

**EATON COUNTY BOARD OF APPEALS MINUTES**  
**January 8, 2019**

**Call to Order:** Ms. Claudine Williams, Director of the Community Development Department, 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, Charamy Cleary, April Stopczynski, and Jeremy Whittum. **Absent:** Tim Cattron

**Staff Present:** Claudine Williams and Brandy Hatt

**Nominations and elections of Board Chairperson, Vice Chairperson and Secretary.**

Ms. Williams asked for nominations for Chairperson. **Member Cleary** nominated Member Chmielewski. **Member Chase** seconded. **Member Cleary** moved nominations be closed and a unanimous ballot cast for Member Chmielewski. **Member Stopczynski** seconded. Motion carried.

Member Chmielewski assumed the responsibility of presiding over the meeting.

**Member Chmielewski** asked for nominations for Vice Chair. **Member Whittum** nominated Member Chase. **Member Cleary** seconded. **Member Cleary** moved nominations be closed and a unanimous ballot cast for Member Chase. **Member Stopczynski** seconded. Motion carried.

**Member Chmielewski** asked for nominations for Secretary. **Member Chase** nominated Member Stopczynski. **Member Cleary** seconded. **Member Cleary** moved nominations be closed and a unanimous ballot be cast for Member Stopczynski. **Member Whittum** supported. Motion carried.

**Member Cleary** moved to close elections. **Member Whittum** supported. Motion carried

A motion was made by **Member Stopczynski** to approve the agenda for the January 8, 2019 meeting. **Member Cleary** supported. Motion carried

A motion was made by **Member Cleary** to approve the minutes from the December 4, 2018 meeting. **Member Chase** supported. Motion carried.

**Communications:** None

**Public Comment:** Mr. Darren Kiplinger, 64 Millerburg Road, read a letter into record regarding the denial of his variance application BA-11-18-10 from the November 6, 2018. Mr. Kiplinger stated he would like to the Board of Appeals to re-hear his application based on his new information and waive the fee for application. **Member Chmielewski** stated the Board of Appeals will hear his request later in the meeting under other business.

**BA-1-19-1:** Request by Don Clough on behalf of Morgan and Barbara Quillen for a variance from Ordinance Section 7.7.3 Minimum Setback from Road Right-of-Way, for an already constructed roof over a concrete porch to be located 51' 6" from the S. Cochran Road Right-of-Way rather than the required 67'. The property is located at 9556 S. Cochran Rd., Section 36, Walton Township.

**Staff Report:** Ms. Williams read the staff report into record.

**Member Cleary** asked Ms. Williams if the new concrete porch is larger than the previous concrete porch. Ms. Williams said she believes it is, but it would be best to clarify with the applicant.

**Applicants Statement:** Mr. Don Clough stated he is the builder; he offered to answer questions. **Member Cleary** asked if the new concrete porch is larger than the previous concrete porch. Mr. Clough said yes, it is a foot and a half larger.

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

**Speakers in favor:** None

**Speakers in opposition:** None

**Public hearing closed at 6:19 p.m.**

**Discussion/Comments:** **Member Cleary** stated if the porch is okay without a roof, it does not make seem right adding a roof would need a variance. She added she is struggling with items A-E. **Member Stopczynski** stated she drove by the property, she does not believe the request is unreasonable. She said the variance request seems to make the most sense, unless they were to reduce the size of the porch which may not fix the foundation issues.

**Member Whittum** asked when the old porch was removed. Mr. Morgan Quillen, property owner, stated he took the old porch off last summer in an effort to correct a water problem in his basement.

The Board of Appeals Members held a brief discussion regarding the legal non-conforming status of the house and the previous porch; the house does not appear to meet the required setbacks. **Commissioner Whittum** stated the new porch is eighteen inches closer to the road.

**Member Chmielewski** asked if the porch with roof corrects a safety issue. **Member Chase** asked about the grade of the land surrounding the house; does the water still run toward the house. Mr. Clough said no. Ms. Hatt asked Mr. Clough if the roof could be supported by the trusses on the house rather than by posts in the ground. Mr. Clough said no, the trusses would not carry the load of the porch roof. He stated this location was the only place to construct a covered entrance to the house due to the other additions that have been done over the years. Ms. Williams noted similar requests have been approved in the past.

**Member Whittum** asked if the Board of Appeals could consider the safety and welfare for the disabled property owners. Mr. Clough stated they built the porch in preparation for a permanent ramp to replace a temporary ramp that is there now. **Member Chmielewski** stated she likes Member Whittum's reasoning.

**Member Cleary moved to approve BA-1-19-1, Don Clough on behalf of Morgan and Barbara Quillen** for a variance from Zoning Ordinance Section 7.7.3 Minimum Setback from Road Right-of-Way, for an already constructed roof over a concrete porch to be located 51' 6" from the S. Cochran Road Right-of-Way rather than the required 67'. The property is located at 9556 S. Cochran Rd., Section 36, Walton Township. They find that;

- A. There is a practical difficulty in carrying out the strict letter of the ordinance due to the house already being a legal non-conformity with no other option for a safe covered entrance.
- B. There is a practical difficulty that is due to unique circumstances related to this particular property due to the legal non-conforming status of the existing home and the location of previous additions leaving the front of the home the only option.
- 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 is in the minimum amount necessary.

**Member Whittum** supported. A roll call vote was taken with three (3) voting aye and two (2) voting nay. Motion carried.

**BA-1-19-2:** Request by Bryan Fuller-Tryon for a variance from Ordinance Section 7.7.3 Minimum Setback from Road Right for an already constructed pole barn to be located 5' 11" from the Saddlebag Road Right-of-Way rather than the required 50'. In addition, a variance from Ordinance Section 7.4A.2.A.1. Accessory Buildings and Accessory Uses is requested to allow for the already constructed pole barn to be 864 sq. ft. rather than the maximum allowed 850 sq. ft. The property is located at 5060 Saddlebag Rd., Sec. 18, Sunfield Township.

**Staff Report:** Ms. Williams read the staff report into record.

**Member Chmielewski** asked if the Board of Appeals needs to make two motions for this application. Ms. Williams said the Board needs to make that decision, however, she noted the answers to Items A-E might be the same for both requests.

**Applicants Statement:** Ms. Siarah VanDrial stated she is speaking on behalf of the property owner. She stated she has spoken with all of the neighboring property owners and they are okay with the garage remaining in its current location. **Member Cleary** asked Ms. VanDrial why a twenty-four foot by thirty-six foot garage is needed. Ms. VanDrial stated they own two cars and a truck, the garage is a two car garage; they also have a couple of quads and dirt bikes. She said the property owner is a diesel mechanic who keeps his tools at home. **Member Chase** asked if this property has lake frontage. Ms. VanDrial said yes. **Member Chase** asked what the setback is to the water. Ms. Williams stated there is not a required setback to the water. She stated structures are required to be located sixty-seven feet from the right-of-way. Ms. Williams said per the site plan the home is located eighty-eight feet from the water.

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

**Speakers in favor:** Mr. Warren Bishop, 5351 Saddlebag Road, stated the property owners are wonderful neighbors who keep their property looking nice. He said the location they built their garage in is the only spot available due to the location of the hill of their property. He added the trees hide the building from view.

**Speakers in opposition:** None

**Public hearing closed at 6:41 p.m.**

**Discussion/Comments:** **Member Chase** asked if the application should be heard with two motions. **Member Chmielewski** stated she does not believe it is necessary. **Member Cleary** stated she is struggling with the size of the building, because they did not know is not a good reason. **Member Chase** stated he is also struggling with the size of the building.

**Member Cleary moved to approve BA-1-19-2, Bryan Fuller-Tryon** for a variance from Zoning Ordinance Section 7.7.3 Minimum Setback from Road Right for an already constructed pole barn to be located 5' 11" from the Saddlebag Road Right-of-Way rather than the required 50'. The property is located at 5060 Saddlebag Road, Sec. 18, Sunfield Township. They find that;

- A. There is a practical difficulty in carrying out the strict letter of the ordinance because of the size and shape of the parcel in addition to the layout of the parcel.
- B. There is a practical difficulty that is due to unique circumstances related to this particular property due the location of the lake on one side and a hill on the other. Additionally, the odd shape of the property is very unique.
- 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 44 feet 1 inch is in the minimum amount necessary.

**Member Chase** supported. A roll call vote was taken with five (5) voting aye and none (0) voting nay. Motion carried.

**Member Cleary** stated she is struggling with the variance request for the size of the building. **Member Whittum** asked what size building could be constructed without needing a variance. Ms. Williams stated an eight-hundred fifty square foot building could be constructed on this property. **Member Chmielewski** stated the applicant is requesting a fourteen square foot variance; she asked Member Cleary if she is struggling because the variance is not related to the property. **Member Cleary** said yes.

Ms. Hatt stated the existing home does not have an attached garage and could never have an attached garage due to the location of the house and current setbacks from the property lines; in addition the property is only allowed one accessory building. **Member Whittum** stated that alone limits the functionality of the property.

Ms. VanDrial asked Member Chmielewski if she could speak. **Member Chmielewski** said yes. Ms. VanDrial stated their home does not have any storage, there are no closets. She stated that is another

reason they chose the size of building they constructed. She stated at the moment they store most of their items at the property owners work; his employer has requested the items be removed from the property.

**Member Cleary moved to approve BA-1-19-2, Bryan Fuller-Tryon** for a variance from Zoning Ordinance Section 7.4A.2.A.1. Accessory Buildings and Accessory Uses to allow for the already constructed pole barn to be 864 sq. ft. rather than the maximum allowed 850 sq. ft. The property is located at 5060 Saddlebag Rd., Sec. 18, Sunfield Township. They find that;

- A. There is a practical difficulty in carrying out the strict letter of the ordinance because there is not room on the property for an attached garage; the Board of Appeals in the past has determined an attached garage is inherent for a property; this is the only availability to have storage on this property.
- B. There is a practical difficulty that is due to unique circumstances related to this particular property due the size and shape of the parcel in addition to the layout of the parcel and location of the lake on one side and a hill on the other.
- 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 14 square feet is in the minimum amount necessary

**Member Whittum** supported. A roll call vote was taken with four (4) voting aye and one (1) voting nay. Motion carried.

**Old Business:** The Board discussed Mr. Darren Kiplinger's request to re-submit his variance application based on new evidence and without paying application fee. **Member Cleary** asked if there is enough new evidence to rehear the case. **Member Chmielewski** stated the primary reason the application was denied was due to the size of the building and not being the minimum amount necessary; she stated the proposed building would not block anyone's ability to see. **Member Cleary** asked if the same size building is proposed. Ms. Williams said yes. **Member Chase** stated he thought more area was needed for the Clear Vision Right-of-Way, but Mr. Kiplinger has submitted a letter from MDOT that there is not an issue with safety. **Member Chmielewski** stated the new documentation answers some of the previous questions, but not all of them. Ms. Hatt stated the size of the building is allowed in a Limited Agricultural Zoning District. She stated Mr. Kiplinger's property is currently in violation; he is trying to work on a corrective action plan to bring the property into compliance. **Member Chmielewski** stated she does not have an issue hearing a new application.

**Member Whittum** moved to allow Mr. Darren Kiplinger to submit a new application for his variance request with his new evidence. **Member Cleary** supported, motion carried.

**Member Chmielewski** asked the Board of Appeals Members what their thoughts were on the request to waive the application fee. **Member Cleary** stated the county still bears the cost to notice and re-hear the application. Ms. Williams stated there are no applications to be heard in February, but there is one to be heard in March. **Member Whittum** asked Mr. Kiplinger if he would be alright with his application being heard at the March Board of Appeals Meeting. Mr. Kiplinger said yes.

**Member Whittum** moved to waive the Board of Appeals Application fee for Mr. Kiplinger's application to be heard at the March 5, 2019 Board of Appeals Meeting. **Member Stopczynski** supported, motion carried.

**Public Comments:** None

**New Business:** None

**Upcoming Cases:** Ms. Williams informed the Board of Appeals there are no applications to be heard at their February 5, 2019 meeting.

A motion was made by **Member Chase** to adjourn the January 8, 2019 Board of Appeals meeting. **Member Cleary** supported. Meeting adjourned at 6:59 p.m.