

ZONING BOARD OF APPEALS
November 10, 2014 @ 7:30 p.m.
AGENDA AND MINUTES

CALL TO ORDER:

PLEDGE OF ALLEGIENCE:

APPROVAL OF AGENDA: *November 10, 2014*

INTRODUCTION OF MEMBERS:

CALL TO PUBLIC:

APPROVAL OF MINUTES FOR: *October 6, 2014 Regular Meeting*

OLD BUSINESS:

No Old Business

NEW BUSINESS:

- 1) *ZBA Case # 06-14 – Burchfield, Park & Pollesch, PC for Mark & Julie Clore – 3996 W. Coon Lake Road Tax ID# 4710-21-100-004*
- 2) *Annual Organizational Meeting*

CALL TO PUBLIC:

ADJOURNMENT:

MINUTES -NOVEMBER 10, 2014

MEMBERS PRESENT: Linda Manson-Dempsey, Claire Stevens, Dan Lowe, Larry Fillinger, and Larry Grunn

MEMBERS ABSENT: None

OTHERS PRESENT: Mike Kehoe, Township Attorney
Annette McNamara, Zoning Administrator

CALL TO ORDER

Larry Fillinger called the meeting to order at 7:30 p.m.

APPROVAL OF AGENDA

Linda Manson-Dempsey motioned to approve the agenda as presented. Larry Grunn 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

October 6, 2014 Regular Meeting: Linda Manson-Dempsey motioned to approve the minutes as presented. Claire Stevens seconded. **Motion carried 3-0** (Larry Fillinger and Larry Grunn abstained.)

OLD BUSINESS

None.

NEW BUSINESS

ZBA Case #06-14—Burchfield, Park & Pollesch, PC for Mark & Julie Clore, 3996 W. Coon Lake Road, Tax ID #4710-21-100-004

Amy Krieg from Burchfield, Park & Pollesch, PC, was present, along with the property owners, Mark & Julie Clore, to discuss the variance request. Ms. Krieg gave a short overview and said that Mark & Julie purchased the property from Mark's parents' estate. Their desire is to build a new home on the property (exhibit A), and they would like to position the house to overlook the pond and the evergreen trees planted by Mark's parents. The proposed new home is also positioned close to the existing pole barn due to Mark's medical issues, which make it difficult for him to walk. They eventually want to split the property so that their son can also build a home. The Clores have agreed to remove the old septic system and install a new one for the new home. They are requesting a variance to Section 6.07—Accessory Uses and Structures of the zoning ordinance to allow them to convert the existing dwelling into an accessory building. The zoning administrator is also asking the Zoning Board of Appeals for an interpretation of the variance.

The property owners said they are willing to remove the septic system for the old house, and record a restriction that would prohibit anyone from using that structure as a dwelling. They want to use the structure for storage only, and the existing garage as a woodworking shop for their son.

Claire Stevens asked if they would consider taking out the interior walls in the house; the owners said they would remove the bath and kitchen, but keep the family room.

Dan Lowe asked the Clores why they couldn't split the property, and then build the new house. It's possible they could get two or three lots. He also said they have other options, such as building on top of the old house, or putting in a private road.

Mike Kehoe clarified with the ZBA members that they are looking at two different variances: the location of the new house, and the use of the old house, and suggested the board members discuss each one separately.

Based on the correspondence from the Livingston County Health Department, the board members would like clarification from that entity that the new house could use the old drain field. The Clores said that Aaron Aumock from the LCHD visited the property and checked the drain field and well. However, the ZBA members didn't feel that this information was clear in the correspondence and the permit application from the Health Department.

Dan Lowe said he feels the situation is self-created and given the fact that there are three or four other options, he doesn't feel that granting a variance would be appropriate.

Linda Manson-Dempsey said she feels the request is financially motivated.

Call to the Public

Greg Durbin, 4389 Sundance Crossing, questioned the applicant's motivation, and if there is so much sentimental value attached to the existing home, why wouldn't they renovate? He fails to see where converting the existing house into an accessory structure increases the value.

Mrs. Clore said she's lived in other people's homes her whole life and now she wants to build a log home.

Dan Lowe restated that there are several options available: renovate the old house, split the parcel and build a new home, or split the parcel into multiple lots and put in a private road.

Bob Hanvey said that although the existing accessory building would be in front of the neighbor's principal dwelling, it is a pre-existing non-conforming structure.

Motion

Linda Manson-Dempsey motioned for ZBA Case #06-14—Burchfield, Park & Pollesch, PC for Mark & Julie Clore, 3996 W. Coon Lake Road, Tax ID #4710-21-100-004, to deny the variance request for Section 6.07, #3—Accessory Uses and 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 zoning ordinance allows for one principal structure per parcel. This is not an accessory structure, it is a principal structure. If it was considered an accessory structure, there would now be two accessory structures in the front yard. There is no hardship and the applicant is not being deprived rights enjoyed by others in the same district as they are not being prevented from building their home and they already have an existing accessory building.*
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 not unique to their property or applicable to other properties as other properties have one principal structure and may have an accessory structure.*
3. The conditions and circumstances unique to the property were not self-created. *The situation is self-created in that the property owners are basically trying to alter the definition of accessory structure. The house that they want to turn into an accessory building was built by Mr. Clore's parents.*
4. Why the requested variance will not confer special privileges than are denied other properties similarly situated in the same zoning district. *This is a special privilege in that what the applicant is requesting is to allow two accessory structures in the front yard.*
5. Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance. *The intent of the zoning ordinance is to allow flexibility in placement of accessory structures on larger parcels. The granting of the requested variance would allow two accessory structures in the front yard and that would be contrary to the spirit and intent of the ordinance.*
6. The difficulty shall not be deemed solely economic. *The applicant's request is based on economics, the cost to remove the principal structure/accessory structure.*

Discussion: There are no guarantees that the existing house on the property would not be used as a principal dwelling at some point in the future.

Dan Lowe seconded. Roll call vote: Stevens—yes; Manson-Dempsey—yes; Fillinger—yes; Grunn—yes; Lowe—yes.

Motion carried 5-0.

Motion

Linda Manson-Dempsey motioned to support the zoning administrator's interpretation of the zoning ordinance in saying the existing home on the property, which currently is being assessed as a principal dwelling and has been since 1980, cannot be converted to an accessory structure, and by granting the variance, the parcel would then have accessory structures with no principal dwellings, which is not allowed by the ordinance. The decision of the zoning administrator was property and maintained the spirit and integrity of the ordinance. Larry Grunn seconded. Roll call vote: Lowe, Grunn, Fillinger, Manson-Dempsey, Stevens—all yes. **Motion carried 5-0.**

Motion

Linda Manson-Dempsey motioned to grant a variance to allow a land use permit to be approved with the existing pole barn in the front yard, as shown on exhibits A & B, provided the existing principal structure on the property is demolished or the property is divided so the existing principal structure is on its own parcel.

If the above conditions were met and a new principal structure was built further north of the existing metal pole barn (accessory structure) shown on exhibit B, it would create a situation where the existing metal pole barn location would be in violation of 6.07 #3, meaning the existing metal pole barn would be closer to the front property line than the house on the adjacent property to the east, but a variance will be granted to allow the metal pole barn to remain in its existing location based upon the following findings:

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. *Construction of the log home with a walk-out overlooking the pond would allow the property owner to enjoy the natural beauty of the property. Parcels over five acres are allowed an accessory structure in the front yard provided the structure is not closer to the road than a house on an adjacent parcel. The existing pole barn was built prior to the house on the adjacent parcel.*
2. The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district. *The existing pole barn was built prior to Mark and Julie Clore owning the property and the existing pole barn was built prior to the house being built on the adjacent parcel.*
3. The conditions and circumstances unique to the property were not self-created. *The situation was not created by Mark and Julie Clore. It was created by the adjacent property owner when they built their home closer to the road than the pole barn.*
4. Why the requested variance will not confer special privileges than are denied other properties similarly situated in the same zoning district. *This is not a special privilege as parcels over five acres are allowed an accessory structure in the front yard provided the structure is not closer to the road than a house on an adjacent parcel.*
5. Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance. *The intent of the zoning ordinance is to allow flexibility in placement of accessory structures on larger parcels.*
6. The difficulty shall not be deemed solely economic. *The applicant's request is not based on economics.*

Dan Lowe seconded. Roll call vote: Stevens—yes; Manson-Dempsey—yes; Fillinger—yes; Grunn—yes; Lowe—yes.

Motion carried 5-0.

The zoning administrator informed the applicants that the land use permit can be granted in eight days.

Annual Organizational Meeting

Linda Manson-Dempsey motioned to nominate Larry Fillinger as Chairman of the Zoning Board of Appeals. Larry Grunn seconded. Roll call vote: Lowe, Grunn, Fillinger, Manson-Dempsey, Stevens—all yes. **Motion carried 5-0.**

Linda Manson-Dempsey motioned to nominate Claire Stevens as Vice Chairman of the Zoning Board of Appeals. Dan Lowe seconded. Roll call vote: Stevens, Manson-Dempsey, Fillinger, Grunn, Lowe—all yes. **Motion carried 5-0.**

Linda Manson-Dempsey motioned to nominate Dan Lowe as Secretary of the Zoning Board of Appeals. Claire Stevens seconded. Roll call vote: Lowe, Grunn, Fillinger, Manson-Dempsey, Stevens—all yes. **Motion carried 5-0**

The zoning administrator said she will send a copy of the draft minutes to Mike Kehoe for review prior to posting.

CALL TO THE PUBLIC

No response.

ADJOURNMENT

Linda Manson-Dempsey motioned to adjourn the meeting at 9:22 pm. Dan Lowe seconded. **Motion carried 5-0.**