

ISABELLA COUNTY  
ZONING BOARD OF APPEALS  
April 16, 2008

Room 225  
Isabella County Building

A regular meeting of the Isabella County Zoning Board of Appeals was held April 16, 2008 in room 225 of the Isabella County Building, 200 North Main Street, Mount Pleasant, Michigan.

MEMBERS PRESENT: Jim Wynes, Craig Schripsema, Gordon Gilchrist, Kelly Bean.

MEMBERS ABSENT: None.

SUPPORT STAFF PRESENT: Timothy Nieporte, Community Development Director  
Mike Zalewski, Planner/Zoning Administrator  
Brandy Freed, Recording Secretary

The meeting was called to order by the chair at 9:00 a.m.

The Pledge of Allegiance was recited by the board.

APPROVAL OF AGENDA

The agenda was approved as submitted.

PREVIOUS MINUTES

The minutes of the February 20, 2008 meeting were approved as submitted.

PUBLIC COMMENTS

None heard.

VARIANCE REQUEST #08-02

Mr. Zalewski explained that Samuel Shrock is requesting a variance to construct a 48' x 136' farm building used to house livestock 200' from an existing neighboring residential dwelling. The minimum setback requirement is 300' from an existing neighboring residential dwelling. The property is located at 7745 S. Guy Road in Section 8 of Rolland Township. Mr. Shrock constructed a 48' x 136' farm building (housing hogs) without a permit. After receiving a complaint from the township regarding the building without permit, staff contacted Mr. Shrock and advised him that he would need to apply for a permit. Upon application it was determined that the structure does not meet the setback requirement from an off premise residence. Section 5.08 of the zoning ordinance requires all farm buildings and accessory structures to be a minimum of 300' from an existing neighboring residential dwelling. The building was

constructed only 200' from an off premise residence. Therefore the permit request was denied and Mr. Shrock proceeded to apply for the variance. Staff has received a letter from an adjoining property owner and has enclosed it as part of the file.

Mr. Shrock explained that he was unaware that a permit was required to build an agricultural building. He also explained that he is new to the area and in Ohio where he lived before a permit was not required.

The public hearing was opened at 9:04 a.m.

Mr. Loren Burdick stated that he had written a letter to the board with his concerns of the common watershed area. He explained that he wants to be assured by an investigating office that the run-off from the farm will not be settling and contaminating the watershed area.

Mr. Nieporte explained that the Zoning Board of Appeals is not concerned with those types of issues. He also explained that Mr. Burdick should contact the MDEQ or the MDA to have his concerns addressed.

Mr. Shrock explained that the MDA has already been out to the property.

Ms. Carol Rard stated that this is not a hostile situation toward the Shrock's, but she is concerned with the quality of life.

Ms. Brenda Lint stated that this area is zoned agricultural and over the years several local farmers have leased the land. In the spring of 2007 the Shrock family moved in. In the fall of 2007 Mr. Shrock explained that he would like to build a barn and raise 500 pigs. The barn that was built was built 200' from the house, and in front of the dining room window and patio area. Manure can be smelt with a west blowing wind. Not only is the barn too close to the house, after further calls it was learned that there are other violations with the State of Michigan with the overall operation of the farm.

Mr. Zalewski read the letters that were received into the record (see attached).

The public hearing was closed at 9:16 a.m.

Mr. Gilchrist asked what the soil type on the farm is.

Mr. Shrock stated that it is a sandy loam.

Mr. Gilchrist asked if all farm barns have to be 300' from the road.

Mr. Zalewski explained that they have to be 300' from off premises neighboring residential dwellings, not the road.

Mr. Bean stated that if the neighboring home was set 100' farther back, there would be no issues.

A motion was made by Mr. Schripsema, supported by Mr. Bean to deny variance request #08-02 based on the following:

- It was not shown that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or building in the same district.
- Literal interpretation of the provisions of this ordinance would not deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance, because the building could have been built somewhere else on the property to meet the requirements.
- Granting this variance would confer on the applicant special privileges that are denied by this ordinance to other lands, structures or buildings in the same district.

Roll call vote:

Gordon Gilchrist: Yes

Craig Schripsema: Yes

Jim Wynes: Yes

Kelly Bean: Yes

Variance Denied.

#### INTERPRETATION #08-02

Mr. Wynes explained that the Zoning Board of Appeals will interpret Section 15.02 of the Isabella County Zoning Ordinance as it relates to accessory buildings or structures that are 200 square feet or less.

Mr. Zalewski explained that the Isabella County Zoning Ordinance regulates the size and location of signs in each zoning district. A structure is defined as “Anything constructed or erected, the use of which requires permanent location on the ground or anything attached to something having permanent location on the ground.” Therefore, by definition a sign would be considered a structure. Now according to Section 15.02 of the Zoning Ordinance, “No building, or part thereof, or other structure shall be erected, raised, moved, reconstructed, extended, or enlarged without first applying for and obtaining a zoning permit...” It appears that a sign would require a zoning permit. However, historically Isabella County has not required permits for signs. That is not to say we haven’t approved signs with other permit requests such as site plan reviews by the Planning Commission or home occupation permits issued by the zoning administrator. But if a property owner was only installing a sign or changing an existing sign, a permit was not required. Again this appears to be in direct conflict with the zoning regulations. Recently our office has had some issues come up with signs that highlight the need for sign permits. A sign permit would establish a date for when a sign was permitted as well it assures a property owner that they will be constructing and locating a sign that meets the requirements of the zoning ordinance. Staff attempted to research the issue as to why signs have not required permits, and the only thing in the ordinance that would possibly make it seem that signs do not require permits is the later part of Section 15.02 that discusses accessory structures under 200

square feet. Section 15.02 states that “A one story detached accessory building or structure of 200 square feet or less in area shall not require a zoning permit as long as the placement of said building conforms with the height requirements of the district in which they are located and provided the accessory building or structure is not located closer than five (5) feet from a side or rear lot line.” This section almost gives the impression that if a sign is an accessory structure under 200 square feet it doesn’t require a zoning permit. However, based on amendments to the zoning ordinance in the past, this section of the zoning ordinance was established and subsequently amended to be consistent with the Michigan Residential Code which specifically exempts ‘one story detached accessory structures, if the floor area does not exceed 200 square feet’. The Michigan Building Code however does regulate signs separately and requires permits. The question is, does the later part of Section 15.02 that states “A one story detached accessory building or structure of 200 square feet or less in area shall not require a zoning permit...” exempt signs that are less than 200 square feet from obtaining a zoning permit?

Mr. Nieporte explained that recent issues have come up with offsite directional signs; staff has received complaints regarding them. Section 15.02 of the Isabella County Zoning Ordinance conflicts itself, this may be why it was decided not to take permits on signs in the late 80’s. If permits are taken out on signs it will help to regulate them. Staff wants to make sure that permits are obtained as per the ordinance, or not obtained as per the ordinance.

Mr. Schripsema asked if this was for signs that are outside of the right of way.

Mr. Nieporte stated the ordinance requires that signs be placed out of the right of way, but without permits for them they are just being placed where ever.

Mr. Zalewski explained that recently a Deerfield Township property owner claimed that the County, back when Deerfield Township had County zoning, told him it was okay to put up a sign. There is no record of that, so the township has approached him saying that he just constructed the sign and it does not conform to their zoning ordinance sign requirements. That may be the case but with a permit there would be a permanent record.

Mr. Nieporte explained that obtaining a permit creates a record of when it was established.

Mr. Schripsema stated that if the sign is put in the road right of way the property owner would have to get two permits, one from the Road Commission and one from the Zoning Board of Appeals.

Mr. Nieporte stated that they would not get one from the ZBA because the ordinance does not allow a sign to be in the road right of way.

Mr. Schripsema stated that a sign would be exempt if you take the wording literally, because in one case signs fall under structure and we say a square foot area, then we again say structure in a square foot area, it is not specified if that area is vertical or horizontal. So in one case it is saying the structure of the structure was it the sign or a shed under 200 sq. ft. If permits are going to be taken for signs, this section needs to be reworked.

Mr. Nieporte explained that the intent of that language was for sheds only. Something that has or is attached to a permanent foundation is a structure, signs by default fall into that category. The way it is read now, a sign less than 200 sq. ft. is exempt. If a sign is over 200 sq. ft then it is not exempt and requires a permit.

Mr. Gilchrist stated that for other structures there are dimensional requirements. A sign and a shed are very different. A 200 sq ft sign is a billboard; the ordinance needs to be looked at and needs to reflect that signs have setbacks.

Mr. Nieporte explained that there are setback requirements for signs, but a permit is not required so someone can go out and erect a sign without our office knowing about it.

Mr. Schripsema stated that the requirements need to met, whether a permit is obtained or not.

Mr. Nieporte explained that the only way staff knows about them is when someone calls in a complaint.

Mr. Gilchrist stated that permits should be required for all signs.

Mr. Nieporte stated that typically signs larger than 200 sq. ft. are not erected. A sign is a structure by default so if it is less than 200 sq. ft. it is exempt. So therefore, the interpretation would be that a sign is a structure by definition and it includes structures less than 200 sq. ft. So, a sign less than 200 sq. ft. is exempt by default. From what Mr. Schripsema and Mr. Gilchrist have stated, these signs should require a permit because there are regulations for them.

Mr. Zalewski asked if a sign is interpreted to be a one story detached accessory structure.

Mr. Schripsema stated that he reads it as a one story detached accessory building or a structure and a sign falls under the definition of a structure.

Mr. Zalewski stated that they can interpret this as not applying to signs, but then ask for clarification from the Planning Commission so in the future there are no questions about it.

Mr. Gilchrist stated that signs should be separated from structures.

Mr. Nieporte stated that there is a definition in the definitions section for signs and a definition for a structure. They have become confused in section 15.02, so they need clarified there.

A motion was made by Mr. Gilchrist, supported by Mr. Schripsema to interpret the part of Section 15.02 of the Isabella County Zoning Ordinance that states "A one story detached accessory building or structure of 200 square feet or less in area shall not require a zoning permit..." does pertain to signs that are less than 200 square feet. Therefore, signs that are less than 200 square feet do not require a zoning permit. Staff should put together language and forward it to the Planning Commission for clarification of section 15.02 of the Isabella County Zoning Ordinance.

Yes: Gilchrist, Schripsema, Wynes, Bean.

No: None.

Motion carried.

Mr. Wynes asked if the County regulations for signs would overrule the Road Commission regulations.

Mr. Nieporte explained that the signs must meet the Zoning Ordinance requirements whether or not they meet the Road Commission rules.

#### REVIEW PROPOSED ZONING ORDINANCE AMENDMENT LANGUAGE

Mr. Zalewski stated that enclosed in the monthly packet was a draft of Article 14 (ZBA) of the zoning ordinance with language inserted that was proposed in the 2005 draft zoning ordinance. The language to be removed is crossed out and the new language is in bold italics. The other language is the existing language that would not be changed.

Mr. Nieporte stated that a public hearing is scheduled for the next Planning Commission meeting for section 14.01 (A), it will be amended to include language that would allow for Zoning Board of Appeals members to be chosen from townships other than those that the County has jurisdiction over. He also explained that 14.05 (D)(2) and (3) could be an administrative task instead of making the applicant come before the board again.

The board agreed that this should be an administrative task and it should not require the applicant to appear again before the board.

Mr. Bean asked if in section 14.06 (B), the applicant would now only have 14 days to initiate an appeal of the board.

Mr. Nieporte stated that staff would look into it further, and if it is found that the statutory requirement is 14 days they would leave it as is, otherwise staff will change it back to 21 days before sending it to the Planning Commission.

It was a consensus of the board to forward this language with the changes to the Planning Commission.

#### STAFF COMMENTS

None heard.

#### BOARD COMMENTS

Mr. Gilchrist asked if the seminar on Right to Farm Act would be paid for by the Community Development Department.

Mr. Nieporte stated that the department would pay for this seminar.

Mr. Bean asked if it was possible to get the packets in the mail any earlier.

Mr. Zalewski stated that packets are sent out about 7 - 9 days in advance, this month they were a little late because of staff vacations.

ADJOURNMENT

A motion was made by Mr. Gilchrist, supported by Mr. Schripsema, to adjourn at 10:04 a.m.

Yes: Schripsema, Gilchrist, Wynes, Bean.

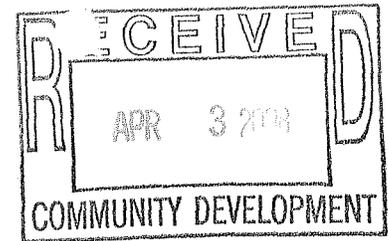
No: None.

Motion carried.

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Craig Schripsema, Secretary

Brandy Freed, Recording Secretary



To: The Isabella County Zoning Board of Appeals

From: Loren and Kathy Burdick 10014 Blanchard  
Rd. Blanchard, MI 49310

Date: March 31, 2008

Dear Mr. ale ski and zoning board members,

We're writing in regard to the variance being requested by Samuel Shrock and the wetlands area which our property shares with his. This area consists of marsh and intermittent small ponds, approximately two-thirds of which is on Mr. Shrock's property. In times of high run-off this wetlands is sometimes connected to another marsh which continues just over one half mile east of Guy Road.

In the past, this area has been a nesting grounds for Canada geese, mallards, wood ducks, pintails and cranes. Mr. Shrock's new barn appears to be less than 100 yards uphill from the marsh and with the 500 or more hogs he intends to have on the property year round, it seems more than likely that this marsh will be contaminated with waste from the hogs. Since the marsh has several acres on our property, not only will the waterfowl suffer, but we will become partial owner of a settling pond for hog waste, whether we want it or not. We would like to know that this will not happen.

There is no flowing water *through this marsh and we* don't know of any fresh water springs, so we realize the danger of any pollution beyond our property is slight. We understand lire Shrock's right to farm and although we're not thrilled to be the first place downwind from a pig farm, we have made no complaints to Mr. Shmck or anyone else.

April 13, 2008

Isabella County Zoning Board of Appeals

Notice of Public Hearing

Re: Interpretation #08-02: Section 15.02

Re: Variance Request #08-02

Property located at 7745 S. Guy Road in Section 8 of Rolland Township. Parcel # 12-008-20-003-07.

While we are unable to attend the public hearing, we would like to comment on the variance request.

We are opposed to granting the request to construct a 48 X 136" farm building to house livestock 200' from an existing neighboring residential dwelling. The current minimum setback requirement is 300' from an existing neighboring residential dwelling. The request is to allow a farm building, used to house livestock, 1/3 closer than the existing requirement. The minimum setback, in addition to allowing additional space for vapors to dissipate, also allows green space between a residential dwelling and a farm building.

There are times when variances can be granted without intruding on a personal residence, however this is not the case. Variances should be weighed to ensure they do no harm. Significant time, research and thought were used to establish the minimum setback. The same consideration should be made to consider a variance that intrudes on a personal residence. It is our understanding that the farm building will be used to house pigs, which as we all know, tend to have a stronger odor than other animals. It is our opinion that this is a significant intrusion.

Scott and Phyllis McConkie 9932 W. Blanchard Road Blanchard, MI 49310