

Submitted by: S. Longstreet

Approved: \_\_\_\_\_

**MARION TOWNSHIP  
ZONING BOARD OF APPEALS  
FEBRUARY 6, 2017**

**MEMBERS PRESENT:** Larry Fillinger, Larry Grunn, Ed Galubensky (alternate), Dan Lowe, and Dan Rossbach

**MEMBERS ABSENT:** Linda Manson-Dempsey

**OTHERS PRESENT:** Annette McNamara, Zoning Administrator

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**CALL TO ORDER**

Larry Fillinger called the meeting to order at 7:30 p.m.

**APPROVAL OF AGENDA**

Dan Rossbach motioned to approve the agenda as presented. Dan Lowe seconded. **Motion carried.**

**MEMBERS PRESENT**

The members of the Zoning Board of Appeals introduced themselves.

**CALL TO THE PUBLIC**

No response.

**APPROVAL OF MINUTES**

**January 9, 2017 Regular Meeting:** Dan Rossbach motioned to approve the minutes as presented. Larry Grunn seconded. **Motion carried.**

**OLD BUSINESS**

None.

**NEW BUSINESS**

**ZBA Case #02-17—Chestnut Development, Pinckney Road vacant land, Tax ID #4710-24-100-004**

Tim Zimmer from Livingston Engineering was present on behalf of the owner. He referenced the letter dated January 16, 2017 from Steve Gronow, the property owner. He passed out a copy of the AASHTO standards and feels they are in compliance. Larry Grunn asked Mr. Zimmer about relocating the telephone pole. Mr. Zimmer said they are working with DTE. Mr. Grunn said he believes the AASHTO standards might apply to a straight road, not in a location where it curves and is swampy. Dan Lowe said the road, as proposed, is not 20', but 16' with 2' shoulders.

The ZBA members agreed to discuss each variance request separately, first being the length of the road. The Livingston County Road Commission standards have a maximum of 750', and the applicant is requesting a 1350' variance. Mr. Zimmer said many private roads in Marion Township are at least this long. Larry Fillinger asked the zoning administrator what the potential would be for additional lots in the future; she said they could create up to six more lots after 10 years. Dan Lowe said where this property is located, it wouldn't be feasible to connect to another subdivision.

### **Call to the Public**

No response.

### **Motion**

Larry Fillinger motioned for ZBA Case #02-17—Chestnut Development, Pinckney Road vacant land, Tax ID #4710-24-100-004, to relax Section 6.20 by allowing a 1350' variance for creation of a 2100' road for Chestnut Creek Drive, considering the following zoning ordinance criteria:

1. That the restrictions of the township zoning ordinance would unreasonably prevent the owner from using the property for a permitted use. *Not relaxing the requirement would unreasonably prevent the owner from using the property for a permitted use, and granting the variance would allow access for all lots in the proposed development.*
2. That the variance would do substantial justice to the applicant and a lesser relaxation than that requested would not give a substantial relief to the owner of the property. *The length of the road is necessary for development of the 12 parcels.*
3. That the request is due to the unique circumstances of the property. *The property is unique due to the wetlands.*
4. That the alleged hardship has not been created by a property owner. *The situation was not created by the property owner.*
5. That the difficulty shall not be deemed solely economic. *The difficulty is not solely economic and is unique to this property.*

Dan Lowe seconded. Roll call vote: Rossbach—no; Grunn—yes; Fillinger—yes; Galubensky—yes; Lowe—yes. **Motion carried 4-1.**

The second variance request is for the width of the road. The Livingston County Road Commission standards require 30' and the applicant is requesting a 20' wide road. Tim Zimmer said the barriers make up for the grade differentials. Dan Lowe said in icy and/or snowy conditions, the road would be hazardous. Safety concerns were discussed about the drop off. Information from the applicant was lacking as to why a permit couldn't be obtained from the DEQ so the road could have the width increased and be safer.

Larry Grunn asked why the soil borings haven't been done yet. Mr. Zimmer said they would do a proof roll, but if soil borings are a condition of approval, they will be done. Dan Lowe said they should be done every 50' in that area. Mr. Lowe said the width is not safe and needs to meet the LCRC standards with a guardrail. There was also discussion about using a different division of the property to avoid the need for this variance at this location.

Dan Rossbach asked what other options are available. The board members discussed wetland mitigation and a raised road (bridge.). Mr. Zimmer said that's not economically feasible.

The members voiced general concerns about the lack of safety to the residents, emergency vehicle access problems that could result from the road being this narrow, especially at the wetland crossing area.

### **Call to the Public**

No response.

### **Motion**

Dan Lowe motioned for ZBA Case #02-17—Chestnut Development, Pinckney Road vacant land, Tax ID #4710-24-100-004, to deny the applicant's request to relax the requirement for the width of the road, considering the following zoning ordinance criteria:

1. That the restrictions of the township zoning ordinance would unreasonably prevent the owner from using the property for a permitted use. *A permit from DEQ can be obtained to widen the road for safety purposes, and the road as proposed has a 2% slope to the creek side and the drop off is dangerous.*
2. That the variance would do substantial justice to the applicant and a lesser relaxation than that requested would not give a substantial relief to the owner of the property. *This is an overall safety issue and the proposed width is too narrow.*
3. That the request is due to the unique circumstances of the property. *The property owner could have split the larger parcel differently to avoid this situation.*
4. That the alleged hardship has not been created by a property owner. *The situation was created by the property owner when it was divided.*
5. That the difficulty shall not be deemed solely economic. *The difficulty is solely economic and DEQ permits can be obtained to make the road safe. The applicant has failed to justify granting a variance based on all of the above criteria.*

Larry Grunn seconded. Roll call vote: Rossbach—yes; Grunn—yes; Fillinger—yes; Galubensky—yes; Lowe—yes. **Motion to deny approved 5-0.**

### **ADJOURNMENT**

Dan Lowe motioned to adjourn at 8:40 pm. Dan Rossbach seconded. **Motion carried.**