

Addendum

Section 24-2A of the zoning ordinance states that “access to lots in subdivisions shall be across the front lot line abutting a public or private street approved by the county or as otherwise approved by the Board of Adjustment.” However, this provision was not adopted until 1996. Although lots in 1974 were required to have frontage on a road (or a ROW approved by the Board of Adjustment), there was no requirement that access to lots in subdivisions be across the front lot line in 1974 when this subdivision was approved.

Ms. Brown also argues that the 15 foot ROW does not comply with the 1974 subdivision ordinance because the subdivision ordinance required a 16 foot ROW. This analysis is incorrect. The 1974 subdivision ordinance defines “Lot Right-of-way” as “A strip of land of not less than sixteen (16) feet wide connecting a lot to a street for use as private access to that lot.” The definition of “Lot” is “A parcel of land . . . having frontage upon a street **OR** upon a right-of-way approved by the Board of Adjustment.” (Emphasis added) Lot 8 does have frontage on a street. If it did not have frontage on a street, then it would require frontage on a 16 foot ROW. In other words, the minimum frontage requirement is 16 feet; therefore, if a ROW is the only frontage for a lot, then the ROW must be not less than 16 feet. There is nothing in the 1974 subdivision ordinance prohibiting a ROW in addition to frontage on a street and there is no restriction on the width of a non-required ROW.

Furthermore, even if the 1974 subdivision ordinance did require all ROWs to be 16 feet, Section 1C of the ordinance grants the County Commission the authority to vary subdivision requirements. That Section states “In cases where unusual topographical or other exceptional conditions exist, variations and exceptions from this Ordinance may be made by the County Commissioners after recommendation by the Planning Commission.” While it is difficult to determine exactly what took place in 1974, there is evidence that there are “topographical or other exceptional conditions” attached to Lot 8 (e.g., streams, slopes, distance, etc.). Moreover, the subdivision plat clearly shows a 15 foot ROW, and the plat was signed by both the planning commission and the county commission indicating their approval of the plat as shown. The County Attorney also signed the plat attesting that it met with all relevant ordinances at that time.

In conclusion, there does not appear to be anything that would have prohibited the inclusion of a 15 foot ROW in addition to the required frontage for lot 8, nor is Section 24-2A applicable to Lot 8 because it was not a requirement when this subdivision was approved. Concerning the issuance of the Land Use Permit, Chapter 30 Section 4 of the Zoning Ordinance explains that the purpose of the land use permit is to “verify zoning requirements and setbacks.” Because there were no zoning or setback violations in connection with Lot 8, there was no error in issuing the Land Use Permit.