

EATON COUNTY BOARD OF APPEALS MINUTES
March 7, 2017

Call to Order: Ms. Claudine Williams, Director of the Community Development Department, 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, Tim Cattron, Donald Chase and Charamy Cleary

Staff Present: Claudine Williams and Brandy Hatt

Nominations and elections of Board Chairperson, Vice Chairperson and Secretary.

Ms. Williams asked for nominations for Chairperson. **Member Cleary** nominated Member Stahl. **Member Chmielewski** seconded. **Member Chmielewski** moved nominations be closed and a unanimous ballot cast for Member Stahl. **Member Cattron** seconded. Motion carried.

Member Stahl assumed the responsibility of presiding over the meeting.

Member Stahl asked for nominations for Vice Chair. **Member Cleary** nominated Member Chmielewski. **Member Chase** seconded. **Member Cleary** moved nominations be closed and a unanimous ballot cast for Member Chmielewski. **Member Cattron** seconded. Motion carried.

Member Stahl asked for nominations for Secretary. **Member Cleary** nominated Member Chase. **Member Chmielewski** seconded. **Member Cleary** moved nominations be closed and a unanimous ballot be cast for Member Chase. **Member Cattron** supported. Motion carried.

Member Chmielewski moved to close elections. **Member Cleary** supported. Motion carried

A motion was made by **Member Cleary** to approve the agenda for the March 7, 2017 meeting. **Member Stahl** supported. Motion carried

A motion was made by **Member Chmielewski** to approve the minutes from the October 4, 2016 meeting. **Member Cleary** supported. Motion carried.

Communications: None

Public Comment: None

BA-1-17-1: Request by Michael McKeon and Lynn Granger for a variance from Ordinance Section 7.4A.2. A. 1., to allow for expansion of an existing accessory building that already exceeds the maximum possible building area of 850 square feet. The existing building is approximately 1,860 square feet; the proposed addition is 400 square feet. The property is located off from Lakeview Drive, Section 25, Kalamo Township, also identified as Parcel Number 090-025-300-069-00.

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

Member Chmielewski asked Ms. Williams if the four hundred square foot addition is already constructed. Ms. Williams said yes. **Member Stahl** asked if the Lakeview Drive Right-of-way is sixty-six feet wide. Ms. Williams stated it is an older private road. **Member Chase** asked if the road is paved. Ms. Williams said no.

Member Cleary asked Ms. Williams if deeming the existing building a legal non-conformity would address the issue with the size and setback of the existing building. Ms. Williams said yes.

Member Stahl stated the Barry-Eaton District Health Department commented about the reserve area for a septic system on the property, but the primary residence is located across the road. Ms. Hatt stated the reserve area is for the residence located across the road.

Applicants Statement: Mr. Michael McKeon stated the existing structure was on the property when they purchased it. **Member Stahl** asked if there is an association for the private road. Mr. McKeon stated he read through the bylaws for the association before he started constructed and they stated he was required to have seventy percent approval of the members to build the addition. He said he never considered zoning or building codes. Mr. McKeon stated he constructed the addition to store the equipment he uses to maintain the private road. Ms. Hatt clarified, there is no maintenance agreement for the private road, said Mr. McKeon may be referring to deed restrictions for the property.

Member Chase asked Mr. McKeon how often the association holds elections for officers. Mr. McKeon stated elections are held every four years. **Member Chase** asked Mr. McKeon what would happen with the addition and the equipment used to maintain the road if he were not elected to maintain the road. Mr. McKeon stated he would still maintain the road. **Member Chase** asked Mr. McKeon if he is paid to maintain the road. Mr. McKeon stated he is paid approximately \$200.00 a year to cover the cost of fuel.

Member Cattron stated if he remembers correctly from his site inspection of the property, there is no garage located on the property with the house. **Member Stahl** stated Member Cattron is correct. **Member Cattron** stated the only garage for the property is located across the road.

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

Speakers in favor: Mr. Hans Lonnemo, 6926 Lakeview Drive, stated he lives across the road from the garage. He said there are no objections from anyone in the neighborhood.

Mr. Bill Wilson, 6950 Lakeview Drive, stated he has no objection to the garage. He said Mr. McKeon is kind and helps people out. He stated he does not see anything wrong with the garage; Mr. McKeon does a great job maintaining the road.

Speakers in opposition: none

Public hearing closed at 6:25 p.m.

Discussion/Comments: **Member Chmielewski** stated the board should discuss if the existing building should be deemed a legal or illegal non-conformity. **Member Cleary** stated she has no problem approving the existing structure as a legal non-conformity because of the approvals given at the time of construction. **Member Stahl** stated if Construction Codes signed off at the time the structure was completed in 1986, he agrees, the existing structure is a legal non-conformity. **Member Chmielewski** agreed. **Member Cattron** stated he does not have any concerns regarding the existing structures setback to the road. He stated the neighboring garage is located approximately the same distance from the road; he did not see any safety concerns.

Member Cleary moved to approve/declare the existing accessory building located on parcel 090-025-300-069-00 as constructed per building permit P-10022 in 1986 as a legal non-conformity.

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

Member Cleary stated the Board of Appeals now needs to discuss the four hundred square foot addition. She stated she does not think there is an adverse effect, but wonders if the size substantially increased the non-conformity. **Member Chmielewski** stated there really is not a hardship, but she wonders if there are extenuating circumstances. **Member Cattron** stated there is a practical difficulty if the addition is not approved. He stated the property where the house is located does not have a garage; if the addition is not approved there will be road equipment all over the neighborhood. **Member Cleary** stated the variance request is for the applicant only; there is no guarantee a future owner of the property will maintain the road.

The Board of Appeals Member held a brief discussion regarding extenuating circumstances; specifically, do the extenuating circumstances need to be specific to the property in question or not.

Member Cleary asked if a 20' x 20' addition onto the existing 1,860 square foot building is considered substantial. **Member Chmielewski** stated the addition is less than a quarter of the existing structure. **Member Stahl** stated the addition does not seem substantial. **Member Catron** agreed.

Member Stahl stated the parcels on the lake are small and do not allow room for construction of an accessory building. He also stated a second building would have also required a variance. **Member Chmielewski** stated she does not believe there is an adverse affect. **Member Stahl** stated he believes the extenuating circumstances are because of the zoning of the property and the fact that there is an accessory building on the property without a principal structure. **Member Cleary** stated she has an issue with the circumstance being that there is no principal structure on the property. She said she would be in agreement to stating the parcel size is an extenuating circumstance. **Member Catron** stated the addition does not go any closer to the road. **Member Cleary** stated the square foot of the addition is the problem, not the setback.

Member Cleary stated having a parcel .47 of an acre may be unique and extenuating; the Board of Appeals has made several exceptions for properties located around Narrow Lake due to the size of the parcels.

Member Chmielewski asked Ms. Williams if the board chooses to allow for the expansion of the legal non-conformity would a motion be made per Ordinance Section 4.6.7 or Items A-E. Ms. Williams said a motion could be made per Ordinance Section 4.6.7; items A-E do not need to be addressed for the expansion of a legal non-conformity.

Member Cleary moved to approve the expansion of a legal non-conforming structure per Section 4.6.7 of the Eaton County Land Development Code (Zoning Ordinance) to allow for a 20' x 20' addition on to an existing legal non-conforming accessory building, specifically due to the extenuating circumstance and the uniqueness of the parcel size being so small around the lake area, the applicant did not create the issue with the property and the variance amount is in the minimum amount necessary and there is no adverse effect on the surrounding property.

Member Chmielewski supported. A roll call vote was taken with four (4) voting aye and one (1) voting nay. Motion carried.

Old Business: None

Public Comments: None

New Business:

Upcoming Cases: Ms. Williams informed the Board of Appeals there are two cases to be heard at their April meeting.

A motion was made by **Member Chmielewski** to adjourn the March 7, 2017 Board of Appeals meeting. **Member Clary** supported. Meeting adjourned at 6:48 p.m.