

ISABELLA COUNTY  
ZONING BOARD OF APPEALS

January 20, 2016

A Regular Meeting of the Isabella County Zoning Board of Appeals was held on January 20, 2016 in Room 320 of the Isabella County Building, 200 North Main Street, Mt. Pleasant, Michigan.

MEMBERS PRESENT: Tom Riley, Gordon Gilchrist, Jim Wynes, Marilyn Fosburg, Brent Duffett

MEMBERS ABSENT: None

SUPPORT STAFF PRESENT: Tim Nieporte, Community Development Director  
Kim Kennedy, Recording Secretary  
Ray Johnson, Planner/Zoning Administrator

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

The Pledge of Allegiance was recited by the Commission.

APPROVAL OF AGENDA

A motion was made by Mr. Duffett supported by Mrs. Fosburg to approve the agenda.

Yes: Gordon Gilchrist, Jim Wynes, Tom Riley, Marilyn Fosburg, Brent Duffett  
No: None

Motion carried.

**ELECTION OF OFFICERS/ORGANIZATIONAL MEETING**

a. Election of Officers

Mr. Wynes opened nominations for Chairperson, Vice-Chairperson, and Secretary.

Mrs. Fosburg nominated the slate officers as Jim Wynes for Chairperson, Marilyn Fosburg for Vice-Chairperson, and Brent Duffett for Secretary.

Mr. Wynes called for other nominations, hearing none, Mr. Wynes called for other nominations, hearing none, Mr. Wynes called for other nominations. With no other nominations heard, nominations were closed.

Mr. Wynes called for a vote.

Yes: Gordon Gilchrist, Jim Wynes, Tom Riley, Marilyn Fosburg, Brent Duffett  
No: None.

Motion Carried

b. Establish Meeting Day, Time, Place

A motion was made by Mrs. Fosburg supported by Mr. Duffett to set the time and date for regular meeting as, on the third Wednesday of each month at 9:00 a.m. in room 225 of the Isabella County Building.

Mr. Wynes called for a vote.

Yes: Gordon Gilchrist, Jim Wynes, Tom Riley, Marilyn Fosburg, Brent Duffett  
No: None.

Motion Carried

Mr. Nieporte presented the proposed calendar for the 2016 Zoning Board of Appeals meetings. These dates being the 3<sup>rd</sup> Wednesday of the month at 9:00 a.m. in room 225 of the Isabella County Building. Mr. Nieporte stated that this calendar would be posted and a copy of the calendar would be forwarded to the board members.

PREVIOUS MINUTES

Minutes from the December 2015 regular meeting were circulated to the Commission prior to the meeting for their review.

A motion was made by Mrs. Fosburg and supported by Mr. Duffett to approve the minutes as presented.

Yes: Gordon Gilchrist, Jim Wynes, Tom Riley, Marilyn Fosburg, Brent Duffett  
No: None

Motion carried.

PUBLIC COMMENTS FOR NON-AGENDA ITEMS

None heard

## NEW BUSINESS

### **Variance #16-01 Dennis Nelson**

Mr. Johnson explained an application was filed on November 24, 2015 by Mr. Nelson in response to a zoning enforcement. A complaint was submitted to the Community Development office that a fence was constructed which exceeded the maximum height allowed under Section 3.14 A. which allows for a maximum of 7 feet in height. Upon visiting the site, staff observed the fence constructed along the complete length of the west side of the property. When staff spoke to Mr. Nelson, he confirmed the fence was built at 8 ft in height and was for the purpose of keeping deer out of his field and prevent damage to his agricultural crops. Through various conversations, Mr. Nelson indicated to staff that he had spoken to the DNR about the fence and discussed the "Fence Law" (Wildlife Conservation Order 2.11),

Mr. Johnson stated that staff did reach out to the DNR and spoke to Wildlife Biologist, Ryan Soulard who indicated that in order for a property to be considered an exclusion structure under the fence law, the fence must completely enclose the property. Mr. Soulard also indicated to staff that while the 8 ft fence may prevent deer from jumping the fence, they are likely just to go around the fence. Mr. Soulard also indicated that a fence of this type may be construed as a funneling activity and any hunting along the fence may be an illegal activity.

Mr. Trent Hilding representing Mr. Nelson stated that the fence was built by a licensed contractor. The fence was constructed to keep deer out of Mr. Nelson's crops and it was not intended to create a funneling activity. Mr. Hilding stated that his could have been approached as from a Right to Farm Act issue but they have not pursued this.

Public hearing was opened at 9:10 a.m.

None heard.

Public hearing was closed at 9:10 a.m.

Mr. Duffett stated he had read the DNR info pertaining to fencing. His belief is that the deer would just go around the fence since it was only on one side of the property.

Mrs. Fosburg asked for a description of the fence.

Mr. Hilding explained it as a woven material not a chain link fence. Similar to ones found around orchards.

Mr. Riley asked for a recap on the DNR info Mr. Johnson provided.

Mr. Johnson restated his conversations with Mr. Soulard from the DNR.

Board discussion took place regarding Section 14.04 of the Isabella County Zoning Ordinance.

A motion was made by Mr. Duffett supported by Mrs. Fosburg to Deny Variance Number 16-01 which was submitted by Dennis Nelson to allow for a fence to be constructed to a height of 8 feet where a maximum of 7 feet is permitted in the Agricultural Buffer district. Mr. Duffett based his motion on the study from the Department of Natural Resources that indicated deer may be deterred by a fence with a height of 7 ft, and the lack of evidence provided by the applicant demonstrating a practical difficulty.

Mr. Wynes called for a Roll Call Vote.

Ms. Riley – No

Mr. Duffett – Yes

Mrs. Fosburg - Yes

Mr. Wynes – Yes

Mr. Gilchrist - No

Motion Carried.

#### **Variance #16-02 Charles Howard**

Mr. Johnson stated that an application was filed on December 7, 2015 by Charles Howard for the creation of a new parcel. Upon speaking with the applicant and the Township Assessor it was discovered that the parent parcel and the parcel Mr. Howard desired to have the ½ acre parcel combined with are in two different school districts and may not be combined. The combination of these two parcels would have provided access to Mr. Howard's 40 acre land-locked parcel from Old State Rd.

Mrs. Linda Howard representing Charles Howard stated that this parcel will allow for access to a land locked parcel that Mr. Howard owns.

Public hearing was opened at 9:25 a.m.

None heard

Public hearing was closed at 9:25 a.m.

Board discussion took place.

A motion was made by Mrs. Fosburg supported by Mr. Duffett to approve variance number 16-02 to allow for a parcel to have an area of one half (1/2) an acre where one (1) acre is required for a newly created parcel in the General Agricultural (AG-2) district with the stipulation that the newly created parcel be recorded and sold in perpetuity with a Mr. Howard's existing parcel

based on the uniqueness of the two parcels being in separate school districts and will provide access to a land locked parcel.

Mr. Wynes called for a Roll Call Vote.

Ms. Riley – Yes

Mr. Duffett – Yes

Mrs. Fosburg - Yes

Mr. Wynes – Yes

Mr. Gilchrist - Yes

Motion Carried.

STAFF COMMENTS – Mr. Nieporte informed the board that they books are now color coded. They will now find the agenda color coded to correspond with the color code in their ordinance books.

APPEALS BOARD MEMBER COMMENTS - None

ADJOURNMENT

The meeting was adjourned by the call of the Chair at 9:30 a.m.



Brent Duffet, Secretary

Kim Kennedy, Recording Secretary