

ISABELLA COUNTY
ZONING BOARD OF APPEALS
January 20, 2010

Room 225
Isabella County Building

A regular meeting of the Isabella County Zoning Board of Appeals was held January 20, 2010 in room 320 of the Isabella County Building, 200 North Main Street, Mount Pleasant, Michigan.

MEMBERS PRESENT: Jim Wynes, Gordon Gilchrist, Marilyn Fosburg, Kelly Bean.

MEMBERS ABSENT: None.

SUPPORT STAFF PRESENT: Mike Zalewski, Planner/Zoning Administrator
Brandy Harger, Recording Secretary

The meeting was called to order by the chair at 9:02 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 August 19, 2009 meeting were approved as submitted.

ELECTIONS OF OFFICERS

Mr. Wynes opened nominations

A motion was made by Ms. Fosburg, supported by Mr. Bean, to keep the current slate of officers.

Yes: Wynes, Gilchrist, Fosburg, Bean.

No: None.

Motion Carried.

By a unanimous vote, Mr. Wynes was declared Chairperson, Mr. Gilchrist was declared Vice-Chairperson, and Ms. Fosburg was declared Secretary.

A motion was made by Ms. Fosburg, supported by Mr. Bean to maintain the time and date for the regular meetings as is, on the third Wednesday of the Month at 9:00 a.m. in room 225 of the Isabella County Building.

Mr. Wynes called for a vote on the motion.

Yes: Wynes, Gilchrist, Fosburg, Bean.

No: None.

Motion Carried.

PUBLIC COMMENTS

None heard.

VARIANCE REQUEST #09-08

Mr. Zalewski explained that Gary Rayburn is requesting a variance to allow an existing 22' x 32' accessory building to remain 3.1' from his North property line. The minimum setback from this property line is 35'. The property is an 80 acre parcel located in Section 15 of Denver Township. In June 2008 our office received a complaint from Denver Township stating that a building was constructed without permits. Our office sent notice to Mr. Rayburn and advised him of the violation. Mr. Rayburn came into office to obtain permits for the 'cabin'. The structure did not meet the requirements for a dwelling and therefore he was advised that the permits could not be issued. Mr. Rayburn stated that he would just tear down the building then. Several months later our office conducted a follow up inspection of site and noted that the building still remained on site. Our office subsequently contacted Mr. Rayburn again and advised that permits would need to be obtained. After discussion with Mr. Rayburn it was determined that structure would not be a dwelling as it would not be used to live in and would not have a kitchen or bathroom. The building was essentially being used to store hunting equipment and may be used a couple of times a year for shelter. This would not meet the definition of a dwelling and therefore could be permitted as an accessory building. Upon applying for the permits, it was determined that the building is too close to the North property line. Mr. Rayburn had always assumed that the northeast corner of the property was the corner fence (as circled on the 2008 survey). However, the 2008 survey shows that the building is actually only 3.1' from the property line. Mr. Rayburn has decided to apply for a variance. Since Mr. Rayburn's property does not have a clearly defined front setback, the required setback to this property line is determined by the adjoining property's setback. The property line in question is a clearly defined rear property line for the Denver Township property and thus the Township would have a 35' setback from that line. Therefore Mr. Rayburn's adjoining property has a 35' setback from the same property line. The Township Supervisor has submitted a letter from the Township Board in support of this variance request

Mr. Rayburn stated that he bought the property 32 years ago and the previous owner stated that the property line was the fence line. The cabin is used only 4 days a year and will never be used for anything more.

The public hearing was opened at 9:13 a.m.

Mr. John Pedjac, Denver Township Supervisor, stated that Mr. Rayburn's property is land locked by the Township property. Mr. Rayburn has an easement through the township property to his property. The township has no intentions of selling their property. The township also thought that the property line was where the fence line is. The township supports this variance being

approved. When this building was built, it was thought that property line was the fence line, and was built with no setback issues.

Ms. Jackie Curtiss, Denver Township, stated that she is in strong support of approving the variance.

The public hearing was closed at 9:17 a.m.

Mr. Gilchrist asked what type of terrain is out near the building

Mr. Rayburn stated that it is flat land and sand.

Mr. Wynes asked if a survey was completed when the property was purchased.

Mr. Rayburn stated that no a survey was never done.

Ms. Fosburg asked if there was a foundation under the structure and what type it was.

Mr. Rayburn stated that it is on 6x6 poles, it was placed in the same spot as the old building.

Mr. Gilchrist asked if the 33' easement is written in a formal agreement and if the dump is currently being monitored.

Mr. Rayburn stated that the 33' easement is written into the property description

Mr. Pedjac stated that the dump is not being monitored.

A motion was made by Mr. Bean, supported by Mr. Gilchrist to approve Variance Request #09-08 because property line was believed to be in a different place than it is actually located. Granting the variance will not be detrimental to adjacent properties. Where the building is located the 35' set back does not have an effect. Finally this situation was not caused by the applicant.

Ms. Fosburg stated that there would not be enough room back there if ever there were to be water or sewer put back there. This building will have to always remain a hunting cabin. The building should be moved because there is plenty of room to do so; it would only have to be lifted up and moved.

Mr. Pedjac stated that no equipment would ever be able to get back to the property on the easement anyhow.

Mr. Bean asked that if they change the use of the building to a house would they have to apply for a new variance.

Mr. Zalewski explained that they would not have to come back before the board if this variance is approved but would have to get zoning approval for the change of use.

Mr. Wynes called for a roll call vote on the motion.

Gilchrist: Yes
Bean: Yes
Fosburg: No
Wynes: Yes

Motion Carried.
Variance Approved.

STAFF COMMENTS

None Heard.

BOARD COMMENTS

None Heard.

ADJOURNMENT

A motion was made by Ms. Fosburg, supported by Mr. Bean to adjourn at 9:28 a.m.

Yes: Wynes, Gilchrist, Fosburg, Bean.
No: None.

Motion Carried.

Marilyn Fosburg, Secretary

Brandy Harger, Recording Secretary