

BEDFORD TOWNSHIP BOARD OF ZONING APPEALS  
REGULAR MEETING MINUTES  
8100 JACKMAN ROAD, TEMPERANCE, MICHIGAN  
June 6, 2016

**PRESENT:**

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

**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 7:00 p.m. The Pledge of Allegiance was said. Kincaid called the roll. Quorum present.

***APPROVAL OF THE AGENDA***

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

***APPROVAL OF THE MINUTES***

**Motion by Welling, supported by Potter, to approve the minutes of May 2, 2016.  
Motion carried.**

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

None

***NEW BUSINESS***

**A) 7:04 P.M. OPEN THE PUBLIC HEARING REGARDING THE APPEAL OF RICHARD KENNY (FOREST VIEW LANES, LLC), 2345 W. DEAN ROAD, TEMPERANCE, MI 48182, REQUESTING A VARIANCE TO ALLOW A TEMPORARY OUTDOOR RECREATIONAL USE TO INCLUDE, VOLLEYBALL, ICE RINK, BAG TOSS AND VARIOUS OTHER YARD GAMES PER SECTON 400.2200, "BOARD OF APPEALS", IN A C-2, SHOPPING CENTER BUSINESS ZONING DISTRICT, OTHERWISE KNOWN AS FOREST VIEW LANES, ON LAND DESCRIBED AS 5802-028-023-00, 2345 W. DEAN ROAD, TEMPERANCE, MI 48182.**

Kincaid went over the analysis stating the request is from Forest View Lanes for a temporary outdoor recreational use to include, volleyball, ice rink, bag toss and various other yard games. The site consists of approximately 9.22 +/- acres and is the current location of Forest View Lanes and Sandy Courts Volleyball. Kincaid continued stating the applicant has indicated there are no changes in the proposed uses previously granted by the BZA on June 1, 2015. Kincaid added in speaking with the Ordinance Enforcement Department, no complaints have been received regarding the activities that have taken place on the site, as well as no letters or calls of objection have been received. Lastly, the Bedford Township Zoning Ordinance, Section 400.2204 c, 7, f states that the BZA shall seek the review and recommendation of the Planning Commission prior to taking of any action. The Planning Commission reviewed the plot plan and made a recommendation to approve the use for one year as the ordinance permits at their April 27, 2016 meeting. Kincaid advised discussions have ensued regarding the need to further review the

zoning ordinance for possible amendments to include uses that have become popular, including further reviewing the procedures required when considering temporary uses.

**Tony Brescol-Attorney-Richard Kenny- 2345 W. Dean Road-Owner- Forest View Lanes, LLC-** Mr. Brescol spoke regarding the approval granted the previous year adding Mr. Kenny has done great things at the location. Mr. Brescol added the applicant would appreciate the Township Board revisiting the ordinance for a temporary use on a year to year basis as it is causing his client issues in obtaining financing to make further improvements to the site with the approval process being a contingency.

Steiner added he is the Township Board Liaison and he agrees the ordinance should be reviewed and amended to include those outdoor recreational activities that have become popular. Mr. Steiner commended the applicant on the location.

**Steve (last name inaudible) -6500 Secor Road-** The speaker commended the applicant on improving the location, bringing jobs to the community and encouraged investment within the township.

**Karen Rideout- 8112 Douglas Road-** Ms. Rideout stated her home abuts the rear of the site location and even though no violations have been reported, noise remains her concern. Ms. Rideout hopes to persuade the board not to amend the ordinance and continue to require a yearly review for a temporary use approval adding she feels it is necessary to for the residents to have input, especially if the use would be increased. Ms. Rideout added she had been advised the applicant is trying to acquire additional property.

Welling appreciated the applicant following all the requirements of the ordinance and last approval.

**Motion by Steiner, support by Potter, to close public hearing at 7:10 p.m. Motion carried.**

Kincaid added that this request pertains to the Forest View Lanes property only and would not apply to any additionally acquired property. Goldsmith added if the Township Board Members decided to amend the ordinance, this type of use would be a special use approval that would require a public hearing and each use would be looked at on a case-by-case basis. Goldsmith added this determination does not require a practical difficulty for approval. Greeley inquire if there is a zoning district that does permit outdoor recreational activities that Mr. Kenny could seek a rezoning of the property, Kincaid advised no ordinance or zoning district allows for this type of outdoor activity. Goldsmith concurred there is no zoning district that would allow for this type of outdoor use.

*Motion by Potter, supported by Welling, to approve the appeal of Richard Kenny, 2345 W. Dean Road, Temperance, MI 48182, a request to allow a temporary outdoor recreational use to include, volleyball, ice rink, bag toss and other yard games per Section 400.2200, "Board of Appeals", in a C-2, Shopping Center District, otherwise known as Forest View Lanes, LLC, on land described as 5802-028-023-00, 2345 W. Dean Road, Temperance, MI 48182 for one year as there has been no changes in the use, no violations, no calls or complaints reported to the Bedford Township Ordinance Enforcement Department, and a recommendation to approve was received from the Planning Commission.*

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

**B) 7:22 P.M. OPEN THE PUBLIC HEARING REGARDING THE APPEAL OF DALE KOLAR, 2060 WOODLAND DRIVE, TEMPERANCE, MI 48182, REQUESTING A 33 +/- FOOT FRONT YARD SETBACK VARIANCE PER SECTION 400.1800 "SCHEUDLE OF REGULATIONS", IN AN AG, AGRICULTURAL ZONING DISTRICT, TO CONSTRUCT**

**AN ADDITION ON AN EXISTING DWELLING ON LAND DESCRIBED AS 5802-020-076-00, 2930 CONSEAR ROAD, LAMBERTVILLE, MI 48144.**

Kincaid reviewed the analysis stating the applicant is seeking a 33' front yard setback variance to construct an addition to an existing dwelling on a parcel consisting of 11.93 acres with 393.86 feet of frontage. The Schedule of Regulations requires a front yard setback in an AG, Agricultural Zoning District, 67' from the road right-of-way for a total of 100 feet from the center of the road. The existing dwelling is located 51' from the center of the road and does not meet the required front yard setback, as the home was built before the adoption of the zoning ordinance. Due to the existing building location, a 33' front yard setback variance is required for the proposed addition. It should be noted the proposed addition is to the east of the home, and will not further encroach on the front yard setback. The proposed addition would not encroach on a required side yard setback due to the location of the home on the parcel. At this time no letters or calls of objection have been received. A letter of no objection has been received from the property owners to the immediate west of the subject site.

Mr. Goldsmith stated the existing dwelling is a prior legal non-conforming structure and there is no encroachment on the property and this board has the jurisdictional over this type of variance request.

**Dale Kolar- 2060 Woodland-** Applicant

Potter asked for verification that the front of the addition is not going to encroach closer to the road than the existing non-conforming structure, Mr. Kolar stated correct.

**Motion by Steiner, supported by Zdybek, to close the public hearing at 7:25 p.m. Motion Carried.**

Board members continued further discussion regarding the non-conforming structure and no further encroachment into the existing front yard setback than what already exists. Goldsmith added the proposal is the only logical place to add on to the structure with an 11 acre parcel.

*Motion by Welling, supported by Steiner, to grant the request of Dale Kolar, 2060 Woodland Drive, Temperance, MI 48182 requesting a +/- 33' front yard setback variance per section 400.1800 "Schedule of Regulations", in an AG, Agricultural Zoning District, to construct an addition on existing dwelling on land described as 5802-020-076-00, 2930 Consear Road, Lambertville, MI 48144 as it is a prior legal non-conforming structure with no additional encroachment to the road, no encroachment on either side yard setbacks, property is 11.93 acres and no objections by the neighboring properties, practical difficulty being no other location for an addition.*

**Roll call as follows: Voting Aye: Welling, Steiner, Potter, Zdybek and Greeley**

**Voting Nay: None**

**Motion carried.**

**C) 7:30 P.M. OPEN THE PUBLIC HEARING REGARDING THE APPEAL OF TADEK AND EMILY STADNICZUK, 6266 DOUGLAS ROAD, LAMBERTVILLE, MI 48144, REQUESTING A VARIANCE TO ALLOW AN ACCESSORY BUILDING IN A FRONT YARD AND A 3 FOOT SIDE YARD SETBACK PER SECTION 400.1903 "ACCESSORY BUILDINGS", IN AN R-2A, SINGLE FAMILY RESIDENTIAL ZONING DISTRICT ON LAND DESCRIBED AS 5802-104-052-00, 6266 DOUGLAS ROAD, LAMBERTVILLE, MI 48144.**

Kincaid reviewed the analysis stating the applicant is seeking a variance to allow construction of an accessory building in the front yard, and a variance of a 3' side yard setback in an R-2A, Single Family Residential Zoning District. Per Section 400.1903, accessory buildings shall not be erected in any minimum side yard setback nor in any front yard pursuant to the "Schedule of Regulations". Per Section

400.1903, "Accessory Building Table", in zoning district R-1 through R-3, AG, RT, RM and RME on a parcel over 1.5 acres, a 3,000 square foot, or a combination of not more than 3 accessory buildings totaling not more than 3,000 square feet, with a maximum height of 16 feet, a 15 foot minimum setback from any building and a 10 foot setback from side and rear property lines is permitted. While the request meets the requirements of acres, height and setback from any building, a 3' side yard setback variance is required from the side property line. The proposed accessory building would be located approximately 700' from the road. Kincaid added the applicants have indicated in the enclosed letter that even though the property is over 5 acres, when determining the location of the proposed accessory building there were several special and unique circumstances that are peculiar to the land which are:

- Location of the well
- Septic tank leach field
- A heavily wooded ravine to the rear of the property

Kincaid noted at this time no letters or calls of objection have been received.

**Tadek Stadniczuk, 6266 Douglas Road**-Mr. Stadniczuk provided three letters of no objection.

Potter inquired on the need for the 3 feet, Mr. Stadniczuk explained with the ordinance requirement and trying to match the existing dwelling peak the height pitch required by ordinance increased the side yard setback requirement. Mr. Stadniczuk said the proposed location is where the existing drive is located and Mr. Stadniczuk expressed concern if he moved the proposed location 3' to the right it would encroach on the existing home.

**Motion by Welling, supported by Steiner, to close the public hearing at 7:41 p.m. Motion Carried.**

Discussion continued on the Accessory Building table and understanding the requirements. Kolar clarified the variance request using the square footage of the accessory buildings. Mr. Goldsmith advised the members that each case should be considered individually including the merit and facts of this variance showing a practical difficulty.

*Motion by Potter, supported by Steiner, to grant the request of Tadek & Emily Stadniczuk, 6266 Douglas Road, Lambertville, MI 48144, requesting a variance to allow an accessory building in a front yard and a 3 foot side yard setback per Section 400.1903, "Accessory Buildings", in an R-2A, Single Family Residential Zoning District on land described as 5802-104-052-00, 6266 Douglas Road, Lambertville, MI 48144 as it meets the required square footage, the parcel is over 5 acres with a narrow width, there is no negative impact on the home, no negative impact on the neighboring properties, will not restrict access to the rear of the property, and with the practical difficulty that the applicant is unable to locate the accessory building in the rear due to the location of the septic tank, leach field and wooded ravine and the well on the side of the existing home.*

**Roll call as follows: Voting Aye: Potter, Steiner, Welling, Zdybek and Greeley**

**Voting Nay: None**

**Motion carried.**

- D) 7:47 P.M. OPEN THE PUBLIC HEARING REGARDING THE APPEAL OF JOSEPH BEUHLER, 6925 FOREST RUN DRIVE, TEMPERANCE, MI 48182, REQUESTING A 12 +/- FOOT SEPARATION/SETBACK VARIANCE BETWEEN AN INGROUND POOL AND AN EXISTING DWELLING UNIT ON AN ABUTTING PROPERTY PER SECTION 400.401, "R-1 THROUGH R-3, ONE-FAMILY RESIDENTIAL DISTRICTS" ON LAND DESCRIBED AS 5802-313-103-00, 6925 FOREST RUN DRIVE, TEMPERANCE, MI 48182.**

Kincaid reviewed the analysis stating the applicant is seeking a +/- 12' separation setback variance between an inground pool and existing dwelling unit on an abutting property. Per Section 400.401.7.D. "Private Pools", no swimming pool wall shall be located less than 35 feet from any existing dwelling unit on abutting property. The proposed location of the pool is 16' to the rear of the home and per the Building Official, Dennis Kolar, there is a distance of approximately 23.9 feet to the existing dwelling on the abutting property, requiring a +/- 12' separation setback variance. The subject parcel is within the Hickory Creek subdivision with the rear yard abutting a flood zone along Indian Creek. Due to the flood zone, the lot depth on the subject parcel is reduced from what has been platted for both neighboring properties. As well, the home on the parcel to the south extends deeper into the rear yard than the home on the subject site, thus creating a lesser separation between the pool and the neighboring dwelling. Kincaid added the applicant has indicated the pool will be surrounded by a 48" barricade and will have a self-closing and latching gate. At this time no letters or calls of objection have been received. Kincaid added a more complete explanation will be provided by the applicant, Perfect 10 Pools, as they have been authorized to speak on the homeowners' behalf.

**Perfect 10 Pools-Craig Poupard**-Mr. Poupard explained as owner of Perfect 10 Pools he is fully responsible of not complying with the ordinance requirements and not verifying the setback required from a neighboring property.

Greeley asked for clarification as his understanding was the pool has already been installed. Mr. Poupard stated yes.

**Joe Buehler -6925 Forest Run Drive-Owner**-was present to answer any questions the board may have.

**Motion by Steiner, supported by Welling, to close the public hearing 7:50 p.m. Motion Carried.**

Potter inquired if a building permit was required to install a pool, Kolar advised his review of the plot plan was included in the packet and the requirement of the minimum 35' separation from the adjacent home, which was noted prior to the issuance of the permit. Kolar informed the reason for the 35' setback requirement is to protect the neighbors from the noise of a pool. Potter inquired on how many pools Perfect 10 Pools has done within the township, Kolar estimated around 30 pools a year or more. Mr. Goldsmith advised the board they do have the jurisdiction to add conditions to the request, such as a buffer in this case requiring a setback variance. Greeley agreed. Kolar added the topography of this location is unique as the pool is so low, as the elevation of the abutting home is about 8' higher. Steiner agreed with the area of the homes and having a slope.

*Motion by Welling, supported by Zdybek, to grant the request of Joseph Beuhler, 6925 Forest Run Drive, Temperance, MI 48182 requesting a +/-12 foot separation/setback variance between an inground pool and existing dwelling unit on an abutting property per Section 400.401, "R-1 through R-3, One-Family Residential Districts" on land described as 5802-313-103-00, 6925 Forest Run Drive, Temperance, MI 48182 with the practical difficulty of the topography of the property located within the Hickory Creek Subdivision Plat III and the rear yard of the subject parcel located along a flood zone area Indian Creek reducing the depth of the parcel compared to the neighboring properties, with the condition plantings of arborvitaes located 3 to 4 feet apart along the abutting property where this separation variance is required.*

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

**E) 8:07 P.M. OPEN THE PUBLIC HEARING REGARDING THE APPEAL OF J&L PROPERTIES, LLC, 6857 SECOR ROAD, PETERSBURG, MI 49270, SEEKING AN**

**APPEAL OF THE BUILDING INSPECTOR'S APPROVAL OF NEWLY CONSTRUCTED ROAD SURFACE AT INDIAN WOOD LANE AS WAS DONE UNDER THE VARIANCE THAT DENNIS PHILLIPS WAS GRANTED AT THE MARCH 7, 2016, BOARD OF ZONING APPEALS MEETING, AND A VARIANCE TO ALLOW AN AGGREGATE ROAD SURFACE TO BE INSTALLED ON A PRIVATE ROAD EASEMENT. THIS EASEMENT IS LOCATED WITHIN THE INDIAN WOOD LANE AGRICULTURAL ESTATES DEVELOPMENT, PARCEL NUMBER 5802-018-002-10 AND 5802-018-002-20, OTHERWISE KNOWN AS LOT 1 AND LOT 2 WITH THE PRACTICAL DIFFICULTY FOR A RESOLUTION TO COMPLETE A DEVELOPMENT WILL PROVIDE HEALTH, SAFETY AND WELFARE OF THE TOWNSHIP, 1) THE ROAD BE INSTALLED 20' IN WIDTH LOCATED ALONG THE SOUTH 20 FEET OF THE 40 FOOT EASEMENT AS MUCH AS POSSIBLE AS THE REMAINING NORTH 20 FEET 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, AND 3) MEETS THE INTERNATIONAL FIRE CODE 2015 TURNAROUND STANDARDS, ON LAND DESCRIBED AS 5802-018-002-10, 9505 SECOR ROAD, TEMPERANCE, MI 48182 AND 5802-018-002-20, A VACANT PARCEL LOCATED ON INDIAN WOOD LANE, TEMPERANCE, MI 48182.**

Kincaid reviewed the analysis stating the request is for an appeal of the Building Inspector's approval of the newly constructed road surface and a variance to allow an aggregate road surface to be installed on a private road easement as described in the applicant's submitted letter of May 8, 2016. The minutes of March 7, 2016 referred to in the applicant's letter of May 8, 2016, were included in the meeting packet for reference. The applicant sent a letter to Mr. Dennis Phillips, dated April 12, 2016, stating the installation of the gravel surface does not conform to the variance granted to Mr. Phillips on March 7, 2016. Kincaid added once the gravel surface was installed by the owner of Parcel #3 as a result of the March 7, 2016 granted variance, the Building Inspector, licensed engineer David Wehner, and Fire Chief Ron Whipple visited the site to inspect the installation. While the Fire Chief gave verbal approval, he did not issue a written form of approval. A letter of approval was issued by David Wehner, a licensed engineer, on April 11, 2016 and a Certificate of Occupancy and Compliance was issued by Building Inspector Dennis Kolar on April 13, 2016. Kincaid stated included within the packet is the recorded documents when the Agricultural Estates was approved and are as follows:

- Declaration of Deed Restrictions for Bieniek Agricultural Estates Plan 2/1/2005
- Amendment to Declaration of Deed Restrictions for Bieniek Agricultural Estates Plan 1/2/2007
- Private Driveway and Utility Easement and Maintenance Agreement 2/1/2005
- Amendment to Private Road and Utility Easement and Maintenance Agreement 1/2/2007
- Storm Drainage Easement Agreement 2/1/2005

Kincaid included there are also 32 additional pages included for review and BZA minutes of July 6, 2015 where the applicant came before the board for a variance on road surface material.

**John Rawlings-J & L Properties, LLC- 6857 Secor Road-**Mr. Rawlings stated he does not feel the road was installed properly to the south 20' of the easement to minimize the impact on his property. Mr. Rawlings reiterated that a paved road is required by the road easement. Mr. Rawlings requested clarification from the Board if the previously granted variance for Mr. Phillips applies to Mr. Rawlings two properties due to the variance application request only stating Mr. Phillips' parcel number. Mr. Rawlings stated that he and Mr. Phillips had a verbal agreement to work together on the road but Mr. Phillips installed the road and in Mr. Rawlings opinion to the northern part of the road not to the most southerly portion as granted. Mr. Rawlings stated he has tried calling, contacting through emails and sending letters to contact Mr. Phillips regarding the matter without any response. Mr. Rawlings explained

there are two parts of his request, one if Mr. Phillips' variance applies to his parcels and, two, the installed road location not complying with the previous granted variance.

Mr. Goldsmith advised the board on the direction the applicant is requested, one being the board to consider if the variance that was granted for Mr. Phillips applies to Mr. Rawlings' properties parcel one and two, secondly the board needs to consider is if the actual construction that took place within the easement area conforms with the variance that was granted which was to remain on the south 20', which was a condition the parties agreed to at a meeting held at the Township Hall where Mr. Phillips was represented by legal counsel (Mr. Churchill) and Mr. Goldsmith was present on behalf of the Township. Mr. Goldsmith stated with respect to the approval letter received from the engineer, it was based on the actual road construction having a sufficient base and strength and/or thickness to support a fire/emergency apparatus as opposed to the actual placement within the 40' easement area. Mr. Goldsmith referred to a conversation with Mr. Kolar stating the road as constructed in some areas is 15' away from the southern boundary area. Mr. Goldsmith stated he believed that Mr. Rawlings' objection is based on the agreement that was made between the parties during the meeting at the township. Mr. Goldsmith advised the board they may want to consider both issues requested by the applicant.

Greeley stated there are two items, one being the variance to install a gravel road and second with the motion previously granted the road to be installed on the south 20' of the 40' easement as "close as possible". Greeley added the issue is what is "as close as possible". Mr. Goldsmith added from his understanding that during the meeting at the township the parties had agreed to the location of the road being on the south 20', as the utilities would be installed on the north 20', as there is an existing gas line that is now covered by the road that was constructed which is contrary to the wishes of the gas company in the event of an emergency or maintenance. Mr. Goldsmith touched base again on the issues of this development and how they came about, giving credit to the current property owners that are trying to resolve a situation. Mr. Rawlings added all parties still need to address the issues with the easements and maintenance agreements, which is not the responsibility of the township or this board.

**Tim Churchill-Attorney for Dennis Phillips-**Mr. Churchill referenced the previous meeting. Mr. Churchill stated the installation of the road was approved by an engineer, the fire chief and the building official. Mr. Churchill added his client feels the request to challenge the Building Officials' approval is to negate Mr. Phillips' certificate of occupancy. Mr. Churchill went on to add his client was informed by the Township a road needed to be installed before a Certificate of Occupancy would be issued, and Mr. Phillips has complied. Mr. Churchill advised the Board his client had met with Mr. Rawlings and they did agree to the south 20' of the easement, but on the southernmost boundary there is a fence, large trees, and the area slopes down. Mr. Churchill explained his client's intent was to not destroy the large beautiful trees that have been growing for years as it is a large 40' area designated for the road and there is nothing else around the area other than the aesthetics to preserve. Mr. Churchill referencing the language "as close as possible", said Mr. Phillips, in his opinion, feels he did install to that requirement. Mr. Churchill continued stating he is not aware of any issues with the utilities. Mr. Churchill said it is an unfortunate situation to be back in front of the Board, but should Mr. Rawlings be permitted to do what Mr. Phillips was granted there should be no reason why not, but Mr. Phillips does not agree with challenging the Building Official's Approval as to negate his Certificate of Occupancy. Lastly, Mr. Churchill stated he feels that after going out to the site, what was installed by Mr. Phillips accomplished what was intended to be constructed.

Zdybek stated concern with the issues where the gravel was installed over gas line markings and the reference to the language "as close as possible" as it cannot be defined. Mr. Churchill stated in his opinion that language was used due to knowing there were trees, as to "as close as possible" would allow for a few feet if needed to not destroy the aesthetics of the area, but accomplish the purpose of the private drive to a home that was already in existence for 14 years. Mr. Goldsmith clarified a 40' easement where the Planning Commission approved a 20' wide road surface. Mr. Goldsmith said in respect to the trees, they

are located on parcel 2, which is owned by Mr. Rawlings. Mr. Rawlings would be the one to authorize if those trees could have been removed, but Mr. Goldsmith could not state if Mr. Rawlings had ever been consulted on removing them for the purpose of installing the road.

**Dennis Phillips-3618 Indian Wood Lane**-Mr. Phillips gave clarification that he had met with Mr. Rawlings on the installation of the road.

**Steve Dotson-9035 Secor Road**-Home to the South of the parcels-Mr. Dotson expressed concern on the drainage as there is a lot of water buildup. Kolar stated he thought the way the road was designed was to be sloping from the south to the north, so that the water from the road would be draining onto the parcels of Indian Wood Lane. Mr. Dotson stated the road was raised up when it was initially installed. Mr. Dotson added he had spoken to Mr. Rawlings and he expressed he would reinstall approximately 150' of fencing that was damaged to keep people off his property. Discussion continued on drainage and ideas on a resolution to the issue.

Welling asked both the applicant and Mr. Phillips if there was any discussions on the removal of the trees, and Mr. Rawlings responded he has no problem taking the trees down and had informed Mr. Phillips if he supplied the gravel Mr. Rawlings would install the road. Mr. Rawlings advised he had already taken down several trees at the location.

**David Patlin-owner of parcel #4**-Mr. Patlin appreciated everything the Board has done to relax the easement required to fix the practical difficulty to complete the development. Mr. Patlin expressed his concern after owning his property for several years and not being able to build on it and now with the issues of the road not being installed correctly and parcel #3 receiving a Certificate of Occupancy and due to someone being upset there is a possibility of going back to the required paved road. Mr. Patlin said he cannot understand why anyone would want to go backwards, resulting in Mr. Patlin being unable to build on a property without a road for several years.

**Motion by Steiner, supported by Potter, to close the public hearing at 8:20 p.m. Motion Carried.**

Board members discussed further the understanding of the applicant's request. Mr. Goldsmith stated issue one is what the recorded easement instrument requires and for that instrument to be changed or varied, requires the consent from all property owners on Indian Wood Lane. That easement requires a paved surface, but if each property owner agrees to amend that recorded easement instrument and record that amendment at the Registrar of Deeds that would relax that requirement of the recorded easement. This Board agreed that the requirement of the site plan of a "paved surface" could be relaxed and an aggregate surface could be installed. Second, all the property owners need to get together, agree and amend that easement instrument and it has to be recorded for that to occur. Mr. Goldsmith stated this board has made the decision of material for the road being an aggregate surface. Mr. Rawlings stated he believes each property needed a variance for the road to be installed as an aggregate surface as he did not receive any of the approval letters he had sent out. Greeley inquired how much road did Mr. Rawlings install, Mr. Rawlings stated 450' gravel and land area cleared around 1400' of the road. Discussion continued on the installation and placement of the road with the members and the applicant, and determination why the placement of the road was not to the south 20' of the easement. Mr. Goldsmith clarified that Mr. Rawlings' installation of the road was built months before Mr. Phillips' variance request was approved. Greeley stated if the road was installed after Mr. Rawlings' approval, it was not installed as shown on the original site plan nor what he thought he was approving. Mr. Rawlings stated the situation has changed and the south 20' of the easement was not a consideration at the time of Mr. Rawlings' original variance request as Mr. Rawlings' intent was to own parcels 1, 2 & 3. Kolar added the board is looking at surface and location. Kolar stated when he visited the site and measured the removal of trees will gain approximately 4 or 5 feet of area to move the road further to the south and for the board to remember it is not an engineered road, as there is only one typical cross section of the road. Kolar explained that is why



at the previous BZA request Kolar only wanted the board to determine road surface not location. Greeley said in his opinion the aggregate road surface was approved at the previous meeting for the entire extent of the road. Mr. Goldsmith agreed that all parcels were included, however Mr. Rawlings is stating the aggregate road location was to be installed on the south 20' of the easement as agreed upon.

Lengthy discussion continued on the history of the project and how the road development issues arose. Goldsmith advised the board's determination of road surface and road location being on the south 20' of the easement is what is to be decided. Goldsmith stated he does not want this board to decide if the road has been developed on the south 20' of the easement as much as possible because of the qualifications needed to determine that location. Mr. Patlin voiced his opinion on the road being constructed within the south 20' of the easement and the board had agreed at the previous request approval was for all four parcels within the development.

***Motion by Potter, supported by Welling, to deny the request of J & L Properties, LLC, 6857 Secor Road, Petersburg, MI 49270, seeking an appeal of the building inspector's approval of newly constructed road surface at Indian Wood Lane as was done under the variance that Dennis Phillips was granted at the March 7, 2016, Board of Zoning Appeals Meeting, and a variance to allow an aggregate road surface to be installed on a private road easement. This easement is located within the Indian Wood Lane Agricultural Estates Development, parcel number 5802-018-002-10 and 5802-018-002-20, otherwise known as lot 1 and lot 2 with the practical difficulty for a resolution to complete a development will provide health, safety and welfare of the township 1). The road be installed 20' in width located along the south 20 feet of the 40 foot easement as much as possible as the remaining north 20 feet 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 and 3) meets the International Fire Code 2015 turnaround standards, on land described as 5802-018-002-10 , 9505 Secor Road, Temperance, MI 48182 and 5802-018-002-20, a vacant parcel located on Indian Wood Lane, Temperance, MI 48182, reason being at the previous BZA Meeting on March 7, 2016 the board answered and granted the variance request for an aggregate road surface and the board is affirming the decision previously made.***

**Roll call as follows: Voting Aye: Potter, Welling, Steiner and Greeley  
Voting Nay: Zdybek  
Motion carried.**

***PUBLIC COMMENT –None***

***COMMISSION / STAFF COMMENT –***

***Kincaid advised at this time there are no items scheduled for the July meeting, but informed the Board Members should there be a meeting it will be Tuesday, July 12<sup>th</sup> due to the holiday.***

***ADJOURNMENT –***

The meeting was duly adjourned at 9:35 p.m.

***Respectfully submitted,  
Jodie L. Rector  
Recording Secretary***