

SHIAWASSEE COUNTY ZONING BOARD OF APPEALS
October 10, 2012

1. **CALL TO ORDER:** Peter J. Preston, Community Development Director, called the regularly scheduled monthly Shiawassee County Zoning Board of Appeals public hearing to order at 7:05 P.M. The meeting 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.

1a. **ROLL CALL:** Present: Willis Miller, Ann Gamboe Hall, n. Brad Hissong, and Julie Hales-Smith. (Gerald Wardell arrived at approximately 7:10 P.M.) Absent: Larry Gramer and Henry W. Martin III. Also present: Peter J. Preston, Community Development Director, Linda Gene Cordier, Zoning Administrator, and County Commissioner, Ron Elder.

Board Quorum: Preston noted there was just a quorum at the present time. The petitioners will have the option of hearing their request or have it tabled until a full board is present. Any action taken this evening would require a unanimous vote; four votes. Preston stated because both the chairman and vice-chairman were unable to be present this evening, he would need a motion to appoint an Acting Chairman to conduct the meeting.

Motion: Brad Hissong moved to appoint Ann Gamboe Hall as Acting Chairman for the evening.

Support: Julie Hales-Smith. **Motion carried.** Preston turned the meeting over to Hall.

Excused Absences: Cordier informed the board that Martin had informed the board last month he would be out of town this evening. Gramer had contacted her that afternoon and stated he was home ill and wouldn't be able to attend tonight. Acting Chair Hall said Martin and Gramer would be excused.

2. **CONFIRMATION OF LEGAL NOTICE:** Cordier informed everyone that the scheduled agenda had been published within the Shiawassee Independent on Sunday, September 23, 2012 and proof of publication was available for review. Chair Hall approved the hearing as legally noticed.

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

Chair Hall informed the petitioners that they would be asked if they wished to proceed with their application tonight or have it tabled until November. Hall reiterated that it would take a unanimous vote to pass a petition this evening.

Cordier added that if a petition were denied this evening, the ordinance states they cannot reapply for one year unless new evidence that was not presented during the hearing was brought forward for the board to consider whether a rehearing should be held.

4. **APPROVAL OF BOARD MINUTES:** **Motion:** Julie Hales-Smith moved to approve the September 12, 2012 board minutes as printed. **Support:** Brad Hissong. **Motion carried: 4 ayes, 0 nays.**

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

6. **COUNTY BOARD OF COMMISSIONER COMMENTS:** Commissioner Elder stated he would speak at the end of the hearing.

7. **OLD BUSINESS:**

7a. **Application** – ZBA12-007

Applicant/Owners – Kevin S. Godfrey, P.O. Box 94, Morrice

Site Location – 2110 East Braden Road, Perry, MI 48872

Tax Identification – 78-015-33-100-001, Section 33, Antrim Township

Dimensional Variance Request/Lot Size Requirements - Divide off a parcel of land from a farm with an existing single-family dwelling and accessory structures on a parcel size that would exceed the maximum lot size requirements within the A-2 Zoning District

Proposed – 325' road frontage width by 1290' depth; 9.62 acres m/l

Ordinance – Section 2.7.2.A. of the 1999 Shiawassee County Zoning Ordinance – Parcels created after June 1999 within the A-2 District – Maximum Lot Size 2.5 acres

Variance Requested - 7.12 acres m/l

Tabled from September 12, 2012

Cordier informed the board that Kevin Godfrey had stopped into the office and informed her that they had checked around for refinancing and were able to refinance at a much lower interest rate and would be withdrawing their dimensional variance request. Godfrey will be providing the office with a written statement of his request to withdraw.

Preston informed the chair that a motion would be needed to have it remain tabled until the statement was received.

Motion: Willis Miller moved to have Application ZBA12-007 remain tabled until confirmation of withdrawal has been received. **Support:** Brad Hissong. **Motion carried: 4 ayes, 0 nays.**

8. NEW BUSINESS:

8a. Application – PZBA12-008

Applicant – Gladys Freund, 7528 S. Morrice Rd., Morrice

Owners – Stephen and Michelle Freund, 7536 S. Morrice Rd., Morrice

Site Location – 7528 S. Morrice Road, Morrice

Tax Identification – 78-010-26-400-001, Section 26, Bennington Township

Request – Divide an existing home and accessory building from the farm on a parcel size that would exceed the maximum 2.5 acre lot size requirements within the A-2 zoning district.

Proposed lot size – 440' x 1320' (13.33 acres)

Variance Requested – 10.83 acres m/l

Ordinance -- Section 2.7.2.A. of the 1999 Shiawassee County Zoning Ordinance – Parcels created after June 1999 within the A-2 District – Maximum Lot Size 2.5 acres

(Board member Gerald Wardell arrived; 7:10 P.M.)

Acting Chairman Hall asked Gladys Freund if she wished to proceed with her petition or wait until a full board was present.

Gladys Freund responded that she wished to proceed and get this behind her.

Chair Hall asked Gladys to proceed with her request.

Gladys stated her daughter-in-law (Michelle) was also present. Gladys informed the board that she had her husband had contacted an attorney to have the farm Quit Claimed to their son (Stephen and his wife Michelle) with the 13.33 acres remaining left in her and her husband's name. After the Quit Claim Deed was recorded it was discovered that the entire farm had been Quit Claimed over to Stephen and Michelle. Gladys said she was asking to have the 13.33 acres that included her home recorded back in her and her husband's name. The 13.33 acres was purchased in 1994 and was combined with the farm in 1995.

Cordier provided a brief staff report. The office had been contacted by staff within the Equalization Department that Mrs. Freund was seeking a Land Division to correct the error that had been made. Mrs. Freund was sent over to the Community Development Office to discuss lot size requirements within the A-2 zoning district that can be created after the adoption of the June 1999 Zoning Ordinance. Several discussions followed over the next month with Mrs. Freund. Although the 13.33 acre parcel complied with the 1982 zoning ordinance in effect at that time for lot sizes, it had been combined under one tax

identification parcel number. If it had remained as a 13.33 acre parcel with its own tax identification number, it would have been considered a legal nonconforming parcel. Cordier stated she offered for suggestion that the parcel be increased to 20.01 acres so a variance would not be necessary. Mrs. Freund decided to seek a variance. Cordier stated she had informed Mrs. Freund that if the board were to consider it, it would be for the least amount needed. The drawing submitted reflects a detached garage to the rear of the home; however, setback information was not provided to determine what the least amount needed would be. Cordier also noted that if Freund would have applied for a Land Division; the Community Development Department would have had to deny the department's review as it would not meet zoning compliance based on the lot size and no dimensional variance approval approving the lot size.

Mrs. Freund responded that there was no way the parcel could be increased to 20 acres because it is a farm lane next to the property and the land behind her is owned by the Bamber's. There is approximately six (6) acres in front of the home from the road to the home.

Chair Hall informed Mrs. Freund that the Zoning Board of Appeals was charged with considering variances. If one were granted, it would be for the least amount needed to accomplish a request if it is determined there is no other options available. In this particular case for instance, if it can be met with a minimum of six acres then that is what the board would consider and not the full amount requested.

Preston discussed the tax map noting that the 13.33 acre parcel was created in 1994 and placed on the 1995 tax rolls. At that time it was combined with the farm. Preston asked Gladys why it was combined with the farm because farm land and residential land would have been taxed differently.

Gladys stated it was combined after the first tax bill. We were told if we wanted to be a good neighbor, we would consider having it combined into one parcel. She couldn't recall if it was the assessor or someone else that had suggested it be combined. Gladys said she just wanted to turn back the hands on the clock and make it 13.33 acres again.

Chair Hall discussed the property and noted that access to the home was from a shared driveway with the son and daughter-in-law.

Gladys stated they thought they would be traveling when her husband retired so they thought it would be better to share a driveway; however, her husband has become ill and unable to travel. A shared driveway easement had been written at the time the new home was built.

Michelle Freund replied that according to the staff report the easement agreement was prepared but never recorded. It had only been notarized.

Chair Hall opened the floor for public comment. Hearing none, she opened the floor for township input. Cordier provided the board with a letter from Bennington Township. Hall read the letter into the public record:

September 28, 2012

To: Shiawassee County Zoning Department

Re: Variance Application #PZBA12-008

The Bennington Township Planning Commission discussed the Freund Land Exchange and Variance application at a meeting held on September 27, 2012. Stephen Freund, 7536 S. Morrice Rd., Morrice, MI 48857, Bennington Township Sec. 26, Property #78-010-400-001, filed a Dimensional Variance Application #PZBA12-008. The application lists the reason for requesting a Dimensional Variance is "attorney wrote wrong land description on Quit Claim Deed".

Moved by Frank Gregory to not approve the Dimensional Variance Application #PZBA12-008

as due to the fact the process to allow a 13.33 acre parcel would require a Land Division Application in addition to the Variance Request which has not been received and also there is no extenuating circumstance to indicate a need for a variance from a 2.5 maximum acre limit. Seconded by Bill Nash. Motion carried.

If you should have any questions or concerns please feel free to contact me.

Sincerely, Donna Ash, Clerk, Bennington Township

Gladys responded that she was told she would not need to have a lawyer present.

Chair Hall asked Cordier if any of the neighbors had responded. Cordier replied that the office had not received any telephone calls or correspondence. Hall closed the public hearing and called for board discussion.

Gladys again noted that there was approximately six acres in front of her home.

The board discussed the farm. Michelle explained that the farm has approximately 60 acres of tillable ground. Behind their home was the farm with some woods to the rear. On her mother-in-law's property, behind the home, it was heavily wooded. Michelle said she took the photographs, but didn't know the distance behind the accessory building because of all the poison ivy within the wooded area.

Preston explained that the 80-acre farm was combined with the 13.33 acre parcel in 1995.

Gladys again responded that she just wanted her 13.33 acres separated from the rest of the farm.

Preston noted that the Quit Claim Deed reflected the 13.33 acres was included with the farm when it was described by the attorney.

Michelle replied that it was the intent of her and her husband to keep the farm separated from their parcel because of taxes and escrow. They didn't intend to combine it.

The board discussed the accessory structure behind Gladys' home. Some of the board members noted their site plan provided within the packet by Gladys didn't show a garage.

Michelle stated she thought the accessory building was about 90 feet behind the home. Gladys said it was originally built to be a workshop for her husband, but he is not capable of using it now due to his health.

Preston discussed the fact a Land Division would still be required; it would have become part of the Parent Tract in 1997 when the Land Division Act went into effect. If you look at the farm, the rear portion of the 13.33 acres is wooded. The farm would not gain or benefit from obtaining an additional four acres or more of wooded land. Preston again noted that it would not have been an issue before this board tonight if the property had retained its own tax identification number back in 1995 instead of being combined with the farm. It would have been considered a legal nonconforming lot.

Chair Hall asked the board if they had additional questions at this time.

Hissong replied he had been concerned about the requested variance. Though discussion we have been informed that the applicant had been told by someone to keep the farm and this lot combined under one tax identification number.

Preston answered that was true. The petitioner stated that tonight. However, staff can't validate that statement as we don't know who told her that, why it was suggested, or when it was discussed with her.

Hales-Smith wondered about the concerns within the township letter referring to the fact there has been no land division or variance approval.

Preston replied the township is only a recommending body. It is information provided to this board so you can use as a means to approve or deny a request. The error on the Quit Claim Deed can be taken care of. A Land Division would not have been required even back in 1997 because the property was contiguous, but because a home has been built on it a Land Division approval is now needed. The laws have changed over the years. It appears the 13.33 acre lot is consistent with the 13.33 acre lots that were created at the same time that this one was located to the north. Preston asked if the other lots were developed and wooded as well.

Michelle answered that the lots have homes and that further north of her mother-in-law's property it becomes less wooded.

Hall reminded Gladys that it would take four (4) votes to pass her request this evening and asked if she wanted to proceed or ask that it be tabled at this point.

Gladys responded she wanted to get this resolved as her husband was on Hospice; I just want to get this over with.

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: The parcel has been developed for single-family residential use. The only hardship appears to be the maximum lot size that can be created since the adoption of the 1999 Zoning Ordinance.
 ZBA: Concur with staff's findings.

- 2) Identify the unique physical circumstances or conditions or exceptional topography that create practical difficulties.
Staff: The only practical difficulty appears to be the maximum lot size regulation placed within the 1999 Zoning Ordinance. The property has already been developed and the rear of the property has been left a natural wooded area.
 ZBA: 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 parcel was first created in 1994 and combined with a larger tract of land. A new home was built in 1997 on what was reflected as the 13.33 acre tract of land. The applicant has Quit Claimed the farm to the son and his wife, but wished to maintain the 13.33 acre tract of land. However, it was discovered that an error had been made within the Quit Claim Deed; the 13.33 acre parcel had not been split off and the entire farm was deeded over. The applicant is seeking a variance to create the 13.33 acre parcel so a Land Division can be applied for, and the deed corrected accordingly. It is our understanding that the petitioner had been advised to combine the parcel with the farm probably for assessment and/or tax purposes. The parcel needs to be recreated and a Land Division applied for.
 ZBA: Concur with staff's 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 ZBA should discuss if the request is a self-created hardship due to the fact it was combined with the farm in 1994. It is not known how many other parcels within the County that may share the similar similarities. Also, the Land Division Act went into effect in 1997, which would have required the a Land Division as well.
 ZBA: 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: The ZBA should discuss if approval of the request would impact adjacent properties and/or be setting a precedent if approved. As the property has already been developed and would otherwise comply, there should be no change in property values or impact on the public, health, safety and welfare if approved. If it is not approved, the 13.33 acres would always be tied to the 80 acre farm.
 ZBA: 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 proposed land use allows for single-family development by-right and does not require a special land use permit. Again, the site is already developed.
 ZBA: 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: Staff will verify that all other standards of the Ordinance have been complied with if the variance is approved.
 ZBA: Concur with staff's findings.
- 8) Findings on any error in judgment or procedure in the administration of the relevant zoning provisions.
Staff: It is not apparent that any error in judgment or procedure has been made in the administration of the Ordinance.
 ZBA: Concur with staff's findings.
- 9) The possible precedents or affects which might result from the approval or denial of the appeal.
Staff: The ZBA may wish to discuss possible precedent and if other properties exist that are similar in nature to the surrounding land use in the general area.
 ZBA: Does staff have anything to provide to the board to compare it with. Preston stated no not at this time, but there could be others in the area that we are not aware of. Board concurred 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: It does not appear that allowing the 13.33 acre parcel to be split off the farm and placed on the roll as it was originally created in 1994 would not impact the County or other governmental units in the provisions of services.
 ZBA: Discussed the fact the petitioner crosses over another parcel to access the parcel. Preston noted an easement has been provided; it appears the Common Driveway Easement agreement was never recorded and a copy provided to the Community Development Department. The board can include that as a condition if the variance is approved. The board concurred with staff's findings.
6. **Additional Standards for Review-**
- 6.1 **Reasonable Use-** Can the property be used in a manner consistent with existing zoning without the need of a variance?
Staff: Yes it can be it would be a 93 acre farm with a house on it. What purpose would it serve to reduce the 13.33 acres down and have the resulting 2 or more wooded acres are attached to the farm.
ZBA: Agree with staff's statement.

- 6.2 **Uniqueness-** Is the need for the variance due to a unique circumstance and not general to conditions of the neighborhood?
Staff: We can't identify with the rest of the county. This was one of the four 13.33 acre parcels created in 1994 and the Land Division went into effect in 1997 and a division would have been required anyway. The Quit Claim Deed has nothing to do with this, that can be remedied.
ZBA: Concur with staff's statement.
- 6.3 **Essential Character Affected-** Will the variance effect the essential character of the surrounding area?
Staff: No. There will be no visible change to the area; it will look the same.
ZBA: Agree with staff's statement.
- 6.4 **Self-Created Hardship-** Is the hardship or practical difficulty the result of the applicant's own actions with respect to the request.
Staff: We have been informed by the applicant that they were advised to combine the two parcels for assessing purposes. The property would have been taxed agricultural instead of residential.
ZBA: Concur with staff's statement.

Motion: **Gerald Wardell** moved that the Dimensional Variance Request (PZBA12-008) from the maximum lot size requirements within the A-2 Zoning District as outlined within the 1999 Shiawassee County Zoning Ordinance requirements; specifically Ordinance Section 2.7.2.A.; submitted by Gladys Freund/Applicant and Stephen and Michelle Freund/Property Owners, with regard to Parent Parcel Tax Id. 78-010-26-400-001, Section 26, Bennington Township, and known as **7528 S. Morrice Road, Morrice, MI**, seeking a variance to create a parcel size of 440 feet road width/frontage by 1,320 depth, a variance of **10.83 acres** is **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. and with the following conditions:

1. A Land Division Application be applied for and approved; a copy provided to the Shiawassee County Community Development Department.
2. The "Easement Agreement for Ingress and Egress" be recorded with the Shiawassee County Register of Deeds and a copy provided to the Shiawassee County Community Development Department.

Support: **Julie Hales-Smith.**

Roll Call: Ayes to Approve: Willis Miller, N. Brad Hissong, Julie Hales-Smith, and Gerald Wardell. **Nays:** Ann Gamboe Hall. **Motion carried: 4 ayes, 1 nay.**

Cordier informed Gladys and Michelle that per the ordinance, there was an eight (8) day waiting period to see if anyone was going to appeal the motion. If no one appeals, she would receive documentation of the variance and could apply for the Land Division. Preston suggested they check with the Register of Deeds to see if the Common Driveway Easement language from 1997 had been recorded.

8b. Application #PZBA12-010

Applicant/Owners - Leo W. and Brenda S. Domby, 11998 Woodland Drive, Lennon

Site Location - 11998 Woodland Drive, Lennon

Tax Id. - 78-008-38-023-000 (Lot 23, Ardelean Plat), Section 13, Venice Township

Request - Replace an open deck with a covered front porch within the setback requirements of a State or Federal Highway. Proposed setback: 51' from M-13 Right-of-Way

Variance Requested: 24 feet from Right-of-Way to closest point

Ordinance - Section 3.4.(C); 75 feet from Right-of-Way along a State or Federal Highway

Leo and Brenda Domby were present. Leo informed the board that they built the open deck in 1994. At that time they were working the day shift, but now they are retired. The decking on the deck and railing needed replacing due to deterioration caused by the elements of weather. He and his wife would like to have a covered front porch to help protect the deck and so they could sit out front and enjoy their morning coffee and read the paper. Brenda added she would like a porch swing so she could enjoy swinging with her grandchildren.

Cordier provided a staff report. The parcel is a corner lot which has two front yard setbacks; one from Woodland Drive and the other from M-13. Setbacks from a state or federal highway are greater than that

of a secondary road due to the right-of-ways required. The ordinance requires a minimum of 75 feet from the right-of-way. The parcel is located within a platted subdivision that was established in 1954. Cordier had checked with M.D.O.T. with regard to the setback requirements in this area to see if they had changed over the years. The right-of-way remains the same; 120 feet in width with 60 feet from center line of M-13 on the Shiawassee County side. Minimum setback from the center line of M-13 to front build line would be 135 feet. Open (non-covered) decks can be closer to a lot line than covered structures. A covered porch or deck is required to meet the minimum setback requirements because they have the potential of being enclosed. Cordier noted that the existing home does not meet the minimum required setbacks; however, Venice Township did not come under county zoning jurisdiction until 1988. The owner estimated the home had been built in 1960.

Chair Hall asked if all the homes in the area were similar to this.

Mr. Domby replied yes, most have porches and attached garages. An older farm home in the area is located much closer to M-13 than this. Domby noted that there were trees in his front yard closer than this.

The board questioned the reasoning within the ordinance for a greater setback from a right-of-way along a state or federal highway versus a secondary road.

Preston responded that it was due to expansion of highways, relocations and/or areas that may have potential clover leaves. It enables the state to widen, relocate, or resurface and repair roads. This parcel is located closed to the intersection of M-21 and M-13 which would explain a larger right-of-way than what may be typical.

Cordier informed the board that back in February Larry Julian and his wife applied to build a covered deck on the front of their home. The Julian's own the lot directly north of the subdivision. At first they were informed they would need a variance from the front yard setback as well. Upon checking with M.D.O.T., Cordier was informed that right in that particular area along M-13 on the Shiawassee County side was a lot less. Based on her information from M.D.O.T., the Julian's were not required to obtain a variance. Cordier also noted that Mr. Julian contacted her and stated they had no objections to the Domby's request.

Chair Hall asked if the township had responded. Cordier stated she had not heard from the township. Hall called for public comment. Hearing none, Hall closed the public hearing and called for board discussion.

Domby noted that a home on the Genesee County side was repairing or replacing some steps. It appeared they were only 20 feet from the road.

Chair Hall answered this board couldn't speak to the requirements in another county and it may be possible they were building without permit approvals.

Discussion continued on setback requirements for enclosed structures. Preston added that if the board decided to approve this; they could add a condition of approval that it not be enclosed until such time the ordinance language changed that would allow it.

Mrs. Domby replied that if a car were to veer off the road and hit the porch, they would hit the trees before ever running into the porch.

Chair Hall stated that may be true; however, the trees could fall down or be cut down. Hall suggested shifting the deck.

Mr. Domby stated even if it were shifted, they still wouldn't be able to meet the setbacks. The porch is already there, they were only replacing the decking and railing. They were not changing the footprint of the deck. We just would like the ability to place a roof over it with a vinyl decking underneath.

FINDING 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: The petitioned parcel has two designated front yards, is less than an acre in size, and was built on an angle to both roads. The home is legally non-conforming as it does not meet the minimum 75 foot setback requirement. Venice Township did not come under the jurisdiction of County Zoning until October 27, 1988. A variance is needed in order for the applicant to construct a covered front porch. The parcel is legal nonconforming, it is a platted lot, and there was a change in jurisdiction.
 ZBA Findings: Concur with staff's findings.
- 2) Identify the unique physical circumstances or conditions or exceptional topography that create practical difficulties.
Staff: The petitioned parcel has two designated front yards, is less than an acre in size, and the location of the home is legal nonconforming and built on an angle of both roads.
 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: A variance is needed to allow the applicant the ability to have a covered front porch on a dwelling that is legal nonconforming due to previous ordinances and located within an older subdivision. The home also has frontage on a State Highway.
 ZBA Findings: Concur with staff's 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 applicant purchased the property with the home in 1976. At the time it was under the jurisdiction of Venice Township and not the County.
 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: The applicant is seeking the same type of enjoyment as other homes within the area. There should be no impact on the public, health, safety and welfare of the surrounding area if the variance is approved. The Z.B.A. may wish to consider placing a restriction on the variance if approved that the covered porch cannot be enclosed until ordinance language permits it.
 ZBA Findings: Hisson said after he traveled up and down M-13 to compare other homes within the area with regard to setbacks, he found that the Dombay's home set back from the road a lot further than most. After visiting the site, he felt it would be depriving the Dombay's the enjoyment of a covered porch. They won't be changing the footprint of the porch; the decking and rails are being replaced with a roof added.
 The board concurred with the 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: Covered front porches and decks are a permitted use by right within the R-1A District under zoning approval for site location.
 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 10'x28' covered front porch would otherwise comply with Ordinance regulations if the setbacks could be met. If approved, a condition could be added that the covered porch could not be enclosed until ordinance language permitted it.

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: It is not apparent that an error in judgment had been made.

ZBA Findings: Concur with staff's findings.

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

Staff: Other homes located on a State or Federal Highway or Lansing Highway may be similar in nature as it relates to greater setback regulations than on a secondary road. In this particular case, there is a narrower right-of-way just past the property to the North.

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: No impact on public services is anticipated if the variance is approved.

ZBA Findings: Concur with staff's findings.

Motion: N. Bradley Hissong moved that the Dimensional Variance (PZBA12-010) from the setback requirements of a State or Federal Highway or Lansing Highway, as outlined within the 1999 Shiawassee County Zoning Ordinance requirements; specifically Section 3.4. (c); submitted by Leo W. Domy, applicant & property owner, with regard to Parent Tax Id.#78-008-38-023-000, within Section 13, Venice Township, and located at 11998 Woodland Drive, Lennon, MI, to allow for a 10'x28' covered front porch to be **51 feet** from the road right-of-way of M-13; a variance of **24 feet**, be **approved** pursuant to Section 18.4.5. of the 1999 Shiawassee County Zoning Ordinance, as amended, and based on the testimony received from the public hearing and the Findings of Fact within Section 18.4.6. **Support: Willis Miller.**

Discussion: Chair Hall asked if Hissong wanted to include a condition that the covered porch could not be enclosed.

Amendment to Motion: Hissong moved to amend his motion to include the following stipulation:

1) The covered porch cannot be enclosed. **Support: Willis Miller.**

Roll Call: Ayes to approve: Julie Hales-Smith, Gerald Wardell, Willis Miller, N. Bradley Hissong, and Ann Gamboe Hall. **Nays:** None. **Motion carried: 5 ayes, 0 nays.**

9. **INTERPRETATIONS OF THE ZONING ORDINANCE:** None. Cordier stated the board would have an interpretation to review next month.

10. **PUBLIC COMMENTS:** None.

11. **BOARD OF COMMISSIONER COMMENTS:** Commissioner Elder responded that at last week's Board of Commissioners' meeting, motions passed approving the millage for 4-H/Extension, Pleasant View Medical Care Facility, and Veteran's Affairs. The Veteran's Affairs Office was approved to hire a part-time employee at 19 hours a week. The position will be open to County employees as well as outside the complex. Pete Preston's company was awarded the contract to oversee the Equalization/Tax Description Department. Preston gave a presentation last week at the monthly M.T.A. meeting. The Commissioners' approved purchasing the B.S. & A. software program to be utilized within the

Equalization Department, Treasurer's, Drain Office, and Community Development Department. It will make everything similar. With limited staff, the program will make information available to the various departments more efficient by streamlining the work.

Hissong replied that he was familiar with the B.S. & A. program where he works and it does make one's work much more efficient, especially when everyone is working off of the same program. Information is clear and it makes productivity much quicker.

12. **ADJOURNMENT: Motion:** Julie Hales-Smith moved to adjourn. **Support:** Brad Hissong. **Motion carried: 5 ayes, 0 nays.** Meeting adjourned at 8:21 P.M.

Recording Secretary – Linda Gene Cordier

Henry W. Martin III
Chairman, Zoning Board of Appeals

November 14, 2012
Approval Date