

**SHIAWASSEE COUNTY ZONING BOARD OF APPEALS
DECEMBER 3, 2014– BOARD MINUTES**

1. **CALL TO ORDER:** Chairman Martin called the regularly scheduled monthly Zoning Board of Appeals public hearing to order at 7:00 P.M. on Wednesday evening, December 3rd, 2014. 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 Coruna, MI.
 - a. **ROLL CALL:** Present: Henry W. Martin III, Fred Junger, Glenn Love Jr., N. Brad Hissong, Julie Hales-Smith, and Duane Wood. Absent: Ann Gamboe Hall. Also present: Peter Preston, Community Development Director and Matthew Lafferty, Assistant County Planner.
 - b. **EXCUSED ABSENCES:** Chair Martin noted that a motion would be needed to excuse Ann Gamboe Hall.

Motion: Julie Hales-Smith moved to excuse Ann Gamboe Hall. **Support:** Glen Love Jr.
Motion carried: 6 ayes, 0 nays.
2. **PROOF OF PUBLICATION:** The board was informed that a legal notice of the scheduled hearing had been posted within the Shiawassee County Independent on November 16, 2014 and proof of publication was on file. Chair Martin declared the hearing as legally noticed.
3. **APPROVAL OF THE AGENDA:** **Motion:** Duane Wood moved to approve the agenda as printed. **Support:** Julie Hales-Smith. **Motion carried: 6 ayes, 0 nays.**
4. **APPROVAL OF BOARD MINUTES:** **Motion:** Fred Junger moved to approve the November 12, 2014 board minutes as printed. **Support:** Julie Hales-Smith. **Motion carried: 6 ayes, 0 nays.**
5. **PUBLIC COMMENTS ON NON-AGENDA ITEMS:** None.
6. **COMMISSIONER COMMENTS:** None.
7. **OLD BUSINESS:**
 - a. **Application #PZBA14-018; Applicant/Owners:** Troy Delcamp Sr. and Vicki I. Huska
Site Location: 4832 W. Bennington Road, Owosso, MI
Tax Id. Number: 78-010-05-300-009, Section 5, Bennington Township
Request: Dimensional Variance from the Side Yard Setback Requirements of an Outdoor Solid Fuel Furnace (Wood burner). Proposed: Placement of an outdoor wood burner **50 feet** from the east boundary lot line; **Variance Needed:** 50 feet.
Ordinance Reference: Section 5.3.1.H.3.a. – An outdoor furnace shall be located no closer than one-hundred (100) feet to any residential or commercially zoned or utilized property line.

Postponed November 12, 2014 (Applicant relocated wood burner; request no longer needed)

Preston informed the board that the applicant has verbally withdrew the request for variance since the applicant has relocated the wood burner where no variance was needed. Martin suggested that the item be tabled until the withdrawal is confirmed in writing.

Motion: Fred Junger moved to table application PZBA14-018 submitted by Troy Delcamp Sr. and Vicki I. Huska. **Support: Brad Hissong. Motion carried: 6 ayes, 0 nays.**

8. NEW BUSINESS:

a. Dimensional Variance Application - #PZBA14-020

Applicant/Owner: Sally Allen, 2653 W. Grand River Road, Owosso, MI

Site Location: 2653 W. Grand River Road, Owosso, MI

Tax Id. Number: 78-010-27-100-001, Section 27, Bennington Township

Request: 78-010-27-100-001, Section 27, Bennington Township

Request: Construct a residential accessory structure that would exceed the ground floor square footage area of the dwelling unit.

Proposed Structure: 2,296-sf

Variance Requested: 1,164.5-sf

Ordinance Reference: Section 5.3.1.A.1. of the 1999 Shiawassee County Zoning Ordinance.

Preston provided the staff report. The property subject to variance request is located on the south side of W. Grand River Rd. in Section 27 of Bennington Township approximately 1,320' east of the intersection of W. Grand River Rd. and M-52. The parcel is approximately 80-acres in size and is rectangular in shape. The property has approximately 1,320' of road frontage on W. Grand River Rd. and a depth of approximately 2,640'. The petition for a variance is to permit the construction of a 2,296-sf residential accessory structure that exceeds the ground floor area of the 1,131.5-sf dwelling unit. The applicant wishes to construct a two (2) car and one (1) recreational vehicle garage. The applicant states that the garage is anticipated to replace a recently torn down two (2) car garage. The location of the accessory structure is proposed to be located east of the single-family residential structure. Section 5.3.1.A.1 of the Ordinance states that accessory buildings as an accessory to an authorized use shall not exceed the ground floor area of the dwelling unit. The Board of Appeals is being petitioned to allow the creation of a 2,296-sf accessory structure which exceeds the ground floor area of the 1,131.5-sf dwelling unit by 1,164.5-sf.

The applicant, Sally Allen, explained why the barn was required and has tried to find various locations for it.

Junger asked what the size of the old structure was.

Allen stated that the old structure was too small to fit the cars and RV.

Chair Martin thanked Allen and 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 none, Martin called for Township input. Preston stated that the office had received a letter from the Bennington Township that expressed no objection of the applicant's request.

Chair Martin asked staff to review the Findings of Fact.

Findings of Fact: Section 18.4.6 of the Ordinance outlines findings that must be made for the Board of Appeals to take action.

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 the creation of a 2,296-sf accessory structure which exceeds the ground floor area of the 1,131.5-sf dwelling unit by 1,164.5-sf. 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.

Board Member Comments: There would still be a practical difficulty if there were two separate structures that summed up to the proposed barn size. There was discussion of adding a breezeway to add square footage to the house, but was found to be impractical. Junger thought that the ordinance was not intended to affect a property of this size. The board discussed the dimensions of the proposed garage. Hissong said that it seems like there is no other way to fit the vehicles in a barn, but what is being proposed. The 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, vegetation or size that may be causing practical difficulties.

Board Member Comments: Martin asked if there were any wetlands present and Allen replied that there were none. Martin asked about electrical lines. Allen stated that they are along the opposite side of the house and some are farther back on the property away from the buildings. The board concurred with all findings.

3. Specific findings (characteristics of the land) showing that because of 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, vegetation or size that may be causing practical difficulties.

Board Member Comments: Junger said the ordinance doesn't appear to be designed for this size and particular use. Hales-Smith said that the size of the property creates a unique circumstance, where most properties aren't this large. 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: 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 Member Comments: Junger stated that a self-created hardship is not apparent with this particular case. The board discusses the unique situation of the property's size. Hissong asks if there can be a time limit and condition be put in place to ensure that the chicken coop be torn down. The 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.

Board Member Comments: The board thinks that the new garage would be an improvement to the property. 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 Member Comments: 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 for single-family residential purposes would be in compliance with requirements, standards and procedure in the Ordinance.

Board Member Comments: The 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 Member Comments: The board concurred with all findings.

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

Staff: 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 Member Comments: The board stated that it would be hard to come by a property this size where there it would become a common thing and it would cause no precedent for other cases. 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 Member Comments: The board agrees with the staff and especially with the Township input. The board concurred with all findings.

Motion: N. Brad Hissong moved to approve Approve request PZBA14-020, Allen, for the proposed 1,164.5-sf variance from Section 5.3.1.A.1 of the Ordinance to have a 2,296-sf accessory structure exceed the ground floor area of the 1,132.5-sf dwelling unit in Section 27, Bennington Township (Parcel Id. #010-27-100-001), 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. Due to the size and layout it would be difficult and unpractical to allow the normal use the way the Ordinance is written
3. Agreement with number ten (10) of the findings of fact and the Township input.

Conditions:

1. The condition that the chicken coop be removed within six (6) months.

Support: Glenn Love Jr.

Roll Call: Ayes to Approve: Fred Junger, Glenn Love Jr., N. Brad Hissong, Julie Hales-Smith and Duane Wood. **Nays:** Henry W. Martin III. **Motion carried: 5 ayes, 1 nay.**

8.b. Approval of 2015 Calendar of Scheduled Meetings and Application Cut-off Dates.

Motion: Fred Junger moved to approve the 2015 calendar of scheduled meetings and application cut-off dates. **Support:** Julie Hales-Smith. **Motion carried: 6 ayes, 0 nays.**

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

10. **ZONING ADMINISTRATOR'S REPORT:** Please review by-laws for next meeting.

11. BOARD MEMBER COMMENTS: The board has received a letter from Glenn Love Jr. stating that he is to resign at the end of the month.

12. PUBLIC COMMENT: None.

13. ADJOURNMENT: Motion: Julie Hales-Smith moved to adjourn. **Support:** Brad Hissong. **Motion carried:** 6 ayes, 0 nays. The public hearing adjourned at approximately 8:15 P.M.

Recording Secretary: Matthew Lafferty

Henry W. Martin III, Chairman
Shiawassee County Zoning Board of Appeals

February 11, 2015
Approval Date of Minutes

DRAFT