

BEDFORD TOWNSHIP BOARD OF ZONING APPEALS  
REGULAR MEETING MINUTES  
8100 JACKMAN ROAD, TEMPERANCE, MICHIGAN  
FEBRUARY 5, 2018

**PRESENT:**

RICK STEINER, TOWNSHIP BOARD LIAISON  
BOB POTTER, CHAIRMAN, CITIZEN AT LARGE  
GEORGE WELLING, VICE-CHAIRMAN, CITIZEN AT LARGE  
TOM ZDYBEK, PLANNING COMMISSION LIAISON  
MARYANNE BOURQUE, ALTERNATE

**EXCUSED:**

LAKE, CITIZEN AT LARGE

**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 7:02 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.

***PUBLIC COMMENT (LIMIT 3 MINUTES)***

Potter said this would be the time for anyone to speak on the item under Old Business, as the public hearing for that request has been held and closed.

**Barry Buschmann-The MSG- Engineer for the Township and the DDA-** Mr. Buschmann stated in speaking with the Planning Department it was determined to have Mr. Buschmann attend the meeting tonight and elaborate on some of the concerns there may be on granting the variance along the Secor Road side of the proposed development on the southeast corner of Secor and Sterns. Mr. Buschmann continued saying the DDA has invested over 1.2 million dollars over the past three years, including the project that was just awarded through MDOT with a TAP (Transportation Alternatives Program) grant. Mr. Buschmann said the DDA has already acquired a 15' easement paralleling the right-of-way along Secor Road. Mr. Buschmann stated this easement was negotiated by the DDA and in working with Township Attorney the easement has been recorded. Mr. Buschmann explained the intent is a twofold, one to install sidewalks, which are currently in place and the second portion is to install some fencing and pillars at the intersection that will extend approximately 40' in the easterly and southerly direction, exactly where the proposed parking is shown. Mr. Buschmann stated the parking in the dedicated easement will have a direct impact on the current project that was just awarded and where construction of those walls and fences will begin within the next couple of months when the weather breaks. Mr. Buschmann explained the DDA intended that area to be a greenbelt and the proposed parking will have a material impact on the DDA project. Mr. Buschmann said furthermore the DDA requested that the landscape area and fencing that is being installed will require some clearance behind the wall should there be a vehicle that would back into parking spaces. Mr. Buschmann said the DDA would not want

a possibility of hitting the fencing and or pillars. Mr. Buschmann continued to explain the DDA would request a 5' buffer behind the wall and fencing to protect it from possible damage with the proposed new parking area.

Potter stated one of the granted variances at last month's meeting is directly related to this issue. as the approved variance to allow parking within the front yard setback encroaches within the DDA easement. Mr. Goldsmith stated the variances that were granted at the last meeting were subject to no encroachment on the DDA easements. Mr. Goldsmith stated Mr. Buschmann's presentation is important as the information he provided was unknown to the Board where the exact legal description of the easement was located with respect to the proposed plan and property. Mr. Goldsmith explained granting of the variance conditioned upon no encroachment on the DDA easements, with this new information, that motion fails. Mr. Goldsmith stated this information needed to be brought to the attention of not only the Board but the applicants. Potter asked if this matter would affect the loading/unloading request. Mr. Goldsmith stated that request is not within the DDA easement and is not affected. Kolar stated site plan review would have taken all this information into consideration relative to placement of parking spaces. Mr. Goldsmith agreed with Kolar and continued to discuss with the Board that this would have been resolved at the Site Plan Approval process; however, bringing it to the attention of the Board and applicant now prevents issues in developing the site before presenting to the Planning Commission for site plan approval.

Mr. Goldsmith advised the Public Hearing was held and closed at the last meeting. However, the applicant is permitted to speak on addressing new issues and their proposed request. Kincaid added the plan has been amended and the applicant advised he will speak on that.

### ***OLD BUSINESS***

- A) Continue with the variance request that was 1) tabled from the January 9, 2018 BZA meeting, 2) where the public hearing was held, and 3) where portions of the variance request were acted on to include a portion of number 1 and all of numbers 2 and 3 as identified below. The variance request is from Verus Development Group, 28454 Woodward Avenue, Royal Oak, MI 48067 requesting, 1) a variance to allow a reduced parking requirement of 22 parking spaces (not previously acted on) and to allow parking within the front yard setback (previously acted on), per Section 400.1904, "Off-Street Parking Requirements", 2) a variance to allow trash enclosures to be located within the front yard (previously acted on), per Section 400.1303, "Site Development Standard for C-3, General Business Districts" and 3) a variance to allow loading and unloading to be located within the front yard (previously acted on), per Section 400.1906, "Off-Street Loading and Unloading", in a C-3, General Commercial Zoning District, on vacant land described as 5802-032-056-00, otherwise known as 7386 Secor Road, located on the corner of Secor and Sterns Road.**

**Tim Ponton-Authorized Representative-Stonefield Engineering & Design-**Mr. Ponton stated he was unable to attend last month's meeting, however he did have an opportunity to watch the video and hear all the concerns of the Board. Mr. Ponton said he met with his client and they reviewed the concerns of the board and due to the loading and unloading area due to a delivery and occupying

parking spaces should one delivery vehicle show up when it is not a scheduled delivery time. Mr. Ponton said they did reduce the size of the building, added recirculation, a bypass loading zoned to the rear which would eliminate the variance to allow the loading/unloading within the front yard, which also reduced the parking variance by one parking space in decreasing the size of the building. Mr. Ponton stated with the new information regarding the setback requirements, they understand the request and know the DDA has a plan and they want to be a part of that. Mr. Ponton stated they are honored the DDA is going to build those pillars and fence in front of the site, and they are unable to do anything about it. Mr. Ponton acknowledged that Mr. Goldsmith did recommend to the Board to include no encroachment on the DDA easement with the last granted variance request. Mr. Ponton stated they have not seen the recorded easement or language as of this time, however they are willing to work through discussion to work out those details. Mr. Ponton assured they would be able to accommodate the request without losing any parking spaces and feels that can be further addressed through the site plan review process. Mr. Ponton advised the final variance tonight is the requirement of the number of parking spaces. Mr. Ponton explained to the board they have designed a number of these types of centers over the last 10-12 years, looking at the general retail requirements/industries standards compared to Bedford's Zoning Ordinance. Mr. Ponton explained our ordinance requires one parking space for every 100 square feet of usable floor area and he would say the national standard is more one parking space for every 250 or 300 square feet of usable floor area. Mr. Ponton discussed the proposed retail and the number of parking spaces per ordinance requires 28 parking spaces, saying it is his professional opinion that both of those units together would require 10 parking spaces. Mr. Ponton spoke on the drive-thru user and referred to a larger use such as Starbucks. Mr. Ponton displayed a national layout of a Starbuck free-standing unit which displays 17 parking spaces and adding 17 parking spaces for the remaining proposed restaurant uses of 17 parking spaces will bring the total number required of 44 parking spaces which is shown on the proposed layout. Mr. Ponton reminded the Board this is a proposed multi-unit development which does provide for shared parking. Mr. Ponton discussed the intent of shared parking is each proposed use will have peak hours at different times of the day. Mr. Ponton stated they are confident in the proposed number of parking spaces, and significantly improved the circulation on the site so all parking spaces are usable. Mr. Ponton discussed the concern regarding the change in users and advised these proposed uses are the worst-case scenario that could be proposed and as long as it was a lower impact there would be no concern, but should there be a greater impact or need of parking, the use would not be permitted based on the relief of the required number of parking space should the request be granted. Mr. Ponton continued saying they would have to submit another request for a parking variance before the BZA. Mr. Ponton hoped the information provided gave some clarification on the request. Mr. Ponton advised our zoning ordinance for parking is inconsistent with national standards and in reviewing other communities.

Potter asked if the easement takes away 12 parking spaces. Mr. Ponton stated the easement goes through the 12 parking spaces, however we will not lose those proposed parking spaces but it will require a redesign of the size of the building. Mr. Ponton stated in theory there will be the same number of parking spaces just a smaller building. Potter asked for clarification on if reducing the building size would remain the same number of parking spaces shown as it is a reduction of 21 spaces from the 65 required parking spaces. Mr. Ponton felt strongly that 28 parking spaces for retail uses is extreme for parking spaces that will not be required. Welling inquired if the proposed coffee use will provide indoor service also. Mr. Ponton stated yes. Potter stated he still had concern of the traffic flow within the site and exiting the site, especially turning left out of the location and blocking traffic. Mr.

Ponton explained at this point the proposed plan is for the variance requests only and not a full site plan. Mr. Ponton advised the Board they have had contact with the MCRC on the ingress/egress location and design and the county will dictate what is required.

Mr. Goldsmith asked Mr. Buschmann if he had any input from 1999 when the Road Commission acquired an expanded highway easement for this intersection where there were variances granted to each of the property owners and voluntarily entered into the easement agreement with the MCRC, asking if when Mr. Buschmann reviewed the DDA easements will this proposal as submitted in anyway encroach within the expanding highway easement at the intersection of Sterns and Secor or is it back far enough to not interfere with those easements. Mr. Buschmann stated there should be no impact on either Sterns or Secor Road. Mr. Goldsmith thanked Mr. Buschmann for his information.

Mr. Goldsmith advised the Board to keep in mind, no matter how the Board's desire to vote on this application the evening, as the applicant has stated, and it is accurate this site is still subject to site plan review and approval from the Planning Commission, and Mr. Goldsmith stated he would encourage the Board in any motion made on the application be subject to site plan approval and no encroachment on the DDA easements. Mr. Goldsmith stated he inquired with Mr. Buschmann on the highway easements to make sure there were no other possibilities of further easement issues for the applicant.

Mr. Goldsmith asked the applicant, as he had spoken with several DDA Members, since there has been so much effort and work done in that area, is there a possibility that the refuse area could be shifted to the southeast as there has been some adjustment done to the site plan. Mr. Ponton stated they would take a look at doing that. Mr. Goldsmith advised he only asks as there has been expressed concern from the DDA Members.

**Joe Paluzzi-2845 Woodward Avenue-Verus Development-Royal Oak, MI 48167** – First Mr. Paluzzi stated they take great pride in their developments and want to cooperate with the DDA as they are currently cooperating with the DDA as the owner of the development on the northeast corner. Mr. Paluzzi asked the board to consider they do this for a living and if we do not service the needs of our tenants and customers, we will fail. Mr. Paluzzi stated they took the concerns and information provided at last month's meeting and reduced the building size, relocated the loading/unloading and provided better circulation on the site provided to the Board here tonight. Mr. Paluzzi reiterated to the board to rely on their intelligence and that they are confident and comfortable with the proposed plan as they are invested in this community. Mr. Paluzzi thanked the Board.

Mr. Buschmann stated clarification on the setback where there is a recorded 15' easement and the DDA is requesting an additional 5' beyond that to ensure a buffer from parking vehicles. Mr. Goldsmith said if he understood Mr. Buschmann correctly, an additional 5' from the easement is being requested. Mr. Buschmann stated yes that is correct. Mr. Goldsmith inquired if that additional 5' is within the easement area and Mr. Buschmann stated no. Mr. Goldsmith said that would then be a condition this board would need to attach to any motion made. Mr. Ponton said it would be more agreeable to them to discuss the additional setback distance as he does not know of any vehicle that hangs over a total of 5'. Mr. Ponton stated they would agree to a condition on the motion to work with MSG to determine a reasonable setback distance as they do not want anyone running into the fence either, however there are proposed parking blocks and feel an additional 5' is excessive. Potter stated

he understood Mr. Buschmann's concern of backing into a parking space with additional over hang from the rear of many cars or trucks. Mr. Goldsmith gave an example of a pick-up truck.

Lengthy discussion amongst the Board members took place on if a specific number should be a condition on the additional setback or if discussion and an agreement on the appropriate distance for the setback between the applicant and MSG be placed as a condition on the motion.

**Motion by Zdybek, supported by Steiner, to grant the request of Verus Development Group, 28454 Woodward Avenue, Royal Oak, MI 48067 requesting, 1) a variance to allow a reduced parking requirement of 21 parking spaces from the required 65 parking spaces per Section 400.1904, "Off-Street Parking Requirements in a C-3, General Commercial Zoning District, on vacant land described as 5802-032-056-00, otherwise known as 7386 Secor Road, located on the southeast corner of Secor and Sterns Road conditioned upon no encroachment within the DDA recorded easement, an agreement between the MSG and the applicant on an appropriate additional setback in addition to the already granted and recorded easement to the DDA to construct columns and fencing, by moving the 13 parking spaces on Secor Road out of the easement area and the determination of the additional setback distance, which may reduce the size of the proposed building. It is also suggested the applicant review and consider the trash bin area to be relocated from the front of the southwest of the building to the east or southeast of the property away from the front of the building, and all granted variances subject to Site Plan Review and Approval should it be granted by the Planning Commission. Practical difficulty being based on national averages stated by the applicant and based on the applicant's knowledge of other developed similar sites the requirement of 65 parking spaces for this particular development would not be required to adequately park vehicles for patrons who will be at these sites based on various times of day and traffic patterns.**

Mr. Goldsmith stated the trash bin area location was granted at the previous meeting, however to suggest to move the location and can be reviewed at site plan approval process.

Mr. Potter again voiced his concern on the reduction number of parking spaces.

**Roll call as follows: Voting Aye: Zdybek, Steiner and Bourque**

**Voting Nay: Welling and Potter**

**Excused: None**

**Motion carried.**

***NEW BUSINESS***

- A) Open the Public Hearing regarding the Appeal of Robert and Tiffany Glenn, 10676 Jackman Road, Temperance, MI 48182, requesting a 792-square foot area variance, a 4-foot height variance, and a variance to allow an accessory building with a covered porch to be constructed on a vacant parcel, per Section 400.1903, "Accessory Buildings", in an R-2B, Single Family Residential Zoning District, located within the Samaria Village Overlay District on vacant land described as 5802-003-017-10, located on Samaria Road, east of Jackman Road.**

***Motion by Welling, supported by Bourque, to open the public hearing at 7:55 p.m. Motion carried.***

Kincaid reviewed the analysis stating the subject parcel consists of approximately 1.601 +/- acres with 80 feet of frontage on Samaria Road, zoned R-2B, Single Family Residential, and is located within the Samaria Village Overlay District and meets the requirements of the zoning ordinance. The applicant has stated the intent is to build a 48' X 72' (3,456 square foot) accessory building to include a covered porch (336 square foot in area) on a vacant parcel to provide for storage of their recreational equipment and vehicles. Kincaid advised the applicant owns a parcel with an existing home to the west, 10676 Jackman, zoned AG, Agricultural Zoning District, directly adjacent to the subject parcel where a land combination is not feasible without a rezoning of at least one of the parcels. The applicant had submitted a previous request to seek a variance on the AG, Agricultural Zoning District requirement, to be able to move forward with a rezoning request, but has since withdrawn that application. In speaking with the Planning and Building Departments, the applicant has determined this request is a better option to fit his needs and use of both properties, while maintaining the intent of the Master Plan and the Samaria Village Overlay District.

Kincaid noted per Section 400.1903 "Accessory Building Table", in an R-2B, Single Family Residential Zoning District, a parcel with more than 1.5 acres, states that the cumulative and maximum square footage of accessory buildings shall not exceed 3,000 square feet, shall be no more than 16 feet in height, requires 15-foot setbacks from any building and 10 feet from all side and rear property lines and is permitted a total number of three buildings. Also, per Section 400.1903 "Accessory Building Table" no accessory building in any zoning district can be placed on a vacant lot or parcel.

Kincaid added the applicant has submitted a site plan and while the proposed location of the accessory building meets the setback requirements, the accessory building constructed on the vacant parcel is not permitted by ordinance, the accessory building, including the cover porch area, exceeds the allowable square foot area and the proposed height permitted. Thus, a 792-square foot area variance, a 4' height variance and a variance to allow construction of the accessory building on a vacant parcel is required.

Kincaid referred to the submitted letter, that should the variance requests be granted, the applicants would agree to a combination restriction agreement with the Township. Kincaid noted the Master Plan designates the subject parcel Village Center and the existing home site as Agricultural Preservation.

Kincaid advised should the variance requests be granted, the variances required are:

- A 792 square foot area variance
- A 4' height variance
- A variance to allow an accessory building with a covered porch to be constructed on a vacant parcel

**Robert Glenn-10676 Jackman Road-Applicant-** Mr. Glenn was available to answer any questions regarding the requested variances. Mr. Glenn stated the request is to be able to store all their recreational equipment inside so not to be outside in the weather and become an eyesore for the neighbors. Mr. Glenn explained the main reason for the height variance is due to the height of their 5<sup>th</sup> wheel.

Steiner spoke on the previous request that was withdrawn regarding the rezoning. Mr. Glenn stated he was advised by the Building and Planning Departments this would be a better direction to seek the combination restriction agreement to keep the parcel in compliance with the overlay district. Steiner spoke on the process should the applicant ever decide to sell either of the properties or build. Mr. Glenn stated he understood the entire process. Potter inquired on the different truss designs for an accessory building. Mr. Glenn explained he explored that option, however at this time he has no plans on building on the vacant parcel. Welling inquired if any contact had been made from the neighbors voicing objection. Kincaid stated the Planning Department did not receive anything written but there were some comments. Bourque asked on the increase in height being permitted in a residential zoning district. Kolar stated that is why the applicant is seeking a height variance.

**Henry Lievens- Attorney for the Mill's Family and Neighboring property owners-** Mr. Lievens stated he is present to speak on the objection to the request on behalf of the neighbors as there is uncertainty on the practical difficulty for the request. Mr. Lievens stated his clients voiced concern if the board was so inclined to grant the variances requested that the board take on their authority to impose reasonable conditions. Mr. Lievens displayed pictures of the neighbor's property in conjunction with the subject site locations. Mr. Lievens stated there is some area of wetland and the concern of watershed onto the neighboring property. Mr. Lievens stated his client is requesting a decrease in size of the building to the permitted allowable 3000 square feet to meet the ordinance requirement and conditioned upon the building to be constructed to the most northerly portion of the property. Potter explained there are three variances requested. Mr. Lievens also stated the height within the spirit of the ordinance requirement. Mr. Lievens spoke with his clients. Mr. Lievens stated the Mill's would like to have some open communication and would agree to the height variance of 4' to allow Mr. Glenn to be able to park his equipment within the building. Discussion continued on the location on the map of the neighboring properties. Mr. Lievens stated in speaking with Mr. Glenn, due to the location of his septic field, his practical difficulty is that he must have the access off Samaria Road. Mr. Lievens stated the neighbors do not have an issue with the location of the driveway as long as it does not become a parking lot behind their home.

**Charles Mahoney-Member of the Samaria Masonic Lodge 438-**Mr. Mahoney felt the applicant's request will be an improvement to the area and will clean up the vacant parcel. Mr. Mahoney stated the Village is a country style atmosphere and this type of building will fit with the area. Mr. Mahoney lastly requested the Board to grant all of Mr. Glenn's requests.

Mr. Glenn stated he is willing to relocate the building, however to move the building to the most northerly portion may cause more of a drainage issue. Mr. Glenn stated he will move it to the most easterly of the property line still meeting the requirements of the ordinance and will preserve as much of wooded area as possible. Mr. Glenn stated he would even be open to the possibility of turning the building depending on the location of the doors to maintain visibility, and to relocating the structure to be directly behind his existing home on Jackman. Potter spoke on the submitted site plan showing a notation of adding additional tree line buffer. Kincaid stated the applicant has supplied that note on the submitted plot plan should there be a need for more privacy. Potter spoke on the neighbor's request to stay within the permitted height and then since indicating they understood he would not be able to utilize the building without the height, dropping their objection to that request. Mr. Lievens stated that compromise was with the understanding there would be a condition of the request to relocate the accessory building. Mr. Lievens stated the neighbors are good with the location being directly behind

the applicant's existing home within the 100' frontage. A lengthily discussion took place on the location of the proposed building while avoiding any drainage issues.

**Jim Stevens- Lives across the street- 10725 Jackman Road-**Mr. Stevens spoke on the drainage and flooding within the entire area. Mr. Stevens voiced concern of the flooding and a negative impact it could cause on the neighboring properties.

Steiner asked Mr. Glenn about the concern of flooding and drainage. Mr. Glenn stated he has only lived in the home on Jackman a short time and has not experienced the spring weather or has any understanding of the water issue. Kolar explained a grading and drainage plan should be submitted and approved. Mr. Glenn stated he is willing to do whatever is needed to not cause any drainage issues for not only the neighboring properties but his own.

***Motion by Steiner, supported by Welling, to close the public hearing at 8:27 p.m. Motion carried.***

Bourque asked on the zoning of the other large parcel on the map to the east. Kincaid said the parcel may be split-zoned. Mr. Goldsmith advised the AG parcels are existing prior legal non-conforming parcels with a building. Bourque voiced concern of such a large accessory building on a vacant parcel. Mr. Goldsmith explained a combination restriction agreement is a recorded document, prepared by legal counsel, made between the applicant and the Township that joins these two parcels and the only way to revoke the agreement is a request and approval by Bedford Township Board. Mr. Goldsmith continued to say any future owner or anyone seeking to build a residential dwelling on the vacant parcel would have to seek to have the agreement revoked. Mr. Goldsmith spoke on the subject parcels having different zoning districts and that the Township does not look favorably on split zoned parcels, nor to create them. Mr. Goldsmith advised the Board to keep in mind and consider the desires of the neighbors to have everything stored inside, drainage and surface water issues on the subject site, nor should there be any type of commercial use as the request is an accessory to the existing home on a residential zoning district parcel.

Kincaid advised the applicant is aware and understands the process and restrictions of a Combination Restriction Agreement. Potter inquired if the vacant parcel is large enough for a home. Kolar stated yes.

Discussion on the requirement of additional trees and the board agreed not to require any additional trees as the proposed accessory building will be located within the 100' frontage behind the existing home. Mr. Lievens stated the neighbors will agree to the square foot variance to allow the applicant to maintain enough indoor storage area for all their equipment. Board Members discussed the square foot area request, acknowledging the square footage also includes an area of a covered porch.

**Motion by Welling, supported by Steiner, to grant the request of Robert and Tiffany Glenn, 10676 Jackman Road, Temperance, MI 48182, requesting a 792-square foot area variance, a 4-foot height variance, and a variance to allow an accessory building with a covered porch to be constructed on a vacant parcel, per Section 400.1903, "Accessory Buildings", in an R-2B, Single Family Residential Zoning District, located within the Samaria Village Overlay District on vacant land described as 5802-003-017-10, located on Samaria Road, east of Jackman Road conditioned upon a Combination-Restriction Agreement with Bedford Township be recorded,**

**the construction of the accessory building be within the 100' frontage width of the parcel with the existing home and closest to the north-easterly corner of the property line, all storage to be within the accessory building, no outdoor storage, access drive to be located off Samaria Road, a grading and drainage plan submitted and approved, and no commercial use within the building, having the practical difficulty being the location of the septic tank and leach field of the parcel with the existing home making it unable to gain access to the rear of the property.**

**Roll call as follows: Voting Aye: Welling, Steiner, Zdybek, Bourque and Potter**

**Voting Nay: None**

**Excused: None**

**Motion carried.**

PUBLIC COMMENT –None

COMMISSION / STAFF COMMENT –

Steiner was glad to see a business stay in Bedford Township and how communication can help resolve issues.

Potter was glad to see a compromise between the applicant and the neighbors

Welling advised the meetings are live on YouTube and can be accessed through the Bedford Township Website.

Kincaid thanked Bourque for serving on the Board tonight on such short notice.

ADJOURNMENT – The meeting was duly adjourned at 8:54 p.m.

*Respectfully submitted,*

*Jodie L. Rector*

*Recording Secretary*