

**MARION TOWNSHIP  
2877 W. Coon Lake Rd., Howell MI 48843  
ZONING BOARD OF APPEALS  
DECEMBER 4, 2017**

**MEMBERS PRESENT:** Larry Fillinger, Larry Grunn, Dan Rossbach, and Linda Manson-Dempsey

**MEMBERS ABSENT:** Dan Lowe

**OTHERS PRESENT:** Dave Hamann, Zoning Administrator; Michael Kehoe, Township Attorney

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**CALL TO ORDER**

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

**MEMBERS PRESENT**

The members of the Zoning Board of Appeals introduced themselves.

**APPROVAL OF AGENDA**

Linda Manson-Dempsey motioned to approve the agenda as presented. Larry Grunn seconded. **Motion carried.**

**CALL TO THE PUBLIC**

No response.

**APPROVAL OF MINUTES**

**October 2, 2017 Regular Meeting:** Linda Manson-Dempsey motioned to approve the minutes as presented. Larry Grunn seconded. **Motion carried.**

**OLD BUSINESS**

**ZBA Case #07-17—Brian T. Volante, 523 Cloverview Ln., Howell MI 48843, Tax ID #4710-35-200-022**

William Moore, attorney for Mr. Volante, was present for this agenda item. He said Mr. Volante has purchased a piece of property from a neighbor so he no longer needs a variance for the size of the parcel. Mr. Moore said that Mr. Volante discussed the lot size and private road issues with the zoning administrator and assessor prior to purchasing the property, and was led to believe he could proceed with a land division. Mr. Moore said the road was considered good enough by the township to use it as a “forced” easement for Timber Bluff, and also that the review by the township engineer indicated that one split wouldn’t create more traffic. Mr. Moore is asking the ZBA to waive the requirements of Section 6.19B of the zoning ordinance. There is some conflict between the general ordinance, zoning ordinance and land division ordinance. The members discussed the application. Larry Grunn asked about a maintenance agreement. Mr. Moore said they would never get everyone affected to agree. Mr. Moore

said the applicant needs to exhaust all of the remedies prior to taking this case to circuit court. The applicant didn't address or submit documentation regarding 5.05 C. 1-5 of the zoning ordinance. Michael Kehoe, representing the township, said there are certain standards for a road that are important, and that the access from Timber Bluff was only made for emergencies, not general use. Linda Manson-Dempsey said the applicant is asking to have a bad situation made worse; Dan Rossbach agreed. Larry Fillinger said a letter of objection was received from Dawn and Mike Dunigan, 5095 Pleasant Lake Road.

### **Call to the Public**

No response.

### **Motion**

Dan Rossbach motioned, for ZBA Case #07-17—Brian T. Volante, 523 Cloverview Ln., Howell MI 48843, Tax ID #4710-35-200-022, to deny the applicant's variance request and uphold the requirements of Section 6.19B—Lots to Have Access, considering the following criteria of section 5.05 C 1-5 of the zoning ordinance:

1. That the restrictions of the township zoning ordinance would unreasonably prevent the owner from using the property for a permitted use. *The applicant is not being prevented from using the property for its permitted use. A new home is being built on the property.*
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 a pre-existing private road that doesn't meet the township's current private road standards. He is able to build a new home on the property.*
3. That the request is due to the unique circumstances of the property. *The situation is not unique to this property, and the township doesn't want more houses built on roads that are inadequate and don't meet the township's current private road standards.*
4. That the alleged hardship has not been created by a property owner. *The property owner purchased the property on a non-conforming private road, and he is able to build one home on the property. Any hardship was created by him.*
5. That the difficulty shall not be deemed solely economic. *The request is economic, as the property owner wants to build another house.*

Linda Manson-Dempsey seconded. Roll call vote: Rossbach—yes; Manson-Dempsey—yes; Fillinger—no; Grunn—yes. **Motion to deny request carried 3-1.**

Mr. Kehoe asked Mr. Moore what exactly they were asking for an interpretation of. Mr. Moore said whether or not the ordinance applied to this private road. Larry Fillinger said there are safety concerns; Dan Rossbach agreed.

Dan Rossbach motioned to deny the interpretation request on Section 6.19B—Lots to Have Access as the ordinance isn't unclear nor could it have more than one meaning: *All parcels or lots hereinafter created in the township shall have frontage on a public street, or an approved private road, and take their lot access from such frontage so as to provide safe, convenient access for fire protection, other emergency vehicles, and any required off-street parking.* Linda Manson-Dempsey seconded. Roll call vote: Rossbach, Manson-Dempsey, Fillinger, Grunn—all yes. **Motion to deny carried 4-0.**

## **NEW BUSINESS**

### **Annual Meeting**

Linda Manson-Dempsey motioned to nominate Larry Fillinger as chairman. Larry Grunn seconded. **Motion carried.**

Linda Manson-Dempsey motioned to nominate Dan Lowe as secretary. Larry Fillingner seconded.  
**Motion carried.**

Larry Fillingner motioned to nominate Linda Manson-Dempsey as vice chair. Dan Rossbach seconded.  
**Motion carried.**

### **Call to the Public**

No response from the public. Larry Fillingner suggested forming an ad hoc committee to work on unapproved private roads, to include a township representative, engineer, representative from the LCRC, etc. Dave Hamann asked him to submit a recommendation to the board prior to noon on Thursday to be placed on the board's agenda. Mr. Hamann also suggested having someone, such as a representative from the fire department, as a member of the committee.

### **ADJOURNMENT**

Larry Grunn motioned to adjourn at 8:35 pm. Linda Manson-Dempsey seconded. **Motion carried.**