

BEDFORD TOWNSHIP BOARD OF ZONING APPEALS
"REGULAR MEETING AMENDED MINUTES"
8100 JACKMAN ROAD, TEMPERANCE, MICHIGAN
June 3, 2019

PRESENT:

GEORGE WELLING, CHAIRMAN
TOM ZDYBEK, PLANNING COMMISSION LIAISON
JAKE LAKE, VICE-CHAIRMAN
KYLE DERSCH, CITIZEN AT LARGE
RICK STEINER, TOWNSHIP BOARD LIAISON

EXCUSED:

NONE

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

Kincaid 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 Zdybek, supported by Dersch, to approve the agenda. Motion carried.

APPROVAL OF THE MINUTES

Motion by Lake, supported by Steiner, to approve the minutes of May 6, 2019 Motion carried.

PUBLIC COMMENT (LIMIT 3 MINUTES)

None

NEW BUSINESS

- A. Open the public hearing regarding appeal of Martin D. Solarek, 3674 Judy Drive, Lambertville, MI 48144, requesting a +/- 4.5 foot height variance and a +/- 104 square foot area variance to construct an addition to an existing accessory building, per Section 400.1903, "Accessory Buildings" in an R-2A, Single Family Residential Zoning District, on land described as 5802-550-011-00, otherwise known as 3674 Judy Drive, Lambertville, MI 48144***

Motion by Steiner, supported by Dersch, to open the public hearing at 7:04 p.m. Motion carried.

Kincaid stated the applicant is seeking to construct a second story addition to an existing accessory building. The existing accessory building is 384 square feet and the request is to construct an additional 520 square feet and increase the height to +/- 19.5 feet to accommodate a two-story building. Per Section 400.1903, "Accessory Building Table" in an R-2A, Single Family Residential, an accessory building(s) of 800 square feet in area, with a height maximum of 14' and a total of two

accessory buildings is allowed; thus requiring the variance of +/- 104 square feet and a +/- 4.5' height variance to construct the second-story addition.

Kincaid noted the applicant has indicated in the submitted letter, the proposed addition is to supply additional storage, a non-commercial workshop for the homeowner and for large lawn equipment. The applicant has stated there is an extraordinary situation due to two leach fields spanning the entire rear yard. The applicant does not feel this request will have any adverse impact on the neighboring properties.

Kincaid stated the applicant has supplied a letter of no objection signed by five neighboring properties. Kincaid said at this time there has been one inquiry to the Planning Department voicing opposition to the request. Kincaid advised there has also been submitted and supplied an updated map showing the submitted letters of objection supplied to the Planning Department

Martin Solarek-3674 Judy Drive- Mr. Solarek was available to answer any questions. Mr. Solarek said he would be happy to hear any concerns and be given the opportunity to address those concerns.

Kathy Heckel-3661 Smith Road-Ms. Heckel spoke to how peaceful the area is and requested they maintain the beautiful landscaping. Ms. Heckel voiced opposition to the request due to the height increase and the unknown intentions of the use. Ms. Heckel spoke on the process and beginning without a permit.

Dave Felix-3666 Judy Drive-Mr. Felix voiced opposition to the request as the applicant began construction in January and only because of a stop work order did the construction come to a halt. Mr. Felix asked for clarification on the process as had a hard time understanding why the neighbors were just now being made aware the building did not comply with the township ordinance. Mr. Felix voiced concern on the condition of the building already constructed due to the time lapse since construction began. Kolar advised there has been no inspections on what has already been constructed.

Mr. Goldsmith advised the proper protocol would be to come to the building department, meet with the building official, show the plans for construction and obtain approval, pay fees, and acquire a building permit. Depending on the type of construction, there would be several inspections at different intervals of the construction. Mr. Goldsmith advised there is a request at this point since the building is already being constructed and due to the fact, the applicant did not come to the township to obtain a building permit in the first instance. Mr. Goldsmith continued to say once it was discovered this building was being erected without a permit, the building official placed a stop workorder on the building. Mr. Goldsmith said due to the stop workorder the applicant has the right to come before the Board of Zoning Appeals and ask the board to provide him with a variance to allow him to continue to construct a building, which otherwise does not conform to the ordinance requirements, despite the fact he did not obtain a building permit. Mr. Goldsmith stated by State Law, every property owner within 300' of the perimeter of the property is notified and the variance has to published in the newspaper. Mr. Goldsmith provided the option for the board.

Mr. Felix asked once a decision is made what would be the process. Mr. Goldsmith stated should the board grant or deny the request this Board can put restrictions and/or conditions on the motion. Mr. Felix stated he is opposed to the height and size of the building but should the proposed structure comply he would not have an issue as long as there was the required process and inspections.

Motion by Steiner, supported by Lake, to close the public hearing at 7:21 p.m. Motion carried.

Mr. Solarek spoke on the objections and keeping up the beautification of the neighborhood. Mr. Solarek said the distance and location of the building does not create an eyesore to the neighborhood. Mr. Solarek stated he is a union carpenter and the building would be built to code. Mr. Solarek stated he is willing to have any inspections that are required to move forward. Mr. Solarek stated due to the location of the leach fields and the home being on a crawl this is the only location to build. Mr. Solarek advised the use is for storage and carpenter work. Mr. Solarek stated the second story is for seasonal storage. Mr. Solarek spoke on the surrounding homes and added there would be no commercial use.

Lake inquired if there was any investigating of adding to the home as storage seems to be the main use of the building. Mr. Solarek stated that due to the size of his family and the home already being a two-story, the only option would be to raise the roof and expand upward. Mr. Solarek advised he did not feel that would be aesthetically appealing to the area and could be a safety concern.

Zdybek said, union or non-union he should know there would be a permit required. Mr. Solarek advised he knew a permit would be required and admitted he went about the process incorrectly.

Steiner agreed. Steiner stated he did not have any issues with the area variance and having the practical difficulty of the location of leach fields however, he does not see any practical difficulty to allow the height increase.

Board members had a lengthily discussion on the site and the proposed request. Board members could not conclude there was any shown practical difficulty for the height request.

Motion by Lake, supported by Steiner, in regards to the appeal of Martin D. Solarek, 3674 Judy Drive, Lambertville, MI 48144, to grant the request for a +/- 104 square foot area variance due to the location of the leach fields and only .03 acres shy to be permitted by ordinance a 2500 square foot in area contingent upon submitting and being approved for a building permit, pay all appropriate fees, any and all inspections required or determined by the Building Official (structural, electrical, etc.), must be approved before moving forward with any other construction. Contingent upon work beginning within the next three months and must be completed by the end of the 2019 year and to deny the request for a +/- 4.5 foot height variance as there is a requirement of 3 acres for an accessory building all to construct an addition to an existing accessory building per Section 400.1903, "Accessory Buildings" in an R-2A, Single Family Residential Zoning District, on land described as 5802-550-011-00, otherwise known as 3674 Judy Drive, Lambertville, MI 48144

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

Voting Nay: None

Excused: None

Motion carried.

- B) Open the public hearing regarding appeal of Kimberly J. Spice, 9696 Lewis Avenue, Temperance, MI 48182, requesting a +/- 5-foot side yard setback for an existing accessory building (parcel 1) per Section 400.1903, "Accessory Buildings", a +/- 230-foot frontage**

variance and a +/-3.8 acre area variance (parcel 1), a +/- 230-foot frontage variance and a +/- 4 acre area variance (parcel 2), a +/- 217-foot frontage variance and a +/-4 acre area variance (parcel 3), per Section 400.1800 "Schedule of Regulations", to combine two parcel and create three parcels in an AG, Agricultural Zoning District, on parcel number 5802-014-030-00 otherwise known as 9696 Lewis Avenue and on vacant land described as 5802-014-032-10, located on the east side of Lewis Avenue, south of Erie Road.

Motion by Lake, supported by Steiner, to open the public hearing at 7:39 p.m. Motion carried.

Kincaid reviewed the analysis stating the applicant is seeking to combine two parcels and then split a total of 3.294-acre parcel with 313 feet of frontage on Lewis Avenue into three separate parcels that will require variances on each of the three proposed parcels of 1) +/- 5-foot side yard setback for an existing accessory building (parcel 1), 2) +/- 230-foot frontage variance and a +/-3.8-acre area variance (parcel 1), 3) +/- 230-foot frontage variance and a +/- 4-acre area variance (parcel 2), and 4) +/- 217-foot frontage variance and a +/-4-acre area variance (parcel 3) where a minimum of 330 feet of frontage and 5 acres is required for each resulting parcel.

Kincaid noted the Master Plan designates this area as Secondary Agricultural/Rural Residential, with the intent to preserve rural character and provide transition between more intense agricultural uses and the urbanized areas of the Township, such as small farms, hobby farms, and rural single-family residential development with rural character and open spaces developed at a density of 1 dwelling unit per 2.5 acres per the Master Plan. Kincaid stated it should be noted that a zoning district to accommodate the intended Master Plan designation has not yet been drafted; however, research is being conducted in preparation of a drafted ordinance for presentation for discussion with the Planning Commission and Township Board. Kincaid said once direction has been given by the Planning Commission and the Township Board to move forward with the ordinance amendment, the ordinance will be put in final format and the public hearing will be scheduled as the first step of the approval process.

Kincaid advised the applicant's representative has stated in the submitted letter by Mr. Brescol, the hardship and practical difficulty, please refer to the submitted informational package. Also, noted under background in the submitted letter it states: "it is believed that public water will be available in the near future, thereby making the connection to the water supply an additional condition to the variance approval and that each newly created parcel would be required to connect to the existing sanitary sewer."

Kincaid stated at this time no letters or calls objection have been received. Kincaid added there is an area map provided to the Board with information on surrounding parcel size and frontage, which was requested by Steiner. Kincaid said should the Board Members have any questions regarding the map there can be further discussion.

Tony Brescol- Legal Representative for the applicant-Mr. Brescol gave an overview of the area and stated this request is exactly in line with the surround parcels. Mr. Brescol said even though this is a significant variance request, looking at the acreage and the surrounding parcels did not feel creating these three parcels would be or have any hardship on the surrounding area. Mr. Brescol advised this request would eliminate a landlock parcel once combined and continue to advised the parcel is not being utilized as agricultural land.

Motion by Lake, supported by Steiner to close the public hearing at 7:45 p.m. Motion carried.

Lake inquired on the utilities. Mr. Brescol stated there is sanitary sewer available to the site. Lake spoke on the requirements for a residentially zoned parcel. Lake asked on the time frame language of “coming soon” on the water line extension.

Mr. Goldsmith stated it is not a requirement to be residentially zoned to have either sewer or water as there are many, many parcels in Bedford Township that are residentially zoned without either municipal services. Mr. Goldsmith continued by saying it is in the works, but does not know if it will come to fruition, that water will be extended north on Lewis Avenue from the railroad crossing. Mr. Goldsmith stated the request does state “if public water” be extended the Board can include a condition of granting to require the applicant when a structure is built on these resulting parcels to connect to the municipal water and a requirement on any resulting parcel to connect to sanitary sewer system. Lake spoke on the request and inquired to the applicant on moving forward and requesting a rezoning as opposed to a variance request. Mr. Brescol stated the applicant chose the request and he honored the applicant’s decision.

Steiner inquired on the surrounding parcels on Pamela Drive being in existence before the zoning ordinance went into effect. Kincaid stated the parcels located on Pamela Drive are zoned residential. Kincaid noted the west three parcels, one of which is included in this request, are zoned agricultural. Kincaid noted two of those parcels have frontage on Lance Drive, however the parcel in this application has no frontage on Lance and is a landlocked parcel. Kolar stated he does not believe those two parcels have frontage on Lance Drive, however there is a “drive” that is utilized to access the parcels. Steiner said as it was mentioned the intent was to combine the properties together, split, then sell. Steiner added a variance is not required for the applicant to move forward to combine the parcels as they exist today.

Lake voiced his opinion of not being favorable on the area of Lewis Avenue and being zoned agricultural just located on the outskirts of “Downtown Temperance”. Lake continued to say in reviewing the use of the land and stated he does not believe it to be used in this specific area for other than a residential use. Lake has an issue of the landlock parcel within a residential area. Lake agreed with Steiner on the request being for profit. Lake stated if the parcels were residentially zoned the applicant could just seek a land division and move forward. Lake voiced opinion saying he did not believe there would be much of an argument should there be a request to rezone to residential. Steiner and ~~Potter~~ WELLING both agreed. Steiner stated he felt that a rezoning would have been a more equitable request.

Steiner stated he struggled with the request as it would be creating three non-conforming parcels. Mr. Brescol said it completely understood as they are non-conforming with the agricultural district, however requested the Board look at what is happening out in the Township and what parcels exist in that area. Mr. Brescol stated this request is what is existing in this area, even though it varies from what is required. Mr. Brescol stated this request will conform with the surrounding area and provide continuity along with the homes already in existence. Mr. Brescol felt that this proposed variance request or should the applicant have submitted a rezoning request the end result will be the same, just a difference in the process to get there. Mr. Brescol finished by saying this request blends with what is already existing and supports the spirit of the Master Plan. Mr. Brescol will keep in mind the Boards suggestion for future applications.

Mr. Goldsmith advised the Board of some history of the surrounding area saying there was a court case regarding the two parcels in orange on the map labeled “farm” and the parcel in yellow stating “R-2A”, having frontage on Erie Road. Mr. Goldsmith advised the parcel in yellow was rezoned years and years ago. Mr. Goldsmith advised that parcel is being farmed. Mr. Goldsmith continued on explaining the parcel in orange, zoned AG to the west of the yellow parcel, a circuit court does not have the authority to rezone a parcel, but there was a law suit, filed by the owner and developer of those parcels, and a circuit court order at that time prevented the township from enforcing the zoning on those parcels allowing the parcels to be developed residential. Mr. Goldsmith continued saying those parcels could continue to be farmed for a long time. Mr. Goldsmith said even though those parcels are showed as AG zoned, they could be developed as residential. Kolar noted that the Board could restrict to residential uses only. Potter inquired if the judgment was for this specific area. Mr. Goldsmith stated the judgement does not affect either of the properties represented by the applicant or Mr. Brescol. Mr. Goldsmith clarified the property in orange with “farmed??” and the area to the east of Village Meadows stated “farmed”. (MAP IS INCLUDED WITH MINUTES)

Lake commented on procedure to allow or grant proposed variances. Board Members continued the conversation on the surrounding parcels and the parcels involved in the judgment.

Motion by Lake, supported by Zdybek, to deny the appeal of Kimberly J. Spice, 9696 Lewis Avenue, Temperance, MI 48182, requesting a +/- 5-foot side yard setback for an existing accessory building (parcel 1) per Section 400.1903, “Accessory Buildings”, a +/- 230-foot frontage variance and a +/- 3.8 acre area variance (parcel 1), a +/- 230-foot frontage variance and a +/- 4 acre area variance (parcel 2), a +/- 217-foot frontage variance and a +/-4 acre area variance (parcel 3), per Section 400.1800 “Schedule of Regulations”, to combine two parcel and create three parcels in an AG, Agricultural Zoning District, on parcel number 5802-014-030-00 otherwise known as 9696 Lewis Avenue and on vacant land described as 5802-014-032-10, located on the east side of Lewis Avenue, south of Erie Road reason being the submitted request would create three non-conforming agricultural parcels and recommend that the applicant seek to resubmit as a rezoning request.

**Roll call as follows: Voting Aye: Lake, Zdybek, Dersch, Steiner and Potter
Excused: None
Motion carried.**

C) OPEN THE public hearing regarding the appeal of Rodney Hill, 11081 Secor Road, Temperance, MI 48182, requesting a 2-foot height variance for an accessory building per Section 400.1903, “Accessory Buildings”, in an R-2B, Single Family Residential Zoning District, on land described as 5802-130-007-00, otherwise known as 11081 Secor Road, Temperance, MI 48182.

Motion by Steiner, supported by Zdybek, to open the public hearing at 8:08 p.m. Motion carried.

Kincaid reviewed the analysis stating the applicant is seeking to construct a 24’ x 56’ (1344 square foot) 16-foot tall pole barn where up to 2500 square feet and 14 feet tall is permitted per Section 400.1903, Accessory Buildings on a 1.421-acre lot. The applicant has indicated the existing 600 square foot detached garage on site is in poor condition and will be demolished and replaced with the proposed structure. Kincaid stated in a conversation with the applicant, it was indicated the taller structure is required due to the need for a taller door to house the camper, and the new structure will

be placed in the same location as the present garage to utilize the existing concrete pad. Kincaid noted the applicant has indicated the structure will be used for storage space as well as providing a working space. Kincaid advised it shall be verified the building will not be utilized for any commercial use. Kincaid noted at this time there have been no letters or calls of objection to the request.

Rodney Hill-11081 Secor Road-Mr. Hill explained the request is to store his new camper and other items to avoid them being stored outside.

Ken Waldron-11049 Secor Road-Mr. Waldron voiced concern on the building being used for a commercial use and wants to make sure the building meets the code requirements.

Shelia Stewlow-11053 Secor Road-Ms. Stewlow expressed concern as she lives next door. Ms. Stewlow agreed with Mr. Waldron on the commercial use and meeting the code requirements. Ms. Stewlow added a second story may provide for an additional living area. Ms. Stewlow asked for clarification on the existing garage and how that was going to be addressed.

Motion by Steiner, supported by Dersch, to close the public hearing at 8:12 p.m. Motion carried.

Welling inquired on the height of the camper. Mr. Hill explained 14' with the A/C unit and the request is also for storage of other items, such as a 4-wheeler, boat for duck hunting and a road bike. Mr. Hill expressed the garage will keep the area clean. Mr. Hill stated there is no intent for any commercial type business.

Discussion on the height of the building and the amount of square footage permitted. Steiner addressed the board as the previous accessory building was denied to keep in mind that each individual request is reviewed and a decision made on their own merit.

Motion by Dersch, supported by Steiner, to grant the appeal of Rodney Hill, 11081 Secor Road, Temperance, MI 48182, requesting a 2-foot height variance for an accessory building per Section 400.1903, "Accessory Buildings", in an R-2B, Single Family Residential Zoning District, on land described as 5802-130-007-00, otherwise known as 11081 Secor Road, Temperance, MI 48182 conditioned upon issuance of a building demo permit for the existing building and all debris be removed from the property, any burning on site must comply with NFC and all Township burning regulations, applicant can salvage any usable materials, no commercial use within the building and a building permit with proper inspections for all approvals before use of the building.

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

Voting Nay: None

Excused: None

Motion carried.

PUBLIC COMMENT-Mr. Waldron inquired on getting a zoning map. Kincaid advised he could contact the Planning Department and we would be happy to assist to get him what he was needing.

COMMISSION / STAFF COMMENT-none

ADJOURNMENT – The meeting was duly adjourned at 8:31 p.m.

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Respectfully submitted,
Jodie L. Rector
Recording Secretary