

Ray Township Zoning Board of Appeals  
Meeting Minutes  
Tuesday, September 27, 2016 at 7:30 p.m.

Location: Ray Township Hall  
64255 Wolcott, Ray, Michigan 48096

Present: Tom Hancock, Chairman  
Rita Harman, Secretary  
Kevin Brown  
Harold DeMan, Jr. Vice Chairman  
Gary Engel

Absent: Marvin DeBuck

Also present - Lisa Hall, Planning, Zoning and Building Director, Jerry Schmeiser, Township Planner, and 4 residents.

1. CALL TO ORDER, PLEDGE OF ALLEGIANCE AND ROLL CALL.

Mr. Hancock called the meeting to order at 7:30 p.m. The Pledge of Allegiance was recited.

Hancock, Harman, Brown, Deman and Engel present. Mr. DeBuck, absent.

2. APPROVAL OF AGENDA.

**MOTION by Ms. Harman to approve the agenda as presented, supported by Mr. DeMan. Motion carried.**

3. APPROVAL OF THE MINUTES, May 24, 2016.

**MOTION by Ms. Harman to approve the minutes of May 24, 2016, as presented, supported by Mr. Deman. Motion carried.**

4. SCHEDULED PUBLIC HEARINGS – a. D’Hondt – 59400 Hayes- 05-30-300-024 – 2.321; Acres will be taken from 59480 Hayes, 0530-300-024 and added to 59400 Hayes – 05-30-300-025 creating the need for a variance. The variance request if approved will create a lot with a width to depth ratio of 1:6.1 exceeding the allowed ratio by 1.1 or 1.65.

Mr. Hancock advised Mr. and Mr. D’Hondt were his in-laws, therefore a personal conflict of interest. He would be abstaining from voting and discussion on this item tonight.

Mr. Hancock reviewed the rules and summarized the process for a public hearing.

**MOTION by Mr. Engel to open the public hearing on the request from Mr. and Mrs. D’Hondt, 59400 Hayes, 05-30-300-024 – 2.321; Acres will be taken from 59480 Hayes, 0530-300-024 and added to 59400 Hayes – 05-30-300-025 creating the need for a variance. The variance request if approved will create a lot with a width to depth ratio of 1:6.1 exceeding the allowed ratio by 1.1 or 1.65. Motion supported by Mr. DeMan. Motion carried.**

Dennis D’Hondt, representing the petitioners, explained in detail the request of his parents, the owners of the property, Maurice and Eileen D’Hondt (also present at the meeting). He stated this is estate management and presented the proposal to the Board in detail.

Jerry Schmeiser, Township Planner spoke at this time explaining the Planners’ findings and recommendations to the Board:

The applicants are requesting a variance to allow a parcel to be created that will have a width to depth ratio of 1:6.1 rather than 1:5 as required in the R-1 zone. The parcel would be created by obtaining land from an adjoining parcel as described below.

Parcel 1 as shown on the attached Certificate of Survey would be created by receiving 2.321 acres from the “Remainder Parcel” adjoining to the north. The “Remainder Parcel” at present has 63.04 Acres. The resulting parcel would be a flag parcel with 150 ft. of frontage on the east side of Hayes Road and a maximum depth of

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915 ft. that extends east to the centerline of the Price Brook. The additional depth obtained beyond the current parcel varies from approximately 316 feet to 338 feet. The new east property line along the approximate centerline of the Price Brook would be 310.61 feet.

The Township Land Division Ordinance specifies that any resultant parcels of a split must meet all provisions of the Zoning Ordinance. The 1:5 Ratio requirement of Section 400 of the Zoning Ordinance would allow a depth of no greater than 750 feet; therefore, the split would be prohibited from being approved without obtaining relief from the Zoning Board of Appeals.

Characteristics of the property can be summarized as follows:

Current zoning – R-1 agricultural Residential

Present Use –

- Parcel 1: single family residence
- Parcel 3 : single family residence
- Remainder Parcel: Agriculture

The general description of the surrounding properties is as follows:

The properties to the east, across the ¼ Section Line extend to Romeo Plank Road are undeveloped.

The properties to the north and south are zoned R-1 and contain single family homes fronting Hayes on acreage parcels.

The property to the west across Hayes contains single family homes fronting Hayes on acreage parcels within Washington Township.

The Township Master Plan impacts subject property and the request as follows:

The Master Land Use Plan depicts the area as single family residential high; 15,000 sq. ft.

The Master Thoroughfare Plan indicates that the future of Romeo Plank is planned as a major thoroughfare with 120' of future R-O-W.

Wetlands: None identified

Gas Fields: None identified

Natural Features: None identified, none impacted

Floodplain: None identified

Woodlands: None identified, none impacted as being on Woodlands Map.

Watershed: Subject parcel is within the Middle Branch of Clinton River Watershed.

**RECOMMENDATION TO THE ZONING BOARD OF APPEALS:**

It is recommended by the Township Planners that the variance as requested should be approved.

It is the opinion of the Township Planners that although in subject appeal a parcel would be created that does not meet the minimum requirement for width to depth ratio; if granted the impact of granting the request is mitigated by the following factors:

- The approval of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district as noted above given that the variance will acknowledge measurement that does not impact any adjoining parcels, buildings or public ways either on subject site or adjacent parcels.
- The applicants did not create the need for a variance; they propose to divide subject property based on the record that will utilize a natural feature, the Price Brook to be the dividing line between the receiving and sending parcels. If east line was fixed per ordinance there would be an inaccessible strip of land between the east property line and the Price Brook serving no public purpose.
- The resultant parcel improves the usability of Parcel 1 as a residential lot which is to the benefit of adjoining parcels.

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- The resultant divisions also assure that existing out buildings also comply with the Zoning Ordinance; and the minimum 50 ft. access strip remains to connect the Remainder Parcel east of the Price Brook with the balance of the Remainder Parcel north of the Exception Parcel.
- Parcel 3 that is to be created as part of the proposed lot splits does conform in all respects with the Zoning Ordinance.
- The Zoning Board may give relief with full belief that the spirit of the ordinance will be observed and public safety and welfare secured. The public record would rightfully recognize the resultant effect is no negative impact on future purchasers of subject parcel.

Finally, the Zoning Board would be granting the request with full assurance that the action will not be inconsistent with any element of the Ray Township Master Plan as adopted by the Planning Commission in 2010 including the Land Use Plan, Master Thoroughfare Plan, Wetlands, Gas Fields, Natural Features, Woodlands, and Flood Plains. Seeing no public comments, Mr. Hancock asked for a motion to close the Public Hearing.

**MOTION by Ms. Harman to close the Public Hearing, supported by Mr. Engel. Motion carried.**

Ms. Harman said she understood the petitioner's request. She agreed with the Planners' six bullet points, and thought this was a common sense request for a split of property. She stated even though it goes beyond the ratio in the zoning ordinance, using the natural brook as an easement, makes it unique. She feels there won't be a negative impact on the neighbors now or in the future and it should be approved.

Mr. Deman agreed with Ms. Harman for those reasons. He said using the brook as a natural boundary is unique. Mr. Brown inquired about the brook. He asked about the easement, is it a county ditch, and asked if it was equal on both sides. He inquired only because of the drain clean up.

Mr. Schmeiser said he would check with the Assessor tomorrow, but it would have been uncovered in the process. Mr. Engel said he had no objection to the request.

Brief discussion continued regarding the easement, the drain and request.

**MOTION by Ms. Harman to approve the request of the petitioner, Mr. and Mrs. D'Hondt, 59400 Hayes, 05-30-300-024 – 2.321; Acres will be taken from 59480 Hayes, 0530-300-024 and added to 59400 Hayes – 05-30-300-025. Creating a lot with a width to depth ratio of 1:6.1 exceeding the allowed ratio by 1.1 or 1.65, based on the Planners' recommendations:**

- **The approval of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district as noted above given that the variance will acknowledge measurement that does not impact any adjoining parcels, buildings or public ways either on subject site or adjacent parcels.**
- **The applicants did not create the need for a variance; they propose to divide subject property based on the record that will utilize a natural feature, the Price Brook to be the dividing line between the receiving and sending parcels. If east line was fixed per ordinance there would be an inaccessible strip of land between the east property line and the Price Brook serving no public purpose.**
- **The resultant parcel improves the usability of Parcel 1 as a residential lot which is to the benefit of adjoining parcels.**
- **The resultant divisions also assure that existing out buildings also comply with the Zoning Ordinance; and the minimum 50 ft. access strip remains to connect the Remainder Parcel east of the Price Brook with the balance of The Remainder Parcel north of the Exception Parcel.**
- **Parcel 3 that is to be created as part of the proposed lot splits does conform in all respects with the Zoning Ordinance.**
- **The Zoning Board may give relief with full belief that the spirit of the ordinance will be observed and public safety and welfare secured. The public record would rightfully recognize the resultant effect is no negative impact on future purchasers of subject parcel.**

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Finally, the Zoning Board would be granting the request with full assurance that the action will not be inconsistent with any element of the Township Master Plan as adopted by the Planning Commission in 2010 including the Land Use Plan, Master Thoroughfare Plan, Wetlands, Gas Fields, Natural Features, Woodlands, and Flood Plains.

Motion supported by Mr. Deman.

Roll call vote:

Ms. Harman	Yes
Mr. Deman	Yes
Mr. Engel	Yes
Mr. Brown	Yes
Mr. Hancock	Abstained

Motion carried. Vote of 4-0.

5. Other Matters to be reviewed by the ZBA – none.
6. Report of Planning Commission Representative – none.
7. Public Comments – none
8. Adjournment –  
**MOTION by Ms. Harman to adjourn the meeting at 7:55 p.m., supported by Mr. Engel. Motion carried.**

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Tom Hancock, Chairman

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Rita Harman, Secretary

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Date

Respectfully submitted,  
Marcia Jamroz  
Recording Secretary