

**BEDFORD TOWNSHIP BOARD OF ZONING APPEALS (virtual)
REGULAR MEETING MINUTES
8100 JACKMAN ROAD, TEMPERANCE, MICHIGAN
JUNE 1, 2020**

PRESENT:

JAKE LAKE
KYLE DERSCH
RICK STEINER, TOWNSHIP BOARD LIAISON
DENNIS JENKINS, PLANNING COMMISSION LIAISON
JEFF WILSON

EXCUSED:

NONE

ALSO PRESENT:

PHIL GOLDSMITH, LEGAL COUNSEL, LENNARD, GRAHAM & GOLDSMITH
DENNIS KOLAR, BUILDING OFFICIAL
KAREN KINCAID, PLANNING/ZONING ADMINISTRATOR
JODIE RECTOR, PLANNING/ZONING ADMINISTRATIVE ASSISTANT, RECORDING SECRETARY

Lake called the Bedford Township Board of Zoning Appeals meeting to order at 7:05 p.m. The Pledge of Allegiance was said. Kincaid called the roll. Quorum present.

APPROVAL OF THE AGENDA

Lake requested to amend the agenda moving item 6C to the first item on the agenda.

Motion by Lake, supported by Steiner, to approve the amended agenda. Motion carried.

APPROVAL OF THE MINUTES

Motion by Steiner, supported by Dersch, to approve the minutes of March 2, 2020. Jenkins abstained. Motion carried.

PUBLIC COMMENT (LIMIT 3 MINUTES)

None

NEW BUSINESS

C) OPEN THE PUBLIC HEARING REGARDING THE APPEAL OF CHRISTOPHER & NICOLL (TICE) ZAWISZA, 7212 KENILWORTH, LAMBERTVILLE, MI 48144, REQUESTING A 6" FENCE HEIGHT VARIANCE TO CONSTRUCT A 4-FOOT TALL FENCE IN THE FRONT YARD, LOCATED ON A CORNER LOT, PER SECTION 400.1912, "FENCES" ON LAND DESCRIBED AS 5802-265-057-00, 7212 KENILWORTH, LAMBERTVILLE, MI 48144

Motion by Jenkins, supported by Steiner, to open the public hearing at 7:09 p.m. Motion carried.

Kincaid reviewed the analysis, stating the applicant is seeking a +/- 6" height variance to construct a 4' fence in the front yard. The property consists of .45 acre and has two front yards as it is located on the corner lot of Kenilworth and Wiltshire. Per section 400.1912 "Fences", 2a #1, fences within a front yard shall not exceed 3.5 feet in height and shall be restricted to decorative fences. The applicant has submitted a letter stating they would like to install a split-rail fence in a front yard on Wiltshire.

Kincaid state the applicant has stated due to a corner lot and having two front yards, the proposed fence would be installed 50-feet from the center of Wiltshire to allow an area to have a shed, trampoline and a swing set and it would provide an area to protect their kids when outside.

Kincaid noted at this time no letters or calls of objection have been received, however, the applicant has supplied a letter of no objection to the Planning Department signed by five neighboring properties.

Christopher Zawisza- 7212 Kenilworth-applicant-Mr. Zawisza inquired on increasing the height request. Kincaid advised should the request be increased it would be required to be republished. Mr. Goldsmith said that is accurate. Mr. Goldsmith advised the applicant, should there be a change to less restrictive it could move forward, however to move to more restrictive that what has been published the request would have to go through the entire process to be republished. Mr. Zawisza did not want to wait on the request, opted to move forward.

Discussion took place on how the measurement of a split-rail fence is determined. Kolar advised to the top rail not the actual post. Mr. Goldsmith agreed, however only on a split-rail fence. Jenkins spoke on amending the ordinance to allow 4' in the front yard from the 3½'. Mr. Goldsmith advised should the Board's desire be to grant the request, the determination on measurement should be included in any motion to approve.

Lake confirmed no public was on hold waiting to comment.

Motion by Steiner, supported by Dersch, to close the public hearing at 7:18 p.m. Motion carried.

There was no further discussion.

MOTION BY STEINER, SUPPORTED BY JENKINS, TO APPROVE A 6" FENCE HEIGHT VARIANCE TO CONSTRUCT A 4-FOOT TALL FENCE IN THE FRONT YARD, LOCATED ON A CORNER LOT, PER SECTION 400.1912, "FENCES" ON LAND DESCRIBED AS 5802-265-057-00, 7212 KENILWORTH, LAMBERTVILLE, MI 48144, WITH THE PRACTICAL DIFFICULTY OF A CORNER LOT HAVING TWO FRONT YARDS AND TO PROVIDE FOR SAFETY FOR THE FAMILY. THE SPLIT-RAIL FENCE WILL BE MEASURED TO THE TOP RAIL OF 4-FEET.

Roll call as follows:

Voting Aye: Steiner, Jenkins, Dersch, Wilson and Lake

Voting Nay: None.

Excused: None

Motion carried.

B) OPEN THE PUBLIC HEARING REGARDING THE APPEAL OF BRENDA (HERSHBERGER) LAPAN, 9400 JACKMAN ROAD, TEMPERANCE, MI 48182, REQUESTING A 10-FOOT SIDE YARD SETBACK VARIANCE AND A 5-FOOT HEIGHT VARIANCE, PER SECTION 400.1903, "ACCESSORY BUILDINGS, IN AN R-1, SINGLE FAMILY RESIDENTIAL ZONING DISTRICT, ON LAND DESCRIBED AS 5802-015-020-10, 9400 JACKMAN ROAD, TEMPERANCE, MI 48182

Motion by Dersch, supported by Wilson, to open the public hearing at 7:23 p.m. Motion carried.

Kincaid reviewed the analysis, stating the applicant is seeking to construct a 36' x 72' (2592 square foot) 25' in height pole barn. The applicant has indicated in the submitted letter the increase in height of the accessory structure is to store a recreational vehicle and for an additional loft storage area. The applicant has requested a 10-foot side yard setback variance for the proposed location as stated in the letter, as this distance from the property line would provide adequate distance to drive between their recently erected backyard prayer chapel and their pool fencing. Kincaid noted Per Section 400.1903, Accessory Buildings, a parcel having more than 5-acres is permitted an unlimited amount of square footage and 20 feet in height with a required side yard setback of 35-feet, thus requiring the 5-foot height variance and a 10-foot side yard setback variance.

Kincaid stated it is noted on the submitted letter the plans submitted are for a 40 x 60 gambrel wedding barn, however the applicant has stated the proposed pole barn is for their own personal use and the submitted rendering is an example only and should the variance be granted they will then move forward with plans.

Kincaid advised at this time there have been no letters or calls of objection to the request.

Brenda LaPan-9400 Jackman Road-applicant- Ms. LaPan was available to answer any further questions.

There was no public comment.

Motion by Steiner, supported by Dersch, to close the public hearing at 7:27p.m. Motion carried.

Lake spoke on the access drive to the proposed pole barn and the need for the setback variance. Ms. LaPan explained there is a pool with fencing to the rear of the home and there was recently a chapel constructed on the property and the proposed side yard setback is to provide adequate distance from each of the buildings and be aesthetically appealing. Jenkins asked for clarification on a wedding barn as the property is zoned residential and a commercial use would not be permitted. Ms. LaPan advised there is no intent to have weddings on the property. Ms. LaPan continued to explain the submitted example was provided before moving forward with a construction drawing to assure the variance was granted before moving forward. Ms. LaPan informed the Board the chapel was built in honor of her parents. Ms. LaPan reiterated there would be no commercial business on the property.

Steiner spoke on the proposed location and being self-created. Steiner stated he could not determine a practical difficulty for the request. Lake agreed. Board Members had a very lengthy discussion on the location, looking for a practical difficulty such as: well, septic, and/or drainage issues. Ms. LaPan advised she felt it may be tight for maneuverability between the proposed barn and the existing chapel. Ms. LaPan stated she felt the proposed location is most appealing to the property. Board Members continued to have difficulty determining a practical difficulty for the side yard setback.

Ms. LaPan inquired if she was allowed to withdraw the +/- 10' side yard setback request and just move forward with the height variance. Mr. Goldsmith advised Ms. LaPan and the Board that is permitted. Mr. Goldsmith informed Ms. LaPan to work with the Building Official once a final determination is made on the building and layout and should a variance still be required; she could resubmit at a later date with fees and move forward through the application process.

Ms. LaPan withdrew the request for the +/-10' side yard setback and apologized to the Board for being inadequately prepared as she was unsure of the questions that would be asked of the request. Steiner explained there was no need for an apology as the Board understands her request, however to approve a variance a practical difficulty is required.

MOTION BY JENKINS, SUPPORTED BY STEINER, TO APPROVE A 5-FOOT HEIGHT VARIANCE, PER SECTION 400.1903, "ACCESSORY BUILDINGS, IN AN R-1, SINGLE FAMILY RESIDENTIAL ZONING DISTRICT, ON LAND DESCRIBED AS 5802-015-020-10, 9400 JACKMAN ROAD, TEMPERANCE, MI 48182 AS IT IS CONSISTANT WITH THE AREA.

Roll call as follows:

Voting Aye: Jenkins, Steiner, Wilson, Dersch and Lake

Voting Nay: None.

Excused: None

Motion carried.

A) OPEN THE PUBLIC HEARING REGARDING THE APPEAL OF PATRICIA G. LYDEN, 2740 CONSEAR ROAD, LAMBERTVILLE, MI 48144, REQUESTING A 160 +/- FOOT FRONTAGE VARIANCE AND A 2.98 +/- ACREAGE VARIANCE, PER SECTION 400.1800, "SCHEDULE OF REGULATIONS", IN AN AG, AGRICULTURAL ZONING DISTRICT, ON LAND DESCRIBED AS 5802-020-001-30, 2800 CONSEAR ROAD, LAMBERTVILLE, MI 48144.

Motion by Jenkins, supported by Steiner, to open the public hearing at 8:25 p.m. Motion carried.

Kincaid reviewed the analysis, stating this same request was heard on May 1, 2017, and the variance was unanimously approved by the Board. Per the Township Assessor, a nearly complete Land Division application was filed by the property owner on 12/4/18, however did not contain all the information required to process the application. On 9/13/19, per the Assessor, the land division application was denied due to the amount of time that had passed and the inability to obtain the approval letter from the lender. Kincaid advised, in the submitted letter the applicant explained the property transfer was not accomplished within the timeframe required by the Township because the mortgage lender would not approve the replat, further stating the property has now been refinanced and the new lender has given its approval.

Kincaid stated the existing parcel consists of approximately 5.15 +/- acres with 170 feet of frontage on Consear Road. The applicant is seeking to split the 5.15 +/--acre parcel into two parcels in an AG, Agricultural Zoning District. Per Section 400.1800 "Schedule of Regulations" a minimum of 5 acres and 330' frontage is required. It should be noted, the parcel currently has 170 +/- feet of frontage, and a variance is NOT being sought to further reduce the current frontage. Kincaid

stated the applicant has submitted a letter stating one resulting parcel with the existing home will maintain the 170' of frontage on Consear Road with 2.02 +/- acres, while the remaining portion of 2.98 +/- acres indicated by the applicant will be combined with the applicant's adjacent parcel to the east, which has an existing dwelling and is the location of Indian Creek Zoo. The applicant has indicated the variance request is to supply additional parking for Indian Creek Zoo, as there is no other reasonable alternative.

Kincaid noted should the variance request be granted, the variances required are: a +/-160' Frontage Variance and a +/-2.98' Acreage Variance. Kincaid advised at this time no letters or calls of objection have been received.

Joe Garverick-2740 Consear Road-Representative- Mr. Garverick spoke on the previous request advising when moving forward there became issues with the mortgage being sold to another bank and then obtaining a lender letter for the land division process became difficult to obtain. Mr. Garverick stated at this time all that has been taken care of and now they are ready to move forward with the land division.

There was no public comment.

Motion by Dersch, supported by Jenkins, to close the public hearing at 8:26 p.m. Motion carried.

Board Members had a lengthy discussion on the requested frontage and acreage variance comparing the numbers to the survey provided by the applicant. Kincaid advised the difference is the frontage request of +/- 160' from the survey of +/- 145.9' variance and +/- 2.98 acreage variance to the survey of +/- 2.43 acreage variance. Lake inquired on a practical difficulty. Mr. Garverick explained due to the increase in the number of patrons on a daily basis there is need for more parking. Mr. Garverick explained the parking area has been installed, however due to the lapse in time from the previous approval, the request had to be resubmitted for review and approval to continue to move forward. Steiner stated he was on the board at the time of the previous approval and continued to advise the parking area needs to be improved, there was a need for increase in parking, there is no negative encroachment on the property nor any negative impact on the surrounding neighbors. Steiner stated the applicant has been a good neighbor.

MOTION BY STEINER, SUPPORTED BY JENKINS, TO APPROVE A REQUEST OF A 160 +/- FOOT FRONTAGE VARIANCE (+/- 145.9 FRONTAGE VARIANCE PER THE SUBMITTED SURVEY) AND A 2.98 +/- ACREAGE VARIANCE (+/- 2.43 ACREAGE VARIANCE PER THE SUBMITTED SURVEY), PER SECTION 400.1800, "SCHEDULE OF REGULATIONS", IN AN AG, AGRICULTURAL ZONING DISTRICT, ON LAND DESCRIBED AS 5802-020-001-30, 2800 CONSEAR ROAD, LAMBERTVILLE, MI 48144 TO EXPAND THE PARKING AREA DUE TO THE GROWTH OF THE ZOO AND THE INCREASE IN PARKING WILL HAVE NO NEGATIVE IMPACT ON THE SURROUNDING NEIGHBORS.

Roll call as follows:

Voting Aye: Steiner, Jenkins, Wilson, Dersch and Lake

Voting Nay: None.

Excused: None

Motion carried.

PUBLIC COMMENT-None

COMMISSION / STAFF COMMENT- None

ADJOURNMENT – The meeting was duly adjourned at 8:37 p.m.

Respectfully submitted,

Jodie L. Rector

Recording Secretary