

ZONING BOARD OF APPEALS - JANUARY 9, 2006

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

MEMBERS ABSENT: None

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

CALL TO ORDER

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

APPROVAL OF AGENDA

Linda Manson-Dempsey asked for an update on the Radick situation. Annette McNamara said she received a letter from the Radicks' attorney and a copy of a letter/invoice from a veterinarian stating that 12 dogs were debarked on September 16, 2005. Ms. McNamara talked with the neighbors, who haven't heard much lately. Ms. McNamara will check on the situation again in the late spring. 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

November 7, 2005 Regular Meeting: Linda Manson-Dempsey motioned to approve the minutes as presented. Dan Rossbach seconded. **Motion carried 5-0.**

December 5, 2005 Regular Meeting: Larry Fillinger motioned to approve the minutes as presented. Linda Manson-Dempsey seconded. **Motion carried 5-0.**

NEW BUSINESS

ZBA Case #12-05—Jimmie & Jodie McCracken

John Lowe asked Jimmie McCracken to summarize the situation. Mr. McCracken said he called the Livingston County Building Department and was told he didn't need a permit to put up a pole barn. Mr. McCracken said he didn't know the township required a permit. At the time his house was built, the builder took care of everything. John Lowe said the aerial photos and the drawings submitted show the pole barn about 26 feet from the lot line. Mr. McCracken said that's correct. Linda Manson-Dempsey asked who Mr. McCracken talked to at the building department. Don Ewald, who was present with Mr. McCracken, said he believes it was Bill Mosely. Ms. Manson-Dempsey asked who built the barn. Mr. McCracken said that Mr. Ewald's crew built it as a side job. John Lowe said a variance was granted in 2000 for a breezeway and garage, which Mr. McCracken was aware of. The variance he's requesting for the pole barn is 74 feet. Ms. Manson-Dempsey asked how long the barn has been up. Mr. McCracken said about nine months. Ms. Manson-Dempsey said that makes the situation 100% self-created. Mr. Ewald said he talked with the building department about agriculture zoning. The ZBA members all agreed that the building department wouldn't have advised Mr. McCracken to build without a permit. The ZBA discussed alternate locations for the barn. Mr. McCracken feels this is the only suitable location. The ZBA members feel there are alternative locations. Larry Fillinger suggested purchasing 74 feet of the neighbor's parcel to make the barn conforming. Mr. McCracken said he's buying the neighbor's house next year. Mr. McCracken asked about having the property zoned agricultural. John Lowe explained that the township doesn't have agricultural zoning.

Motion

Linda Manson-Dempsey motioned to deny ZBA Case #12-05, Parcel ID 4710-18-200-035, based on the following criteria:

- 1. *How the strict enforcement of the provisions of the township's 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 applicant has not provided sufficient proof that would entitle him to a variance. The applicant is not being deprived of any rights commonly enjoyed by other property owners in the district in regard to the placement of the pole barn.

- 2. *The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district.*

There are no unique conditions or circumstances. This is a standard flag lot.

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

The conditions and circumstances appear to be totally self-created.

- 4. *Why the requested variance would not confer special privileges that are denied other properties similarly situated in the same zoning district.*

Granting the requested variance would give special privileges to this property that would not be enjoyed by other people with the same zoning.

- 5. *hy the requested variance would not be contrary to the spirit and intent of this zoning ordinance.*

Granting the variance would be contrary to the spirit and intent of the zoning ordinance.

- 6. *The difficulties shall not be deemed solely economic.*

Economics are not an issue in this situation.

Larry Fillinger seconded. Roll call vote: Dan Rossbach, Linda Manson-Dempsey, Larry Fillinger, John Lowe, Dan Lowe—all yes. **Motion to deny carried 5-0.**

Mr. McCracken asked if he bought the property in front of his, is it fine? John Lowe said no.

Mr. McCracken asked about adding another garage to his house to extend it over. Mr. Lowe said it has to stay behind the front of the house. He advised Mr. McCracken to discuss the options with the zoning administrator and submit drawings for review.

CALL TO THE PUBLIC

None.

ADJOURNMENT

Linda Manson-Dempsey motioned to adjourn the meeting at 8:01 p.m. Larry Fillinger seconded. **Motion carried 5-0.**

ZONING BOARD OF APPEALS - MARCH 6, 2006

MEMBERS PRESENT: John Lowe, Dan Lowe, Linda Manson-Dempsey (part of meeting), Larry Fillinger and Dan Rossbach

MEMBERS ABSENT: None

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

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 9, 2006 Regular Meeting: Larry Fillinger motioned to approve the minutes as presented. Linda Manson-Dempsey seconded. **Motion carried 5-0.**

NEW BUSINESS

ZBA Case #01-06—International Transmission Company (Madrid Station)

Donna Zalewski from International Transmission Company was present to ask for an interpretation of the zoning ordinance. ITC owns and operates the high voltage transmission lines. They would like to expand the Madrid Station to increase the capacity and reliability of the electric transmission station for this area. ITC feels this is an essential service and is therefore exempt from the requirements of the zoning ordinance. John Lowe asked Mike Kehoe to comment on Carlisle/Wortman's review letter. Mr. Kehoe said there are two different issues before the ZBA and that's how Carlisle/Wortman prepared its review. There is a request for a variance because the use is non-conforming, and ITC is asking for an increase in the non-conforming use. The other issue is that ITC would like an interpretation from the ZBA as to whether or not they meet the definition of "essential service." If the ZBA determines that the operation is an essential service, then the variance aspects don't need to be addressed. Ms. Zalewski provided some background on the structure. It's an 840 square foot control center that houses relay controls. The controls need to have weatherproof covering. John Lowe said that OHM, the township engineer, was somewhat concerned about the guardrail along the embankment. Ms. Zalewski said ITC is willing to put the guardrail in along the driveway, and she provided drawings. They will also provide the legal description for the transmission corridor. Mr. Lowe said if it is determined that this is an essential service, he would still like the township to be able to review the site plan. Mr. Kehoe said they would still have to get a land use permit. Linda Manson-Dempsey asked what area would benefit from the upgrade. Ms. Zalewski said it would provide an update for all of Livingston County. Dan Rossbach asked how long this station would be adequate for the county. Ms. Zalewski said their engineers have done 15-20 year load projections. Ms. Zalewski explained that when DTE had the system, they spent a lot of their budget on storms and customer call centers, because they were always responding to reactive situations. When the blackout happened, the Federal Energy Regulatory Commission said the grid needed to be upgraded, and they offered incentives for local utilities to sell off transmission assets. All of ITC's capital budget dollars are allocated to building transmission, and rebuilding the grid in southeastern Michigan. ITC's engineer, Steve Watros, reviewed the drawings and explained the operation. Two residents, Kristie Bergman, 2788 Pingree, and Nora Hretz-Whitefoot, 2853 Dutcher, reviewed the drawings and posed questions to the ZBA and Mr. Watros.

Motion

Dan Lowe motioned to determine, for ZBA Case #01-06—International Transmission Company, that this is an essential service based on this request, and that ITC will comply with the three conditions in OHM's March 6 review letter, and they will go through administrative review when obtaining a land use permit as suggested by Carlisle/Wortman in March 2, 2006 review letter. Larry Fillinger seconded. Roll call vote: Larry Fillinger, Dan Rossbach, John Lowe, Dan Lowe—all yes. **Motion carried 4-0.**

CALL TO THE PUBLIC

None.

ADJOURNMENT

Larry Fillinger motioned to adjourn the meeting at 8:15 p.m. Dan Rossbach seconded. **Motion carried 4-0.**

ZONING BOARD OF APPEALS - OCTOBER 2, 2006

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

MEMBERS ABSENT: None

OTHERS PRESENT: Annette McNamara, Zoning Administrator

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

March 6, 2006 Regular Meeting: Larry Fillinger motioned to approve the minutes as presented. Dan Rossbach seconded. **Motion carried 5-0.**

NEW BUSINESS

ZBA Case #02-06—Randall & Joyce Campbell, Tax ID #4710-36-301-011

Mr. Campbell said they are currently using the coat closet for a computer room. They would like to add a 10' x 10' front porch so they can renovate inside the home. The proposed porch would be in line with the neighboring homes.

Discussion: Dan Rossbach asked about possibly expanding on the rear of the house. Annette McNamara said that's where the septic is located. John Lowe said the houses in this area were built when the front setback requirement was 70 feet.

Motion

Larry Fillinger motioned to relax Section 8.01 F 3 a of the Township Zoning Ordinance by allowing a variance of 26 1/2 feet to allow construction of a 10' x 10' porch, which is a variance to the front yard setback, considering the following criteria:

1. *How the strict enforcement of the provisions of the township's 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.* Denying this variance would deprive the owner of rights enjoyed by other property owners.
2. *The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district.* The circumstances were created by a change in the zoning ordinance from a 70-foot front yard setback to a 100-foot setback.
3. *The conditions and circumstances unique to the property were not self-created.*
4. *Why the requested variance would not confer special privileges that are denied other properties similarly situated in the same zoning district.* Other homes in the area are closer to D-19 than this property.

5. *Why the requested variance would not be contrary to the spirit and intent of this zoning ordinance.*
6. *The difficulties shall not be deemed solely economic.*

This variance applies to Section 19.04 A based on the same criteria. Dan Lowe seconded. Roll call vote: Larry Fillinger, Linda Manson-Dempsey, Dan Rossbach, John Lowe, Dan Lowe—all yes. **Motion carried 5-0.**

CALL TO THE PUBLIC

None.

ADJOURNMENT

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

ZONING BOARD OF APPEALS - NOVEMBER 6, 2006

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

MEMBERS ABSENT: Dan Rossbach

OTHERS PRESENT: Annette McNamara, Zoning Administrator

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 4-0.**

MEMBERS PRESENT

The members of the Zoning Board of Appeals introduced themselves.

CALL TO THE PUBLIC

None.

APPROVAL OF MINUTES

October 2, 2006 Regular Meeting: Larry Fillinger motioned to approve the minutes as presented. Linda Manson-Dempsey seconded. **Motion carried 4-0.**

NEW BUSINESS

ZBA Case #03-06—George Jappaya, 1600 Pinckney Road, Tax ID #4710-02-400-013

Noah Birmelin, from Boss Engineering, was present on behalf of the applicant. They are asking for two variances: *Section 15.03—Signs in Commercial or Industrial Districts, subsection D—Wall Signs*; and *Section 6.08—One Building to a Lot*.

John Lowe said the Planning Commission had discussed possibly amending the ordinance, and suggested that the variance request related to Section 6.08 be postponed until the Planning Commission has the opportunity to discuss changes. Linda Manson-Dempsey motioned, for ZBA Case #03-06, to postpone the variance request for Section 6.08 until the applicant requests that it be on an agenda. Larry Fillinger seconded. **Motion carried 4-0.**

John Lowe reviewed the township attorney's November 4, 2006 letter regarding the variance request for Section 15.03. The attorney suggested allowing each unit to have a sign, with the square footage of the sign based on 10% of the frontage of the unit, not to exceed 36 square feet. The Planning Commission will also address this section of the ordinance. If changes are made that are more flexible, the new ordinance would apply.

Call to the Public

John LaLonde, 958 Spirea: Mr. LaLonde asked of the signs would be illuminated. Mr. Jappaya said they would be lit from within, not externally lit. Mr. LaLonde asked how levels the office building would have. Mr. Brimelin said two. Mr. LaLonde asked about parking lot lighting. John Lowe said it would only have "down" lighting. **Mary Priebe, 946 Spirea:** Mrs. Priebe asked what the existing building will look like. Mr. Brimelin said the existing building's façade would be remodeled to match the addition. Close Call to the Public

Motion

Larry Fillinger motioned, for ZBA Case #03-06—George Jappaya, Tax ID #4710-02-400-013, to relax Section 15.03 D of the Township Zoning Ordinance, to allow multiple signs for this building that contains 11 distinct units for separate uses. A separate wall sign shall be permitted for each such sign but no sign shall exceed 10% of the wall area to which the sign is affixed. A total of 13 signs will be allowed, with 11 on the front façade, one on the north side of the building, and one on the south side. The signs shall be internally illuminated. This variance is granted for Phase 1 of the development, considering the following criteria:

1. *How the strict enforcement of the provisions of the township's 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 developer is allowed the rights of others to development their property and it's not self-created.
2. *The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district.*
3. *The conditions and circumstances unique to the property were not self-created.*
The conditions and circumstances were not self-created.
4. *Why the requested variance would not confer special privileges that are denied other properties similarly situated in the same zoning district.*
This is unique in that there are multiple tenants in one building.
5. *Why the requested variance would not be contrary to the spirit and intent of this zoning ordinance.*
The variance is not contrary to the spirit and intent of the zoning ordinance. The building will house multiple tenants. The development is in an area that allows for multiple tenants.
6. *The difficulties shall not be deemed solely economic.*
This item is not an issue.

Dan Lowe seconded. Roll call vote: Linda Manson-Dempsey, John Lowe, Larry Fillinger, Dan Lowe—all yes. **Motion carried 4-0.**

CALL TO THE PUBLIC

None.

ADJOURNMENT

Linda Manson-Dempsey motioned to adjourn the meeting at 8:15 p.m. Dan Lowe seconded.

Motion carried 4-0.

ZONING BOARD OF APPEALS - DECEMBER 4, 2006

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

MEMBERS ABSENT: None

OTHERS PRESENT: Annette McNamara, Zoning Administrator

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

November 6, 2006 Regular Meeting: Larry Fillinger asked the recording secretary to review the tapes from the November 6 meeting pertaining to the motion (items #1-6). Linda Manson-Dempsey motioned to table this item. Larry Fillinger seconded. **Motion carried 5-0.**

OLD BUSINESS

ZBA Case #01-05—Dennis Gottschalk, Mason Road, Tax ID #4710-04-200-015

Jim Barnwell from Desine, Inc. was present on behalf of the applicant to request an extension to the variance that was granted in April 2005. Dan Lowe asked why there was no access to Turtle Creek. Mr. Barnwell said because of sight distance issues. Dan Rossbach asked about the breakaway gate.

Call to the Public

John Carson, 251 Fairhill: Mr. Carson is a resident of Maple Farms and had some questions regarding the roads.

(Close Call to the Public)

Motion

Dan Rossbach motioned to extend the variance, for an additional 24 months from the date of this meeting (12/04/06) to Section 6.20 H allowing 36 units, which was granted at the April 4, 2005 ZBA meeting for ZBA Case #01-05, per the criteria stated in the April 4, 2005 minutes. Larry Fillinger seconded. Roll call vote: Larry Fillinger, Linda Manson-Dempsey, Dan Rossbach, John Lowe—all yes; Dan Lowe—no. **Motion carried 4-1.**

CALL TO THE PUBLIC

None.

ADJOURNMENT

Linda Manson-Dempsey motioned to adjourn the meeting at 7:45 p.m. Dan Rossbach seconded. **Motion carried 5-0.**