

LEROY TOWNSHIP ZONING BOARD OF APPEALS

June 13, 2017

The Leroy Township Zoning Board of Appeals met at the Leroy Township Hall, 6684 Paine Rd., Leroy Township, on June 13, 2017.

Chairman Brian Crouse called the public hearing to order at 7 p.m.

Members present were: Jerry Hausch, Brian Crouse, Rudy Veselko, and alternate, Sharon Noewer.

Also present were: Zoning Inspector, Myron Telencio.

Guest: Ken and Sue Blakeley, representing Morning Star Property Preservation LLC

Audience: Wyatt Blakeley, Anthony Falcone, Zoning Commission Member; David Novak, Consultant for the Blakeleys; W. Ryan Babcock, the Blakeley's surveyor and Christian Rose.

The minutes of the May 23, 2017 meeting were read. Sharon Noewer made the motion to approve with corrections, Jerry Hausch seconded, and all approved.

At 7:15 the hearing began:

Mr. Ken Blakeley was sworn in.

Purpose of Meeting: BZA 0222: Mr. Blakeley applied for two variances for his property located at 7270 Brakeman Road. He requests the legal riparian setbacks to East Creek be lessened from 75 feet to 50 feet and 25 feet to 20 feet. He also requests that the minimum square footage for the proposed residence be reduced from 1400 sq. ft. to 1200 sq. ft.

Mr. Blakeley read his answers to the following requests on page 2 of the application:

A. State special conditions that exist that prohibit compliance to zoning regulations:

Answer: Riparian setback of the East Creek limits access to the property and therefore he wished to reduce the size of the proposed ranch-style house from 1400 sq. ft. to 1200 sq. ft.

B. State why the literal interpretation of the zoning regulation would deprive the applicant of the right enjoyed by other property owners:

Answer: Riparian setback renders the property unbuildable.

C. State why the requested variance is the minimum variance that will allow a reasonable use of the land or building:

Answer: Building the smallest house allowed designate the less amount of area.

D. Other Justifications:

Answer: East Creek is only 1.24 miles in Lake County and substantial justice would be done by granting the variance.

Mr. Blakeley also read the names and addresses of contiguous property owners.

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Dave Novak of Barrington Consulting Group stated that he was present to assist Mr. Blakeley. He clarified the spelling of Mr. Blakeley's last name. He stated that the watershed is 1.8 square miles. He shared a calculation of the protected area of the riparian setback, which in total would be an area over 58 acres and that the area that Mr. Blakeley would be disturbing is 5,400 square feet. The proposed variance would only be two-tenths of a percent of the overall protected area.

He added that, as he understood it, the property existed prior to the enactment of the 2009 riparian setbacks, which as it stands would render the property unbuildable.

Mr. Novak stated that the Blakeley's also requested to be allowed to build a smaller house to lessen the footprint so the impact to the riparian setback is less. He stated that the guidelines from the Lake County Soil and Water and Lake County Engineering office created to protect the stream would be followed.

Myron asked about a stream shown on the aerial map that was determined to be a man-made ditch and not a jurisdictional waterway.

Brian asked: What makes it unbuildable? Answer: Grading around the house and improvements to the driveway is the issue for riparian setback. $\frac{1}{2}$ to $\frac{2}{3}$ of the disturbance is just the driveway. The amount of the house, itself, that will in the setback is one triangle (no measurements were given).

Rudy asked about alternative placement. Mr. Novak stated that they had played with all options considering all impact issues of placement, footprint and economics. He stated that after the finish grading is done and the grass is established per the Lake County Soil and Water, the filters will be in place.

The Wisconsin mound septic system that will be on the other side of the creek and the pipe under the creek were discussed. The pipe will be 3-4 feet under the creek, to be beneath the frost line.

Rudy asked why, if the impact was primarily during construction and the driveway, what is the reasoning for the reduction in size of the house from 1400 to 1200 square feet? Mr. Novak stated it was a step-down house for the Blakeleys as they do not need a big house anymore and the smaller size would lessen the impact.

Mr. Novak stated that they worked with Chad Edgar from Lake County Soil and Water and that Chad had reviewed their plan. Mr. Blakeley stated that Chad helped them to verify that their calculations were correct and gave them a list of calculations to follow from Soil and Water.

Rudy asked if they were saying that there was direct involvement and oversight by the county on the plans to make the least impact on the property itself? Mr. Blakeley answered yes, that he applied for inspection, and application for septic testing. The plans have been to soil and water and the health department.

The secretary asked if the septic had been approved. The answer was that the health department was happy with the way it has been laid out.

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Myron stated that if the BZA approved the riparian setback, Mr. Blakeley would need to bring approved, stamped engineered final drawings, with approvals from the Health Department and Soil and Water, to validate that the final drawings are acceptable when filing for a building permit from Myron.

Mr. Blakeley stated that they cannot get approvals until they obtain a variance for the riparian setbacks from Leroy. He feels they have spoken with the county and feel the plans will be approved if the variance is obtained.

Myron stated that there are concerns with the reduction in the size of the house. Anthony Falcone stated the reason for a variance is usually a hardship to the applicant. Myron stated his opinion that another 200 square feet is not going to change the percentage of disturbed area. Myron cited that other requests to live in cabins less than the 1400 square feet had been denied and expressed concern at setting precedence.

Secretary confirmed that legal notices were posted in the News-Herald and on the township's website and that surrounding neighbors were notified by mail.

Motion was moved by Brian Crouse and seconded by Sharon Noewer to go into executive session. All were in favor. The secretary was invited to stay.

Motion was moved by Brian Crouse and seconded by Sharon Noewer to go back into public session. All were in favor.

Brian stated that the BZA will table the decision until further information from Soil and Water can be obtained, as Chad did not attend as expected.

Mr. Blakeley asked if there was any other information that would be beneficial to the BZA that could be provided for them at the next meeting. Nothing was needed at this time, but any further information that the BZA may find that they need will be communicated to Mr. Blakeley in advance of that meeting.

Myron asked that the final drawings include a reparation plan for riparian setback areas that are disturbed.

Brian will call Chad directly and ask the questions that the board has concerning this request.

Brian made a motion to adjourn the meeting and Jerry seconded. All were in favor.

Meeting was adjourned.

Respectfully submitted,

Julie Himmelman

Zoning Secretary