

## MEMO

Date: December 16, 2013

To: Alexandria Town Board

From: Ben Oleson, Hometown Planning  
Zoning Administrator, Alexandria Township

Re: Findings of Fact – November 18, 2013 Board of Adjustment Decision (Tim Rock – applicant)

Dear Town Board Members:

The Board of Adjustment held its regular meeting on November 18, 2013. There was one public hearing for a variance, which is detailed below. The findings of fact for the Board of Adjustment's decision that night will need to be formally approved prior to the recording of the BOAs decision.

### **PUBLIC HEARING #1**

**Application:** Variance to subdivide land within the sanitary sewer district that will be served with private sewer systems (ALASD sanitary sewer required),

**Applicant:** Tim Rock

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**Board of Adjustment Action/Findings of Fact/Conditions of Approval:** The Board of Adjustment approved the variance application upon the following findings of fact and conditions of approval:

#### **Conditions of Approval**

1. That any subdivision of the land be consistent with the conceptual plan presented to the Town Board (three lots total, two of which would contain the existing dwellings on the properties – approximately 6 acres and 2 acres in size – and a third that would be approximately 12 acres in size and have road frontage off of Liberty Road consistent with the road frontage requirements of the Township's Subdivision Ordinance.
2. That the third lot (approximately 12 acres) be platted as an outlot. Any future development on the lot would require approval by the Town Board.

#### **Findings of Fact**

1. Can the property in question be put to a reasonable use if used under the conditions allowed by this Ordinance?

**No.** Without the variance, the applicant would not be allowed to make what is a reasonable request to split the land in a way that allows for continued use of the residential portions of the property (which contain existing dwellings) and sale for farming purposes of the rear/tillable portions of the property. Without the variance, the only way for the applicant to further subdivide either of the lots as would otherwise be allowed would be to incur the significant and prohibitive cost (at least currently) of extending sewer to the property. The approval of the variance on the condition that the rear/tillable lot to be created would not be buildable without additional review by the Town Board.

**2. Is the plight of the landowner due to circumstances unique to the property not created by the landowner?**

**Yes.** The owner did not create the lots, their location in relation to the ALASD sewer district boundaries, nor the requirement that the subdivision of land require connection to the ALASD sewer.

While this is not an uncommon situation given that other adjacent and nearby landowners face similar issues, these two particular parcels are about as far from the current ALASD sewer lines as any parcel in the Township (1 - 1.2 miles from the lines most feasible for extension; the closest sewer line is actually about 0.3 miles away, but connection would require crossing private property).

**3. Is the variance necessary to secure a right or rights enjoyed by other owner(s) in the same area?**

**Yes.** Since the Township began administering zoning in 2007, Staff is aware of just one other property that has requested subdivision without full connection to the ALASD sewer. This is the approx. 80 acre parcel to the west, which was granted a variance to allow private sewer to serve two of the lots proposed at that time (the lots were about 15-20 acres in size). That subdivision was located closer to the ALASD sewer lines than what is proposed here.

This landowner and those immediately adjacent are further from an existing sewer line (without having to cross private property) than any other landowner in the Township. As such, the financial burden for making a subdivision and extending sewer appears to be greater than for other Township residents located within the ALASD sewer district boundaries.

**4. Will the variance, if granted, not alter the essential character of the locality?**

**No.** If the subject property is developed with one additional single family home, the character of the locality would change somewhat as it would allow for the possibility of another driveway and dwelling site to be created. However, this change would not be significant enough to alter the essential character of the locality. Further, it is consistent with the Township's 2006 Comprehensive Plan for properties in this area to be developed at densities of up to 3 dwellings per acre.

Most of the other lots in the area are somewhere between 10-40 acres in size. There is one approx. 5 acre parcel immediately adjacent to the southwest and an approx. 1.3 acre parcel about ¼ mile to the west. There is also a platted subdivision with lots sizes mostly about 0.5 - 1 acres in size about 1/3 miles to the southwest.

**5. Are economic considerations the only reason the applicant cannot meet the strict requirements of the ordinance?**

**No.** The primary reason for the variance request appears to be the prohibitive cost of extending the sewer lines approximately 1+ miles to service these three lots. This cost is unlikely to be made up for in the sale of the three lots even if that were to occur. If the sewer line were running directly adjacent to these properties, it seems unlikely that the variance request would have been made.

However, the applicant has stated that his intent is to sell the 12 acre parcel for agricultural use only, and as such, the creation of the lot would not result in any more sewage generation than already exists. Further, the requirement to extend ALASD sewer lines more than one mile when a lot is not anticipated as being sold for development purposes would be an additional reason. The Township has required the lot to be created as an outlot, which makes it unbuildable without Town Board approval and presents a unique circumstance.

**6. Will the variance not allow a use that is prohibited in the zoning district in which the subject property is located?**

**Yes.** The Urban Residential zoning district allows for the platting of a lot of this size and the potential residential use of the property is also allowed. There is no concern with a prohibited use being allowed by the granting of this variance request.

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**Board of Adjustment Direction:** The Board of Adjustment can approve the findings outlined above as an accurate reflection of the findings of the BOA, amend the findings as appropriate, or table the matter and direct Staff to re-draft findings and bring them to a subsequent meeting for action.

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If you have questions or concerns on the items in this report or any other issues, please do not hesitate to contact us. You can reach me by email at [oleson@hometownplanning.com](mailto:oleson@hometownplanning.com) or by phone at 888-439-9793.