

BEDFORD TOWNSHIP BOARD OF ZONING APPEALS  
REGULAR MEETING MINUTES  
8100 JACKMAN ROAD, TEMPERANCE, MICHIGAN  
MARCH 7, 2016

**PRESENT:**

RICK STEINER, TOWNSHIP BOARD LIAISON  
TOM ZDYBEK, PLANNING COMMISSION LIAISON  
BRAD GREELEY, CHAIRMAN, CITIZEN AT LARGE  
BOB POTTER, VICE-CHAIRMAN, CITIZEN AT LARGE  
GEORGE WELLING, CITIZEN AT LARGE

**EXCUSED:**

NONE

**ALSO PRESENT:**

PHIL GOLDSMITH, LEGAL COUNSEL, LENNARD, GRAHAM & GOLDSMITH  
DENNIS KOLAR, BUILDING OFFICIAL  
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 7:03 p.m. The Pledge of Allegiance was said. Kincaid called the roll. Quorum present.

***ELECTION OF BOARD OF ZONING APPEALS OFFICERS FOR 2016***

**Steiner nominated Brad Greeley to serve as Chairman.**

Hearing no further nominations, the nomination period was closed.

**Motion by Steiner, supported by Welling, to elect Brad Greeley to serve as Chairman of the 2016 BZA.**

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

**Greeley nominated Bob Potter to serve as Vice-Chairman.**

Hearing no further nominations, the nomination period was closed.

**Motion by Greeley, supported by Steiner, to elect Bob Potter to serve as Vice-Chairman of the 2016 BZA.**

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

***APPROVAL OF THE AGENDA***

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

***APPROVAL OF THE BOARD OF ZONING APPEALS MEETING SCHEDULE 2016***

**Motion by Welling, supported by Potter, to approve the Board of Zoning Appeals Meeting Schedule 2016. Motion carried.**

***APPROVAL OF THE MINUTES***

**Motion by Steiner, supported by Potter, to approve the minutes of July 6, 2015. Motion carried.**

**Motion by Steiner, supported by Potter, to approve the minutes of August 3, 2015. Motion carried.**

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

None

***NEW BUSINESS***

***A) OPEN THE PUBLIC HEARING REGARDING THE APPEAL OF AARON GRETKA, 8939 SUDER AVENUE, ERIE, MI 48133, REQUESTING A 40 +/- FOOT FRONT YARD SETBACK VARIANCE PER SECTION 400.1800, "SCHEDULE OF REGULATIONS", IN AN AG, AGRICULTURAL ZONING DISTRICT ON LAND DESCRIBED AS 5802-018-031-00, 3963 W. ERIE ROAD, TEMPERANCE, MI 48182.***

Kincaid went over the analysis stating the applicant is seeking a 40' front yard setback variance to rebuild a home that was destroyed by fire. The subject property is .640 acres with 197' of frontage on Erie Road and 154' in depth. A Demolition Permit was issued on 12/20/2013 and a final inspection approved on 7/30/2014. The destroyed home did not meet the front yard setback requirements of the ordinance, as is the case of the homes to the east and west of the subject parcel. The Schedule of Regulations requires a front yard setback in an Agricultural Zoning District, 67 feet from the road right-of-way (33' from the center of the road) for a total of 100 feet. At this time no letters or calls of objection have been received. Kincaid added the applicant has indicated the parcel had a new well drilled in 2005 and has passed all Monroe County Health Department requirements for a new septic system.

**Motion by Steiner, supported by Welling, to open the public hearing at 7:10 p.m. Roll call as follows: Voting Aye: Steiner, Welling, Potter, Zdybek, Greeley. Voting Nay: None. Motion carried.**

John Coberley, Secor Road, authorized to speak on the applicant's behalf, stated he is looking to purchase the property and the home on this property was destroyed by fire. Mr. Coberley said the home including the foundation has been removed and a 40' front yard setback variance is needed to rebuild on the property. Mr. Coberley said without a variance the property would be an unbuildable lot, leaving 20' of buildable area as the ordinance requires a front yard setback of 100' from the center of the road. Mr. Coberley added a new well was installed in the rear of the property in 2005. The Board Members and the applicant further discussed the proposed size of the new dwelling to maintain the side and rear yard setbacks requirements of the township and also meeting the requirements of the Monroe County Health Department on installation of a septic system. Mr. Coberley confirmed those requirements are not an issue.

**Motion by Steiner, supported by Zdybek, to close the public hearing at 7:15 p.m. Roll call as follows: Voting Aye: Steiner, Zdybek, Welling, Potter, Greeley. Voting Nay: None. Motion carried.**

Steiner commented on the previous dwelling existing before the ordinance requirements in an Agricultural Zoning District and if the Board Members were so inclined to approve, the request would be consistent with the contiguous properties front yard setbacks to the east and west of the subject parcel.

***Motion by Potter, supported by Steiner, to grant the variance request of a 40 foot front yard setback variance to rebuild a home that was destroyed by fire, per Section 400.1800, "Schedule of Regulations", in an AG, Agricultural Zoning District on land described as 5802-018-031-00, 3963 W. Erie Road, Temperance, MI 48182 with the practical difficulty being the narrow depth of the property to rebuild a home on a buildable lot with the condition of meeting the Bedford Township Ordinance and the requirements of the Monroe County Health Department.***

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

***B) OPEN THE PUBLIC HEARING REGARDING THE APPEAL OF DENNIS PHILLIPS, 91 W. SUBSTATION ROAD, TEMPERANCE, MI 48182, REQUESTING (1) AN INTERPRETATION OF BEDFORD TOWNSHIP AGRICULTURAL ESTATES ORDINANCE NUMBER 400.902 AND THE INTERNATIONAL FIRE CODE 2015 EDITION, AS ADOPTED BY BEDFORD TOWNSHIP, TO DETERMINE AND/OR CLARIFY ROAD CONSTRUCTION AND/OR ROAD SURFACE REQUIREMENTS FOR THE PRIVATE ROAD KNOWN AS INDIAN WOOD LANE; AND (2) A VARIANCE, IF REQUIRED BY THE BOARD OF ZONING APPEALS' INTERPRETATION OF BEDFORD TOWNSHIP AGRICULTURAL ESTATES ORDINANCE NUMBER 400.902, TO ALLOW THE CONSTRUCTION AND/OR IMPROVEMENT OF INDIAN WOOD LANE WITH AN AGGREGATE SURFACE, WITH ANY OTHER CONDITIONS THAT MAY BE REQUIRED BY THE BOARD OF ZONING APPEALS, ON LAND DESCRIBED AS 5802-018-002-30.***

Kincaid stated there are two parts to the request, one is for a language interpretation to determine and/or clarify road construction and/or road surface requirements for the private road known as Indian Wood Lane as described within the Agricultural Estates Ordinance, Section 400.902 and the International Fire Code 2015 edition. Part Two of the Request, should it be determined the ordinance and/or Fire Code requires a hard surface (asphalt, concrete, etc.), a variance request will be heard to allow the construction and/or improvement of Indian Wood Lane with an aggregate surface and with any other conditions that may be required by the BZA. Kincaid advised it should be noted Indian Wood Lane serves as road frontage for the four parcels, with Parcel 1 having received a variance to have direct access to Secor Road. Kincaid noted a letter from the previous Fire Chief is included in the packet and in speaking with Chief Whipple on March 3, 2016, he confirmed supporting the requirements as identified in the February 10, 2015 letter. Although the letter was not prepared as a response for this request, the letter does pertain to the subject area of this request and will be referenced if a variance is required. As required per the Bedford Township Zoning Ordinance Section 400.902, the subject project was approved with the requirement that a hard surface road, 20 feet in width would be installed. The hard surface road has not been installed.

**Motion by Steiner, support by Potter to open the public hearing at 7:28 p.m. Roll call as follows: Voting Aye: Steiner, Potter, Welling, Zdybek, Greeley. Voting Nay: None. Motion carried.**

Mr. Goldsmith referenced a similar previous application for the same development by Mr. Rawlings, owner of parcel #1 and parcel #2, held on July 6, 2015 where the board determined at that time the language interpretation of "pavement or hard surface" as stated in the ordinance was to be "bituminous asphalt or concrete surface". The board then granted the variance to allow an aggregate road surface with conditions and requirements. Mr. Rawlings' intent was to purchase parcel #3 and combine with parcel #2. Mr. Goldsmith went on to inform that Mr. Rawlings' purchase agreement with the bankruptcy trustee never came to fruition and subsequently Mr. Phillips purchased parcel #3. Mr. Goldsmith advised the board that the first part of the request has already been decided with the previous request on the ordinance interpretation. Mr. Goldsmith continued with a narration of the extensive history of the unfinished development and how it came to be now a practical difficulty for the current properties owners of all four

parcels. Mr. Goldsmith referred to the site plan requiring a hard surface road from Secor Road to provide frontage for each parcel on Indian Wood Lane, and as it stands now there is no frontage for any parcels other than parcel #1 which was granted the variance to maintain frontage off Secor Road. Mr. Goldsmith briefly commented on information regarding the recorded construction and maintenance agreement required with this Agricultural Estates Development, and the responsibility of each parcel owner's percentage of financial participation for the road. Mr. Goldsmith agreed with the Bedford Township Building Official withholding an issuance of a Certificate of Occupancy for parcel #3, as the road has never been developed, result being, there is no actual frontage. Mr. Goldsmith said in meeting with Fire Chief Whipple, the Fire Chief agreed to allow an aggregate road to support 50,000 pounds and with approved turnarounds. If the board were to grant this variance, it should be conditioned on approval by the Fire Chief and the board may want to consider including parcel #4 having approval from the Fire Chief with sufficient frontage and access.

Kincaid advised the board there is some discrepancy in the noted parcel numbers within the documents submitted by the applicant, saying the parcel number published and listed on the agenda is correct. (5802-018-002-30)

**Timothy Churchill-Attorney representing the applicant-** Mr. Churchill stated his client's request is the same as Mr. Goldsmith referenced of Mr. Rawlings back in July 2015. Mr. Phillips has purchased the log home on Parcel #3, which was built 14 years ago and a Certificate of Occupancy was never issued, and as the road has not yet been installed, there is no road frontage and his client is unable to obtain a Certificate of Occupancy. Mr. Churchill said this is a unique situation with extreme practical difficulty and feels in granting this request will provide a reasonable resolution to move forward with the development to reach full potential and still satisfy the overall concern for public, safety and the Fire Department. Mr. Churchill advised the board all parties affected by this development are present at the meeting.

**David Patlin-Owner of Parcel #4-**Mr. Patlin noted he has owned parcel #4 for over 10 years and when inquiring on a building permit is when they were notified of their responsibility requirements regarding installing and maintaining the road. Mr. Patlin requested clarification on this request being a resolution to the project requirements and moving forward with development on all four parcels. Mr. Goldsmith stated there will terms and conditions to any decision made this evening and what would be the intent, saying what the Board will be addressing tonight is whether or not to allow an aggregate surface road, advising Mr. Patlin to keep in mind the easement and restrictive covenant and the proportionate expense and how that will be shared is separate and distinct from the Board and that Mr. Patlin would have to work that out with the other owners of Parcels 1, 2 & 3. Mr. Goldsmith reiterated to Mr. Patlin, that if the Board is so inclined to grant the variance he would suggest it be for Indian Wood Lane.

**John Rawlings- 6857 Secor Road-Owner Parcel #'s 1 & 2-**Mr. Rawlings informed the Board he has no objection to the request and would like a reasonable resolution to move forward to build on Parcel #2, seeing this resolution as the only way financially viable to finish the development.

Mr. Goldsmith referenced back to the meeting with the Fire Chief, saying Mr. Rawlings and Mr. Phillips envision was the access from Secor Road to the west being 20' in width which is the current requirement, built with sufficient base and aggregate surface and to the extent possible restricted to the south 20' of the easement. Mr. Goldsmith clarified the comment "extent possible" as in speaking with Mr. Kolar there could be some issues with elevation, the north 20' of the total 40' easement would be dedicated to utility purposes and the road must be tested for sufficient compaction. Mr. Goldsmith noted discussing a condition upon the Fire Chief approving the compaction on engineering reports and the placement of turnarounds for fire apparatus, also a condition on Mr. Phillips extending the 20' in width road to a point where the turnaround could be constructed to the east boundary of parcel #3. Mr. Goldsmith added a site plan would need to be submitted to show these conditions and be approved by the Fire Chief, continuing

with owners of parcel 4 constructing the road prior to issuance of a building permit so that parcel would have sufficient frontage provided it was approved administratively by the Planning and Building Department. Mr. Goldsmith stated in speaking with Kincaid on this type of Agricultural Estates Development, the ordinance for an Agricultural Estates development does not require the 330' of frontage, as it is permitted to be less, but must be sufficient for a fire apparatus to turn around.

Mr. Potter inquired on the length of the aggregate road installed by Mr. Rawlings as a result of the variance granted in July 2015, and Mr. Rawlings stated the road extends the entire depth of parcel 1 and 50' onto parcel 2. Mr. Goldsmith added the road straddles the 20' easement.

**Motion by Steiner, support by Potter to close the public hearing at 7:58 p.m. Motion carried.**

Steiner thanked Mr. Goldsmith for the background information on the development and applauded the property owners for trying to resolve a development that had gone awry and wanting to make the parcels into taxable viable properties. Zdybek inquired on turn arounds, Mr. Goldsmith stated for parcel #3 it was discussed with the Fire Chief, the drive to the rear of Mr. Phillips home would serve as a turnaround, but only until an approved road and turn around are installed and until then Mr. Phillips is unable to obtain a Certificate of Occupancy.

Discussion amongst the board members continued regarding what would be a required amount of frontage for each parcel and the location of a turnaround. Greeley referenced the previous request and the board approving an aggregate road to be built to the most easterly portion of each of the property lines and then supply a turnaround. Kincaid clarified there is no specific amount of frontage requirement in this type of development however, each parcel must have provided frontage. Kolar identified the difference between a "road" and a "drive", stating a road developed to the back of parcel 3 onto parcel #4 with a turnaround, would be a "road" with a "drive" extended for parcel #4. Kincaid went on to add if the decision is to only require the road to be extended to the most easterly portion of each of the parcels, that requirement would not allocate frontage for each parcel. Greeley discussed to use the width of the road to provide frontage, Kincaid stated she did not believe a stub end of a road with a drive would serve as frontage. Greeley compared it to the frontage served on a cul-de-sac. Kolar added per the site plan drawing showing a turnaround onto parcel 3 with a 1' frontage then a drive onto parcel 4 with the easement all the way through on parcel 4. Welling suggested the length the road shall extend onto parcel 4 and the Fire Chief making the decision to obtain enough turnaround distance. Greeley referred back to the different requirements for a road and a drive.

***Motion by Potter, supported by Steiner, to approve the appeal of Dennis Phillips, 91 W. W. Substation Road, Temperance, MI 48182 to allow an aggregate road surface to be installed on a private road known as Indian Wood Lane within an Agricultural Estates Development, parcel number 5802-018-002-30, otherwise known as 3618 Indian Wood Lane with the practical difficulty for a resolution to complete a development, will provide health, safety and welfare of the township, an aggregate road surface was already approved on July 6, 2015 and constructed 50' onto parcel #2 (5802-018-002-20) and meets the requirements of the Bedford Township Fire Chief. Conditions of this approval shall be 1) the road be installed 20' in width located along the south 20' of the 40' easement as much as possible as the remaining north 20' of the easement will be utilized for utilities, 2) the road will support the imposed load of approximately 50,000 pounds with an approval from the Bedford Township Fire Chief, 3) the road shall extend a minimum of fifty feet onto parcel three with an installed turnaround within the parcel where the dwelling resides that is approved by the Bedford Township Fire Chief, and 4) meets the International Fire Code 2015 turnaround standards. If and when parcel four should be developed, before the issuance of a building permit, the aggregate road shall be installed with the same construction design and conditions as stated for parcel #3 and continue to the west as shown on the***

***approved site plan to include an access private drive extending from the road with an installed turnaround radius that shall be approved by the Bedford Township Fire Chief.***

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

***PUBLIC COMMENT –None***

***COMMISSION / STAFF COMMENT –***

Kincaid advised there will be a meeting in April as there is already a request submitted. Steiner applauded the applicant and the other parcel owners for working together to resolve a development that had gone awry.

***ADJOURNMENT –***

***The meeting was duly adjourned at 8:44 p.m.***

*Respectfully submitted,*

*Jodie L. Rector*

*Recording Secretary*