

EATON COUNTY BOARD OF APPEALS MINUTES
April 4, 2017

Call to Order: Chair Mark Stahl 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: Mark Stahl, Nikki Chmielewski, Charamy Cleary, Tim Cattron and Donald Chase

Staff Present: Claudine Williams and Brandy Hatt

A motion was made by **Member Cleary** to amend the April 4, 2017 agenda to add a request for an extension of time submitted by Nate and Julie Harmon under New Business. **Member Chmielewski** supported. Motion carried.

A motion was made by **Member Chmielewski** to approve the agenda as amended for the April 4, 2017 meeting. **Member Cleary** supported. Motion carried.

A motion was made by **Member Chmielewski** to approve the minutes from the March 7, 2017 meeting. **Member Cleary** supported. Motion carried.

Communications: None

Public Comment: None

BA-4-17-2: Request by Reinhart Cook for a variance from Ordinance Section 7.7.3, to allow for the construction of two grain bins to be located 17 feet from the Bismark Highway Right-of-Way. The property is located at 8438 Bismark Highway, Section 27, Sunfield Township.

Staff Report: Ms. Williams read the staff report into record.

Member Cleary asked Ms. Williams if grain bins are considered permanent structures. Ms. Williams said yes.

Applicants Statement: Mr. Reinhart Cook stated he has nothing to add to the staff report. He mentioned the location of muck pockets and where the road is a bit narrower. Mr. Cook noted the grain bins are different than a dwelling. He stated the grain bins will be located outside of all other constraints; he does not believe constructing the grain bins in his proposed location will create a hazard. Mr. Cook stated he has contacted Consumers Energy and they are scheduled to visit the site.

Member Stahl asked if the road is further away from his property than the section line. Mr. Cook stated the road is ten feet closer to his property. He stated there is a monument near the bridge.

Member Chmielewski stated Mr. Cook's response to Item C. in the application includes information on future placement and operation of grain bins to be constructed to the north of the existing grain bins; she asked Mr. Cook to further explain. Mr. Cook stated the future bins will be located to the north; the bins he is proposing to construct are used and will not fit to the north of the existing grain bins. **Member Chmielewski** asked for clarification from Mr. Cook; she asked if he could build grain bins to the north of the existing grain bins. Mr. Cook said yes; however, the ones he has are too big and will not fit to the north of the existing bins without impeding the driveway.

Member Cattron asked Mr. Cook what the distance between the grain bins will be and noted the existing bins seem reasonably spaced. Mr. Cook stated the bins would be spaced less than ten feet apart. He said currently there are tanks stored in the proposed location for the bins; the bins will be further from the road than the tanks are. **Member Cattron** stated the bins have an elevator system on them and asked if the systems will be revised to work with the new bins. Mr. Cook said yes, he will add a leg and adjust the system. He stated he would like to add a second leg between the existing bins and the new bins. **Member**

Cattron asked Mr. Cook if the new bins need to be closed enough to reach the existing elevator system. Mr. Cook said yes, it is not practical to construct the bins elsewhere.

Member Chase asked Mr. Cook if the proposed location for the bins will impede emergency vehicles or fire equipment. Mr. Cook said no.

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

Speakers in favor: none

Speakers in opposition: none

Public hearing closed at 6:18 p.m.

Discussion/Comments: **Member Chase** stated he believes the proposed placement of the bins is a good idea. **Member Stahl** stated based on what he looked at he agrees; it is unfortunate where the equipment is located. **Member Cleary** stated she does not have a problem with what is being proposed, but she is having a hard time fitting an approval into items A-E. She stated she appreciates the road is a section line road; it helps. **Member Cleary** stated she is concerned the location of the bins is not a problem of the parcel of land. **Member Stahl** stated the parcel has been farm land for over one-hundred years and predates zoning. He said in his mind, the request is similar to an existing legal non-conformity, such as someone who wants to replace a porch or bring an existing porch up to code. **Member Cleary** stated she does not think the request before them is similar to a legal non-conforming porch. She stated the property she lives on has been farmed for over one-hundred years. **Member Cleary** stated a fifty foot variance is a big deal.

Member Stahl asked Mr. Cook if he has anything to add. Mr. Cook stated constructing the proposed bins on the other side of the system would impede the driveway. He stated he is unable to put the proposed bins in a different location due to the grain handling. **Member Cleary** asked Mr. Cook if he could handle the grain elsewhere. Mr. Cook said no, the grain handled on this property is non-GMO. Mr. Cook also stated placement of the bins elsewhere would create utility issues and impede the flow of water. **Member Stahl** asked Mr. Cook how many sites he handles grain at. Mr. Cook stated he handles grain at two sites, but the other site is for different grain. He said it is a round of ready crop; laws do not allow for the co-mingling of the two crops. Mr. Cook stated he would like to do more with non-GMO crops and this is his only site where he can. He asked the Board of Appeals if they have an aerial photo of the property. **Member Cleary** said yes, and added they also have the photos submitted with the application. Mr. Cook stated constructing the bins to the east or north of the existing system would impede the driveway. He stated they cannot be constructed to the north or east of the existing system.

Member Cattron asked Mr. Cook if semi trucks drive between the existing bins and the building to the north. Mr. Cook said yes, they have an unload structure in that location. **Member Cattron** stated the semi trucks need to fit between the bins and building to the north. Mr. Cook stated the long semi trucks use the entire driveway; he stated it is unreasonable to construct an entirely new system rather than add onto this one. Mr. Cook stated he has all of the necessary equipment on this site. He said the proposed location of his bins will not affect the road if it is ever upgraded and the utility pole is closer to the road and will not be moved.

Member Cattron stated a practical difficulty could be the existing structures are in the way of an expansion. **Member Stahl** agreed. **Member Stahl** asked Member Cleary if item B or E are still an issue. **Member Cleary** said both are still an issue for her. She stated she recalls denying a similar request for a building located on the corner of M-50. **Member Cleary** stated she is also struggling with item C. **Member Stahl** stated the structures are existing, Mr. Cook did not construct them and he is trying to preserve the use of them and his farm land. **Member Stahl** noted Mr. Cook cannot expand his current operations. **Member Cleary** stated Mr. Cook informed the board he plans to construct smaller bins in the back of the existing system in the future. **Member Stahl** stated the construction of the bins to the north of the system will not work with the legs. **Member Cleary** stated that is a cost factor, not a problem of the property. **Member Stahl** stated the property has been farmed for over one-hundred years.

Member Chase moved to approve BA-4-17-2 Reinhart Cook for a variance from Ordinance Section 7.7.3, to allow for the construction of two grain bins to be located 17 feet from the Bismark Highway Right-of-Way. The property is located at 8438 Bismark Highway, Section 27, Sunfield Township. They find that;

- A. There is a practical difficulty in carrying out the strict letter of the ordinance due to the way the property is laid out and the location of the existing buildings and grain bin system.
- B. The practical difficulty is due to unique circumstances related to this particular property; Because of the way this particular farm was set up and approval will not affect anyone.
- C. The applicant did not create the problem; this is a typical farm setup. Good farm land should not be used for buildings.
- D. Granting the variance will not alter the essential character of the district or neighborhood.
- E. This variance in the amount of fifty feet is in the minimum amount necessary to overcome the inequity of this parcel. If you drive ten miles in either direction you'll see the same circumstances on other farms.

Member Cattron supported. A roll call vote was taken with two (2) voting aye and three (3) voting nay. Motion failed.

Member Chmielewski moved to deny BA-4-17-2 Reinhart Cook for a variance from Ordinance Section 7.7.3, to allow for the construction of two grain bins to be located 17 feet from the Bismark Highway Right-of-Way. The property is located at 8438 Bismark Highway, Section 27, Sunfield Township. They find that;

The proposed variance does not meet Item E. minimum amount necessary to overcome the inequity of the parcel.

Member Cleary supported. A roll call vote was taken with three (3) voting aye and two (2) voting nay. Motion carried.

BA-4-17-3: Request by Stephen Whipple for a variance from Ordinance Section 14.13.1 to allow for a proposed home business to be located 600 feet from the dwelling located on the property rather than the required 500 feet. The property is located at 2111 N. Clinton Trail, Section 22, Chester Township.

Staff Report: Ms. Williams read the staff report into record.

Member Cleary asked Ms. Williams for clarification on the Barry-Eaton District Health Department's response, specifically, are they saying the site within five-hundred feet of the home is non-buildable. Ms. Williams said yes.

Applicants Statement: Mr. Whipple said he does not have anything to add to the staff report. Mr. Whipple stated construction of his proposed business within six-hundred feet from the home is still a little iffy, six-hundred fifty feet would be better, but he knows he has to ask for the minimum amount necessary. He noted he met Mr. Cattron on the site. **Member Chase** asked if the property is a dog leg property. Mr. Whipple said yes. **Member Chase** asked Mr. Whipple if he constructed the home. Mr. Whipple said no. He stated he purchased the home in 2005.

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

Speakers in favor: none

Speakers in opposition: none

Public hearing closed at 6:48 p.m.

Member Cattron stated he visited the site and he supports the fact that the request is due to extremely wet and slick soils with moss growing within five-hundred feet of the home; the closer to the road, the better the site gets. **Member Chmielewski** asked Member Cattron if six-hundred feet is the minimum amount necessary. **Member Cattron** said yes, as soon as Mr. Whipple gets over the rise on the

property the soil conditions improve. **Member Chase** asked Member Catron if the water table moves toward the drain. **Member Catron** said yes. **Member Chase** said it appears he would need pillars to build within five-hundred feet of the home.

Member Cleary moved to approve BA-4-17-3 Stephen Whipple for a variance from Ordinance Section 14.13.1 to allow for a proposed home business to be located 600 feet from the dwelling located on the property rather than the required 500 feet. The property is located at 2111 N. Clinton Trail, Section 22, Chester Township. They find that;

- A. There is a practical difficulty in carrying out the strict letter of the ordinance due soil conditions located within five hundred feet of the home.
- B. The practical difficulty is due to unique circumstances related to this particular property due to the land and its soil.
- 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 in the amount of one-hundred feet is in the minimum amount necessary to overcome the inequity of this parcel.

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

Postponed from August 2, 2016 Meeting:

BA-8-16-8: Request by Amanda Dominiak for a variance from Ordinance Section 6.5.3, Temporary Housing for Medical Reasons (approved single wide mobile home) to allow use of a 2007 travel trailer. The property is located at 7313 S. Lacey Lake Road, Section 24, Bellevue Township.

Ms. Williams recommended the Board of Appeals postpone the application again as a resolution is still in process with the Zoning Ordinance Committee and Planning Commission.

Member Chmielewski moved to postpone application BA-6-16-4 (Amanda Dominiak) to the September 5, 2017 Board of Appeals Meeting and requested a review of the Zoning Ordinance by the Planning Commission Zoning Ordinance Committee to allow for travel trailers to be used for temporary housing for medical reasons.

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: Ms. Williams informed the Board of Appeals they received a request for extension of time from Nate and Julie Harmon, BA-6-16-7. Ms. Williams read the letter of request into record.

Member Cleary moved to approve the request for an extension of time to **BA-6-16-7, Nate and Julie Harmon** due to the progress they have shown by demoing the existing home and applying for the well and septic permits. **Member Chmielewski** supported. Motion carried.

Upcoming Cases: Ms. Williams informed the Board of Appeals there are two cases to be heard at the May 2, 2017 meeting.

Public Comments: None

A motion was made by **Member Cleary** to adjourn the April 4, 2017 Board of Appeals meeting. **Member Chmielewski** supported. Meeting adjourned at 6:56 p.m.