

EATON COUNTY BOARD OF APPEALS MINUTES
May 7, 2019

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

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

Roll Call: Nikki Chmielewski, Donald Chase, Jeremy Whittum, and Tim Cattron.

Absent: April Stopczynski and Charamy Cleary

Staff Present: Brandy Hatt

Agenda Approval: A motion was made by **Member Whittum** to approve the agenda for the May 7, 2019 meeting. **Member Cattron** supported. Motion carried

Minutes Approval: A motion was made by **Member Cattron** to approve the minutes from the April 2, 2019 meeting. **Member Chase** supported. Motion carried.

Communications: None

Public Comment: None

BA-4-19-6: Request by Benjamin & Emily Bodkin for a variance from Zoning Ordinance Section 7.7.3 Minimum Setback from road right-of-way (building shall be a min of 67 feet from a road right-of-way) to allow for construction of a pole barn to be located 34 feet from the Yorkshire Lane Road Right-of-Way at 6344 Yorkshire Lane, Sec. 14, Hamlin Twp.

Staff Report: Ms. Hatt read the staff report into record.

Member Chase asked Ms. Hatt what a SESC Permit is. Ms. Hatt stated it is a Soil Erosion Sedimentation Control Permit; she stated the Eaton County Drain Commissioner's Office requires them when the proposed building site is near an open body of water.

Applicants Statement: Mr. Benjamin Bodkin stated he would like to make note that trying to locate another building site on his property would be a practical difficulty due to the fact that they do not have another location on their property to build a garage. He stated he is limited to the site proposed due to the utilities, drains, and deed restrictions located on the property. Mr. Bodkin stated the county drain does sit on his property; he explained the location of the catch basin and stated there is an easement that runs two-thirds the length of his west property line. He stated the actual drain is no longer in the easement area, but the easement still exists. Mr. Bodkin stated they did not know if the other drains that run through the property were county drains or not, but assumed they were because they seemed to be professionally installed. He stated the ditch was installed by someone who knew what they were doing and does run to the county drain. Mr. Bodkin stated the drainage tile located on his property helps divert water off the road and neighboring properties as well.

Member Cattron stated he looked at the property, he noticed the tiled drain on the map. He asked what the tiled drain is for; it looks like it comes from the west just past the consumers underground to the corner of the house. Mr. Bodkin stated that tiled drain takes care of the water from the garage eaves. **Member Cattron** asked what the tiled drain that goes to the wetlands area from the southeast corner of the home and ends up between two ponds takes care of. Mr. Bodkin stated

one of the tiles comes from the corner of the house and goes into the middle pond; it drains the patio because their yard is so low. The other tile drains the eaves from the house. **Member Cattron** asked if the consumers underground is electricity. Mr. Bodkin said yes. **Commissioner Cattron** asked if the location is accurate. Mr. Bodkin said yes. **Member Cattron** stated there is a twenty foot drop from the highest point of the property to the wetland area. Mr. Bodkin stated he thought it was a ten foot drop; he stated the high point is where they are proposing to build their garage.

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

Speakers in favor: Mr. Eric Collar, 6460 Yorkshire Lane, stated his property is located to the south of Mr. Bodkin's property. He stated they have a very nice place and are responsible and considerate; he has no objection to the request. Mr. Collar stated he would be happy to see Mr. Bodkin receive approval for his garage.

Mr. Phil Bombrys, Hamlin Township Supervisor, stated the Hamlin Township Board would like to have the variance approved. He stated Mr. Bodkin has a well kept property; he needs a place to store stuff. Mr. Bombrys stated there are not a lot of places to build on the property.

Mr. Ben Colestock, 3875 Spalding Drive, stated he works for Ridgeline Construction, they will be building the proposed garage. He stated they are requesting the variance to build the building in the area they have requested due to the use as a garage and future sale of the property. He stated there are several water issues on the property. He noted there is standing water on the property right now. He stated keeping the garage out of the water is a huge issue.

Speakers in opposition: None

Public hearing closed at 6:22 p.m.

Discussion/Comments: **Member Chase** stated he is in favor of approving the request due to the way the water flows on the property and where the underground electricity is located on the property. **Member Cattron** stated there is no other practical location to build the proposed garage; he considered the area to the south when he visited the site, but they would damage the wetlands area.

Member Chase moved to approve BA-4-19-6, Benjamin and Emily Bodkin for a variance from Zoning Ordinance Section 7.7.3 Minimum Setback from road right-of-way (building shall be a min of 67 feet from a road right-of-way) to allow for construction of a pole barn to be located 34 feet from the Yorkshire Lane Road Right-of-Way at 6344 Yorkshire Lane, Sec. 14, Hamlin Twp. They find that;

- A. There is a practical difficulty in carrying out the strict letter of the ordinance due to the location of the Consumers Energy underground, natural flow of water, and drain tiles located on the property.
- B. There is a practical difficulty that is due to unique circumstances related to this particular property due to the location of the Consumers Energy underground, natural flow of water, and drain tiles located on the property. Also due to the fact that this property handles the drainage for the road and surrounding properties.
- C. The applicant did not create the problem.
- D. Granting the variance will not alter the essential character of the district or neighborhood.
- E. This variance of thirty-three (33) feet is in the minimum amount necessary.

Member Whittum supported. A roll call vote was taken with four (4) voting aye and none (0) voting nay. Motion carried.

BA-5-19-7: Request by William Garland for a variance from Ordinance Section 6.2.5, Lot Frontage/Depth Ratio to allow his existing property located off from Battle Creek Road (Parcel 100-027-300-095-04) to be exempt from width to depth ratio requirements. The property is located in Section 27 of Carmel Township.

Staff Report: Ms. Hatt read the staff report and Site Plan Review Responses from Eaton County Construction Codes and Eaton Conservation District into record. In addition, Ms. Hatt read a response from neighboring property owner, Ms. Bonnie Rockafellow into record. Ms. Hatt explained Ms. Rockafellow's property was also affected by the illegal land division/combination; Ms. Rockafellow has submitted letters of approval from three surrounding property owners.

Member Chmielewski asked Ms. Hatt if the Board of Appeals could include Ms. Rockafellow property with their review of Mr. Garland's property. Ms. Hatt stated the three letters of support are from the neighboring property owners who would have received the notice to the neighbors if Ms. Rockafellow's property was included in the application. Ms. Hatt stated it is up to the Board of Appeals.

Member Whittum asked if two motions would be necessary. **Member Chmielewski** stated she does not believe two motions are necessary because the properties have the same issue; the responses to items A through E would be the same for both parcels. She stated that is how they handled the last application they heard regarding non-conforming parcels.

Applicants Statement: Mr. William Garland stated he was not aware of any issues with his property until he went to the county to obtain a permit for his agricultural building. He stated he spoke with his father regarding the property and his father told him he does not know how the properties were combined either. Mr. Garland stated his father thought the land division was done correctly by the previous property owners because there was a survey. He said he has looked at purchasing other property and selling some of his road frontage to correct the problem with his property, but selling road frontage to make his property a flag lot will not work due to the location of his existing agricultural barn and his neighbors do not want to sell their property. **Member Chmielewski** asked Mr. Garland if he has any issue with including Ms. Rockafellow's property with his request. Mr. Garland said no, both properties should be fixed; this is not her fault either.

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

Speakers in favor: Mr. Bonnie Rockafellow, 2723 Battle Creek Road, stated she would like the Board of Appeals to consider her property as a legal non-conformity as well. She stated she was not aware there was an issue with either property until she received the notice for Mr. Garland's property. Ms. Rockafellow stated she is the second owner of the property since the land division was done; the error was never brought up in the title work. She stated she too attempted to purchase property from her neighboring property owners, but they do not wish to sell. Ms. Rockafellow stated she has letters of support from the three neighboring property owners who would have received the notice of public hearing.

Speakers in opposition: None
Public hearing closed at 6:39 p.m.

Discussion/Comments: **Member Chmielewski** stated this case is similar to one they heard last year. **Member Chase** stated he is in favor of the request because it cleans up the properties and corrects an issue that was not created by the property owners.

Member Chase moved to approve BA-4-19-7, William Garland for a variance from Zoning Ordinance Section 6.2.5, Lot Frontage/Depth Ratio to allow his existing property located off from Battle Creek Road (parcel 100-027-300-095-04) and property owned by Bonnie Rockafellow located at 2723 Battle Creek Road (parcel 100-027-300-095-05) to be exempt from width to depth ratio requirements. The properties are located in Section 27 of Carmel Township. They find that;

- A. There is a practical difficulty in carrying out the strict letter of the ordinance; both property owners have attempted to purchase property to correct the width to depth ratio.
- B. There is a practical difficulty that is due to unique circumstances related to this particular property due to the fact the properties are the result of an illegal land division/adjustment that was done prior to their purchasing of the property
- C. The applicant did not create the problem; in addition they were not aware of the problem when they purchased the properties
- D. Granting the variance will not alter the essential character of the district or neighborhood.
- E. This variance is in the minimum amount necessary.

Member Whittum supported. A roll call vote was taken with four (4) voting aye and none (0) voting nay. Motion carried.

Old Business: None

New Business: None

Public Comments: None

Upcoming Cases: Ms. Hatt informed the Board of Appeals there is one application to be heard at their June 4, 2019 meeting.

A motion was made by **Member Chase** to adjourn the May 7, 2019 Board of Appeals meeting. **Member Catron** supported. Meeting adjourned at 6:50 p.m.