Location: Ray Township Hall

 64255 Wolcott, Ray MI 48096

Present: Harold DeMan Jr., Chairman

 Scott Mathews, Vice-Chairman

Marvin DeBuck, Secretary

 Members: Tom Penzien

 Betty Youngblood

Absent: None.

Also Present: Jerome Schmeiser, Planning Consultant & Lisa Hall, Planning & Zoning Clerk

 Attendance record on file.

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

Vice-Chairman DeMan called the meeting to order at 7:30 p.m. The Pledge of Allegiance was recited. All members were present.

1. APPROVAL OF AGENDA

**MOTION by DeBuck supported by Youngblood to approve the agenda as presented.**

**MOTION carried.**

1. APPROVAL OF MINUTES: June 27, 2017

**MOTION by DeMan supported by Engel to approve the meeting minutes of June 27, 2017 as presented.**

**MOTION carried.**

1. ELECTION OF OFFICERS

Penzien nominated DeMan as Chairman.

**MOTION by Penzien supported by DeBuck to appoint DeMan as Chairman.**

**MOTION carried.**

Penzien nominated Mathews as Vice-Chairman.

**MOTION by Penzien supported by Youngblood to appoint Mathews as Vice-Chairman.**

**MOTION carried.**

1. Scheduled Public Hearings-
2. Request for a variance to Township Zoning Ordinance: Section 400 (R-1 Agriculture Residential-Lot Dimensions/Maximum Width to Depth Ratio; 1:5), Permanent Parcel Nos. 05-24-300-019 & -021; Addresses of subject properties- 23891 and 23905 28 Mile Road; Located on the north side of 28 Mile Road, approximately 1/3 mile east of North Ave. Steve Dalton and Paul Conners, Applicants.

 Chairman DeMan explained the public hearing procedure, the planner would explain the variance request so the audience will be informed on the variance request. Then the public hearing would be open for the public to come to the podium, state their name and address and state any comments they may have regarding the agenda item.

 Mr. Schmeiser, Planning Consultant, presented his findings, dated September 21, 2017. They are as follows:

The applicant is requesting a variance to allow two new parcels to be created that will have greater than a 1:5 width to depth ratio as required in the R-1 zone. The parcels would be created by attaching 25 ft. of frontage x 2,130 of depth to parcel -019 and reducing the frontage of parcel 05-24-300-021 by 25 ft. x 2,130 ft. (See aerial from Macomb County GIS on page 2)

As shown on the enlarged aerial also attached the west parcel -019 with the address of
23891- 28 Mile Road gains 25 ft. of road frontage on 28 Mile Road; while the adjoining parcel to the east Parcel 05-24-300-021 is reduced by 25 ft.

The land division ordinance specifies that any resultant parcels of a split/combination must meet all provisions of the zoning ordinance. The proposed split/combination of the two parcels reference above would result in two newly created parcels with greater than the 1: 5 width to depth ratios as required by the zoning ordinance; therefore, the split/combinations 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 – Both parcels contain single family residences.

The general description of the surrounding properties is as follows:

The properties to east and west along both sides of 28 Mile Road contain single family residences on acreage parcels.

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

**The Master Land Use Plan** depicts the area as AGRICULTURAL/RESIDENTIAL 90,000 Sq. Ft.

**The Master Thoroughfare Plan** indicates that the future of 28 Mile Road 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 Coon Creek Watershed

**MOTION by Penzien supported by DeBuck to open the public hearing at 7:43 p.m.**

**MOTION carried.**

Public Comments: *There were no public comments.*

Steve Dalton, Petitioner was in attendance to answer any questions.

Mr. Schmeiser stated the pole barn encroaches into the side yard setback.

Chairman DeMan read the correspondences, they are as follows:

9-25-17 Bob Beckett, Building Official, had no objection to the variance request to allow two parcels to be created that would exceed the 1:5 width to depth ratio as required in the R-1 zone. If the variance is granted, it would have the created parcel comply for the required setbacks of an accessory building from the property lines.

9-19-17 Kelly Timm, Assessor, recommended approval for the variance that exceeds the depth to width ratio. The hardship being that his lot currently exceeds the ratio and the fact that the accessory structure is too close to the lot line.

**MOTION by Penzien supported by DeBuck to close the public hearing at 7:49 p.m.**

**MOTION carried.**

Discussion was held on the frontage of the two parcels and the zoning ordinance requirements for the width to depth ratio of 1:5. The request would make both parcels comply more to the zoning ordinance.

**MOTION by DeBuck supported by Youngblood to Approve the Variance Request to vary Section 400 (R-1 Agricultural Residential Lot Dimensions/Maximum Width to Depth Ratio; 1:5); for Permanent Parcel No. 05-24-300-019, Located at 23891 28 Mile Road, on the north side of 28 Mile Road, approximately 1/3 mile east of North Avenue, for the side yard setback for the accessory building to comply with the zoning ordinance and based upon the Planners recommendation as follows:**

**It is recommended that the variance as requested should be approved. That although in subject appeal two parcels would be created that exceed the maximum width to depth requirement; 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 parcels based on the record that both parcels are presently in non-compliance with the width to depth ratio as stipulated in Section 400 of the zoning ordinance as presently configured. Granting of the variance allows Parcel 05-24-300-019 to increase its road frontage and total land area. In addition, the variance would allow the accessory building on Parcel -019 which at present is non-compliant with the minimum side yard requirements of the zoning ordinance to become fully compliant with the side yard requirement of the R-1 District.**
* **The resultant parcel improves the usability of Parcel 05-24-300-019 as a residential lot which is to the benefit of adjoining parcel 05-24-300-021 which is the sending/giving parcel.**
* **The resultant parcel does not involve or impact in any way the minimum land area requirement since both parcels far exceed the minimum land area requirements.**
* **Finally, it must be noted that given ownership of parcels involved and development patterns of surrounding parcels nothing could be done to satisfy the existing frontage to depth limitations of the parcels in order to bring either parcel in compliance 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 parcels.**

**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.**

**The variance should not be effective until the applicant has submitted a survey drawing to the satisfaction of the Township Assessor.**

**FOR THIS MOTION: Yes: DeBuck, Youngblood, Mathews, Penzien, DeMan.**

 **No: None.**

**MOTION carried.**

**MOTION by DeBuck supported by Mathews to Approve the Variance Request to vary Section 400 (R-1 Agricultural Residential Lot Dimensions/Maximum Width to Depth Ratio; 1:5); for Permanent Parcel No. 05-24-300-021, Located at 23905 28 Mile Road, on the north side of 28 Mile Road, approximately 1/3 mile east of North Avenue, to make the lot more conforming to the ordinance and based upon the Planners recommendation as follows:**

**It is recommended that the variance as requested should be approved. That although in subject appeal two parcels would be created that exceed the maximum width to depth requirement; 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 parcels based on the record that both parcels are presently in non-compliance with the width to depth ratio as stipulated in Section 400 of the zoning ordinance as presently configured. Granting of the variance allows Parcel 05-24-300-019 to increase its road frontage and total land area. In addition, the variance would allow the accessory building on Parcel -019 which at present is non-compliant with the minimum side yard requirements of the zoning ordinance to become fully compliant with the side yard requirement of the R-1 District.**
* **The resultant parcel improves the usability of Parcel 05-24-300-019 as a residential lot which is to the benefit of adjoining parcel 05-24-300-021 which is the sending/giving parcel.**
* **The resultant parcel does not involve or impact in any way the minimum land area requirement since both parcels far exceed the minimum land area requirements.**
* **Finally, it must be noted that given ownership of parcels involved and development patterns of surrounding parcels nothing could be done to satisfy the existing frontage to depth limitations of the parcels in order to bring either parcel in compliance 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 parcels.**

**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.**

**The variance should not be effective until the applicant has submitted a survey drawing to the satisfaction of the Township Assessor.**

**FOR THIS MOTION: Yes: DeBuck, Mathews, Youngblood, Penzien, DeMan.**

 **No: None.**

**MOTION carried.**

6. Report from the Planning Commission Representative

Penzien reported the Planning Commission granted a special land use on the west side of Romeo Plank, south of 30 Mile Road for an accessory building to be built in front of the home because of unique layout of the property. He reported the Planning Commission approved a special land use for an in-home daycare on 28 Mile Road, west of Kunstman.

7. Public Comments: None.

8. Adjournment

**MOTION by DeBuck supported by Youngblood to adjourn the meeting at 8:01 p.m.**

**MOTION carried.**

Harold DeMan, Chairman Marvin DeBuck, Secretary Date

Respectfully submitted,

Lori R. Lascoe, Recording Secretary

Township Clerk