

ORDINANCE NO. 192

ZONING TEXT AMENDMENT ORDINANCE

AN ORDINANCE to amend certain portions of the Zoning Ordinance of Zeeland Charter Township, Ottawa County, Michigan, for the purpose of clarifying the definition of a front lot line; for the purpose of defining a private road; for the purpose of clarifying the definition of a front yard; for the purpose of revising public street frontage requirements for flag lots; for the purpose of revising private easement or right-of-way frontage requirements; and for the purpose of establishing the procedure and the requirements for approving private roads.

THE CHARTER TOWNSHIP OF ZEELAND, COUNTY OF OTTAWA, AND STATE OF MICHIGAN, ORDAINS:

Section 1. Definition of Front Lot Line. That Section 3.38 of the Zoning Ordinance shall be amended to state in its entirety as follows:

SECTION 3.38 LOT LINE, FRONT. The lot line separating the lot from the street right-of-way, easement right-of-way or private road right-of-way. In case of a corner lot, the front lot line shall be the line of the lot adjacent to the street which has the narrowest street frontage. In all cases in which the street widths have not been specifically recorded, the front lot line shall be considered to be thirty-three (33) feet from the center of the street. In case of a through lot, the owner shall, for purposes of this Ordinance, have the option of electing either or any applicable street lot line as the front lot line.

Section 2. Definition of Private Road. That Section 3.56-1 shall be added to the Zoning Ordinance to state in its entirety as follows:

Section 3~.56-1 ROAD, PRIVATE. A privately owned and maintained right-of-way which affords traffic circulation and principal means of access to abutting property.

Section 3. Definition of Front Yard. That Section 3.73 of the Zoning Ordinance shall be amended to state in its entirety as follows:

Section 3.73 YARD, FRONT. A yard extending across the full width of the lot, the depth of which is the distance between the street right-at-way, easement right-of-way, or private road right-of-way and the nearest part of the building or structure on the lot. However, if the easement right-of-way or private road right-at-way is less than sixtY-Six (66) feet wide~for the entire width of the lot in question, the minimum front yard required for the lot shall be increased by the difference between sixty-six (66) feet and the width of the easement right-ot-way or private road right-of-way. In determining the width of the easement right-of-way or private

road right-of-way, the narrowest point of the portion of the right-of-way which crosses the width of the lot in question shall be used.

Section 4. Public Street Frontage Requirements for Flag Lots. That Section 4.14.B of the Zoning Ordinance shall be amended to state in its entirety as follows :

B. A dwelling located on a flag lot, as hereinafter defined, may have frontage on a street less than the required lot width for the zoning district within which the lot is located, provided that such frontage shall not be less than thirty-three (33) feet in any event, and provided that the width of the lot shall be a minimum of thirty-three (33) feet for the entire length of the lot from the street to the portion of the lot which complies with the minimum lot area and width requirements for the zoning district in which the lot is located. For purposes of this section only, the phrase "flag lot" shall be defined to mean a lot which has minimal frontage on a street for purposes of access, with all buildings and structures being located on the portion of the lot which is not adjacent to a street but which portion of the lot complies with the minimum lot area and width requirements for the zoning district in which the lot is located. Further, a minimum of ten (10) feet in width shall be cleared and passable for vehicular ingress and egress for the entire length of the lot from the street to the portion of the lot which complies with the minimum lot area and width requirements for the zoning district in which the lot is located.

Section 5, Private Easement or Right-of-Way Frontage Requirements. That Section 4.14.C of the Zoning Ordinance shall be amended to state in its entirety as follows:

C. A dwelling located on a lot which has frontage on a private easement or right-of-way for at least the minimum lot width required for the zoning district within which the lot is located may have frontage on a street less than the required lot width for the zoning district within which the lot is located. However, any such private easement or right-of-way serving one (1) lot must have frontage on a street and a width for its entire length equal to at least thirty-three (33) feet, of which a minimum of ten (10) feet in width shall be cleared and passable for vehicular ingress and egress for the entire length of the private easement or right-of-way. Further, any such private easement or right-of-way serving more than one (1) lot must comply with the section of the Zoning Ordinance concerning private roads.

Section 6, Procedure and Requirements for Approving Private Roads. That Section 4.14-1 shall be added to the Zoning Ordinance to state in its entirety as follows:

Section 4.14-1 PRIVATE ROADS. A private road which serves more than one (1) lot fronting thereon may only be constructed if authorized by the Planning Commission as a special use. Before granting such authorization, the Planning Commission shall require compliance with the following factors; however, if the Planning

Commission finds that compliance with anyone (1) or more of these factors is not possible, the Planning Commission may in its discretion grant such authorization without such compliance.

A. The owner of the property over which the private road shall be constructed must record an easement dedicated for ingress and egress purposes directly to and from a street for the benefit of the owners and users of the lots serviced by the private road, as well as for the construction, maintenance and repair (including reconstruction) of utilities. The easement shall benefit the lots fronting the private road, as well as each utility company or municipality providing utility or emergency services in the vicinity of the private road. The easement shall have the following minimum amount of frontage on the street, and the easement shall maintain a minimum width for its entire length equal to such minimum amount of frontage on the street;

- (1) If the easement serves two (2) lots fronting thereon - forty-four (44) feet;
- (2) If the easement serves three (3) lots fronting thereon - fifty-five (55) feet; and
- (3) If the easement serves four (4) or more lots fronting thereon - sixty-six (66) feet.

B. A private road which serves four (4) or more lots must be constructed and paved according to Ottawa County Road Commission standards, including without limitation the requirements for cul-de-sacs, if applicable. The width that is paved must be at least twenty (20) feet for the entire length of the private road.

C. A private road which serves fewer than four (4) lots must be constructed with at least a twelve (12) inch sand sub-base and six (6) inches of compacted road gravel, and a center road crown with a two (2%) percent slope to adjacent drainage ditches. Ditches shall have a minimum depth of one (1) foot with side slopes not to exceed four (4) feet horizontal to one (1) foot vertical. The minimum width of the improved portion of the private road (i.e. the portion improved with sand and road gravel) shall be fifteen (15) feet for the entire length of the private road.

D. A joint maintenance and easement agreement shall be recorded in the office for the County Register of Deeds, Ottawa County, Michigan, providing for the perpetual private (non-public) maintenance of the private road to a necessary and reasonable standard to serve the several interests involved. The following items shall be included in the joint maintenance and easement agreement:

- (1) Financing improvement and/or maintenance: A method of initiating and financing of such improvement and/or maintenance of the private road

as is necessary to keep the private road in a reasonably good and usable condition;

- (2) Method of apportioning costs: A workable method of apportioning the cost of improvement and/or maintenance of the private road, together with a method to enforce payment by providing that any amount remaining unpaid by the owner of a lot fronting the private road shall become a lien against such lot;
- (3) Township's option to improve and/or maintain: A procedure whereby the Township may, in its discretion but without obligation, improve and/or maintain the private road and assess the cost thereof to the owners of lots fronting the private road in a reasonably proportionate manner without the need for any additional petition for such improvements and/or maintenance from the owners of such lots;
- (4) Non-interference provision: A provision that the owner of each lot using the private road shall not prohibit, restrict, limit or in any way interfere with normal ingress and egress and other use of the private road by the owners of the remaining lots fronting the private road, including family members, guests, tradespeople and others with legitimate purposes who are traveling to or returning from any of the lots fronting the private road; and
- (5) Indemnity provision: A provision that all of the owners of lots fronting the private road shall indemnify the Township from any liability whatsoever arising from the purchasing, planning, constructing, inspecting, repairing, maintaining, using and dedicating of the private road.

E. All lots fronting a private road must meet the requirements for the zoning district in which they exist. Compliance with the applicable area regulations and frontage requirements shall be determined as if the private road were a street.

F. Each private road shall have a name and a street sign consistent with Ottawa County Road Commission standards. A location map of the private road and its name shall be submitted to the Township Fire Department, Ottawa County Sheriff's Department, and any other emergency service organization serving the Township.

G. Each private road shall have a stop sign which requires all traffic to stop before exiting the private road and entering the street upon which the private road fronts.

H. All brush and trees shall be cleared for a distance equal to (20) twenty feet from each side of the entire length of the paved or otherwise improved portion of the private road.

I. Before any construction of a private road may be commenced, the applicant must submit to the Planning Commission all of the written information required by the terms of this section, specifically including without limitation detailed construction plans and a site plan which complies with Chapter 22 of the Zoning Ordinance. If the Planning Commission approves or approves with conditions the special use request for the private road, a preliminary private road permit shall be issued to the applicant; thereafter, construction of the private road may commence.

J. No building permits shall be issued for lots which front the private road and which do not have the otherwise required amount of frontage on a street, until and unless a final private road permit is issued to the applicant. A final private road permit shall not be issued until the private road has been constructed and inspected and thereafter certified by the Township engineer as in compliance with the requirements of this section and with all documentation submitted by the applicant pursuant to the special use process required by this section. The applicant shall pay the inspection fees charged by the Township engineer relative to the private road. In addition, a final private road permit shall not be issued until the applicant has obtained all other permits required, specifically including without limitation any and all State of Michigan and County of Ottawa permits.

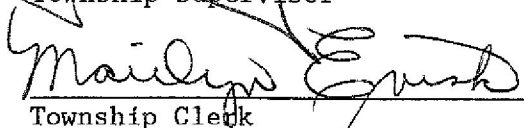
K. After receiving a preliminary private road permit, but before beginning construction of the private road, the applicant shall provide the Township with a performance guarantee covering the estimated cost of the private road. The performance guarantee shall consist of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township.

Section 7. Repeal. That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 8. Effective Date. That the foregoing amendment to the Zeeland Charter Township Zoning Ordinance was approved and adopted by the Township Board of Zeeland Charter Township, Ottawa County, Michigan, on December 17, 1990, after a public hearing as required pursuant to Michigan Act 184 of 1943, as amended, and after introduction and first reading on November 19, 1990, and publication after such first reading as required by Michigan Act 359 of 1947, as amended. This Ordinance shall be effective upon publication.
December 31, 1990



Township Supervisor



Township Clerk

CERTIFICATE

I, MARILYN EVINK, the Clerk for the Charter Township of Zeeland, Ottawa County, Michigan, do hereby certify that the foregoing Zeeland Charter Township Zoning Text Amendment Ordinance was adopted at a Regular meeting of the Township Board held on December 17, 1990. The following members of the Township Board were present at that meeting: Ellens, Evink, Norman, Nykamp, Berghorst, Schreur, De Kleine. The following members of the Township Board were absent: none. The Ordinance was adopted by the Township Board with members of the Board Ellens, Evink, De Kleine, Berghorst, Norman, Nykamp, Schreier voting in favor and members of the Board none voting in opposition. Notice of Adoption and Posting of the Ordinance was published in the Grand Rapids Press-Lakeshore Edition on December 31, 1990.

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Marilyn Evink, Clerk
Zeeland Charter Township

Copy mailed to the Ottawa County Clerk January 20, 1991.