

ZONING BOARD OF APPEALS - FEBRUARY 5, 2007

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

MEMBERS ABSENT: None

OTHERS PRESENT: Annette McNamara, Zoning Administrator
Robert W. Hanvey, Supervisor

CALL TO ORDER

John Lowe called the meeting to order at 7:32 p.m.

APPROVAL OF AGENDA

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

MEMBERS PRESENT

All members were present.

CALL TO THE PUBLIC

No response.

APPROVAL OF MINUTES

Larry Fillinger motioned to approve the November 6, 2006 regular meeting minutes as presented. Linda Manson-Dempsey seconded. **Motion Carried 4-0-1. Dan Rossbach abstained.**

Linda Manson-Dempsey motioned to approve the December 4, 2006 minutes as presented. Larry Fillinger seconded. **Motion Carried 5-0.**

OLD BUSINESS

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

John Lowe asked if the paperwork in front of all Zoning Board of Appeals members was submitted today. Annette McNamara answered yes. John Lowe asked Patrick Marquardt to summarize his request for a variance. Patrick Marquardt stated the Livingston County Department of Public Health (LCDPH) has mandated a new septic and well for the cold storage garage he is building. He has had Keller Well Drilling, Inc. to assess his well and Louis Wellman and Sons excavation company has done a soil evaluation. The LCDPH is recommending and engineered field in the same location as the existing field and a well in a different location than the existing. John Lowe stated the Zoning Board of Appeals will need to see the system laid out by a professional engineering company and approved by the LCDPH. Once those requirements have been met the Zoning Board of Appeals can review the variance request for a reduction of the side yard set back. This information is necessary prior to reviewing the variance request. If the variance is granted and the building is constructed there may be no room for a functional septic field. The building may have to be torn down to accommodate the new field location. Patrick Marquardt asked if the Zoning Board of Appeals can approve the variance contingent upon him upgrading the septic field in the future. John Lowe told the applicant he can ask the LCDPH if they would be willing to give contingent approval, it appears from the paperwork the system is saturated. John Lowe asked the Zoning Board of Appeals members if they would agree to table this agenda item until the LCDPH has given approval or granted a contingency. Linda Manson-Dempsey questioned the Livingston County Building Department (LCBD) notice of violation. Can Patrick Marquardt meet the LCBD ordinances? Patrick Marquardt said the LCBD is asking that he keep them in the loop. Dan Rossbach asked if the building is already standing.

Patrick Marquardt answered yes and asked if he could continue to install the windows in the accessory structure. The Zoning Board of Appeals answered no. John Lowe opened the call to the public. There was no response. Larry Fillinger motioned to table Zoning Board of Appeals Case # 01-07 for a maximum of six months from today to allow the applicant time to work out issues with the LCDPH and return to the Zoning Board of Appeals for further review of variance request. Linda Manson-Dempsey seconded. **Motion Carried 5-0.**

Call to the Public

No response.

ADJOURNMENT

Linda Manson-Dempsey motioned to adjourn the meeting at 7:48 p.m. Larry Fillinger seconded.

Motion

Carried 5-0.

ZONING BOARD OF APPEALS - APRIL 2, 2007

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

MEMBERS ABSENT: None

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

CALL TO ORDER

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

APPROVAL OF AGENDA

Linda Manson-Dempsey motioned to approve the agenda as amended. 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

February 5, 2007 Regular Meeting: Linda Manson-Dempsey motioned to approve the minutes as presented. Dan Rossbach seconded. **Motion carried 5-0.**

OLD BUSINESS

ZBA Case #02-07—Patrick & Judy Keough, Brighton Road, Tax ID #4710-25-300-

004 Brad Maynes, attorney for Patrick & Judy Keough, was present on behalf of his clients. Mr. Maynes said the Keoughs are creating a tree farm on their 20-acre parcel of land. They constructed a pole barn, purchased a tractor and attachments, prepped the land, and have purchased tree stock. Mr. Maynes said it is his position that his clients are exempt from Sections 4.03 and 6.07 of the township’s zoning ordinance under the Michigan Right to Farm Act. John Lowe said he thought the trees had already been planted. Linda Manson-Dempsey asked when the trees had been purchased and when the barn had been constructed. Mr. Keough said the barn was started in late 2005 and completed in 2006. Mr. Keough said he had been denied a land use permit by the previous zoning administrator because there is no principal dwelling on the property. Mr. Keough said the trees were ordered 2/6/07 and will be delivered 4/15/07. Dan Rossbach asked if the pole barn meets the setback requirements. Mr. Keough said yes. John Lowe asked Mike Kehoe if the fact that the trees aren’t planted yet makes a difference. Mr. Kehoe said probably not, but it could be premature to grant a variance. Mr. Maynes said

the Right to Farm Act includes starting as well as continuing a farm operation, and the definition does use the words "at any time." John Lowe asked what happens if the farm operation discontinues. Mr. Kehoe said the township would deal with that situation if it arises. Dan Rossbach asked what the main purpose of the building is. Mr. Keough said to store his equipment. Larry Fillinger suggested that the applicant provide a timeline of this project. Dan Lowe said that the typical planting for a nursery is 1,100 trees per acre. Annette McNamara will schedule a visit to the site to verify that the trees have been planted, and Linda Manson-Dempsey will accompany her.

Motion

Linda Manson-Dempsey to table ZBA Case #02-07 until the July ZBA meeting to allow the applicant to plant the trees, provide a plot plan depicting the pole barn, and provide information on when the pole barn was constructed. Larry Fillinger seconded. **Motion carried 5-0.**

CALL TO THE PUBLIC

The Zoning Board of Appeals wants the record to reflect that Jimmie and Jodie McCracken were advised about the deadline to apply to the ZBA for this meeting, via certified mail, and letters were also sent to the McCrackens by regular first-class mail, postage prepaid, with proof of mailing, further advising them of the meeting date, time and information needed. The McCrackens have not responded to the township or supplied information, and no calls were received.

ADJOURNMENT

Linda Manson-Dempsey motioned to adjourn the meeting at 8:05 p.m. Dan Rossbach seconded. **Motion carried 5-0.**

ZONING BOARD OF APPEALS - JUNE 4, 2007

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

MEMBERS ABSENT: Larry Fillinger

OTHERS PRESENT: Annette McNamara, Zoning Administrator

CALL TO ORDER

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

APPROVAL OF AGENDA

Linda Manson-Dempsey motioned to approve the agenda as amended. Dan Rossbach 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

April 2, 2007 Regular Meeting: Linda Manson-Dempsey motioned to approve the minutes as presented. Dan Rossbach seconded. **Motion carried 4-0.**

NEW BUSINESS

ZBA Case #03-07—William & Colleen Harden, 2435 Sharma Lane, Tax ID #4710-16-101-001

Mr. Harden said he is requesting a variance for a side yard setback. Due to the shape of his lot and placement of the house, and the location of the septic and drain field, he is asking for a variance to allow a pole barn with a 5' side yard setback.

John Lowe said he was unable to accurately measure because there weren't any stakes. Mr. Harden said he did place stakes, but they were accidentally removed. Mr. Lowe said that is a problem because the ZBA needs to verify everything before granting a variance.

Motion

Linda Manson-Dempsey motioned to table ZBA Case #03-07 until the July 9, 2007 ZBA meeting. The applicant will stake the proposed building, drain field, and expose the corners of the septic tank by Sunday, June 10, 2007, for the ZBA members to inspect on Monday, June 11, 2007. Dan Rossbach seconded. **Motion carried 4-0.**

ZBA Case #04-07—Ronald & Lisa Lawhead, 4641 Cedar Lake Road, Tax ID #4710-29-401-012

Mr. Lawhead was present to request a side yard setback variance to build an addition to his house. The proposed addition would be 6' from the lot line on one end of the house and 7' on the other end. He said he has an Advantech System and he was concerned about being able to perform maintenance if necessary. Mr. Lawhead talked with the company that installed it and they have no problem with the addition. He talked with the Health Department and they approved the addition. John Lowe said he also talked with Diane McCormick from the Health Department and they aren't concerned about the accessibility issue. Dan Lowe asked about the For Sale sign. Mr. Lawhead said they have decided to stay if they can put on the addition.

Motion

For ZBA Case #04-07, Ron & Lisa Lawhead, Linda Manson-Dempsey motioned to approve the request for a four (4) foot lot line variance on the south end of the property and a three (3) foot side yard variance on the north end, to build an attached garage, family room and bathroom, and 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 of the zoning ordinance would cause an unnecessary hardship because of the dimensions and layout of the lots in the subdivision.
2. *The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district.* It is a lake lot that was created before the ordinance went into effect.
3. *The conditions and circumstances unique to the property were not self created.* The 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.* Granting the variance will allow the owners to use their property as people surrounding them do.
5. *Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance.* The variance would not be contrary to the spirit and intent of the zoning ordinance.
6. *The difficulty shall not be deemed solely economic.* The difficulty is not solely economic.

Dan Rossbach seconded. Roll call vote: Manson-Dempsey, Rossbach, J. Lowe, D. Lowe—all yes. **Motion carried 4-0.**

ZBA Case #05-07—Craig Whitney, 1442 Old Pinckney Road, Tax ID #4710-02-400-005

Pat Keough from Advantage Engineering was present on behalf of the applicant, Craig Whitney. Mr. Whitney was unable to attend this meeting. The realtor, Ron Sipes, was also present. Mr. Whitney is considering purchasing the RV Center property for purposes of putting in a restaurant. It's a triangle-shaped parcel across from the Best Western. Mr. Keough showed an aerial view of the property. The difficulty is there is a large right-of-way, 100' setback off of

D-19, an 80' setback from Old Pinckney Road. With those restrictions, the property isn't usable. He presented a concept plan for a building approximately 4,000-4,500 square feet. That is the minimum required to make it successful. If the same zoning was in a situation with a 66' right-of-way and 100' setback, the building would be the same dimensions from the corner to the edge of the two-lane road, and therefore, the intent of the ordinance is still being met in terms of how far the building is off the edge of the road. If the variance requests are successful, then Mr. Whitney will move forward on the purchase of the property. John Lowe asked about managing storm water. Mr. Keough said they would probably have to put in underground detention. Mr. Lowe wanted to make sure the prospective owner was aware of this requirement. Mr. Keough said yes. He feels this would be a big improvement on what is currently on the property. Linda Manson-Dempsey asked if there would be a drive-thru. Mr. Keough said no. Mr. Lowe said that would be an issue for the Planning Commission to discuss. He asked Mr. Keough if they had gotten as far as a floor plan. He said the ZBA would like to see something that shows the minimum impact, the smallest building that can be used. Mr. Keough said the applicant is in a catch-22 situation. If he can't get the variances, then he doesn't want to buy the property. Mr. Keough said they looked at five different possibilities, and this is the only thing that seemed to work. Mr. Whitney talked with the restaurant people who have done several of these types of restaurant and they said 4,000-4,500 would be the minimum. Mr. Lowe asked if the existing building would be used or would they demolish it. Mr. Keough said it would be a demolition. The board members discussed parking and the proposed driveway. They would eliminate the old driveway. The Livingston County Road Commission has approved the proposed driveway. Mr. Lowe asked if delivery trucks would be able to maneuver. Mr. Keough said the restaurant would be open for lunch and dinner and deliveries would be done in the mornings. Mr. Sipes said he feels this proposal would be an improvement for this parcel. Mr. Lowe concurred. Mr. Lowe said the township received a letter today from the township's attorney that said a variance could be granted based on this specific site plan, and it doesn't go with the property. Linda Manson-Dempsey asked Mr. Keough if the handicapped parking could be moved. Mr. Keough said they could consider that. Dan Lowe expressed concern over the road that Mitch Harris will be putting in across from the proposed driveway. The board discussed various options. Bob Harvey asked if these variances are granted, are the previous variances that were granted void. Annette McNamara said the previous variances were specific to On-the-Road Again RV. Mr. Keough read the motion that was granted to the RV center.

Motion

Linda Manson-Dempsey motioned, for ZBA Case #05-07, Craig Whitney, 1442 Old Pinckney Road, Tax ID #4710-02-400-005, subject to the Advantage site plan #07011, for the variance request for Section 14.04 F, to require a minimum 3' tall buffering between the commercial property and residential property along Old Pinckney Road. Dan Rossbach seconded. Roll call vote: Manson-Dempsey, Rossbach, J. Lowe, D. Lowe—all yes. **Motion carried 4-0.**

Linda Manson-Dempsey motioned, for ZBA Case #05-07, Craig Whitney, 1442 Old Pinckney Road, Tax ID #4710-02-400-005, subject to the Advantage site plan #07011, for the variance request for Section 14.05, to deny the variance request for loading and unloading area. Dan Rossbach seconded. Roll call vote: Manson-Dempsey, Rossbach, J. Lowe, D. Lowe—all yes.

Motion carried 4-0.

Linda Manson-Dempsey motioned, for ZBA Case #05-07, Craig Whitney, 1442 Old Pinckney Road, Tax ID #4710-02-400-005, subject to the Advantage site plan #07011, for the variance request for Section 7.05 C to approve parking in the setback of Pinckney Road. Dan Rossbach seconded. Roll call vote: Manson-Dempsey, Rossbach, J. Lowe, D. Lowe—all yes. **Motion**

carried 4-0. Linda Manson-Dempsey motioned, for ZBA Case #05-07, Craig Whitney, 1442 Old Pinckney Road, Tax ID #4710-02-400-005, subject to the Advantage site plan #07011, for the variance request for Section 9.01 E 3 (a), to approve a 90' variance in the setback from the Pinckney Road right-of-way. Dan Rossbach seconded. Roll call vote: Manson-Dempsey, Rossbach, J. Lowe, D. Lowe—all yes. **Motion carried 4-0.**

Linda Manson-Dempsey motioned, for ZBA Case #05-07, Craig Whitney, 1442 Old Pinckney Road, Tax ID #4710-02-400-005, subject to the Advantage site plan #07011, for the variance request for Section 9.01 E 3 (a) for front yard setback on Old Pinckney Road, to approve the variance for a 29' front yard setback variance. Dan Lowe seconded. Roll call vote: Manson-Dempsey, Rossbach, J. Lowe, D. Lowe—all yes. **Motion carried 4-0.**

Linda Manson-Dempsey motioned, for ZBA Case #05-07, Craig Whitney, 1442 Old Pinckney Road, Tax ID #4710-02-400-005, subject to the Advantage site plan #07011, for the variance request for Section 9.01 E 3 (b), to approve the variance request for a 12' side yard variance on the north side of the property. Dan Lowe seconded. Roll call vote: Manson-Dempsey, Rossbach, J. Lowe, D. Lowe—all yes. **Motion carried 4-0.**

Linda Manson-Dempsey motioned, for ZBA Case #05-07, Craig Whitney, 1442 Old Pinckney Road, Tax ID #4710-02-400-005, subject to the Advantage site plan #07011, for the variance request for Section 9.01 E 6 (e), to approve the request to allow queued vehicles waiting to enter and/or exit the site to occupy the Pinckney Road right-of-way. Dan Lowe seconded. Roll call vote: Manson-Dempsey, Rossbach, J. Lowe, D. Lowe—all yes. **Motion carried 4-0.**

Linda Manson-Dempsey motioned, for ZBA Case #05-07, Craig Whitney, 1442 Old Pinckney Road, Tax ID #4710-02-400-005, subject to the Advantage site plan #07011, that all of the above motions relate back to Job #07011 dated May 10, 2007, and if this drawing is not acted on, all variances become void. Dan Lowe seconded. Roll call vote: Manson-Dempsey, Rossbach, J. Lowe, D. Lowe—all yes. **Motion carried 4-0.**

Linda Manson-Dempsey motioned that these variances are granted in consideration of 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 of the township ordinance would not allow them to improve the property by putting in a restaurant that might benefit the general public. The strict enforcement of the zoning ordinance would make this property unusable.
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 to the property because of the moving of the roads that's happened over the years.
3. *The conditions and circumstances unique to the property were not self created.* The conditions and circumstances were not self created; they are pre-existing, non-conforming.
4. *Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district.* There are no other property similarly situated.
5. *Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance.* The requested variances are not contrary to the spirit and intent of the ordinance.
6. *The difficulty shall not be deemed solely economic.* The difficulty is not solely economic.

Dan Lowe seconded. Roll call vote: Manson-Dempsey, Rossbach, J. Lowe, D. Lowe—all yes. **Motion carried 4-0.** Dan Lowe said that he and Bob Hanvey will investigate the proposed road north of the Best Western.

CALL TO THE PUBLIC

None.

ADJOURNMENT

Linda Manson-Dempsey motioned to adjourn the meeting at 9:10 p.m. Dan Rossbach seconded. **Motion carried 4-0.**

ZONING BOARD OF APPEALS - JULY 9, 2007

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

Linda Manson-Dempsey motioned to approve the agenda as amended. Larry Fillinger 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

June 4, 2007 Regular Meeting: Linda Manson-Dempsey motioned to approve the minutes as presented. Dan Rossbach seconded. **Motion carried 5-0.**

OLD BUSINESS

ZBA Case #03-07--William & Colleen Harden, 2435 Sharma Lane, Tax ID #4710-16-101-001

Mr. Harden’s request was tabled from a previous meeting so he could stake the building and uncover his septic. John Lowe said he talked with John Wilson from the Livingston County Health Department, who told him the isolation distance is ten (10) feet from the tank and ten (10) feet from the drain field. Mr. Harden said because of the location of his house, he is requesting the variance so that it’s more easily accessible and aesthetically pleasing. No neighbors were present regarding this case. The ZBA members discussed options such as reducing the size of the garage and offsetting the garage doors. Dan Lowe motioned to grant the variance request for ZBA Case #03-07 for a nine (9) foot variance on the southwest corner and seven (7) foot variance on the southeast corner, as shown in the drawing submitted, 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 deprive the owners of building a garage on their lot based on the location of the existing house.

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 to the property because of the location of the house.
3. *The conditions and circumstances unique to the property 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.* Others in the same zoning district have detached garages and the proposed location is the only one that allows full access to the garage and septic.
5. *Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance.* The variance would allow the owner to use his property as others in the same zoning district and allow full use of the garage.
6. *The difficulty shall not be deemed solely economic.* The request is not based on economics.

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

Mr. Harden asked what his options are. The zoning administrator said he must meet the specifications of the zoning ordinance. He can reapply for the variance if there is newly-discovered evidence, or he can resubmit the application after one year.

ZBA Case #02-07—Patrick & Judy Keough, Brighton Road, Tax ID #4710-25-300-004 Larry Fillinger motioned to table ZBA Case #02-07 until the August meeting to review new information. Linda Manson-Dempsey seconded. **Motion carried 5-0.**

NEW BUSINESS

ZBA Case #06-07—Gary & Pamela Herren, 5319 Dutcher Road, Tax ID #4710-31-100-025 John Lowe told the applicants that before the ZBA can consider the variance request, they need a registered survey that shows the corners of the building in relation to the corners of the property. Ms. Herren said she will get a survey prior to the next meeting Larry Fillinger motioned to table ZBA Case #06-07 until the August ZBA meeting so the applicant can obtain a survey. Linda Manson-Dempsey seconded. **Motion carried 5-0.**

The zoning administrator asked the applicant to provide 10 copies, and asked that they not be reduced or enlarged.

CALL TO THE PUBLIC

None.

ADJOURNMENT

Linda Manson-Dempsey motioned to adjourn the meeting at 8:10 p.m. Larry Fillinger seconded. **Motion carried 5-0.**

ZONING BOARD OF APPEALS - AUGUST 6, 2007

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

Linda Manson-Dempsey motioned to approve the agenda. Larry Fillinger 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 9, 2007 Regular Meeting: Larry Fillinger motioned to approve the minutes as presented. Linda Manson-Dempsey seconded. **Motion carried 5-0.**

OLD BUSINESS

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

The applicant submitted a letter, but was not present for the meeting. Larry Fillinger motioned to table ZBA Case #01-07 until the November meeting; however, the applicant can come to the September or October meeting, if scheduled, if he wishes. Linda Manson-Dempsey seconded.

Motion carried 5-0.

ZBA Case #02-07—Patrick & Judy Keough, Brighton Road, Tax ID #4710-25-300-004

The zoning administrator has visited the site and confirmed that approximately 200 trees have been planted. The pole barn meets the setback requirements; the question is whether this operation is covered under the Right-to-Farm Act. Mr. Keough said he plans to plant approximately 200 trees every spring for the next several years. John Lowe said the applicant does need to show the intent to do farming. Brad Maynes, attorney for Mr. Keough, said although Mr. Keough’s intent is to continue planting trees, he doesn’t want to be tied to a certain number. John Lowe said the applicant needs to show that it’s a viable farming operation. Linda Manson-Dempsey said she doesn’t feel that 200 trees on 20 acres is a farming usage. After discussion, Larry Fillinger motioned to table ZBA Case #02-07 until the September meeting to allow the applicant’s attorney to work with the township attorney to come up with wording for an affidavit to be signed by the applicant, and provide an interpretation of the Right-to-Farm Act and how it applies to this situation. Linda Manson-Dempsey seconded.

Motion carried 5-0.

ZBA Case #06-07—Gary & Pamela Herren, 5319 Dutcher Road, Tax ID #4710-31-100-025

Pamela Herren was present and said she is trying to work something out with ITC to purchase some property. The zoning administrator told her she needs at least 32’ to the east for the entire length of the property. Larry Fillinger motioned to table ZBA Case #06-07 until the October meeting; however, if the applicant can resolve the situation earlier with ITC to purchase property, she can ask to be placed on the September 10 agenda (if a meeting is held.) Linda Manson-Dempsey seconded. **Motion carried 5-0.**

CALL TO THE PUBLIC

None.

ADJOURNMENT

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

ZONING BOARD OF APPEALS - SEPTEMBER 10, 2007

- MEMBERS PRESENT:** John Lowe, Dan Lowe, Larry Fillinger, Linda Manson-Dempsey, and Dan Rossbach (arrived at 7:54 pm)
- MEMBERS ABSENT:** None
- OTHERS PRESENT:** Michael Kehoe, Township Attorney
Annette McNamara, Zoning Administrator

CALL TO ORDER

John Lowe called the meeting to order at 7:35 p.m.

APPROVAL OF AGENDA

Linda Manson-Dempsey motioned to approve the agenda as presented. Larry Fillinger seconded. **Motion carried 4-0.**

MEMBERS PRESENT

The members of the Zoning Board of Appeals introduced themselves.

CALL TO THE PUBLIC

None heard.

APPROVAL OF MINUTES

August 6, 2007 Regular Meeting: Larry Fillinger motioned to approve the minutes as presented. Linda Manson-Dempsey seconded. **Motion carried 4-0.**

OLD BUSINESS

ZBA Case #02-07—Patrick & Judy Keough, Brighton Road, Tax ID #4710-25-300-

044 At the board's request, Pat Keough submitted an affidavit stating that the parcel is being used as a farm for the commercial production of trees and/or nursery stock. The board members reviewed the affidavit and cover letter. Dan Lowe motioned that the Zoning Board of Appeals interprets that based upon information presented by the applicant, including the affidavit dated September 10, 2007 and the attached cover letter, the ZBA finds that the applicant does have a farming operation on Tax ID #4710-25-300-044, and that the building complies with the setbacks outlined in the zoning ordinance. Larry Fillinger seconded. Roll call vote: Fillinger, Manson-Dempsey, J. Lowe, D. Lowe—all yes. **Motion carried 4-0.**

CALL TO THE PUBLIC

Dan Lowe suggested that agenda items similar to the Keoughs could be scheduled when the ZBA has other business to conduct. Motions should be worded in such a way that a specific date isn't used. Wording such as "*...at the next meeting of the ZBA*" could be used.

ADJOURNMENT

Linda Manson-Dempsey motioned to adjourn the meeting at 7:56 p.m. Larry Fillinger seconded. **Motion carried 5-0.**

ZONING BOARD OF APPEALS - OCTOBER 1, 2007

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

Linda Manson-Dempsey motioned to approve the agenda as presented. Larry Fillinger 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 10, 2007 Regular Meeting: Larry Fillinger motioned to approve the minutes as presented. Linda Manson-Dempsey seconded. **Motion carried 5-0.**

April 2, 2007 Regular Meeting: Linda Manson-Dempsey motioned to approve the correction to the minutes. Larry Fillinger seconded. **Motion carried 5-0.**

July 9, 2007 Regular Meeting: Linda Manson-Dempsey motioned to approve the correction to the minutes. Larry Fillinger seconded. **Motion carried 5-0.**

August 6, 2007 Regular Meeting: Linda Manson-Dempsey motioned to approve the correction to the minutes. Larry Fillinger seconded. **Motion carried 5-0.**

OLD BUSINESS

ZBA Case #06-07—Gary & Pamela Herren, 5319 Dutcher Road, Tax ID #4710-31-100-025 Mrs. Herren said that ITC won't sell her the land, but they may give her a lease. Dan Lowe said there is still the issue of the structure exceeding the ratio based on the applicant's principal structure. Annette McNamara reminded Mrs. Herren that she said she was going to remodel the garage into living space. Linda Manson-Dempsey motioned to table ZBA Case #06-07 until the next ZBA meeting is held, to allow the applicant to get additional survey information from Garlock-Smith, and bring it to the township to forward to the attorney. If the township attorney advises that a lease agreement is acceptable, Chairman Lowe will notify the applicant, who will then pursue the lease with ITC. If the attorney doesn't accept a lease agreement, Chairman Lowe will notify the applicant and this item will be scheduled for the next meeting that is held. If the township doesn't receive new information from the applicant within four months, this item will come back before the ZBA for action. Larry Fillinger seconded. Roll call vote: Fillinger, Manson-Dempsey, Rossbach, J. Lowe, D. Lowe—all yes. **Motion carried 5-0.**

NEW BUSINESS

ZBA Case #07-07—Richard & Marilyn LaLone, 3766 County Farm Road, Tax ID #4710-21-401-004

Mr. LaLone said his parcel is one of eight lots platted approximately 35 years ago, with a greater front setback than most. The applicants are requesting a variance for construction of a 23' x 27' garage.

Dan Rossbach motioned, for ZBA Case #07-07, to relax Section 8.01 F 3 a of the zoning ordinance, to allow s 28 ½' variance from the front yard setback to allow a garage structure, 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.* Strict enforcement would cause an unnecessary hardship due to the extra-wide right-of-way for Towne Square lots.
2. *The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district.* Other properties in the same zoning district do not have the extra-wide right-of-way.
3. *The conditions and circumstances unique to the property were not self created.* The situation was not self-created; the lots are part of a platted sub.
4. *Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district.* Setback for surrounding properties is the same or less.
5. *Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance.* The extra-wide right-of-way exceeds what is typically required.
6. *The difficulty shall not be deemed solely economic.* The request is not based on economics.

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

CALL TO THE PUBLIC

None.

ADJOURNMENT

Linda Manson-Dempsey motioned to adjourn the meeting at 8:10 p.m. Larry Fillinger seconded. **Motion carried 5-0.**

ZONING BOARD OF APPEALS - DECEMBER 3, 2007

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

MEMBERS ABSENT: None

OTHERS PRESENT: Annette McNamara, Zoning Administrator
Bob Hanvey, Township Supervisor

CALL TO ORDER

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

APPROVAL OF AGENDA

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

October 1, 2007 Regular Meeting: Linda Manson-Dempsey motioned to approve the minutes as presented. Larry Fillinger seconded. **Motion carried 5-0.**

OLD BUSINESS

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

Mr. Marquardt said he has received a response from the Livingston County Health Department, and that he's going to have to spend approximately \$25,000-30,000 on a septic system. He would like to complete the exterior of the structure to protect his investment. He said he's not clear on what the Health Department requires in order to complete this project. John Lowe said his engineer should present the plan to the Health Department. Mr. Marquardt said the Health Department still won't approve the structure if he purchased additional property next to his parcel. He wants to pursue purchasing property behind his parcel. Bob Hanvey said that Mr. Marquardt's property is part of a platted sub, and he believes all property owners in the platted sub would have to agree to change the exterior boundaries. He will verify that. John Lowe said the ZBA can't approve anything until it has an approval from the Health Department. Annette McNamara said even if the ZBA told him he could complete the exterior, it's the jurisdiction of the Livingston County Building Department and they would issue a stop work order. Mr. Marquardt said he will come to the township offices to get more information on the requirements for changing the boundaries on his property.

Linda Manson-Dempsey motioned to table ZBA Case #01-07 until March 2008 if a meeting is scheduled, or until the next scheduled meeting after that date. Larry Fillinger seconded.

Motion carried 5-0.

NEW BUSINESS

Election of Officers

Linda Manson-Dempsey motioned to nominate John Lowe as Chairman of the Zoning Board of Appeals. Larry Fillinger seconded. Roll call vote: Fillinger, Manson-Dempsey, Rossbach, D. Lowe—yes; J. Lowe abstained. **Motion carried 4-0.**

Larry Fillinger motioned to nominate Linda Manson-Dempsey as Vice Chairman of the Zoning Board of Appeals. Dan Rossbach seconded. Roll call vote: Rossbach, D. Lowe, Fillinger, J. Lowe—yes; Manson-Dempsey abstained. **Motion carried 4-0.**

Larry Fillinger motioned to nominate Dan Lowe as Secretary of the Zoning Board of Appeals. Linda Manson-Dempsey seconded. Roll call vote: J. Lowe, Fillinger, Rossbach, Manson-Dempsey—yes; D. Lowe abstained. **Motion carried 4-0.**

CALL TO THE PUBLIC

Larry Fillinger asked about the Herren case. John Lowe said the Herren's attorney has been in contact with the township and they are still pursuing buying additional property from ITC.

A letter was received from the township attorney regarding the Hardin case, and the ZBA will be rehearing the case.

ADJOURNMENT

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