

**ZONING BOARD OF APPEALS - MINUTES**  
Monday, January 7, 2013

**MEMBERS PRESENT:** Dan Lowe, Larry Fillinger, Linda Manson-Dempsey, Greg Durbin,  
and Dan Rossbach (alternate)

**MEMBERS ABSENT:** John Lowe

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**CALL TO ORDER**

Linda Manson-Dempsey called the meeting to order at 7:30 p.m.

**APPROVAL OF AGENDA**

Larry Fillinger motioned to approve the agenda as presented. Greg Durbin seconded. **Motion carried 5-0**

**MEMBERS PRESENT**

The members of the Zoning Board of Appeals introduced themselves.

**CALL TO THE PUBLIC**

No response.

**APPROVAL OF MINUTES**

**December 3, 2012 Regular Meeting:** Linda Manson-Dempsey asked to have wording added to indicate she turned the meeting over to John Lowe when he arrived. Larry Fillinger motioned to approve the minutes as amended. Greg Durbin seconded. **Motion carried 4-0 (Dan Rossbach abstained.)**

**OLD BUSINESS**

None.

**NEW BUSINESS**

**ZBA Case #01-13—CD Okemos 10, 1442 Old Pinckney Rd. , Tax ID #4710-02-400-005**

Pat Keough from Ace Civil Engineering was present on behalf of the applicant, along with the applicants TJ Lekander and Emily Lekander. Mr. Keough said the subject property is the old RV center, now owned by Craig Whitney, and they need several variances to make the property usable. The applicants would like to have a drive-thru fast food restaurant, convenience store, and gas pumps.

Nick Patel, 1475 Old Pinckney Rd. , said he has concerns about the traffic that will be generated by the gas station.

After discussion, the board members decided to address each variance request separately.

Larry Fillinger motioned for Section 9.01 E (1) to relax the ordinance to allow a building to be constructed on the .97 acre parcel which is less than the 1 acre required by the ordinance. Greg Durbin seconded.

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

Dan Lowe asked the applicant if the requirement by the Livingston County Road Commission for a left-turn lane would prevent them from proceeding with the project. Mr. Keough said there has been some discussion that Mr. Lekander could establish an escrow account for future road improvements as there are some improvements already in the planning stages.

The variance request for Section 9.01 E (4) to allow an increase in the maximum lot coverage from 40% to 100% was discussed. The zoning administrator said she doesn't include pavement when calculating lot coverage, so that request was withdrawn.

Dan Lowe had concerns about the detention pond. Mr. Keough said the detention area will either have to be in the right-of-way or underground.

Dan Rossbach said it's difficult to consider granting variances based on a conceptual plan. Ms. Manson-Dempsey said many of the issues will be reviewed by the township's Planning Commission and the LCRC.

Dan Rossbach motioned for Section 9.01 E (3) a to reduce the front setback requirement for Old Pinckney Road from 80 feet to 0 feet for parking area, and the requirement for D-19 from 100 feet to 0 feet for parking area, eliminating both front-yard setbacks, as depicted in Ace Civil Engineering's drawing, Job 07011; no structure shall be closer than 15 feet on D-19 and 12 feet on Old Pinckney Road, and the variance granted is not valid for future applicants. The ZBA members considered 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 parcel has a unique configuration and was not created by the owner.*
2. The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district. *The conditions and circumstances are unique because of the shape of the parcel, and the overlapping setback requirements.*
3. The conditions and circumstances unique to the property were not self created. *The owner did not create the lot; the difficulties were created by the relocation of D-19.*
4. Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district. *The parcel shape is unique and similar variances have been granted in the past.*
5. Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance. *Granting this variance is not contrary to the spirit and intent of the zoning ordinance because strict adherence would prevent any structure from being built.*
6. The difficulty shall not be deemed solely economic. *This request is not economically driven.*

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

Dan Rossbach motioned to relax the requirements of Section 9.01 E (3) b on the north side of the property to allow reduction of the side yard setback from 25 feet to 4 feet for the required greenbelt, to allow for the parking area, not a structure, based on Ace Civil Engineering's drawing, Job 07011, and to allow an 18 foot setback for the canopy. The ZBA members considered granting the variance based on 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 parcel has a unique configuration and was not created by the owner.*
2. The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district. *The conditions and circumstances are unique because of the shape of the parcel, and the overlapping setback requirements.*
3. The conditions and circumstances unique to the property were not self created. *The owner did not create the lot; the difficulties were created by the relocation of D-19.*
4. Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district. *The parcel shape is unique and similar variances have been granted in the past.*
5. Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance. *Granting this variance is not contrary to the spirit and intent of the zoning ordinance because strict adherence would prevent any structure from being built.*
6. The difficulty shall not be deemed solely economic. *This request is not economically driven.*

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

The request for a variance to Section 17.04 A (2) to allow more than two driveways on one site was withdrawn.

Greg Durbin motioned to relax Section 17.04 B (3) to allow gas pumps to be within 28 feet of the road right-of-way. The ZBA members considered granting the variance based on 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 parcel has a unique configuration and was not created by the owner.*
2. The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district. *The conditions and circumstances are unique because of the shape of the parcel, and the overlapping setback requirements.*
3. The conditions and circumstances unique to the property were not self created. *The owner did not create the lot; the difficulties were created by the relocation of D-19.*
4. Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district. *The parcel shape is unique and similar variances have been granted in the past.*
5. Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance. *Granting this variance is not contrary to the spirit and intent of the zoning ordinance because strict adherence would prevent any structure from being built.*
6. The difficulty shall not be deemed solely economic. *This request is not economically driven.*

Larry Fillinger seconded. Roll call vote: Rossbach—no; Fillinger—yes; Manson-Dempsey—yes; Durbin—yes; Lowe—yes. **Motion carried 4-1.**

Dan Rossbach motioned to relax the requirements of Section 17.04 A (5) to allow three driveways, two off of Old Pinckney Road and one off of D-19, as depicted in Ace Civil Engineering's drawing, Job 07011, 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 parcel has a unique configuration and was not created by the owner.*
2. The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district. *The conditions and circumstances are unique because of the shape of the parcel, and the overlapping setback requirements.*
3. The conditions and circumstances unique to the property were not self created. *The owner did not create the lot; the difficulties were created by the relocation of D-19.*
4. Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district. *The parcel shape is unique and similar variances have been granted in the past.*

5. Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance. *Granting this variance is not contrary to the spirit and intent of the zoning ordinance because strict adherence would prevent any structure from being built.*
6. The difficulty shall not be deemed solely economic. *This request is not economically driven.*

Greg Durbin seconded. Roll call vote: Lowe—no; Durbin—yes; Manson-Dempsey—no; Fillinger—no; Rossbach—no. **Motion failed 1-4.**

Dan Rossbach motioned to relax the requirements of Section 17.04 B (1) to waive the additional land requirements due to lack of area, 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 parcel has a unique configuration and was not created by the owner.*
2. The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district. *The conditions and circumstances are unique because of the shape of the parcel, and the overlapping setback requirements.*
3. The conditions and circumstances unique to the property were not self created. *The owner did not create the lot; the difficulties were created by the relocation of D-19.*
4. Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district. *The parcel shape is unique and similar variances have been granted in the past.*
5. Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance. *Granting this variance is not contrary to the spirit and intent of the zoning ordinance because strict adherence would prevent any structure from being built.*
6. The difficulty shall not be deemed solely economic. *This request is not economically driven.*

Greg Durbin seconded. Roll call vote: Rossbach—yes; Fillinger—no; Manson-Dempsey—yes; Durbin—yes; Lowe—yes. **Motion carried 4-1.**

The variance requests for Section 15.3 C to allow signage in the public right-of-way due to the large front setback along Pinckney Road, and Section 17.12 D (4) to allow the maximum number of driveways to exceed two and to allow proposed driveways to be closer than 75 feet to the existing driveways across Old Pinckney Road, were withdrawn.

Larry Fillinger motioned to relax the requirements of Section 9.01 E (6) b to allow the proposed access drives along Old Pinckney Road to be located within 30 feet of the existing adjacent drives across the street, 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 parcel has a unique configuration and was not created by the owner.*
2. The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district. *The conditions and circumstances are unique because of the shape of the parcel, and the overlapping setback requirements.*

3. The conditions and circumstances unique to the property were not self created. *The owner did not create the lot; the difficulties were created by the relocation of D-19.*
4. Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district. *The parcel shape is unique and similar variances have been granted in the past.*
5. Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance. *Granting this variance is not contrary to the spirit and intent of the zoning ordinance because strict adherence would prevent any structure from being built.*
6. The difficulty shall not be deemed solely economic. *This request is not economically driven.*

Dan Rossbach seconded. Roll call vote: Rossbach—no; Fillinger—yes; Manson-Dempsey—yes; Durbin—yes; Lowe—yes. **Motion carried 4-1.**

The variance request for Section 9.01 E (6) e was withdrawn.

The requests for Sections 7.05 B and 7.05 C will be reviewed by the Planning Commission.

Larry Fillinger motioned to relax the landscape buffering requirements for Sections 6.13 B, 6.13 C, 6.13 D, 6.13 E, 6.13 F (6), 9.01 E (6) f, 14.05 D, and 17.12 C, except along the north border, where the applicant will possibly put in shrubs, and if the LCRC will allow, plant trees along D-19 and Old Pinckney Road, 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 parcel has a unique configuration and was not created by the owner.*
2. The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district. *The conditions and circumstances are unique because of the shape of the parcel, and the overlapping setback requirements.*
3. The conditions and circumstances unique to the property were not self created. *The owner did not create the lot; the difficulties were created by the relocation of D-19.*
4. Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district. *The parcel shape is unique and similar variances have been granted in the past.*
5. Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance. *Granting this variance is not contrary to the spirit and intent of the zoning ordinance because strict adherence would prevent any structure from being built.*
6. The difficulty shall not be deemed solely economic. *This request is not economically driven.*

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

Linda Manson-Dempsey read written comments from John Lowe and James Till, which will be attached to the minutes.

#### **CALL TO THE PUBLIC**

No response.

#### **ADJOURNMENT**

Larry Fillinger motioned to adjourn the meeting at 10:08 p.m. Dan Rossbach seconded.

**Motion carried 5-0.**

**ZONING BOARD OF APPEALS - MINUTES  
APRIL 1, 2013**

**MEMBERS PRESENT:** Dan Lowe, Larry Fillinger, Linda Manson-Dempsey, and Greg Durbin

**MEMBERS ABSENT:** Jack Lowe

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**CALL TO ORDER**

Linda Manson-Dempsey called the meeting to order at 7:34 p.m.

**APPROVAL OF AGENDA**

Larry Fillinger motioned to approve the agenda as presented. Greg Durbin seconded. Motion carried 4-0.

**MEMBERS PRESENT**

The members of the Zoning Board of Appeals introduced themselves.

**CALL TO THE PUBLIC**

No response.

**APPROVAL OF MINUTES**

**January 7, 2013 Regular Meeting:** Larry Fillinger motioned to approve the minutes as presented. Greg Durbin seconded. **Motion carried 4-0.**

**OLD BUSINESS**

None.

**NEW BUSINESS**

**ZBA Case #02-13—Harris/Romine, Painted Drive, Tax ID #4710-04-200-028**

James Harris, 203 S. Burkhart, was present on behalf of his brother, who owns the subject parcel. The owners are requesting a variance to the front yard setback requirement, from 75 feet to 40 feet. Dan Lowe said the proposed location of the house is the most practical place due to wetlands and drainage. Greg Durbin concurred with Mr. Lowe and said the requested setback would be consistent with others in the area. Although this parcel is located in Painted Drive, it is not part of the Turtle Creek subdivision, where a 35 foot front yard setback is required. Linda Manson-Dempsey read email comments from Jack Lowe, who felt the drainage issues have more to do with elevations.

**Call to the Public**

Dan Gerhard, 3152 Painted Drive, said he lives directly across the street and doesn't feel that the setback requested would be consistent with other homes. Dennis Purdy, 3168 Painted Drive, said the drain runs behind the house and there are drainage issues on any lot.

**Motion**

Larry Fillinger motioned for ZBA Case #02-13—Harris/Romine to relax *Section 8.02 F 3 a 1* and grant a 20 foot front yard variance (50 foot setback). The ZBA members considered 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 ZBA members considered the topography of the property in granting this variance.*
2. The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district. *The conditions and circumstances are unique because of the topography and drainage issues.*
3. The conditions and circumstances unique to the property were not self created. *The owner did not create the lot.*
4. Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district. *The granting of this variance will make this home comparable to others in the development.*

5. Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance. *Granting this variance will allow the applicant to build a similar house with a setback consistent with those in the neighborhood.*

6. The difficulty shall not be deemed solely economic. *This request is not economically driven.*

Dan Lowe seconded. Roll call vote: Fillinger, Manson-Dempsey, Durbin, Lowe—all yes.

**Motion carried 4-0.**

**CALL TO THE PUBLIC**

No response.

**ADJOURNMENT**

Larry Fillinger motioned to adjourn the meeting at 8:11 p.m. Dan Lowe seconded. **Motion carried 4-0.**

**May 6, 2013 - MINUTES**

**MEMBERS PRESENT: Dan Lowe, Larry Fillinger, Linda Manson-Dempsey, Greg Durbin, and Robert Peter (alternate)**

**MEMBERS ABSENT: Jack Lowe**

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**CALL TO ORDER**

Linda Manson-Dempsey called the meeting to order at 7:30 p.m.

**APPROVAL OF AGENDA**

Larry Fillinger motioned to approve the agenda as presented. Greg Durbin seconded. **Motion carried 5-0**

**MEMBERS PRESENT**

The members of the Zoning Board of Appeals introduced themselves.

**CALL TO THE PUBLIC**

No response.

**APPROVAL OF MINUTES**

**April 1, 2013 Regular Meeting:** Larry Fillinger motioned to approve the minutes as presented. Greg Durbin seconded. **Motion carried 5-0.**

**OLD BUSINESS**

None.

**NEW BUSINESS**

**ZBA Case #03-13—Barnwell, 2144 Norton Rd. , Tax ID #4710-03-200-033**

The owners, Joseph Barnwell and Jared Bickford, were present on behalf of this variance request. Jim Barnwell spoke on behalf of the owners, who are seeking variances for a front yard setback, accessory structure in the front yard, and two driveways. The accessory structure cannot be located behind the house because it's too low and wet, and they require a second driveway so it doesn't cut across the drain field. They feel the location of an accessory building is limited due to the existing natural features of the property.

Dan Lowe said he agrees with the second driveway, but feels there's no reason, other than economic, that the proposed building couldn't be located 20' back from what is proposed. Greg Durbin asked what the building will look like; Joe Barnwell said it won't be metal, vinyl-sided, shingled roof to match the house, with the doors facing Norton Road. The zoning administrator said that no comments or concerns were received from owners of neighboring parcels.

**Motion**

Larry Fillinger motioned for ZBA Case #03-13—Barnwell, to relax *Section 8.02 F 3 a #1, Section 6.07 #3, and Section 6.07 #6* and grant a 20-foot front yard variance (50-foot setback), to conform with neighboring parcels. The ZBA members considered 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 ZBA members considered the topography of the property in*

granting this variance.

2. The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district. *The conditions and circumstances are unique because of the topography and drainage issues.*

3. The conditions and circumstances unique to the property were not self-created. *The owner did not create the unique conditions and circumstances.*

4. Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district. *The granting of this variance will not confer special privileges.*

5. Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance. *Granting this variance will allow the applicant to build an accessory structure with a setback consistent with neighboring parcels.*

6. The difficulty shall not be deemed solely economic. *This request is not economically driven.*

Robert Peter seconded. Roll call vote: Fillinger—yes, Manson-Dempsey—yes, Peter—yes, Durbin—yes, Lowe—no. **Motion carried 4-1.**

**Motion**

Larry Fillinger motioned for ZBA Case #03-13—Barnwell, to relax *Section 6.19 #5*, to allow a second driveway as depicted contingent upon MDOT approval. The ZBA members considered 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 ZBA members considered the topography and location of the drain field in granting this variance.*

2. The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district. *The conditions and circumstances are unique because of the topography and location of drain field.*

3. The conditions and circumstances unique to the property were not self-created. *The owner did not create the unique conditions and circumstances.*

4. Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district. *The granting of this variance will not confer special privileges.*

5. Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance. *Granting this variance will allow the applicant to construct a second driveway to access the accessory structure.*

6. The difficulty shall not be deemed solely economic. *This request is not economically driven.*

Dan Lowe seconded. Roll call vote: Fillinger, Manson-Dempsey, Peter, Durbin, Lowe—all yes.

**Motion carried 5-0.**

**CALL TO THE PUBLIC**

No response.

**ADJOURNMENT**

Larry Fillinger motioned to adjourn the meeting at 8:05 p.m. Greg Durbin seconded. **Motion carried 5-0.**

**ZONING BOARD OF APPEALS**  
**MINUTES - August 12, 2013**

**MEMBERS PRESENT:** Larry Fillinger, Linda Manson-Dempsey, Greg Durbin, Larry Grunn, and Dan Lowe (arrived at 8:10 pm)

**MEMBERS ABSENT:** None

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**CALL TO ORDER**

Linda Manson-Dempsey called the meeting to order at 7:30 p.m.

**APPROVAL OF AGENDA**

Larry Fillinger motioned to approve the agenda as presented. Greg Durbin seconded. **Motion carried 4-0**

**MEMBERS PRESENT**

The members of the Zoning Board of Appeals introduced themselves.

**CALL TO THE PUBLIC**

No response.



## **APPROVAL OF MINUTES**

**May 6, 2013 Regular Meeting:** Larry Fillinger motioned to approve the minutes as presented. Greg Durbin seconded. **Motion carried 4-0.**

## **OLD BUSINESS**

None.

## **NEW BUSINESS**

### **ZBA Case #04-13—Pro Bros. for Pollard, 359 Timbermill Lane., Tax ID #4710-04-103-003**

The applicant was not present at the hearing. Linda Manson-Dempsey felt the letter of authorization for Don Provenzola from Pro Bros. to represent the applicant was not detailed enough. Mr. Provenzola was not present. All of the documentation from the applicant is included in the packet. Annette McNamara said the Planning Commission is reviewing this section of the ordinance and the requirements for roof pitch may be changed.

Jesse Cawthon, 472 Timbermill Lane, president of the homeowner's association, said the association would like the ZBA to consider denying the request. The HOA intends to take legal action against the applicant because the proposed design does not meet the subdivision's design standards.

#### **Motion**

Larry Fillinger motioned for ZBA Case #04-13—Pro Bros. for Pollard, to deny the request to relax *Section 6.22 C, the dwelling unit shall have a minimum 4:12 roof pitch on the main roof of the dwelling with not less than a six (6) inch overhang on the gable ends of roof. Roof pitches on unenclosed porches shall not be less than a 3:12 roof pitch.* Linda Manson-Dempsey seconded. Roll call vote: Fillinger—yes; Grunn—no; Manson-Dempsey—yes; Durbin—no. **Motion to deny failed 2-2.**

#### **Motion**

Greg Durbin motioned for ZBA Case #04-13—Pro Bros. for Pollard, to approve the request to relax Section 6.22 C of the zoning ordinance requiring a 4:12 roof pitch to allow a 1:12 roof pitch, 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 construction of the sunroom would not be possible without a variance.*
2. The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district. *The conditions and circumstances are unique due to the existing structure and the overhang.*
3. The conditions and circumstances unique to the property were not self-created. *The owner did not create the unique conditions and circumstances.*
4. Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district. *The granting of this variance will not confer special privileges; this is an individual request by the homeowner.*
5. Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance. *Granting this variance will allow the applicant to build a sunroom.*
6. The difficulty shall not be deemed solely economic. *This request does not appear to be economically driven.*

Larry Grunn seconded. Roll call vote: Fillinger—no; Grunn—yes; Manson-Dempsey—no; Durbin—yes. **Motion failed 2-2. Motion failed according to Section 5.06 G, which requires a majority vote of the members of the board.**

## **CALL TO THE PUBLIC**

Annette McNamara passed out a replacement page for the ZBA members' zoning ordinance book. The new meeting schedule was passed out and Ms. McNamara said to check the dates carefully. She also passed out additional information on the variance request from Lekander for the gas station. She explained why it appeared that so many variance requests were made; several of those requested were not actually necessary.

Dan Lowe asked the ZBA members to explain why they granted a variance for the accessory building on Norton Road when he feels it wasn't necessary.

Bob Harvey said the Planning Commission and Zoning Board of Appeals joint training by Carlisle Wortman is scheduled for some time in October and asked the ZBA members if they would be available; the ZBA members said yes.

**ADJOURNMENT**

Larry Fillinger motioned to adjourn the meeting at 8:25 p.m. Greg Durbin seconded. **Motion carried 5-0.**

**ZONING BOARD OF APPEALS- MINUTES  
DECEMBER 2, 2013**

**MEMBERS PRESENT: Larry Fillinger, Linda Manson-Dempsey, Greg Durbin, Larry Grunn, and Dan Lowe**

**MEMBERS ABSENT: None**

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**CALL TO ORDER**

Linda Manson-Dempsey called the meeting to order at 7:30 p.m.

**APPROVAL OF AGENDA**

Larry Fillinger motioned to approve the agenda as presented. Dan Lowe seconded. **Motion carried 5-0.**

**MEMBERS PRESENT**

The members of the Zoning Board of Appeals introduced themselves.

**CALL TO THE PUBLIC**

No response.

**APPROVAL OF MINUTES**

**August 12, 2013 Regular Meeting:** Larry Fillinger motioned to approve the minutes as presented. Dan Lowe seconded. **Motion carried 5-0.**

**OLD BUSINESS**

None.

**NEW BUSINESS**

**ZBA Case #05-13—Scott Lloyd, Lloyd Homes, for Mark & Kelly Raby, 5420 W. Schafer Rd., Tax ID #4710- 31-400-021**

Scott Lloyd from Lloyd Homes was present on behalf of the owner, who is requesting variances for construction of a 30' x 40' pole barn. The owner's property is located on a corner and has two front yard setbacks. The request is for a 20' variance on the Schafer Road setback requirement. They are also requesting a variance for the size of the building; because of the corner lot, the net lot size is reduced on both Schafer Road and Pingree Road and the size of the accessory structure is reduced more than on a lot with frontage on only one road. The proposed structure would be used for storage only, no animals, and would have steel siding the same color as the house and a shingled roof.

Michael Miller, 5972 Longview Lane, was present to object to the proposed building. He feels the building will block his view and is concerned about storage of business materials.

Mark Raby, the property owner, said he is closing down his business and the building would be used only for personal storage.

**Motion**

Dan Lowe motioned for ZBA Case #05-13 to approve the request to relax *Section 8.01 F 3 a* to grant a 20' variance on the Schafer Road front yard setback. Larry Grunn seconded. Roll call vote: Fillinger, Manson-Dempsey, Grunn, Lowe, Durbin—all yes. **Motion carried 5-0.**

After discussion, Dan Lowe motioned to rescind the previous motion. Larry Fillinger seconded. **Motion carried 5-0.**

**Motion**

Dan Lowe motioned for ZBA Case #05-13 to approve the request to relax *Section 8.01 F 3 a* to grant a 20' variance on the Schafer Road front yard setback, 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 corner lot with two front yard setbacks creates a situation that many other requests do not have. This section of the zoning ordinance should be reviewed by the Planning Commission.*
2. The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district. *The conditions and circumstances are unique due to the corner lot*

and two front yard setbacks.

3. The conditions and circumstances unique to the property were not self-created. *The conditions and circumstances were determined by the requirements for the reserve drain field and the driveway, and were not self-created.*

4. Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district. *The corner lot and right-of-way taken makes meeting the setbacks difficult.*

5. Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance. *A lot of this size in this zoning district was designed for an accessory structure of this size.*

6. The difficulty shall not be deemed solely economic. *This request does not appear to be economically driven.*

Larry Fillinger seconded. Roll call vote: Fillinger, Manson-Dempsey, Lowe, Grunn, Durbin—all yes.

**Motion carried 5-0.**

#### **Motion**

Dan Lowe motioned for ZBA Case #05-13 to approve the request to relax *Section 6.07 #1* to grant a 200 square foot variance to allow construction of a 30' x 40' barn, 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 ordinance allows a 30' x 40' building on a two-acre site and the corner lot creates the hardship.*

2. The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district. *There are only a few corner lots and many others have the ability to construct a 30' x 40' barn.*

3. The conditions and circumstances unique to the property were not self-created. *The fact that this is a corner lot takes away more of the buildable area of the lot, and this situation was not self-created.*

4. Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district. *The corner lot creates the situation and other properties this size can have a barn of similar size.*

5. Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance. *The intent of the ordinance is to allow buildings this size on two acres.*

6. The difficulty shall not be deemed solely economic. *This request does not appear to be economically driven.*

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

#### **Motion**

Larry Fillinger motioned for ZBA Case #05-13 to approve the request to relax *Section 6.07 #10* to allow construction of a 30' x 40' pole barn in the front yard on the Schafer Road side, considering the same criteria as the previous motion. Dan Lowe seconded. Roll call vote: Durbin—yes; Grunn—yes; Lowe—yes; Manson-Dempsey—yes; Fillinger—no. **Motion carried 4-1.**

#### **Annual Organizational Meeting**

Larry Grunn motioned to nominate Larry Fillinger as ZBA chairman. Dan Lowe seconded.

Roll call vote: Durbin, Grunn, Lowe, Manson-Dempsey, Fillinger—all yes. **Motion carried 5-0.**

Larry Fillinger motioned to nominate Linda Manson-Dempsey as ZBA vice chairman. Motion failed due to lack of second.

Larry Fillinger motioned to nominate Linda Manson-Dempsey as ZBA secretary. Motion failed due to lack of second.

Larry Fillinger motioned to nominate Dan Lowe as ZBA secretary. Linda Manson-Dempsey seconded.

Roll call vote: Fillinger, Manson-Dempsey, Lowe, Grunn, Durbin—all yes. **Motion carried 5-0.**

Dan Lowe motioned to nominate Greg Durbin as ZBA vice chairman. Larry Grunn seconded. Roll call vote: Durbin—yes; Grunn—yes; Lowe—yes; Manson-Dempsey—no; Fillinger—yes. **Motion carried 4-1.**

#### **CALL TO THE PUBLIC**

No response.

#### **ADJOURNMENT**

Larry Fillinger motioned to adjourn the meeting at 8:20 p.m. Linda Manson-Dempsey seconded. **Motion carried 5-0.**