



CITY OF TONTITOWN PLANNING OFFICE

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Meeting: **November 28, 2023**
Project: Martinez Variance
Planner: Mark Latham

**AGENDA ITEM
PH2, BOZA2**

MARTINEZ VARIANCE

**4036 Old Hwy. 68
Parcel#: 830-37902-202**

SUMMARY: The applicant has applied for a frontage variance on a 2.0 acre in RE.

The applicant is requesting a Minor Subdivision approval to split a 5-acre tract at 4036 Old Hwy 68. The current Tract is 5.0 acres and will be split into 2 tracts of 3.0 and 2.0 tracts. The property is zoned R-E (residential estates) which requires frontages of 200 feet. The variances are for Tract 3-B.

CURRENT ZONING: R-E – Residential Estates

CITY WARD: 3- Mike Washkowiak, Tim Burress

FLOODPLAIN: No

INFRASTRUCTURE SERVICE AREAS (not a guarantee of service availability):

Water: Tontitown Water, existing 8" waterline

Electric: Ozarks Electric

Sewer/Septic: Septic

Phone: ATT

Natural Gas: Source Gas

Cable: Cox Communications

School District: Springdale

VARIANCE REQUEST:

Section 153.262 Powers and Duties:

*(B) To authorize upon appeal, in specific cases, such variance from the terms of this zoning chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in unnecessary hardship that would deprive the owner of any reasonable use of the land or building involved. **A variance from the terms of these zoning regulations, shall not be granted by the Board of Zoning Adjustment unless and until:***

- (1) The applicant demonstrates that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.*

Applicant's Letter:

"The applicant desires to split the 5-acre lot. To become compliant, Tract 3-B must have a frontage variance. In RE, the frontage width is 200 feet.

Staff's Response: This large piece of property site is narrow and if they split the lot even, both tracts would need a variance.

that literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations.

Staff's Response: It would require 2 frontage variances.

that special conditions and circumstances do not result from the actions of the applicant.

Staff's Response: The applicant is proposing to split the lot; however, the proposed split does not work in this case.

and that granting the variance requested will not confer on the applicant any special privilege that is denied by the zoning regulations to other lands, structures, or buildings in the same district.

Staff's Response: Granting this waiver will not prevent the orderly subdivision or development of other land in the area.

- (2) *No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.*

Staff's Response: There are no nonconforming uses in the surrounding area.

- (3) *The Board of Zoning Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building, or structure.*

Staff's Response: Granting this waiver will not prevent the orderly subdivision or development of other land in the area.

- (4) *The Board of Zoning Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of these zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

Staff's Response: Granting this variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

- (5) *In granting any variance, the Board of Zoning Adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such*

conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations.

Staff Response: No additional conditions are recommended at this time.

(6) Under no circumstances shall the Board of Zoning Adjustment grant a variance to allow a use not permissible under the terms of these zoning regulations in the district involved, or any use expressly, or by implication, prohibited by the terms of these regulations in said district.

Staff's Response: Granting this request will not allow a use that is not permissible by code.

STAFF RECOMMENDATION:

Staff recommends **APPROVAL** of the applicant's variance request to reduce the property frontage in the RE Zoning of 200' for Tract 3-B.

Site location:

