SHIAWASSEE COUNTY ZONING BOARD OF APPEALS
PUBLIC HEARING – FEBRUARY 12, 2014

1. CALL TO ORDER: Chair Martin called the Zoning Board of Appeals public hearing to order on Wednesday evening, February 12, 2014 at 7:00 P.M. The hearing was held within the County Board of Commissioner's meeting room located on the first floor of the Surbeck Building 201 N. Shiawassee Street, Corunna, MI. **ROLL CALL:** Present: Ann Gamboe Hall, Julies Hales-Smith, N. Brad Hissong, Fred Junger, Glenn Love Jr., and Henry W. Martin III. Absent: None. Also present: Linda Gene Cordier/Zoning Administrator and County Commissioner Robert McLaren.
1a. EXCUSED ABSENCE: None.

Chair Martin welcomed Glenn Love Jr. to the board and informed everyone that Love had served on the County Planning Commission board for the past 14 years. He was termed limited and had to step down in December. Chair Martin and the board introduced themselves to Love.

2. PROOF OF PUBLICATION: Cordier informed everyone that the legal notice had been published within the Shiawassee County Independent on Sunday, February 2, 2014 and verification was available for review. Martin declared the hearing as legally noticed.

3. APPROVAL OF AGENDA: **Motion:** Fred Junger moved to approve the agenda as printed. **Support:** Julie Hales-Smith. Motion carried: 6 ayes, 0 nays.

4. APPROVAL OF BOARD MINUTES: Cordier informed the board she had passed out a set of revised board minutes. Chair Martin contacted her earlier in the day noting that a sentence had been printed twice on page 9, #9 (within the board member comments). Also, on page 10 under new business, the sentence on election of officers was reworded. **Motion:** Ann Gamboe Hall moved to approve the revised minutes as presented. **Support:** Brad Hissong. Motion carried: 6 ayes, 0 nays.

5. PUBLIC COMMENTS ON NON-AGENDA ITEMS: None.

6. COUNTY COMMISSIONER COMMENTS; County Commissioner Robert McLaren informed everyone that the Committee of the Whole had met earlier that day. A motion was passed allowing Commissioner Plowman and the Chairman of the Board to begin negotiations with Mr. Clark for a pay scale as it related to the vacant County Administrator's position although there hadn't been a vote taken selecting one of the three candidates. The commissioners were also following up with a letter to the Federal Government Highway Administration. The network would have federal monies available for approximately 27,000 miles of road projects. The I-69 Corridor project connecting Shiawassee County to Port Huron was not listed as a part of the primary network. The Commissioners want to let them know that Shiawassee County is very interested in being a part of that 27,000 mile program so they could be eligible for federal monies. Perry Township has had several businesses move in recently, which is becoming a very hot location for businesses along the corridor.

7. OLD BUSINESS:
7a. Dimensional Variance #PZBA13-010 of September 11, 2013
Applicant/Owners – Harold and Miriam Asbridge, 9867 Braden Road, Haslett, MI 48840
Site Location – Woodbury Rd., Haslett; Id. #78-013-33-100-018, Sec. 33, Woodhull Twp.
Request – Amend the ZBA Board Motion of September 11, 2013 approving a parcel size of

150.93''x400.5' to 150.93 x 478.5' with frontage along Woodbury Road
Tabled from January 8, 2014

Cordier provided a brief staff report. Last September Mr. Asbridge submitted a dimensional variance from the minimum required road width for a parcel within the A-2 zoning district seeking a lot size of 150.93'x400.5. The applicant has an oddly shaped lot that has been in existence for a number of years. The existing lot has frontage on two roads. Due to the configuration and the neighboring parcel sizes, obtaining additional footage to meet the required road width was not an option. The variance was granted and the applicant then applied for the Land Division. During the Land Division review process Mr. Asbridge discovered that the surveyor had not drawn up the proposed lot size as requested and that he didn't catch the mistake during the ZBA hearing in September. Cordier stated that because the motion gave specifics on the lot dimensions, and Mr. Asbridge was requesting an additional 78 feet, both she and Mr. Preston felt Mr. Asbridge needed to come back before this board to consider an amendment.

Mr. Asbridge apologized to the board for the mistake and stated he should have caught it before it went before the board last fall. He contacted the surveyor who acknowledged he had made a mistake and immediately corrected it. If the board were to grant the additional 78 feet to the rear, it would make a clean rear lot line plus the remaining property would have a more even lot line coming in off of Braden Road.

Chair Martin noted a public hearing had been held last fall, the request was to consider amending the depth of the parcel by 78 feet. The board reviewed the revised survey. Junger asked if the parcel would be in compliance if the additional 78 feet were added to the parcel. Cordier stated yes, it would comply with the lot width to depth ratio and lot size (1.65 acres). Cordier reminded the board the original variance was for the width of the parcel as the parcel could not meet the minimum 200 feet road frontage that is required within the A-2 district and that the depth of the parcel was not a variance issue. Chair Martin added that he had reviewed the original hand drawing Asbridge provided in his packet last September. The hand-drawn site plan proposed the lot to extend back to 478 feet to help shore up the rear lot line.

Motion: Ann Gamboe Hall stated that based upon the review of the submitted materials, including the survey dated October 15, 2013, she would move to amend the approved Dimensional Variance Permit PZBA13-010 of September 11, 2013, for Harold and Miriam Asbridge, granting a parcel size of 150.93'x400.5' with frontage along Woodbury Road, to be created from Tax Id. 78-013-33-100-018, from the lot width frontage requirements within an A-2 District by amending the lot size to **150.93'x478.5'** be **approved** pursuant to Section 18.4.5. of the 1999 Shiawassee County Zoning Ordinance, as amended. **Support:** Fred Junger. **Roll Call – Ayes to approve:** Glenn Love Jr., Julie Hales-Smith, Brad Hissong, Fred Junger, Ann Gamboe Hall, and Henry W. Martin III. **Nays:** None. Motion carried: 6 ayes, 0 nays.

8. <u>NEW BUSINESS:</u>

8a. Dimensional Variance #PZBA13-020
Applicants – John and Claudia Claucherty, Okemos, MI
Property Owner – Gladys Claucherty, Okemos, MI
Site Location – V/L Warren Rd., East side; Id. #005-03-100-002-01, Sec. 3, Middlebury Twp.
Request – Create a parcel size that would exceed the maximum 2.5 acre lot size requirements within the A-2 Zoning District
Proposed – 225' road width by 560' depth; 2.89 acres
Ordinance – Section 2.7.2.A. of the 1999 Shiawassee County Zoning Ordinance (minimum 1 acre up to 2.5 acres maximum)

Cordier stated that last year the applicant came into the office requesting to create a 3.5 acre parcel from the 105 acre farm so he could build a home. Plans are to demolish the abandoned farm house. The applicant had proposed a 250' x 600' parcel. The basis for the additional acreage was needed to get beyond a low spot, get behind the electrical line and pole barn, provide a dry area to build upon, and provide a good view. Cordier stated she then discussed Land Division requirements with the applicant along with zoning ordinance requirements for lot sizes within the A-2 District. The applicant was informed that she would be unable to approve a 3.5 acre parcel on a Land Division application as it would not meet the A-2 zoning ordinance regulations for a newly created lot. Cordier continued that she had also reviewed the dimensional variance requirements with the applicant and informed him that the burden of proof of the practical difficulty or hardship is on the applicant to prove why they couldn't meet zoning ordinance requirements and why they feel the board should deviate from the regulation. In this case, the applicant would have to prove that the only area that would perk would be to the rear and not up front or why the home could only be located to the rear of property causing the need for the additional acreage. The only other option available would be to create a parcel size of 20.01 acres, which would not require a variance. She also informed him that if the board did consider it, it would be for the least amount needed. The applicant decided this past December to seek a variance for a 2.89 acre parcel with the reason being it would allow them to build on a high area. The applicant had stated in his packet that he had talked with the Environmental Health Department and that this is where they would like to see the home and septic field. Cordier stated she checked with Environmental Health Department staff yesterday (Tuesday). Staff found no application or notes associated with this parcel. Cordier stated the only other concern staff had at this point was if the variance were approved, would the remaining farm or farm dwelling have at least 200 feet of road frontage on the public road.

Chair Martin thanked Cordier and asked Mr. and Mrs. Claucherty if they would like to present their application request.

John Claucherty stated that Cordier had summed it up pretty accurately. His father purchased the farm back in 1989 and had passed away 15 years ago. Claucherty stated his intentions are to build a home and that he scaled down his first proposed lot size of 3.5 acres to 2.89 acres by narrowing the lot width and reducing the depth. In order for him to keep the pole barn with the parcel, he created a rectangular shaped parcel. The higher ground would offset the house and septic system. The extra 75 feet depth would be needed to meet a rear yard setback greater than 60 feet. He had talked with Casey within the Environmental Health Department as well as taken in some soil samples. Casey thought it would probably work. The front area is flat and some what low.

Chair Martin called for public input in support of the request. Cordier stated an adjoining landowner had stopped into the office last week to review the applicant's request. The landowner stated the soils drained well in that area and that he had no objections to the request. He was unable to attend tonight's hearing as his wife was ill.

Chair Martin called for public input in opposition of the request. Hearing none, Martin closed the public hearing and called for board deliberation as there would be no need for a rebuttal.

Junger questioned how much road frontage would be left with the existing home if this lot size were approved.

Claucherty stated there would be over 400 feet. The description states to the Warren Road right-of-way, however, the existing road stops approximately 120 feet beyond the north proposed boundary line. The road doesn't continue to the north because it becomes very swampy.

Junger stated the remaining farm must maintain 200 feet of road width frontage on a public road.

Discussion continued on the remaining farm land and that if the variance were granted, the remaining property would have to comply with zoning regulations as well. Claucherty stated the remaining acreage would be just farm land. Junger discussed the fact the original farm house was still on the farm. Claucherty answered that the house was not habitable in its present condition. There was no heat or plumbing. Hissong informed him that even if the remainder was vacant land, it would need to maintain at least 200 feet of frontage on a public road. Claucherty stated that there would be 200 feet of frontage to the south of the proposed lot. It would wrap around the proposed parcel.

Hissong said nothing was presented to this board to verify that. The board can't create a landlocked parcel or a non-buildable parcel. The board would want to be assured that the remaining land was in compliance too. Junger agreed and added that this board did not receive any pertinent information for them to review to make a decision. No information was provided on the where it would or wouldn't perk or any information on the ridge.

Claucherty informed the board that he had shot the elevations himself. It's basically a small knob and that is where he and his wife would like to build their home.

Junger said if the remaining property isn't landlocked then maybe the board could consider approval; however, he didn't feel he had enough information presented tonight to make that decision.

Hall agreed with Junger. More information and detail definitely would be needed before she could make a decision.

Claucherty stated he did not hire a surveyor, but the farm extends to the north to Cronk Road. However, that part of Cronk Road is not maintained either.

Junger said he noticed a sign across the road from this parcel advertising a hunt club and asked if he knew anything about that.

Claucherty said he probably noticed then there was a sign stating Sandbox Hunt Club on this property. When his father purchased the property it was being over run by people hunting on it. The sign was put up in attempt to keep people off the property. We maintain the area around the farm house so it reflects an image that someone cares about the farm.

Chair Martin asked the board if they wished to proceed with the findings of fact or if more discussion was needed.

Junger stated he felt it should be postponed to allow the applicant the opportunity to bring in information that was missing. The ordinance states that a decision on a variance must be for the least amount needed to overcome the practical difficulty. We have no documentation that a variance is even needed or what the difficulty is.

Claucherty said he was on a time limit. This was submitted back in early December and couldn't appear before the ZBA until tonight. He wasn't going to pay for a survey until he knew if the variance was approved. Spring is coming quickly and I would like to get started. Claucherty then asked if the only hang up was with the frontage on the remaining farm ground. If so, there would be plenty of frontage to the south of this proposed lot on Warren Road.

Cordier informed the board that she had to notify the applicant that the application would not be handled in January due to the fact a number of applications on the December agenda were postponed and carried over to the January public hearing. As the agenda would be lengthy, in all fairness to the applicant, their request would be handled in February.

Chair Martin questioned the additional 75 feet to the rear and wondered why the home and septic system couldn't fit within the 2.5 acre lot size requirement so a variance would not be needed.

Claucherty stated the area was lower in front. He was a builder and has dealt with drainage issues in the past. The 2' of elevation would eliminate any possibility of flooding. It had flooded around the existing barn so they had to bring additional fill in.

Chair Martin asked if this area could be raised by bringing fill in. Martin noted that he had to have an above-ground septic system when he built his home. Martin informed the board and applicant that unless there was documentation proving a hardship, he would have a hard time voting in favor of this.

Hall agreed. There was nothing stating the home and septic system couldn't fit on the 2.5 acres.

Claucherty said he would have to have soil borings done and wondered just how many he would need to have done to prove that.

Hissong added that the board should have a site plan showing the septic area, reserve area, well location and where the dwelling would be situated on the property including the setbacks from all boundary lines. None of that has been provided to us. The additional acreage may not be needed.

Claucherty said he would have to have the soil borings taken so they knew where the house should be placed. He was working on the blueprints for a 60'x60' structure. They didn't want to have to pay for borings if they were going to be denied.

Chair Martin stated the issue this board was having tonight was the fact nothing had been provided that would document what the practical difficulty was. Why they couldn't built their home within the 2.5 acres. There has been nothing provided to us tonight supporting the fact for the need of the additional acreage.

Claucherty again noted he wasn't sure where the house would be placed on the property until he knew where the septic would have to be located.

Junger reviewed the applicant's drawing and stated he could maybe understand why the applicant didn't want to pay for a survey at this point; however, his hand drawn site plan reflected a high spot located about 415 feet back from the road and then another 70 feet beyond that to a depth of 485 feet. The drawing then reflects another 75 feet to the proposed rear boundary line. Junger stated there was nothing in their packet to justify the need for the additional 75 feet and that he would need more information before he could vote on this.

Claucherty again noted he was planning to build a 60'x60' dwelling. The minimum rear yard setback is 60 feet according to the ordinance, which didn't seem like much of a back yard to them. They would like a larger rear yard.

Junger stated there was nothing indicating the septic system had to be on the high ground. There were too many unknowns at this time. There was nothing indicating that the rest of the area in front of this high spot didn't perk. Junger again stated he would need more information to review before he could vote on this request.

Claucherty stated with the weather right now it was a mess out there, but he could understand the board's concerns.

Hissong stated this board must make sure they are not creating a landlocked parcel either. They need to be assured that the remaining acreage has at least 200 feet of public road frontage. The board would need something in writing from the Environmental Health Department stating the property wouldn't perk in front of the high spot or support a septic and drain field in that area between the road and the ridge.

Chair Martin informed the board that he would not be able to vote in favor of the request tonight either based on what information had been provided.

Claucherty stated that Casey Elliott of the Environmental Health Department had told him the department likes to see systems on higher ground.

Chair Martin answered that may be true, but there was nothing from the Health Department stating there was no other area within the two and one half acres that would perk; especially in the front.

Cordier stated that when she had talked with staff from the Environmental Health Department she was told that a lot of times an applicant will suggest areas that they were interested in having perked. Staff said their department may not necessarily know if the parcel complied with lot size requirements or not and that they might not necessarily know if other areas on the parcel would perk or not.

Claucherty asked how many borings would be required.

Hissong stated he would need to meet with the Environmental Health Department and discuss the issue; it wasn't up to this body.

Claucherty stated what would happen if he decided to move the proposed build site to the south.

The board noted that if the parcel met the maximum lot size (2.5 acres) and minimum frontage requirements, a variance would not be needed. He would only need to apply for a land division. The remaining acreage would have to have the 200 feet of frontage on Warren Road as well. Junger stated he would have to consider postponing the application request due to the fact there wasn't enough information provided tonight for the board to make a reasonable decision. Junger noted that nothing in writing was provided from the Health Department, there was no drawing showing the location of the proposed dwelling, and there was no information provided on the resulting acreage and road frontage if the proposed parcel were approved.

Claucherty stated the area tended to be low and swampy and asked if that wouldn't be considered a hardship.

Hall stated that nothing had been provided to this board to document that. Maybe the house wouldn't be able to support a basement. There are a lot of homes in the County that may not have a basement; including her own home and area where she resided and gave an example. It doesn't necessarily make it a hardship.

Hissong stated the only practical difficulty right now was the applicant was creating his own hardship or practical difficulty.

Claucherty responded that the old farm house was near the swamp which was not a good area.

Junger said he would have to agree with Hissong, the applicant is creating his own hardship.

Claucherty stated that from a builder's standpoint, building on higher ground was the smart thing to do.

Junger answered that this board has to make sure the variance is not self-created. They have to have facts that support the applicant's request. The board can't just vote in favor of something if there were no facts supporting the request. It would be precedent setting.

Cordier agreed and informed the applicant the board must have documentation proving the practical difficulty. The board can't approve a request if they don't have documentation to support the request. If they did, the next person could ask for the same thing without any supporting documentation. It is important that the applicant provides documentation supporting their request as to why they can't meet ordinance requirements. You are asking the board to deviate from zoning ordinance regulations.

Hissong agreed, that is why the board reviews the findings of fact to determine if all findings have been met.

Motion: Fred Junger moved to table the request from John & Claudia Claucherty for a dimensional variance from Section 2.7.2.A to allow for a parcel to be increased to 2.88-acres for the purpose of taking advantage of a build site for property located on Warren Rd., Section 3 of Middlebury Township (Parcel Id. #78-005-03-100-002-01) based upon the following reasoning: Reasoning:

1. Additional information is necessary to assess the basic findings as set forth in Section 18.4.6 of the Ordinance.

Discussion: The board discussed the fact that the request appeared to be self-created at this point because no documentation was provided showing a practical difficulty. Just because it would provide a pretty view or because they want their home on a hill is not a practical difficulty or hardship. Claucherty discussed a new culvert that was installed on the property last year and areas of standing water on the farm. Further discussion on lot size requirements for zoning compliance followed. Junger stated there wasn't enough information provided this evening to give the board any direction.

Support of Motion: Ann Gamboe Hall.

Roll Call: Ayes to Table: Glenn Love Jr., Julie Hales-Smith, Brad Hissong, Fred Junger, Ann Gamboe Hall, and Henry W. Martin III. **Nays:** None. Motion carried: 6 ayes, 0 nays.

8b. By-Laws
The board reviewed the by-laws for consideration of approval for 2014. Junger discussed Article 5 (Meetings), Section 3, the last sentence – *In the event that a member accrues three (3) unexcused absences in a row or six (6) unexcused absences in a year, the Board of Appeals shall notify the appointing body.* Junger asked if that referenced a calendar year. The board concluded it was one year from the time of the first absence. Junger referenced Article 6 (Order of Business) and stated the Planning Commission says the Pledge of Allegiance to the flag at the beginning of their hearing and wondered if the ZBA board would like to consider doing the same. After discussion, it was determined it wouldn't be necessary at this time. Junger continued and offered the following recommendation to Article 6, Section 2., - *A motion from a Board of Appeals member must be made and passed in order to dispense with any item on the agenda. A majority vote of the entire membership of the Board of Appeals is necessary to dispense with any item on the agenda. If a majority vote cannot be agreed upon to dispense with an item on the agenda, the item shall be postponed until the next meeting of the Board of Appeals where the item will appear as an agenda item under "old business".* The board concurred four votes were needed to conduct any business.

Chair Martin suggested reprinting the by-laws with the above change for review and consideration at next month's meeting.

9. <u>INTERPRETATION OF THE ZONING ORDINANCE</u>; None.

10. <u>ZONING ADMINISTRATOR REPORT</u>: Cordier stated she had received pamphlets on an upcoming Water Quality Protection Workshop sponsored by Michigan State University Planning and Zoning Center and the Friends of the Shiawassee River. One workshop will be held on February 27th from 6:00 – 9:00 P.M. at the Baker College Conference Center in Owosso. If anyone was interested in attending, she had reservation forms. Cordier also noted that the next ZBA hearing would be March 12th.

11. <u>BOARD MEMBER COMMENTS</u>: None.

12. <u>PUBLIC COMMENT</u>: None.

13. <u>ADJOURNMENT</u>:
Motion: Glenn Love Jr. moved to adjourn the hearing. **Support:** Brad Hissong. **Motion carried:** 6 ayes, 0 nays. Meeting adjourned at approximately 8:25 p.m.

Recording Secretary – <u>Linda Gene Cordier</u>

_____ <u>April 9, 2014</u>
Henry W. Martin III, Chairman — Approval Date of Minutes
Shiawassee County Zoning Board of Appeals