

BEDFORD TOWNSHIP BOARD OF ZONING APPEALS
REGULAR MEETING MINUTES
8100 JACKMAN ROAD, TEMPERANCE, MICHIGAN
August 3, 2015

PRESENT:

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

EXCUSED:

NONE

ALSO PRESENT:

JAHN LANDIS, LEGAL COUNSEL, LENNARD, GRAHAM & GOLDSMITH
DENNIS KOLAR, BUILDING OFFICIAL
KAREN M. KINCAID, PLANNING AND ZONING
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

Potter requested to amend the agenda removing item number 5, *APPROVAL OF THE MINUTES OF JULY 6, 2015*, as minutes were not provided for review and approval.

Motion by Potter, supported by Parsons, to amend and approve the agenda. Motion carried.

PUBLIC COMMENT (LIMIT 3 MINUTES)

None

NEW BUSINESS

Greeley requested to amend the order of New Business, *PUBLIC HEARING FOR KWAPICH, LLC ITEM A*, as neither the applicant nor representative was present.

B) OPEN THE PUBLIC HEARING REGARDING THE APPEAL OF DAVID AND ELIZABETH CROOKS, 3821 OLDBURY, LAMBERTVILLE, MI 48144, REQUESTING A 3'2" +/- SETBACK VARIANCE BETWEEN AND INGROUND POOL AND A STRUCTURE PER SECTION 400.401.7, R-1 THROUGH R-3, ONE-FAMILY RESIDENTIAL DISTRICT "PRIVATE POOL", ON LAND DESCRIBED AS 5802-357-011-00, 3821 OLDBURY, LAMBERTVILLE, MI.

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

Kincaid went over the analysis stating the applicant is seeking a 3'2" +/- setback variance between an already installed inground swimming pool and a proposed new addition to the

existing dwelling. Per Section 400.01.7 C “Private Pools” states there shall be a distance of not less than seven feet between the outside swimming pool wall and any building located on the same lot. Kincaid added while the existing dwelling setback is 19’8” from the swimming pool wall and the proposed new addition setback will result in +/- 5’8” from the pool wall, the pool steps however located on the west end of the swimming pool protrude 3’10” further out towards the proposed addition requiring +/- 3’2” setback variance. Also noted, the applicants submitted a letter stating they love their location and indicated if granted this variance request it will allow them to make improvements and expand their home rather than to relocate. Lastly, no letters or calls of objection had been received.

Matt Fornwald- Wesson Builders- representative for the applicants- Mr. Fornwald stated the applicants received and brought with them a list of adjacent neighbors stating they had no objection to the variance request. Mr. Fornwald added the applicants had reviewed several design layouts trying to accommodate the ordinance requirement with the issue regarding where the pool steps are located and trying to maintain at least 4’ of clearance from the step area and 6’ from the rest of the proposed addition shown in the proposed layout. Mr. Fornwald went on to say that they are using a trench to avoid disturbance to the soil surrounding the existing pool. Kincaid received and dispersed the letters of no objection to the members for review.

Discussion began within the Board members regarding the amount of usable space within the proposed addition if the applicants were to comply with the minimum 7 foot setback as required by ordinance. Kolar added he had no objections or concerns with the proposed addition or the requested setback variance.

Motion by Steiner, supported by Potter, to close public hearing at 7:15 p.m. Motion carried.

Motion by Potter, supported by Biggs, to deny the appeal of David and Elizabeth Crooks, 3821 Oldbury, Lambertville, MI 48144, requesting a 3’2” +/- setback variance between an inground pool and a structure per section 400.401.7, R-1 through R-3, One-Family Residential District “Private Pools” on land described as 5802-357-011-00, 3821 Oldbury, Lambertville, MI, as the proposed 5’8” setback between the addition and the existing pool and reducing the addition to add another 14” would bring the setback into compliance with the ordinance and leave a usable floor space of about 12’ wide.

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

The Board Members discussed the process and moving forward with regards to the Kwapich, LLC variance request as no representative was present for the request. Kincaid added there had been several attempts to make contact without success at this time.

Motion by Parsons, supported by Steiner, to table item A, Kwapich, LLC, a request for a frontage variance to allow a land division until the next scheduled meeting, unless the applicant requests a special meeting where fees would apply if there is nothing else scheduled, as at this time neither the applicant nor representative are present.

Motion by Parsons, supported by Steiner, to withdraw the motion to table item A, Kwapich, LLC, a request for a frontage variance, as the representative is on his way and the Board members agreed to wait for his arrival.

Greeley permitted Mr. Fornwald to speak again regarding the Crooks variance request.

Mr. Fornwald, representative for the applicants stated he respected the Board's decision, but felt he had not shown nor given an informative representation to the Board of what the Crooks were requesting. Mr. Fornwald asked the Board members if he could show another proposed drawing to the Board which would supply clarification. Further discussion regarding the location of the steps and the proposed addition took place between the board members and the representative to offer further clarification. Mr. Landis, Legal Counsel, requested the board, if so desired, make a motion to re-open the public hearing regarding the request if they wanted to revisit the decision on the variance request.

Motion by Potter, supported by Steiner to re-open the public hearing at 7:25 p.m. for David and Elizabeth Crooks, 3821 Oldbury, Lambertville, MI 48144, requesting a 3'2" +/- setback variance between an inground pool and a structure per section 400.401.7, R-1 through R-3, One-family residential district "private pools" on land described as 5802-357-011-00, 3821 Oldbury, Lambertville, MI, as the Board requested further discussion for clarification.

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

Mr. Fornwald advised the board he felt the applicants would agree to maintain the 7' variance on the main portion of the building currently showing 5'8" but where the corner is located by the pool steps they would still require the variance of a +/- 3'2" setback. Steiner stated maintaining the 7' on the main portion of the proposed addition would meet the townships ordinance requirements, but a variance request would still be needed for the clip on the side of the structure by the pool steps, further saying the setback does meet the State requirement of 4'. Parsons asked the representative if there was any access from the existing structure to the new addition, Mr. Fornwald advised the existing dwelling is a ranch style home and there would be no access to the proposed new addition. Further discussion with the Board members continued with regards to the amount of usable floor space and maintaining the 7' setback to the main portion with keeping the variance request of 3'2"+/- setback for the area where the pool steps protrude towards the proposed location of the door.

Motion by Potter, supported by Steiner to close public hearing at 7:35 p.m. Motion carried.

Motion by Steiner, supported by Biggs, to rescind the previous motion to deny the appeal of David and Elizabeth Crooks, 3821 Oldbury, Lambertville, MI 48144, requesting a 3'2" +/- setback variance between an inground pool and a structure per section 400.401.7, R-1 through R-3, One-Family Residential district "private pools" on land described as 5802-357-011-00, 3821 Oldbury, Lambertville, MI as with further clarification and discussion by the

Board members and Mr. Fornwald it will clearly bring the requested variance closer to compliance.

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

Motion by Steiner , supported by Biggs , to approve the appeal of David and Elizabeth Crooks, 3821 Oldbury, Lambertville, MI 48144, requesting a 3'2" +/- setback variance between an inground pool and a structure per section 400.401.7, R-1 through R-3, One-Family Residential district "private pools" on land described as 5802-357-011-00, 3821 Oldbury, Lambertville, MI with the practical difficulty being where the current home and inground pool are located and the ability to safely construct an addition to the existing dwelling. The approval shall be conditioned on the proposed structure 14' outside wall being reduced to 12'4" to comply with the required setback of 7', and where only the corner clip adjacent to the stairway of the pool meets the State standards of 4', to meet the Township setback ordinance a +/- 3'2" setback variance will be required depending on the selected door by the builder/homeowner.

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

B) OPEN THE PUBLIC HEARING AT 7:40 P.M. REGARDING THE APPEAL OF KWAPICH, LLC, 1918 US HIGHWAY 31, BEULAH, MI 49617, REQUESTING A FRONTAGE VARIANCE FOR PROPOSED PARCEL A OF 32.03 +/- FEET AND A +/- 4 FOOT SIDE YARD SETBACK VARIANCE, AND FOR PARCEL B A 7.97 +/- FOOT FRONTAGE VARINACE PER SECTION 400.1800, "SCHEUDLE OF REGULATIONS", FOR A PROPOSED LAND DIVISION TO CREATE TWO SEPARATE PARCELS IN AN R-2A, ONE-FAMILY RESIDENTIAL DISTRCT , ON LAND DESCRIBED AS 5802-647-025-00, 3685 AND 3695 SECTION ROAD, LAMBERTVILLE, MI 48144.

Kincaid went over the analysis stating the existing lot consists of approximately .96 acres with 120 feet of frontage on Section Road and is within Trilby Garden Farms Subdivision. Records indicate the parcel was purchased in February 2004 by John and Catherine Kwapich. The parcel is R-2A, Single Family Residential zoned and is prior legal non-conforming in that two residential dwellings are located on the lot. On June 6, 2005, the applicant sought a variance that would allow the owners to split the property. The requested variance was denied due to the failure to show a hardship or practical difficulty and a land division would result in two non-conforming parcels. Kincaid added the submitted letter from Brescol Law Offices, PLC explains the hardship or practical difficulty presented with this application with a letter included from Monroe Bank and Trust. Kincaid explained the applicant is seeking a variance that would allow them to split the parcel.

The variances required are:

Proposed Parcel A: A 4' side yard setback and a 32.08' frontage variance, resulting in 47.97' where 80' of frontage is required in an R-2A, Single Family Residential zoning district.

Proposed Parcel B: A .97' frontage variance, resulting in 72.03' where 80' of frontage is required in an R-2A, Single Family Residential zoning district.

Kincaid advised there was a previous request in 2005 stating a front yard setback variance was required, which is the case for a section line road. Kincaid said Section Road falls within the "Z" category under "minimum Front Yard Setback in Feet" within the Schedule of Regulations, Section 400.1800, which is not a section line road. Therefore the existing front yard setback meets the requirements of the Schedule of Regulations. Kincaid noted should the variance be granted, the existing garage would have to be either relocated and meet all setback requirements, or removed as the building would straddle the property line. As well each home would have to be served by its own septic and well systems as municipal water and sewer are not available to the site. Lastly, Kincaid stated that one letter of objection had been received, and Anthony Brescol has been authorized to speak on the applicants' behalf.

Anthony Brescol- representative for the applicants- Mr. Brescol referenced the previous request as the applicants were trying to bring the parcel into compliance at that time, and the request today with the practical difficulty being the applicants are trying to sell the property. Mr. Brescol added the way the parcel stands the applicant is unable to sell with any sort of traditional financing.

Discussion with the Board members and Mr. Brescol with regards to the site if the variance was granted and the land division submitted would there be enough area on Parcel A if a new septic and well was to be required. Greeley asked if it is known where the current septic and well is located. Mr. Brescol added that he is confident that they are not tied together and each dwelling is serviced by its own septic and well, but he is unable to state an exact location. Kincaid said if the variance is granted the applicant would be required to go through the land division process and meet the setback requirements with the Monroe County Health Department for septic and well systems. Mr. Landis made reference to the date of 2010 on the MB&T letter, asking if a more recent update was received. Mr. Brescol advised he had not contacted them on current policy, but added being granted the variance request is the first step to moving forward with the land division process.

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

Further discussion took place with the Board members on the septic and setback issues and if conditions could be included with the motion to make sure to maintain area space if a new septic or well is needed, while being able to meet the setback requirements from the Monroe County Health Department. All members voiced concerned with the septic and well location and meeting required health department setbacks. Discussion took place regarding the shared driveway and garage currently serving both parcels. The 4:1 depth to width ratio and changing of a platted subdivision would need to go before the Township Board for approval.

Motion by Potter, supported by Steiner, to approve the appeal of Kwapich, LLC, 1918 US Highway 31, Beulah, MI 49617, request for proposed parcel A, a frontage variance of 32.3 +/- feet and a 4 +/- foot side yard setback variance, and for parcel B, a 7.97 +/- foot frontage

variance per sections 400.1800, "Schedule of Regulations", for a proposed land division to create two separate parcels in an R-2A, One-family residential district, on land described as 5802-647-025-00, 3685 and 3695 Section Road, Lambertville, MI with a practical difficulty being the value of the property with two homes and the inability to sell and receive approval for conventional financing with two non-conforming homes on one parcel that has been in existence before May 5, 1977 when zoning was placed in effect. Conditions of the approval being both parcels must meet all the requirements of the Monroe County Health Department on a septic system and well to move forward with the land division process, no accessory buildings will be permitted anywhere on Parcel A (parcel #2), the existing garage must either be demolished or moved and placed within the required setbacks on Parcel B (parcel #1) and there must be a grant/easement in place for the driveway which currently serves both Parcel A (parcel #2) and Parcel B (parcel #1).

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

PUBLIC COMMENT –None

COMMISSION / STAFF COMMENT –

Kincaid-advised there is nothing at this time for next meeting, but that the meeting deadline is later due to the holiday next month.

Potter-Thanked the Board Members.

ADJOURNMENT –

The meeting was duly adjourned at 8:10 p.m.

Respectfully submitted,
Jodie L. Rector
Recording Secretary