

Supplemental Memo

Memo Date: July 3, 2007

Hearing Date: July 24, 2007 (Continued from May 15 & June 20, 2007)



TO: Board of County Commissioners
DEPARTMENT: Public Works Dept./Land Management Division
PRESENTED BY: BILL VANVACTOR, COUNTY ADMINISTRATOR
KENT HOWE, PLANNING DIRECTOR
AGENDA ITEM TITLE: In the Matter of Considering a Ballot Measure 37 Claim and Deciding Whether to Modify, Remove or Not Apply Restrictive Land Use Regulations in Lieu of Providing Just Compensation (PA06-7251, Larsen)

BACKGROUND

Applicant: Kenneth M. Larsen

Current Owner: Kenneth M. Larsen

Agent: none

Map and Tax lot: 17-04-18, #2600

Acreage: approximately 13 acres

Current Zoning: E40 (Exclusive Farm Use)

Date Property Acquired: October 3, 1985 (LSC # 884738)

Date claim submitted: December 1, 2006

180-day deadline: May 30, 2007

Land Use Regulations in Effect at Date of Acquisition: E40 (Exclusive Farm Use)

Restrictive County land use regulation: Minimum parcel size of forty acres and limitations on new dwellings in the E40 (Exclusive Farm Use) zone (LC 16.212).

This claim was originally heard on May 15 and June 20, 2007. The applicant submitted additional information into the record on June 19, 2007 and provided additional testimony at the June 20, 2007 hearing. The Board continued the discussion of this claim to the July 24, 2007 Board meeting in order to allow staff the opportunity to evaluate the information and testimony provided by the claimant on June 20th, and the claimant time to submit additional information and have the Board reconsider the recommendation. The Board closed the Public Record to all new information on June 29, 2007. The claimant submitted additional testimony on June 21 & June 29, 2007.

ANALYSIS

The Special Warranty Deed submitted on June 19, 2007 showed Kenneth Larsen acquired an interest in the property on April 13, 1988 (WD # 9893959), when the property was zoned E40. The Memorandum of Land Sale Contract (LSC #8814738)

submitted June 21, 2007 verifies a contract was executed October 3, 1985, when the property was zoned E40. The E40 zoning on the property was adopted on February 29, 1984, and it replaced the previous FF20 designation. Because the property was 13 acres in size when purchased in 1985, it was below the 40 acre minimum lot division size applicable to the property when Kenneth Larsen acquired ownership.

The June 29, 2007 submittal provided documentation that the soils capability class on the property is predominantly Class IV soils, which in 1985, was one of the criteria that, at that time, was a consideration for allowing a non-farm dwelling upon a legal lot in the E40 zone.

The alleged reduction in fair market value as described in the June 21, 2007 submittal is \$268,800, and was based on a comparison between the current value of the property as a single lot and the value of the property if it is divided into three parcels. This valuation analysis initially was based on a presumption the property could be divided when purchased, which does not appear to be allowed at that time. On June 29, 2007, additional comparative market analysis was provided by the claimant, which compared a value of the land if it were buildable (\$174,900) with a single dwelling compared to a 'current value' of the land per acre, resulting in a loss of \$93,324. This valuation analysis is also based on assumptions and analysis that does not address all the criteria applicable at the time of acquisition by the claimant. The RLID documentation included in the June 29th packet showed a higher value for the land (\$245,648) than the per-acre value the claimant used to allegedly demonstrate a loss, therefore the valuation analysis does not appear to establish a reduction in value. The County Administrator has not waived the requirement for an appraisal.

CONCLUSION

It appears this remains an invalid claim for Kenneth Larsen because this property was zoned E40 when purchased by Kenneth Larsen, which is below the minimum lot size allowed when he acquired ownership of this 13 acre property. The additional information submitted on June 21, 2007 provided documentation for an earlier acquisition date, however, the current zoning applied to the property even at that earlier date, October 1985. The June 19, 2007 valuation analysis was based on a presumption the property could be divided, which was not allowed at the time of acquisition by Kenneth Larsen. The June 29, 2007 valuation analysis used a hypothetical value of land that was less than the value shown on the submitted Land Information Database record, so that analysis does not show a reduction in value.

The minimum lot size and restrictions on new dwellings appear to be exempt regulations, the zoning is the same today as it was when acquired by the current owner, and the parcel size was and is below minimum for the E40 zone. The criteria for siting a non-farm dwelling have changed since the acquisition date of 1985, so this claim might have been a valid claim with adequate proof.

RECOMMENDATION

The County Administrator still recommends the Board direct him to deny the claim.