

**SHIAWASSEE COUNTY  
ZONING BOARD OF APPEALS BOARD MINUTES  
JULY 11, 2012**

1. **CALL TO ORDER:** The Shiawassee County Zoning Board of Appeals public hearing was called to order at 7:00 P.M. within the Shiawassee County Board of Commissioners' meeting room located on the first floor of the Surbeck Building, 201 N. Shiawassee Street, Corunna, MI by Vice Chairman Larry Gramer.

**Roll Call: Present:** Gerald Wardell, Ann Gamboe Hall, N. Bradley Hissong, Willis Miller, and Larry Gramer: **Absent:** Henry W. Martin III and Julie Hales-Smith.

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

Cordier informed the board that Martin had informed the board last month that he would be out of town this month and would be unable to attend. She had received a telephone call Tuesday from Julie Hales-Smith stating she was flying down to North Carolina on Wednesday as her son was ill.

- 1a. **EXCUSED ABSENCES: Motion:** N. Bradley Hissong moved to excuse Julie Hales-Smith and Henry W. Martin III. **Support:** Willis Miller. **Motion carried: 5 ayes, 0 nays.**
2. **CONFIRMATION OF LEGAL NOTICE:** Cordier informed Vice Chair Gramer that the notice for the hearing had been legally published within the Shiawassee Independent on Sunday, June 24, 2012 and a copy of the notice was available for review. Gramer confirmed the notice was legally published.
3. **APPROVAL OF AGENDA: Motion:** Ann Gamboe Hall moved to approve the agenda as printed. **Support:** Willis Miller. **Motion carried: 5 ayes, 0 nays.**
4. **APPROVAL OF BOARD MINUTES: Motion:** Gerald Wardell moved to approve the June 13, 2012 board minutes as printed. **Support:** Ann Gamboe Hall. **Motion carried: 5 ayes, 0 nays.**
5. **PUBLIC COMMENTS ON NON-AGENDA ITEMS:** None.
6. **BOARD OF COMMISSIONER COMMENTS:** Commissioner Elder wanted to make note that he was on time for the meeting tonight. He and Brad Hissong attended the Marine Corps League meeting prior to this meeting and that Brad had joined the League tonight. The Marine Corps meets on the same day as the ZBA, but earlier. The Board of Commissioners was holding their monthly board meetings this week. The Commissioners will consider authorizing Circuit Court Judge Lostracco to advertise for a Friend of the Court Referee to replace Dan Loomis who will be retiring. The Commissioners will begin working on the budget with the County Departments. Packets will be mailed out to the department heads this coming Friday. County Clerk Lauri Braid had informed the Commissioners this week that she will have two vacancies within her department. One employee will be retiring and the other employee has taken a position in Lansing. Elder said at the Commissioners' tomorrow (July 12), a Proclamation will be presented to Carl Rossman honoring him for his 50 years as a State Farm Representative within Shiawassee County, as well as a former County Commissioner.

7. **OLD BUSINESS:**

7a. **Application #PZBA12-004**

**Applicant/Owner** – Timothy Colton

**Site Location** – 608 East Main (Newburg Rd), Durand, MI

**Tax Identification** – 78-012-22-200-016, Section 22, Vernon Township

**Request** – Replace an existing rear 8’x12’ open deck with an enclosed 12’x12’ sun room on a legal nonconforming parcel and structure within the rear yard setback requirements of an A-2 Zoning District.

**Proposed** – 42 feet from rear lot line

**Ordinance** – Section 3.2., Table 3-1, 1999 Shiawassee County Zoning Ordinance, as amended, 60 feet rear yard

**Tabled from May 9, 2012**

Vice Chair Gramer read a letter of approval from Mary I. Cooney dated July 9, 2012:

*“Dear Mr. Martin: I am writing in regards to my neighbor, Timothy Colton, and whether the Shiawassee County Zoning Board of Appeals will allow Mr. Colton to erect a screened in sun porch to his residence located at the above address.*

*I have no problem nor does my husband, with Tim adding a screened in sun porch to his residence. Tim lives immediately adjacent to my husband and I on the east side of our home.*

*My husband John Cooney, and I have lived next to Tim for 20 years. In that time, he has always kept his property up beautifully. He is an upstanding and respected member of the community and volunteers his time freely to help others such as serving on the Search and Rescue Team as well as helping out at the Durand Union Station. He CARES about his property as well as the community around him. He has been a wonderful neighbor and is the kind of person that is always there when you need him.*

*We also experience an awful problem with mosquitoes in our neighborhood due to the swampy area south of our properties. It is virtually impossible to enjoy the outdoors due to this problem. The only way around this would be to have a screened in area.*

*I am of the opinion, in this day and age, with all the urban blight threatening to spread to the rural areas and all the foreclosures in ALL areas that the Board would look upon Tim’s proposal favorably. He is not only trying to improve his own comfort and enjoy the fruits of his labor but also to the aesthetics of his property which benefits not only him but the neighborhood as a whole. I am wholeheartedly for allowing the erection of the screened in porch area that Tim proposes.*

*If you have any questions about the contents or validity of this letter, please feel free to contact me. I will be happy to discuss the issue at greater length if necessary. Thank you for your time and consideration on Tim’s behalf.*

*Sincerely, Mary I. Cooney.*

Gramer asked if anyone in the audience wished to speak in favor of and/or against the proposed request. As there were no comments received, Gramer turned the floor over to Peter Preston.

Preston noted that a public hearing had been held on May 9<sup>th</sup>. After discussion, the board entered a motion to table the request for further staff input and clarification. Preston informed the chair a motion would be needed at this time to remove it from the table.

**Motion:** Brad Hisson moved to take Application #PZBA12-004 off the table for further discussion and action. **Support:** Willis Miller. **Motion carried: 5 ayes, 0 nays.**

Preston continued with a brief update of the request. The property is located on the south side of E. Newburg Road approximately 200 feet from the intersection of E. Newburg Road and Russell Street. The property is zoned A-2, Agricultural Production/Rural Residential, and is in close proximity of the City limits of Durand. Preston noted that this is one of seven lots that are legally established nonconforming parcels. The zoning district map should be reviewed in the future to consider rezoning the areas to a residential district based on the lot dimensions. The lots are all one-half acre in size or less and were created prior to 1982. Preston stated the staff report gives both options for consideration: 1) A dimensional variance from the rear yard setback requirements and; 2) A nonconformity appeal.

The applicant is seeking to expand a nonconforming structure. The house already encroaches the front yard setback requirements, the lot size is one-half acre or less, and there are three accessory buildings within the rear yard with two of the buildings within three feet of the rear yard property line. The proposed construction would be post holes for the three-season room. Additional landscaping will not be required per the Zoning Ordinance. Preston stated he had reviewed this with Cordier as well as reviewed the minutes from the public hearing. Although the applicant originally applied for a variance, we (staff) believed that the home and lot are already considered legally nonconforming. It is necessary, however, to obtain from this body approval because the home is already 6 foot into the rear yard. The board may want to make note that the home directly to the west is in a similar situation and may wish to come before the board in the future for a similar request. It is staff's opinion that it would be better to consider an expansion of a nonconforming use versus a variance as the ordinance does not provide language for someone to apply for a variance to further encroach into a setback area. The board will need to decide if allowing a three-season room on the back of the home is a reasonable use of the land and is characteristic to the surrounding homes in the area. Preston reminded the board that not only was the lot nonconforming, but the dwelling as well.

Gramer thanked Preston for the report. Gramer stated the office had also received another letter from an adjoining neighbor and read it aloud:

*June 28, 2012*

*To Whom It May Concern:*

*As the property owner to the south of 608 E. Main, we are absolutely fine with Mr. Colton adding on. It sounds like a very nice improvement.*

*Thank you, Rob Corwin, President Coffield Oil*

Gramer opened the floor for board discussion.

Hissong asked if the Vernon Township Master Plan was controlled by the County. Preston answered yes, but Vernon Township was responsible for building permits and inspections. Hissong stated he really didn't have a problem with a covered porch as long as it didn't create any problems.

Preston replied that the property and home are already nonconforming as it cannot meet any of the criteria outlined in the ordinance. Preston explained consideration for expansion of a nonconforming use. It provides an opportunity to review the request to determine whether or not the nonconformity should survive by allowing for an expansion.

Hissong said when he looked at it; he looked at it as if he were a neighbor and if he would object. The back yard already consists of existing accessory structures within the setback requirements. Letters have been received from adjoining neighbors stating they have no objections.

Hall asked Colton if he would consider constructing the three-season room on the side of the home instead.

Colton replied he would need a variance to meet the side yard setbacks. A porch on the side of his home would not be feasible due to the layout and traffic patterns plus he wouldn't have any privacy from the neighbor when he wanted to sit outside.

Preston agreed; it would still be considered an expansion of a nonconforming structure.

Gramer agreed with Preston and asked Preston to review the standards to be met as outlined within the Nonconformity of Appeals unless the board members had additional questions.

**Section 18.4.1. Nonconformity of Appeals:**

1. Unreasonably restricts continued use of the property or restricts valuable benefits that the public currently derives from the property as used in a nonconforming status.

**Staff: The petitioner wishes to improve their single-family dwelling with a typical addition. However, due to the size of the lot, the original situating of the principal structure under prior Ordinance, and the established interior layout of the principal structure, the improvement would require an expansion of the nonconformity. The Board should review if the improvement to a single-family structure that is already nonconforming is a benefit or detriment to the public in general.**

Board: The sunroom would be a benefit and use of the dwelling to remain. Board concurred.

2. Not have an adverse impact on the surrounding property.

**Staff: The Board should discuss perceived adverse impacts. Staff has not identified any relevant impacts.**

Board: It is a typical use that is allowed for residential dwellings. Board concurred.

3. Be the minimum necessary to relieve the hardship.

**Staff: The ZBA will have to assess based on the desires of the applicant and the use of the structure. The use of the structure as reasonable should be considered.**

Board: It's an existing nonconforming parcel and structure. Board concurred.

**Discussion:** Members felt there was no need to review the Finding of Facts associated with a variance based on the structure and parcel being nonconforming. Preston discussed State Law and Zoning Ordinance regulations. The board would need to decide if it was alright to have a sun room in this neighborhood. Is it a reasonable use to have one? Hall asked were they to consider just the immediate area. Preston answered the board would need to consider what was close to the petitioned property and adjacent properties. What is the view from a public stand

point? Currently no one can see the existing open rear deck. The applicant is limited to a certain amount of square footage that can be utilized in a rear yard under ordinance regulations. Gramer stated the nonconformity appeal is a tool within the ordinance to aid in the assistance for not allowing a nuisance to continue.

Colton said he would just like to comment that the public will not be able to notice the addition because it would be on the back side of the home. There are already accessory buildings in his back yard. Colton says he also has permission to mow some of the area within the wooded area that is located beyond his back yard, which makes his back yard look even bigger.

Gramer agreed the request should be considered as a nonconformity. Hissong added the area is residential, the three-season room would enhance the applicant's home, and the addition would not be visible from the road. Gramer agreed, if this were adjoining an industrial or commercial area, our response for expansion probably would be different. It looks like the area will remain residential even though the lots are very small. Hissong said he wouldn't have a problem with it as long as a precedent wasn't set.

Hall wondered if the applicant would consider replacing the deck with an 8'x12' addition so it was within the same footprint and be the least amount needed.

Preston answered that Colton would still need this body's approval because of the nonconforming status. The open deck would be converted to an enclosed structure. Ordinance regulations are different for open porches. Once it has a roof and is capable of being enclosed, setback requirements for the district must be met.

Colton answered that he would really like to have a 12'x12' room so he could have a couple of chairs and a table and still have room to maneuver around them. Plus, the location of his back door would hinder anything smaller. If he had to go with a 8'x12' room it would probably end up being used as a junk room because it would be too crowded. Colton said he felt it was as small as he could go, but still be reasonably comfortable.

Wardell agreed a 12'x12' three-season room was not an unreasonable request. Anything smaller would definitely make it more difficult to maneuver around if there were a table and chairs..

**MOTION: Brad Hissong** moved that request PZBA12-004 under Section 18.4.11 (Nonconformity Appeals) to allow further rear yard encroachment under Section 5.5.3.C. and Section 3.2., Table 3-1, Rear Yard Setback, as outlined within the 1999 Shiawassee County Zoning Ordinance, for applicant/owner **Timothy Colton**, referencing Tax Identification parcel 78-012-22-200-016, Section 22, Vernon Township, and located at 608 East Newburg (Main Street), Durand, MI, to allow for the existing legal non-conforming structure to be expanded with a 12'x12' enclosed sun room addition to the rear of the dwelling **42 feet** from the rear lot line be **approved** pursuant to and based upon additional testimony received during the public hearing. **Support: Gerald Wardell.**

**Roll Call: Ayes:** Willis Miller, Ann Gamboe Hall, Gerald Wardell, Brad Hissong, and Larry Gramer. **Nays:** None. **Motion carried: 5 ayes, 0 nays.**

8. **NEW BUSINESS:** None.

9. **INTERPRETATIONS OF THE ZONING ORDINANCE:** None.

10. **ZONING ADMINISTRATOR'S REPORT:** Cordier informed the board the office had

received one application to be handled in August.

11. **BOARD MEMBER COMMENTS:** None.
12. **PUBLIC COMMENTS:** None.
13. **ADJOURNMENT:** Motion: Ann Gamboe Hall moved to adjourn the public hearing at approximately 7:45 P.M. Support: Brad Hissong. Motion carried: 5 ayes, 0 nays.

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

**August 8, 2012**  
**Approval Date**