

**SHIAWASSEE COUNTY ZONING BOARD OF APPEALS
APRIL 8, 2015– BOARD MINUTES**

1. **CALL TO ORDER:** Vice-Chair Ann Gamboe Hall called the regularly scheduled monthly Zoning Board of Appeals public hearing to order at 7:00 P.M. on Wednesday evening, April 8th, 2015. The hearing was held within the County Board of Commissioners’ meeting room located on the first floor of the Surbeck Building, 201 N. Shiawassee Street, in Corunna, MI.
 - a. **ROLL CALL:** Present: Fred Junger, Duane Wood, Julie Hales-Smith, Steve Andrews and Ann Gamboe Hall. Absent: Bradly Hissong and Henry Martin. Also present: Peter Preston, Community Development Director and Matthew Lafferty, Land Use Planner.
 - b. **EXCUSED ABSENCES:** **Motion:** Julie Hales-Smith moved to excuse Henry Martin and Bradley Hissong. **Support:** Fred Junger. **Motion carried: 5 ayes, 0 nays.**
2. **PROOF OF PUBLICATION:** The board was informed that a legal notice of the scheduled hearing had been posted within the Shiawassee County Independent on March 29th, 2015 and proof of publication was on file. Vice-Chair Ann Gamboe Hall declared the hearing as legally noticed.
3. **APPROVAL OF THE AGENDA:** **Motion:** Fred Junger moved to add officer elections and the approval of bylaws to the agenda. **Support:** Brad Hissong. **Motion carried: 5 ayes, 0 nays.**
4. **APPROVAL OF BOARD MINUTES:** **Motion:** Duane Wood moved to approve the February 11th, 2015 board minutes as printed. **Support:** Julie Hales-Smith. **Motion carried: 5 ayes, 0 nays.**
5. **PUBLIC COMMENTS ON NON-AGENDA ITEMS:** None.
6. **COMMISSIONER COMMENTS:** None.
7. **OLD BUSINESS:**

Motion: Ann Gamboe Hall moved to remove Application Request #PZBA15-001 from the Table. **Support:** Duane Wood. **Motion carried: 5 ayes, 0 nays.**

7.a. **Application Request #PZBA15-001**

Applicant – Robert & Rose Moye, 4501 Seib Rd., Laingsburg, MI

Property Owner – Fred & Katha Moye, 9121 Bennington Rd., Laingsburg, MI

Site Location – 9121 Bennington Rd., Laingsburg, MI 48848; **Tax Id.#** 78-009-09-200-001-03; Section 9, Sciota Township.

Request – To allow a single-family dwelling on an approximately 8.19-acre parcel which exceeds the maximum lot size requirement of 2.5-acres by approximately 5.69-acres.

Ordinance Reference – Section 2.5.2.A

The applicant presented information previously requested by the ZBA. Stated that there is a Drain 12' from W. lot line and 400' from the S. lot line. He described the soil types and that it is poorly drained and also that it is not economically viable to use.

Preston reviewed the Staff Report.

Vice Chair thanked the applicants and opened the floor for public comment in support of the applicant's request. Hearing none, Vice Chair called for public comment in opposition of the request. Hearing none, Vice Chair called for Township input. Preston stated that no official township input has been made.

Vice Chair asked staff to review the findings of fact.

Findings of Fact: Section 18.4.6 of the Ordinance outlines findings that must be made for the Board of Appeals to take action.

1. How the application of the Zoning Ordinance creates unnecessary hardship or practical difficulty in the use of petitioner's property.

Staff: The Board of Appeals should discuss if the Ordinance imposes a practical difficulty or an unnecessary hardship. According to the applicant the septic field for the single-family residential structure is located on the rear lot line and is encroaching onto the adjacent property. The petitioner intends to expand the property to accommodate a drain field and to the boundaries of the drains on-site. The Board should also discuss if there are other potential methods of achieving the intended result in conformance with the goals and objectives of the Ordinance.

Board Member Comments: Junger is not sure that the entire acreage requested is acceptable. Wood stated that they need to take in consideration of the drain field. Hales-Smith said that the intent of the law is to preserve agriculture and that this is not agricultural land. Andrews said that the lot should be following the natural boundaries of the land. The board concurred with all findings.

2. Identify the unique physical circumstances or conditions or exceptional topography that create practical difficulties.

Staff: The Board of Appeals should discuss unique physical circumstance, such as topography, wetlands, or vegetation that may be causing practical difficulties. The petitioner wishes to expand the property lines to the two (2) county drains that are located south and west of the current property. The only significant change to the layout if the variance is approved will be to transfer the portion of property that consists of open space and a wooded area.

Board Member Comments: The board concurred with all findings.

3. Specific findings (characteristics of the land) showing that because of physical circumstances or conditions there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance. That the authorization of a variance is, therefore, necessary to enable the reasonable use of the property and that the condition is specific to this property and not general to other properties in the area.

Staff: The Board of Appeals should discuss unique physical circumstance, such as topography, wetlands, or vegetation that may be causing practical difficulties. As stated, the petitioner wishes to expand the property lines to the two (2) county drains that are located south and west of the current property. The only significant change to the layout if the variance is approved will be to transfer the portion of property that consists of open space and a wooded area.

Board Member Comments: The board concurred with all findings.

4. Finding that the practical difficulty was not created by the applicant and is related only to property that is owned or occupied by the applicant.

Staff: If the Board of Appeals finds a practical difficulty then it could be determined that such practical difficulty was not caused by the applicant but inherent to the physical circumstance of the property. As stated, the septic field for the single-family residential structure is locate on the rear lot line and is encroaching onto the adjacent property. The petitioner intends to expand the property to accommodate a drain field and back to the two (2) drains that could be considered a natural feature.

Board Member Comments: The board concurred with all findings.

5. A statement of the impacts of the variance if authorized, the property values, use and enjoyment of the property in the neighborhood or district, and on the public, health, safety and welfare.

Staff: It does not appear that the intent of the property in this manner would impact adjacent properties or the public health, safety and welfare of the community in general.

Board Member Comments: The board concurred with all findings.

6. The proposed variance does not permit the establishment of any use which is not permitted by right within the district or any use or dimensional variance for which a special use permit is necessary.

Staff: To the best of our knowledge, the proposed variance does not permit the establishment of any use for which a special use permit is necessary.

Board Member Comments: The board concurred with all findings.

7. Findings on whether the proposed development complies with the requirements, standards, or procedures given in the Zoning Ordinance or an interpretation of the disputed ordinance provisions, if applicable.

Staff: If the variance were to be approved, it appears that the intended use of the properties for single-family residential purposes would be in compliance with requirements, standards and procedure in the Ordinance.

Board Member Comments: The board concurred with all findings.

8. Findings on any error in judgment or procedure in the administration of the relevant zoning provisions.

Staff: It is not readily apparent if any error in judgment or procedure has been made in administration of the Ordinance.

Board Member Comments: The board concurred with all findings.

9. The possible precedents or affects which might result from the approval or denial or the appeal.

Staff: The Board of Appeals may wish to discuss possible precedent and if other properties exist that are similar and may require variance as well.

Board Member Comments: The board concurred with all findings.

10. Findings on the impact if the appeal is approved, on the ability of the County or other governmental agency to provide adequate public services and facilities and/or programs that might reasonably require in the future if the appeal is approved.

Staff: It does not appear that this variance would impact the County or other governmental unit in the provision of services.

Board Member Comments: The board concurred with all findings.

Motion: Steve Andrews moved to Approve request PZBA15-001, MOYE, for the proposed 5.69-acre variance from Section 2.5.2.A in Section 9, Sciota Township (parcel Id. #78-009-09-200-001-03), based upon the following reasoning:

1. The proposal satisfies the basic findings as set forth in Section 18.4.6 of the Ordinance.

Support: Duane Wood.

Roll Call: Ayes to Approve: Fred Junger, Steve Andrews, Duane Wood and Julie Hales-Smith. **Nays:** Ann Gamboe Hall. **Motion carried: 4 ayes, 1 nay.**

8. NEW BUSINESS:

8.a. Application Request #PZBA15-003

Applicant – T-Times Properties, 313 N. Washington St., Owosso, MI 48867

Property Owner – Nicholas & Linda Zdunic, 4541 Bancroft Rd., Durand, MI 48429

Site Location – 5300 Bancroft Rd., Durand, MI 48429; **Tax Id.#** 78-011-14-100-003; Section 14, Shiawassee Township.

Request – To allow the use of a clubhouse that has been previously associated with Chippewa Hills Country Club and golf course as a banquet hall.

Ordinance Reference – Section 10.3

Preston provided the staff report. The property subject to variance request is located on the west side of Bancroft Rd. and is approximately 1,550' north of the intersection of Garrison Rd. and Bancroft Rd. The subject property is approximately 62.66-acres in size with approximately 1,920' of frontage and is approximately 2,090' in depth. The applicant wishes to divide 3.37-acres from the parent parcel if the variance is approved.

The applicant wishes to use the existing clubhouse that has been previously associated with the Chippewa Hills Country Club and golf course as a “banquet hall that serves food”. The previous use as a golf course permitted accessory uses such as a clubhouse, banquet hall, and/or restaurant and bar. The golf course is no longer in operation and the majority of the land has been tilled for active agricultural use. The accessory use, however, still exists. The applicant wishes to continue using the portion of land that contains the clubhouse in a similar manner as the restaurant and banquet hall as previously used.

The applicant explained what he had intended to do with the property after the land division.

Vice Chair thanked the applicants and opened the floor for public comment in support of the applicant's request. Hearing none, Vice Chair called for public comment in opposition of the request.

Judy Robins, a resident of the adjacent property, wants to know if the sidewalk would be removed, if so, she is not against request.

Vice Chair called for Township input. Preston stated that no official township input has been made.

Preston read the nonconforming use of land of Section 10.3 and Section 18.4.11 of nonconforming appeals.

Vice Chair Ann Gamboe Hall entertained a motion.

Motion: Julie Hales-Smith moved to **Approve** request PZBA15-003, T-TIME PROPERTIES, for the proposed variance from Section 10.3, Nonconforming Uses of Land, in Section 14, Shiawassee Township (parcel Id. #78-011-14-100-003), based upon the following reasoning:

1. The proposal satisfies the basic findings as set forth in Section 18.4.6 of the Ordinance.
2. The proposal satisfies the basic standards and objectives set forth in Section 10.3 and 18.4.11 regarding nonconforming appeals.

Support: Fred Junger

Roll Call: Ayes to Approve: Steve Andrews, Duane Wood, Fred Junger, Julie Hales-Smith and Ann Gamboe Hall. **Nays:** None. **Motion carried: 5 ayes, 0 nays.**

8.b. Application Request #PZBA15-004

Applicant/Owner – Eric Cribbs, 9035 W. Scenic Lake Dr., Laingsburg, MI 48848

Site Location – Same as above; **Tax Id.#** 78-013-50-062-000; Section 4, Woodhull Township.

Request – To allow an addition on the rear side of a legally nonconforming structure that will further encroach into the minimum waterfront setback by 12 feet.

Ordinance Reference – Section 10.3

Lafferty Provided the staff report. The property subject to variance request is located on the west side of W. Scenic Lake Dr. within the Scenic Lakes Subdivision. The subject property is approximately 0.49-acres in size with approximately one hundred ten (110') feet of frontage and is approximately two hundred one (201') feet in depth. The single-family residential structure on the property is considered legally nonconforming as it is within the one hundred (100') feet minimum required setback from the water's edge. The petition for variance is to increase the nonconformity for an existing nonconforming single-family residential structure as the proposed addition is closer to the water's edge, further encroaching into the one-hundred (100) feet waterfront setback.

The applicant, Eric Cribbs, stated that this is the only way to make more room with the addition. Also, that the lake association setback is 50 feet. The lake is controlled and flooding is not a concern with the berm and the dam that was added.

Vice Chair thanked the applicant and opened the floor for public comment in support of the applicant's request. Hearing none, Vice Chair called for public comment in opposition of the request. Hearing none, Vice Chair called for Township input. Preston stated that no township input has been made.

Vice Chair Ann Gamboe Hall entertained a motion.

Motion: Fred Junger moved to **approve** request PZBA15-004, CRIBBS, for the proposed variance from Section 10.4, Nonconforming Structures, in Section 4 of Woodhull Township (parcel Id. #78-013-50-062-000), based upon the following reasoning:

1. The proposal does not satisfy the basic findings as set forth in Section 18.4.6 of the Ordinance

Support: Steve Andrews.

Roll Call: Ayes to Approve: Steve Andrews, Fred Junger, Duane Wood, and Julie Hales-Smith. **Nays:** Ann Gamboe Hall. **Motion carried: 4 ayes, 1 nay.**

9. INTERPRETATIONS OF ZONING ORDINANCE: None.

10. ZONING ADMINISTRATOR’S REPORT: Preston said that there is a lot of activity with the Rewrite Committee for changing accessory structure size requirements and accelerating required review periods.

11. BOARD MEMBER COMMENTS: None.

12. PUBLIC COMMENT: None.

13. ADJOURNMENT: **Motion:** Steve Andrews moved to adjourn. **Support:** Julie Hales-Smith. **Motion carried:** 5 ayes, 0 nays. The public hearing adjourned at approximately 8:30 P.M.

Recording Secretary: Matthew Lafferty

Approval Signature
Shiawassee County Zoning Board of Appeals

Approval Date