

PARKMAN TOWNSHIP BOARD OF ZONING APPEALS

April 12, 2016

Members present: Cindy Gazley Chairman, Jo Lengel, Kathy Preston,
Dale Komandt, Nancy Ferguson, and Jan Helt Secretary
Rich Hill and Lucinda Sharp-Gates were absent with apologies
Meeting called to order by Chairman Cindy Gazley at 7:30 p.m.

Approval of Minutes:

Ms. Gazley asked for a motion to waive the reading of the minutes at this time.

Ms. Lengel motioned, Ms. Ferguson seconded. Motion passed unanimously.

There is one appeal to be addressed by the Board at this meeting:

□ 2016 – 16360

VARIANCE REQUEST #2016-16360, Ms. Diane Hall 16360 Vernon Dr., Parkman

This application submitted by Diane L. Hall, Trustee, 16775 Main Market Road (Parkman Township), West Farmington, Ohio 44080, is requesting a variance from the Parkman Township Zoning Resolution for property located at, 16360 Vernon Dr., Parkman Township which shall be in accordance with all of the applicable regulations for the District and the following regulations: ARTICLE IV Section 402.4 The minimum lot area shall be 2.5 acres.

Ms. Gazley introduced herself and all board members did the same. Ms. Gazley gave the Oath of Truthfulness to all persons in attendance that planned on providing testimony at this hearing, including the applicant, Ms. Diane Hall and Mr. Spelich, ZI. Ms. Gazley explained the agenda of the meeting for all attending. Ms. Gazley stated that the procedure is to go through the questions which are the factors for an **area variance** which must be considered by the BZA in deciding on a variance.

Ms. Gazley asked Mr. Spelich, Zoning Inspector, what the variance request was from his perspective. Mr. Spelich stated that Ms. Hall came to his office with her application filled out by her Lawyer Mr. Wheelock. Mr. Spelich stated that he had spoken to Mr. Wheelock on the phone prior to Ms. Hall coming to his office. Ms. Hall owns two parcels in the Grand River Estates Development, The first one is (1) acre **#25-026929** and the other is 1.09 acres **#25-026930** resulting in a total of 2.09 acres, if combined. Parkman Township Zoning regulation requires 2.5 acres to build a home. Ms. Hall stated that she would like to apply for the variance before she consolidates the two parcels. At the time of purchase, Ms. Hall was unaware she would need to consolidate. Ms. Hall turned in her application request for a variance and here we are.

Applicant Explanation for requesting variance to Parkman Township Zoning Resolution

Mr. Wheelock explained that Ms. Hall owns the two lots on 16360 Vernon Dr. Currently, the two existing lots (1.0 acre & 1.09 acre) are each buildable for residential dwellings under the Grand River Estates No. 2 Subdivision plat. A combination of septic, setback, side lines, and the size of the home will necessarily cause a crossover the property lines of the two parcels. The subdivision was built in 1981; there are different and more stringent septic regulations today. Mr. Wheelock presented a discussion of the Duncan Standards of review as follows:

4. Provide the following additional information:

4. Written justification for the requested variance shall be made. If the request is for an "area" variance, responses to the following shall be provided:

- a. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance.
Without the approval of the variance, the subject property will become unproductive. The property is currently zoned residential and is intended for single family dwellings. If the appellant is unable to construct such a dwelling, the 2.09 acre vacant lot will never be able to be improved and will remain undeveloped.
- b. Whether the variance is substantial.
The requested variance is not substantial in that it is 83.6% (2.09/2.50 = 83.6%) of a literal enforcement of the 2.5 acre minimum lot requirement for residential dwellings in Parkman Township.
- c. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance.
The essential character of the neighborhood would not be substantially altered as the current zoning and the intended use of the subject property is residential. Each of the adjoining properties within the Grand River Estates subdivision, are currently utilized as single family dwellings.
- d. Whether the variance would adversely affect the delivery of governmental services.
Granting the variance will in no way adversely affect the delivery of governmental services. Specifically, each of the yard set-back requirements for residential dwellings will be met, thus allowing access for all safety personnel to appellant's dwelling and all adjoining properties.
- e. Whether the property owner purchased the property with the knowledge of the zoning restriction
Appellant purchased the property in its current state governed by the deed restrictions within Grand River Estates Subdivision. Both vacant lots of the subject property are each platted and buildable under the deed restrictions. However, given the current septic system regulations, it is impractical to construct a dwelling and the required septic system on either of these lots. Appellant was unaware that the lots would need to be consolidated to permit the septic system installation at the time of purchase and therefore was likewise unaware that the 2.09 acre consolidated parcel would fall under Parkman Township's 2.5 acre minimum lot requirement.
- f. Whether the property owner's predicament feasibly can be obviated through some method other than a variance.
There are no other method's to resolve Appellant's predicament other than this requested variance. Appellant will encounter practical difficulties in constructing the currently designed dwelling as the site plan, septic location, grading plan and

size of the dwelling will unnecessarily and impractically need to be revised substantially.

- g. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
Substantial justice will be done as the subject property's use will remain consistent with its current residential purpose, the property will become more economically productive as the tax valuation will certainly increase from its current state and Appellant will be relieved of her encountered practical difficulties.
- h. Such other criteria which relate to determining whether the zoning regulation is equitable
Another Criteria which the BZA should consider in its equitable determination in granting the variance is the aesthetic value of improving the subject property. Appellant desires to construct, at approximate, 4,400 sq. ft. house with an attached 2,000 sq. ft. garage. Appellant currently maintains a meticulously landscaped and manicured home and yard in Parkman Township. Appellant intends to remain consistent in this manner with regard to the new residence.

Mr. Wheelock feels that without approval of the variance, the subject property will become unproductive. The property is zoned residential and is intended for single family dwellings. If the appellant is unable to construct such a dwelling, the 2.09 acre vacant lot will never be able to be improved and will remain undeveloped.

Mr. Rich Gates stated he would be in favor of Ms. Hall building this home in the Grand River Estates.

Ms. Gazley asked if there is anything stated in the factors that anyone disagrees with.

Ms. Ferguson stated that she disagrees with Mr. Wheelock; she feels both lots as they stand are usable and you can build on both lots. Mr. Rich Gates stated he was not so sure about that, maybe 1500 sq. foot home, or less on one of those lots and maybe not. Mr. Wheelock stated square footage of the building, septic regulations and requirements are based on 2.09 acres for Ms. Hall's current home plan. Mr. Wheelock stated if Ms. Hall is unable to combine lots, plans would have to be drastically changed. Mr. Wheelock stated that the septic has already been approved by the health department. Ms. Ferguson asked if they had that in writing. Mr. Wheelock said no, but it is basically approved.

Mr. Wheelock said that if we grant the variance the size of the home (current plans) and septic will fit on 2.09 acres.

Ms. Gazley asked if there was anything else, closed that portion of the meeting.

Ms. Lengel moved to grant the variance in order to “put it on the table” Ms. Preston seconded.

Ms. Gazley stated that she had the opportunity to view the property. She asked if the lots are in front of the gray barn. Mr. Wheelock stated yes that is the location.

Ms. Ferguson asked what the plans were for the side facing 422. She had heard that they might have dirt mounds across that area. Mr. Hall said they have not really decided yet, maybe some pine trees, mostly trees maybe some fencing. Ms. Ferguson reminded them they would need a permit for fencing.

Ms. Lengel stated the only option for building on the one acre lot would be to build a multi-story home in order to have room for the septic system. Mr. Hall said he would have liked to tie in to Parkman sewer system but he was told he can't do that. Ms. Ferguson said when they put the sewer in Parkman the Grand River Estates were not included.

Board Members, Discussion/Deliberation:

- a) Whether the property in question will yield a reasonable return or whether there can be a beneficial use of the property without the variance. **Ms. Ferguson felt the property still can be viable without the variance. Ms. Preston felt she was not sure that would be feasible. As far as the septic you have to allow 440 ft. per bedroom. With the septic, zoning setbacks and driveway you would have to build a multi-story building.**
 - b) Whether the variance is substantial: **The variance is not substantial in that it is less than 20%.**
 - c) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance. **No. Mr. Komandt commented that he felt that not to let Ms. Hall build her home would be detrimental to our community.**
 - d) Whether the variance would adversely affect the delivery of government services: **No, there would not be an adverse effect.**
 - e) Whether the property owner purchased the property with the knowledge of the zoning restriction. **Ms. Hall has stated she did not know there would be a problem when she purchased the two lots a year ago. She didn't foresee the problem with the septic system requirements.**
 - f) Whether the property owner's predicament can be obviated through some other method other than a variance? **No, Ms. Lengel said she does not see how.**
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- g) Whether the spirit and intent behind the zoning requirements would be observed and substantial justice done by granting the variance. **Yes, Ms. Lengel felt that the spirit and intent would be observed. Ms. Gazley agreed.**

Ms. Gazley asked if there was anything else.

Ms. Gazley moved to grant Variance # 2016 – 16360 Ms. Ferguson seconded and the motion passed unanimously.

Ms. Gazley asked for any other questions or comments from the board members, closed that portion of the meeting and asked for a roll call on the motion to grant the variance: Ms. Gazley – Yes, Ms. Lengel - Yes, Ms. Preston – Yes, Ms. Ferguson – abstained, Mr. Komandt – Yes, and the motion passed.

Ms. Gazley informed the applicant that the variance has been approved. Ms. Hall was cautioned to wait 30 days because an appeal could be filed within that given time. Applicants will receive paperwork in the mail within 10 days confirming the board's decision.

Ms. Hall asked if there was any chance we could accept the minutes sooner because her builder wanted to get started sooner rather than later. Ms. Gazley explained that the BZA will need to review the minutes at the next meeting, and this is when the decision becomes final. Mr. Wheelock asked if we could accept minutes now. Ms. Gazley stated that the minutes are not yet written. Our meeting is next month, once minutes are accepted Ms. Hall can get her permit. Mr. Spelich and Ms. Helt agreed that a permit will not be issued until minutes are accepted.

Findings of the Facts # 2016 - 16360 Ms. Gazley moved to approve the finding of the facts for the variance as presented Ms. Lengel seconded and the motion passed unanimously.

Approval of Minutes:

March Minutes approved as amended.

New or Old Business:

Ms. Gazley asked Mr. Spelich what is going on with Zoning. Mr. Spelich said he continues to give out building permits. Nothing is on the agenda for next month at this time. There are a few things he is working on but nothing concrete. He discovered some decks had been built in Parkman Township without a permit so he followed up on that. Mr. Spelich said he also has someone who wants to build a new accessory building over 3500 square feet, which is above and beyond a home occupation. He is talking to the County Prosecutor about it.

Ms. Gazley asked how the junk situation is in Parkman. Mr. Spelich said it is moving along. Some of the places on Main Market and Ledge Road have been starting to clean
