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Gail Watkins
Vice-Chairperson
Justin Padgett
Secretary
Mark Simon
Members
Rex Ferguson
Roger Lerg
Alternates
Beth Botke
Logan Byrne



Clinton County Zoning Board of Appeals

Community Development Dept.
Director
Doug Riley
Zoning Administrator
Joel Haviland
Planning & Permit Technician
Jessica Plesko

*Clinton County Courthouse
100 East State Street, Suite 1300
St. Johns, Michigan 48879-1571
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MEETING MINUTES APRIL 20, 2021

VIA VIDEO AND TELEPHONIC CONFERENCE **Per State Executive Order concerning OMA and COVID-19**

CALL TO ORDER The Clinton County Zoning Board of Appeals met on Tuesday, April 20, 2021 at 6:00 p.m. with Chairperson Watkins calling the meeting to order.

ROLL CALL Beth Botke (Bath Township, Clinton County, MI)
Gail Watkins (Olive Township, Clinton County MI)
Justin Padgett (East Lansing, Clinton County MI)
Mark Simon (Olive Township, Clinton County MI)
Rex Ferguson (Essex Township, Clinton County MI)
Roger Lerg – Absent

STAFF PRESENT Doug Riley, Director
Jessica Plesko, Planning & Permit Technician
Joel Haviland, Building Official/Zoning/SESC Administrator
Daniel Hufnagel, Building/SESC Inspector

VISITORS Mark Munger
David Motz
Kari Simon
Logan Byrne, Zoning Board of Appeals Alternate

AGENDA The agenda was presented for review and approval.
ZONING BOARD OF APPEALS ACTION: Rex Ferguson moved, supported by Mark Simon to approve the agenda as presented. Motion carried.

APPROVAL OF ZONING BOARD OF APPEALS MEETING MINUTES **ZONING BOARD OF APPEALS ACTION:** Justin Padgett moved, supported by Beth Botke to approve the March 16, 2021 Zoning Board of Appeals Meeting Minutes as presented. Voting on the motion by roll call vote, motion carried unanimously. [Vote of 5-0, all in favor, none opposed.]

COMMUNICATIONS None

PUBLIC COMMENTS Chairperson Watkins called for public comments. There were no public comments.

OLD BUSINESS Chairperson Watkins called for a motion to remove ZC-03-21 VR from the table.
ZONING BOARD OF APPEALS ACTION: Rex Ferguson moved, supported by Mark Simon to remove ZC-03-21 VR from the table. Voting on the motion

by roll call vote, motion carried unanimously. [Vote of 5-0, all in favor, none opposed.]

ZC-03-21 VR

Chairperson Watkins called on Doug Riley, Director for report.

- Doug Riley:
 - Reviewed case **ZC-03-21 VR – Application for a Variance**, noting the following:
 - The applicants (Mark and Jean Munger, in conjunction with underlying property owner, Henway Acres, LLC – David and Jan Motz) are requesting a variance to Section 433.E of the Zoning Ordinance; specifically, to exceed the 4 to 1 (lot depth to width) ratio.
 - The vacant property is located on the west side of North DeWitt Road between West Marshall and West Island Roads in Greenbush Township (Parcel ID #: 090-018-100-020-00).
 - The new frontage/width for the parcel at DeWitt Road is proposed to be increased from approximately 462 feet (previous proposal) to approximately 500 feet; (to match the centerline of the Ferdon County Drain).
 - The original proposed depth of 2,600 feet (where 1,848 feet would be the normal allowed depth) has not changed in this revised proposal.
 - This decreases the requested 4 to 1 variance to approximately 600 feet versus the previous 752 feet.
 - The proposed south property line will then follow a straight line westerly (to the previously proposed west property line).
 - The existing farm lane (north of the Ferdon Drain) and the existing irrigation infrastructure will remain with the underlying/remainder (Motz) parcel.
 - An easement will be executed between the property owners (parcels) for the shared access point to DeWitt Road.
 - The remainder of the parent (Motz) parcel will be combined with his other 40-acre parcel to the west, eliminating the “dog leg” and the currently/technically landlocked 40 acres.
- Chairperson Watkins opened the public hearing and the floor to the applicant.
- David Motz commented that if this variance is approved, it will result in preservation of ag land through a trade of property (the proposed parcel in exchange for suitable farm ground). He wants to protect his waterline underground – which this new proposal helps with.
- Rex Ferguson asked David Motz if approval of this variance to create the proposed 18-acre parcel is conditional to trade properties and if he currently irrigates the property.
- David Motz responded that the trade is conditional and that his irrigation infrastructure pivots over the property in question.
- Chairperson Watkins reminded the applicants that the trading of properties is not germane to the requested variance.
 - He believes the applicants have addressed the concerns the Board had originally, moving toward conformity as best they could in the revised proposal.
- Logan Byrne agreed with Chairperson Watkins in regards to the applicants addressing the concerns of the Board.

- Doug Riley had discussion with the Board regarding ancillary issues (the contractual agreement to trade properties), stating the current review is in regards to the 4:1 variance request only.
- Justin Padgett asked if the adjacent 40-acre parcel will be combined with the remaining property (from the proposed 18-acre parcel).
- Doug Riley gave confirmation of the lot combination.
- Chairperson Watkins asked for any comments from the public.
 - Hearing none, Chairperson Watkins called for a motion to close the public hearing.

ZONING BOARD OF APPEALS ACTION: Beth Botke moved, supported by Rex Ferguson to close the public hearing. Voting on the motion by roll call vote, motion carried unanimously. [Vote of 5-0, all in favor, none opposed.]

ZONING BOARD OF APPEALS ACTION: Beth Botke moved, supported by Rex Ferguson to approve the *Variance Request – ZC-03-21 VR* as presented (revised) based upon the following reasoning and conditions of approval:

- Reasoning: **(1)** The proposal satisfies the basic conditions as set forth in Section 1506A of the Zoning Ordinance as referenced in the staff report. **(2)** The proposal satisfies special condition #1 as set forth in Section 1506B of the Zoning Ordinance as referenced in the staff report.
- Conditions of Approval: **(1)** The applicant shall have the property officially surveyed as part of the land division process with Greenbush Township and that survey shall be reviewed by the Community Development Department for general compliance with this variance prior to final approval. **(2)** Any future crossing of the Carrus County Drain to access the wooded area shall be officially approved by the County Drain Commissioner's Office prior to construction.

NEW BUSINESS
ZC-04-21 VR

Chairperson Watkins called on Doug Riley, Director for report.

- Doug Riley:
 - Reviewed case **ZC-04-21 VR – Application for a Variance**, noting the following:
 - An application for a variance has been submitted by Kari Simon (in conjunction with her parents and underlying property owners – Alfred and Linda Walters). The applicants are requesting a variance to Section 433.E of the Zoning Ordinance; specifically, to exceed the 4 to 1 (lot depth to width) ratio.
 - The proposed parcel would have 1,317 feet of depth where 664 feet would be the normal allowed depth based upon the parcel width (166 feet) at the road right-of-way.
 - The subject property is located at 4288 County Farm Road in Section 33 of Bingham Township (Parcel ID #: 030-033-200-037-00).
 - The property is currently zoned A-2; if this variance is approved, the property will still have to go before the Planning Commission for rezoning.
 - This property is located within the encouraged low-density residential growth areas on the Future Land Use Maps.
 - Allowable minimums for Rural Residential parcels are 1-acre lots with 130 feet of road frontage.
 - According to the survey (among the application materials), there was a recent adjustment to the current property, including addition of a 33-foot strip of land.

- Chairperson Watkins commented that “two rod” is a very common error.
 - A “two rod variance” is often dependent on how tree lines move – which often leads to a misunderstanding of where the lot line truly is.
- Doug Riley thanked Chairperson Watkins for the clarification.
 - The existing house will be located on proposed 2.16-acre parcel and fully complies with Rural Residential zoning.
 - The remaining 10.17 acres is the soul subject of the Board’s review.
 - The proposed road frontage is in compliance, being 166 feet where 135 feet is the minimum.
- Justin Padgett asked Doug Riley if the applicants will have to get the property rezoned, even if the variance is approved?
- Doug Riley confirmed that they will according to the Zoning Ordinance – also, all parcels created under 40 acres in size have to comply with 4:1.
 - The existing barn will be located on the proposed 10-acre parcel.
 - The proposed 10-acre parcel would be deemed a buildable lot.
 - There were no objections from local agencies.
 - A letter was received from adjacent property owners, Charles and Maxine Reck, in opposition.
 - The applicant pointed out smaller, similarly-shaped parcels in the area.
- Justin Padgett asked Doug Riley if this area is expected to remain encouraged for low-density residential growth.
- Doug Riley answered that all indications support sustaining as such.
 - The County’s general policy is to encourage residential growth in and around areas with service-centers (such as cities and villages).
- Beth Botke inquired if the accessory structure on the proposed 10-acre parcel (if approved, being vacant of a home) would be addressed through this variance.
- Doug Riley answered, the accessory structure is not part of the variance.
 - Per discussions with the applicants, the accessory structure is proposed to stay and continue to be used for agricultural use.
 - The structure would be exempt as long as it is used agriculturally.
- Chairperson Watkins inquired if the Right-To-Farm Act supersedes zoning in this case.
- Beth Botke asked if the accessory structure needs to be addressed at all in this case.
- Doug Riley explained that the current subject is the 4:1 variance only.
 - The Planning Commission and/or Board of County Commissioners may review the matter of the accessory structure in the rezoning process.
- Chairperson Watkins opened the public hearing and the floor to the applicant.
- Kari Simon explained that the variance request is to allow her to build a home on the proposed 10-acre parcel, close to her parents.
 - She will own all 12 acres when they are no longer occupying the home on the proposed 2-acre parcel.
- Beth Botke asked if it is her intent to build a home on the proposed 10-acre parcel or only to use the land for agricultural purposes?
- Kari Simon concluded she does have plans to build a home.
- Mark Simon asked Kari Simon to confirm that she intends to build a home on the proposed 10-acre parcel.
- Kari Simon replied, confirming on the site plan (among the application materials), the proposed location of the home she intends to build.
- Doug Riley clarified that her parents intend to continue living in the existing home on the proposed 2-acre parcel.

- Kari Simon asked the Board to take into consideration the small, similarly-shaped parcels in the surrounding area and thanked the Board for their time.
- Chairperson Watkins asked for any comments from the public.
 - Hearing none, Chairperson Watkins called for a motion to close the public hearing.

ZONING BOARD OF APPEALS ACTION: Justin Padgett moved, supported by Rex Ferguson to close the public hearing. Voting on the motion by roll call vote, motion carried unanimously. [Vote of 5-0, all in favor, none opposed.]

ZONING BOARD OF APPEALS ACTION: Justin Padgett moved, supported by Mark Simon to approve the *Variance Request – ZC-04-21 VR* as presented based upon the following reasoning:

- Reasoning: **(1)** The proposal satisfies the basic conditions as set forth in Section 1506A of the Zoning Ordinance as referenced in the staff report. **(2)** The proposal satisfies special condition #1 as set forth in Section 1506B of the Zoning Ordinance as referenced in the staff report.
- Conditions of Approval: **(1)** The applicant/property owner shall officially petition to have the property rezoned to RR (Rural Residential) within 6 months of this approval for the variance to remain valid under the terms of the Clinton County Zoning Ordinance. Said rezoning must be approved before the land division can be officially approved by the Community Development Department and Bingham Township.
- Chairperson Watkins commented that this case does not meet Special Condition number 6 because this variance is a self-created issue.
 - Referencing Special Condition number 7, noted this case could be precedence-setting.
- Beth Botke agreed that this variance could be precedence-setting.
- Chairperson Watkins commented that the Board needs to discuss smaller parcel sizes (in relation to variances) – separate from and beyond this case.
- Mark Simon mentioned that there are other small, similarly-shaped parcels in the area.
- Chairperson Watkins replied that they may have been created under a different ordinance.
- Beth Botke asked Doug Riley how parcel width is determined.
- Doug Riley replied that the Ordinance calls for the width to be measured at the Road Right-of-Way.
- Mark Simon questioned if there is ability to have more than one house constructed on the proposed 10-acre parcel.
- Chairperson Watkins clarified it will not be a Multi Residential District.

ZONING BOARD OF APPEALS ACTION: Voting on the motion by roll call vote, AYES: Justin Padgett, Mark Simon, Rex Ferguson; NAYS: Beth Botke, Gail Watkins, motion carried. [Vote of 3-2, three in favor, two opposed.]

OTHER BUSINESS

None

COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

- Chairperson Watkins called for the Community Development Director's Report.
- Doug Riley:
 - Roger Lerg has resigned from the Zoning Board of Appeals after many dedicated years of service.

- Alternate(s) will be appointed as necessary.
- Joel Haviland will be presenting the May 18th Zoning Board of Appeals case on his behalf.
- The May Zoning Board of Appeals meeting will likely be held via Zoom – officially waiting for direction from Administration.
- Proposed bringing in professionals and/or other Boards for training purposes for the Board in-person when able.
- Chairperson Watkins commented that the training is extremely valuable and he highly encourages it.
- Beth Botke commented that the experience-sharing in an in-person setting is invaluable.
- Chairperson Watkins stated that he would not be attending the May ZBA meeting and therefore, Justin Padgett will be acting as Chair.

ADJOURNMENT

ZONING BOARD OF APPEALS ACTION: With no further business to come before the Board, Justin Padgett moved, supported by Rex Ferguson to adjourn the meeting at 7:01 p.m. Voting on the motion by roll call vote, motion carried unanimously. [Vote of 5-0, all in favor, none opposed.]



Jessica Plesko, Planning & Permit Technician

These minutes were approved by the Zoning Board of Appeals on 05/18/2021.