

**EATON COUNTY BOARD OF APPEALS MINUTES**  
**July 5, 2022**

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

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

**Roll Call:** Nikki Chmielewski, Donald Chase, Tim Cattron, Charamy Cleary, and Jeremy Whittum

**Absent:** April Stopczynski

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

**Agenda Approval:** A motion was made by **Member Cleary** to approve the agenda for the July 5, 2022 meeting. **Member Cattron** supported. Motion carried.

**Minutes Approval:** A motion was made by **Member Chase** to approve the minutes as written from the April 5, 2022 meeting. **Member Cattron** supported. Motion carried.

**Communications:** None

**Public Comment:** None

**BA-7-22-2:** Request by R & H Asset Group for a variance from Zoning Ordinance Sections 7.7.3 setback from the road right-of-way (ROW) and 14.26 Items A. and D. to allow for an existing storage business building to be a legal non-conformity 43' from the ROW instead of the required 50', to operate from a parcel 1.51 acres instead of 2 acres and to exceed the size and storage area of 8,000 square feet to allow for a new building to be constructed that would bring to total size and storage area to 9,000 square feet at 3301 Curtis Road, Sec. 31, Vermontville Township.

**Staff Report:** Ms. Williams read the staff report and a Site Plan Review response from the Eaton Conservation District into record.

**Applicants Statement:** Mr. Ryan Groat, stated he has nothing to add to the staff report.

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

**Speakers in favor of the application:** None

**Speakers in opposed to the application:** None

**Public hearing closed at 6:13 p.m.**

**Board of Appeals Discussion/Comments:**

**Member Chase** asked if this will be a two part decision because of the previous building. Discussion was held. Ms. Williams stated it is the pleasure of the board to make one or three

motions. **Member Chase** stated he would like to have three motions. **Member Cleary** stated she did not agree. **Member Chase** said if the board is going to allow the building, they need all three motions. **Member Chmielewski** stated one of her challenges is the minimum amount, is allowing a new nine-thousand square foot building astatically pleasing.

**Member Cleary** asked staff if the board were to deny the application, would the property owners still be able to apply for the Conditional Use Permit. Discussion was held in reference to the history and prior approvals from county staff given on the property.

Ms. Williams stated the board could deem the building and operation as a legal non-conformity and they could continue to operate. **Member Whittum** asked if that would be beneficial, could the board vote to do that tonight, or would that be done through staff. Ms. Williams stated if the board agrees, it would be beneficial to take action to create a formal record.

**Member Whittum** stated the current property owner and applicant did not do anything wrong, he is trying fix previous errors. **Member Whittum** asked if the road was widened. Ms. Williams said she does not believe the road was ever widened.

**Member Chmielewski** stated she feels strongly about the variance for the setback and acreage requirements. She stated she does not have an issue with the additional building but is hesitant to approve nine-thousand square feet. **Member Cleary** stated she agrees with Member Chmielewski. Ms. Williams stated if the property were zoned Local Business they could building the proposed building, if the property is not rezoned, they are exceeding the allowed eight-thousand square feet. Ms. Williams stated rezoning the property from Limited Agricultural to Local Business is not guaranteed. Discussion was held in reference to the Master Plan and rezoning.

Ms. Williams stated the board could consider the application under Zoning Ordinance Section 4.6.7 Non-Conformity Appeals and read this section of the Ordinance. **Member Cleary** stated she is having an issue with the doubling the size and creating more traffic. Ms. Williams stated it would be up to the board to decide if the additional one-thousand square feet substantially increases the level of non-conformity. **Member Chmielewski** asked if the board needs to state which section they are finding under. Ms. Williams said yes; the board would need to state which section of the ordinance they are granting the variance under stating how the request meets the requirements of items A-E or what the specific extenuating circumstances are. **Member Whittum** stated the eight-thousand square foot would not expand the legal non-conformity. Discussion was held. **Member Whittum** said he is okay with allowing the nine-thousand square foot building; it is going behind the other building that has been there for twenty-seven years. **Member Cleary** stated there is a lot going on with this property that makes it unique; as long as the motion is specific to these issues she does not feel it will set a precedence.

**Member Whittum moved to approve BA-7-22-2, R&H Asset Group** for a Non-Conformity Appeal per Section 4.6.7 of the Zoning Ordinance to grant the current Rental Storage Building business as a legal non-conforming use and therefore additionally granting non-conforming status to the existing building location (43' from the ROW instead of the required 50') and the existing property size (less than 2 acres). Approval is also given for the expansion of the size and storage area to be 9,000 square feet (instead of 8,000) by allowing for the construction of a new building at 3301 Curtis Road, Sec. 31, Vermontville Township. They find that the following extenuating circumstances exist that will not have an adverse effect on the area and will not increase the level of the non-conformity of the property:

1. An error was made in 1995 when the building permit was issued on this property which was not zoned appropriately for this business.
2. Final construction inspections on the existing building were not completed, resulting in the structure being placed too close to the ROW.
3. Zoning approval was given in error for a land division which reduced the parcel size to 1.5 acres which is below the 2 acre minimum for this use.
4. The granting of the additional building, bringing the total rental storage area to 9,000 square feet (1,000 feet over the maximum allowed) will not substantially increase the level of non-conformity.
5. Over all, several zoning errors throughout the history of this parcel have created extenuating circumstances which allow for the granting of this appeal.

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

**Upcoming Cases:** Ms. Williams informed the Board of Appeals there are no applications to be heard in August.

**Old Business:** none

**New Business:** none

**Report:** Ms. Williams informed the Board of Appeals, the Planning Commission is working with Rowe Professionals on the update of the Eaton County Master Plan. She stated the kick off meeting will be held on August 2<sup>nd</sup> at 5:00 p.m. Ms. Williams stated the Board of Appeals Members are all invited to attend the meeting.

**Public Comment:** none

A motion was made by **Member Whittum** to adjourn the July 5, 2022 Board of Appeals meeting. **Member Cleary** supported.

Meeting adjourned at 6:35 p.m.