



RICHLAND TOWNSHIP

Kalamazoo County

1
2 **Richland Township Zoning Board of Appeals**
3 **Minutes of the November 1, 2023**
4

5 A regular meeting of the Richland Township Zoning Board of Appeals was
6 conducted on November 1, 2023 commencing at 5:30 p.m. at the Township
7 Hall.

8
9 Present were:

10 Robert Burr, Chairman

11 Ron Vorholt

12 Daniel Agauas

13 Trudy Luedecking

14 Bill Witters (alternate, excused)

15
16 Also present were Township Zoning Administrator/Clerk Bear Priest, Township
17 Attorney Roxanne Seeber, and 22 additional members of the audience.
18

19 **CALL TO ORDER AND ROLL CALL**
20

21 **Luedecking moved, supported by Burton to approve the agenda as**
22 **submitted. The motion passed unanimously.**
23

24 **APPROVAL OF AGENDA**
25

26 Burr asked to add approval of next year's ZBA regular meetings to the agenda.
27 The proposed meeting dates had been provided to the members. Burr was
28 suggesting changing the November meeting date from the 27th to the 20th to
29 avoid a conflict with Thanksgiving.
30

31 **2024 MEETING DATES**
32

33 **Agauas moved, supported by Luedecking to approve the meeting**
34 **dates with the November date amended to November 20, 2024. The**
35 **motion passed unanimously.**
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1 **MINUTES**
2

3 **Burton moved, supported by Luedecking to approve the minutes of**
4 **the September 27, 2023 meeting as submitted. The motion passed**
5 **unanimously.**
6

7 **PUBLIC COMMENT**
8

9 The chairman recognized several emails on the Gull Hills Drive matter and
10 stated that they would be placed into the record as part of the public hearing
11 on it.
12

13 **CORRESPONDENCE**
14

15 None.
16

17 **PUBLIC HEARING**
18

19 **Appeal - Ryan & Osha Kremer, 10401 Gull Hills Dr 3903-01-301-019**
20

21 The next item on the agenda was the appeal of Ryan and Osha Kremer, 9220
22 Cotters Ridge, Richland, MI regarding parcel no. 03-01-301-019, 10401 Gull
23 Hills Drive. The chairman explained that he would have the Kremers present
24 their appeal. Next, the Zoning Administrator would explain his position taken
25 pursuant to the zoning ordinance. A public hearing would then be held with
26 each person permitted 3 minutes in which to address the Board.
27

28 Ryan Kremer presented a parcel map and boundary survey. He explained
29 that they would like one split in order to permit the construction of a second
30 single-family residence on the parcel. He asked the group to look at the parcel
31 map. The sewer connection was shown with a red X. He next called the
32 group's attention to the right-of-way access to Gull Hills Drive. Kramer stated
33 that he had 9 acres; which he wished to split into a 4-acre and a 5-acre parcel
34 for use as building sites. He explained that he had received a letter from the
35 Zoning Administrator denying the request which stated that the resulting
36 parcels do not meet the site development regulations.
37

38 As far as Kremer understood, the problem was that there was insufficient lot
39 width to permit a second parcel and therefore a split. He asked that the 100-
40 foot of road frontage requirement be applied to Gull Hills Drive, and not West
41 Gull Lake Drive. He stated that there was sufficient frontage on Gull Hills
42 Drive to meet the 100-foot requirement. He asked that any resulting parcels
43 be considered a "lot of record" so that they would not be required to meet the

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1 site development regulations. He read the "lot of record" provisions of the
2 zoning ordinance aloud.

3
4 Kremer stated that he was requesting that the road frontage be measured
5 from Gull Hills Drive. Further, he requested that the resulting parcel be
6 deemed to be a "lot of record" and therefore the site development regulations,
7 as he saw it, would not apply. He stated that Gull Hills Drive is a lawful and
8 pre-existing private drive. Therefore the resulting two parcels would be
9 considered to be lots of record with frontage on Gull Hills Drive, which for all
10 intents and purposes was a private road. He provided parcel maps to the
11 group. Kremer continued, indicating that Gull Hills Drive presently serves
12 four single family residences. It was a lawful private roadway. None of the 4
13 parcels that had houses on them were conforming lots of record. In their
14 warranty deeds, Gull Hills Drive is designated as a private road. He stated
15 that the newer ordinance went into effect, the parcel already existed, as did
16 his. Any resulting parcels, he said, therefore were a "lot of record". In the
17 original ordinance, he said, a minimum lot width of only 34 feet was required
18 (sic). Kremer indicated that he had checked with Gull Lake Sewer and Water
19 Authority. The parcel has sewer connection within 34 feet of the private drive.
20 There was not public water in the area, and there was room for a second well.
21 John Crumb had told him in the afternoon that a second sewer hookup would
22 be possible. In short, he said, the second parcel he was requesting met all of
23 the standards except the 100-foot lot width. There is water, electric and
24 natural gas available to the proposed second parcel.

25
26 Kremer opined that there were a number of inconsistencies with respect to
27 the parcel he was asking to split, as well as its history. He had gotten the
28 deeds from the 1950's through his current ownership. It is incorrectly listed
29 on the county's website as 6.9 acres in size. He produced a CAD document
30 with his parcel outlined. It was actually 9.38 acres in area. That drawing
31 shows that he owns a portion of Gull Hills Drive and a part of the channel.
32 When the parcel was listed, it was non-waterfront. After he purchased it, the
33 tax documents now show that it is a waterfront parcel. As non-waterfront, the
34 parcel showed as \$60,000 in state equalized value. When the label was
35 changed to "waterfront" the taxes went up by 900%, he said. Kremer stated
36 that the treatment given to him and this parcel was unique and unfair. He
37 asked the Board to consider that the parcels were previously lots of record. It
38 faced continuous challenges. There are many lots around Gull Lake that are
39 nonconforming. He was only asking to divide the 9 acres he owns to add
40 one more buildable parcel.

41
42 Burr inquired about the difference between the 9 acres and the 6.9 that was
43 showing on the survey. Mrs. Kremer stated that they had even used the
44 surveyor recommended by the Township. Priest addressed the acreage

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1 discrepancy. First, he said, the survey considered easements and waterways;
2 which did not fit into the Township's and County's calculations. Next, he said,
3 the survey the Kremers provided show that the parcel extends all the way out
4 to Gull Hills Drive and includes ½ of the channel. He pulled up the County's
5 records and stated that the blue line shown is what is counted for assessing
6 purposes. Burr stated that the 33% discrepancy seemed quite high, even
7 given this explanation. Priest indicated that he would have the assessor look
8 at it, but it might result in higher taxes if more acreage was found.

9
10 Burr invited Priest to provide his position on the matter. Priest provided his
11 known history of the parcel. A person purchased the property from an estate
12 in 2000. He asked to place several houses and/or a neighborhood on it. That
13 person had purchased the property without checking zoning. In order to plat
14 or site-condo a property, a 20-acre minimum parcel size is required. As such,
15 there was not possibility for a neighborhood on the parcel.

16
17 Next, Priest stated that Gull Hills Drive does not meet the standards for a
18 private road. A lot of record, he said, was one that was in existence when
19 the ordinance first came into being. There is one "lot of record" and that was
20 the entire 6- or 9-acre parcel that was purchased by the Kremers. As such,
21 there is a single lot of record, which cannot be split if the owners want to
22 utilize this "lot of record" status to permit their single house on single parcel.
23 He referred the group to his staff report. He had already determined that the
24 entire parcel was one "lot of record" upon which one house could be built.
25 Later the Kremers asked for a split. He had denied the split, indicating that
26 the second parcel did not meet the 100-foot road frontage requirement. If
27 another parcel was desired, the applicants would lose their "lot of record"
28 status for their own house. Additionally, Gull Hills Drive would need to be
29 brought up to private road standards and a private road maintenance
30 agreement signed by 50 percent of the owners on the road would have to sign
31 it. Gull Hills Drive, he said, is not wide enough to meet the standards, there
32 is no room for a cul-de-sac and it would have to be paved. Additionally, not
33 knowing what was underneath, the entire road bed may have to be replaced
34 or upgraded. He was not sure that the existing road would meet any of the
35 standards. Each of the property owners on the road would have to give an
36 easement to connect the furthest-away lot. There is nothing connecting this
37 far lot to a public road, which is W. Gull Lake Drive. The road must be 22 feet
38 in width, with drainage shown. Finally, he said, he did not see how a private
39 road, if that was the desire, could meet the 50-foot turning radius needed for
40 emergency services.

41
42 Priest stated that the standards for a private road were contained in Section
43 300.19 of the zoning ordinance. The lot of record, as he saw it, was and
44 could only be the full parcel that the Kremers had purchased. Priest stated

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1 that there would be a problem if he had approved a land division application
2 that creates a new parcel without road frontage. He would describe Gull Hills
3 Drive as a non-conforming private road. If there were two parcels allowed
4 out of this parcel, neither would meet the standards because the parent
5 parcel's access to the public road would be cut off.

6
7 Burr inquired as to whether Gull Hills Drive was presently more or less a
8 shared driveway with the four houses on it. Priest answered that it could be
9 seen that way, however, a shared driveway can only serve 2 houses. Gull
10 Hills Drive already accesses more than two parcels. Priest requested that
11 the 2021 letter indicating that a second parcel was not permitted due to lack
12 of conformance with standards be affirmed. Vorholt commented that Gull
13 Hills Drive appeared to be a shared driveway with too many houses on it
14 already. Burr inquired about a private road maintenance agreement. Priest
15 indicated that the majority of the owners would need to agree to a private
16 road maintenance agreement AND upgrade Gull Hills Drive to private road
17 standards. A private road maintenance agreement, Priest stated, worked like
18 a mini-HOA in which there was arrangements for maintenance and
19 improvements as well as cost sharing. He reiterated that road improvements
20 would be required, including the 50-foot turning radius, the widening of the
21 road, the creation of a cul-de-sac and paving. The Township Engineer would
22 have to approve the design and assess the plan. Burr inquired as to whether
23 a private road could be created without improvements. Kremer stated that
24 he would add a driveway off of West Gull Lake Drive. An audience member
25 stated that it would go through her property. Kremer stated that his survey
26 showed that he owned half of the drive. A member of the audience indicated
27 that they would not approve a driveway or a private road maintenance
28 agreement.

29
30 Burr voiced the question at hand as to whether the Zoning Administrator
31 correctly denied the application for a split based on not meeting the
32 performance standards as described in his 2021 written interpretation. Priest
33 indicated that Gull Hills Drive is a non-conforming private road. The master
34 parcel existed as far back as 1990, so one house is allowed. The split and
35 therefore the second parcel was denied because of the way it all falls out. The
36 proposed second parcel is not a pre-existing lot of record.

37
38 The Chairman opened a public hearing on the request. Joe Rosenberger,
39 10476 Gull Hills Drive stated that he had been part of the history of the parcel
40 for the last 15 years. They live at the very end of Gull Hills Drive. He was
41 one of the many people that was told that the land could not be built upon at
42 all. That has now changed and one house is allowed, which they can tolerate.
43 He came to the Zoning Administrator when he and his wife wanted to buy the
44 parcel to create a "buffer" and potentially to build on at a future time. At that

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1 time they were told that there was no way to change the shape of the parcel
2 and that it would have to be added onto their house parcel. He had
3 considered the rules and thought that the property purchase was untenable,
4 particularly when there was not even one house that could be built. There
5 was no way, he said, that they could afford to buy the whole thing and then
6 add it to their property. After that, he said, the property sat for a long time.
7 A person named Gene had purchased it next. He learned that he could not
8 do much with it. He harvested a bunch of trees and sold it. When the Kremers
9 purchased the property, there seemed to be a lot of worms that went with it.
10 He was not in favor of a private road maintenance agreement. He asked to
11 keep the property "as is" and said they could accept one house and that was
12 all.

13
14 Scott Shephard of Wildwood Drive stated that he had also wanted to purchase
15 the property at one time. They were told that one home could go up there.
16 They had taken up the matter with the Board and decided not to purchase it.
17 Stacy McKay of 10240 Gull Lake Drive, was not interested in more boat traffic
18 in the channel. It is already hard to maneuver in it. Once they learned that
19 one house could be added they got used to it. Now they want two houses.
20 Next it will be four. She is against anything more than one house.
21 Additionally, there were now two giant boat wells in the channel. She
22 wondered aloud why one house required two giant boat wells.

23
24 Matt Scoles of 10450 Wildwood is an adjacent property owner. He recalled
25 the DEQ meeting (on the channel). He had asked Kremer specifically if there
26 were plans to split the property. He remembers that conversation
27 specifically. He was okay with the Kremers building their dream home, but
28 he was not fine with a second house on the lot. He didn't know a lot about
29 the zoning ordinance, but he felt that it was unlikely that the Township would
30 approve another private driveway next to a private roadway. He had no
31 hard feelings. He planned to be good neighbors. He just didn't want a second
32 house allowed on the parcel.

33
34 The Chairman recognized receipt of letters opposing the request as follows:
35 Rosenberger, email dated 10-22-23; Bonzeim, email dated 10-16-23;
36 Davenport, email dated 11-1-23; Berres, email dated 11-1-23; Jacobs,
37 emailed letter dated 10-28-23 ; Kletzien, letter dated 10-27-23; and
38 Shephard, email dated 10-28-23. They are included in the record of the
39 meeting. The Chairman closed the public hearing.

40
41 Aguas indicated that he had been to the property on the prior Sunday
42 afternoon. The road is narrow and there is a blind spot at a curve. He had
43 considered both sides of the argument and did not find any compelling facts
44 that would cause him to disagree with the 2021 Zoning Administrator letter.

1 Luedecking had also been down there. The channel has a lot of boats in it
2 and the road is quite narrow. She supported the analysis in the letter from
3 the Zoning Administrator.

4
5 Burr agreed, indicating that he found no reason to disagree with the Zoning
6 Administrator's written determination. Further, he said, the fact that there
7 was no split available did not appear to be a surprise to the applicant. They
8 had been told from the beginning that there could be no more than one house
9 on the property. He had been to the property in the afternoon.

10 Burr outlined the question at hand, indicating that it appeared to be more of
11 an agreement or disagreement with the Zoning Administrator. Seeber stated
12 that the decision parameters for variance did not apply because this was an
13 appeal from a Zoning Administrator's decision.

14
15 **Luedecking moved, supported by Agauas to uphold the findings of the**
16 **Zoning Administrator and to deny the appeal because the entire parcel**
17 **was lawfully non-conforming, allowing for a single house, and could**
18 **not otherwise be split. The motion passed unanimously. Burr**
19 **indicated that he would provide the decision to the applicants in**
20 **writing via regular mail.**

21
22 **Variance Request---Sharma— 10290 Doubleday Dr 3903-10-126-010**

23
24 The next item on the agenda was the request of Renu Kapila Sharma, 10290
25 Doubleday Drive, Richland, MI (parcel no. 03-10-126-010) for a 23'2" variance
26 from the required 78'2" averaged waterfront setback in order to permit the
27 construction of a roof over an existing outdoor kitchen which, if approved will
28 require Planning Commission special use approval for a front yard accessory
29 building.

30
31 Priest stated that the pre-existing outdoor kitchen was located 55 feet from
32 the ordinary high-water mark. The applicants were adding a structure by
33 placing a roof over the outdoor kitchen. He found no evidence that the outdoor
34 kitchen was ever approved, but it was small enough so as not to require a
35 building permit. He surmised that the Building Department at the time, may
36 have overlooked the need for zoning approval if and when a building permit
37 was sought.

38
39 Jack Gesmundo of AVB represented the applicant. He stated that the desire
40 was to place a roof over the existing outdoor kitchen. The applicants
41 purchased the property in 2009 and were now full-time residents of it. They
42 had already made substantial improvements to the house, which was
43 constructed by AVB 25 years ago with plans provided by Eckert-Wordell. He
44 explained that the owners liked to cook outside and entertain; as well as to

1 enjoy the lake and property they are on. They wished to place an overhang
2 on the outdoor kitchen in order to protect it from the sun and weather. He
3 explained that the existing umbrella would be replaced with a proposed roof-
4 structure that was angled to match the roof lines of the existing house and its
5 contemporary design. He stated that Katie Miller, who lived on the left side
6 of the property would be most affected by the roof. She had provided a letter
7 of support. On the other side of the parcel were the Wangs. They would not
8 be able to see the roof due to the topography of the land and vegetation
9 between the parcels. He had provided additional letters of support from the
10 neighbors on Doubleday Drive.

11 Gesmundo stated that the structure would still meet the minimum 50-foot
12 setback from the lake; however, the averaging made the setback go up. He
13 felt that the intent of the setbacks was to address and ensure sight lines to
14 the lake for small platted lots, which this parcel was not. He stated that the
15 topography of the parcel, being 18 feet higher than the lake level and higher
16 than the properties on either side should weigh in favor of granting the
17 variance. Additionally, the parcels in this area were fairly large and both sides
18 were screened with a good amount of natural vegetation.

19
20 He provided a scaled drawing, indicating that the house on the parcel in
21 question was located at the highest point in the area. Vorholt inquired about
22 the height of the beam. The group calculated the height on the high side of
23 the roof at 12 feet.

24
25 Vorholt asked the applicant to confirm that they wanted a pitched roof as
26 shown. He inquired as to the orientation of the roof to the water. Gesmundo
27 indicated that the shingles would face the water. The roof pitch was made to
28 match that of the house and would slope toward the Katie Miller property.
29 She may be able to see the gable from the lake, he said.

30
31 The Chairman opened a public hearing on the request. No one spoke for or
32 against it. Priest noted receipt of two emails in favor of the request for the
33 garage which would be taken up by the Planning Commission at a later
34 meeting on the same night. Mrs. Sharma indicated that she did not know that
35 a ZBA and a Planning Commission application was required, so her email to
36 her neighbors were geared toward the garage special use. Priest noted 4
37 additional letters in favor of the request had been provided to the ZBA by
38 Gesmundo.

39
40 Aguas noted that the patio appeared to be fairly close to the house. He had
41 been to the property and didn't see that the addition of a roof covering over
42 the outdoor kitchen would interfere with any of the neighbors' views or
43 enjoyment of their property. Burr respected the maintenance of the 50-foot
44 minimum setback. He asked the members to consider their standards for

1 consideration contained in the zoning ordinance. As to each standard it was
2 found as follows:

- 3 • The use is allowed in the district pending approval by the Planning
4 Commission. All agree.
- 5 • Would compliance unreasonably deny the ability to use the property?
6 The property can be used without the variance.
- 7 • Substantial Justice to the applicant and neighboring property owners—
8 the group found that the grant of a variance was fair to the owner to
9 allow the covering of an existing outdoor kitchen and that there would
10 be effectively no inconvenience to the neighbors.
- 11 • Practical difficulty. The group cited the topography of the parcel, the
12 setback averaging and the large amount of existing vegetation between
13 the parcels as practical difficulties.
- 14 • Application did not create the problem. The applicant did not create the
15 problem. The problem was creating by the averaging.

16
17 Burr stated that it appeared that the standards had been met.

18
19 **Luedecking moved, supported by Agauas to grant the variance based**
20 **on the meeting of the standards for approval, the topography of the**
21 **parcel, the pre-existing vegetation, and the setback averaging**
22 **required on lake setbacks. The motion passed unanimously.**

23
24 **ADJOURNMENT**

25
26 **Luedecking moved, supported by Vorholt to adjourn the meeting at**
27 **6:45 p.m. The motion passed unanimously.**

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29
30 Respectfully Submitted,

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34 Roxanne C. Seeber,
35 Recording Secretary
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SYNOPSIS OF ACTIONS

The Richland Township Zoning Board of Appeals took the following actions at its meeting of November 1, 2023:

- Upheld the written decision of the Zoning Administrator as it related to Parcel No. 03-01-301-019 addressed as 10401 Gull Hills Drive that a second parcel requested cannot be authorized because it does not meet the minimum lot width requirement and would defeat the lawful non-conforming nature of the original parcel.
- Granted a variance to permit a roof to be added over the outdoor kitchen located on the lake side of the property addressed as 10290 Doubleday Drive.

Date minutes approved January 24, 2024 as presented

Date minutes available: December 6, 2023

Date minutes approved: