

EATON COUNTY BOARD OF APPEALS MINUTES
June 1, 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 Catron, their residence in Eaton Rapids, Eaton County, MI

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

Staff Present: Claudine Williams and Brandy Hatt

Agenda Approval: A motion was made by **Member Chase** to approve the agenda for the June 1, 2021 meeting. **Member Cleary** supported. Motion carried by unanimous roll call.

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

Communications: None

Public Comment: None

BA-6-21-3: Request by Grand River Power (Roy Davis) 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) to allow for a pole style building to be located 32 feet and 7 inches from the Smithville Road Right-of-Way at 4703 Smithville Road, Sec. 2, 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 Eaton Conservation District has bearing on the building; he stated they are looking at a setback issue. Ms. Williams stated they are asking if the structure is able to cover the well. Ms. Williams stated the Barry-Eaton District Health Department did not respond.

Member Chmielewski asked if there is any more information regarding the communication between the building inspector and applicant. Ms. Williams said no.

Member Stopczynski asked if it is known when the other building was constructed. Ms. Williams stated the building was there prior to 1996.

Member Cattron stated the building containing a well house is confusing. **Member Chmielewski** suggested having the applicant explain.

Applicants Statement: Mr. Roy Davis, 332 S. Waverly Road, Eaton Rapids, stated the well was existing with an existing foundation that predated 1920. He stated he was going to put a one-hundred square foot building over the well house; instead, they used the existing foundation for the new building. Mr. Davis said Hamlin Township supported his request for a variance. Mr. Davis stated this is his fault because he constructed a building larger than one-hundred square feet, if he is made to take the building down he will, but he has received positive comments regarding the building. He stated the building inspector told him he did not need a building permit for a building less than one-hundred square feet in size, but he made it the same size as the old foundation.

Member Cattron asked Mr. Davis to explain the well house. Mr. Davis stated there is an existing well on the property he plans to use. He stated they have had the water tested and the well works; he needs a building over the well with heat so they can use the well in the winter.

Member Cleary asked about the existing foundation; she asked if it was a 12' x 25' foundation. Mr. Davis said it was close in size. **Member Cleary** asked if the existing foundation is from a previous well house. Mr. Davis stated he does not know because he is new to Eaton Rapids.

Member Chase asked what purpose the well serves on the property. Mr. Davis stated the well allows them to have water and a restroom on the property. He stated he plans to use the building as a guardhouse in future. Mr. Davis stated there is not a house on the property; they have not had water onsite for the first year. **Member Cleary** asked if a water source is required for the use of the property. Mr. Davis said yes.

Member Cattron stated he does not believe the powerhouse is producing electricity. Mr. Davis stated the powerhouse is producing electricity, he went through the Federal Regulatory Commission and is now compliant. He stated he has worked in hydro for the past forty years; he does not know about building codes. Mr. Davis stated he has invested five-hundred thousand dollars into the two properties; he wanted a guardhouse due to the voltage of electricity.

Member Cleary asked what the other buildings on the property are used for. Mr. Davis stated they are used as a garage for storage.

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

Speakers in favor: Eaton County Commissioner Barbara Rogers stated she is familiar with the property; she stated Mr. Davis has made improvements since he purchased it. Commissioner Rogers said there was a house on the property many years ago; it may have burnt in the 60's. She stated there may have been two houses on the property at one time. Commissioner Rogers said she sees no harm as the well being protected. She stated for what Mr. Davis has done for the neighborhood and township; she would like to see the application approved. She stated Hamlin Township did recommend approval.

Speakers in opposition: None

Public hearing closed at 6:23 p.m.

Discussion/Comments: **Member Cleary** stated she is having a hard time with the size of the building; she does not know if it needs to be as big as it is. She stated with the existing foundation, it makes sense; she is hesitant, but is inclined to approve the application due to the presence of the old, existing foundation. **Member Chmielewski** stated she agrees with Member Cleary in regards to the previous foundation, which may make it unique.

Member Cattron stated the location of the well within the building, in the northwest corner is controlling where the building is, no matter its size. **Member Chmielewski** stated the location of the well does not determine the size of the building. She asked if the location of the well addresses item A., is it necessary to have a water source; is it a practical difficulty. **Member Chase** stated the location of the well could be unique; if the application is denied, it is not going to change the setback requirements.

Member Cattron moved to approve BA-6-21-3, Grand River Power (Roy Davis) 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) to allow for a pole style building to be located 32 feet and 7 inches from the Smithville Road Right-of-Way at 4703 Smithville Road, Sec. 2, Hamlin Township. They find that:

- A. There is a practical difficulty in carrying out the strict letter of the ordinance; due to the location of the existing well and the well is required for operation of the power plant and needs protection during the winter.
- B. There is a practical difficulty due to unique circumstances related to this particular property; due to the location of the well and water is required for plant operation.
- C. The applicant did not create the problem; the well is existing.
- D. Granting the variance will not alter the essential character of the district or neighborhood; it improves the area.
- E. Every variance granted shall be in the minimum amount necessary to overcome the inequity inherent in the particular property. The variance is in the minimum amount due to the location of the well and the existing foundation.

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.

BA-6-21-4: Request by Brooke Biddle and Alex Dolman-Moore for a variance from Zoning Ordinance Section 6.2.10 B. Detached Accessory Buildings (structures shall be no closer than 10 feet from any other building or lot line) to allow for an agricultural pole barn to be located only 3 feet from the west side property line and 1 foot from an existing garage. The property is located at 3993 W. Mount Hope Hwy., Section 28, Roxand Township.

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

Member Chase asked how the building was moved. Ms. Williams stated that would be a good question for the applicant.

Applicants Statement: Ms. Brooke Biddle, 3993 W. Mt. Hope Highway, stated everything in the staff report was accurate. **Member Chase** asked if the building was torn down to be

moved or just moved to the current location. Ms. Biddle stated they were tearing down the existing building and using the materials to construct the new building. She noted they have stopped now until the new location is resolved.

Member Cattron asked Ms. Biddle if she is able to reduce the size of the building. Ms. Biddle stated the post are already set, she would also need new trusses and a roof to change the size, which could be thirteen thousand dollars or more.

Member Stopczynski asked Ms. Biddle how many animals she is housing. Ms. Biddle stated she currently has forty, but are hatching more now. **Member Stopczynski** asked why the new barn could not go further from the garage. Ms. Biddle stated the new barn is located on at the edge of an existing asphalt driveway.

Member Cattron asked what the electrical consists of. Ms. Biddle stated there is an overhead power pole. **Member Cattron** asked Ms. Biddle if she moved the building because of possible contamination to the well. Ms. Biddle said no, she moved it due heavy equipment driving too close to the well to get to the building.

Speakers in favor: None

Speakers in opposition: Mr. Justin Sivyer, 8741 Mulliken Road, stated he owns the property that surrounds Ms. Biddle's house. He asked why the barn could not be smaller, he said three feet from his property line is really close. He stated they buy supplies and move power to do their farming operations; it is a part of business.

Public hearing closed at 6:43 p.m.

Discussion/Comments: **Member Chmielewski** stated she has issues with items A-E, and noted the building does not seem to be the minimum amount necessary. **Member Chase** said he agreed and noted they have denied others. He added this one really goes out of our norm; he stated he is not opposed to having them size the barn down to meet setbacks. **Member Chase** stated he agrees with the farmer. **Member Stopczynski** stated she sees a number of solutions that are available to meet the requirements. **Member Cleary** stated there are options, just because that is where the driveway ends, there are other choices.

Member Chase moved to deny BA-6-21-4, Brooke Biddle and Alex Dolman-Moore for a variance from Zoning Ordinance Section 6.2.10 B. Detached Accessory Buildings (structures shall be no closer than 10 feet from any other building or lot line) to allow for an agricultural pole barn to be located only 3 feet from the west side property line and 1 foot from an existing garage. The property is located at 3993 W. Mount Hope Hwy., Section 28, Roxand Township. They find that:

- A. There is not a practical difficulty in carrying out the strict letter of the ordinance; they could size the building down and meet setbacks.
- B. There is not a practical difficulty due to unique circumstances related to this particular property; the building could be sized down and meet setbacks.
- C. The applicant created the problem.
- D. Granting the variance would alter the essential character of the district or neighborhood as the building infringes upon a neighboring property line.

E. Every variance granted shall be in the minimum amount necessary to overcome the inequity inherent in the particular property. The request is not in the minimum amount necessary as there are many other options.

Member Stopczynski 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 are no applications to be heard at their July 6, 2021 meeting.

Public Comments: none

A motion was made by **Member Cleary** to adjourn the June 1, 2021 Board of Appeals meeting. **Member Chase** supported. Meeting adjourned at 6:48 p.m.