

**SHIAWASSEE COUNTY ZONING BOARD OF APPEALS
PUBLIC HEARING BOARD MINUTES
NOVEMBER 12, 2014**

Call to Order: Chairman Henry W. Martin III called the public hearing to order at 7:00 P.M. 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.

Roll Call: Present: Ann Gamboe Hall, Fred Junger, Duane Wood, Glenn Love Jr., Henry W. Martin III; Julie Hales-Smith. Absent: N. Brad Hissong. Also present: Peter J. Preston/Community Development Department, Linda Gene Cordier/Zoning Administrator, and County Commissioner Robert McLaren.

Excused Absences: Cordier informed the chair that she spoke with Hissong in the morning and that he would be out of town and unable to attend the hearing. **Motion:** Junger moved, supported by Wood, to excuse Hissong. Motion carried: 6 ayes, 0 nays.

Confirmation of Legal Notice: Published within the Shiawassee Independent on Sunday, October 26, 2014. Chair Martin declared the meeting legally noticed.

Approval of Agenda: Motion: Love moved, supported by Wood, to approve the agenda as printed. Motion carried: 6 ayes, 0 nays.

Approval of Minutes: Motion: Junger moved, supported by Hales-Smith, to approve the October 8, 2014 board minutes as printed. Motion carried: 6 ayes, 0 nays.

Public Comments on Non-Agenda Items: None.

Commissioner Comments: Commissioner McLaren noted it was the Board of Commissioners' regular meeting week and they were preparing to make substantial budget cuts to the Sheriff's Department, the Courts, Prosecutor's Office, and Building and Grounds on Wednesday.

Old Business: None.

New Business:

Application PZBA14-016 (Dimensional Variance)

Applicant/Owners – Kenneth and Tracy Miller, 6980 W. Bennington Road, Laingsburg, MI

Site Location – 6980 W. Bennington Road, Laingsburg, MI

Tax Identification – 78-009-01-300-003, Section 1, Sciota Township

Request – Dimensional Variance to allow an accessory building to exceed the square footage requirements of an accessory building; exceeds the square footage of the ground floor area of the dwelling. Proposed – 48'x32' (1536-sf) private garage attached to the dwelling with an 8'x12' breezeway. (Ground floor square footage of home – 816-sf)

Variance Needed – 720-sf

Ordinance Reference – Section 5.3.1.A.1. – Private garages as accessory to an authorized use shall not exceed the ground floor area of the dwelling unit

The staff report was provided by Preston. The parcel is located on the corner of Bennington and Shaftsbury Roads, is five (5) acres in size, and zoned A-1. The existing Cape Cod style home and parcel is considered legal non-conforming as they were legally conforming prior to the adoption of the 1999 Zoning Ordinance. The proposed garage will be replacing a 20'x30' detached garage

that will be razed after construction of the new garage if the variance is approved. The Miller's have already razed a 24'x72' barn and a 16'x30' tool shed due to the conditions of the buildings. In anticipation of the attached garage, the applicant's had Consumers Energy relocate the power lines on the property. Preston noted correspondence has been received from the township recommending approval both at the Township Planning Commission level and Township Board level. Preston informed the chair that there were township officials present.

Chair Martin opened the floor to the applicant's.

Kenneth Miller informed the board they had brought photographs of the property that reflected location of some of the buildings that have already been razed. Pictures were viewed by the board. The property has been in their possession since February of 1989. The house is a small home and they would like to add a breezeway and attached garage. They hadn't realized they couldn't build that size until his wife went into the office to apply for the permits.

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

Speaker #1: Phillip Matthews, Sciota Township Supervisor. Matthews stated this was clearly not a self-created hardship. The house has been there for a very long time. The power lines have been moved to accommodate the new building. The Miller's have antique tractors and need a place to store them. The parcel is on a main corner in the township; this would be a big improvement to the area. It's zoned A-1 and already has several accessory buildings. Most of the homes in the area have large farm buildings on them. The township felt approval should be granted to allow them the ability to build.

Martin opened the floor for public comment in opposition of the request. Hearing none, the floor was opened for Township input.

Speaker #2: Bill Thelen, Sciota Township Planning Commission, said he concurred with Phil Matthews. It will increase the property value as they have taken down 3100-sf of old buildings and plan to replace them with less square footage than what has been removed. If approved, the 20'x30' detached garage will be removed as well. The Ordinance language has changed since they purchased the property. The township is support of the request.

Chair Martin closed the public hearing and called for board discussion.

Hales-Smith stated this was unique because the language has changed limiting them to the size that could be built and wondered if they would they qualify for an agricultural building.

Staff noted the Miller's collected antique tractors that weren't used for farming. There have been at least 20 applications turned away this past year because of the limitation on square footage. The Rewrite Committee is looking into the language for possible consideration to recommend a text amendment to the Planning Commission.

Junger asked what the time line would be on the possible change.

Staff answered the Planning Commission would have to review the language and then direct staff to forward it to the township's for a fifty (50) day review before holding a public hearing at the county level. Final approval would be required by the Board of Commissioners to amend the Ordinance.

Hall asked if the attached garage could be reduced in size.

The Miller's informed the board there were four (4) people residing in the home that drove. A place is needed to keep vehicles and the lawn equipment inside.

Martin asked why the power lines were moved before they applied for their permits.

Miller answered it was moved this past spring. Consumers were working in the area and it seemed like the appropriate time.

Findings of Fact:

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

Staff: The Board of Appeals should discuss if the Ordinance imposes a practical difficulty or an unnecessary hardship. The petition is to allow a 1,536-sf private garage, which exceeds the ground floor area of the legally nonconforming 816-sf dwelling unit of 720-sf. The applicant has provided comments that the actual square footage of accessory structures on the entire lot will be reduced. The Board should also discuss if there are other potential methods of achieving the intended result in conformance with the goals and objectives of the Ordinance. There is a Consumer easements, a County Drain, and is wooded.

Board: Discussion on adding on to the existing detached garage was taken; however, a detached structure could not exceed the square footage of the ground area of the home either.

Miller said the other accessory buildings are used for raising chickens and storage of their 15 motorcycles and snowmobiles. They have a collection of a certain style motorcycle that they take to shows. He also has a car collection. It is not a business, it is their personal hobby.

Board: Concurred with all findings.

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

Staff: The Board of Appeals should discuss unique physical circumstance, such as topography, wetlands, or vegetation that may be causing practical difficulties. The applicant has provided comment concerning the location of power lines and wooded areas.

Board: If the power had been moved, the board may have had an option to locate the building elsewhere.

Miller replied it wouldn't have mattered; a variance would still have been required based on the size. We would like the option of having an attached garage.

Board: Concurred with all findings.

3. Specific findings (characteristics of the land) showing that because of the physical circumstances or conditions there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance. That the authorization of a variance is, therefore, necessary to enable the reasonable use of the property and that the condition is specific to this property and not general to other properties in the area.

Staff: The Board of Appeals should discuss unique physical circumstance, such as topography, wetlands, or vegetation that may be causing practical difficulties. The applicant has provided comment concerning the location of power lines and wood areas.

The parcel is legal nonconforming, the size of the home was pre-existing, and the location of the power lines has been noted.

Board: Junger wondered if there were other properties similar in nature to this that may require the same request because the board does not want to set precedence.

Thelen replied that in Sciota Township there were a lot of homes that have been split off a farm that now maintain the home and farm buildings that would exceed the square footage and that the farm buildings are no longer used for agricultural anymore. Matthews agreed.

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 816-sf single-family residential structure currently does not meet the minimum requirement of 864-sf of ground floor area for a 1½ story structure in the A-1 District under Section 3.2 of the Ordinance. It is also noted that the location of structures on the property is restricted due to power lines and that the applicant has already reduced square footage of the storage area by demolishing dilapidated structures. If the Board of Appeals finds a practical difficulty then it could be determined that such practical difficulty was not caused by the applicant but inherent to the physical circumstance of the property.

Board: The board concurred that verification was provided confirming the home was built in 1951, the Miller's purchased the home on 5-acres in 1989, and the ordinance language had changed by adding the language that a residential structure cannot exceed the ground floor area of the home.

Matthews confirmed that Consumers Energy had updated the power lines this past spring all the way to the corner for 3-phase. Miller had the opportunity to relocate the lines while they were right there in the area. Miller added it just made sense because it was going to be less costly to him to have it done while they were in the area.

Board: Concurred with all 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: It does not appear that the intent of the property in this manner would impact adjacent properties or the public, health, safety and welfare of the community in general. Again, the overall square footage of accessory structures has been reduced.

Board: Approval would be improving the aesthetics of the property as the older 20'x30 detached garage would be removed with no apparent impact to the area. The board concurred with all findings.

6. The proposed variance does not permit the establishment of any use which is not permitted by right within the district or any use or dimensional variance for which a special use permit is necessary.

Staff: The proposed variance does not permit the establishment of any use for which a special use permit is necessary.

Board: Hales-Smith asked if the applicant's were proposing a standard two-car garage. Wood replied the size would be just a little bit bigger than what was going to be torn down. Discussion on a typical garage of 24'x24'-sf followed. The board concurred with all 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: If the variance were to be approved, it appears that the intended use of the property as single-family residential purposes would be in compliance with requirements, standards and procedure in the Ordinance, or else be deemed legally non-conforming.

Board: Concurred with all findings.

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

Staff: It is not readily apparent if any error in judgment or procedure has been made in administration of the Ordinance.

Board: Concurred with all findings.

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

Staff: The 816-sf single-family residential structure currently does not meet the minimum requirement of 864-sf of ground floor area for a 1½ story structure in the A-1 District under Section 3.2 of the Ordinance. It is also noted that the location of structures on the property is restricted due to power lines. It is further noted by the applicant that the overall square footage of accessory structures on the property has been reduced. The Board of Appeals may wish to discuss possible precedent and if other properties exist that are similar and may require variance as well.

Board: The sizes of accessory structures have been reduced. There are land divisions being created that allow farm structures to remain on 2½ acres or less that will no longer be used as true farm buildings with the existing dwelling. Precedent setting was of major concern. Staff reiterated that the power lines were relocated, the home was built in the 1950's, and the applicant has reduced the square footage by demolishing some of the older buildings. If the board can show how this is unique and a practical difficulty to this property only, then it wouldn't be precedent setting. There may be others similar in nature, but do they maintain the same conditions or circumstances. The board discussed past variances relating to setbacks, sizes of private garages on smaller lots, and potential language change to the Ordinance. Wood replied that the township recommended approval in writing and in person. The board concurred with all findings.

10. Findings on the impact if the appeal is approved, on the ability of the County or other governmental agency to provide adequate public services and facilities and/or programs that might reasonably require in the future if the appeal is approved.

Staff: It does not appear that this variance would impact the County or other governmental unit in the provision of services.

Board: Concurred with all findings.

Junger stated based upon the review of the submitted materials, including the description of the proposed uses and site plan, the property being within the A-1 District, and township recommendation of approval on the petitioned request, offer the following motion:

Motion: Fred Junger moved to approve request #PZBA14-016, Miller, for the proposed 720-sf variance from Section 5.3.1.A.1 of the Ordinance to have a 1,536-sf private garage exceed the ground floor area of the 816-sf dwelling unit in Section 1, Sciota Township, (Parcel Id. 78-009-01-300-003) 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: Demolition of the existing 20'x32'-sf detached garage within six (6) months of completion of the attached garage. **Support: Glenn Love Jr.**

Roll Call: Ayes to Approve: Duane Wood, Glenn Love Jr., Julie Hales-Smith, Fred Junger.

Nays: Ann Gamboe Hall and Henry W. Martin III. Motion carried: 4 ayes, 2 nays.

Cordier informed the petitioners that there was an eight (8) day wait on the motion before permits could be applied for. Junger thanked the township for their input. Matthews responded he felt it was their responsibility as a representative of the township.

Dimensional Variance Application PZBA14-018

Applicant/Owners – Troy Delcamp Sr. and Vicki I. Huska, 4832 W. Bennington Road, Owosso

Site Location – 4832 W. Bennington Road, Owosso

Tax Id. Number – 78-010-05-300-009, Section 5, Bennington Township

Request – Variance from the side yard setback requirements of an outdoor solid fuel furnace (wood burner). Proposed: 50 feet from east boundary lot line.

Ordinance Reference – Section 5.3.1.H.#3.a.: 100 feet from any residential or commercially zoned or utilized property line

The staff report was provided by Preston. A variance of 50 feet is requested from the east boundary line. There is a single-family residence on the adjoining 10-acre parcel to the east. The board can consider additional landscaping around the petitioned site if the board felt it would be necessary should the petition be granted. The applicant has noted that an area to the rear is low and wet and this was the only area available. Bennington Township met on October 23rd and felt the wood burner could be located in area without the need of a variance and recommended denial.

Troy Delcamp stated he had a statement from the neighbor stating they had no objections. The location of the septic system and drain field interfere with the setback requirements. If approved it would be located 25 feet behind the accessory barn and more than 50 feet from the house. Plans are to build a pole barn next spring so they wouldn't be able to move it 50 feet to the west. Delcamp noted that both land owners around them burn wood via an indoor fireplace/wood stove.

Chair Martin opened the floor for public input in support of the request.

Correspondence received: 1) Louis and Donna Belzer, 4902 W. Bennington Road.

Please be advised that we are the owners of the property immediately to the west of the residence at 4832 W. Bennington Road, whose owners are seeking variance for an outdoor solid fuel furnace on the east side of their property. As such we do not have any objection to the existence of such a structure with the placement as proposed (within 50 feet of the eastern property boundary). We make no other representations. Sincerely, Louis J. Belzer.

Petition submitted by applicant: 1) We Vicki Huska and Troy Delcamp at 4328 W. Bennington Road would like to install a High Efficient outdoor wood boiler under the 100-foot setback boundaries the State/County has required. If you have no problem and agree to the installation and the setback of less than 100 feet, please sign and date below. (Signed – Mr. and Mrs. Randy Hall.)

Township Correspondence: *October 24, 2014: The Bennington Township Planning Commission reviewed the Dimensional Variance application from Troy Delcamp Sr. at a meeting held on October 23, 2014. The following motion was the result of that meeting: Moved by Frank*

Gregory to deny the Dimensional Variance for Setback Requirements – Application #PZBA14-018 by Troy Delcamp Sr., 4832 W. Bennington Road, Owosso, MI 48867, property Tax Id. 78-010-05-300-009, for lack of specific proposed locations and the appearance there are alternative locations that meet current code. Seconded by Bill Nash. Motion carried.

The Bennington Township Planning Commission is concerned with the reduction of the required setback of 100 feet reduced to 50% less for the placement of a wood burner. The 100 foot setback was placed into the ordinance for reasons regarding protection of neighboring properties. Bennington Township believes there is a need for the setback because of the potential of hazardous and nuisance issues that arise from wood burners. The Bennington Township Planning Commission does not wish to set a precedence of reducing this setback.

If you have any questions regarding this information please contact me. Donna Ash, Clerk.

Chair Martin closed the public hearing and called for board deliberation.

Hall questioned the ability to move it over without the need of a variance.

Delcamp stated no, just the driveway. The unit may put out smoke for about 10-minutes and then it stops. The product has come a long way since they first became popular. Also, the further they are away from the buildings they are heating the less efficient they become.

Hall suggested moving it closer to the house and relocating the driveway. Cordier noted a driveway must maintain 15 feet from a boundary line and there didn't appear to be room to relocate it to the east of the existing barn.

Discussion followed on the availability of moving it to the west, relocation between the barn and house if room was available, and setback requirements from the drain field. The board asked if they just purchased the property.

Delcamp stated they just moved in earlier this year. The wood burner is for use only in the winter. The house was built in the 1970's. They didn't realize a permit was needed and already installed the lines. The pad underneath it is 8'x12'.

Preston suggested if the board felt additional information was needed such as how close it can be from the septic tank and drain field, it could be postponed.

Motion: Ann Gamboe Hall moved to postpone request #PZBA14-018, Delcamp, for the proposed 50 foot variance from the required residentially utilized property setback under Section 5.3.1.H.A.3.a. to construct an outdoor solid fuel furnace on property as legally described in Section 5, Bennington Township based upon the following reasoning. 1) Additional information is needed by the Zoning Board of Appeals in order to ascertain that the proposal satisfies the basic conditions as set forth in Section 18.4.6 of the Zoning Ordinance. The applicant will need to bring back an updated drawing and be specific with actual locations and setbacks of everything on the property and setback requirements from the septic tank and drain field. **Support: Fred Junger.** Motion carried: 6 ayes, 0 nays.

Interpretation of the Zoning Ordinance: None at this time.

Zoning Administrator's Report: Cordier informed the board that the department received a letter on November 3, 2014 from James and Yelena Hebert asking that their Dimensional

Variance (PZBA14-003) be granted an extension as they were unable to commence construction within the six-month requirement. The property is located within Section 8 of Woodhull Township, Tax Id. 78-013-08-400-001-02, Laingsburg Road. A copy of the statement and the Notice of Board Action was provided to the board. Cordier noted Mr. Hebert was present.

James Hebert stated he had obtained the driveway permit and relocated the driveway. He could not apply for the pole barn permits and have it inspected because the office stated the permits and construction on the house had to be obtained first. If he started construction now, he would have to leave the footings and basement hole left open over the winter because he couldn't start the rest of the construction until spring. The barn is currently being used to store their boat and quads.

Preston recommended a six-month extension for the applicant to apply for the necessary permits to commence construction on the home.

Motion: Duane Wood moved to extend Dimensional Variance application PZBA14-003 for James Hebert, Laingsburg Road, Section 8, Woodhull Township, (Parcel Id. 78-013-08-400-001-02) granted on May 14, 2014 through the end of May 2015. **Support:** Glenn Love Jr.

Friendly Amendment: Junger recommended the motion be for six (6) months and expire on May 14, 2015.

Motion: Wood moved to amend the motion to read extension to May 14, 2015. **Support:** Love. **Voice Vote:** 6 ayes, 0 nays. Motion carried.

Cordier stated the next scheduled meeting will be December 3rd, 2014. Cordier passed out the scheduled calendar for 2015 for review and board approval. Martin stated they would act on it next month.

Adjournment: Motion: Hall moved to adjourn. **Support: Hales-Smith.** Motion carried: 6 ayes, 0 nays. Meeting adjourned at approximately 8:52 p.m.

Recording Secretary – Linda Gene Cordier

Henry W. Martin III, Chairman
Zoning Board of Appeals

December 3, 2014
Approval Date