

BEDFORD TOWNSHIP BOARD OF ZONING APPEALS
REGULAR MEETING MINUTES
8100 JACKMAN ROAD, TEMPERANCE, MICHIGAN
NOVEMBER 3, 2014

PRESENT:

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

EXCUSED:

NONE

ALSO PRESENT:

PHIL GOLDSMITH, LEGAL COUNSEL, LENNARD, GRAHAM & GOLDSMITH PLC
DENNIS KOLAR, BUILDING OFFICIAL
KAREN M. KINCAID, PLANNING DEPARTMENT
JODIE RECTOR, 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 Biggs, supported by Potter, to approve the minutes of September 9, 2014. Steiner abstained due to absence from the meeting. Motion carried.

NEW BUSINESS

A OPEN THE PUBLIC HEARING AT 7:05 P.M. REGARDING THE APPEAL OF LAMBERTVILLE ENTERTAINMENT COMPANY, 8116 SECOR ROAD, LAMBERTVILLE, MI 48144, REQUESTING A VARIANCE TO ALLOW A GRAVEL PARKING AREA FOR SIDELINES SPORTS EATERY & PUB, PER SECTION 400.1905, "OFF-STREET PARKING SPACE LAYOUT, STANDARDS, CONSTRUCTION AND MAINTENANCE" ON LAND DESCRIBED AS 5802-029-027-00, 8116 SECOR ROAD, LAMBERTVILLE, MI 48144

Kincaid went over the variance analysis, saying the applicant is seeking a variance to utilize a 2400 square foot gravel parking area for employee parking to the east (rear) of the establishment. Kincaid said no formal site plan is required for an off-street parking lot involving no more than 2500 square feet in area, so long as no other development on the site requires site plan review and approval, and so long as no other variance is required. Kincaid said while no formal site

plan is required, the Township Engineer and Building Inspector, along with other possible County and State agencies, shall review and approve the submitted plot plan and a building permit shall be issued. Kincaid further stated off-street parking may be located within a rear yard and parking areas shall be provided with asphaltic or concrete surfacing, with installation required to be in accordance with the specifications of the Development Design Standards Ordinance #63. Kincaid said the subject site is located within the Lambertville Village Overlay District where shared parking is permitted and parking space requirements for non-residential uses are calculated at a rate of 50 percent of the required parking for the same use under normal zoning circumstances as required through Section 400.1904. Kincaid stated four letters of support were received from two property owners to the south, one property owner located on the west side of Secor Road, and a tenant located in the multi-unit building located on the southwest corner of Secor and Summerfield roads, further saying no letters or calls of objection were received.

Eric Sitter, 9126 Oak Ridge Drive, Temperance, MI, Sidelines Sports Eatery & Pub owner, was present to answer questions directed to him.

Dennis Kolar, Bedford Township Building Inspector, said Sidelines was developed a number of years ago and is the highest elevated property in the area, causing draining through neighboring properties to a drainage way. Kolar said he has never been contacted regarding drainage problems or concerns regarding the subject property. Greeley said the Board is looking at a variance of the parking lot surface, where a required impervious surface will shed water at a greater rate. Kolar confirmed Greeley's comment, saying a hard surface would require that the water be collected, whether detained or retained, and distributed to a proper drainage outlet, which would require a major change in that the existing property grades would have to be reversed to keep the water on site, further saying there have been no complaints regarding the existing drainage of the site.

Potter asked if there have been drainage concerns with the property to the north. Kolar said the site is more recently developed with a detention system, saying the north property detention system is currently taking on and distributing water from the Sidelines site, but will not be able to do so, per the Drainage Code, if the water is detained on the Sidelines site.

Biggs asked which direction the water would have to be directed or flow. Kolar said he is not certain if the site would have the right to drain to an existing swale between homes on George Street or if the water would have to be directed to Secor Road, which would require Monroe County Road Commission involvement. Further discussion took place regarding water collection within the site prior to disbursement.

Steiner asked who would utilize the parking area. Mr. Sitter said the parking area would be limited to employees only and no patrons would be permitted to park on the unpaved lot, further saying the area is fenced in along the east and south with the building serving as the west fencing. Mr. Sitter said there is no fence along the north property line, and the parking area entrance is located north of the building where it is posted with two signs stating the area is for employee parking only beyond this point. When Steiner asked, Mr. Sitter said the fence along the rear (east) property line is approximately 15 feet inside Sidelines' parcel and the parking lot is approximately an additional 4 feet inside the fence.

Ron Heiney, 8056 George Street, commented on a court order regarding site development for outdoor dining on site and the removal of a volleyball court at the rear of the building. Mr. Heiney said the drainage for the property owners on George Street is not a part of the drainage system for the Sidelines establishment. Mr. Heiney said the Township should be consistent with the requirements for all business establishments. Mr. Heiney further commented on neighboring property values, water run-off, dust, noise, light pollution, and the effects runoff from gravel drives and parking lots can have on existing wells.

Walter Kanavel, 8055 George Street, neighboring property owner, concurred with Mr. Heiney's comments, further expressing concern regarding possible petroleum product pollution in the water runoff from the site. Mr. Kanavel said the swale that has been discussed is located on his property. Mr. Kanavel said he was asked to speak on behalf of a neighbor (Crawford - whose name and address could not be located within the Township database), further expressing concern with the gravel parking area.

Mr. Sitter said the light pollution issue has been called in to Consumer's Energy and a service number has been provided to the Township, further saying the light belongs to Consumer's Energy, was installed by Consumer's Energy, and apparently was not adjusted properly to shield light pollution from the neighboring properties. Mr. Sitter said the fence along the east property line properly buffers light pollution from headlights.

Ron Heiney, 8056 George Street, said the light pollution is from glare off windshields, further saying all business owner's shall be required to adhered to the same ordinance requirements.

Chairman Greeley closed the public hearing at 7:20 p.m.

Attorney Goldsmith, reviewing Section 400.1913 of the Bedford Township Zoning Ordinance, said no formal site plan review shall be required, (so long as there is no other development on the site requiring a general site plan, and so long as no variance is needed), but a plot plan submitted to, and a building permit reviewed and approved by the Township Engineer and issued by the Township Building Inspector, along with certain other possible County and State agency approvals, will be required for the erection, enlargement or paving, (but not repaving, which will not require any review), of an off-street parking lot, involving no more than 2,500 square feet in area. Goldsmith said in order to obtain a building or occupancy permit, the applicant must submit a plot plan which need not be signed or prepared by an engineer or architect, but a written application in the form of a simple letter explaining the proposed development must accompany the plot plan and be signed by all owners of record and developers of the site. Also, an environmental permits checklist, similar to that required under Section 1913.5.a shall be submitted. The plot plan and letter must detail the following: 1) proposed use of the property, 2) detailed information concerning the off-street parking lot including existing and proposed drainage, 3) proposed walls or greenbelts, if required, to comply with Section 400.1907, "Landscaping and Screening" and Section 400.1922 "Walls". Goldsmith said the Township Engineer and Township Building Inspector will review the materials submitted and within two weeks issue requirements for the building permit. Goldsmith, further reviewing the zoning ordinance Section 400.1913.6.D, said notwithstanding anything in this paragraph to the contrary, if the Township Engineer and Township Building Inspector decide a site plan is necessary, the applicant must submit a site plan in accordance with the other provisions of this Section

400.1913. Attorney Goldsmith said it is at the Township Engineer and Township Building Inspector's discretion to determine if a site plan is required. Goldsmith said the applicant shall adhere to the requirements of the ordinance with their submission, and any change cannot adversely impact the neighbors.

Greeley commented on the possible consideration of permeable concrete which allows drainage to leach through while eliminating dust, noise, and constant maintenance of a graveled area that will become compacted over time. Kolar said the parcel consists of sandy soils that have handled the drainage in the past.

Goldsmith commented on competing land uses where there is no transitional use or zoning between the existing commercial and residential uses. Goldsmith said reasonable conditions can be attached to an approval that eases the competing land uses, such as landscaping, screening, etc.

When Potter asked, Goldsmith explained the specifics of the aforementioned court judgment, which included, but was not limited to, the elimination of a non-permitted volleyball use on the property. Kincaid commented on the complaints that have been received from a neighboring property owner regarding non-compliance with the court judgment, saying the applicant has complied with all issues with the exception of the lighting situation that will require Consumer's Energy to address.

Discussion took place regarding practical difficulty and/or hardship. Mr. Sitter said the rear parking area is for safety purposes for his employees. A lengthy discussion ensued regarding parking lot surface material options while striving to adhere to the Township ordinance requirements, plan reviews, and screening at a minimum of 6 feet in height be added along the east property line. Clarification was made that consideration is being given to parking lot surface material only, as parking is permitted within the rear yard.

Motion by Potter, to reject the appeal of Lambertville Entertainment Company, 8116 Secor Road, Lambertville, MI 48144, requesting a variance to allow a gravel employee parking area for Sidelines Sports Eatery & Pub, per Section 400.1905, "Off-Street Parking Space Layout, Standards, Construction and Maintenance" on land described as 5802-029-027-00, 8116 Secor Road, Lambertville, MI 48144, and suggest that through site or plot planning through our Township Engineer and Building Inspector that either a pavement of black top, concrete, porous concrete, or in any combination, with the use of proper drainage, whether or not French drains, to handle the drainage, but not relaxing the Township requirement of a paved parking area.

Discussion took place for clarification of the motion. The motion failed for a lack of support.

The gavel was passed to Vice-Chair Potter.

Motion by Greeley, supported by Steiner, to approve the appeal of Lambertville Entertainment Company, 8116 Secor Road, Lambertville, MI 48144, requesting a variance to allow a gravel parking area for Sidelines Sports Eatery & Pub, per Section 400.1905, "Off-Street Parking Space Layout, Standards, Construction and Maintenance" on land

described as 5802-029-027-00, 8116 Secor Road, Lambertville, MI 48144, with the practical difficulty that there is an existing business with surrounding residential and commercial zonings and uses and it would create an extreme financial hardship to not look at all available options to put a parking lot in the rear of the parcel, which is permitted, and if approved, the applicant would be required to provide a plan to the Township Engineer and Township Building Inspector for review and approval regarding drainage, screening and all other Township ordinances as required by Bedford Township Zoning Ordinance Section 400.1913.6. A further practical difficulty is there is a limited area for parking on the subject site and the parking area would be limited to employee parking only at all times with no exceptions.

Discussion took place regarding the requirement to work with the Township and Township Engineer per Section 400.1913.6. Steiner said French drains shall be considered while meeting all other ordinance standards, further saying there is no provided transition between the subject site and the residential neighborhood to the east. When asked, Greeley clarified that the surface material shall be determined by the Township Engineer and the Township Building Inspector.

Roll call as follows: Voting Aye: Greeley, Steiner, Biggs, Parsons. Voting Nay: Potter. Motion carried.

B OPEN THE PUBLIC HEARING AT 8:10 P.M. REGARDING THE APPEAL OF PATRICK KEMPER, 8523 BARBARA LEE DRIVE, LAMBERTVILLE, MI 48144, REQUESTING A 3.5 FOOT HEIGHT VARIANCE FOR AN ACCESSORY BUILDING PER SECTION 400.1903, "ACCESSORY BUILDINGS" ON LAND DESCRIBED AS 5802-120-008-00, 8523 BARBARA LEE DRIVE, LAMBERTVILLE, MI 48144

Kincaid went over the variance analysis, saying the applicant is seeking a 3.5 foot height variance for a 960 square foot pole barn addition to an existing 1500 square foot pole barn. Kincaid said should the variance be granted, the applicant would be required to remove two existing sheds from the property, as the total square footage of the accessory buildings would exceed the permitted 2500 square feet. Kincaid said there is a 15 foot wide recorded easement along the south property line that runs the entire depth of the property that cannot be encroached on. Kincaid said no letters of object have been received.

Patrick Kemper, 8523 Barbara Lee, Lambertville, MI 48144, said he is seeking the variance to erect a more aesthetically appealing building to house his truck that will not fit within a standard garage.

Greeley questioned the design. Kolar said it is a reversed gable design, which is necessary to meet the height required. When asked, Mr. Kemper said there is a 12' door height and the addition is of the same material as the existing structure. Discussion took place regarding the structure height, where it was stated the addition will be a couple of feet taller than the existing structure.

Chairman Greeley closed the public hearing at 8:15 p.m.

Discussion confirmed both sheds will be required to be removed and the total building square footage is within the ordinance limitation.

Motion by Biggs, supported by Steiner, to approve the appeal of Patrick Kemper, 8523 Barbara Lee Drive, Lambertville, MI 48144, requesting a 3.5 foot height variance for an accessory building per Section 400.1903, "Accessory Buildings" on land described as 5802-120-008-00, 8523 Barbara Lee Drive, Lambertville, MI 48144 with the practical difficulty being the applicant wants to fully enclose equipment and the 15 foot recorded easement along the south property line limits the width and height of the building. An approval of the variance shall be conditioned on the demolition of both existing sheds on the lot.

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

C. OPEN THE PUBLIC HEARING AT 8:25 P.M. REGARDING THE APPEAL OF JOHN AND JANIS HOWARD, 2090 W. TEMPERANCE ROAD, TEMPERANCE, MI 48182, REQUESTING A 22 +/- FOOT FRONT YARD SETBACK VARIANCE ON MAPLEWOOD DRIVE AND A 24 +/- FOOT FRONT YARD SETBACK VARIANCE ON SUMMERFIELD ROAD, PER SECTION 400.1800, SCHEDULE OF REGULATIONS, ON A CORNER LOT FURTHER DESCRIBED AS 5802-435-117-00, 7723 SUMMERFIELD ROAD, LAMBERTVILLE, MI 48144

Kincaid went over the variance analysis, saying the applicant is seeking a 22 foot front yard setback variance on Maplewood Drive and a 24 foot front yard setback variance on Summerfield Road. Kincaid said the plan is to demolish the front portion of the former Flick's Package Liquor store, maintaining the rear portion, and construct a new addition that would be setback an additional 19' from Summerfield Road and 8' from Maplewood Drive. The applicant has the option to maintain the existing structure of 1741 square feet as it currently is placed, or demolish the structure and rebuild at 1200 square foot addition, decreasing the structure by 580 square feet, which includes a portion of a walkway at the rear of the portion of the structure to be demolished.

At this time no letters of objection have been received.

Janis Howard, 2090 W. Temperance Road, said they want to give back some of the road right of way, as the building has been hit in the past, but they would need a variance to reconstruct on the site. When asked, Ms. Howard said the structure is intended for rental property.

Chairman Greeley closed the public hearing at 8:30 p.m.

Attorney Goldsmith said the site is C-3 zoned and the previous uses have complied with the zoning district, saying the structure is a prior legal non-conforming structure in that it does not meet the setback requirements for the zoning district. Goldsmith said recently the structure was the subject of a dangerous building hearing and it was determined by the dangerous building hearing officer that the building had to be demolished, or an option to the owners that the building could be repaired and continue to exist in its current location so long as repairs were made in conformance with the building code and to the satisfaction of the Building Inspector. Attorney Goldsmith said the applicant has indicated it is their intent to demolish the dilapidated portion of the building and construct a smaller addition, which decreases the non-conformity in the terms of the square footage and decreases the non-conformity in the terms of the setback, while having a new more safely located building.

Greeley asked if the overhang is included in the existing setback. Kincaid said the setback was calculated from the building square footage provided by the Township data base and more than likely does not include the overhang. Discussion took place regarding the proposed offset setback on Maplewood Drive. Ms. Howard said the plan to increase the setback on Maplewood Drive is to increase the distance from the road right of way. Ms. Howard said they looked at the option to run the building parallel to Summerfield Road. It was determined the applicant shall be able to determine the footprint of the building so long as the new structure does not encroach on any setback variance.

Discussion took place regarding the timeframe for the demolition to take place where the applicant asked for 60-90 days and being able to pull the building permit within the 6 month timeframe.

Motion by Potter, supported by Steiner, to approve appeal of John and Janis Howard, 2090 W. Temperance Road, Temperance, MI 48182, requesting a 22 +/- foot front yard setback variance on Maplewood Drive and a 24 +/- foot front yard setback variance on Summerfield Road, per Section 400.1800, Schedule of Regulations, on a corner lot further described as 5802-435-117-00, 7723 Summerfield Road, Lambertville, MI 48144, with the practical difficulty being the required setbacks from Summerfield Road and Maplewood Drive limit the use of property, the site is currently a non-conforming property, a dangerous building hearing was held and it was determined the building must be demolished or repairs be made in conformance with the building code and to the satisfaction of the Building Inspector, and total removal of the building would create several issues in attempting to place a new structure on the site. The applicant shall be given 90 days for demolition to take place and a building permit must be pulled within 6 months. The applicant shall be permitted to position the building parallel to Summerfield Road or as presented so long as they do not encroach on any setback variance.

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

PUBLIC COMMENT –

None.

BOARD / STAFF COMMENT –

None.

ADJOURNMENT -

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

Respectfully submitted,

Karen M. Kincaid
Recording Secretary