

**SHIAWASSEE COUNTY ZONING BOARD OF APPEALS
BOARD MINUTES – JULY 10, 2013**

(Prior to the meeting, a motion was made by Gerald Wardell to nominate Brad Hissong as chairman for the evening's meeting due to the absence of the chairman and vice chairman. Support: Fred Junger. Motion carried.)

CALL TO ORDER: Chair Hissong called the July 10, 2013 Zoning Board of Appeals public hearing to order at 7:00 P.M. within the Board of Commissioners' meeting room located on the first floor of the Surbeck Building, 201 N. Shiawassee Street, in Corunna.

Roll Call: Present: Gerald Wardell, Julie Hales-Smith, Fred Junger, and N. Brad Hissong.
Absent: Henry W. Martin III, Ann Gamboe Hall, and Larry Gramer.

Also present: Peter J. Preston, Community Development Director, and Linda Gene Cordier, Zoning Administrator.

Cordier informed the board that Henry Martin had informed the board last month that he would be out of state this month. The office received a telephone call from Ann Gamboe Hall earlier in the day stating she was unable to attend. Hall had also mentioned last month that she thought she would be unable to attend as well. A letter of resignation had been received from Larry Gramer as he was moving out of Shiawassee County and would no longer be able to serve on this board.

Excused Absences: Motion: Junger moved to excuse Martin and Hall. **Support:** Hales-Smith. Motion carried: 4 ayes, 0 nays.

PROOF OF PUBLICATION: Cordier informed the board that the legal posting was placed within the Shiawassee County Independent on Sunday, June 23, 2013, and that proof of publication was on file. Hissong declared the hearing legally published.

APPROVAL OF AGENDA: Motion: Hales-Smith moved to approve the agenda as printed. **Support:** Junger. Motion carried: 4 ayes, 0 nays.

APPROVAL OF BOARD MINUTES: Motion: Junger moved to approve the June 12, 2013 board minutes as printed. **Support:** Hales-Smith. Motion carried: 4 ayes, 0 nays.

CALL TO THE PUBLIC ON NON-AGENDA ITEMS: None.

COMMISSIONER COMMENTS: None.

OLD BUSINESS:

Multi-Dimensional Variance Application #PZBA13-006

Applicant – Shaftsbury United Methodist Church, c/o R. Michael Shaft

Parcel Owners – Shaftsbury United Methodist Church, P.O. Box 161, Shaftsbury, MI

Site Location – 12821 S. Warner Road, Shaftsbury, MI 48882

Tax Identification – 78-013-23-300-001-05; Sec. 23, Woodhull Township

Request – 1) Construct a free-standing sign (6'6" wide by 8' high) within the setback requirements of Lansing Highway (70 Ft from c/l of Lansing Highway to north edge of sign). 2) Allow for a Lighted "LED" flip-board style face with electronic changeable wording.

Tabled from June 12, 2013

Preston informed everyone that there was just four members present comprising a board quorum for the evening's agenda. Four (4) votes were needed to pass a motion; not a majority of the board members present. Preston explained that even if a motion was 3-to-1, action was still needed. The request wouldn't necessarily be dead in the water. Preston added that if the applicant wishes, they can request their application be tabled until a full board was present. They could ask the board to consider postponing it until the next scheduled meeting. Preston stated that if they were going to proceed with the Shaftsbury United Methodist Church's request, a motion would be needed to remove it from the table.

Motion: Hales-Smith moved to remove Application PZBA13-006 by the Shaftsbury United Methodist Church from the table. **Support:** Wardell. Motion carried: 4 ayes, 0 nays.

Mr. Shaft stated when he first started looking into the possibility of a new LED style sign for the church; he thought it would be a simple task. The church is located in the country and currently has a removable letter style sign. In the winter, there are issues to contend with when changing the face of the sign. Letters may fall off or they might have to make use of the number five (5) for an "S". It may be raining or snowing out when they are trying to change the message. With the newer style signs, the message could be changed from inside the building. The church hadn't realized all the rules that existed that pertain to signs, which they have found out, may be different in different jurisdictions. LED style signs are becoming more prevalent along the roads and highways. The church felt it would be an easier way to change messages. The only portion that would change would be the lower portion of the sign. The rest would be stationary. The church is not interested in a moving or flashing style sign. The whole idea behind the new sign was to be able to change the message from indoors, especially in inclement weather conditions.

Preston noted that at last month's meeting staff was asked to break up the multi-variance request into two reports. If the board would like to proceed, he would review both reports.

Shaft stated he may wish to ask for a postponement again until more board members were present as the church was really hoping to obtain approval to install a new sign.

Chair Hissong suggested reviewing the revised staff reports by looking at the two requests individually with the applicant. It would also allow the applicant to hear any additional comments by this board. If at that point the applicant wished to have the request tabled, he could do so. Preston stated he would agree. Hissong asked if another public hearing was required. Preston answered no, the public hearing was held last month.

Variance #1 – LED Flip-Board Signage:

Preston provided a brief summary of the request. The applicant is seeking a variance from Article 9, Section 9.2.1. (G) of the County Zoning Ordinance. There is nothing within the ordinance that would prohibit an electronic sign; however, signs that flash, blink, or have running messages are prohibited. The only provision that allows a changing message is a sign that displays the temperature, time, or date. Over the years, past administration has interpreted that LED signs were not permitted. Based on that history, it would be unfair to others that may have requested a LED style sign by treating this one differently. Proposed is a sign that would be able to have a message and then flip to a second message. The messages could change every two hours or daily. Instead of changing the messages manually it would be done electronically from indoors.

Chair Hissong opened the floor for board discussion.

Junger questioned setting a precedent. Junger believed the Planning Commission was working on updating ordinance language on signs. Junger said he had some conditions of approval to share with the board and applicant if they wanted to consider granting the request.

Chair Hissong asked Junger to share his thoughts on possible conditions of approval with the request.

Junger provided the following: 1) The sign shall operate between 6:00 A.M. and 10:00 P.M. and be shut down for the remainder of the day. 2) The message on the display portion of the sign shall be displayed in its entirety at one time and not scroll or change in any way during the hours of operation. No characters shall flash or blink, and there shall be no animations. 3) The message on the display portion of the sign shall have a single color font on a single color background. 4) The message may be changed during the time the sign is not in operation. 5) This shall be the only permitted sign and all other signs must be removed. Junger said he thought of a sixth (6th) condition; #6) If ordinance language is amended and the new language is less restrictive than that of the variance, the church be allowed to be less restrictive with their sign.

Chair Hissong asked for comments from the board and suggested maybe having the capability of changing the message twice a day.

Junger suggested then maybe it could be changed each evening after 10:00 P.M. for the next day and then possibly at Noon or 1:00 P.M. the next day.

Mr. Shaft replied that the church service on Sunday is 9:30 A.M. with Sunday school from 11:00 – 12:00 Noon. Shaft felt if needed, the message could then be changed at 1:00 P.M. and it wouldn't interfere with anything.

Wardell replied that he thought the conditions were too restrictive, especially with not being able to change the message only once per day. He felt maybe the church should be allowed to change it twice a day at their discretion.

Junger answered that his thoughts on being restrictive was because the Planning Commission was in the process of reviewing ordinance language.

Preston suggested that the ZBA emphasize to the Planning Commission that they review the sign language within the next year or two and/or consider reviewing it within the next couple of months for possible amendment.

Shaft stated he believed the church could live with the conditions of approval recommended by Junger because it would still allow them to change a message within the building rather than outside.

Junger replied that if the new language was less restrictive than the variance provisions, the church could then comply with the ordinance provisions. If it happened to be more restrictive, they would continue to abide by the variance restrictions.

Chair Hissong called for additional comments. Hearing none, Hissong called for a motion.

Motion: Fred Junger moved to approve the request from the Shaftsbury United Methodist Church, 12821 S. Warner Road, Shaftsbury, within Section 23, Woodhull Township, (Permit

#PZBA13-006) for a variance from Section 9.2.1. (G) based upon the following reasoning and conditions:

Reasoning: The proposal satisfied the basic findings as set forth in Section 18.4.6. of the Ordinance.

Conditions:

- 1) The sign shall operate between 6:00 A.M. and 10:00 P.M. and be shut down for the remainder of the day.
- 2) The message on the display portion of the sign shall be displayed in its entirety at one time and not scroll or change in any way during the hours of operation. No characters shall flash or blink; and there shall be no animations.
- 3) The message on the display portion of the sign shall have a single color font on a single color background.
- 4) The message may be changed during the time the sign is not in operation.
- 5) This shall be the only permitted sign and all other signs must be removed.
- 6) If Zoning Ordinance language is amended and the new language is less restrictive than that of the variance, the church is allowed to be less restrictive as well.

Support: Julie Hales-Smith.

Roll Call: Ayes: Gerald Wardell, Julie Hales-Smith, Fred Junger, and N. Brad Hissong. **Nays:** None. **Absent:** Two.

Part Two of Application #PZ13-006

Request – Variance from the Setback Requirements for a Sign

Proposed – 70 feet from centerline of Lansing Highway

Required – 91 feet setback from right-of-way line

Ordinance – Section 9.3.1., Figure 9-1

Preston explained that the Ordinance regulates a 75-foot setback requirement from a state or federal highway and Lansing Highway. Based on the height of the proposed sign, the minimum setback required from the right-of-way of Lansing Highway for the sign would be 91 feet. In this area the right-of-way is 60 feet requiring a 135 foot setback not including setback requirements of the sign, which would be an additional 16 feet.

Preston referred to the applicant's packet and noted per the photographs provided that there appeared to be plenty of green space between Lansing Highway and the church's parking lot. The sign would be located behind the utility lines crossing over the property. Should no variance be granted, the proposed sign would be located in the middle of the church's parking lot. Preston added the sign location would have to be approved by M.D.O.T. as well.

Chair Hissong opened the floor for discussion.

Board members discussed the proposed location and site plan provided by the applicant. Shaft noted that if the church was located on a secondary road, a lesser required setback from the right-of-way would be required.

Motion: Julie Hales-Smith moved to approve the request from the Shaftsbury United Church, 12821 South Warner Road, Shaftsbury, MI, (Permit #PZBA13-006), Section 23, Woodhull Township, on property known as Tax Id. 78-013-23-300-001-05, for a variance from Section 9.3.1., Figure 9-1, signage setback requirements, based upon the staff report's, Findings of Fact, comments made at the public hearing, location of sign as presented on the site plan, and with the

following condition of approval: 1) M.D.O.T. approval for sign location. **Support: Gerald Wardell. Roll Call: Ayes:** Fred Junger, Gerald Wardell, Julie Hales-Smith, and N. Brad Hissong. **Nays:** None. **Absent:** Two. Motion carried: 4 ayes, 0 nays, 2 absent.

NEW BUSINESS:

8a. Dimensional Variance Application #PZBA13-007

Applicant/Owner – Judith Purkiss, 3510 N. Baldwin Road, Owosso

Site Location -- 3510 N. Baldwin Road, Owosso, MI

Tax Id. – 78-002-31-100-002-03, Section 31, Rush Township

Request – Create a Land Division from a 20.004 acre parcel which would leave the resulting acreage a nonconforming parcel size within the A-1 Zoning District

Cordier provided a brief staff report. The applicant owns a 20-acre parcel of land that has been developed with a dwelling and agricultural building within Section 31 of Rush Township. The parcel is a corner lot with frontage along Baldwin Road and King Road. A lot study was completed in 1998 to determine if there was a build site available based on the fact the property is located within the A-1, Agricultural Production, Zoning District. The A-1 District has a density requirement of one (1) single-family build site per vacant 40 acres, which went into effect in 1982. It was determined there was one (1) build site available and Ms. Purkiss had a home constructed on the property in November of 1998. In 2000, a zoning permit was issued for the construction of a livestock barn. The Ann Arbor Railroad crosses the property on an angle. Approximately 17-acres lie to the south of the tracks and approximately 2.9 acres lie to the north of the tracks. The home and barn are located on the 17 acre parcel. The property north of the tracks is virtually useless to the applicant. The applicant is requesting to take this naturally divided parcel to sell to the owner of the farm north of tracks, which would allow the farmer an easier access to the farm field as well as easier farming. Due to the fact this is a corner parcel of land and the angle of tracks crossing over the property, there would be no other option for the applicant to obtain additional land to make the parcel a 20+ acre lot. Staff recommends that if the variance were granted that it must be combined with the larger tract of land known as Tax Id. 002-31-200-002-02.

Ms. Purkiss stated that Mr. Marble, owner of the farm north of the tracks, has approached her several times over the past 15 years seeking to purchase this small area of land from her. The only way she could obtain her building permit was to have a parcel of land 20 acres in size or apply for a variance. Purkiss stated she opted at that time to purchase the additional 2.9 acres south of the tracks. The property is surrounded by two (2) roads and the railroad tracks crosses over it.

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

Cordier stated the office received the following letter of support:

June 30, 2013

To: Shiawassee County Zoning Board of Appeals
Dimensional Variance Application #PZBA13-007

The variance request from lot size requirements, to create a 2.934 acre land division from the 20.004 acre parcel. The division of the 2.934 from the 20.004 acre parcel is OK with me. I see no problem with the division of the 2.934 acre as shown in the applicant's site plan.

Thank you, Glenn Marble.

Chair Hissong called for comments in opposition of the request. Hearing none, the public hearing segment was closed. Hissong stated they would proceed with the findings of fact.

Findings of Fact (Section 18.4.6)

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

Staff: It appears there is no hardship or practical difficulty at the present time other than the parcel is separated due to the Ann Arbor Railroad tracks. The practical difficulty is based on the density requirement of the A-1 zoning district. In order for the applicant to develop the property in 1999, a minimum one (1) acre up to two and one-half (2½) acres was required unless the parcel contained over 20 acres in size as defined within the ordinance. In order to meet the 20 plus acre lot size, additional acreage north of the tracks was combined with the property south of the tracks. Although the property south of the tracks could be reduced down and allow the remaining acreage combined with the parent parcel; it would continue to leave a small area that could be perceived as hard to farm and maintain due to the tracks. The more logical choice is to consider the area north of the tracks divided off the Purkiss property and adjoined to the farm and maintaining the property south of the tracks as a separate tract of land.

ZBA Findings: Junger suggested the lot size definition be reviewed again by the Planning Commission for consideration of amendment. The board concurred with staff's findings.

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

Staff: The parcel is separated by the Ann Arbor Railroad tracks from the majority of the existing parcel, has only 66 feet of road width/frontage along Baldwin Road. The property north of the tracks also has the Peddington Drain crossing over it. The proposed parcel would be better suited to be combined back with the original farm land owned by the Marble's (78-002-31-100-002-02). Again, due to the Ordinance regulations for lot sizes within the A-1 district, the applicant purchased the additional 2.934 acres north of the track to meet the buildable lot size requirements.

ZBA Findings: The board strongly concurred with staff's 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 property has been developed based on the lot size requirements; however, the area of land north of the tracks serves as no benefit or use to the land owner due to the natural separation of the 20.04 acre parcel. The ability to adjoin the 2.934 acre of parcel with the farm land would be more logical, The board should consider the 17.107 acre parcel as a legal nonconforming parcel of its own based on the fact it has been separated from the main farm for years; prior to 1982.

ZBA Findings: The applicant has no benefit due to the hindrance of the railroad tracks cutting the parcel off from the rest of the property. The 17 acres has been a legal nonconforming parcel due to the tracks separating the property from the north side of the tracks. The 2.9 acres should be combined back with the farm. 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 17.107 acre parcel was created due to the Ann Arbor Railroad crossing over the original parent parcel a number of years ago. The practical difficulty resulted in the adoption of the A-1 Zoning District and density requirements in 1982. The applicant chose to purchase additional land in order to expedite the building permit process instead of seeking a variance at that time.

ZBA Findings: Concurred with staff's 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: If approved, no additional impacts to the public, health, safety or welfare of the surrounding area are anticipated as the resulting. The acreage south of the tracks (17.107 acres) has already been developed allowing for the single-family dwelling. There would be no visual change to the area, should the variance be granted. Again the 2.9 acres was combined with the 17.01 acres in order to obtain a building permit at that time.

ZBA Findings: Concur 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 property has been developed; the only issue is the 17.107 acres that has been separated from the original farm due to the railroad tracks crossing over the property. No special land use permit would be required.

ZBA Findings: Concur 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: The 20.04 acre parcel was legally established under the State Land Division Law and complied with the Shiawassee County Zoning Ordinance for lot size and road width/frontage requirements. Zoning and building permit approvals were granted authorizing the property to be developed for a single-family dwelling including an agricultural accessory building. The only issue is allowing the 17.107 acre to exist as a legal nonconforming parcel as it has existed for years due to property being separated from the original farm tract north of the railroad tracks. It's a reasonable request to combine the 2.9 acre parcel back with the farm ground due to the separation of the property from the 17.01 acres caused by the railroad tracks.

ZBA Findings: Concur with staff's findings.

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

Staff: No apparent error in judgment or procedure is evident by administration.

ZBA Findings: Concur with staff's findings.

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

Staff: The property is unique due to the fact of the railroad tracks crossed over the original parent tract, which created the 17.107 acre parcel years ago. Obtaining additional land south of the tracks was not and is not an option based on the fact it is a corner lot and the angle of the railroad tracks crossing over the property. It is basically a defector 17.1 acre parcel located south of the tracks.

ZBA Findings: 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 the variance is approved, it appears there would not be additional impacts to the County or other governmental agencies as the 17.107 acre parcel has been developed.

ZBA Findings: Concur with staff's findings.

Chair Hissong called for additional discussion. Smith wanted to verify the 2.9 acres would be combined with the larger farm tract.

Ms. Purkiss replied that Mr. Marble paid for the variance application and that he provided her a letter stating he would buy it.

Motion: Gerald Wardell moved that Dimensional Variance Request #PZBA13-007 seeking relief from the Lot Size Requirements for a Single-Family Dwelling as outlined within the 1999 Zoning Ordinance requirements (Section 2.6.2.) of the A-1 Zoning District submitted by Judith (Ward) Purkiss (applicant/property owner), regarding Tax Id. 78-002-31-100-002-03, Section 31 of Rush Township and located at 3510 N. Baldwin Road, Owosso, MI, to create a Land Division by dividing off a 2.934 acre parcel from the 20.04 acre parcel, allowing the resulting 17.107 developed parcel considered as a legal conforming parcel 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 the following conditions):

1. A Land Division application be applied reflecting that the 2.934 acre parcel will be combined with Tax Id. 78-002-31-200-002-02.

Support: Fred Junger.

Roll Call: Ayes: Fred Junger, Julie Hales-Smith, Gerald Wardell, N. Bradley Hissong. **Nays:** None. **Absent:** Two. Motion carried: 4 ayes, 0 nays, 2 absent.

8b. Dimensional Variance Application #PZBA13-008

Applicant – Tom Bailey, Saginaw, MI

Owner – Doug Bailey, 8886 W. Scenic Lake Drive, Laingsburg, MI

Site Location – 8886 W. Scenic Lake Drive, Laingsburg, MI

Tax Id. – 78-013-50-042-000, Lot 42, Scenic Lake Estates #1, Woodhull Twp.

Request – Attached garage addition with upper level living area within the rear yard Setback of the R-1B District. Proposed – 32 feet from rear lot line.

Ordinance Requirement – 50 feet

Cordier provided a brief staff report. The applicant came into the office to secure permits for the repairs to the attached garage at 8886 W. Scenic Lake Drive due to a recent fire. During staff review of the zoning permit application, it was noted that the proposed expansion of the garage and upper level addition would not meet the rear yard setback requirements for the R-1B district. Cordier stated she discovered that the existing home did not meet the setback requirements when she researched the parcel in an attempt to determine when the home was built and/or if a variance had been granted, which would have allowed the home to be closer to the rear lot line than the ordinance requirements.

Cordier continued noting that Scenic Lake Estates #1 became a registered plat on March 24, 1971. Office records date back to 1988. Records prior to 1988 were destroyed by fire. Cordier stated she checked with the Environmental Health Department to see if they had anything on file,

but they did not. She checked with the Woodhull Township Assessor (Wayne Griffith) to see when the home was built. Griffith left a voice message and indicated the township records stated the home was built in 1984 (+/-). Cordier said she found no variance approval on file. If the home were built prior to the adoption of the 1982 Zoning Ordinance, it would have been under the 1957 Zoning Ordinance. Not all townships opted to come under County Zoning in 1957. As most of the office records prior to 1988 were destroyed, she wasn't sure when Woodhull Township came under the County's jurisdiction. The 1957 Ordinance contained front and side yard setback requirements, but nothing was found for a minimum rear yard setback. Cordier said it could have been possible the only area that would perk for an on-site seepage system was in the front yard which led to the home being built within close proximity of the rear lot line.

Chair Hissong asked the applicant if he had additional comments.

Tom Bailey (applicant) stated his nephew moved to the area about three (3) years ago. The existing screened porch is also nonconforming as it is only 20 feet from the rear lot line. The back of the garage is 32 feet away. The existing garage had a lean-to. They are asking to extend the garage another four (4) feet from that and then add an upper level master bedroom. It has been presented to the Scenic Lake Homeowner's Association, which have no objections to the request. A neighbor to this had no objections as they felt it would add value to the subdivision. His nephew felt that because he had to repair the garage due to the fire, now would be the time to expand the footprint of the garage so the upper level addition could be added.

Chair Hissong opened the floor for public comment. Hissong noted the following letter was received:

June 30, 2013

*Linda Gene Cordier
Zoning Administrator
201 N. Shiawassee Street
Corunna, MI 48817-1437*

Dear Ms. Cordier:

We received the information regarding the application from Tom Bailey on behalf of the owner Doug Bailey for the construction and additions on the property at 8886 W. Scenic Lake Drive, Laingsburg, Michigan (Lot #42, Scenic Lake #1).

Please add our letter to your meeting agenda scheduled for July 10, 2013.

We are supportive of the request and the efforts to improve the value of the home which in turn adds value to the entire neighborhood.

Thank you for giving us the opportunity to be aware of the application and the design proposal.

Sincerely, Richard and Lynn Hensen, 8827 W. Scenic Lake Dr., Laingsburg, MI.

Chair Hissong called for public input in opposition of the request.

Cordier replied that the former owner of adjacent Lots 43-44 called and stated that he believed the proposed side yard to be in error and that there wouldn't be 27 feet from the closest point of the garage to the property side line.

Hissong asked if the township had responded. Cordier stated she had not received any correspondence from the township. Hissong closed the public hearing and called for board deliberation.

Wardell asked when the fire was.

Tom Bailey replied on April 27th and that his nephew has not stayed at the home since the fire.

The board discussed the utility easement along the property lines as reflected on the survey. The applicant also confirmed that the septic and drain field were located in the front yard. The Environmental Health Department has approved them for a four (4) bedroom home.

FINDINGS OF FACT:

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

Staff: No permits could be granted allowing the applicant to replace the existing garage or additions as the existing dwelling does not meet the rear yard setbacks. The house is considered legally non-conforming. The applicant is seeking to modernize the house that was built in the early 1980's to the present.

ZBA Findings: Concur with staff's findings.

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

Staff: The parcel is located on a Platted Lot of Record that was recorded in 1971. The existing dwelling is already located within the rear yard setbacks and would be considered legal nonconforming. The homeowner is proposing to enlarge the existing garage and add a second story above it to allow for a master bedroom suite; essentially a modernization of the structure. The Ordinance changed which has created the nonconformity. Again the applicant is seeking to modernize the home.

ZBA Findings: Concur with staff's 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 dwelling is located within the rear yard setback requirements on a platted lot. The attached garage could be repaired as a nonconforming structure without a variance. A variance is necessary for the garage expansion or upper level and upper level bedroom addition.

ZBA 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 home was built by a prior owner. The need to repair the existing garage due to a fire has given the property owner the opportunity to expand the garage including living space above the garage. Again, in order to do so a variance will be required. Rear yard

setback would remain the same as the existing backline of the non-conforming garage if the variance is granted to allow for the garage addition and upper level living space. The homeowner has the opportunity to expand the square footage of the home. The addition would not encroach any closer to the rear lot line than what is there now.

ZBA Findings: Concur with staff's 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: No additional impact is evident should the variance be authorized to allow for the garage addition with an upper story living area. The addition would otherwise comply with the front and side yard setback requirements.

ZBA Findings: Concur 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: Single-family residential dwellings are a permitted use by right within the R-1B zoning district. The home is already considered nonconforming based on its setback from the rear boundary line.

ZBA Findings: Concur 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: As stated above, the proposed addition would otherwise comply with all other setback requirements of the ordinance if the variance is granted.

ZBA Findings: Concur with staff's findings.

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

Staff: No error in judgment or administration was evident.

ZBA Findings: Concur with staff's findings.

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

Staff: It may be possible that other homes within the subdivision have similar rear yard setbacks if the homes were built prior to the 1982 Zoning Ordinance which first regulated rear yard setback requirements.

ZBA 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: No additional impact is perceived as the property has already been developed with an existing single-family dwelling should the variance be granted.

ZBA Findings: Concur with staff's findings.

Motion: Julie Hales-Smith moved that Dimensional Variance Application #PZBA13-008, seeking relief from the rear yard setback requirements within Section 3.2, Table 3-1, for a parcel

located within the R-1B Zoning District within the 1999 Shiawassee County Zoning Ordinance, submitted by Tom Bailey/Applicant, 2300 Van Wormer Rd., Saginaw, MI, on behalf of Doug Bailey/Property Owner, located at 8886 W. Scenic Lake Drive, Laingsburg, MI, on property known as Tax Id. Parent Parcel Roll Number: 78-013-50-042-000, Section 3, Woodhull Township, Lot 42 of Scenic Lake Estates #1, allow for a garage expansion including an upper level living area to an existing single-family dwelling be permitted within 32 feet of the rear yard setback line, a variance of **18 feet**, be **approved** pursuant to Section 18.4.5. of the 1999 Shiawassee County Zoning Ordinance, as amended, based on the Findings of Fact within Section 18.4.6., and from testimony received during the public hearing.

Support: Fred Junger.

Roll Call: Ayes: Gerald Wardell, Fred Junger, Julie Hales-Smith and N. Brad Hissong. **Nays:** None. **Absent:** Two. Motion carried: 4 ayes, 0 nays, 2 absent.

INTERPRETATIONS OF THE ZONING ORDINANCE: None.

ZONING ADMINISTRATOR REPORT: Cordier stated no applications were received by July 8th so the August 14th ZBA hearing could be cancelled. Chair Hissong moved the August meeting would be cancelled due to lack of agenda items.

Preston noted that both the ZBA and the Planning Commission had a vacancy and asked board members to let him and/or Margaret McAvoy know of any potential interested parties. Board members must reside within the township under the jurisdiction of the County Zoning Ordinance.

BOARD MEMBER COMMENTS: Chair Hissong thanked the board and staff for working with him tonight as chair.

ADJOURNMENT: Motion: Julie Hales-Smith moved to adjourn. **Support:** Fred Junger. Motion carried: 4 ayes, 0 nays, 2 absent. Meeting adjourned at approximately 8:25 p.m.

Recording Secretary - Linda Gene Cordier

Henry W. Martin III, Chairman
Zoning Board of Appeals

Approval Date