

BEDFORD TOWNSHIP BOARD OF ZONING APPEALS
SPECIAL MEETING MINUTES
8100 JACKMAN ROAD, TEMPERANCE, MICHIGAN
October 9, 2018

PRESENT:

BOB POTTER, CHAIRMAN
GEORGE WELLING, VICE-CHAIRMAN
TOM ZDYBEK, PLANNING COMMISSION LIAISON
JAKE LAKE, CITIZEN AT LARGE

EXCUSED:

RICK STEINER, TOWNSHIP BOARD LIAISON

ALSO PRESENT:

PHIL GOLDSMITH, LEGAL COUNSEL, LENNARD, GRAHAM & GOLDSMITH
DENNIS KOLAR, BUILDING OFFICIAL
KAREN M. KINCAID, PLANNING AND ZONING ADMINISTRATOR
JODIE L. RECTOR, PLANNING AND ZONING ASSISTANT, RECORDING SECRETARY

Potter called the Bedford Township Board of Zoning Appeals meeting to order at 7:00 p.m. The Pledge of Allegiance was said. Kincaid called the roll. Quorum present.

APPROVAL OF THE AGENDA

Motion by Welling, supported by Zdybek, to approve the agenda. Motion carried.

APPROVAL OF THE MINUTES

Motion by Lake, supported by Welling, to approve the minutes of October 1, 2018. Motion carried.

PUBLIC COMMENT (LIMIT 3 MINUTES)

None

NEW BUSINESS

- A) **Open the public hearing regarding the Appeal of Arist L. Kunz, Jr., 4130 W. Temperance Road, Ottawa Lake, MI 49267 requesting a 4 +/- foot structure to structure separation variance, per Section 400.1903, "Accessory Building Table", in an AG, Agricultural Zoning District, on land described as 5802-018-090-00, otherwise known as 4130 W. Temperance Road, Ottawa Lake, MI 49267.**

Potter informed the applicant the Board was one member short, offering the option to defer to a later date when all members could be present. Mr. Kunz opted to move forward as scheduled.

Motion by Welling, supported by Zdybek, to open the public hearing at 7:05 p.m. Motion carried.

Kincaid reviewed the analysis saying the applicant is seeking to construct a 288 square foot additional accessory building. Due to the location of the existing pole barn in proximity to the proposed accessory building there is an encroachment of 4 feet within the required 10-foot setback. Per Section 400.1903, "Accessory Building Table" in an AG-Agricultural Zoning District, a required minimum setback from any building to building is 10 feet, thus requiring the 4' building to building setback

variance. The applicant has indicated in the submitted letter the proposed additional accessory building will be a preconstructed metal shed and the proposed location is where there is an existing concrete pad the applicant wishes to utilize.

At this time no letters or calls of objection have been received.

Artist Kunz- 4130 W. Temperance - Mr. Kunz was available to answer any questions.

Kincaid added the applicant did provide five letters of no objection. Welling inquired on the concrete pad being in existence. Mr. Kunz stated yes, increasing the size of the building.

Motion by Zdybek, supported by Lake, to close the public hearing at 7:10 p.m. Motion carried.

A lengthy discussion took place on the location and the setback requirements. Kolar stated the Building Code permits 3' from a property giving an example of one home building adjacent to another property for a total of 6' between accessory buildings on adjacent properties. Mr. Goldsmith said this would not be a Building Code violation, adding the request just does not meet the ordinance requirement of a 10 foot separation from building to building.

MOTION BY LAKE, SUPPORTED BY WELLING, TO GRANT THE APPEAL OF ARIST L. KUNZ, JR., 4130 W. TEMPERANCE ROAD, OTTAWA LAKE, MI 49267 REQUESTING A 4 +/- FOOT STRUCTURE TO STRUCTURE SEPARATION VARIANCE, PER SECTION 400.1903, "ACCESSORY BUILDING TABLE", IN AN AG, AGRICULTURAL ZONING DISTRICT, ON LAND DESCRIBED AS 5802-018-090-00, OTHERWISE KNOWN AS 4130 W. TEMPERANCE ROAD, OTTAWA LAKE, MI 49267 AS IT COMPLIES WITH THE CURRENT BUILDING CODE, FIVE LETTERS OF NO OBJECTION WERE RECEIVED FROM SURROUNDING PROPERTY OWNERS AND WITH A PRACTICAL DIFFICULTY BEING THE PROPOSED LOCATION IS ON AN EXISTING SLAB.

Roll call as follows: Voting Aye: Lake, Welling, Zdybek and Potter

Voting Nay: None

Excused: Steiner

Motion carried.

- B) Open the public hearing regarding the Appeal of Edward Rendle, 4889 Temperance Road, Ottawa Lake, MI 49267 requesting a 34 +/- foot frontage variance, per Section 400.1800, "Schedule of Regulations", in a C-3, General Business Zoning District, to create a commercial parcel on vacant land, on land described as 5802-032-055-60, otherwise known as 3199 W. Sterns, Lambertville, MI 48144.**

Potter informed the applicant the Board was one member short, offering the option to defer to a later date when all members could be present. Mr. Jacob's, applicant's representative, opted to defer to a later date. After further discussion, Mr. Bates opted to move forward as scheduled.

Motion by Zdybek, supported by Welling, to open the public hearing at 7:15 p.m. Motion carried.

Kincaid reviewed the analysis saying the existing parcel consists of approximately 23.08 +/- acres with 1171.63 feet of frontage on Sterns Road and 66 +/- feet of frontage on Secor Road. The subject site is split zoned with approximately +/- 4.1 acres zoned C-3, General Commercial and +/- 18.98 acres zoned R-2A, Single Family Residential. The applicant is seeking to split a 3.732 +/- acre parcel off the 23.08-acre parcel and per Section 400.1800 "Schedule of Regulations" in a C-3, General Commercial Zoning District a minimum of 100 feet of frontage is required. Should the variance be granted, a portion of the proposed +/- 3.732-acre parcel to be split off will be required to go through the rezoning process as approximately +/- 1.31 acre is located within the R-2-A, Single Family Residential zoning district. Kincaid advised, therefore, an application and approval of a land division will be required. It should also be noted, split-zoned parcels can no longer be combined as stated in Section 301.007, Application for Combinations, *"approval of a combination shall be subject to common title ownership and identical zoning district classification of the lands to be combined."*

The applicant has submitted a letter dated October 1, 2018 stating they are seeking to split the parent parcel into four parcels for commercial and residential developments. It should be noted the only item the Board of Zoning Appeals will be acting on at this time is the frontage variance on Secor Road, which is required to create a proposed stand-alone parcel with frontage exclusively located on Secor Road. All other aspects required to create the proposed parcel will be handled by other Boards and/or Commissions through separate applications with the Township.

Kincaid noted the applicant stated in their letter, "This hardship is a result of past ownership and Administrations not preserving the minimum 100-foot frontage to allow either a separate development on Secor or split and sale of the parent lot as is being requested by new ownership in their plan for development."

Kincaid stated should the variance request be granted, the variance required is:

- A 34 +/- foot Frontage Variance

Kincaid advised at this time there has been inquires of objection to the request that have been discussed with the Planning Department as well as the Supervisor's Department.

Kincaid informed the board there is a scheduled public hearing on October 24, 2018 for a recommendation from the Planning Commission to rezone a portion of the proposed parcel from R-2A, Single Family Residential to C-3, General Commercial.

Jim Jacobs- Jacob's Architect- Representative for the applicant- Monroe, Mi-Mr. Jacobs apologized for any confusion on the decision to move forward. Mr. Jacobs stated they are requesting a 34' frontage variance to allow the site to be developed, as they feel it was originally intended on a commercial basis, with the idea should the variance be granted, they would be able to split off a separate lot. Mr. Jacobs stated they feel the previous property owner split the properties to the north and south and the 66' was left for an access drive and not frontage. Mr. Jacobs advised they felt this was intended for a driveway and that is their intent moving forward. Mr. Jacobs stated this would allow for further development, commercially, with multiple tenants on the site. Mr. Jacobs felt what was being proposed was a much cleaner fashion of development instead of a Planned Unit Development, subdivision or other methods which could have been approached. Mr. Jacobs stated the

hardship presented this evening was created by the previous property owner with property splits. Therefore, they are requesting the Board's consideration this evening. Mr. Jacobs stated the present owners would like to make further comments on their own behalf of development within the Township.

Potter advised the only action tonight is the action to permit the 66' frontage. Mr. Jacobs stated they understand the process. Welling inquired on the frontage on Sterns Road being utilized. Mr. Jacobs stated should that have been decided, they would be back before the Board with just a different requested variance due to the depth to width ratio. Mr. Jacobs stated those avenues have not yet been pursued. Kincaid stated 100' of frontage is required for each resulting parcel, saying depending where the approach from Burger King begins to the end of the C-3 zoning district, there could be another variance requested depending on the number of parcels created. Mr. Goldsmith asked the applicant if they would like to speak. Mr. Bates advised they would like to speak after public comment to be able to discuss and address any concerns.

Potter agreed and advised each person to speak only once and keep it under 5 minutes.

John Luchansky- 7163 Glenmore Drive (Green Hills)-Mr. Luchansky asked for clarification on the request for a 34' deviation from the ordinance requirement. Mr. Luchansky stated all other locations comply in the area. Mr. Luchansky stated unless a hardship is shown it would be a great injustice to grant the request and the applicant should be held to the ordinance requirements. Mr. Luchansky stated in his opinion the Board should respectfully deny this request.

George Wells-7297 Hidden Valley-Mr. Wells stated the information the residents had been hearing is that the Elected Officials and Trustees are saying that these requests were a "done deal". Mr. Wells felt there were "back door deals" going on. Mr. Wells voiced concern for the residents that are unaware of this request. Mr. Wells voiced concern on increase of traffic and a hardship to surrounding neighbors. Mr. Wells stated there is no justification for bringing in an Aldi or a Tractor Supply to this community. Mr. Wells voiced concern on the traffic accidents in the area. Mr. Wells expressed the Board should take consideration of the hardship this proposes on the residents here in attendance tonight.

Zdybek inquired on the 300' public hearing notices. Kincaid stated it is State mandated that all property owners and occupants within 300' of the perimeter of the property are required to receive notice. There were comments from the public of 36 letter. Mr. Goldsmith advised the Township met the requirements of the State. Mr. Goldsmith advised for a rezoning there is a process that has to be followed. Mr. Goldsmith advised the Planning Commission makes a recommendation, the Monroe County Planning Commission makes a recommendation, and then the request goes to the Township Board Meeting for a decision. Mr. Goldsmith advised all these meetings are public meetings, open to the public for attendance. Mr. Goldsmith advised tonight is the first step of many, as this is a multi-phase process, including each site would have to go through site plan approval process. Mr. Goldsmith clarified the area of the proposed parcel to be created from the 34' variance request will also go through a rezoning process before the parcel can go through a land division process.

Barbara White-2871 Sterns Road- Ms. White read aloud a statement she had prepared regarding the tragedy she and her family have been going through with the loss of her children on Sterns Road. Ms. White said while doing no research on this request, she voiced extreme opposition to the request

and to the other requests moving forward due to issues and concern of safety, traffic and increase in commercial buildings. Ms. White felt speed is an issue as well on Sterns Road. Ms. White spoke respectfully about living in a great community, however requested the Board to look at this request for more than just tax dollars being brought into the community but what issues granting this request could either create and/or increase.

Sue Anderson-7297 Edinburgh (Green Hills)-Ms. Anderson voiced concern of the decisions being made by the Planning Commission and not complying with the adopted Master Plan. Ms. Anderson feels it is very disturbing as the Planning Commission's decisions affects the neighbors and residents of this community. Ms. Anderson said she understands there needs to be a good balance, however, with so much commercial growth, our community is turning into Toledo. Ms. Anderson feels the Township should restrict anymore people moving into the community, nor do we need any more businesses, nor do residents want them. Ms. Anderson spoke on Green Hills always losing power, flooding, and storm sewers are inadequate. Ms. Anderson voiced concern with increase in commercial and residential is there enough infrastructure to accommodate all the growth. Ms. Anderson voiced opinion that Secor Road and Sterns Road cannot accommodate such growth. Ms. Anderson referred to pages within the Master Plan, and stated that Elected Officials, Township Board Members and Planning Commission Members should be upfront and honest.

Shelly Laurell-7293 Hidden Valley-Ms. Laurell stated she lives directly behind the proposed site. Ms. Laurell spoke of concern in the depreciation of property value, increase in crime, safety, increased traffic. Ms. Laurell spoke on the approved developments on Secor (old Buddy's) being a multi-unit and Summerfield and Sterns (Dollar General) and the increase in traffic from these two developments on Sterns Road. Ms. Laurell agreed with the lack of infrastructure to support such development. Ms. Laurell stated she lives here and encouraged the Board to deny this request.

James Sumner- 7360 Hidden Valley-Mr. Sumner voiced strong opposition and requested the Board to vote against the request. Mr. Sumner encouraged the residents in attendance to reach out to other neighbors and advise there is more to come for this site.

Ray Zabawa-3194 Sterns Road-Mr. Zabawa spoke in opposition to the request. Mr. Zabawa lives directly across from the site and stated concern of property values and with the development the concern of traffic light pollution. Mr. Zabawa spoke on traffic concerns and safety.

Mike Shine-7289 Hidden Valley-Mr. Shine asked for clarification on the 100' frontage variance for this meeting. Kincaid stated 66' provides enough area to create access, however 100' of frontage is required to create a parcel. Mr. Shine inquired on the 100' frontage for aesthetic purpose or for safety of the general public. Mr. Shine spoke on the surrounding commercial properties and with traffic issues and the proximity to the intersection. Mr. Shine said the Board should be concerned with the safety of the Township residents and Lambertville and this request should be denied.

Cynthia Zimmer/Wells (never directly gave name)- 7297 Hidden Valley-Ms. Zimmer/Wells said she lives directly behind the site location and is horribly concerned regarding property values and selling homes within the area being adjacent to commercial. Ms. Zimmer/Wells voiced concern with safety and traffic.

Shelly Licata-7124 Ridgedale Lane-Ms. Licata spoke on issues with traffic and the amount of increase over the years and the area being built up. Ms. Licata spoke on the proposed uses and the effects they will have on existing family local businesses within the community. Ms. Licata spoke on safety and the possibility of additional traffic lights. Ms. Licata spoke on whether the infrastructure can support any more development and feels our community is turning into a “little Toledo”.

Driehorst-7512 Bernard Drive-Ms. Driehorst lives behind the new Montri Estates development. Ms. Driehorst said she knows change comes and the Township will grow. Ms. Driehorst asked for clarification on the 66’ being enough for an access road. Ms. Driehorst stated technically the request is not necessary since they can do that, the request is for the size and shape of the proposed lot. Mr. Goldsmith stated the applicant is proposing a lot that will be accessed from Secor Road with 66’ of frontage. Mr. Goldsmith advised they need 100’ to create a buildable lot that would not necessarily have access from Sterns Road. Mr. Goldsmith said what the applicant is requesting tonight is to use that 66’ as frontage for one lot only having access from Secor Road. Mr. Goldsmith showed and explained the submitted layout to Ms. Driehorst. Ms. Driehorst stated she is a huge supporter of the schools and the proposed millage. Ms. Driehorst stated she is not anti-business as that benefits the schools, however there are better locations within the community such as Lewis Avenue, which is designated as the commercial corridor. Ms. Driehorst felt maybe commercial business should be directed into that area where the commercial business properties are existing. Ms. Driehorst voiced opinion on the tax benefits given to the commercial business should they locate in this community. Ms. Driehorst expressed concern for the Board to consider the community as a whole before deciding on the request.

Mr. Jacobs discussed the submitted variance plan and the intent moving forward. Discussion between Mr. Jacobs and the residents continued (inaudible). Potter asked Mr. Jacobs to repeat the question. Mr. Jacobs advised the question was to the existing wetlands and advised there are restrictive rules with MDEQ they must comply with in order to preserve, mitigate or adjust the wetlands. Mr. Goldsmith advised those are valid points however, we need to focus on what is before the board tonight as we are not talking about wetlands, as discussion is on a frontage variance only (comments from audience (inaudible)). Mr. Goldsmith advised those issues will be discussed and reviewed. Comments(inaudible) from the audience.

Shirley Sumner-7360 Hidden Valley-Ms. Sumner stated traffic is a huge concern. Ms. Sumner pleaded with the Board to deny this request.

Joe Lambert-7373 Grey Estates-Mr. Lambert spoke on the traffic already being an issue as he has lived here his whole life. Mr. Lambert referred to the issues when the development was proposed on Lewis and Sterns, now we have to settle for apartment buildings. Mr. Lambert wondered if the schools can handle all the development. Mr. Lambert stated he understands all the concerns, however the proposed use is for commercial and the area is a commercial district. Mr. Lambert wondered what the concerns would be if it were to be developed with over 100 homes. Mr. Lambert voiced concern also on the infrastructure and referred to all the new development within the Township. Mr. Lambert stated Secor/Sterns is the commercial district for the Township. Mr. Lambert stated something is going to be built there, saying we should just get down to reality and discuss what will be developed.

Dana Shoched-10445 Jackman-Ms. Shoched voiced concern on traffic not only on Sterns, but down Secor Road all the way to Smith Road. Ms. Shoched spoke on issues of safety, crime and the wants of the community. Ms. Shoched spoke on the residents coming together to let the Township know they are not in favor of the proposed request. Ms. Shoched requested the Board to deny the request.

John Bates, Jr.-Developer - Mr. Bates spoke on being a long-time resident of the community. Mr. Bates stated he has lived here 40 years and hopes to live here another 40 and is a graduate of Bedford High School. Mr. Bates advised he is very involved in the community. Mr. Bates introduced other investors Jess Saylor Sr. and Jr. for the proposed development. Mr. Bates felt they had provided a development that Bedford would be behind, adding he does not want his neighbors to be upset with him. Mr. Bates addressed the rumors on Facebook and provided a conceptual plan to the residents. Mr. Bates stated there is nothing in writing with the two units proposed. (comments from audience-inaudible). Mr. Bates stated there is no contract with any company.

Mr. Goldsmith suggested to make a motion to close the public hearing, let Mr. Bates make his presentation and the Board can proceed from there. Mr. Goldsmith advised there should not be an exchange from audience to the applicant. (continued comments from the audience-inaudible) Mr. Bates stated he lives in Bedford Township.

Motion by Lake, supported by Zdybek, to close the public hearing at 8:28 p.m. Motion carried.

Mr. Bates stated their vision is to buffer between the heavy commercial to the residential with multi-family. Mr. Bates said he understands not everyone will be satisfied. Mr. Bates stated he is unsure if the request will be granted tonight, however he is being honest about what is being proposed. Mr. Bates agreed on the traffic issue. Mr. Bates stated the Monroe County Road Commission will require a traffic study before development. Mr. Bates stated there is nothing being done now on traffic; however, development may require something to be addressed. (comments from the audience-inaudible) Mr. Bates stated the plan was on Bedford Unleashed and Bedford Community Events. Potter advised Mr. Bates to address the Board. (comments still from the audience-inaudible) Mr. Bates apologized. Mr. Bates lastly stated they believe the conceptual plan is the best fit for the community.

Jess Saylor- 9825 Lake Road-Investor- Mr. Saylor advised this is rendition #15 of the conceptual plan. Mr. Saylor advised several other plans did not have access from Secor Road, but that did not change the development. Mr. Saylor said there is the zoning in place and the support of the Master Plan. Mr. Saylor stated, in sectioning off this one parcel, it would limit access to avoid a cut through. Mr. Saylor stated the proposed design was created to be sensitive to the surrounding area and wetlands.

Lake had no comment on the proposed plan as the request is for a variance. Potter referred to the connection of parcels on the north side of Sterns. Mr. Saylor stated the individual parcel would not have connection. Mr. Saylor voiced his feelings on the comments of “back door deals” being insulting and advised that is not the case. (comments from the audience-inaudible) Mr. Saylor stated at this time discussion is only on the proposed piece off Secor Road. Mr. Saylor stated everyone has made comments on traffic, however this project is not adding or taking away from that problem now. (comments from the audience-inaudible).

Mr. Goldsmith asked if the Board had any questions for the applicant regarding the variance request. Lake stated none. Mr. Saylor reiterated that they felt the previous land owners created the hardship. Mr. Saylor requested the Board to grant their request. Mr. Goldsmith advised it was time for the Board to deliberate.

Potter advised there is questions for the Staff only. Lake inquired on some background information from the 2001 Carwash land division that created this 66' access. Kincaid stated we are unable to speak to the reason for maintaining the 66', other than it does provide area for an access drive as there is frontage on Sterns Road. Kincaid also noted that should the site ever be development, the 66' does provide enough area to serve as a public road, private road, or access drive. Mr. Goldsmith stated more than likely it was reserved for a public road as 66' is the required width of a public road and more than likely to be a public road to run to the east to the proposed area for future development. Mr. Goldsmith advised that is somewhat of a speculation, however he has been doing this long enough to know 66' is enough to provide for a public road. Potter spoke on the adjacent parcels having the required 100' frontage and the 66' being the remainder once those parcels were created. Mr. Goldsmith said it would appear a conscience decision was made when the land division were applied for and approved that this 66' would reserve access to that parcel for future development of that parcel.

Lake asked on the C-3 Zoning District being in existence since 1977. Kincaid stated the portion of the parcel currently C-3 zoned was zoned C-3 in 1977 when the Zoning Ordinance went into effect., adding it was a split zoned parcel at that time and as it stands today. Kincaid noted the Township would no longer create split zoned parcels.

Zdybek requested Mr. Goldsmith briefly summarize the request. Mr. Goldsmith stated a C-3 Zoning District, to have a buildable lot, requires 100' of frontage. Mr. Goldsmith continued saying this lot, as proposed by the developer, has 66' of frontage, and therefore they have requested a 34' frontage variance to create a buildable lot in a C-3 Zoning District. Mr. Goldsmith stated please keep in mind they still will have to go before the Planning Commission, the Monroe County Planning Commission and the Township Board because this is a split zoned parcel, as only the west portion of the lot is currently zoned C-3. Mr. Goldsmith continued to explain that the proposed parcel encompasses a portion of the R-2A, and has to be rezoned. Zdybek thanked Mr. Goldsmith for the clarification before taking a vote on the request.

MOTION BY ZDYBEK, SUPPORTED BY LAKE, TO GRANT THE APPEAL OF EDWARD RENDLE, 4889 TEMPERANCE ROAD, OTTAWA LAKE, MI 49267 REQUESTING A 34 +/- FOOT FRONTAGE VARIANCE, PER SECTION 400.1800, "SCHEDULE OF REGULATIONS", IN A C-3, GENERAL BUSINESS ZONING DISTRICT, TO CREATE A COMMERCIAL PARCEL ON VACANT LAND, ON LAND DESCRIBED AS 5802-032-055-60, OTHERWISE KNOWN AS 3199 W. STERNS, LAMBERTVILLE, MI 48144 TO CREATE A BUILDABLE LOT FOR THE PROPOSED PARCEL, PRACTICAL DIFFICULTY IS DUE TO PREVIOUS APPROVED LAND DIVISIONS AND SUBJECT TO AN APPROVAL FROM THE BEDFORD TOWNSHIP BOARD OF THE REQUESTED REZONING FROM R-2A TO C-3 ON A PORTION OF THE PROPOSED PARCEL.

**Roll call as follows: Voting Aye: Zdybek, Lake, Welling and Potter
Voting Nay: None**

Excused: Steiner
Motion carried.

Inaudible comments from the public. Lake reminded the audience the Board is still in session. Audience members approached the Board Members.

PUBLIC COMMENT-None

COMMISSION / STAFF COMMENT –

Zdybek spoke on allowing an owner of a parcel to develop as long as it is within the regulations of the ordinance.

Potter agreed as property owners we have the right as long as it is within the ordinance regulations and have the right to seek a variance should it not comply. Potter felt it would have been unfair to deny the request.

Welling agreed with the previous comments. Welling encouraged the residents to attend the other scheduled meetings and address the concerns.

Kincaid advised there will be a meeting on November 5, 2018.

ADJOURNMENT – The meeting was duly adjourned at 8:50 p.m.

Respectfully submitted,
Jodie L. Rector
Recording Secretary