

BEDFORD TOWNSHIP BOARD OF ZONING APPEALS
REGULAR MEETING MINUTES
8100 JACKMAN ROAD, TEMPERANCE, MICHIGAN
JULY 7, 2014

PRESENT:

BRAD GREELEY, CHAIRMAN, CITIZEN AT LARGE
BOB POTTER, VICE-CHAIRMAN, CITIZEN AT LARGE
RICK STEINER, TOWNSHIP BOARD LIAISON
JEFF BIGGS, PLANNING COMMISSION LIAISON
KYLE PARSONS, CITIZEN AT LARGE

ALSO PRESENT:

PHIL GOLDSMITH, LEGAL COUNSEL, LENNARD, GRAHAM & GOLDSMITH PLC
DENNIS KOLAR, BUILDING OFFICIAL
KAREN M. KINCAID, PLANNING, RECORDING SECRETARY

Greeley 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 Steiner, supported by Biggs, to approve the agenda. Motion carried.

APPROVAL OF THE MINUTES

Motion by Potter, supported by Steiner, to approve the minutes of June 2, 2014. Motion carried.

NEW BUSINESS

A. OPEN THE PUBLIC HEARING AT 7:02 P.M. REGARDING THE APPEAL OF CRAIG M. HERSHEL, 4901 ALLEN COVE DRIVE, LUNA PIER, MI 48157, REQUESTING A 1.43 +/- ACREAGE VARIANCE FOR A LAND DIVISION PER SECTION 400.1800, SCHEDULE OF REGULATIONS, ON LAND DESCRIBED AS 5802-002-026-00, A VACANT PARCEL ON THE NORTHWEST CORNER OF SAMARIA AND CRABB ROADS, TEMPERANCE, MI 48182

Kincaid went over the variance analysis, saying the request is a for a 1.43 +/- acreage variance to split an 8.57 +/- acre corner parcel consisting of 857.14 feet of frontage on Crabb Road and 432.63 feet of frontage on Samaria Road. Kincaid said while the parcel does not meet the minimum acreage requirement, the frontage on Crabb Road exceeds the minimum frontage requirement within an agricultural zoning district. Kincaid said the applicant identified parcels within the area that do not meet the minimum frontage and/or acreage requirement within an agricultural zoning district. Kincaid said she searched the database for granted variances where it was determined many of the parcels were in existence prior to the adoption of the Bedford Township Zoning Ordinance and a few were as the result of a granted variance. Kincaid said Jason Sheppard has been granted authority by the Archbishop of Detroit, the property owner, to speak on their behalf.

Jason Sheppard, 7235 Bentcreek, Temperance, Signature Associates Commercial Real Estate, said he is representing both the land owner and the applicant. Mr. Sheppard said the applicant plans to build a

home on the parcel, but would prefer a smaller than 8+ acre parcel, planning to split the parcel to potentially provide a lot for a family member. Mr. Sheppard said the proposed land division for a less than five-acre parcel would not be uncharacteristic for the area, as there are several parcels in the immediate area that do not meet the minimum frontage and/or the minimum acreage for an agriculturally zoned parcel.

When asked, Kincaid said she researched the parcels that were identified by the applicant as non-conforming parcels within an Agricultural zoning district for granted variances to allow a smaller parcel, further saying not all existing parcel numbers could be located, as a land division/combination will change a parcel number and the parent parcel number will no longer exist.

Steiner questioned what is the hardship or practical difficulty. Mr. Sheppard gave a history of the applicant's land purchases within Bedford Township, saying the applicant was unable to develop his previously purchased parcel as intended. Mr. Sheppard said the applicant was searching for a 5-acre parcel and this 8+ acre parcel became available, which is larger in area than what the applicant would like to maintain. Mr. Sheppard said if the property can be split, it would provide an additional parcel for a family member to develop, further saying each parcel would result in approximately 4.25 acres.

Steiner commented on the creating of two non-conforming parcels if the parcel were to be split in half, offering that should the variance be granted, there is the option to create one conforming parcel and one non-conforming parcel during the land division process.

When asked, Attorney Goldsmith commented on the existence of non-conforming parcels that pre-date the 1977 Zoning Ordinance, further saying each request is to be evaluated on its own merit because there can be unique practical difficulties related to specific parcels, and a granted variance may not result a situation that varies from the existing uses in the area and will not create a difficulty for the area property owners. It was questioned if the land is in agricultural production. Attorney Goldsmith commented on the applicant's indication he was not opposed to restrictions on the variance, asking if the applicant will be building his own home on the site because that lends credibility to the stated practical difficulty that he does not want to maintain 8+ acres. Mr. Sheppard said the applicant intends to build on the property.

The public hearing was closed at 7:23 p.m.

Discussion took place regarding how the property should be split if the variance is granted. Steiner said the decision on how to split the property could be precedent setting in that it should be determined if you allow the creation of two non-conforming parcels or require one parcel to comply with the minimum 330' of frontage and a minimum of 5 acres. When asked, Attorney Goldsmith said the board can attach reasonable conditions if a variance is granted. Attorney Goldsmith said the applicant must apply for a land division and record the deeds within six months of a variance.

Motion by Biggs, supported Parsons, to grant the variance regarding the appeal of Craig M. Herschel, 4901 Allen Cove Drive, Luna Pier, MI 48157, requesting a 1.43 +/- acreage variance for a land division per section 400.1800, Schedule of Regulations, on land described as 5802-002-026-00, a vacant parcel on the northwest corner of Samaria and Crabb roads, Temperance, MI 48182, with the practical difficulty being that the prospective owner does not want to maintain the 8.57 +/- acre parcel as a whole. The variance shall be granted with the stipulation that whichever resulting parcel that is offered for sale to a third party conform to the Bedford Township Zoning Ordinance in that the parcel must have a minimum of 330' of frontage and a minimum of 5 acres in area.

Roll call as follows: Voting Aye: Biggs, Parsons, Potter, Steiner, Greeley. Voting Nay: None. Motion carried.

B. OPEN THE PUBLIC HEARING AT 7:25 P.M. REGARDING THE APPEAL OF JEAN FORSYTHE, 1018 MAPLEWAY DRIVE, TEMPERANCE, MI 48182, REQUESTING A HEIGHT VARIANCE FOR A FENCE IN A FRONT YARD ON A CORNER LOT PER SECTION 400.1912, FENCES, ON LAND DESCRIBED AS 5802-400-001-00, 1018 MAPLEWAY DRIVE, TEMPERANCE, MI 48182

Kincaid went over the variance request saying the applicant is seeking to place a 6 foot tall privacy fence along Lewis Avenue on a corner lot. Kincaid said there is an existing 4 foot tall split rail fence that would be removed and the proposed fence would be erected in the same location, further saying there have been no letters or calls of objection regarding this request.

Jean Forsythe, 1018 Mapleway Drive, said they would like to replace the existing split rail fence with a 6 foot privacy fence to better provide a barrier from the street noise and light pollution from vehicles exiting from the commercial parking lot on the east side of Lewis Avenue, as well as to deter people from disposing of trash into their backyard as they pass by.

Potter asked if the fence would be located in the same location as the existing fence. Ms. Forsythe said the fence may be moved slightly closer to the house, away from Lewis Avenue, to accommodate existing landscaping, and that the privacy fence would not encroach on the front setback along Mapleway Drive.

Discussion took place regarding the elevation of the home being lower than that of Lewis Avenue, further verifying that light pollution from exiting vehicle from the east side of Lewis Avenue will pan across the rear yard as vehicles exit the parking lot.

The public hearing was closed at 7:35 p.m.

Parsons said while the trash issue may not be remedied with the increased fence height, since the existing fence is located approximately 60 feet from Lewis Avenue and it seems unlikely the trash can be tossed from that distance, the light pollution is a hardship due to the home's lower elevation than heavily travelled Lewis Avenue. Ms. Forsythe said the debris is a result of people walking down the road and tossing it over the fence.

Motion by Potter, supported by Steiner, to approve the appeal of Jean Forsythe, 1018 Mapleway Drive, Temperance, MI 48182, requesting a 2'6" height variance for a fence in a front yard on a corner lot per Section 400.1912, Fences, on land described as 5802-400-001-00, 1018 Mapleway Drive, Temperance, MI 48182, with the stipulations that 1) the proposed fence will be placed in the same location as the existing fence, and shall continue to not extend beyond the front building line of the home facing Mapleway Drive, or no closer to Mapleway Drive than the existing fence; and 2) the fence shall conform to the Fence Ordinance, Section 400.1912. The practical difficulty is the lay of the land in proximity to the heavily travelled Lewis Avenue.

Roll call as follows: Voting: Potter, Steiner, Biggs, Parsons, Greeley. Voting Nay: None. Motion carried.

C. OPEN THE PUBLIC HEARING AT 7:40 P.M. REGARDING THE APPEAL OF SARAH FUELLING, 3714 RIDGEDALE LANE, LAMBERTVILLE, MI 48144, REQUESTING A .011 +/- ACREAGE VARIANCE TO ALLOW A 624 SQUARE FOOT ACCESSORY BUILDING PER

SECTION 400.1903, ACCESSORY BUILDINGS, ON LAND DESCRIBED AS 5802-180-020-00, 3714 RIDGEDALE LANE, LAMBERTVILLE, MI 48144

Kincaid went over the variance request, saying the parcel consists of .239 acre where a .25 acre parcel is required to erect an accessory building larger than 400 square feet but less than 800 square feet. The applicant is proposing a 624 square foot accessory building, resulting in an area variance request of .011 acre. Kincaid said one call of objection was received but was followed up with a call of no objection, as the caller was able to speak to the applicant for clarification on the intended location of the accessory building. Kincaid said Carol Fuelling has been granted authorization to speak on Sarah Fuelling's behalf.

Carol Fuelling said her daughter is planning to have the structure built to park her vehicle in, as she has no garage at this time, and to use for personal storage, as she has no shed.

Greeley said the amount of area short at .011 acre is minor, further saying if a sliding scale or a percentage of a particular parcel area were used instead of a hard check point to a hard check point, the proposed building size would easily qualify based on the square footage as a percentage within the available acreage. Further discussion took place regarding setbacks. Greeley asked if there is a homeowners' association that must review and approve the plans for the accessory building. Attorney Goldsmith said enforcing deed restrictions is outside of the Township's jurisdiction and would be the applicant's responsibility to obtain any association or architectural control committee approval.

Potter asked if the parcel contains a utility easement. Kolar said there is a six foot easement along the east property line and a ten foot easement along the north line, saying the proposed building setback has been increased so not to encroach on the easements.

The public hearing was closed at 7:50 p.m.

Motion by Potter, supported by Biggs, to approve the appeal of Sarah Fuelling, 3714 Ridgedale Lane, Lambertville, MI 48144, requesting a .011 +/- acreage variance to allow a 624 square foot accessory building per Section 400.1903, Accessory Buildings, on land described as 5802-180-020-00, 3714 Ridgedale Lane, Lambertville, MI 48144, with the stipulation that the accessory building size shall be limited to 624 square feet, as indicated on the site plan submitted with the application. The practical difficulty being that there is no garage or storage on the site at this time and the ordinance does not address this particular lot size, which falls between permitting a 400 square foot and an 800 square foot accessory building.

Roll call as follows: Voting Aye: Potter, Biggs, Parsons, Steiner, Greeley. Voting Nay: None. Motion carried.

PUBLIC COMMENT - None.

BOARD / STAFF COMMENT –

Kincaid said no variance applications have been received to this date for the August meeting.

ADJOURNMENT -

The meeting was duly adjourned at 7:50 p.m.

Respectfully submitted,
Karen M. Kincaid, Recording Secretary