

BEDFORD TOWNSHIP BOARD OF ZONING APPEALS
REGULAR MEETING MINUTES
8100 JACKMAN ROAD, TEMPERANCE, MICHIGAN
FEBRUARY 3, 2020

PRESENT:

JAKE LAKE
KYLE DERSCH
RICK STEINER, TOWNSHIP BOARD LIAISON
DENNIS JENKINS, PLANNING COMMISSION LIAISON
JEFF WILSON

EXCUSED:

NONE

ALSO PRESENT:

PHIL GOLDSMITH, LEGAL COUNSEL, LENNARD, GRAHAM & GOLDSMITH
KAREN KINCAID, PLANNING/ZONING ADMINISTRATOR, 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 Steiner, supported by Jenkins, to approve the agenda. Motion carried.

ELECTION OF BOARD OF ZONING APPEALS OFFICERS FOR 2020

Motion by Jenkins, supported by Steiner, to nominate Jake Lake as Chairman. There were no further nominations. Lake accepted the nomination.

Roll call as follows:

Voting Aye: Jenkins, Steiner, Dersch Wilson, Lake.

Voting Nay: None.

Excused: None.

Motion carried.

The gavel was turned over to Mr. Lake, newly elected Chairman.

Motion by Steiner, supported by Lake, to nominate Kyle Dersch as Vice-Chairman. There were no further nominations. Dersch accepted the nomination.

Roll call as follows:

Voting Aye: Steiner, Lake, Jenkins Wilson, Dersch.

Voting Nay: None.

Excused: None.

Motion carried.

APPROVAL OF THE MINUTES

Motion by Steiner, supported by Dersch, to approve the minutes of December 2, 2019.
Motion carried.

PUBLIC COMMENT (LIMIT 3 MINUTES)

None

NEW BUSINESS

A) Open the public hearing regarding the appeal of Michael & Angela Malak, 10232 Lewis Avenue, Temperance, MI 48182, requesting a +/- 5-foot height variance, to construct a 60 X 80 accessory building, per Section 400.1903, "Accessory Buildings", in an R-2B, Single Family Residential District, on land described as 5802-011-023-00, 10232 Lewis Avenue, Temperance, MI 48182.

Motion by Dersch, supported by Steiner, to open the public hearing at 7:07 p.m. Motion carried.

Kincaid reviewed the analysis, stating the applicant is seeking to construct a 60' x 80' (4800 square foot) 25' in height pole barn. Per Section 400.1903, Accessory Buildings, a parcel having more than 5-acres is permitted an unlimited amount of square footage and 20 feet in height. The applicant has indicated in the submitted letter the accessory structure is for their own personal use for storage (camper, tractors, lawn equipment, etc.). The applicant states the restriction by ordinance of 20' creates a hardship in storing their larger equipment, as they would be unable to make access through the lower barn door entrance, further stating they intend to store feed, hay and grain in a loft area. Kincaid said while there have been no letters or calls of objection to the request, the applicant has supplied four letters of no objection.

Angela Malak, 10232 Lewis Avenue, representative, stated the intent is to have storage for grain and hay, further stating a larger overhead door is required to store their backhoe inside the barn.

Laura Hall, 644 Pickard, said they do not object to the height variance, however, have drainage and standing water concerns, as their property is located south of the lowest point of the subject property and they drain the water from that property through a ditch on their property that was hand-dug many years ago. Ms. Hall further commented on the recently installed pond, saying they already have their hands full taking care of the existing drainage issue and do not want increased run-off from the barn to exacerbate the situation.

Steiner, acknowledging runoff has been a historical issue, said today a property owner cannot increase water shed from one property to a neighboring property through changes that are being made to the property. Further discussion took place regarding the steps the Halls have taken to keep the water flowing, and the contact and support they have had with the Monroe County Drain Commission regarding the issue. Ms. Hall reiterated they have no concern with the structure

other than the water shed from the structure and how it may affect their property, asking if the land could be graded to obstruct the runoff onto their property.

Steiner said reasonable conditions can be placed on any granted variance. Ms. Hall said while the proposed structure is to be constructed behind their neighbor two doors down, the runoff will seek the lowest point, which is behind their home.

Ms. Malak said when they dug the pond, they installed a drain tile around the pond with an overflow pipe to the ditch in front of their home, saying they could tie the downspouts from the barn into the drainage tile to ensure the water from the structure will be directed away from the neighboring property.

Ms. Malak said the barn is to be located to the north of the existing home, which is not behind the home and adjacent to the homes on Pickard Road. Ms. Hall said they were misinformed, as they were with the understanding the barn was to be constructed to the rear of the home and closer to the south side of the property.

Attorney Goldsmith confirmed a property owner cannot interfere with a natural flow of water, and cannot displace water off onto an adjoining property, further saying it appears the barn is proposed away from the Pickard Road homes and where downspouts can be tied into the drainage tile that was installed with the pond to control overflow. Goldsmith said the contained water would direct the runoff away from the properties to the south and hopefully address the increased drainage concern.

Motion by Steiner, supported by Jenkins, to close the public hearing at 7:25 p.m. Motion carried.

Steiner asked the intent to store grain and hay on site, as the property is residentially zoned. Ms. Malak said while they do not intend to have livestock, they would like to have chickens and be able to store feed for the chickens in the barn. Ms. Malak said the entire area would not be utilized for grain and hay, as they are in need of additional storage area.

Mike Malak, 10232 Lewis Avenue, said they would mainly store hay and grain in the loft for family and store equipment on the ground level. When asked, Mr. Malak said the advantage to storing hay and grain off the ground level is to lessen moisture and rodent invasion.

Attorney Goldsmith provided clarification in that the subject property is residentially zoned and as the ordinance is adopted at this time, chickens and livestock are not permitted within a residential zoning district. Goldsmith clarified horses are permitted within a residential zoning district as a special use approval and, as a result of a question from the applicant regarding the previous owner having chickens, Goldsmith further commented on prior legal non-conforming uses and their validity.

When discussing the property location, it was stated there are high tension utility lines that run north of the subject property. Lake questioned the possibility of increasing the footprint of the structure to provide the area required. Ms. Malak said they could construct a larger footprint

structure, as the acreage of their parcel allows for unlimited square footage for accessory buildings; however, the structure would be much more costly and still would not provide them with the height they require to store their equipment. Ms. Malak provided a sketch of the larger single-story structure that provides the square footage they require, which measured 130 feet in width, reiterating the structure would still not provide them with the door height they require. Ms. Malak said they have made many improvements to the property and would like to eliminate any eye-sore by being able to store their equipment inside a structure.

When asked by Wilson, Attorney Goldsmith explained what is, or can be, considered a practical difficulty. Discussion followed regarding practical difficulty and possible waterline extension north on Lewis Avenue.

Motion by Jenkins, supported by Steiner, to approve a 5' height variance to construct a 60' x 80' accessory building per Section 400.1903, at 10232 Lewis Avenue, conditioned upon, 1) the downspouts from the structure being tied into the pond overflow tile to the ditch, 2) any water runoff directly related to the accessory building that increases the amount of the natural waterflow to the neighboring property shall be contained on the owners' property through grading, berming and/or landscaping, and without impeding the natural water flow, and 3) the variance is required to allow a taller door opening for access to store larger equipment, which shall include inside storage of all work and recreational equipment and vehicles.

The motion includes an accepted friendly amendment.

Roll call as follows:

Voting Aye: Jenkins, Steiner, Wilson, Dersch, Lake.

Voting Nay: None.

Excused: None

Motion carried.

PUBLIC COMMENT-None

COMMISSION / STAFF COMMENT- The Board welcomed the new members.

ADJOURNMENT – The meeting was duly adjourned at 7:52 p.m.

Respectfully submitted,

*Karen M. Kincaid
Recording Secretary*