

**JAMESTOWN CHARTER TOWNSHIP**

**Zoning Board of Appeals**

Meeting Minutes

March 01, 2022 at 6:00 p.m.

**CALL TO ORDER:** Chairperson Zomerlei called the meeting to order at 6:00 p.m.

**BOARD MEMBERS PRESENT:** Scott Brouwer, Janae Byker, Mike VanAanhold, Chris VandenHeuvel and Randy Zomerlei.

**INVOCATION:** Board member Brouwer opened with the invocation.

**APPROVAL OF AGENDA:** A motion was made by VandenHeuvel, supported by Byker, to approve the agenda. Motion carried unanimously.

**APPROVAL OF MINUTES:** A motion was made by VanAanhold, supported by Brouwer, to approve the minutes of the December 07, 2021 Zoning Board of Appeals meeting as written. Motion carried unanimously.

**PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA:** None.

**PUBLIC HEARING:**

Chairperson Zomerlei read the request from J. Costen, located just east of 210 Ransom St., also known as permanent parcel 70-18-01-400-045 for a variance to waive the public water requirement for a six (6) unit Ransom Street Site Condominium Project. This variance would provide for relief from Section 3.38 and Section 27.389 of the Jamestown Charter Township Zoning Ordinance.

**A motion was made by VanAanhold, supported by VandenHeuvel, to open the Public Hearing at 6:01 p.m.** Motion carried unanimously.

Rick Pulaski, from Nederveld, was present on behalf of the owner J. Costen, who was also in attendance. Pulaski was asked to explain what is different about this property than other properties in the same zoning district and why the zoning ordinance should not be enforced. Pulaski presented an overview of the history pertaining to their Preliminary Site Condominium application, which was approved by the Township Planning Commission in October 2020. In September 2021, the Township Board enacted a moratorium on development without public water, but the Ransom Street Site Condominium development was excluded from the moratorium as they were already in the planning process. Since they did not submit a Final Site Condominium plan before the expiration of preliminary approval in October of 2021, they would have to restart the planning process and would no longer be exempt from the requirement to connect to public water per Ordinance 21-011, adopted in January of 2022. Pulaski presented arguments to support their request for a variance. He stated 1) that the requirement to connect to public water presents a hardship that is non-existent in other areas zoned R-2, preventing him from using his available road frontage to create one lot per 120 ft. of road frontage. 2) There are conditions and circumstances unique to the property in that it is very wide relative to its depth. The requirement to connect to public water only allows him to create 4 lots out of 10 possible lots on his frontage due to the hardships of the ordinance. 3) The circumstances in this variance request are unique to this property and were not created by Mr. Costen or his predecessor. Although he had obtained Preliminary Site Condominium approval in 2020, he was unable to submit a Final Plan for review before his preliminary approval expired, and the Township does not provide a mechanism to allow for an extension of the Preliminary Site Condominium approval. 4) The requested variance will not grant special privileges that are denied other properties in the same zoning district as they had been granted an exemption from the moratorium, and also due to the long, fat shape to the property that no one else has. 5) The requested variance will not be contrary to the spirit and intent of the ordinance as the Township felt safe enough to

exempt the Site Condominium application from the moratorium. Also, R-2 Residential lots comprise the character of the area and R-2 Residential lots are proposed.

Public comment was offered by the following persons:

Richard Szymanski, 4510 James Dr. Sw.

John Weller, 4610 Happy Hollow St.

Rudy Mascorro, 4420 Floyd Dr.

Randy VandenBerg, 99 Ransom St.

Lou Houtman, 101 Ransom St.

Brian Dubbink, 4482 Floyd Dr.

Steve Northuis, 4474 Floyd Dr.

Dan Besteman, 4584 8<sup>th</sup> Ave.

DJ VanderSlik, 316 Quincy Ave.

Karen Grzesiak, 4488 James Dr.

Comments included concerns regarding the ability of the area to support more wells, as many wells in the area have low pressure and poor water quality, that the applicant does not meet the standards required for the granting of a variance, that the applicant had received preliminary approval and has invested a lot of time and money in the project, the unavailability of utilities in that area of the township, that the Township should be doing more to provide public water, the possibility of connecting to public water from neighboring jurisdictions, whether human waste had been used as fertilizer on the property, and whether the condos would be for rent or purchase.

**A motion was made by VanAanhold, supported by VandenHeuvel, to close the Public Hearing at 6:36 p.m.** Motion carried unanimously.

Brian and Steve Boss from the Jamestown Township water department were asked to provide information regarding public water availability via water lines on Kenowa Ave. They stated that the Jamestown Township utility system cannot supply water to that area of the township, but Byron Township could be asked if they would be willing to enter into an agreement to provide water to the area. Wyoming has water transmission mains nearby, but they would be unlikely to agree to allow the development access to the water transmission mains for a few residences.

VanAanhold asked the applicant if they had contacted the Township before the time ran out for their preliminary approval. Pulaski answered that the time just ran out and there was no option for an extension.

Zomerlei asked the applicant for information regarding the determination of Ottawa County regarding the three required test wells. Pulaski answered that production and flow were adequate and sustainable according to the hydrogeological study, but the wells were deeper than others in the area at 150 feet. They will need to treat for salt. There was no comment from the County on how their wells would affect others in the area across Ransom St.

Byker asked the applicant how much extension is needed for their project and what hardship occurred between October 2020 and October 2021. Pulaski answered that they have everything in place now, but they had issues meeting the deadline due to covid, with agencies working remotely and more slowly.

VandenHeuvel asked for clarification regarding the exemption from the moratorium and whether that granted them extra time to submit the final site plan. Pulaski answered that those are separate issues. The moratorium granted them an exemption from the requirement to connect to public water only. It did not grant an extension for the application. They didn't realize their preliminary approval had expired in October 2021 as they continued to work on securing approvals from outside agencies for the project.

Zomerlei explained that only applications that have received final approval can be granted extensions if work is not begun within a year of approval. This does not apply to preliminary application approvals.

VandenHeuvel stated that the Zoning Board of Appeals has a limited set of powers and authority and must stick strictly to a set of guidelines, and that this authority does not extend to amending the process for site plan approval. This was an unfortunate circumstance in that the applicant missed the deadline for submitting an application for Final Site Condominium approval, but the Zoning Board of Appeals can only consider issues particular to a specific property.

**A motion was made** by VandenHeuvel, supported by Brouwer, to deny the request for a variance as it doesn't meet all five standards for the granting of a variance, and as the Zoning Board of Appeals does not have the authority to fix a missed deadline. They can only grant variances based on the specific conditions of a piece of property. A roll call vote was taken. Ayes: Byker, VandenHeuvel, VanAanhold, Brouwer, Zomerlei. Nays: None. Absent: None. Chairman Zomerlei declared the variance request denied.

**NEW BUSINESS:**

- **2022 Election of Officers**

**A motion was made** by Brouwer, supported by Byker, to re-elect Randy Zomerlei as Chairperson and Chris VandenHeuvel as Vice-Chairperson. Motion carried unanimously.

**ADJOURN: A motion was made** by VandenHeuvel, supported by VanAanhold, to adjourn the meeting at 7:12 p.m. Motion carried unanimously.

Respectfully submitted by,

Maureen Carmody, Recording Secretary  
Zoning Board of Appeals

Minutes approved on

\_\_\_\_\_ by \_\_\_\_\_ (chair)