

**Lodi Township
Zoning Board of Appeals Meeting Minutes
August 17,2021**

1. **Call to Order:** Meeting was called to order at 7:01 pm by Acting chair Bauer. Pledge of Allegiance was recited.
2. **Roll Call: Present:** Bauer, Chronis, Schaible, Strader, Warner (Alternate for Little)
Absent: Little
Others Present: Jesse O'Jack Township Attorney, attendees for the Aprill Public hearing and other members of the community.
3. **Approval of Meeting Minutes:** A motion to approve the Meeting minutes from 7/20/21 ZBA meeting was made by Schaible, seconded by Bauer – no discussion-motion passed Yea-5, Nay-0.
4. **Elect Chairperson:** Motion by Schaible to nominate Bauer as Chair, second by Chronis. No discussion – motion passed Yea-5, Nay-0.
5. **Elect Vice Chairperson:** Motion by Warner to nominate Chronis as Vice Chair, second by Bauer. No discussion – motion passed Yea-5, Nay-0.
6. **Elect Recording Secretary:** Motion by Chronis to nominate Strader as Secretary, second by Schaible. No discussion – motion passed Yea-5, Nay-0
7. **Approve/Amend Agenda:** A motion to approve the agenda was made by Chronis, second by Schaible. No discussion – motion passed Yea-5, Nay-0
8. **Second Public Hearing for Alan A. Aprill Trust c/o Ms. Laurie Kugler property located at Waters/Streiter Rds 80 acres. Lodi Township parcel numbers: M-12-08-200-008, and M-13-08-300-004. Denial of land divisions based on interpretation of Lodi Township Zoning Ordinance Sec. 30.205 Access to Roads, Shared Driveways.** Motion to open Public Hearing made by Schaible, second by Chronis.

Jesse O'Jack reminded everyone that we have an Alternate member (Warner for Little), as well as 2 new ZBA members, and the Alternate will follow the issue to completion. Laurie Kugler expressed concern there would not be a decision then tonight.

Presentation made by Tom Covert of Midwestern Consulting on behalf of the applicants to describe the proposed land division and driveway access points, requesting interpretation of Lodi Township Zoning Ordinance Section 30.205A , Access to Public or Private Roads, with regards to shared driveways for proposed lots on Parcel M-13-08-300-004 which fronts on Ellsworth Rd., but when combined with parcel M-12-08-200-008 and divided, is proposed to have access to Waters Rd through a shared driveway, and a driveway easement. Applicant had earlier submitted to the Board information regarding proposed land division and proposed shared driveways and driveway easements to the Township, which have been reviewed by the Township Engineer, Planner and Attorney, and initially denied. The applicants Engineer and Attorney responded to these comments and these were included in the information submitted to the Board.

Scott Munzel, P.C., the applicant's attorney, also made a presentation to the Board. He stated they believe their interpretation of the Zoning Ordinance does not require that the driveway must come from where the road frontage is measured. They believe what they are proposing meets all the Townships Zoning requirements. He said that to bring a driveway off Ellsworth Rd then north to the proposed home sites would involve crossing a large wetland area and would involve substantial cost, permits etc. He passed out a copy of the Townships Zoning Ordinance Section 30-

205, Access to Roads, and read it aloud to the Board. Mr. Wenzel felt this was an unusual case in that the parcel fronts 2 roads 1 mile apart. Said there were case studies in their submittal, and reminded the Board that if there were ambiguous interpretations, we should side with the applicant. Emergency responders (Saline Fire Dept) have been consulted and they were not concerned that there would be confusion about where to access a property fronting 2 roads.

Comments from the Public:

Laurie Kugler: recalled hearing at the last ZBA meeting that a parcel could have 2 driveways, one on Ellsworth (not used) and one on Waters Rd (used), but not one driveway off Waters Rd.

Beverly Dootz (Madrono St): felt the applicants Attorney was insulting to the ZBA Board by asking us multiple times to use our common sense in deciding this issue. Felt since there were so many new ZBA members we needed to listen to those who can give us sound advice, and follow the rules set before the Board.

John Carbone (Prairie Circle Trail): Materials on the table indicated possibility of building a private road -had that been considered as a suitable alternative, and would the Board view it more favorably – curious about the pros and cons of that?

Jess O’Jack responded that the ZBA Board is only charged with interpreting Zoning Ordinance with regards to the issues of access and frontage, not any specific engineering or design details.

Michelle Masse (Chestnut Crescent): objected to any personal interjections regarding any family situations to be part of the discussion.

Ann Warner asked to clarify that we are deciding if the driveway needs to come off Ellsworth to satisfy the road frontage issue? The applicant is saying the placement of the driveway does determine where road frontage is counted.

Christina Smith (Ellsworth Rd): reminded the group that there are currently only 2 existing parcels – nothing has been combined, no splits have been approved. The driveways as proposed cannot happen as shown.

Tom Covert (Midwestern Consulting): The applicant is not proposing a private rd at this time. Driveways for 2 lots will come off Waters Rd, driveways to serve the other lots will be through a shared easement. Road Commission was able to permit these locations. Ordinance does not state the driveway must be through the frontage, only that the parcel must have frontage on a public or private rd.

Scott Munzel (Applicants Atty): the applicants had formerly applied for a land division and were denied. There are difficulties in building a private road to serve the proposed lots (drain, proximity to Streiter Rd..) but these are not applicable to our discussion tonight.

Laurie Kugler: We can’t split the lots unless we know the driveway access is approved.

Beverly Dootz: You need to know what the land division is first – sharing the driveway with 4 lots.

Tom Covert: they are not sharing the driveway with 4 lots, only 1 driveway is shared.

Steve Fidh (Ellsworth Rd): He has lived here 25 years. His property abuts the SW portion of this property, and his frontage is all wetlands. He has a ¼ mile driveway with 2 easements through 2 neighbor properties and it has worked well, to preserve wetlands.

Jesse O’Jack (Township Atty): The Township Planner and I have provided written input to the ZBA regarding this issue of interpretations. This decision is an interpretation of the zoning ordinance that will affect future decisions in the Township. What does the ordinance say? Mr. Munzel said you can’t put words into the ordinance, but I remind you you can’t take them out. The language about minimum road frontage is specifically found in the Zoning Ordinance Section 30.205 titled

“Access to Roads”, not in a different section. In my opinion, it’s in the section that refers to property access specifically, and the language clearly states this. The ZBA is not charged to create a new ordinance, but to decide what the existing ordinance actually says.

Laurie Kugler: What words are we taking out?

Jesse O’Jack: the words “Access to Roads”, in my opinion.

Laurie Kugler: From last meeting we understood we could have a driveway from both sides. There are examples in Lodi Township where properties have access to roads not fronted on – they are in the packet.

Cindy Strader: these may have been in error or unknown.

There being no further comments, a motion to close the Public Hearing was made by Chronis, second by Schaible. Motion passed 5-0 by Roll Call Vote, Yea: Schaible, Chronis, Warner, Bauer, Strader. Nay: None.

Discussion was made amongst ZBA members, about the concept of parcel access to roads, regarding the definition of front lot lines (p.2-28 of Zoning Ordinance), and the word “frontage” as stated in 30.205A. Warner stated she felt the word “access” drives where the term “frontage” is. Does it have to have access to be defined as frontage? Chronis stated that access to your property is from your road frontage. Warner felt that the fact the fire department stated it didn’t have a problem with access to the properties however they’d rather it had an address on Waters Rd, which reinforces that property access determines frontage. Strader agreed, and indicated driveways are possible off Ellsworth Rd, more difficult, but possible. Bauer interprets current situation as a 40-acre parcel off Ellsworth Rd, a 40-acre parcel off Waters Rd, and those roads need to be the access points for those parcels. Each parcel has access – not easy but more of a design, planning issue. Tom Covert was recognized and stated the parcel used to be one 80-acre parcel in 1997, is the parent parcel, fronting 2 roads. Bauer said what’s before us now is 2 parcels. Schaible reminded that we are just interpreting the meaning of Section 30.205A.

Motion made by Warner, second by Schaible, stating the interpretation of Section 30.205A of the June 20, 2019 Lodi Township Zoning Ordinance, Access to Public or Private Roads, shall require that driveway access to a parcel must be on the public or private road being considered for road frontage. No further discussion was made.

Motion passed 5-0 by Roll Call vote, Yea: Strader, Bauer, Warner, Chronis, Schaible. Nay: None

9. Other Business: None presented

10. Adjourn: Motion to adjourn the meeting made by Schaible, second by Chronis, motion passed unanimously 5-0. Meeting adjourned at 8:19 pm.

Respectfully submitted,

Cindy Strader Secretary, Lodi Township Zoning Board of Appeals