

EATON COUNTY BOARD OF APPEALS MINUTES
September 6, 2022

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

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

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

Staff Present: Claudine Williams and Brandy Miller

Agenda Approval: A motion was made by **Member Cleary** to approve the agenda for the September 6, 2022 meeting. **Member Stopczynski** supported. Motion carried.

Minutes Approval: A motion was made by **Member Cleary** to approve the minutes as written from the July 5, 2022 meeting. **Member Stopczynski** supported. Motion carried.

Communications: None

Public Comment: None

BA-9-22-4: Request by Terry Smyth for a variance from Zoning Ordinance Sections 7.5C.1.B. Buffer Strip Requirements and 10.4 Off Street Parking Space Requirements to allow for the installation of a fence only and thirty-eight (38) parking spaces rather than the required thirty-nine (39) parking spaces at 8587 Narrow Lake Road, Sec. 28, Brookfield Township.

Staff Report: Ms. Williams read the staff report and a Site Plan Review response from the Eaton Conservation District, Barry-Eaton District Health Department, and Eaton County Road Commission into record.

Member Cattron stated the Eaton Conservation District letter stated the site has a leaking underground storage tank and a restrictive covenant. Ms. Miller stated she did not locate the restrictive covenant; however, the applicants have received the approval from EGLE, which was required prior to approval from the Barry-Eaton District Health Department.

Applicants Statement: Mr. Terry Smyth offered to answer questions. **Member Cattron** asked Mr. Smyth how big the current building is. Mr. Smyth stated he does not know. **Member Cleary** asked about the water run-off and if only a fence is proposed or a fence and vegetation. Mr. Smyth stated they are only proposing a fence. **Member Chmielewski** asked about the materials that will be used for the fence. Mr. Smyth stated he is not sure.

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

Speakers in favor of the application: Mr. Sam Gibson, 3019 Luella Lane, stated he thinks this is a good idea, there is no where else to eat within twelve miles.

Mr. Jeremy Whittum, Eaton County Commissioner, District 14, stated he attended the Brookfield Township Meeting and twelve to fourteen neighboring property owners were in

attendance including Sam, Canda and others. He stated the fence will alleviate any issues the neighbors had. He stated the parcels are small; when the contour of the property is looked at, everything drains to the lake and then on to the duck drain. Mr. Whittum stated a buffer may hamper the flow and natural contour of the property. He stated the Eaton County Road Commission's request is reasonable. Mr. Whittum stated he has heard no complaints or reservations in reference to the business; all comments have been favorable.

Mr. Patrick Henderson, 5780 Houston Road, stated he helps Mr. Smyth manage the store. He stated the number of employees will be six, and the fence will be made of vinyl.

Speakers in opposed to the application: Mr. Kurtis McHenry, 6299 Butterfield Highway, stated he owns the adjacent property to the south of the party store. He stated he was not at the Brookfield Township meeting, he was not invited. Mr. McHenry stated his family has owned the property since 1981. He stated he was there when the ball room was still open; the ball room brought a lot of business. He stated it was loud when they brought in bands; there was a problem with the parking as people would park in the road and there is no shoulder on the road. Mr. McHenry stated he is not opposed to the party store, he is in favor of what it offers to the lake; more land would help. He stated the fence is a good idea, as it sounds like it will run on the east side of the property and on the back side of the party store. He stated an issue that has come up is the patrons of the store using Luella Lane. The plat book shows Eaton County owns the portion of the road adjacent to his property; after the property the road is owned by the property owners. He stated a lot of traffic uses Luella Lane to get to the road. Mr. McHenry stated in 2020 the store had a food truck come in; this created the same issue with parking as the previous ball room had. He stated he had a conversation with 911 and emergency vehicles need to get down Luella Lane, as well as delivery trucks and such. He said if there is something in their way, they can't go around it. He stated putting a fence along Luella Lane would help stop the problem. Mr. McHenry stated a variance was given to a property on Luella Lane a few years ago for a pole barn, the snow from that property ends up on his property and eats at his driveway. If the snow from the store parking lot is pushed in the same area, it will be worse; a fence will correct the issue. He stated the store is an asset. He stated he worries about the run off; the water can run down Luella Lane; it washes the gravel out.

Public hearing closed at 6:34 p.m.

Board of Appeals Discussion/Comments: Ms. Miller informed the Board of Appeals she located the restrictive covenant for the property; she stated it restricts removing soils from the site.

Member Cleary stated she is familiar with the Narrow Lake Country Store and noted the Board of Appeals has approved variances for residences in the area, specifically for garages because they have found they are needed. She stated while the property is unique, the owners may be expecting too many uses for it. She stated if the run off needs to be addressed, there may be too much. **Member Chase** stated he remembers the ball room; he is not sure if the Planning Commission has more authority as to what is allowed on the property. He stated he is not sure of the traffic patterns, but can see that the soils and run off may be an issue. **Member Chase** added when you have that many cars, you could have oil contamination to the lake. Ms. Williams stated these types of concerns would be reviewed and addressed by the Planning Commission, she noted some will require engineering approvals.

Member Cleary stated if the variance for the number of parking spaces were denied, they could reduce the occupancy of the building to comply. **Member Chmielewski** agreed with Member Cleary.

Member Chmielewski stated she is curious how the Zoning Board of Appeals addressed the issues in 2001 when the variance was granted to allow the gas pump to be located thirteen feet from the Narrow Lake Right-of-Way. She stated she wonders how this case differs from the previous case from twenty-one years ago. **Member Cleary** stated the variance was not for the parking area. Ms. Williams offered to retrieve the file from the office. **Member Cleary** stated if the Board of Appeals would like to review the previous case they may, however, she does not believe it will help the decision they are asked to make on the current application. **Member Cleary** stated a variance would not be needed for the parking area if the occupancy of the building was less than the proposed eight-eight people. She stated she is less concerned about the buffer request. **Member Chmielewski** stated she is not sure the parking request is in the minimum amount necessary; the restaurant does not have to have an occupancy of eight-eight, they could have less, which would require less parking. **Member Cleary** stated if they had three less people in the building, they would meet the parking requirements. **Member Chmielewski** stated she is leaning towards approving the variance for the buffer, but not the parking. She stated if the board chooses to deny one request and approve the other, two motions will need to be made.

Member Cleary asked Ms. Williams if the Planning Commission will regulate the type of fencing installed if Board of Appeals approves the request for the buffer. Ms. Williams explained Mr. Smyth is proposing to have a total of three businesses on this property; the store is a use by right; the restaurant is a use by Site Plan Review, and the gas station is a use by Conditional Use Permit. She stated they will be required to submit a Conditional Use Permit Application which will be heard by the Planning Commission. Ms. Miller stated the proposed fencing will be required to meet Article 17 of the Zoning Ordinance.

Mr. Sam Gibson asked Member Chmielewski if he could speak again. **Member Chmielewski** said yes. Mr. Gibson stated the county does not plow Luella Lane, he does. He stated the county does not maintain Luella Lane; the homeowners have paid thousands of dollars to maintain the road. Mr. Gibson stated the road is not salted; in the winter he puts the snow where people do not live year round. He understands that has been an issue. He stated he has no issue with the restaurant.

Member Cleary moved to approve BA-9-22-4, Terry Smyth for a variance from Section 7.5C.1.B. Buffer Strip Requirements of the Zoning Ordinance to allow for installation of a fence only at 8587 Narrow Lake Road, Section 28, Brookfield Township. They find that:

- A. There is a practical difficulty in carrying out the strict letter of the ordinance; Narrow Lake was platted several years ago, the parcels do not meet current requirements.
- B. There is a practical difficulty due to unique circumstances related to this particular property. This unique circumstance (small lake properties) has been defined as the entire lakefront area in the past.
- C. The applicant did not create the problem.
- D. Granting the variance will not alter the essential character of the district or neighborhood.
- E. The variance is in the minimum amount necessary to overcome the inequity inherent in the particular property. The existing vegetation is being replaced with a fence.

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

Member Cleary moved to deny BA-9-22-4, Terry Smyth for a variance from Section 10.4 Off Street Parking Space Requirements of the Zoning Ordinance to allow thirty-eight (38) parking spaces rather than the required thirty-nine (39) parking spaces at 8587 Narrow Lake Road, Section 28, Brookfield Township. They find that:

- A. There is a practical difficulty in carrying out the strict letter of the ordinance; Narrow Lake was platted several years ago, the parcels do not meet current requirements. The parcels in the area are unique, however, there are other options.
- B. There is a practical difficulty due to unique circumstances related to this particular property. The parcels in the area are unique, however, there are other options.
- C. The applicant does create the problem.
- D. Granting the variance will not alter the essential character of the district or neighborhood.
- E. The variance is not the minimum amount necessary to overcome the inequity inherent in the particular property.

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

Upcoming Cases: Ms. Williams informed the Board of Appeals there is one application to be heard at their October 4, 2022 meeting.

Old Business: none

New Business: **Member Chmielewski** stated the proposed 2023 Board of Appeals Meeting Dates have been placed at the seats of the members. **Member Stopczynski** moved to approve the 2023 Board of Appeals Meeting Dates as written. **Member Catron** supported. All in favor. Motion carried.

Report: Ms. Williams informed the Board of Appeals, the Planning Commission is working with Rowe Professionals on the update of the Eaton County Master Plan. She stated the Planning Commission will be discussing the Master Plan Update during their meeting this evening.

Public Comment: none

A motion was made by **Member Cleary** to adjourn the September 6, 2022 Board of Appeals meeting. **Member Stopczynski** supported.

Meeting adjourned at 6:55 p.m.