL CALL:

YES: Resha, Stagg, Brostrom, Naik, Grosshans.

NO: None

ABSENT: None

ABSTAIN: None

**MOTION CARRIED
(DENIED)**

6.0 New Business

6.1 ZBA #05-04 Charles & Mary Ann Leland

[submitted for a variance]
(3384 Maple Drive)

Planner Fowler reviewed his report noting the setback requirements and location of the property in question. He said the applicant is requesting an encroachment into the setback by five (5) feet. He reviewed the findings along with staff comments.

Charles Leland, homeowner and applicant, said the house has a deck in the area in question and he would like to build in the area.

Member Resha asked if the addition was to be built on a slab or the existing deck.

Mr. Leland did not have plans yet but they wanted to build a three (3) or four (4) seasons room on a foundation.

Member Resha explained that a deck is not considered to be part of the house.

Mary Leland, homeowner and applicant, said the deck is falling apart and the wood is rotting. She said they would like to do something different to have more use of the space.

Mr. Leland said there currently is a brick patio that would be raised to be even with the house.

Member Grosshans asked about the various setbacks required for the lot.

Planner Fowler explained the setbacks concerning this lot.

Chairperson Naik said if the room was reduced to meet the setbacks, the room would be 7 feet wide by 8 feet long.

Motion by Member Grosshans, supported by Member Resha, to approve ZBA #05-04 Charles & Mary Ann Leland.

Discussion:

Member Brostrom said this would be an improvement to the property.

Member Grosshans said that he felt the 5-foot encroachment into the setback would not be a problem.

Planner Montagno briefly reviewed Section 56.06C of the Zoning Ordinance.

Chairperson Naik read the Findings in the Draft Resolution of Denial:

- 1. That strict compliance with the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render the conformity with such regulations unnecessarily burdensome.**

Discussion:

Member Stagg stated if the deck is falling apart, something would have to be done to correct the situation.

Member Resha said this would be an unnecessarily burdensome.

Member Grosshans commented that not much could be done with a room that is seven (7) feet by 24 feet. He said if the room was to be used as living space the room would need to be larger.

Member Resha said the amount of encroachment is minor. He said a four (4) season room is mostly metal and he did not consider this to be a permanent structure.

Member Grosshans said he did not feel the request was asking for much.

Member Brostrom said the sunroom is in the rear and would not be seen.

Mr. Leland agreed that not much would be seen.

Member Resha said the applicant is being penalized for being on a corner. He said he felt corner lots have restrictions that are burdensome.

Chairperson Naik stated his concern about setting a precedent.

Member Grosshans asked what room was on the other side of the sunroom.

Ms. Leland replied there was a family room.

Member Brostrom said this house is a legal non-conforming structure. He said the ZBA has had requests in the past for similar cases, which resulted in improvements to the properties and brought them into closer conformance.

Member Grosshans said that from a safety point, the rear setback is still 30 feet and a vehicle could get in.

Member Resha commented that a fire vehicle would never go into the yard and that the police still have 5 feet to get through.

2. **That the granting of a variance would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property and be more consistent with justice to other property owners.**

Discussion:

Member Stagg said this does substantial justice.

Member Resha agreed with Member Stagg. He also felt this will raise the property values in the area.

Chairperson Naik noted he is a property owner in the area and could not comment.

3. **That the plight of the applicant is due to unique circumstances of the property and not to general conditions in the area.**

Discussion:

Member Resha noted this is unique because of the two front setbacks on the property because this is a corner lot.

Member Grosshans commented that if the application is not approved the applicant could still put a seven (7) foot addition on to their home.

4. **That the plight or problem is not self-created.**

Chairperson Naik said the intent to build a room was their idea.

Member Grosshans said that if this was an addition to the family room, it would be self created. He said this is a four (4) season room so it would not be self-created.

Member Brostrom said that if this is found to be self-created, the variance request would fail.

Member Grosshans questioned the applicant concerning the size of the family room.

Mr. Leland said he did not know but would like the addition to be separate from the house.

Member Grosshans said since this is for a minimal size it is not self-created.

Member Stagg said the encroachment of the front yard and lack of space in the rear of the house was existing and not the result of the applicant.

5. **That no non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.**

Chairperson Naik agreed with this.

Member Resha said that the setback is unfair to the homeowner.

Chairperson Naik said he liked the idea but trying to balance

Member Resha asked the applicant that when they house was purchased, was the deck was already there?

Mr. Leland replied yes.

Member Brostrom agreed that each case stood on its own merit.

Member Resha said he felt this was in the spirit of the Ordinance.

6. **That the variance observes the spirit of the Ordinance, secures public safety, and does substantial justice.**

Member Resha said he felt this was in the spirit of the Ordinance.

Member Stagg replied yes.

The Members briefly discussed setbacks.

Chairperson Naik said he agreed.

ROLL CALL:

YES: Resha, Stagg, Brostrom, Naik, Grosshans.

NO: None

ABSENT: None

ABSTAIN: Naik

MOTION CARRIED

(APPROVED)

Motion by Member Resha, supported by Member Stagg, to direct staff to write a resolution of approval for next meeting.

Planner Montagno noted that the vote on the previous motion did not require a resolution.

Member Resha and Stagg both withdrew the motion and support.

7.0 Zoning Administrator's Report

None.

8.0 Member's Report

Member Grosshans noted that on Warner Road between Bemis and Willis (York Township), new homes on one-acre lots minimum starts at \$600,000 off a dirt road.

9.0 Secretary's Report

None.

10.0 Chairperson's Report

Members briefly discussed the increasing number of variances that the Board has been receiving.

11.0 Approval of Prior Minutes

11.1 Minutes of February 28, 2005

Motion by Member Resha, supported by Member Grosshans, to approved the minutes of February 28, 2005, as presented.

MOTION CARRIED

11.2 Minutes of March 28, 2005

Motion by Member Grosshans, supported by Member Resha, to approved the minutes of March 28, 2005, as presented.

MOTION CARRIED

11.3 Minutes of April 25, 2005

Motion by Member Resha, supported by Member Grosshans, to approved the minutes, of April 25, 2005, as presented.

MOTION CARRIED

11.4 Minutes of May 9, 2005

Minutes of May 9, 2005 were postponed.

12.0 Adjournment

Motion by Member Resha, supported by Member Grosshans, to adjourn the meeting.

MOTION CARRIED

Chairperson Naik adjourned the meeting at 8:13 p.m.

Attachment #1

**RESOLUTION OF DENIAL
ZONING BOARD OF APPEALS
PITTSFIELD CHARTER TOWNSHIP
ZBA 05-02
Orco Investments
June 13, 2005**

WHEREAS on February 24, 2005 Pittsfield Charter Township received a petition to the Zoning Board of Appeals for a variance from the requirements in Section 20 of the Township Zoning Ordinance to allow for the use and development of the properties known as tax parcel ID #'s L-12-26-300-005, L-12-26-300-018, L-12-26-300-021, and L-12-26-300-029 for single family housing at densities consistent with those allowed in the R-1B (Single-Family Suburban Residential) Zoning Classification on February 24, 2005; and

WHEREAS the Board held a public hearing on this matter on March 28, 2005 and received and considered public comments; and

WHEREAS the Zoning Board of Appeals studied this matter and made the following findings:

The property can reasonably be used in a manner consistent with existing zoning.

1. The R-1A District provides a reasonable use of the subject property, consistent with the current and planned uses of the surrounding properties.
2. While the typical net density in the R-1B Zoning District is approximately 2.5 dwellings per acre, the minimum lot size permitted in the R-1B District is actually 10,000 square feet, resulting in a gross density of 4.3 dwellings per acre and a potential net density of approximately 3.3 dwellings per acre.
3. No evidence has been presented from the Washtenaw County Health Department to substantiate the claim that the use of septic systems would not be approved.
4. No evidence was presented of septic system failures on any residential property in the vicinity of the subject site.
5. In the event that proper soil testing, under the supervision of the Washtenaw County Health Department, determines that the soils are not suitable for on-site waste disposal, the Township can authorize the connection to the public sewer system.
6. The applicant's projected property values and sale prices for lots and homes within an R-1A development on the subject property are inconsistent with known facts for existing developments on similarly situated properties in the vicinity.

7. Section 56.22 of the Township Zoning Ordinance provides for an open space option on the subject property, in accordance with the Township Zoning Act (MCL 125.286h), that would:
- permit 46 dwellings,
 - achieve a higher quality of residential development,
 - permit a use of land in accordance with the Township's Comprehensive Plan, and
 - reduce the development costs by minimizing the length of streets and extent of grading on the property.

The landowner's plight is not due to unique circumstances and is due to general conditions in the neighborhood that may reflect the unreasonableness of the zoning.

8. No credible evidence has been presented that shows the subject property to be unique and distinguishable from other lands to the north, south, east, or west that are also zoned R-1A or AG, also accessible via Platt Road, also situated south of Michigan Avenue and west of US 23, and many of which have been developed with single family homes on large lots.
9. The presence of water and sewer along Platt Road is insufficient justification to grant a use variance that would contradict the Township's adopted Comprehensive Plan and invite demands for higher density development on surrounding properties, extending another mile south to the Township boundary.
10. While the subject property was situated within the Urban Service Area delineated in a prior Comprehensive Plan, new information regarding sewer service costs to the Township became available in 1998 that necessitated the revision of the Service Area boundary in the 2002 Comprehensive Plan.

A use authorized by the variance will alter the essential character of the locality.

11. The essential character of the area from the subject property to the south along Platt Road will be significantly altered by allowing encroachment of dense residential development into an area intended to remain rural in character. This would create an irreversible precedent for development of all similarly situated property in the vicinity.
12. The Township's Comprehensive Plan and the current zoning pattern establish an appropriate transition of uses and densities from suburban residential to rural residential to agricultural.
13. Property along the north side of Merritt Road, immediately adjacent to the east side of US 23 and approximately one and one-quarter miles from the US 23 interchange, is zoned R-1A and developed with large lot single family home sites.

The hardship is the result of the applicant's own actions.

14. The applicant entered into a purchase agreement for the subject property knowing it was zoned R-1A, knowing it was designated Low Density Residential in the Township Comprehensive Plan, knowing that it was outside the designated Urban Service Area, and knowing that a prior request to rezone it to R-1B had been denied.

NOW THEREFORE BE IT RESOLVED that the Pittsfield Charter Township Zoning Board of Appeals hereby denies the petition ZBA 05-02 Orco Investments to grant a use variance to allow for the use and development of the properties known as tax parcel ID #'s L-12-26-300-005, L-12-26-300-018, L-12-26-300-021, and L-12-26-300-029 for single family housing at densities consistent with those allowed in the R-1B (Single-Family Suburban Residential) Zoning Classification based on the above findings.