

Onekama Township Zoning Board of Appeals

May 24, 2021—Public Hearing: Cook Variance Request

6:00p—Onekama Township Fire Barn

Meeting called to order at 6:06p by Chair Trout.

In attendance: Chair Trout, Vice Chair Pomaranski, Member Judy Spohn. Guests: Applicants—members of the Cook family, Richard Wilson—attorney for the Cooks, Kendra Thompson—architect for the Cooks, Thomas Grier—attorney for Onekama Township, Kristyn Houle—attorney for the Marty family, Katie Mehl—Manistee County Planning & Zoning Department, and Mike Szokola—Planning Director for County Planning & Zoning Department.

Chair Trout gives duty to chair the meeting to Vice Chair Pomaranski due to health concerns.

The purpose of the meeting is to discuss the variance requests from the Cooks regarding proposed building on their property parcel within the RR-3 Zoning District.

Public comment previously received: Member Spohn summarized the approximately 20 letters the board has received thus far regarding the proposed building. Areas of concern included safety and traffic issues, size of setbacks, environmental impact, water quality safety, and precedent setting. All letters were in opposition. One email was received which was neutral. No communication was received in support of the project.

Public comment: Several residents in attendance from the RR-3 Zoning District voiced their concerns, which included issues such as:

--Current zoning restrictions are applicable to many of the parcels in the RR-3 Zoning District so are not a special hardship to this parcel.

--It is disrespectful to knowingly purchase a property with zoning restrictions and then ask to "change all the rules."

--Granting this number of variances will set a bad precedent for future construction within the Zoning District.

--This is a non-conforming lot too small to build on under current zoning restrictions without creating myriad public safety concerns as well as damage to the environment.

--The proposed placement of the garage is too close to the road.

--Current zoning laws for the district are clear as to the intent for usage of parcels, and the number of variances needed for this project suggests it is the "exact nature which the current zoning laws were intended to prevent."

--This would be very detrimental to the biological diversity of the localized environment.

Katie Mehl, Manistee County Planning & Zoning administrator, detailed a list of documentation that would be required from the Cooks for land use permitting.

Applicants' presentation—Attorney Richard Wilson

--The misalignment of the public platted roadway known as Avenue A runs over 40% of the property and so constitutes a "special circumstance" per the township ordinance.

--A literal interpretation of the ordinance would deprive the owners of rights of usage commonly enjoyed by other owners in the RR-3 Zoning District. Denying the proposed variances would take away all reasonable uses of the property.

--The special circumstances are not the result of the applicants' actions, and are therefore not considered a self-created hardship.

--Granting the requested variances does not "substantially alter the essential characteristics of the area."

--They are not relying on the existence of any other non-conforming properties to make these requests.

Mr. Wilson also touched on the following issues: the County Road Commission granting their tentative approval to use platted Avenue A as placement for the septic system, public & traffic safety concerns, corrected square footage of the proposed home, and surface water and fertilizer run-off.

Vice Chair Pomaranski questioned if the Onekama Township had the authority to grant a variance for building on a piece of property (the portion of platted Avenue A) the applicants didn't own.

Mr. Wilson closed by stating that no one has suggested they will be legally harmed in any way by the granting of the variances, environmental concerns can and will be addressed with reasonable conditions, and concerns regarding aesthetics aren't something Zoning Boards generally regulate.

Vice Chair Pomaranski questioned whether the proposed project meets the intent of the township master plan regarding public safety, with special concern about the placement of the garage.

Mr. Wilson formally requested a continuation of the meeting for more time to review new documents received.

Attorney Kristyn Houle supports a continuation, but requested to make a brief presentation at that time.

--Based on legal precedents quoted, the township can and should deny the requested variances.

--The proposed setback variance is so large it would be detrimental to the safety of the environment and the property values of others in the RR-3 Zoning District.

--There is no constitutional right to build on non-conforming properties. Zoning ordinances are local law and must be abided by.

--In applying for variances, the burden of proof is on the applicants, and they must meet several criteria to qualify.

- 1) That the special circumstances or conditions don't apply to others in the Zoning District, otherwise it would constitute common conditions rather than special
- 2) That adhering to the ordinance requirements would be a special hardship
- 3) That the hardship is not self-created
- 4) That the variance(s) would not substantially alter characteristics of the area, either by building or by setting precedent wherein everyone could then ask for variances
- 5) Applicant can't use other nonconforming properties in the Zoning District as justification for requesting variances.

Kendra Thompson, architect for the applicants, speaks to measurement of the property and proposed placement of the home and garage.

Mike Szokola, Manistee County Planning & Zoning Department Planning Director, requests that the applicants provide an exact permeable footage percentage. Katie Mehl calculated it at 36.3% and it cannot exceed 35%.

Motion by Chair Trout to grant the requested continuance and reopen the meeting at 6:00p on Thursday, June 3rd, 2nd by Member Spohn. **Motion carries 3-0.**

Meeting adjourned at 7:54p.

Submitted by:

Michelle Swanson, Recording Secretary

J. Pomaranski 6/9/21
Judith Spohn 6-9-21