

EATON COUNTY BOARD OF APPEALS MINUTES
March 2, 2021

The Eaton County Board of Appeals met virtually as permitted by Public Act 228 of 2020.

Call to Order: Chair Nikki Chmielewski, called the meeting to order at 6:00 p.m.

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

Roll Call: Members announced during roll call the location from which they are attending remotely as follows.

Nikki Chmielewski, their residence in the City of Charlotte, Eaton County, MI

Donald Chase, their residence in Bellevue Township, Eaton County, MI

April Stopczynski, their residence in Chester Township, Eaton County, MI

Tim Cattron, their residence in Eaton Rapids, Eaton County, MI

Charamy Cleary, their residence in Eaton Rapids, Eaton County, MI

Staff Present: Claudine Williams

Agenda Approval: A motion was made by **Member Stopczynski** to approve the agenda for the March 2, 2021 meeting. **Member Cattron** supported. Motion carried by unanimous roll call.

Minutes Approval: A motion was made by **Member Chase** to approve the minutes from the February 2, 2021 meeting as written. **Member Stopczynski** supported. Motion carried by unanimous roll call.

Communications: None

Public Comment: None

BA-3-21-2: Request by Kelley Flynn-Cunningham for a variance from Zoning Ordinance Section 6.2.10 B. Detached Accessory Buildings (structures shall be no closer than 10 feet from any lot line) to allow for construction of a detached garage to be located only 2 feet from the east property line. The property is located at 7293 E. Five Point Hwy., Section 5, Hamlin Township.

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

Member Chase asked if the square footage meets the size requirement for the acreage of the property. Ms. Williams said yes, the property is zoned Limited Agricultural. **Member Chase** asked if it matters the building is not being used for agricultural purposes. Ms. Williams stated the zoning allows for pole buildings of any size as long as it meets all other requirements.

Member Cleary stated she agrees with the Conversation Districts comments, but can they require a concrete floor. Ms. Williams stated the Board of Appeals may place reasonable conditions they feel are necessary. She noted the variance requested is for the side yard setback, the board may wish to discuss if the building were constructed where it did meet, would they still have run off issues. She added if the applicant were to come in to construct a

pole barn and met the setbacks; it would not require a review from the Eaton Conservation District which Board may want to take into consideration.

Applicants Statement: Mrs. Kelley Cunningham introduced her husband, Mr. Chris Cunningham. Mr. Cunningham stated the concrete floor and gutters are not an issue on their end.

Member Catron stated he went by the property; he did not walk back there, but saw a shed where the pole barn is proposed. Mr. Cunningham said yes, there is a shed it will be removed. He also stated the propane tank will be removed.

Member Catron asked Mr. Cunningham how he came up with the building size of 32' x 40' and if the building could be smaller and be ten feet off the property line. Mr. Cunningham stated the purpose of the proposed building location and size is so the building is not located behind his house and is in line with his driveway. He stated it is not so much the size, but the location and the more space the better. **Member Catron** asked what the proposed height of the barn is. Mr. Cunningham stated the barn will have twelve foot ceilings.

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

Speakers in favor: Mr. Phil Bombrys, Hamlin Township Supervisor, stated the township talked about this at their board meeting last month, based on the proposed location and the rain falling away from it, moving it over eight feet if the variance was not approved, would not affect the runoff. There is plenty of room to the neighbor's house. Mr. Bombrys stated the township supports the application, as it is a reasonable request; they ask that the board approve the size and location so that it can be in line with their driveway.

Commissioner Jeremy Whittum for the 14th District, stated no one has contacted him objecting to the application and he is in support of the request. Commissioner Whittum stated in regards to the water run-off, the property abuts the Booth Drain and the water that comes up to everyone's back yard is surface water from the Drain. He stated he does not believe the cement is a factor, even though the applicant stated they will put cement in the garage. He stated he does not have objections and encouraged the passage of the variance.

Speakers in opposition: None
Public hearing closed at 6:18 p.m.

Discussion/Comments: **Member Chase** stated the request is not a good idea; he also visited the site. He stated the board has turned down other proposals of this nature and he feels that the property line is too close to the building. He stated the current neighbor could also request a barn building within two feet of their property line and then there would not be enough room for equipment to get around the buildings. **Member Chase** stated they could backfill the property to get the desired extra building space. He stated he could not justify items A-E for the request.

Member Cleary stated she agrees with Member Chase, she also sees alternatives to construct the building and struggles with this being the minimum amount necessary. **Member Cleary** stated they could make the building smaller, they could move it; she stated she sees many alternatives, so she has a hard time with items A-E.

Member Catron stated on the other hand we often talk about the effect on the neighborhood, and there are others close by that have a similar situation, and this would not change the neighborhood. He stated he does agree with the Conservation Districts comments if they do allow it, it would be good to keep it out of the Booth Drain. **Member Chmielewski** stated she is not struggling with the neighborhood, but with the minimum amount necessary. She stated she believes the size could be smaller or it could be potentially moved. **Member Catron** stated if they moved it back to the Booth Drain, they have the same drop off as he has on his property, it is steep, they could move it back, but it would take a fair amount of fill. **Member Cleary** stated she is struggling to see the practical difficulty and the uniqueness of this property. She stated if the board allows this variance, they are setting a precedence that she does not want to continue. **Member Chmielewski** stated as Member Chase touched on earlier if their neighbors make the same request, they would have to approve it and could end up with a potential issues.

Member Stopczynski stated the board has heard similar requests in the past year or so that were a smaller footprint that they denied based on the inability to justify the size and there were other alternatives in those cases.

Member Chase moved to deny BA-3-21-2, Kelley Flynn-Cunningham for a variance from Zoning Ordinance Section 6.2.10 B. Detached Accessory Buildings (structures shall be no closer than 10 feet from any lot line) to allow for construction of a detached garage to be located only 2 feet from the east property line. The property is located at 7293 E. Five Point Hwy., Section 5, Hamlin Township. They find that:

- A. There is not a practical difficulty in carrying out the strict letter of the ordinance; they could backfill the property to build a building.
- B. There is not a practical difficulty due to unique circumstances related to this particular property; there are other options available.
- C. The applicant creates the problem.
- D. Granting the variance will not alter the essential character of the district or neighborhood.
- E. Every variance granted shall be in the minimum amount necessary to overcome the inequity inherent in the particular property. The pole barn could be narrower and a variance would not be needed.

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

Upcoming Cases: Ms. Williams informed the Board of Appeals there no applications to be heard at their April 6, 2021 meeting.

Public Comments: Commissioner Whittum stated per the Department of Public Health Executive Orders that were modified this afternoon, as Chairman of the Board, he has made the decision that the Board of Commissioners will be meeting in person in April, as will the subcommittees. He stated if the Zoning Board of Appeals or Planning Commission have business, they too would be able meet in person. He stated the decision was made because we are able to social distance and the glass partitions are in place to keep us all safe.

A motion was made by **Member Cleary** to adjourn the March 2, 2021 Board of Appeals meeting. **Member Chase** supported. Meeting adjourned at 6:28 p.m.