

**MARION TOWNSHIP
ZONING BOARD OF APPEALS
DECEMBER 2, 2013**

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

MEMBERS ABSENT: None

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.**