

**ZONING BOARD OF APPEALS
JANUARY 7, 2008**

MEMBERS PRESENT: John Lowe, Dan Lowe, Larry Fillinger, Linda Manson-Dempsey, and Dan Rossbach

MEMBERS ABSENT: None

CALL TO ORDER

John Lowe called the meeting to order at 7:31 p.m.

APPROVAL OF AGENDA

Larry Fillinger motioned to approve the agenda as presented. Linda Manson-Dempsey seconded. **Motion carried 5-0.**

MEMBERS PRESENT

The members of the Zoning Board of Appeals introduced themselves.

CALL TO THE PUBLIC

None.

APPROVAL OF MINUTES

December 3, 2007 Regular Meeting: Larry Fillinger motioned to approve the minutes as presented. Linda Manson-Dempsey seconded. **Motion carried 5-0.**

NEW BUSINESS

ZBA Case #01-08—D-19 Ventures, 1442 Old Pinckney Rd., Tax ID #4710-02-400-

005 Pat Keough from Advantage Engineering and Craig Whitney, owner of the property, were present to ask for setback variances for an open-air business. They were previously granted variances for a restaurant, but have determined that a restaurant isn't viable at this time. Mr. Keough said the ordinance requires a 100' setback off of D-19 and 80' off of Old Pinckney Road, which isn't possible on this parcel. Mr. Whitney would enclose the area with a fence, and partial screening in the front. John Lowe said the ZBA considers variances on the setbacks, and the use would be reviewed by the Planning Commission. Mr. Lowe said there are a number of questions that need to be answered by the attorney. The response received today didn't address all of his questions. He apologized to Mr. Whitney for the delay. Larry Fillinger motioned to table ZBA Case #01-08—D-19 Ventures until the February 4 ZBA meeting to gather more information from the attorney, and have the attorney be present at that meeting. Linda Manson-Dempsey seconded. **Motion carried 5-0.**

CALL TO THE PUBLIC

None.

ADJOURNMENT

Linda Manson-Dempsey motioned to adjourn the meeting at 7:55 p.m. Larry Fillinger seconded. **Motion carried 5-0.**

ZONING BOARD OF APPEALS - MARCH 3, 2008

MEMBERS PRESENT: John Lowe, Dan Lowe, Larry Fillinger, Linda Manson-Dempsey, and Dan Rossbach

MEMBERS ABSENT: None

OTHERS PRESENT: Michael Kehoe, Township Attorney

CALL TO ORDER

John Lowe called the meeting to order at 7:30 p.m.

APPROVAL OF AGENDA

Larry Fillinger motioned to approve the agenda as presented. Linda Manson-Dempsey seconded. **Motion carried 5-0.**

MEMBERS PRESENT

The members of the Zoning Board of Appeals introduced themselves.

CALL TO THE PUBLIC

None.

APPROVAL OF MINUTES

January 7, 2008 Regular Meeting: Larry Fillinger motioned to approve the minutes as presented. Linda Manson-Dempsey seconded. **Motion carried 5-0.**

OLD BUSINESS

ZBA Case #03-07—William & Colleen Harden, 2435 Sharma Lane, Tax ID #4710-16-101-001 William Harden was present and offered new information regarding his variance request, including a petition from his neighbors, information on a variance request previously granted to one of his neighbors, and changes in the setback dimensions. No comments were heard from the public. Dan Rossbach motioned, for ZBA Case #03-07—William & Colleen Harden, to relax Section 8.01 F 3 b, Side Yard Setback, to grant a nine (9) foot variance on the southwest corner of proposed garage and seven (7) foot variance on the southeast corner of proposed garage, considering the following criteria:

1. How the strict enforcement of the provisions of the Township Zoning Ordinance would cause an unnecessary hardship and deprive the owner of rights enjoyed by all other property owners owning property within the same zoning district. *The strict enforcement would cause difficulties in construction of the garage due to the layout of the house and the property. The applicant has shown that this is the best location on the parcel for the garage.*
2. The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district. *The circumstances are unique due to the layout of the house, the lot and the street.*
3. The conditions and circumstances unique to the property were not self-created. *The circumstances were not created by the applicant.*
4. Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district. *The requested variance will not confer special privileges due to the uniqueness of the property and location of the house.*
5. Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance. *The proposed structure is not oversized; it is a typical two-car garage.*
6. The difficulty shall not be deemed solely economic. *There are no economic benefits.*

Linda Manson-Dempsey seconded. Roll call vote: Fillinger, Manson-Dempsey, Rossbach, J. Lowe, D. Lowe—yes. **Motion carried 5-0.**

ZBA Case #06-07—Gary & Pamela Herren, 5319 Dutcher Road, Tax ID #4710-31-100-025 Annette McNamara said there is a new letter from the Herren's attorney; however, the letter doesn't address all of the violations. Mr. Kehoe said there is an existing violation on the property and the ZBA can send it to the Board of Trustees for appropriate action. Linda Manson-Dempsey motioned to remove ZBA Case #06-07 from the ZBA's agenda and send the case to the township Board of Trustees for enforcement of the zoning ordinance. Larry Fillinger seconded. Roll call vote: Fillinger, Manson-Dempsey, Rossbach, J. Lowe, D. Lowe—yes.

Motion carried 5-0.

ZBA Case #01-07—Patrick Marquardt, 3794 Cedar Point, Tax ID #4710-28-301-006

Linda Manson-Dempsey motioned to remove ZBA Case #01-07 from the ZBA’s agenda and send it to the township Board of Trustees to investigate zoning ordinance violation(s). Larry Fillinger seconded. Roll call vote: Fillinger, Manson-Dempsey, Rossbach, J. Lowe, D. Lowe—yes.

Motion carried 5-0.

CALL TO THE PUBLIC

None.

ADJOURNMENT

Linda Manson-Dempsey motioned to adjourn the meeting at 8:02 p.m. Dan Rossbach seconded. **Motion carried 5-0.**

ZONING BOARD OF APPEALS - JULY 7, 2008

MEMBERS PRESENT: John Lowe, Dan Lowe, Larry Fillinger, Linda Manson-Dempsey, and Dan Rossbach (arrived at 7:45 pm)

MEMBERS ABSENT: None

CALL TO ORDER

John Lowe called the meeting to order at 7:30 p.m.

APPROVAL OF AGENDA

Larry Fillinger asked to have two items added to the agenda: a letter regarding the open air special use permit, and a parcel on D-19 near Brighton Road. Linda Manson-Dempsey motioned to approve the agenda as amended. Larry Fillinger seconded. **Motion carried 4-0.**

MEMBERS PRESENT

The members of the Zoning Board of Appeals introduced themselves.

CALL TO THE PUBLIC

None.

APPROVAL OF MINUTES

March 3, 2008 Regular Meeting: Larry Fillinger motioned to approve the minutes as presented. Linda Manson-Dempsey seconded. **Motion carried 4-0.**

OLD BUSINESS

ZBA Case #06-07—Gary & Pamela Herren, 5319 Dutcher Road, Tax ID #4710-31-

100-025 Pamela Herren was present and said she has nothing to present to the Board. John Lowe said Mrs. Herren was supposed to present a detailed plan to the Board. Mrs. Herren said her husband lost his job. She asked the ZBA members why there are other barns in the township that exceed the square footage allowed based on the size of the house. Annette McNamara said two of the properties in question have Special Use Permits for the horse stable. She also told Mrs. Herren that some of the barns were pre-existing, non-conforming situation. Linda Manson-Dempsey told Mrs. Herren that each case is reviewed individually. Dan Lowe said the critical issue is that the barn is not on Mrs. Herren’s property The ZBA members discussed the options available to Mrs. Herren. It was suggested that, due to Mrs. Herren’s financial situation, the ZBA could allow her additional time to correct the violation. Bob Hanvey reminded Mrs. Herren that if any demolition is done on the barn, she will need a Land Use Permit from the township and a permit from the Livingston County Building Department. Linda Manson motioned for ZBA Case #06-07—Gary & Pamela Herren to grant a variance to Section 8.01 F 3 c with a 20’ rear yard setback variance to allow the property owner to situate the structure 5’ off of the rear property line. By removing this section of the structure, the violation of Section 6.07 1 would also be corrected. The property owner must follow the proper

legal channels by getting a Land Use Permit from the township and getting a permit from the Livingston County Building Department. Significant progress must be made within six months (by 1/7/09), with the work being completed within eight months (3/7/09.)

The following criteria was considered:

1. How the strict enforcement of the provisions of the Township Zoning Ordinance would cause an unnecessary hardship and deprive the owner of rights enjoyed by all other property owners owning property within the same zoning district. *The barn has already been built on property not owned by the Herrens.*
2. The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district. *The circumstances are unique because the owner built on property they don't own.*
3. The conditions and circumstances unique to the property were not self-created. *The circumstances were self-created by the property owner.*
4. Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district. *This type of variance has been granted in the past.*
5. Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance. *By granting the rear yard setback variance, the building can meet the size requirement in the ordinance.*
6. The difficulty shall not be deemed solely economic. *No money will be generated as a result of granting this variance.*

Discussion: Dan Rossbach restated that the ZBA is granting a 20' variance to the rear yard setback, the structure must be 5' from the property line, and work must be significantly done within six months and completed within eight months.

Larry Fillinger seconded. Roll call vote: Rossbach, Fillinger, Manson-Dempsey, J. Lowe, D. Lowe—all yes. **Motion carried 5-0.**

ZBA Case #01-07—Patrick Marquardt, 3794 Cedar Point, Tax ID #4710-28-301-006

Annette McNamara said that progress continues to be made on this situation. She spoke with Robert Paul from the Livingston County Health Department, who's working with Boss Engineering. Mr. Paul has said he doesn't think there will be a problem. John Lowe said he has a concern with the wording on page 5, section B of the easement agreement, and would like the township's attorney to review. Dan Lowe asked if perk tests have been done on the property; Mr. Marquardt said yes. Ms. McNamara asked Mr. Marquardt for permission to have the township attorney contact his attorney; Mr. Marquardt said yes. Ms. McNamara will request something in writing from the LCHD. Also, if Mr. Marquardt will be adding a second story to the principal dwelling, the field should be designed with the additional square footage in mind. Larry Fillinger motioned for ZBA Case #01-07—Patrick Marquardt to table until the next ZBA meeting where another case is scheduled to obtain additional information from the Livingston County Health Department and the township's attorney. Linda Manson-Dempsey seconded.

Motion carried 5-0.

NEW BUSINESS

Larry Fillinger asked whether the variance given to Craig Whitney for the open air SUP is null and void. Annette McNamara said it's not clear whether the variance is given only to the applicant or if it goes with the property, although the ZBA worded the motion granting the variance to only allow for this specific activity. Bob Hanvey said variances going with the property has been held up in recent court cases. The ZBA members also discussed the Hare variance request #10-05 for parcel ID #10-26-200-051, and previous variances granted and whether they are still valid or not.

CALL TO THE PUBLIC

None.

ADJOURNMENT

Linda Manson-Dempsey motioned to adjourn the meeting at 9:00 p.m. Larry Fillinger seconded. **Motion carried 5-0.**

ZONING BOARD OF APPEALS - AUGUST 11, 2008

MEMBERS PRESENT: John Lowe, Dan Lowe, Larry Fillinger, Dan Rossbach, and Mike Smith (alternate)

MEMBERS ABSENT: Linda Manson-Dempsey

CALL TO ORDER

John Lowe called the meeting to order at 7:30 p.m.

APPROVAL OF AGENDA

Larry Fillinger motioned to approve the agenda as presented. Dan Rossbach seconded.

Motion carried 5-0.

MEMBERS PRESENT

The members of the Zoning Board of Appeals introduced themselves.

CALL TO THE PUBLIC

None.

APPROVAL OF MINUTES

July 7, 2008 Regular Meeting: Larry Fillinger motioned to approve the minutes as presented. Dan Rossbach seconded. **Motion carried 5-0.**

OLD BUSINESS

ZBA Case #01-07—Patrick Marquardt, 3794 Cedar Point, Tax ID #4710-28-301-006

Information is included in the packet from the Livingston County Health Department regarding this project. The proposed reserve septic system is acceptable; however, no additional second story living space is allowed. Mr. Marquardt said he will work with the LCHD regarding the second story addition. If approval can't be obtained, he will make the second story non-usable space. Dan Lowe asked Mr. Marquardt how long it would take him to complete the accessory building. Mr. Marquardt said three days. Dan Lowe confirmed that the principal structure and the accessory building will be the same height. Dan Rossbach motioned for ZBA Case #01-07—Patrick Marquardt, Tax ID #4710-28-301-006, that the principal structure will conform to Section 6.07 #5 within 18 months, and within 60 days applicant will provide the zoning administrator with a Certificate of Occupancy from the Livingston County Building Department for the accessory structure. Dan Lowe seconded. **Motion carried 5-0.**

Dan Rossbach motioned for ZBA Case #01-07—Patrick Marquardt, Tax ID #4710-28-301-006, to allow a two (2) foot variance from Section 8.04 E 3 a 2—Side Yard Setback, reducing the ten (10) feet required to eight (8) feet due to the size of the existing lot. Larry Fillinger seconded.

Motion carried 5-0.

NEW BUSINESS

ZBA Case #02-08—Lucy Road LLC, Tax ID #4710-01-200-024

Vern Brockway, the applicant and Dave Bittner, attorney for the applicant, were present. Mr. Bittner presented an updated copy of the site plan. The ZBA members discussed the variance requests.

Motion

Dan Rossbach motioned for ZBA Case #02-08 to reduce the front yard setback from 80' to 40'

per Section 9.01 E 3 a, granting a 40' variance for outdoor storage only, not structures, considering the following criteria:

1. How the strict enforcement of the provisions of the township zoning ordinance would cause an unnecessary hardship and deprive the owner of rights enjoyed by all other property owners owning property within the same zoning district. *The hardship exists due to the type of business and the fact that the property is zoned Highway Service.*
2. The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district. *The property is zoned Highway Service and it would be difficult to enforce an 80' setback with existing topography.*
3. The conditions and circumstances unique to the property were not self created. *This is an existing parcel and the conditions were not created by the applicant.*
4. Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district. *The requested variance does not confer special privileges and the 80' setback was intended for structures.*
5. Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance. *The zoning is Highway Service and there are no principal structures. For parking only, 80' is excessive.*
6. The difficulty shall not be deemed solely economic. *The variance request doesn't involve economics.*

Should the property change owners, the variance would be null and void if structures are planned. Dan Lowe seconded. Roll call vote: Smith, Fillinger, Rossbach, J. Lowe, D. Lowe—all yes. **Motion carried 5-0.**

Motion

Dan Rossbach motioned to relax Section 9.01 E 3 b, side yard setback, to reduce the setback to 10', granting a 25' variance provided only for low-profile vehicles not to exceed height of 10' for the NE section (277') of the site from the east corner of front property line.

1. How the strict enforcement of the provisions of the township zoning ordinance would cause an unnecessary hardship and deprive the owner of rights enjoyed by all other property owners owning property within the same zoning district. *Strict enforcement would cause a hardship due to the open air storage facility.*
2. The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district. *The conditions are unique and there is an existing privacy fence.*
3. The conditions and circumstances unique to the property were not self created. *The zoning is Highway Service and 35' is excessive for this type of business.*
4. Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district. *No variance requests have been denied in this area.*
5. Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance. *The requirement was intended for principal structures, not parking.*
6. The difficulty shall not be deemed solely economic. *The request is not based on economics.*

Mike Smith seconded. Roll call vote: Smith—yes; Fillinger—no; Rossbach—yes; J. Lowe—yes; D. Lowe—yes. **Motion carried 4-1.**

Motion

Dan Rossbach motioned to relax Section 6.13 in its entirety for landscape buffer due to the topography of the entire parcel, applied to the south property line, west property line, and 334'

of northwest property line. Dan Lowe seconded. Roll call vote: Smith—yes; Fillinger—no; Rossbach—yes; J. Lowe—yes; D. Lowe—yes. **Motion carried 4-1.**

Dan Rossbach amended the motion to refer the landscaping for 277' of the east property line back to the Planning Commission for consideration. Dan Lowe seconded. Roll call vote: Smith—yes; Fillinger—no; Rossbach—yes; J. Lowe—yes; D. Lowe—yes. **Motion carried 4-1.**

Motion

Larry Fillinger motioned to relax Section 14.04 D and 14.05 C for outside storage only, not for a structure. Dan Lowe seconded. Roll call vote: Smith, Fillinger, Rossbach, J. Lowe, D. Lowe—all yes. **Motion carried 5-0.**

ZBA Case #03-08—Marion Township/Painted Drive, Tax ID #4710-04-200-027

The zoning administrator asked the ZBA members for an interpretation of Sections 3.02 and 6.10 regarding front yard setback, and the definition of front lot line. The property owner of the lot in question was also present. After discussion, the ZBA members agreed with the zoning administrator's interpretation that the front lot line extends the full width of the lot.

John Lowe suggested that the property owner work with her builder to determine where her structures could be placed on the lot to determine what her variance request would be if one is required. Dan Lowe motioned that the front setback extends the entire length of the lot. Larry Fillinger seconded. Roll call vote: Mike Smith, Larry Fillinger, Dan Rossbach, John Lowe, Dan Lowe—all yes. **Motion carried 5-0.**

CALL TO THE PUBLIC

None.

ADJOURNMENT

Dan Rossbach motioned to adjourn the meeting at 9:35 p.m. Larry Fillinger seconded. **Motion carried 5-0.**

ZONING BOARD OF APPEALS - SEPTEMBER 8, 2008

MEMBERS PRESENT: John Lowe, Dan Lowe, Larry Fillinger, Dan Rossbach, and Linda Manson-Dempsey

MEMBERS ABSENT: None

CALL TO ORDER

John Lowe called the meeting to order at 7:30 p.m.

APPROVAL OF AGENDA

Larry Fillinger motioned to approve the agenda as presented. Linda Manson-Dempsey seconded. **Motion carried 5-0.**

MEMBERS PRESENT

The members of the Zoning Board of Appeals introduced themselves.

CALL TO THE PUBLIC

None.

APPROVAL OF MINUTES

August 11, 2008 Regular Meeting: Dan Rossbach motioned to approve the minutes as presented. Larry Fillinger seconded. **Motion carried 4-0-1** (Manson-Dempsey abstained.)

NEW BUSINESS

ZBA Case #04-08—Sandra Tournier, 1649 Sexton Road, Tax ID #4710-15-200-031

Mrs. Tournier's son said they are requesting a variance for a shared driveway so they can put a house in the back of the property. He said there is a side road to the west side of the property that could be used by emergency vehicles. Eventually, they would build a new bridge.

John Lowe said the Fire Department and Building Department will have issues with access. A letter from the Livingston County Road Commission stated a shared driveway could be permitted after a clear vision area is established. There is also correspondence from the Livingston County Drain Commission indicating they didn't feel another bridge crossing was necessary. Linda Manson-Dempsey asked if it's the ZBA's role to dictate requirements for emergency access. Mr. Lowe said no, he just wants the applicant to understand what may happen at other agencies. Mrs. Tournier would have to obtain a permanent deeded easement for access.

Call to the Public

Luanne Schoenfeld, 1597 Sexton, said she lives east of Mrs. Tournier's property. She asked about drainage and tree removal. Mrs. Tournier said it is her intention that this property will remain in the family.

Motion

Linda Manson-Dempsey motioned for ZBA Case #04-08 to approve the variance request for *Section 6.19 a 2*, considering the following criteria:

7. How the strict enforcement of the provisions of the township zoning ordinance would cause an unnecessary hardship and deprive the owner of rights enjoyed by all other property owners owning property within the same zoning district. *The property owners have enough acreage and road frontage—the hardship is from the Drain Commission's requirement.*
8. The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district. *The unique situation is the owner has two county drains to work around.*
9. The conditions and circumstances unique to the property were not self created. *The situation was not self created; Livingston County put the drains in years ago.*
10. Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district. *The two drains and bridges would cause difficulties.*
11. Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance. *Other owners are allowed to divide and use their property; the variance would allow the owners the same privilege.*
12. The difficulty shall not be deemed solely economic. *This project will cost the property owner money.*

Approval is conditional on removing the trees, obtaining a driveway permit from the Livingston County Road Commission, and bringing a legal description and survey showing flag lot on east side with detail on access points, a permanent easement for areas and permanent easement for driveway to be approved by the township attorney, and then forwarded to the Assessing Department. Dan Lowe seconded. Roll call vote: Fillinger, Manson-Dempsey, Rossbach, J. Lowe, D. Lowe—all yes. **Motion carried 5-0.**

ZBA Case #05-08—James & Shannon Hayes, 4906 Winding Way, Tax ID #4710-32-

100-014 Mr. Hayes said his family would like to put in a riding arena for his children. The total allowed based on the square footage of his home is 5,800 s.f. and they are requesting a 60' X 120' which is a 7,200 s.f. structure. Linda Manson-Dempsey said that 60' x 120' is the standard, although it can be done with a smaller area.

Call to the Public

Martin Marks, 4895 Winding Way, said he doesn't object if the arena is for their personal use, not for others. He's concerned about traffic, trailers, etc. Mrs. Hayes said their intention is that it will only be for their family.

Ronald Hill, 4760 Winding Way, asked what the structure would be made of. Mr. Hayes said a shingled roof with steel siding. Mr. Hill said he had no objections.

Motion

Dan Lowe motioned for ZBA Case #05-08 to approve the variance request for Section 6.07, to allow a 60' x 120' barn, due to practical difficulties of safety issues for riding arena for personal use, located 30' off of north property line with additional landscaping along the north property line.

1. How the strict enforcement of the provisions of the township zoning ordinance would cause an unnecessary hardship and deprive the owner of rights enjoyed by all other property owners owning property within the same zoning district.
2. The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district. *The circumstances are unique due to the topography.*
3. The conditions and circumstances unique to the property were not self created. *The owners did not create the situation.*
4. Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district.
5. Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance. *The safety factor for the arena needs to be considered. The intent of the ordinance was to not have outbuildings not in proportion to the primary residence. This structure will be out of sight.*
6. The difficulty shall not be deemed solely economic. *The larger building will cost more.*

Larry Fillinger seconded. Roll call vote: D. Lowe—yes; Rossbach—no; Manson-Dempsey—no; Fillinger—yes; J. Lowe—yes. **Motion carried 3-2.**

CALL TO THE PUBLIC

None.

ADJOURNMENT

Linda Manson-Dempsey motioned to adjourn the meeting at 8:35 p.m. Dan Rossbach seconded. **Motion carried 5-0.**

ZONING BOARD OF APPEALS - NOVEMBER 10, 2008

MEMBERS PRESENT: John Lowe, Dan Lowe, Larry Fillinger, Dan Rossbach, and Linda Manson-Dempsey

MEMBERS ABSENT: None

CALL TO ORDER

John Lowe called the meeting to order at 7:30 p.m.

APPROVAL OF AGENDA

Larry Fillinger motioned to approve the agenda as presented. Linda Manson-Dempsey seconded. **Motion carried 5-0.**

MEMBERS PRESENT

The members of the Zoning Board of Appeals introduced themselves.

CALL TO THE PUBLIC

None.

APPROVAL OF MINUTES

September 8, 2008 Regular Meeting: Linda Manson-Dempsey motioned to approve the minutes as presented. Larry Fillinger seconded. **Motion carried 5-0.**

NEW BUSINESS

ZBA Case #06-08—Roy & Jessica Caverly, 2070 Pinckney Rd., Tax ID #4710-11-400-005

John Lowe gave the ZBA members a brief synopsis on this unique situation. The property became a corner lot as an unintended consequence of the creation of Marion Meadows private road. As a result, what was once a 15 foot side yard setback became a 70 foot front yard setback along Marion Meadows private road. The Planning Commission will be addressing the zoning ordinance and suggesting new language. The Caverlys are requesting a 39 foot variance to the 70 foot front yard setback requirement. They would like to build a 3,000 square foot outbuilding and remove the existing structure.

Call to the Public

Chris and Nancy Endebrook, 155 Marion Meadows, were present to support the Caverlys. Mr. Endebrook said the Caverlys have been good neighbors, they keep their property clean, and they've gone above and beyond in placing screening along Marion Meadows private road.

Motion

Dan Lowe motioned for ZBA Case #06-08, Roy & Jessica Caverly, to approve a 39 foot variance on the front yard setback along Marion Meadows private road, *Section 8.02 F 3 a 1*, considering the following criteria:

1. How the strict enforcement of the provisions of the township zoning ordinance would cause an unnecessary hardship and deprive the owner of rights enjoyed by all other property owners owning property within the same zoning district. *This is a metes and bounds parcel, and not allowing them to use their property would constitute taking of the property.*
2. The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district. *The unique situation is there are few sites where private roads have been put in next to larger parcels.*
3. The conditions and circumstances unique to the property were not self created. *The road was put in by someone else, not the Caverlys.*
4. Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district. *This is a unique site with the private road close to the property line and the Planning Commission will address the language in the ordinance.*
5. Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance. *The ordinance was not intended to deprive property owners of the right to use their property.*
6. The difficulty shall not be deemed solely economic. *This difficulty is not solely economic.*

Larry Fillinger seconded. Roll call vote: Fillinger, Manson-Dempsey, Rossbach, J. Lowe, D. Lowe—all yes. **Motion carried 5-0.**

CALL TO THE PUBLIC

Linda Manson-Dempsey asked if the ZBA will be meeting in December. The zoning administrator said the yearly business meeting can wait until the next regularly-scheduled ZBA meeting.

ADJOURNMENT

Linda Manson-Dempsey motioned to adjourn the meeting at 7:55 p.m. Dan Rossbach seconded. **Motion carried 5-0.**