

**WALES TOWNSHIP ZONING BOARD OF APPEALS**

**MAY 25, 2023 HEARING**

Hearing opened by Chair Bill Gilmer at 7:00 pm. Members present were Bill Gilmer, Scott Hall, Terry Maki, John Minor and Kevin Glass. Chris Sulkowski absent.

Chairman Gilmer gave an overview of what a ZBA hearing is and how it is ran. He also explained zoning rules and how decisions are made by the Zoning Board.

There are two (2) hearings tonight.

**Paul Sharpe appeal:**

Sharpe hearing opened at 7:14 pm. Paul Sharpe, 840 Parks Rd., Wales Mi., Parcel # 74-31-026-1005-000. Mr. Sharpe submitted an appeal for a variance for a lot split frontage dimension. He would like to build a new house on the property for his parents. He would like a split to be separated into a 100 ft. x 220 ft. site. He was denied by the assessor for this split. He is asking the Zoning Board of Appeals to grant this land division. The present parcel is a 22- acre farm. The proposed new parcel would be 0.5 acres, with a frontage of 100 feet. The minimum is 300 feet. This is in an agricultural zone.

Minor mentioned the three factors for granting a variance. They are practical difficulty, uniqueness, and hardship. He explained each factor. He asked if the applicant has researched any other options. No, Sharpe replied. This is a 200+ year old house and they don't want to tear it down. Minor asked if he is aware of the current Master Plan. Sharpe replied no. Minor said it states that there is to be no small lots and that soil in that area is bad for drainage with a septic. We must obey the road thoroughfare plan. If granted, this would become a non-conforming parcel. He would like to see some alternatives looked into. Sharpe stated that he lives there now and if he started a family, the house would be too small for everyone. Minor said that this is a common situation elsewhere in the township. Glass asked if a granted, would there be a financial gain. Sharpe replied that the new split would go to his parents to build a house. He is presently on the current deed with his parents. He would become the sole owner of the old parcel so it would stay in the family. Maki had no questions at this time. Hall asked what the distance it to the back corner. Sharpe replied that it is 100 feet to the creek, 220 feet back, septic is on hill to the creek. Minor stated to the chair that a certified survey would be needed if the split is granted. Gilmore asked if the field is an option to build the house. Sharpe said no, for the current house and barn are centered on the property, consisting of 22 acres. Minor motioned that the review for the Township Planner, Carlisle/Wortman be entered as Document #1, which is attached to the back of the minutes, and that the statement from the Zoning Administrator, Mr. Waddy be entered as Document # 2. Second by Glass. Roll call: all ayes, motion approved. The Planner's review was read at this time. Planner has advised no to approve this lot split until all options are exhausted, as to not set a precedent. Minor stated that if this split is granted, the amount of the requested variance is considerable. Glass asked if the acreage is the only variance requested or is a frontage variance also requested. Chair answered yes to both. Maki asked if there was any reason why the split could not go through the ditch. Sharpe replied that they are trying to keep it on the farm and it is about 8ft wide and 4 ft deep and it draws a lot of water. Maki suggested that the split could go deeper in length. Minor stated the planner said that other alternatives have not been exhausted and other options could be used.

Board questions:

Mr. Waddy has talked with the applicant multiple times. He feels that there is a difficulty present because the farm house is in the middle of the property and it would be a financial burden if the split is not granted. He asked applicant how far is the south property line from the house. Sharpe replied, 280 feet. Septic is on the side, 20

feet from the house and drains into the ditch. It is a 5 -tile septic field. Waddy stated that instead of 280 feet frontage, it could be 260 feet frontage if split went on an angle to comply with 2-1/2 acre requirement. Sharpe replied he did not know what shapes were allowed and he wants to keep the farm a farm and create a new home for his parents. Waddy suggests looking into more options. Minor said this is a financial issue which is not grounds for this issue. Gilmer asked if the applicant can talk to the planner. Minor answered no. Gilmer said one of the options is to talk with the Zoning Administrator, Mr. Waddy, who could help with alternatives or else he could come back to the ZBA later with other alternatives. Waddy replied that he does not have the power to approve that. Minor said maintaining the waterway was not mentioned in the applicants presentation since this is a wet area. Glass said the ZBA does not help residents get around the ordinances. It is their job to present all options. He asked if the applicant come back to ZBA again? Minor replied yes, after voting is recorded.

**Public Comments:**

Kevin Watkins, resident said this is unique and applicant is trying to preserve a 3rd generation farm. He feels this is a hardship with a 150 yr. old house is in the middle of the property. He asked if we are considering living in the present world or back in the 1800's rules. Everyone talks about taking care of their elders and he would like the applicants request be granted, John Sluck, neighbor, stated the drainage ditches are large and dry and wouldn't affect new owners. Jim Waddy said septic fields are engineered by the health department. Adam Agostku, neighbor, shat he is in full agreement to approve the applicants request. Clayton Spratt, neighbor, owns 19 acres north of the applicants property. He said fence lines now present are not the actual property lines, He asked if there is a survey to show actual property lines. Minor replied that if there is a question on actual property lines, then a survey would be needed. Waddy replied that if the property is split, then a survey would be required. Minor stated that this is an example of the planner's review regarding options. He said the dimensional issues in this case are significant and would set an precedent if granted.

**Rebuttal from Applicant:**

Mr. Sharpe stated that he found the original south and north stakes and knows where the lines are. Gilmer asked if the measurements are original. Sharpe said the measurements are from the numbers on the top of the stakes. Minor asked how he knows those are originals. Sharpe replied the stakes have a red cap with numbers. Minor feels this is hearsay on numbers, since there was not a valid statement of survey.

**Deliberations:**

Minor stated that the three conditions for approval have not been met. He thinks the planner's recommendations point that out. He understands the sympathetic issues presented with parents but from a legal standpoint, it does not come into bearing. The focus should be on the ordinance. This is not a financial gain or loss. If these issues are significant, then a zoning amendment should be considered by the township. In this case, the dimension issues are significant. This would set a precedent that would affect the whole township in the agricultural zones. Glass understands the need to help elderly family members, but setting precedence may affect many farms for future residents. He would deny until applicant comes back with other options. Make agrees with Glass. Hall feels this would set a precedence and this being such a large variance is concerning. Gilmer asked if there is a way for the applicant to come back to the ZBA without having to go through this again. Minor said the residence has been there for years without violating the ordinance. There are other situations where lot are irregular and small, but this lot is presently valid. He asked if the petitioner is meeting the three the issues of hardship, difficulty and uniqueness. If not, he could return with other options.

**Decision:**

Motion by Minor, second by Glass to deny this request with grounds being the planners review states that other options were not considered. This is a significant variance request that would affect the entire township agricultural district. Uniqueness was not presented. This is not the first time this type of request has been brought to the township's attention. The township may consider an ordinance to allow such variances to exist. Roll call vote: Minor, deny; Glass, deny; Maki, deny; Hall, deny; Gilmer, deny. All members voted to deny this request. Motion approved.

Hearing for Paul Sharpe closed at 8:07 pm.

Cynthia Bobcean, Clerk  
Acting Recording Secretary