

**SHIAWASSEE COUNTY ZONING BOARD OF APPEALS
OCTOBER 12, 2016– BOARD MINUTES**

1. **CALL TO ORDER:** Chair Henry W. Martin III called the regularly scheduled monthly Zoning Board of Appeals public hearing to order at 7:00 P.M. on Wednesday evening, October 12th, 2016. The hearing was held within the County Board of Commissioners' meeting room located on the first floor of the Surbeck Building, 201 N. Shiawassee Street, in Corunna, MI.
 - a. **ROLL CALL:** Present: Bradley Hissong, Duane Wood, Paul Brake, Robert Ebmeyer, and Henry W. Martin III. Absent: Ann Gamboe Hall, Julie Hales-Smith. Also present: Peter Preston, Community Development Director and Matthew Lafferty, Land Use Planner.
 - b. **EXCUSED ABSENCES:** **Motion:** Brake moved to excuse Hales-Smith. **Support:** Wood. **Motion carried: 5 ayes, 0 nays.**
2. **CONFIRMATION OF LEGAL NOTICE:** The board was informed that a legal notice of the scheduled hearing had been posted within the Sunday September 25, 2016 edition of the Independent Newspaper to all of their zones and that proof of publication was on file. Martin declared the hearing as legally noticed.
3. **APPROVAL OF THE AGENDA:** **Motion:** Wood moved to approve the agenda as printed. **Support:** Ebmeyer. **Motion carried: 5 ayes, 0 nays.**
4. **APPROVAL OF BOARD MINUTES:** **Motion:** Brake moved to approve the September 14, 2016 meeting minutes following the correction of Break to Brake on page 3, in the motion for PZBA16-012. Wood made a friendly amendment to the motion, asking for his no vote to be recorded for PZBA16-011, on page 3, before official minutes be adopted. **Support:** Hissong. **Motion carried: 5 ayes, 0 nays.**
5. **PUBLIC COMMENTS ON NON-AGENDA ITEMS:** None.
6. **COMMISSIONER COMMENTS:** None.
 - a. **OLD BUSINESS: Application Request #PZBA16-012**
Applicant/Owner – Adam Elsesser
Site Location –2740 W. Lansing Rd., Perry, MI 48872; Tax ID# 014-10-300-007;
Section 10, Perry Township.
Request – To allow a lighted LED style sign with electronic changeable images.
Ordinance Reference – Section 9.2.1, Prohibited Signs.

Martin stated that this case was heard in a previous meeting and as a result the public hearing can be waved.

Martin asked the applicant if he had a statement. The applicant deferred his statement to a representative of the sign company Mr. Mark Agnue. Mr. Agnue stated that based on the language we have in place and the precedent established by previous variances we will accept any conditions the board sets. However by not acting today the board is inhibiting Mr. Elsesser's business.

Discussion between the board members took place.

Motion: Paul Brake motioned to Approve request PZBA16-011, ELSESSER, for a variance from Section 9.2.1.G to permit a lighted LED style sign with electronic changeable images on the property as legally described in Section 10 of Perry Township (Parcel Id. #014-10-300-007), based upon the following reasoning and conditions:

Reasoning:

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

Conditions:

1. The improvement resulting from the approval of this variance must be substantially similar to what has been depicted on the submitted site plans.
2. All electronic messages displayed must be programmed so the electronic message change occurs instantaneously, without use of scrolling, flashing, blinking or other similar transitions.
3. All electronic sign messages must contain static images only, changed only through dissolve or fade transitions, but which may otherwise not have movement or the appearance or optical illusion of movement varying light intensity, including any part of the board, design or pictorial segment.
4. Hours of operation are to be restricted between 6:00 A.M. and 12:00 A.M.
5. The message may be changed at the time the sign is not in operation.
6. If the Zoning Ordinance is amended and is more restrictive, then the appeal must conform to the new language or if the Zoning Ordinance is amended and is less restrictive, then the appeal is allowed that capability to expand with the new language.

Bradley Hissong moved to **amend** the motion to include the following condition:

1. A single static image may be displayed between the hours of 12:00 A.M. and 6:00 A.M.

Support: Duane Wood

Roll Call: Ayes to Approve: Duane Wood, Bradley Hissong, Paul Brake, Robert Ebmeyer, and Henry W. Martin III **Nays:** None

Motion Carried: 5 ayes, 0 nays.

7. NEW BUSINESS:

a. Application Request #PZBA16-013

Applicant/Owner – Donald & Linda Benning

Site Location –7320 Grand River Rd., Bancroft, MI 48414; Tax ID# 016-18-400-011;
Section 18, Burns Township.

Request – To permit the creation of a parcel that has less than the required minimum road frontage of 200 feet in the A-2 district.

Ordinance Reference – Section 3.2.

Lafferty provided the staff report.

Martin asked for the applicant's statement. The applicant, Mr. Donald Benning, stated that he is experiencing health issues and wants to take care of his property before he is unable to. Mr. Benning noted that he is having trouble selling his entire farm but is now unable to properly maintain his home and barn. He proposed to split off approximately 4-acres from the rest of his 37-acre property in order to sell his home. Due to previous alterations made to Grand River Rd. during the time of Mr. Benning's residency the parcel in question lost significant road frontage. This has created practical difficulty for the applicant meeting the required 200' minimum road frontage for the proposed 4-acre parcel.

Martin opened the floor for public comment in support of the applicant's request. Hearing none, Martin called for public comment in opposition of the request. Hearing no opposition, a rebuttal was not necessary.

Martin closed the public hearing.

Discussion between the Board members took place.

Motion: Robert Ebmeyer motioned to approve request PZBA16-013, BENNING, for the proposed 100' variance from Section 3.2 to allow the creation of a parcel that does not meet the minimum requirement of 200' of frontage on property as legally described in Section 18, Burns Township (Parcel Id. #016-18-400-011), based upon the following reasoning:

Reasoning:

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

Support: Paul Brake.

Roll Call: Ayes to Approve: Bradley Hissong, Paul Brake, Robert Ebmeyer **Nays:** Duane Wood and Henry W. Martin

Motion failed: 3 ayes, 2 nays. (4 required to pass)

The board deliberated further.

Motion: Paul Brake motioned to approve request PZBA16-013, BENNING, for the proposed 100' variance from Section 3.2 to allow the creation of a parcel that does not meet the minimum requirement of 200' of frontage on property as legally described in Section 18, Burns Township (Parcel Id. #016-18-400-011), based upon the following reasoning and conditions:

Reasoning:

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

1. A property survey must be obtained and indicate setbacks for the principal residential structure and any accessory structures satisfactory to the standards of the Zoning Administrator.

Support: Robert Ebmeyer.

Roll Call: Ayes to Approve: Duane Wood, Bradley Hissong, Paul Brake, Robert Ebmeyer, and Henry W. Martin III **Nays:** None

Motion Carried: 5 ayes, 0 nays.

b. Application Request #PZBA16-014

Applicant/Owner – Rory Keay

Site Location – 4929 Chippewa Ct., Owosso, MI 48867; Tax ID# 010-42-010-000; Section 10, Bennington Township.

Request – To allow an accessory structure that encroaches into the minimum 50' waterfront setback for a structure that does not exceed 150-sf in size.

Ordinance Reference – Section 5.2.8.B.

Lafferty provided the staff report.

Martin asked for the applicant's statement. The applicant, Rory Keay, approached the board and gave Lafferty statements from the Lake Manitou Association and neighbors regarding the proposed variance. Mr. Keay stated that he would like to replace his existing shed, which is legally non-conforming, due to its current condition.

Martin opened the floor for public comment in support of the applicant's request. Hearing none, Martin read two letters from neighbors addressed to the board in support of Mr. Keay's variance. Martin then called for public comment in opposition of the request. Hearing no opposition, a rebuttal was not necessary.

Martin read a letter supplied from the Lake Manitou Association and Bennington Township recommending approval of the proposed waterfront setback variance.

The Board deliberated with the applicant.

Hissong stated that due to the existing vegetation the proposed structure would be screened from view on the lake. Further he stated it may be a good idea to require this be maintained for the life of the structure.

Martin closed the public hearing.

Motion: Robert Ebmeyer motioned to Approve request PZBA16-014, KEAY, for the proposed variance to permit the construction of an accessory structure within the required waterfront setback under Section 5.8.2, Lots Having Water Frontage, and from Section 10.4, Nonconforming Structures, as legally described in Section 10 of Bennington Township (parcel Id. #78-010-42-010-000), based upon the following reasoning and conditions:

Reasoning:

1. The proposal satisfies the basic findings as set forth in Section 18.4.6 of the Ordinance.
2. Any additional reasoning as determined by the Board of Appeals.

Conditions:

1. A consistent maintenance of vegetation at its current height throughout the life of the structure.

Support: Paul Brake.

Hissong proposes a friendly amendment (see condition set 1) for the motion to approve PZBA16-014.

Roll Call: Ayes to Approve: Bradley Hissong, Duane Wood, Robert Ebmeyer, and Paul Brake. **Nays:** Henry W. Martin III

Motion Carried: 4 ayes, 1 nays.

c. **Application Request #PZBA16-015**

Applicant/Owner – William F. Zemla Jr.

Site Location –7851 W. Henderson Rd., Elsie, MI 48831; Tax ID# 001-23-100-002 & 001-23-100-003; Section 23, Fairfield Township.

Request – To allow the creation of a parcel that exceeds the maximum lot size requirements of 2.5 acres.

Ordinance Reference – Section 2.5.2.A

Preston provided the staff report.

Martin asked for the applicant's statement. The applicant, William Zelma Jr., stated that he is trying to sell his property but his existing 1.59-acre parcel is irregular in shape. Mr. Zelma would like to split 1.32-acres of land from an adjacent parcel, residing directly to the rear of Mr. Zelma's principal residential structure, and combine it with his 1.59-acre property. Mr.

Zelma states that the proposed action would eliminate the irregular shape of his parcel and extend his existing back yard to the wooded area within eyeshot of his property.

Martin opened the floor for public comment in support of the applicant's request. Hearing none, Martin called for public comment in opposition of the request. Hearing no opposition, a rebuttal was not necessary.

Martin closed the public hearing.

Discussion between the Board members took place.

Motion: Robert Ebmeyer motions to approve request PZBA16-015, ZEMLA, for the proposed variance from Section 2.5.2.A as property legally described in Section 23, Fairfield Township (Parcel Id. #001-23-100-002 & 001-23-100-003), based upon the following reasoning:

Reasoning:

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

Support: Paul Brake.

Roll Call: Ayes to Approve: Bradley Hissong, Duane Wood, Robert Ebmeyer, and Paul Brake. **Nays:** Henry W. Martin III

Motion Carried: 4 ayes, 1 nays.

8. **INTERPRETATIONS OF THE ZONING ORDINANCE:** None published.
9. **ZONING ADMINISTRATOR'S REPORT:** Preston noted that staff provided the board members with information packets about upcoming training sessions requested from last meeting. Preston noted that due to the price of these sessions and limited resources available to the board it may be prudent to have staff address any specific issues the board members may have. Preston suggested each member email himself or staff two to three questions to be researched and presented to the Zoning Board of Appeals in an upcoming meeting.
10. **BOARD MEMBER COMMENTS:** Brake noted that Preston Community Services has recently had its contract with Shiawassee County renewed and wanted to congratulate Preston formally on the good work.
11. **PUBLIC COMMENT:** None.
12. **ADJOURNMENT:** **Motion:** Brake moved to adjourn. **Support:** Martin

Motion carried: 5 ayes, 0 nays.

The public hearing adjourned at approximately 9:40 P.M.

Recording Secretary: Matthew Lafferty

Approval Signature
Shiawassee County Zoning Board of Appeals

Approval Date

DRAFT