

BEDFORD TOWNSHIP BOARD OF ZONING APPEALS  
REGULAR MEETING MINUTES  
8100 JACKMAN ROAD, TEMPERANCE, MICHIGAN  
April 4, 2016

**PRESENT:**

BRAD GREELEY, CHAIRMAN, CITIZEN AT LARGE  
BOB POTTER, VICE-CHAIRMAN, CITIZEN AT LARGE  
GEORGE WELLING, CITIZEN AT LARGE  
TOM ZDYBEK, PLANNING COMMISSION LIAISON  
ARVIND SHAH, ALTERNATE

**EXCUSED:**

RICK STEINER, TOWNSHIP BOARD LIAISON

**ALSO PRESENT:**

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

Greeley called the Bedford Township Board of Zoning Appeals meeting to order at 7:05 p.m. The Pledge of Allegiance was said. Kincaid called the roll. Quorum present.

***APPROVAL OF THE AGENDA***

**Motion by Potter, supported by Welling, to approve the agenda. Motion carried.**

***APPROVAL OF THE MINUTES***

**Motion by Potter, supported by Welling, to approve the minutes of March 7, 2016.**

**Motion carried.**

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

None

***NEW BUSINESS***

***A) 7:10 OPEN THE PUBLIC HEARING REGARDING THE APPEAL OF JAMES AND DARLENE CALGIE, 406 W. VIENNA ROAD, TEMPERANCE, MI 48182 REQUESTING A 130 +/- FOOT FRONTAGE VARIANCE, A 265 +/- FOOT FRONTAGE VARIANCE, AND 265 +/- FOOT FRONTAGE VARIANCE PER SECTION 400.1800, "SCHEDULE OF REGULATIONS", IN AN AG, AGRICULTURAL ZONING DISTRICT, TO CREATE THREE PARCELS ON 18.70 +/- ACRES ON LAND DESCRIBED AS 5802-013-001-20, 406 W. VIENNA ROAD, TEMPERANCE, MI 48182***

Kincaid went over the analysis stating the existing parcel consists of approximately 18 +/- acres with 330 feet of frontage on Vienna Road. The applicant has indicated about fifteen years ago they enrolled a portion of the property in the Conservation Reserve Program (CRP) with the United States Department of Agriculture (USDA). Per a letter dated August 1, 2014, Mrs. Calgie was advised from the USDA, due to the location of the CRP ground and the location of the ditch (Johnson (Little Lake) Creek) it would not provide Farm Service Agency (FSA) adequate access to the CRP acres to perform all necessary compliance and/or participation spot-checks, that being considered a violation of the USDA program involvement and could result in termination of the program contract, with the end result being a requirement for a culvert to be installed. Kincaid noted the applicant has supplied the permits from MCDC 10/26/2015, MCRC 7/27/2015 and MDEQ 10/7/2015. The owner has submitted a letter stating the State Forester visited the location two years ago and identified an invasive species of Black Locust Trees. The applicant has shown the request is for two additional lots for two of the applicant's children to build homes on to help maintain and assist in the overwhelming amount of maintenance of the property to

meet the requirements of the CRP. The applicant is seeking to split the 18+/-acre parcel into three parcels in an AG, Agricultural Zoning District. Per Section 400.1800 "Schedule of Regulations" a minimum 5 acres and 330' frontage is required for each parcel. The applicant has indicated the design layout for the proposed splits will satisfy the required 5 acres but the proposed frontage variance request is to keep from disturbing the windbreak that is located within the CRP to accommodate access. Two of the proposed parcels, as shown, will maintain 65' of frontage on Vienna Road and one parcel where the existing dwelling is located will maintain the remaining 200' frontage on Vienna Road. Kincaid added it should be noted the applicants sought information on developing the property with the Agricultural Estates Development option, but had to work out the preservation issues prior to proceeding with the process, further explaining the Agricultural Estates option is no longer available with the newly adopted Master Plan. Therefore, the only option available for further development on the subject property at this time is through a variance. Lastly, at this time no letters or calls of objection have been received, and the applicant has received two letters of no objection which have been identified on the map. Kincaid advised should the variance request be granted, the variances required are:

- Parcel A: A 265' Frontage Variance
- Parcel B: A 265' Frontage Variance
- Parcel C: A 130' Frontage Variance

**Darlene Calgie-Applicant-406 W. Vienna Road-** Ms. Calgie stated they are very passionate with what they have done with the property and it is their only desire to keep it enrolled in the CRP. Ms. Calgie added they had to work diligently with the Drain Commission to keep them from disturbing the buffer while repairing the drain with working with the USDA. Ms. Calgie went on to add there is an invasive species located on the property (Black Locust Trees) and Pheasants Forever planted prairie grass for the pheasants. Ms. Calgie added they are working hard to maintain the property but without the granting of this variance she does not know how they will financially be able to install the 700 plus foot driveway and continue with maintenance and growth of the property to meet all the requirements and stay enrolled in the CRP.

Potter asked Ms. Calgie what is the timeframe of the contract and planting of trees. Ms. Calgie stated it began in 2001 and when that contract expired it was extended an additional 15 years and the trees were planted then and access to the rear of the property was from the neighbor's bridge (Keith Fisher) as his home is behind the creek and allowed them access. Potter referenced the proposed parcel lines for the splits contain a portion of the CRP area. Ms. Calgie stated she had spoken to the CRP and the USDA and if her children were to stay in the program they would absorb the contract on that portion of that land. Ms. Calgie stated she does not see the home being built at this time but would like to be able to build a pole barn. Potter added he thought the idea within the program was to maintain the land to be preserved. Potter asked for clarification on the properties being split but not living there. Ms. Calgie added she has ordered 225 trees to be planted soon to replace the trees the MCDC removed and to provide a more extensive buffer. Ms. Calgie added there is no intention of selling the property to anyone. Welling understood the concern of needing help maintaining the property, questioning why a variance is being sought to split the properties if there is no plan to develop the property at this time. Ms. Calgie said she was trying to plan ahead. Discussion continued amongst the board members regarding the amount of available acreage and buildable area on what would be each resulting parcel including the amount of conservation on each remaining parcel. Mr. Goldsmith stated the acreage would still comply, it is a frontage variance needed. Mr. Goldsmith added there would be area available for a building site but would still need tested to perk for an onsite sewage disposal system and area large enough for a well to be drilled, which would need approval from Monroe County Health Department and meet all the requirements of the Bedford Township Ordinance. Mr. Greeley added the wooded area also may contain some flood areas.

**Raymond Swan-921E Erie Road-**Mr. Swan voiced his opposition to the request and stated anyone could have a conservation and not be enrolled in the CRP receiving reimbursement from the Federal Government.

**Melody Carmichael-479 E. Erie Road-**Ms. Carmichael said her home is directly north of the subject location. Ms. Carmichael noted the Calgies have done an amazing job with the conservation, however said she opposes the request due to being counterintuitive for the amount of change to the property that would be made to result in building two more homes with drives, septic and wells. Ms. Carmichael also referenced the requirements of the agricultural zoning ordinance and the amount of possibilities for each resulting parcels if the variance is granted. Ms. Carmichael identified on a map where her home is located in proximity to the subject location. Mr. Shah said there is a large buffer of wooded area between the two locations.

**Edward Carmichael- 479 E. Erie Road-**Mr. Carmichael appreciated what has been done with the CRP property, but if there are no plans at this time to develop a home he does not understand why the applicant is now seeking the variance with so much uncertainty with the future development of the site.

**Lynn Calgie-Youngest Daughter of applicants-**Ms. Calgie stated her parents have an appreciation for nature. Ms. Calgie assured the board the intent is for her to build on the rear of her parent's property and help and continue to maintain all the property in the CRP.

**Sean Romstadt-413 E. Erie Road-**Mr. Romstadt referenced the county installing bridges when cleaning out the Little Lake Drain taking up around 50' of the abutting properties, but to his understanding the Calgie's would not allow the county on the property. Mr. Romstadt stated if intent is to build homes not only causing light pollution, but what would be the end result of the prairie grass, wild life and the area designated for the pheasants.

**Jim Calgie-406 W. Vienna Road-**Applicant-Mr. Calgie stated they have no intention of shining lights in the neighboring properties or the killing of animals, saying it is the dream they have for their property.

**Chris Perry-411 E. Erie Road-**Mr. Perry voiced objection to the request. Mr. Perry said he was not hearing any guarantees the family would build and once the variance is granted anything permitted can be done with the land. Mr. Perry said he has not heard any compelling reason to grant the request.

**Motion by Potter, support by Welling, to close public hearing. Motion carried.**

Welling requested clarification on the request and installing of the bridge, Mr. Goldsmith stated his understanding is the MCDC has approved the bridge, and possibly the request by the applicants is for their children to financially assist the installing of the bridge. Greeley suggested the applicant having the option of developing as a PUD or to wait on the amended AG2 Zoning ordinance which would require less frontage and if it was to include agricultural preservation land. Kincaid advised it has not yet been determined if the district will include agricultural preservation land, but they could move forward with a PUD, Planned Unit Development. Mr. Goldsmith stated while there are options for the future right now the board has to determine if there has been a practical difficulty established by the applicant sufficient to allow this board to entertain an approval of the variance to split the property with less required frontage. Mr. Goldsmith explained the board needs to articulate what the practical difficulty is, which is the obligation of the applicant to present to the board. Mr. Goldsmith noted a split is not required to install a bridge, if it would be the sharing of expenses, case law in Michigan a practical difficulty should not be tied into a financial hardship or financial gain.

Ms. Calgie readdressed the board stating it is going to be an extreme financial burden for them alone to keep the property enrolled in the CRP and maintain nature growth on the property. Ms. Calgie stated if

they are denied they will be in breach of the contract with the USDA, and the property will most likely go back to farm land.

***Motion by Shah, supported by Welling, to deny the appeal of James and Darlene Calgie, 406 W. Vienna Road, Temperance, MI 48182 request for a 130' frontage variance, a second 130' frontage variance and a 265' frontage variance per section 400.1800 "Schedule of Regulations" in an AG Agricultural Zoning District, to create three parcels on 18.70+/- acres of land described as 5802-013-001-20, 406 W. Vienna Road, Temperance, MI, as it is a major request creating three non-conforming properties, the requirement of installing a bridge issue is a financial burden and the applicant should pursue other options, and the applicant has not established a practical difficulty.***

**Roll call as follows: Voting Aye: Shah, Welling, Zdybek, Potter, Greeley  
Voting Nay: None  
Motion carried.**

***B) 8:03 P.M. OPEN THE PUBLIC HEARING REGARDING THE APPEAL OF KEVIN P. SEEGERT, 16199 DIXON ROAD, PETERSBURG, MI 49270 REQUESTING A 7 +/- FOOT FRONTAGE VARIANCE PER SECTION 400.1800, "SCHEDULE OF REGULATIONS", IN AN AG, AGRICULTURAL ZONING DISTRICT TO CREATE A SECOND PARCEL ON 33.010 +/- ACRES ON LAND DESCRIBED AS 5802-004-034-00, A VACANT PARCEL LOCATED ON THE WEST SIDE OF JACKMAN ROAD BETWEEN SAMARIA AND RAUCH ROADS, TEMPERANCE, MI 48182.***

Kincaid reviewed the analysis stating the existing vacant lot consists of approximately 33.01 +/- acres with 653 feet of contiguous frontage on Jackman Road, with an additional frontage to the north on Jackman Road of approximately 49.89 +/- feet. Per Section 400.201 "Construction of Language", frontage states the full length of a parcel or lot, or other plot of land, measured alongside the front lot line, which must be continuous and uninterrupted and located on only one road or street, and frontage may not be measured along two or more portions of a front lot line that are separated by another parcel or lot. Prior to the property being sold, on October 3, 1994 a variance request of 3 acres was granted. Records indicate the parcel was purchased in October 1994 by Kathleen Seegert. On February 7, 2011, the owner Kevin and Kathleen Seegert sought a variance that would allow them to split the property. The requested variance was denied due to the failure to show a hardship or a practical difficulty and would create one non-conforming parcel. The applicant is seeking to split a 5 acre parcel from a parent 33.01 +/- acre parcel. The newly created parcel would consist of 5 acres with 323' of frontage on Jackman Road in an AG, Agricultural Zoning District where 330' of frontage and a minimum 5 acres is required per Section 400.1800 Schedule of Regulations. A 7' frontage variance is required to allow them to split the parcel. Kincaid stated should the variance request be granted, the remaining parent parcel will meet the minimum frontage and acreage requirements and at this time no letters or calls of objection have been received.

**Kevin Seegert- 16199 Dixon Road, Petersburg-Mr.** Seegert stated he has about 703 feet of total frontage on Jackman Road, but the ordinance requires it to be maintained as continuous frontage. Mr. Seegert stated he was seeking the variance to split for maximum flexibility Mr. Seegert added he is looking to have the ability if his children wanted to build he would have the parcels available. Mr. Seegert commented on the 2011 variance request, saying his neighbor who happened to be a pastor wanted to build a church on a 5 acre parcel and opposition on construction and increase in traffic was an issue.

**Brian Mincheff-10740 Jackman Road-North East of the subject property.** Mr. Mincheff expressed his opposition and concern on developing the property and adding to the already existing drainage and standing water issue on the subject property. Mr. Mincheff commented on standing water in the area, especially in the spring and fall until the field is planted. Mr. Mincheff pointed out on the aerial map for the board the location of his property and the area that retains water.

**Jack Bloom- 10787 Jackman Road-** North East of the subject property. Mr. Bloom stated his opposition to the request and reiterated what Mr. Mincheff stated in regards to the drainage issue and the standing water. Mr. Bloom inquired on the amount of times visiting the same request as the zoning ordinance is for a reason. Mr. Bloom added he has not heard a reason for the split other than for his family that is no guarantee. Lastly, Mr. Bloom added if the property were to be developed and had to be built up, there is a possibility of adding to the water issue.

**Ray Swan-921 E. Erie-**Mr. Swan agreed with the drainage issues.

**Motion by Welling, supported by Potter, to close the public hearing. Motion Carried.**

Greeley this applicant will have the opportunity in the future to develop or split under another option as a result of the newly adopted Master Plan, as at this time no practical difficulty is shown other than financial. Shah inquired from the applicant to explain the difference from the previous application to now. Mr. Seegert stated his son has moved back to the area, where before he was going to sell to his neighbor to build a church in Bedford. Shah agreed with Greeley on moving forward when the ordinance is amended. Mr. Goldsmith said the ordinance to allow for a reduced frontage and acreage requirement has not yet been written and there are no guarantees when or if the ordinance will be written and adopted, as the planner has not yet weighed in on it, nor is it known whether it will be applicable to agricultural preservation or not. Mr. Goldsmith referred to the statement of revisiting this request again and reason being there is a material change, as previous application was to construct a church so the change is circumstance. At that time his children had moved away, he had a potential buyer and the use with special approval was permitted. Mr. Goldsmith advised the board that the use is something they could consider if they were inclined to approve the request and can condition the request to two single family residential dwellings. Zdybek voiced his opposition of the request referencing the small amount of frontage if that would ever be permitted for frontage use off Jackman Road. Mr. Goldsmith said he reviewed that as agricultural machinery access only. Mr. Goldsmith clarified the request of each resulting parcel including that the board could add a condition that the 49' +/- at the northern boundary could never be used as frontage to create another parcel. Discussion took place amongst the members regarding drainage.

Mr. Seegert spoke on the layout of the property and enrolling in the CRP and the reimbursement he would receive getting the maximum flexibility with the property.

Shah asked the board if they observed any drainage issue on Jackman Road, Greeley added it seems as the road is absorbing most of the moisture, all agreed the road is in poor condition.

*Motion by Welling, supported by Shah, to deny the request of Kevin P. Seegert, 16199 Dixon Road, Petersburg, MI 49270 for a 7' +/- frontage variance per Section 400.1800, "Schedule of Regulations", in an AG, Agricultural Zoning District to create a second parcel on 33.010 +/- acres on land described as 5802-004-034-00, a vacant parcel located on the west side of Jackman Road between Samaria and Rauch Roads, Temperance, MI 48182, as there is no display of practical difficulty and water retention issue.*

**Roll call as follows: Voting Aye: Welling, Shah, Potter, Zdybek, Greeley  
Voting Nay: None  
Motion carried.**

***PUBLIC COMMENT –***

**Jack Bloom 10787 Jackman Road-**commented on possible sale of the property of Jackman Road.

**Brian Mincheff-10740 Jackman Road**-commented on drainage on Jackman Road.

**Darlene Calgie-Applicant-406 W. Vienna Road-** Ms. Calgie asked for clarification on what constitutes a hardship. Mr. Goldsmith said under the current laws it is defined as a practical difficulty in the case law that interprets zoning enabling ordinance it gives this board the discretion to vary from the ordinance. Mr. Goldsmith went on to say “Practical Difficulty” is most often identified as the lay of the land, which may be characteristics such as a corner lot or geography. Mr. Goldsmith advised Ms. Calgie of her opportunities to pursue depending on how the ordinance is amended by the Planning Consultant and the Planning Department, further saying once the Board meets again and approves the meeting minutes denying her request; she will have 21 days to appeal the decision of this board.

***COMMISSION / STAFF COMMENT –***

Kincaid advised of MTA BZA workshop if any board member is interested.  
Shah advised it is a good workshop to attend.

***ADJOURNMENT –***

The meeting was duly adjourned at 8:55 p.m.

***Respectfully submitted,  
Jodie L. Rector  
Recording Secretary***