

PITTSFIELD TOWNSHIP ZONING BOARD OF APPEALS MINUTES

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

Members Absent: None.

Others Present: Bruce Laidlaw, William Anderson, Robert Jacobs, Associate Planner Paul Montagno, Planning Director Bruce E. Fowler, and Recording Secretary Laura Ford.

1.0 Call Meeting to Order/Determination of a Quorum

Chairperson Naik called the meeting to order at 6:35 p.m. A quorum was present.

2.0 Approval of Agenda

Motion by Member Resha, supported by Member Grosshans, 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]

Chairperson Naik stated that this petition was submitted for a use variance. He said that the members previously asked to have time to review the reports from staff and the applicant. He reviewed the various reports that have been received.

Associate Planner Paul Montagno reviewed the report from LSL Planning, Inc. He listed the uses and conditional uses that are permitted in the zoning district. He said that the existing land uses surrounding the site are rural consisting of vacant and agricultural land. He listed the neighboring uses. He said that public water and sewer lines are located along Platt Road and provide service to the State correctional facility. He said that the subject site and the surrounding properties are not located in the Township's Utility Service Area. He reviewed the Comprehensive Plan policy statements that provide direction for future land use designations.

He said that the service area boundary was established to concentrate utility services within the established urban areas of the community and prevent the intrusion of sprawling development into the outlying perimeter of the Township. He said that without this policy, the alternative is a first come first served approval and this would create a random and scattered land use pattern with service voids within the heart of the Township when the capacity limits are reached.

Planner Montagno discussed his conversations with the Township Assessor. He said that the document (the report by John Widmer) is not an appraisal, it is an opinion. He said that it shows when you increase density you increase profit. He said that they are using the same time frame for the selling of thirty-eight (38) lots as per one hundred and forty-eight (148) lots. He added that the absorption time for one hundred and forty-eight (148) lots could be ten (10) years as opposed to three and a half (3 ½) years for the thirty-eight (38) lots. He further discussed the time frames for the development of thirty-two (32), thirty-eight (38) and one hundred and forty-eight (148) lots given by the applicant for the development. He said that the absorption time would be longer based on the trends of sales in the area, and this could deplete the economic benefit. He said that twenty-five (25%) percent is used for the return on the investment, and a more reasonable number would be fifteen (15%) percent.

Robert Jacobs, attorney representing the applicant, discussed the previous report from Mr. Burgoyne, Appraiser. He said that the report from Mr. Widmer is not an appraisal and it was intended as a study. He said that developing thirty-two (32) units with well and septic, the economic return would be a negative 15.1%. He said that developing thirty-eight (38) lots with water and sewer service is a negative 11.4% return. He said that if one hundred and forty-eight (148) lots served by sewer and water were developed, it would be productive and could allow a feasible return. He said that this is the minimum variance required to make the site feasible. He said that this confirms Mr. Burgoyne's analysis. He said that the absorption rate is taken from years of experience of hundreds of developments.

Mr. Jacobs commented on the report from LSL Planning, Inc. He stated that the assumption under the characterization is that the property can be used because the R-1A zoning assumes that there are suitable soils for septic and well. He listed various uses that would not be appropriate for the property.

Member Stagg asked Mr. Jacobs why essential services would not be an appropriate use.

Mr. Jacobs replied that a municipal facility would be placed in the middle of what is planned as residential facilities and it would not yield an economic return and the location is not appropriate. He reviewed the uses and conditional uses allowed under the zoning district and why they are not appropriate for this property. He said that the property cannot be used for a single-family development without the requested density. He said that unique circumstances mean that the circumstances surrounding the property and the applicant are not shared by all others. He said that when Rodney Arroyo examined the criteria by LSL, he said that the focus of their response is on large lot single-family developments in the area.

Mr. Jacobs stated that the Birchler Arroyo analysis focused on long-range planning and the value to the community when locating higher densities closer to freeway interchanges. He said that Platt Road is a major corridor and it is not appropriate to have low density homes with well and septic located there. He said that on the north side of Michigan Avenue between Platt Road and US 23, the Township has established that R-1B density is appropriate all the way to Morgan Road. He said that using Merritt Road as the boundary transition to lower densities makes good planning sense. He added that this places more density closer to freeway interchanges.

Mr. Jacobs discussed the intent of the R-1A zoning district. He stated that the 2.5 dwelling units per acre density is appropriate given the location of what is there. He said that Mr. Arroyo concurs with LSL for the Township to “direct the intense development, requiring an urban infrastructure (roads, parks, schools, utilities) to those areas where such infrastructure is already available or can be logically extended without creating undesirable pressures or conflicts with other nearby properties.” He said that the essential character of Platt Road would not be harmed by approving this development. He said that the hardship was not self-created by the applicant. He listed various reasons why a hardship was not self-created by the applicant.

Member Grosshans asked Mr. Jacobs if the site being located a quarter mile from US 23 is good or bad.

Mr. Jacobs replied good. He said that this meets Governor Granholm’s objectives in her studies on urban sprawl. He said that it is a bad thing when developing property with well and septic that has geophysical problems.

Member Grosshans asked if the price per acre would be higher than if it was farther away from Michigan Avenue and US 23.

Mr. Jacobs replied no. He said that if the property was in the utility district it could be, and if it was not in the utility district it would not be. He said that the hardship created is that the property cannot be developed and it cannot have an economic return on investment unless the variance is granted.

Member Grosshans asked if the property was zoned R-1A or R-1B when it was purchased by the applicant.

Mr. Jacobs stated that they are purchasing the property from Jupiter Enterprises and he could not answer what the zoning was in November of 2002.

Member Grosshans stated that the applicant knew the zoning was R-1A and it has not changed since the purchase of the property.

Mr. Jacobs stated that the zoning classification of the property since they entered into the purchase agreement has been consistent.

Member Grosshans asked Mr. Jacobs if the variance request is asking for the property to switch from R-1A to R-1B.

Mr. Jacobs stated that they are requesting a variance to use the regulations of a density equivalent under R-1B. He said that this is not a rezoning request.

Member Stagg asked Mr. Jacobs what the difference is between the variance they are requesting and a rezoning request.

Mr. Jacobs stated that they are asking for administrative relief from the Ordinance. He said that a rezoning would be a request to rezone the property to R-1B. He said that they would be able to use it with the requirements of the R-1B use.

Member Stagg asked Mr. Jacobs if Orco Investments or Jupiter Enterprises owns the property.

Mr. Jacobs stated that Jupiter Enterprises owns the property and Orco Investments is purchasing the property.

The Members and Mr. Jacobs discussed the purchase of the property.

Member Grosshans asked Mr. Jacobs to explain present value.

Mr. Jacobs stated that present value is the present value of net proceeds and a person would have no profit on the funds. He explained the process of determining present value.

Planner Montagno stated that the property was rezoned from AG to R-1A in October of 2002. He said that Jupiter Enterprises purchased the property in November of 2002 after the rezoning.

Member Brostrom stated that Mr. LeBlanc said that there are approximately fifty-eight (58) acres on this property, and the applicant's submittal states that there are fifty-four and a half (54 1/2) acres. He said that one hundred and forty-eight (148) units would be a slightly higher density than 2.5 dwelling units per acre.

Mr. Anderson stated that Atwell-Hicks created a conceptual plan of the property.

The Members and the applicant discussed the acreage of the property, the proposed number of units, and the easements required.

Member Brostrom mentioned the comment that Platt Road would become a major corridor. He said that regarding Platt Road going into York Township there is not much in that direction to justify a major corridor.

Mr. Anderson stated that it is typical to get higher densities close to highways.

Mr. Anderson discussed the LSL report. He said that they described the R-1A zoning as designed, "in those areas fit for concentrated residential use because of the soil's ability to absorb sewage wastes from individual septic tanks and to supply safe water from wells." He said that they concur with the R-1A zoning relative to that definition. He said that the property was planned and designed for public utilities and it was inappropriately zoned by the Township.

The Members and Mr. Anderson discussed the water and sewer lines on Platt Road.

Mr. Jacobs stated that utilities are sized for growth in the community overtime. He said that there is pipe and contract capacity for these lines. He said that the question is whether or not the property can be utilized under the current zoning. He said that Mr. Strader stated that the property had been taken out of the utility service district because he was told (by the Township) that it was not in the utility district.

Bruce Laidlaw, Township Attorney, stated that the point is not how an engineer planned the pipes. He said that the question is whether under the current zoning this property is uneconomical. He said that they should ask if the property is worthless if it was developed as thirty-eight (38) lots with water and sewer, or is it necessary to have one hundred and forty-eight (148) lots to make it economical, and if so where does that analysis appear in the last report. He said that Mr. Leblanc referenced different subdivisions in the area that have been economically developed on one (1) acre lots.

Planner Montagno stated that the Township Assessor mentioned that the applicant's appraiser's opinion does not show anything about the demand for a subdivision versus rural residential housing in this district. He said that it looks more like something that would be along Washtenaw Avenue as opposed to something ten (10) miles out in the country.

Mr. Jacobs stated that the analysis establishes that even with sewer and water the lots cannot be developed at thirty-eight (38) units and make a return on investment. He said that the use variance application asks for a density equivalent to 2.5 dwelling units per acre or what is found in the requirements for the R-1B zoning.

Mr. Anderson stated that Hunter's Ridge is typecast as similarly zoned and situated to the subject parcel. He said that the Hunter's Ridge project has significant rolling topographic relief, sandy conditions, and significant wooded areas. He said that the Orco Investments parcel does not have any of these aesthetic features. He said that the Hunter's Ridge development is in the Saline School district, and the homes sell from \$400,000 to \$1,000,000. He said that the Orco property is located in the Milan School district, and two appraisal firms have estimated the projected housing market up to \$350,000. He said that a septic field is not a desired feature.

The Members and Mr. Anderson discussed the estimated cost per acre.

Mr. Anderson discussed how he calculates the developed lot costs.

Chairperson Naik discussed the return on investment. He said that they would need approximately a 20% return on investment. He said that the property is not worthless.

Mr. Anderson stated that they would have to have a \$400,000 housing market.

Member Brostrom stated that he would assume that most of the homes in Hunter's Ridge sell in the \$400,000 range. He said that the applicant has stated that the property is in a good location, it is close to expressways, and it would have easy access. He asked why they could not put one (1) acre homes on the property that would sell for \$400,000.

Mr. Anderson stated that this is a market driven thing. He said that you cannot invent a market.

Member Brostrom stated that all of the homes in Hunter's Ridge are occupied and that development is in a very close range to this property. He said that there is a market for these homes.

Mr. Jacobs stated that different agencies viewed the market and they do not believe that the market is there for this type of a development.

Planner Montagno stated that there are condominiums in the area that are advertised for \$280,000 and up. He said that the Thistle Down development on Moon Road is on one (1) acre lots, with ditches not curb and gutters, and they will be selling in the high \$400,000.

The Members and Mr. Anderson discussed the Hunter's Ridge development.

Mr. Anderson stated that the actual yield for this subdivision could be less than ten (10) units because of the soil conditions.

The Members and Mr. Anderson discussed the soil borings for the property.

Mr. Laidlaw stated that if the soils are inappropriate for wells and septic tank, then the landowner can go to the Township Board and apply for water and sewer service. He said that the ZBA could assume that the Township Board would review if there is a hardship because the soil will not perk and they could grant sewer and water services. He said that the applicant stated that with sewer and water they could develop thirty-eight (38) lots.

The Members and Mr. Jacobs discussed the Township Board approving water and sewer service for a property.

Member Brostrom asked Mr. Anderson why thirty-two (32) and thirty-eight (38) units were the figures used.

Mr. Anderson stated that they looked at the economic viability under the R-1A zoning and they put together a plan that shows thirty-eight (38) units.

Member Brostrom discussed the table found in Mr. Anderson's report. He said that it was an unconvincing analysis. He asked Mr. Anderson to clarify the information.

Mr. Anderson stated that he did not evaluate the thirty-eight (38) lot scenario with water and sewer service.

The Members and Mr. Anderson discussed the number of units and the market values.

Motion by Member Resha, supported by Member Brostrom, to close the hearing.

MOTION CARRIED

Chairperson Naik stated that there is a lot of information for the Members to review.

Member Brostrom stated that he does not believe that a case has been presented that convinces him that one (1) unit per acre lots cannot be viable.

Member Stagg stated that the Thistle Down development would be selling for \$400,000 on one (1) acre lots, and the Hunter's Ridge development is selling between \$400,000 to \$1,000,000 on well and septic.

Member Brostrom stated that Thistle Down is further away from US 23 and I-94, it is as flat as a table, and the homes would still be selling for \$400,000.

Member Grosshans stated that the LSL report mentions that there are options. He asked if the applicant could do a Planned Unit Development (PUD).

Planner Montagno replied potentially, although the applicant has never applied for a PUD.

Member Grosshans stated that the applicant states that the property is good because it is located close to Michigan Avenue and US 23, and then the applicant states that the property is bad. He said that they waver back and forth.

The Members discussed postponing the meeting.

Motion by Member Resha, supported by Member Stagg, to postpone the meeting for two weeks and direct staff to write a resolution.

MOTION CARRIED

6.0 New Business

None.

7.0 Zoning Administrator's Report

None.

8.0 Member's Report

None.

9.0 Secretary's Report

None.

10.0 Chairperson's Report

None.

11.0 Approval of Prior Minutes

11.1 Minutes of January 24, 2005

11.2 Minutes of February 28, 2005

Motion by Member Resha, supported by Member Stagg, to approve the minutes of January 24, 2005, as corrected.

MOTION CARRIED

12.0 Adjournment

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

MOTION CARRIED

Chairperson Naik adjourned the meeting at 9:08 p.m.