

Chair
Gail Watkins
Vice-Chair
Jim McClelland
Secretary
Jim Wieber
Members
Jim Ostrowski
Richard Vitek



**CLINTON COUNTY
ZONING BOARD OF APPEALS**

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Wendy Ward

ZONING BOARD OF APPEALS MEETING
Tuesday, September 15, 2009
7:00 p.m.

1. Call to Order and Roll Call -

The September 15th ZBA meeting was called to order at 7:00 p.m. with Chair Watkins presiding.

Those members present: Richard Vitek, Secretary Jim Wieber, Chair Gail Watkins, Vice Chair Jim McClelland, and Jim Ostrowski. Staff present: Wendy Ward, Assistant to the Zoning Board of Appeals, Dan Leonard, Assistant Planner / Zoning Enforcement, Community Development Department.

Visitors present: Patti Jo Schafer, Paul Oppsommer

2. Pledge of Allegiance -

The pledge of allegiance was given to the flag.

3. Approval of Agenda -

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Moved by McClelland, supported by Vitek to approve the September 15th ZBA agenda. There being no further discussion, motion carried 5-0.

4. Approval of Per Diem Vouchers -

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Moved by Ostrowski, supported by McClelland to approve the September 15th ZBA agenda. There being no further discussion, motion carried 5-0.

5. Approval of ZBA Meeting Minutes -

A. July 14, 2009

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Moved by McClelland, supported by Vitek to accept the July 14th ZBA minutes, as printed. There being no further discussion, motion carried.

6. Communications -

There were no communications presented.

7. Public Comments -

There were no public comments presented.

8. Old Business -

There was no old business presented.

9. New Business.

A. ZC-05-09 VR – Application for a Variance request

An application for a variance has been submitted by Carroll H. and Marilyn Pingel requesting a variance to Section 1202 – Legal Nonconforming Lots; specifically for the reduction of a legal non-conforming lot on property located at 12640 Grange Road (Parcel ID#19-070-009-300-038-00), Section 9, Eagle Township.

Dan Leonard presented a review of staff's report. Eagle Township Board submitted correspondence recommending approval of the variance and stated that the proposal would in no way change the character of the community.

Carroll and Marilyn Pingel, petitioners, were both present and Mr. Pingel approached the board. Discussion followed.

Staff shared the need for a new survey to be done. The lines that staff shows on the aerial are 'guesstimates' from the legal description. The lines shown are not correct; the County's mapping system is not correct. Applicant will have to get a new legal and a new survey drawn up if this is to go forward for a land division in Eagle Township. Applicant needs to get a new survey with an updated set of property lines and legal descriptions to find out how much distance will be between the buildings and the side and rear yard property lines. Approval could be contingent on the new survey being presented to Eagle Township.

Patti Schafer, Eagle Township Supervisor, was present and stated that the Eagle Township board was not concerned with the property line. Eagle Township has many legal non-conforming lots from previous years' splits and land divisions. The township board was aware that the driveway belongs with the parcel of the property and saw no problem with adding the extra 1/10 of an acre with that parcel. Applicant is aware that a survey will need to be done. This is just a normal case for Eagle Township – start as a legal nonconforming and finish as a legal nonconforming. Schafer agreed that this approval should be contingent upon a survey being submitted. Some concerns shared by the ZBA included that a variance based on a contingency is not always clean or a good idea and splitting off a piece of the property and having just a barn on it is also not a good idea. Petitioners stated that there would be no problem if this was tabled for 30 days pending a survey. Discussion followed on the access to the south side of the barn. There is a gravel drive that goes east to the south side of the barn but the drive currently exists solely on the 60-acre parcel. South of the 1.2 acres, they have put in a gravel driveway that goes east to the south side of the driveway recently.

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Moved by McClelland to table this variance request for a maximum of 60 days to give petitioners ample time to obtain a legal survey of the property so that the ZBA can make

a sound decision and know exactly where the property lines are and then we don't have a dispute whether the hand drawings are more accurate than the County map lines. Ostrowski supported. Further discussion followed.

A concern was shared that when the petitioners obtain a survey, is there a guarantee that the variance will pass. Chair Watkins questioned the board's reaction on the concept, not the motion. McClelland doesn't have a problem with the variance request as long as the property lines are where they are supposed to be, he will support the granting of the variance but if the property lines go through the buildings then he will not support it. Ostrowski agrees with McClelland, he doesn't have a problem with the proposed lot line adjustment provided we know that there is quite a discrepancy between what the County map shows and what the hand drawings show. Wieber is not in favor of granting this variance; he feels it is self created, he doesn't like the concept of putting a building in the back door of someone's house and it will cause problems once it is sold, the storage is not relevant in this case. There are other ways to build another building. Vitek can support the concept but would like to see the survey. Watkins agrees with Wieber – it is not good practice to have a building with separate use and different ownership in close proximity to other portions. Consensus shows that three (3) ZBA members are generally in favor of the variance request and two (2) are not. This was done to give petitioners an idea of where this variance request stands.

There being no further discussion, Chair Watkins called for a roll call vote. Those voting aye (4) – Vitek, McClelland, Ostrowski, Watkins, those voting nay (1) – Wieber. Motion carried 4-1.

10. Other Business -

There was no other business presented.

11. Community Development Report -

Leonard briefly discussed the upcoming proposed language amendments. Case PC-25-09 LA Language Amendment OR-64-09 – *Limited Recreational Retreat* has been recommended for approval by the Planning Commission (September 10th) to the County Board of Commissioners for their review on Tuesday, September 29th. The next two proposed language amendments are PC-27-09 LA – Language Amendment OR-65-09 - *Sexually Oriented Businesses* scheduled for a public hearing on October 8th, 2009 and Case PC-29-09 LA – Language Amendment OR-66-09 - *Wind Turbines* with a possible public hearing set for November 12th, 2009.

12. Adjournment -

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Moved by Wieber, supported by McClelland to adjourn the September 15th ZBA meeting. There being no further discussion, motion carried 5-0. The meeting adjourned at 7:45 p.m.

Respectfully submitted,

Wendy Ward, Assistant to the Zoning Board of Appeals / Community Development Department