

**SHIAWASSEE COUNTY  
ZONING BOARD OF APPEALS BOARD MINUTES  
JUNE 8, 2011**

**MEETING CALLED TO ORDER:** Chair Henry W. Martin III called the regular monthly public hearing to order at 7:00 P.M., Wednesday evening, June 8, 2011 within the Board of Commissioners' meeting room, 201 N. Shiawassee Street, Corunna.

**ROLL CALL:**

**Present:** Larry Gramer, Jacob Raleigh, Gerald Wardell, N. Bradley Hissong, Willis Miller, and Henry W. Martin III.

**Absent:** Ann Gamboe Hall.

**Also present:** Peter J. Preston/Community Development Director, Linda Gene Cordier/Zoning Administrator, and Ron Elder/Shiawassee County Board of Commissioner.

**EXCUSED ABSENCES:** Cordier informed the board that Ann was off due to the birth of her son in May and that she had informed the board in April she would not be attending in May or June if there were meetings.

**Motion:** Gerald Wardell moved to excuse Ann from the meeting. **Support:** Brad Hissong. Motion carried: 6 ayes, 0 nays.

**CONFIRMATION OF LEGAL NOTICE:** Cordier informed the chair that the legal posting for the evening's agenda was placed in the Shiawassee Independent on Sunday May 22, 2011 and a copy was available for review. Chair Martin declared the hearing legally noticed.

**APPROVAL OF AGENDA:** **Motion:** Gramer moved to approve the agenda as printed. **Support:** Wardell. Motion carried: 6 ayes, 0 nays.

**APPROVAL OF BOARD MINUTES:** **Motion:** Hissong moved to approve the April 13, 2011 board minutes as printed. **Support:** Willis Miller. Motion carried: 6 ayes, 0 nays.

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

**COMMISSIONER'S COMMENTS:** Commissioner Ron Elder stated the County Board of Commissioners' held their Committee of the Whole meeting this week. They are still looking over the Misteguay Creek ongoing situation, but other than that everything else was routine. He asked if the board had any questions. Chair Martin stated they didn't have any at this time.

**OLD BUSINESS:**

**Dimensional Variance Application #ZBA11-002**

**Applicant/Owner** – Leon Terry Broome

**Site Location** – 9985 Elmar Drive, Ovid, MI

**Tax Id.** – 78-005-40-000-015, Lot 15, Elmar Heights Sub., Middlebury Twp.

**Request** – Amended Site Plan and New Evidence: Construct a 14' x24' rear addition to the existing home 39 foot from rear boundary line; an eleven (11) foot variance

**Ordinance** – Sec. 3.2, Schedule A. R-1B District: 50 foot rear yard

Cordier gave a brief staff report. She noted that originally Mr. Broome applied for a variance to construct an addition within the rear yard setbacks within the R-1B zoning district. He had asked to build an 18'x16' addition 37 feet from his rear lot line; a variance of 13 feet was sought. The Z.B.A. denied the request on March 9<sup>th</sup>, 2011. Mr. Broome brought in additional information that had not been presented on

March 9<sup>th</sup> for reconsideration of coming back before this board to staff. This information was presented at the April 13<sup>th</sup> hearing, at which time the board moved that the applicant could come back before this board and not have to wait one year to re-apply.

Cordier continued stating that Mr. Broome submitted documents from two different doctors stating that due to his wife's health, she needed to be on one-level making the home more handicap accessible for her. The home is a tri-level home. He has reconfigured the size of the addition by proposing it to be 14'x24'. It would allow an access door to the bathroom accessible by wheelchair from the new addition. Currently a wheelchair cannot make the turn into the bathroom. Mr. Broome had also indicated to her that it may be necessary at some point in the future the front living room be converted to a downstairs bedroom for her. This would allow his wife to be all on one level and the rear addition used as a living room area. Cordier discussed the fact the home is on a corner lot and located within an older subdivision that was platted in 1960. At the time the home was built in 1976, the 1957 Zoning Ordinance would have been in effect. Although there was a setback requirement from the road right-of-way and side yard, she didn't see a setback requirement for a rear yard. The home's location just complies with the minimum 40 foot setback from Elmar Drive so any addition to the front of the home would require a variance as well.

Cordier discussed a six-foot variance had been granted to Lot 11 allowing for the construction of a home to be 67 feet from the center of the road back in 1989. A new home had been recently been constructed on Lot 12 and the application states the home would be 20 foot off the side property line. The applicant has stated the home was closer than 20 feet to the lot line; but there was no variance approval noted on the file.

Chair Martin asked the application to proceed with his request for an eleven (11) foot variance.

Mr. Broome stated that although this addition would be located in his rear yard it would actually be his neighbor's side yard because it is a corner parcel. The neighbor did not object. If the addition can be built, it would bring the property value of his home up. The addition would enable his wife to stay on one level. Accessibility to the ½ bath off of the kitchen is needed because a wheel chair cannot make the turn into it. It would allow them to open it up with a door with access from the addition. Broome said they should have thought about the design years ago when they built it in 1976, but never thought about making it handicap accessible. Broome stated the township supervisor stated the township didn't object and again noted the neighbor's had no objection.

Chair Martin opened the floor for public comment in support of the request. Hearing none, Martin asked for public comment opposed to the request. Hearing none, Martin noted that at the March meeting the township had no objections. Broome replied that he thought the township held a meeting at the same time as this. Chair Martin closed the public hearing and asked if the board had any questions.

Wardell asked if it would be feasible to add on to the end of the house where he has 63 feet right now from West Court Street.

Broome replied no that his house was a tri-level. It would require a stairs. Also, it is a ½ story below grade. Broome said originally back in March the septic system was an issue. He has since cleared that up and a copy of the corrected site plan was included with his packet so it is no longer an issue. Broome added that there were no other vacant lots within the subdivision to be built on.

Chair Martin discussed the reconfiguration of the addition.

Broome replied he shortened the room up but made it longer across the back of the home to accommodate for access to the ½ bath by use of a wheel chair if needed. The addition will not extend any further out

into the yard than the existing cement patio; and referred to the photo of the back of the home within the packet.

Chair Martin stated unless there were additional questions, he would have staff 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 the petitioner's property.*

**Staff:** *The petitioned parcel is a Legal Lot of Record created in 1960. Since the time the plat was created, two zoning ordinances have since been adopted which created minimum rear yard setback requirements that now prohibit the applicant from being able to construct an addition to the rear of the home.*

**ZBA Findings:** Concur with staff's findings.

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

**Staff:** *The style of the home and corner lot would prohibit the applicant from being able to construct the addition elsewhere.*

**ZBA Findings:** Hissong noted that the home was a split-level design, which doesn't leave the applicant much option to expand and avoid the need for additional stairs. The board concurred with the findings.

3) *Specific findings (characteristics of the land) showing that because of the 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:** *Again, the style of the home and corner lot prohibit the applicant from adding on to the home.*

**ZBA Findings:** Due to the adoption of additional ordinances since the home was built, the current ordinance prohibits the applicant from being able to add on to this home without a variance. The board concurred with the 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:** *Although the style of the home was selected by the applicant, it met setback requirements of the ordinance that was in effect at that time. The home is on a corner lot which technically has two front yards. If the home would have faced West Court Street, a variance would have been required from the setback requirements of Elmar Drive.*

**ZBA Findings:** This parcel has two front yards and would have required a variance if the home had faced East. The occupant of the home is the original owner. The board concurred with the 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:** *There appears there would be no impact to the area if the variance for the small addition were approved.*

**ZBA Findings:** Board concurred with staff's 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:** *The permitted request is a use that is permitted within that district.*

**ZBA Findings:** The board concurred with staff's 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:** *It appears the petitioned request would otherwise be in compliance with Zoning Ordinance regulations for the district.*

**ZBA Findings:** Hissong replied that he felt more comfortable at this time based on the fact the issue with the Environmental Health Department and location of the applicant's septic tank has been verified with confirmation provided to us this evening. The addition would not be located over the septic tank. The board concurred with the findings.

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

**Staff:** *There is no apparent error in judgment or procedure with the administration of the Ordinance.*

**ZBA Findings:** *Concurred with staff's findings.*

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

**Staff:** *Unless a request is similar in nature (corner lot, style of home, and when the home was built), it would not be precedent setting if approved.*

**ZBA Findings:** The applicant has shown an immediate need for the improvement, it appears there are no vacant subdivision lots left, and concur with staff's 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:** *If approved as submitted, it appears it would not impact the County or other governmental units in the provisions of their services.*

**ZBA Findings:** Concur with staff's findings.

Chair Martin called for a motion unless additional discussion was needed on the request.

**Motion:** **Larry Gramer** moved that the dimensional variance request from the rear yard setbacks of 1999 Zoning Ordinance requirements (Section 3.2, Schedule A) as outlined within the R-1B zoning district submitted by **Leon Terry Broome** (applicant/property owner) regarding Tax Id. Parent Parcel Roll Number: 78-005-40-000-015, known as Lot 15 of Plat of Elmar Heights Subdivision within Section 6, Middlebury Township, and located at **9985 Elmar Drive, Ovid, MI** to allow for a "14'x24' rear addition to be **39 feet from the rear lot line** (a variance of **11 feet**), be **approved** pursuant to Section 18.4.5. of the 1999 Shiawassee County Zoning Ordinance, as amended, and based on the Findings of Fact within Section 18.4.6. with no additional conditions. **Support: Willis Miller.**

**Discussion:** None.

**Roll Call: Ayes to Approve:** Jacob Raleigh, Gerald Wardell, Brad Hissong, Willis Miller, Larry Gramer, and Henry W. Martin III. **Nays:** None. **Motion carried: 6 ayes, 0 nays.**

#### **NEW BUSINESS:**

##### **Dimensional Variance Application #ZBA11-006**

**Applicant** – Ryan Flynn, 5217 N. New Lothrop Rd., New Lothrop

**Owner** – William Flynn, 5251 N. New Lothrop Rd., New Lothrop

**Site Location** – Both 5217 and 5251 N. New Lothrop Road

**Tax Id.** – **Site #5217** – 78-004-22-400-002-09; **Site #5251** – 78-004-22-400-002

**Request** – Split approximately 1.14 acres from a legal nonconforming 15-acre parcel to combine to the adjoining parcel; the following is proposed for approval:

**Site #5217** – Reconfigure a parcel with a lot frontage of 160 feet; a variance of 40 feet is needed and eliminate the need for an ingress/egress 66 foot easement to the parcel

**Site #5251** – The 15-acre nonconforming status would be eliminated and result in a 13.86 acre parcel size that would exceed the maximum lot size requirements for a parcel created after June 1999. A variance of 11.36 acres more/less is requested.

**Ordinance – Section 3.2.; Schedule A, A-2 District:** 200 foot minimum width/frontage along a public road and; **Section 2.7.2.A.** Maximum lot size of a parcel created after June 1999: 2.5 acres

Cordier gave a brief staff report. William Flynn and Supervisor Jim Sheridan had discussed the situation by phone and then later on within the office at which time Mr. Preston sat in on the meeting. The property is located within an A-2 zoning district. The rear parcel was created 1997 (now owned by Ryan Flynn) and was under the regulations of the 1982 Zoning Ordinance. At that time, if a parcel did not have 200 foot of road frontage, a 66 foot easement back to a parcel size of at least 200'x200' was required. Both parcels as configured at the time complied with zoning ordinance regulations. William Flynn would like to eliminate the easement by deeding the front 160 feet by 313 feet to his son, Ryan, to combine with his existing parcel. It would lack 40 feet of road frontage. Additional width cannot be given due to the fact William has an accessory building on his lot that complies with the minimum setbacks to the newly proposed lot line if approved.

William's property is currently considered a legal conforming parcel based on its lot size of 15 acres. If the variance is granted to allow Ryan's parcel to have frontage out to the road and eliminate the easement, it would leave William's property with approximately 13.86 acres.

It was staff's believe that allowing the division to occur would bring Ryan's parcel more into conformity with today's zoning ordinance requirements for a parcel size. The resulting 13.86 acres would still be considered a legal nonconformity if the variances were approved. A variance would have been required under the 1982 zoning ordinance to create this parcel with only 160 foot of road width/frontage versus the 200 foot required; but the remaining acreage would have been a legal parcel size at that time. Staff felt the only option was to seek a variance from this board.

Chair Martin asked the applicant to present his request.

Ryan Flynn stated he was seeking to obtain additional land from his father that would be added to his and considered his front yard. If it is approved, he would be able to eliminate the 66 foot easement across the current property for access to his lot.

William Flynn stated his son currently keeps the area mowed for him. He would like to take care of this so if he ever sold his place, his son wouldn't have to worry that someone else may not keep it maintained. Chair Martin opened the floor for public comment in support of the request.

Supervisor Jim Sheridan stated he was present representing township input. The township was in favor of this and had no objections.

William Flynn again informed the board that he gave Ryan the lot about 12 years ago to build his home. Ryan has helped maintain the area in front of his lot by seeding it and keeping it mowed even though it still is my property.

Chair Martin opened the floor for public comment in opposition of the request. Hearing none, he closed the public hearing and asked if the board had any additional questions.

Wardell asked if he could obtain property from the owner to the left to eliminate the need for the variance.

Ryan stated the owner has a similar situation as his dad and wasn't willing to sell him any land.

William stated that he gave up as much of his land as possible and maintain the required setback from a lot line to an accessory building. To give up any more would mean he would have to give up his buildings and he didn't want to do that.

**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 the petitioner's property.*

**Staff:** *The adoption of the 1999 Zoning Ordinance implemented a maximum lot size requirement. It has left numerous parcels in a similar "catch 22" based on the fact the parcels exceed 12.5 acres, but are less than 20 acres in size. In most cases their only options would be to seek relief from the Zoning Board of Appeals so a land division application can be applied for.*

**ZBA Findings:** The board concurred with staff's findings.

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

**Staff:** *The applicant's parcel was allowed to be created with access by an easement under a prior zoning ordinance from the parent parcel. The 200 foot road width/frontage could not be met due to the location of the existing structures on the parent parcel in respect to setback requirements. A variance is needed from the minimum lot width/frontage requirements in order to maintain a minimum setback between the new boundary line and detached accessory building.*

**ZBA Findings:** Essentially the location of the existing buildings prohibits the ability to meet the required width/frontage requirements under the 1982 ordinance and the present ordinance. The board concurred with the findings.

(Chairman called a brief break at 7:30 p.m., meeting called back to order at 7:34 p.m.)

3) *Specific findings (characteristics of the land) showing that because of the 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:** *Due to the fact the only way the lot was able to be created under the 1982 Zoning Ordinance was to be set back off the road at a point where it would meet the 200 foot width requirement, which resulted with access to the site by an easement. Consideration of purchasing property from the south adjoining parcel is not an option as it, too, is a legal nonconforming parcel of approximately 13.23 acres in size.*

**ZBA Findings:** Martin noted the adjoining neighbor would not sell any additional land. The board concurred with the 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:** *At the time the parcels were created (1997) both parcels complied with the 1982 Zoning Ordinance, which was in effect at that time. It has been the consensus of the townships to have the Z.B.A. review each request that exceeds the maximum lot size requirement on a case-by-case basis.*

**ZBA Findings:** The board concurred with the findings and will continue to review them on a case-by-case basis.

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:** *There would be no impact to the neighborhood, A-2 District, or to the surrounding area if the variances were granted.*

**ZBA Findings:** The essential view of the area will not change from what is already visible; only the boundary lines. 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:** *The zoning district allows for single-family dwellings, which both parcels have already been developed. No special land use permits are required.*

**ZBA Findings:** The board concurred with the 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:** *Both parcels have been developed for single-family residences. They met the standards outlined in the Zoning Ordinance that was in effect at the time. Only one (1) variance would have been required under the 1982 Zoning Ordinance and there would have been only one (1) variance required under the 1999 Zoning Ordinance if the language had not been changed implementing a maximum lot size requirement. The only variance needed would have been from the road width/frontage requirements.*

**ZBA Findings:** Both parcels are considered legal nonconforming parcels. Nothing will change if the variances are approved from what is already in existence except for a boundary line. 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 appears no evidence of an error in judgment or procedure has been made.*

**ZBA Findings:** The board concurred with staff's findings.

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

**Staff:** *It is unknown at this time how many other parcels that are similar in size and considered legal nonconforming remain. Allowing the 0.91 acre parcel to be increased in size by adjoining the front 1.14 acre of land would bring the property more into compliance with today's standards for residential lot. Decreasing the 15 acre parcel down to 13.86 acres should not affect any surrounding land uses.*

**ZBA Findings:** Regardless if the legal nonconforming parcel is 15 acres or 13 acres it still would be a legal nonconforming parcel. The board concurred with the 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 be required in the future if the appeal is approved.*

**Staff:** *There will be no impact on the County or other units of government if the variances were granted.*

**ZBA Findings:** The board concurred with staff's findings.

**Motion:** **Brad Hissong** moved that the Multi-Dimensional Variance request from the **Lot Width Frontage Requirements** and from the **Maximum Lot Size Requirements** within the A-2 Zoning District of the 1999 Shiawassee County Zoning Ordinance, as amended, specifically Sections 2.7.2.A. and 3.2., Schedule A, as outlined within the A-2 Zoning District, submitted by **Ryan Flynn/applicant**

(5217 N. New Lothrop Road, New Lothrop) and William Flynn/property owner (5251 N. New Lothrop Road, New Lothrop) regarding Tax Identification Parcels 78-004-22-400-002-09 and 78-004-22-400-002, within Section 22, Hazelton Township, to allow for Parcel 78-004-22-400-002-09 to create a parcel with 160 foot of road width/frontage extended back to the existing parcel to eliminate an existing easement (a 40 foot variance from the lot width/frontage requirements) and the resulting Parcel 78-004-22-400-002 be reduced in size from its legal nonconformity to 13.86 acres more/less, are **approved** pursuant to Section 18.4.5. of the 1999 Shiawassee County Zoning Ordinance, as amended, and based on the Findings of Fact within Section 18.4.6. **Support:** Willis Miller.

**Discussion:** None.

**Roll Call: Ayes:** Larry Gramer, Jacob Raleigh, Gerald Wardell, Willis Miller, Brad Hissong, and Henry W. Martin III. **Nays:** None. **Motion carried: 6 ayes, 0 nays.**

#### **Dimensional Variance Application #ZBA11-007**

**Applicant/Owner** – Jerry Scepka, 13311 Colby Road, Perry, MI

**Site Location** – Colby Road (also involves property known as 13019 Colby Road)

**Tax Id.** – 78-015-29-100-002; Jerry Scepka

**Tax Id.** -- 78-015-29-100-002-01; Mitchell and Gary Haney

**Request** – Create an 11-acre division from a 50-acre parcel (78-015-29-100-002) to combine with an existing 2.75 acre legal nonconforming parcel (78-015-29-100-002-01) resulting in a 13.75 acre parcel, which would exceed the maximum lot size requirements

**Ordinance** – Sec. 2.7.2.A. Maximum lot size of a parcel created after June 1999; 2½ acres

Cordier provided a brief staff report noting that Mr. Scepka had met with Preston and herself within the office regarding this request. Scepka would like to sell the property north of the drainage ditch to the adjoining property owner from his 50-acre farm; however, the adjoining property owner would end up with a parcel that would exceed the maximum lot size within the A-2 district per the 1999 zoning ordinance regulations. The adjoining property owner currently has a legal lot size of 2.75 acres. If the variance is approved, the owner would have approximately 13.9 acres more/less when combined. The option of splitting off additional land south of the drainage ditch creating a parcel size of 20.01 acres or more had been discussed with the applicant. However, the area south of the drainage could result in taking farm land out of production if an agreement was not reached between the two property owners to continue farming it. The drainage ditch appeared to be a natural dividing line. The area north of the drainage ditch is wooded, low, and non-farmable. Scepka attempted to grow sod on an area north of the ditch, which proved to be unproductive due to the area being low and wet. If the variance is approved, the only change will be the boundary line. The area currently being farmed south of the ditch will remain as farm land. No land will be taken out of production.

Preston added that although the applicant has the option to sell off enough acreage to the adjoining lot owner to comply with a parcel size of 20 acres or more, an agreement for continued farming of the area south of the ditch would be needed. The office doesn't like to create these types of situations as they become hard to monitor for compliance. It essentially becomes a loss of farm ground from production.

Scepka responded that staff presented his request very well and added that the back area of this property will not pass a perk test for a septic system. The area would be combined with the adjoining property owner's land, which already has a house on it.

Chair Martin opened the floor for public comment in support of the applicant's request.

Cordier stated the neighbor across the road from this property was into the office earlier in the day and discussed Scepka's request. After she found out the request was to combine the proposed area north of the drainage ditch with the Haney's property and not for a new build site she had no objections. The lady had stated she knew the area was low and wet and would not be suitable for construction.

Chair Martin asked if anyone in the audience was in opposition of the request. Hearing none, he asked for township input.

Cordier informed the chair that Supervisor Darrell Coffey had contacted the office and informed her he would not be able to attend the public hearing and to inform the ZBA board that Antrim Township was in support of the request and had no objections.

Chair Martin closed the public hearing and asked for board discussion. As there were no questions, Martin asked staff to continue with the Findings of Fact.

**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 the petitioner's property.*

**Staff:** *The area to the north of the drainage ditch is wooded, low and swampy and cannot be farmed. A small pond was constructed in the low-area. The property is more suited for hunting and wildlife. From a practical standpoint it makes more sense to combine this area with the property known as 13019 Colby Road.*

**ZBA Findings:** The area north of the drainage ditch is low and wooded. The 2.5 acre regulations were implemented in the ordinance to protect farm land. This has been verified it is not farmable ground. The area is more suited for wildlife. The board concurred with the findings.

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

**Staff:** *The petitioned area is unsuitable for farming and the drainage ditch would make a practical division from the remainder of the farm.*

**ZBA Findings:** The ditch acts as a natural boundary for the division and the remainder of the farm will remain as farm land. The board concurred with all findings.

3) *Specific findings (characteristics of the land) showing that because of the 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 land lying north of the drainage ditch is non-farmable, wooded, and low and wet from poor drainage.*

**ZBA Findings:** The drainage ditch makes a natural barrier, break and division for the boundary line between the two parcels. 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:** *The area is part of the natural landscape to the area and not man-made.*

**ZBA Findings:** Jerry Scepka owns the property and the adjoining property owner north of the ditch already owns a 2.75 acre parcel with a home on it. The only changes will be the boundary line and parcel size. The board concurred with the 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:* Combining this area of land with the homeowner just to the north of the drainage ditch will have no impact on the neighborhood, district, or on public, health, safety and welfare. The only change will be ownership of the area.

**ZBA Findings:** The board concurred with staff's 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:* Other than exceeding the lot size for a parcel, it would comply with the zoning district and not require a special use permit or zoning permit.

**ZBA Findings:** The board concurred with staff's 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:* Other than exceeding the 2.5 acre lot size requirement within the A-2 district that went into effect in 1999, changing ownership of the land lying north of the drainage ditch with an adjoining parcel would otherwise comply with the Zoning Ordinance.

**ZBA Findings:** The intent of the 2.5 acre maximum lot size regulation was to protect the loss of farm land. This area north of the ditch doesn't meet the criteria. The board concurred with all findings.

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

*Staff:* There is no evidence of error in judgment or procedure based on Zoning Ordinance language. The maximum lot size in agriculturally zoned areas came into effect in 1999.

**ZBA Findings:** The board concurred with staff's findings.

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

*Staff:* It is feasible that there may be other tracts of land with similar characteristics, but it is unknown how many there may be. Changing ownership of the land lying north of the drainage ditch is a natural dividing line without disrupting any farmable ground.

**ZBA Findings:** The board has reviewed similar cases as well as both sides of the lot size requirements. The townships have asked that they be reviewed on a case-by-case basis by the ZBA board as they arise. 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 appears there would be no impact on the County or other units of government if this variance is granted.

**ZBA Findings:** The board concurred with staff's findings.

**Motion:** Gerald Wardell moved that the dimensional variance request from the Maximum Lot Size of a parcel created after June 7, 1999, Section 2.7.2. (A) within the A-2 Zoning District, as outlined within the 1999 Zoning Ordinance, as amended, submitted by Jerry Scepka (applicant & property owner) regarding Parent Tax Identification #78-015-29-100-002, within Section 29, Antrim Township, and located on Colby Road, by allowing the area lying north of the drainage ditch (approximately 11.15 acres in size to be combined with Tax Identification number #78-015-29-100-002-01) thus creating a total parcel size of approximately 13.9 acres more/less (a variance of 11.15 acres m/l), be approved pursuant to Section 18.4.5. of the 1999 Shiawassee County Zoning Ordinance, as amended, and based on the Findings of Fact within Section 18.4.6. **Support:** Willis Miller.

**Discussion:** None.

**Roll Call: Ayes:** Jacob Raleigh, Larry Gramer, Brad Hissong, Willis Miller, Gerald Wardell, and Henry W. Martin III. **Nays:** None. **Motion carried: 6 ayes, 0 nays.**

**INTERPRETATION OF THE ORDINANCE:** None.

**ZONING ADMINISTRATOR'S REPORT:** Cordier informed the board that the office had received one application request for the July agenda.

Preston replied that Ms. McAvoy had returned to work and he would be moving forward with consideration of appointing an alternate representative to serve on the board when needed.

**BOARD COMMENTS:** Hissong stated he wanted to thank staff for the detailed staff reports. The staff makes our job easy because it has all the history and pertinent information needed for us when making our decisions. The reports contain a lot of valuable research.

**PUBLIC COMMENTS:** None.

**ADJOURNMENT:** **Motion:** Willis Miller moved to adjourn the public hearing. **Support:** Larry Gramer. Motion carried: 6 ayes, 0 nays. **Motion carried: 6 ayes, 0 nays.** Meeting adjourned at approximately 8:01 p.m.

Recording Secretary: Linda Gene Cordier

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Henry W. Martin, III  
Chairman, Zoning Board of Appeals

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July 13, 2011  
Approval of Minutes