

BEDFORD TOWNSHIP BOARD OF ZONING APPEALS
REGULAR MEETING MINUTES
8100 JACKMAN ROAD, TEMPERANCE, MICHIGAN
March 2, 2020

PRESENT:

JAKE LAKE, CHAIRMAN
KYLE DERSCH, VICE-CHAIRMAN
JEFF WILSON, CITIZEN AT LARGE
RICK STEINER, TOWNSHIP BOARD LIAISON

EXCUSED:

DENNIS JENKINS

ALSO PRESENT:

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

Lake 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 Dersch, to approve the agenda. Motion carried.

APPROVAL OF THE MINUTES

Motion by Steiner, supported by Dersch, to approve the minutes of February 3, 2020 Motion carried.

PUBLIC COMMENT (LIMIT 3 MINUTES)

None

NEW BUSINESS

- A. Open the public hearing regarding the appeal of Shawna Horvath, 8243 Monroe Road, Lambertville, MI 48144 requesting a variance to allow a temporary structure in an R-3/LVOD, One Family Residential Zoning District within the Lambertville Village Overlay District, per Section 400.1903 "Accessory Buildings", on land described as 5802-019-140-00, otherwise known as 8243 Monroe Road, Lambertville, MI 48144***

Goldsmith informed the applicant the Board of Zoning Appeals was one member short, offering the option to defer to a later date when all members could be present. Ms. Horvath opted to move forward as scheduled.

Motion by Steiner, supported by Dersch, to open the public hearing at 7:03 p.m. Motion carried.

Kincaid noted per Section 400.1702B-Lambertville Village Overlay District: b (1) (b): For parcels having a residential underlying zoning district: Those uses permitted as principal uses in the C-1 and C-2 Districts and mixed use developments shall be permitted as principal uses, provided that the parcel is contiguous on at least one side to a buildable parcel or a portion of a buildable parcel that is

zoned or used for commercial use or is contiguous to a parcel that contains an existing mixed use development. This subject site is contiguous to the Lambertville Civic Club which is being considered as a commercial use. The applicant provided a letter from Pastor Gary Singer of God's Grace Church, 8240 Monroe Road permitting Ms. Horvath to utilize the parking lot of the church for Liberty Farm of Lambertville (Barn Weddings/Parties, etc.) for additional parking.

Kincaid stated the applicant is seeking a variance to place a 20' x 40' (800 square feet) temporary structure on the southeast side of the existing accessory building (pole barn). Per Section 400.1903.2, temporary accessory buildings and/or structures shall not be permitted of any size unless approved by the Board of Zoning Appeals prior to the placement, and upon approval from the Board of Zoning Appeals, the applicant must secure a valid Bedford Township building permit. Per Section 400.2204.1.c.(5), permitted temporary buildings and uses shall not exceed a period of two years in undeveloped sections of the Township and for periods not to exceed six (6) months in developed sections.

Kincaid noted per Section 400.1903 a 10-foot structure to structure setback and 5-foot setback from the side yard property line are required in a residential zoning district. Per the submitted plot plan, the location of the temporary structure meets both required setbacks; however, it should be noted that the applicant shall continue to work with the building department and fire department to comply with all building and fire codes, as the Board of Zoning Appeals does not have the authority to grant a variance from building and fire code requirements.

Kincaid noted the applicant has provided a letter stating the request is to allow the temporary structure from May 15th through October 17th for two years (2020 & 2021). The applicant has indicated, as the use has become more popular over the years, it has become more difficult to setup and take down the temporary structure in a timely manner to accommodate each event. Kincaid advised the applicant is asking the board to consider allowing Liberty Farm of Lambertville to continue its success and permit the temporary structure for the requested time frame.

Kincaid informed that at this time no letters or calls of objection have been received, however the applicant has supplied eight letters of no objection.

Kincaid advised should the request be granted, the following variances are required: to allow a temporary structure for two years (2020 & 2021) May 15th through October 17th (as requested) conditioned upon meeting all requirements of the 2018 International Fire Code and the 2015 Michigan Building Code, and to obtain a valid building permit

Shawna Horvath-8243 Monroe Road – Ms. Horvath advised she was the owner of Liberty Farm of Lambertville and would answer any further questions the Board may have.

James Janowicz-8264 Monroe Road-Mr. Janowicz voiced concern over loud music all weekend during the events.

Ms. Horvath apologized for any inconvenience and offered to work with Mr. Janowicz as she wants to remain a good, working neighbor in the community.

Motion by Steiner, supported by Dersch, to close the public hearing at 7:11 p.m. Motion carried.

Kincaid read aloud the submitted letter from Dennis Kolar, Building Official, as he was unable to attend the meeting.

Lake inquired was there a reason the applicant was not pursuing to construct a permanent structure. Ms. Horvath explained the proposed location would be in front of the existing barn and would hinder the appearance of the historical building, which is the desire from her clients to have the events located within the barn structure. Ms. Horvath noted she was working with the Township and the Fire Department to assure her compliance and will continue to do so. Dersch asked what was the future intent should the variance be granted for two years. Ms. Horvath advised should the use still be a desire to have events and a need for the temporary tent be needed, she would reapply for an extension of the temporary structure. Lake referred to the submitted letter, asking if it was the tent company requesting that the tent stay up permanently and if Ms. Horvath had inquired with other tent services. Ms. Horvath explained the time for the tent company to set up the tent, her installing lighting, tables, chairs, linen, etc. is a timely process. Since there are events every Friday, Saturday and Sunday, to take the tent down every time does not provide enough time for all the preparation. Lake noted it seems there is approximately a 48-hour time frame for set up and tear down. Ms. Horvath agreed. Ms. Horvath noted she was only having events at first within the barn structure, however since there has been an increase in popularity for this type of use, additional area is need.

Steiner spoke on the concerns from the Building Official and working with compliance. Ms. Horvath explained she would continue to work with the Building Official and the Fire Department.

Motion by Steiner, supported by Wilson, to grant a temporary structure in an R-3/LVOD, One Family Residential Zoning District within the Lambertville Village Overlay District, per Section 400.1903 "Accessory Buildings", on land described as 5802-019-140-00, otherwise known as 8243 Monroe Road, Lambertville, MI 48144 for two years (2020 & 2021) May 15th through October 17th (as requested), conditioned upon addressing the step to gain access to the building which currently is not accessible as required by the current code, and it must meet code; the code does not allow a plumbing fixture where the walls do not get rinsed on every use- this must be upgraded accordingly to a legal fixture;; a life safety plan, accessibility, toilet room facilities, plumbing facilities shall all be upgraded to meet code and be completed by a design professional licensed in the State of Michigan. Building Department will review and issue permits should it meet all requirements of the 2018 International Fire Code and the 2015 Michigan Building Code, and all safety regulations (as stated in Building Official submitted letter). Compliance must be achieved at all times in regards to the noise ordinance, should it not be in compliance the variance could be revoked.

Roll call as follows: Voting Aye: Steiner, Wilson, Dersch and Lake

Voting Nay: None

Excused: Jenkins

Motion carried.

B. Open the public hearing regarding the appeal of Howard Swan, 9145 Jackman Road, Temperance, MI 48182, requesting a variance to allow +/- 1000 square foot area of two existing accessory buildings, per Section 400.1903, "Accessory Buildings", in an AG, Agricultural Zoning District, on land described as 5802-016-053-00, otherwise known as 9145 Jackman Road, Temperance, MI 48182.

Lake informed the applicant the Board of Zoning Appeals was one member short, offering the option to defer to a later date when all members could be present. Mr. Swan opted to move forward as scheduled.

Motion by Steiner, supported by Dersch, to open the public hearing at 7:27 p.m. Motion carried.

Kincaid stated for the subject parcel a minimum of 330 feet of frontage and 5 acres in area is required in an Agricultural Zoning District. While vacant parcel 5802-016-052-12 consists of 18.71 acres with 294.50 feet of frontage (plus 30 feet separated by the second subject property, which is not calculated as “continuous” frontage), and parcel 5802-016-053-00 consists of .56 acre and has 110 feet of frontage on Jackman Road, neither of the parcels comply with the minimum requirements of the Agricultural zoning district. It should be noted that both parcels are lots of record in that they are legal non-conforming parcels and can be utilized for uses permitted in an agricultural zoning district. Kincaid stated the applicant is seeking to increase the area of the smaller parcel where the home is located from approximately .56 acre to 2.50 acres by increasing the frontage by the 30 feet that is located to the north, and part of the larger vacant parcel and shifting the west property line west to the Brant Drain (private) continuing with the south property line along Tracey Drain (private). The parcel would include the two accessory structures totaling 5000 square feet in area where 4000 square feet of accessory structures is permitted on a 2.5-acre parcel.

Kincaid said a variance on the area of the resulting parcels is not required, as the decrease in acreage on the larger parcel is not reduced to less than the required 5 acres, and no change is being made to the existing frontage of the parcel. As well, the smaller parcel, while not complying with the agricultural frontage and acreage requirements of the Agricultural zoning district, is being brought closer to compliance in that the frontage is being increased from 110’ to 140’, and the area is being increased from .56 acre to 2.5 acres. It should also be noted that the shifting of property lines is not resulting in the creation of a new parcel.

Kincaid noted at this time no letters or calls of objection have been received. However, an email was received on February 24, 2020 from the property owner to the east of the subject property expressing support, and the property owner to the north visited the Planning Department and expressed no objection to the variance.

Kincaid advised should consideration be given to this request; a 1000 +/- square foot accessory structures area variance is required to allow the combined square footage of the two existing accessory structures.

Kincaid stated it should be noted that the shifting of the property lines will result in the structures being included on the parcel containing the existing home.

Tom Graham-LG&G-representing Mr. Swan’s Estate & Bob Swan (son) – Mr. Graham acknowledged his involvement with Bedford Township and spoke at length on the changes being made to the property and how it will bring the parcel more into compliance.

Motion by Steiner, supported by Dersch, to close the public hearing at 7:34 p.m. Motion carried.

Kincaid noted that if the parcel in question was solely shifting property lines, a variance request would not be required. Kincaid stated the variance is being sought solely due to the size of the structures being greater than what is permitted on 2.5 acres.

Mr. Goldsmith noted that should they extend property to 5 acres and beyond the natural boundaries, the land that is currently being farmed could be taken out of farming production, contradicting policy within Agricultural District to maintain agricultural property as farm land.

Dersch questioned the removal of the 30 feet of frontage and if that would hinder access to the farm land. Dersch also questioned the status of the buildings and if removal due to disrepair would be required.

Mr. Swan noted that the access in question is not needed as there are two other access points, one to the north and another to the south, as well as a bridge access point from the rear of the farm land. Mr. Swan noted that the buildings are in good repair.

Steiner read an excerpt from the email of support provided by Duane Tucker, who owns property to the east of the subject parcel. Kincaid noted that Mr. Tucker requested that his email of support be submitted into the meeting minutes.

There was no further discussion.

Motion by Wilson, supported by Steiner, to grant the appeal of Howard Swan, 9145 Jackman Road, Temperance, MI 48182, requesting a variance to allow a +/- 1000 square foot area of two existing accessory buildings, per Section 400.1903, "Accessory Buildings", in an AG, Agricultural Zoning District, on land described as 5802-016-053-00, otherwise known as 9145 Jackman Road, Temperance, MI 48182 as it will not affect nor negatively impact any neighboring parcels that are contiguous to or immediately across from Jackman Road, the variance considerations of shifting property lines simply makes common sense with the end result being that of bringing a parcel closer to complying the AG zoning districts minimal requirements, the variance will not be detrimental to the public welfare or injurious to other property in the territory in which said property is situated, and attaching the home with the accessory building(s) is a most natural, reasonable, and sensible AG zoned land use as per section 301.1401 there are special circumstances or conditions affecting said property such that the strict application of the provisions of the Ordinance would deprive the proprietor of the reasonable use of his land. Lastly, a very important natural/geographical land feature that must be taken into consideration in this variance approval process is that two private drains have an impact and hardship on both of these parcels (all within submitted letter of support from Duane and Elaine Tucker included).

**Roll call as follows: Voting Aye: Wilson, Steiner, Dersch and Lake
Voting Nay: None
Excused: Jenkins
Motion carried.**

PUBLIC COMMENT-None

COMMISSION / STAFF COMMENT- None

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ADJOURNMENT – The meeting was duly adjourned at 7:45 p.m.

Respectfully submitted,
Jodie L. Rector
Recording Secretary