

EATON COUNTY BOARD OF APPEALS MINUTES
June 4, 2019

Call to Order: Chair Nikki Chmielewski, called the meeting to order at 6:00 p.m. in the Board of Commissioners Room at the Eaton County Courthouse, 1045 Independence Blvd, Charlotte, Michigan.

Pledge of Flag: The Pledge of Allegiance was given by all.

Roll Call: Nikki Chmielewski, Donald Chase, April Stopczynski, Charamy Cleary, and Tim Cattron.

Staff Present: Brandy Hatt

Agenda Approval: A motion was made by **Member Cleary** to approve the agenda for the June 4, 2019 meeting. **Member Cattron** supported. Motion carried

Minutes Approval: A motion was made by **Member Chase** to approve the minutes from the May 7, 2019 meeting. **Member Cattron** supported. Motion carried.

Communications: None

Public Comment: None

BA-6-19-8: Request by Chris Webster for a variance from Zoning Ordinance Section 7.7.3 Minimum Setback from road right-of-way (building shall be a min of 67 feet from a road right-of-way), in the amount of 37 feet to allow for construction of a home to be located 30 feet from the Lawrence Hwy Right-of-Way at 5527 Lawrence Hwy, Sec. 18, Carmel Twp.

Staff Report: Ms. Hatt read the staff report and Site Plan Review response from Eaton Conservation District into record.

Member Cleary asked about the difference between hearing the application under Zoning Ordinance Section 4.6.3 and 4.6.7. Ms. Hatt stated hearing the application under Zoning Ordinance Section 4.6.3 requires the Board of Appeals to approve or deny the application using items A through E. She stated if the Board of Appeals were to approve or deny the application using Section 4.6.7 they would not need to use items A through E, rather they would need to state what the hardship or extenuating circumstances are for the application. **Member Cattron** asked if there is a definition for hardship. Ms. Hatt stated there is not a definition located in the Zoning Ordinance.

Applicants Statement: Mr. Chris Webster stated he has someone present to speak on his behalf. He stated the slope of the property drops off ten to twelve feet behind his house.

Member Chmielewski invited any speaker in favor or opposition to the request to make public comment.

Speakers in favor: Ms. Marilyn Perry, 5674 Lawrence Highway, stated she believes Mr. Webster needs the variance. She stated the property was her family farm; the road was widened when she was in high school, which made the house closer to the road.

Mr. Tom Maurer, 965 E. Mill Street, Hastings, stated his company was contacted by Mr. Webster in late December, early January, to work on this project. He stated Mr. Webster has been very active in the process of designing the new home. Mr. Maurer stated his company is currently in the

process of reconstructing the pole barn; they are using the existing front wall of the pole barn to allow the building to remain where it was originally constructed. He stated a potential hardship could be the presence of asbestos in the house and the fact that the house has been vandalized; all of the plumbing and electrical has been taken from the house. Mr. Maurer stated it would take too much time and money to restore the house to a livable condition. He stated they regret missing the Carmel Township Meeting; had they attended they could have answered any questions the Carmel Township Board had regarding the drain field and terrain. Mr. Maurer stated he has photos and site plans of the property to pass out to the board; he stated the house sits on an embankment. He explained the proposed site plan and house plans to the board. Mr. Maurer stated he has been in contact with the Michigan Department of Transportation, they will allow the existing driveway to be used, but it cannot be a circle drive. He stated he has also spoken with the sanitarian from Barry-Eaton District Health Department; the septic was applied for in 1998. **Member Chmielewski** asked if the well and septic were applied for in 1998. Mr. Maurer stated the septic is from 1998, they do not have records for the well. He stated the well is located in one of the out buildings on the property; he guided the Board of Appeals Members to look at page three of the site plan and described the location of the active functioning well in one of the barns. Mr. Maurer stated they are not sure if the previous well was properly capped, but they will look into it and take care of it.

Mr. Maurer, using the site plan, explained the proposed home is shaded in green and the parameter of the existing home is shown in red. He stated the proposed new home is not closer to the road than the existing home, the proposed home is further from the road. Mr. Maurer stated the existing house is seventeen feet from the septic tank; they are required to be located at least ten feet from the septic tank. He stated they could potentially move the proposed house back seven feet and still meet the setback requirements to the septic tank. He stated they cannot move the house back any further without taking other buildings down.

Member Cattron asked Mr. Maurer if they have considered moving the septic tank to the south. Mr. Maurer stated that is a possibility; it is a system that is existing and aged. He stated the location of the drain field is what locks them into the proposed building area.

Member Cattron asked Mr. Maurer if they have considered tearing down the old barn located to the south of the home. He stated he visited the site; the barn appears to be in disrepair and is not being used. Mr. Maurer stated that is also an option, but he would be concerned about the amount of fill they would need to bring in. He stated they have had to bring in two feet of fill already for the pole barn and expect to bring in an additional four feet of fill. Mr. Maurer stated as the property moves from the road the slope is steeper and steeper, the cost of fill only adds to the applicants.

Member Chase stated one of the photos passed around shows a distribution system on the power pole. Mr. Maurer stated that is correct; there is a distribution box and three separate conduits that go to the different buildings located on the property. **Member Cattron** asked if it is a private distribution system. Mr. Maurer said yes, in fact the meter for the house is located on the pole.

Member Chmielewski asked Member Cattron which building he was referring to when he asked if the building could be removed. **Member Cattron** stated he was referring to the 24' x 26' building located to the south of the home.

Member Chase asked Mr. Maurer if this is an active farm. Mr. Maurer said yes. Mr. Webster stated the fields will be planted in a few weeks.

Mr. Webster stated Consumers Energy owns the power pole; there is a transformer located on the pole that brings the two-hundred forty amp power onto the property.

Speakers in opposition: None
Public hearing closed at 6:29 p.m.

Discussion/Comments: **Member Cleary** asked Member Cattron if the drop off behind the home is that significant. **Member Chase** stated he too visited the site, he does not think the drop off is significant. **Member Cattron** stated it does drop off behind the home, but it takes a while for the slope to get steep. **Member Cleary** stated he believes there is some room to move the home to be compliant.

Member Chase stated Carmel Township Board has request the application not be approved. **Member Chmielewski** stated she did not take their response that way. Ms. Hatt stated due to the vagueness of the response, she called the Carmel Township Supervisor to ask for clarification; the Carmel Township Board does not believe the variance request is necessary.

Member Stopczynski stated the Board of Appeals had asked the Planning Commission to look at the setback requirements to the road-right-of-ways. **Member Chmielewski** stated they had asked the Planning Commission to look at the setback requirements for clear vision right-of-ways.

Member Cattron stated he is having issues justifying items A and B; he believes there is room to shift building around on the property. **Member Chmielewski** asked the board if they believe there is a case for Section 4.6.7 rather than 4.6.3. **Member Cleary** stated she does not believe there is a hardship or extenuating circumstances. **Member Chmielewski** stated she believes item B has overlap with a hardship and if the board cannot justify item B of Section 4.6.3 then they cannot find a hardship. **Member Cleary** stated she does not believe the property is unique. **Member Chase** stated if they are willing to bring in fill for the pole barn, they should be willing to bring in fill for the house.

Member Chmielewski stated she wonders if a variance would be needed if the proposed home were pushed back to the back line of the 24' x 26' building. **Member Cleary** asked if that could be determined. Ms. Hatt using the Eaton County Online GIS Mapping system measured from the house to the south edge of the 24' x 26' building. She informed the board the measurements are not exact because she cannot see the foundations; however, there appears to be approximately thirty-nine feet in the area she was asked to measure. The board of appeals held a discussion on the size of the proposed rear deck and front entryway; if they were smaller a variance may not be required. **Member Cleary** stated there are options to be compliant with the setbacks; the board is not coming up with the minimum amount necessary for Item E.

Member Chase moved to deny BA-6-19-6, Chris Webster for a variance from Zoning Ordinance Section 7.7.3 Minimum Setback from road right-of-way (building shall be a min of 67 feet from a road right-of-way), in the amount of 37 feet to allow for construction of a home to be located 30 feet from the Lawrence Hwy Right-of-Way at 5527 Lawrence Hwy, Sec. 18, Carmel Twp. They find that:

- A. There is not a practical difficulty in carrying out the strict letter of the ordinance.
- B. There is not a practical difficulty due to unique circumstances related to this particular property.
- C. The applicant did not create the problem.
- D. Granting the variance will not alter the essential character of the district or neighborhood.
- E. This variance request is not in the minimum amount necessary; a better plan could be made.

Member Cleary supported. A roll call vote was taken with five (5) voting aye and none (0) voting nay. Motion carried.

Old Business: None

New Business: None

Public Comments: None

Upcoming Cases: Ms. Hatt informed the Board of Appeals there are two applications to be heard at their July 9, 2019 meeting.

A motion was made by **Member Cleary** to adjourn the June 4, 2019 Board of Appeals meeting. **Member Chase** supported. Meeting adjourned at 6:42 p.m.