

**Town of Ontario
Zoning Board of Appeals
Minutes
August 3, 2011**

Present: Zoning Board Members – Chairman, John Smith, Donald Anderson, William Bridson, and Charles Neumann; and Katie Kelsch – Secretary.

Absent: Robin Mark

Chairman Smith called the meeting to order at 7 p.m., led the Pledge of Allegiance.

Minutes

Mr. Anderson moved to approve the minutes dated July 6, 2011 Mr. Bridson seconded Vote: 4-0 (1 absent)

John Smith	Aye
Donald Anderson	Aye
Robin Schmidt	Absent
William Bridson	Aye
Charles Neumann	Aye

Public Hearings

765 Ridge Road – Area Variance

Mrs. Katrinka Oosterling, requesting three area variances for relief to the rear and side setbacks to two existing accessory structures when 12 feet is required to the side and 40 feet is required to the rear. The area variances are needed to subdivide the property into two separate parcels. The property is owned by the applicant and zoned UR. Mr. Bill Dixon was present representing the homeowner.

Mr. Bill Dixon explained to the board that he is the listing agent for Mrs. Oosterling's property and they have not had much action on the property with the way it is set up now. There is a single family residence, a large pond, and two accessory structures on the property. He has found that people who have looked at the property are either interested in just the house or just the accessory structures. They would like to subdivide the property into two separate lots. One lot will have the house and half of the pond; the other lot will have the 2 accessory structures and the other half of the pond. It was divided like this to meet the front width requirements for the planning board. They are here tonight to receive area variances to the accessory structures so that they may appear before the Planning Board for subdivision approval.

Mr. Smith stated he did not see an owner authorization in the application packet and advised Mr. Dixon to have Mrs. Oosterling fill one out and submit to the Zoning Secretary. Mr. Dixon agreed.

Mr. Neumann questioned what would happen to the remaining accessory buildings and what would the principle uses be of the buildings. Mr. Dixon stated that he would expect somebody might like them to be a hobby/wood working shop or another possibility would be that someone could build a house on that property. He is not sure what possible potential buyers would want to use the accessory structures as, but he is not purposely marketing the structures as anything.

There was a brief discussion on what the planning board will grant for a single family home on the lot with the two accessory structures.

There was a brief discussion on the property being in a flood zone.

Mr. Smith read the letter from the County Planning Board which reads:

At its regular meeting on July 27, 2011, the Wayne County Planning Board reviewed the above referenced referral and determined it to have no inter-municipal or county wide impact with the following conditions:

- 1.) *Easements should be in place that will allow the Town to maintain the spillway and Mill Creek,*
- 2.) *The property owner/s should be aware of FEMA flood zone regulations as the parcel appears to contain FEMA flood zone area and*
- 3.) *The hardship criteria required to grant the area variances must be substantiated at the local level.*

The Board Recommended this referral be returned to the Town to be handled as a local matter.

There was brief discussion on what could be allowed in that zoning district for any businesses. Mr. Neumann wanted the applicant to be aware of the fact that retail sales is not allowed in that district. Chairman Smith stated that a small office building is allowed and might be a good idea.

Mr. Smith asked for public comment. There was none.

Mr. Smith stated that there are a lot of different zones and mixed uses in the area, and doesn't feel as though this would be an issue.

Mr. Neumann questioned the Chairman's statements on mixed uses in the area, he doesn't think it's mixed, but rather what is allowed by the code. He really enjoyed the train shop when it was open. He is concerned about the flood zone area and what the uses of the buildings would be. He is concerned about passing any type of motion tonight.

Mr. Bridson and Chairman Smith stated that the concerns stated would be planning board issues.

Mr. Anderson questioned Mr. Dixon on whether he would like the board to look at a reduction in the front width setback or if he would like to stay with the 125 feet of frontage. Mr. Dixon responded that he would like to keep the 125 feet of frontage.

Chairman Smith reviewed what variances were needed for the non-conforming structures on the lot. It was determined 3½ feet relief was needed for the side setback on the south building and 2½ feet relief to the side setback and 29 feet relief to the rear setback is needed for the metal clad building to the north.

Mr. Neumann questioned whether the single family house would need any variances. Chairman Smith stated that the house can remain pre-existing non-conforming. He also stated that the Code Enforcement Officer has determined what needs action and the house was not included in any actions needed. They are only allowed to act on what the Code Enforcement Officer has determined needs action.

Mr. Smith asked the board members if there were any other questions and there were none.

RESOLUTION
ZONING BOARD OF APPEALS
TOWN OF ONTARIO
Re: 765 Ridge Road Tax Map # 61117-12-800596
Applicant: Katrinka Oosterling

The Ontario Zoning Board of Appeals granted to the above Applicant relief of 3½ feet relief for the side setback on the south building and 2½ feet relief to the side setback and 29 feet relief to the rear setback for the metal clad building when 12 feet is needed for the side setback and 40 feet is needed to the rear setback as required from Code Section Article IV, Section 150-27, Schedule II, to allow for the property to be subdivided in the future, at the above location and bearing the above Tax Parcel number. The within Resolution follows a Public Hearing held on 08/03/11 and the review, by the Board of all written and oral submissions, together with due deliberation and consideration. This application is a Type II Action under Section 617.5 and, therefore, is not subject to an environmental review under SEQRA. This application is a local matter.

The within Resolution is based upon the following specific Findings of Fact and subject to the following specific Conditions:

Findings of Fact

As to whether an undesirable change, detriment or adverse impact on physical or environmental conditions will be produced in the neighborhood or district by the granting of the application, the Board finds, as follows:

- There is not an undesirable change, detriment or adverse impact as this is a long time pre-existing property

As to whether the benefit sought by the applicant can be achieved by feasible means, other than the requested variance, the Board finds, as follows:

- There are no other feasible means, as it has been indicated that there is difficulty in marketing the property

As to whether the application represents a substantial variance from Code, the Board finds, as follows:

- The variance request is not substantial

As to whether the difficulty alleged by the applicant is self-created, the Board finds, as follows:

- The difficulty is self-created by the applicants desire to market the property

Conditions of Approval

The Board, in granting the within application, hereby imposes the following specific conditions:

1. This variance is granted only for the plans submitted by the Applicant and dated July 14, 2011.
2. The conditions as noted by the Wayne County Planning Board
3. There are no changes to the 125' front setback
4. Owner Authorization documentation from the property owner

The within Resolution was moved by Zoning Board of Appeals Chairman John Smith, seconded by Board member Bill Bridson, and voted upon by the Board member, as follows: Vote: 4-0 (1 absent)

John Smith voted	Aye
Donald Anderson voted	Aye
Charles Neumann voted	Aye
Robin Schmidt voted	Absent
William Bridson voted	Aye

Adopted by the Zoning Board of Appeals on 08/03/11.

Mr. Anderson moved to adjourn the meeting. Mr. Neumann seconded the motion.

Meeting Adjourned at 8:40pm.

Katie Kelsch

Secretary, Zoning Board of Appeals

The above minutes will become official when approved by the Zoning Board of Appeals