

ISABELLA COUNTY  
ZONING BOARD OF APPEALS  
December 15, 2010

Room 225  
Isabella County Building

A regular meeting of the Isabella County Zoning Board of Appeals was held on December 15, 2010 in room 225 of the Isabella County Building, 200 North Main Street, Mount Pleasant, Michigan.

MEMBERS PRESENT: Jim Wynes, Gordon Gilchrist, Marilyn Fosburg, Tom Courser, 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 9:03 a.m.

The Pledge of Allegiance was recited by the board.

APPROVAL OF AGENDA

Mr. Zalewski stated that the presentation of the annual report will be added to the agenda as a new #8.

The agenda was approved as amended.

PREVIOUS MINUTES

Mr. Courser stated that Rolland Road. need to be changed to Brinton Road page 4 of the minutes.

The minutes of the November 17, 2010 meeting were approved as amended.

PUBLIC COMMENTS

None heard.

VARIANCE REQUEST #10-09

Mr. Zalewski stated that Ken and Debbie Saari are requesting a variance to construct a 195 square foot residential addition 2' from the side property line. They are also requesting variances to reconstruct certain walls and to construct a new roof over the existing home with a larger overhang that would be 19' 10" to the high water mark of Littlefield Lake and 2" from the other side property line. The minimum side setback for this property located in the Lakes Area Residential (L-R) District is 8'. The minimum setback to the high watermark is 35'. The property is located at 8908 Westview Drive in Section 20 of Gilmore Township. This request was postponed at the last meeting due to an error in the public hearing notice. Also the board requested additional information to be included on the site plan. The applicant has submitted the updated site plan and it was included in the mailing.

Mr. Saari stated that he had supplied a simpler drawing that shows the shed more accurately. The request is to make structural changes because the roof needs to be repaired.

Mr. Bean stated that in the north east portion of the construction the building would not be getting larger.

Mr. Saari stated that the only thing that would change there is the overhang will be larger.

Mr. Wynes asked what the red hash represented.

Ms. Saari stated that those will be the areas where the slab foundation will have to be removed and poured again to level the foundation out. The portion in the corner will not be replaced.

The board held discussion on whether to handle all variances individually or together.

Mr. Wynes stated that the 2" that is proposed is currently 1'6" from the wall not the overhang.

Mr. Saari stated that the existing overhang is 8" from the property line.

Mr. Wynes stated the 19'10" is currently over 20' from the property line.

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

Mr. Vic Lootens of 8901 Westview Drive, stated that he is the president of the property owners association. The association is trying to get property owners to improve their properties. These problems have not been caused by this board, but previous administrations because they allowed these houses to be too close to the property lines. Others in the neighborhood have no problem if this variance request is approved.

The public hearing was closed at 9:19 a.m.

Mr. Bean stated that people like to improve their property. This is a nonconforming lot but so are the other lots. These lots on the lakes are too small.

Mr. Courser stated that this situation was self created. On the waterside of the property they are moving out which is ok, but if they were to square off the 195 square feet there would be no need for that variance. The 1'6" that they are currently to the other side is good, there is no need to change the overhang; so, there is no need to grant a variance there either.

Mr. Bean stated that 1'6" or 2" is immaterial, the small portion of the other side where the addition is, only a sliver that will not be allowed.

Ms. Fosburg stated that if the variance is granted for 2" emergency vehicles would not have access to the rear of the house, which is a safety concern.

Mr. Bean stated that they are already way beyond the zoning ordinance requirements.

Mr. Courser stated that just because they already exceed ordinance requirements is not justification for granting a larger variance.

Mr. Gilchrist stated that the 1'6" dimension would stay the same, a variance for this would only authorize an extension of the roof overhang, the variance for 19'10" they are only asking for another 2", and the variance for the other corner is for aesthetics only. They would be able to use eaves trough for water run off; these variances cause no safety hazard because the fire department has hoses that they would be able to get around back with. There is no reason to waive over 2" or 2' variances.

Ms. Fosburg inquired as to where the well and septic were located.

Mr. Saari stated that the septic is by the shed and the well is on the other side of the property.

Ms. Fosburg stated that a second story would be allowed in this area.

Mr. Zalewski stated that it is possible, but for older homes it can be very difficult to add a second story for engineering reasons.

Mr. Wynes stated that if the house was currently in compliance with the zoning requirements this would be an easy case, but the ordinance is already nullified.

Mr. Courser stated that the variance being granted will impair the intent of the ordinance, not justify it because it is already nullified.

Mr. Wynes stated that the amount of change being requested is fractional.

Mr. Saari stated that in 1990 when they purchased this cabin they talked to the building department and were told that they would need variances if they were to ever expand.

Mr. Wynes stated that these lots were designed for cottages and now people want to build houses on them, which causes problems.

A motion was made by Mr. Courser, supported by Mr. Gilchrist, to approve the request on the high water mark side of variance #10-09, allowing the applicant to have set back of 19'10" based on the following:

The variance is minimal to improve the structure and is needed as support for a new roof to be built.

Roll Call Vote:

Tom Courser: Yes

Marilyn Fosburg: Yes

Gordon Gilchrist: Yes

Kelly Bean: Yes

Jim Wynes: Yes

Motion carried.

Variance approved.

A motion was made by Mr. Bean, supported by Mr. Gilchrist, to approve the request to be 2' from the side property line of variance #10-09 based on the following:

The lot is narrow, necessary to make the house square, granting the variance is not detrimental to other properties, it does not impair the intent of the ordinance because the house currently is not in compliance with the ordinance requirements, and need for the variance was not caused by the applicant.

Roll Call Vote:

Tom Courser: No  
Marilyn Fosburg: No  
Gordon Gilchrist: Yes  
Kelly Bean: Yes  
Jim Wynes: Yes  
Motion carried.

Variance approved.

A motion was made by Mr. Bean, supported by Mr. Gilchrist, to approve the request to be 2" from the side property line of variance #10-09 based on the following:

The lot is narrow, necessary to make the house square, granting the variance is not detrimental to other properties, it does not impair the intent of the ordinance because the house currently is not in compliance with the ordinance requirements, and need for the variance was not caused by the applicant.

Roll Call Vote:

Tom Courser: No  
Marilyn Fosburg: No  
Gordon Gilchrist: Yes  
Kelly Bean: Yes  
Jim Wynes: Yes  
Motion carried.

Variance approved.

A recess was requested at 9:46 a.m.

The meeting was resumed 9:47 a.m.

#### VARIANCE REQUEST #10-11

Mr. Zalewski stated that Bruce Woodbury is requesting variances to create a 20 acre parcel that exceeds a depth of 400' in the Restrictive Agricultural District (AG-1). The Zoning Ordinance limits the size of a newly created parcel to 3 acres and limits the depth to 400' in the AG-1 District when the parent parcel is comprised of 75% or more of the major agricultural soils. The

property is located at 935 E. Denver Road in Section 6 of Isabella Township. Bruce Woodbury owns a 76 acre parcel located at 935 E. Denver Road. The property is zoned Ag-1 and is comprised of more than 75% of the major agricultural soils. Therefore, the maximum lot size is 3 acres with a maximum depth of 400'. He is proposing to create a 20 acre parcel that is 660' x 1320', thus the need to apply for the variance. The split would encompass the wooded acreage on the property and is intended to be sold to a neighbor down the road.

Mr. Wynes asked if 50% of the proposed 20 acres to be split off is wooded.

Mr. Zalewski stated that 9.2 acres is wooded.

Mr. Gerald Watters stated that 40 acres could have been split off, but it would then only leave the main farm with 36 acres. The land is still farmable and will continue to be.

Mr. Mack Woodbury stated that he represents Mr. Bruce Woodbury, his father, and he would like to be able to split these 20 acres of land off and sell it to Mr. Watters.

The public hearing was opened at 9:49 a.m.

Mr. James Higgs, representative for Mr. Bruce Woodbury Jr., stated that this is an Ag-1 district and the purpose of the ordinance requirements is to keep these family farms together. The soil on this farm is in the prime soils, some of the best soils around. This is contiguous acreage now, if this variance is granted it would be split down the middle. Once this split parcel is sold, it may or may not give the Woodburys' the right to continue farming the property. In this situation there may have been undue influence to split and sell this property off.

Mr. Wynes stated that the family issues would not be a concern of the board.

The public hearing was closed at 10:07 a.m.

Ms. Fosburg asked if Mr. Watters' current property is to the west of the property in question.

Mr. Zalewski stated that Mr. Watters' property is not adjacent to the property in question.

Ms. Fosburg asked if a survey has been conducted on the property.

Mr. Watters stated that there has been no survey.

Mr. Courser asked if the minimum acreage that can be split is 40 acres.

Mr. Zalewski stated that the minimum acreage that can be split is 1 acre.

Mr. Courser stated that if this was 40 acres being split off, they would be exempt from getting a variance.

Mr. Gilchrist asked if the wooded area was swampy.

Mr. Watters stated that the wooded portion of the acreage is wet.

Mr. Courser stated that forestry is an agricultural activity.

Mr. Bean stated that people who want wood for forestry are different from those who want agricultural land. To get just the woods from this acreage, they would have to have an easement. Splitting these 20 acres off will give access to the road without having to have an easement back to the woods.

Mr. Gilchrist asked if the 20 acres would fall under a time limitation to be split again.

Mr. Zalewski stated that if divisions were granted with the split, it could be possibly be split the next day, but if no divisions were granted they would have to wait 10 years.

Mr. Bean stated that the 400' rule in the ordinance is to keep people from building in the middle of a 40 acre parcel.

Mr. Courser stated this variance impairs the intent of the ordinance.

Mr. Wynes stated that the applicant does not show that approving the variance would not materially impair the intent of the ordinance or that the need for this variance was not created by the applicant.

Mr. Courser stated that the applicant has other options, they could put in a private road or split of 40 acres.

Mr. Bean stated that preserving farmland is the objective, but splitting off the woods alone would leave it land locked.

Ms. Fosburg stated that there is nothing exceptional that has been presented in this case.

Mr. Bean stated that it is exceptional that there is no road access to the woods.

Mr. Courser stated that this parcel does currently have road access, because it is all part of the larger parcel now.

Mr. Bean stated that splitting this parcel would not be detrimental to other properties.

Mr. Courser stated that it is not detrimental, but it does impair the intent of the ordinance.

Mr. Bean stated that if the applicant was to split off 40 acres instead, it may not be farmed anyway.

Mr. Wynes stated that if the woods are sold they would have to have access to it.

Mr. Bean stated that the easiest way is to just split off the woods.

Mr. Zalewski stated that it is the intent of the board to look at the ordinance requirements and determine if they are met or not.

Mr. Courser stated that the need for the variance was created by the applicant.

A motion was made by Mr. Courser, supported by Ms. Fosburg, to deny Variance #10-11 because the need for a variance is self created; there are other options that would not require a variance. This variance request also materially impairs the intent of the ordinance.

Roll Call Vote:

Tom Courser: Yes  
Marilyn Fosburg: Yes  
Gordon Gilchrist: No  
Kelly Bean: No  
Jim Wynes: Yes

Motion carried.

Variance Denied.

#### STAFF COMMENTS

Mr. Zalewski presented the Zoning Board of Appeals annual report.

#### BOARD COMMENTS

Ms. Fosburg stated that the city is looking for ideas as to what the property, where the state home was located, can be used for.

Mr. Gilchrist stated that the Planning Commission needs more members.

#### ADJOURNMENT

A motion was made by Mr. Courser, supported by Ms. Fosburg to adjourn at 10:56 a.m.

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

Motion Carried.

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Marilyn Fosburg, Secretary

Brandy Harger, Recording Secretary