

**Chairperson**  
Gail Watkins  
**Vice-Chairperson**  
Beth Botke  
**Secretary**

**Members**  
Greg Armbrustmacher  
Rex Ferguson  
**Alternates**  
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  
(989) 224-5180*

### MEETING MINUTES JUNE 21, 2022

CALL TO ORDER	The Clinton County Zoning Board of Appeals met on Tuesday, June 21, 2022 at 6:00 p.m. with Chairperson Watkins calling the meeting to order.
ROLL CALL	Beth Botke Gail Watkins Greg Armbrustmacher Logan Byrne Rex Ferguson
STAFF PRESENT	Doug Riley, Community Development Director Jessica Plesko, Planning & Permit Technician Joel Haviland, Building Official/Zoning/SESC Administrator
VISITORS	Fred West, 10650 S. Chandler Road James Cunningham, 8489 S. Loomis Road Jim Dawson, 10595 S. Chandler Road Judith Cunningham, 8489 S. Loomis Road Larry March Pamela Allen Toby Heaton, 2180 Commons Parkway
PLEDGE OF ALLEGIANCE	The Pledge of Allegiance was given to the flag of the United States of America.
AGENDA	The agenda was presented for review and approval. <b><u>ZONING BOARD OF APPEALS ACTION:</u></b> Rex Ferguson moved, supported by Beth Botke to approve the agenda as presented. Motion carried.
APPROVAL OF ZONING BOARD OF APPEALS MEETING MINUTES	<b><u>ZONING BOARD OF APPEALS ACTION:</u></b> Logan Byrne moved, supported by Beth Botke to approve the May 17, 2022 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	None
NEW BUSINESS	Chairperson Watkins called on Doug Riley for report.

- Director Doug Riley reviewed case **ZC-08-22 VR – Application for a Variance** as detailed in the Staff Report (which includes the variance criteria to be reviewed by the ZBA).
- Chairperson Watkins asked for any comments from the Board.
  - Hearing none, Chairperson Watkins called for a motion to open the public hearing.

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

- Chairperson Watkins called on the applicant.
  - Asked Mr. Heaton about his intentions.
- Toby Heaton explained that he intends to create a homestead lot.
- Chairperson Watkins inquired about the floodplain in the subject location.
- Toby Heaton stated, in his prior research, there is sufficient ground above the floodplain.
  - Noted, he believes about 2/3 of the property is above the floodplain elevation.
  - Already has a floodplain exemption on the property with the existing house (1.4-acre lot).
- Rex Ferguson, asked Mr. Heaton where he intends to build a house?
- Toby Heaton explained that he intends to build wherever the property is over 805-foot (above the floodplain).
  - Indicated that he intends to have KEBS, Inc. draw a plan and submit it for a FEMA Exemption.
  - Estimates that approximately 2/3 of the property is above 805 feet.
- Chairperson Watkins asked Mr. Heaton if he wanted to add anything else for consideration of the ZBA?
- Toby Heaton indicated that the existing home is likely to be sold to the current occupants (renters).
  - Noted that they have always treated it well – as their home.
- Jim Dawson, renter of the existing home on the subject property, commented that he would love the opportunity to purchase this home.
- Fred West expressed his concerns regarding potential for a multi-residential development being constructed on the proposed remaining 42-acre parcel.
  - Referencing a traffic study, noted that Chandler Road (in the subject area) was considered to be a “blind corner”.
- Chairperson Watkins deferred to Director Riley for clarification of zoning regulations.
- Doug Riley clarified, the A-2 zoning district only allows one home per parcel.
  - Additionally, if anyone wanted to create more (smaller) parcels, they would have to install/construct a new road.
- Chairperson Watkins asked for any additional comments from the public.
  - Hearing none, Chairperson Watkins called for a motion to close the public hearing.

**ZONING BOARD OF APPEALS ACTION:** Rex Ferguson moved, supported by Logan Byrne 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.]

- Logan Byrne stated that he does not believe this request goes against the Ordinance in terms of character.

- This area is heavily wooded and, in the floodplain – not agricultural in character.
- Also believes the current homestead would match the surrounding lots.
- Chairperson Watkins questioned if the ZBA had any discussion regarding the non-conforming 1.4-acre lot?
  - Special Conditions?
- Logan Byrne responded: he does not believe this would be a precedent-setting variance as the request combines several non-conforming parcels into a larger parcel.
- Chairperson Watkins commented that he struggles with the idea of tying the parcels together.
- Doug Riley advised, in instances of non-conforming parcels, it is best practice moving toward conformity.
- Chairperson Watkins commented, with the current homestead rental agreement, making a smaller parcel (although non-conforming) wouldn't change the property visually since it is being used with the proposed parameters now.

**ZONING BOARD OF APPEALS ACTION:** Logan Byrne moved, supported by Greg Armbrustmacher to approve *Variance Request – ZC-08-22 VR, JT Chandler LLC*, for the requested parcel area and frontage/width variance for a proposed/reconfigured parcel on S. Chandler Road in Section 36 of Olive Township based upon the following reasoning and subject to the following conditions:

- Reasoning: **(1)** The proposal satisfies the basic conditions as set forth in Section 720F.1 of the Zoning Ordinance as referenced in the staff report. **(2)** The proposal satisfies special conditions #1 and #2 as set forth in Section 720F.2 of the Zoning Ordinance as referenced in the staff report.
- Conditions: **(1)** The applicant/property owner shall complete the surveying and land division/property reconfiguration with Olive and Victor Townships within 6 months of this approval for the variance to remain valid under the terms of the Clinton County Zoning Ordinance. **(2)** The final surveying shall be submitted for review by the County Community Development Department to assure general compliance with the approved variance prior to final approval of the land division/property reconfiguration with Olive and Victor Townships. **(3)** The applicant shall execute a deed restriction for review by the County Community Development Department and Townships which functionally combines the remainder parcels (not including the 1.4-acre parcel) into one combined parcel for zoning and future construction/permitting purposes. This deed restriction shall then be appropriately recorded with the parcels at the County Register of Deeds Office. **(4)** The respective assessing records for both Olive and Victor Townships shall be appropriately noted that the remainder parcels (i.e., 42 acres) are functionally combined for zoning and future construction/permitting purposes.

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

ZC-09-22 VR

- Joel Haviland reviewed case **ZC-09-22 VR – Application for a Variance** as detailed in the Staff Report (which includes the variance criteria to be reviewed by the ZBA).
- Chairperson Watkins asked where other RR zoning is located?
- Joel Haviland indicated that there is a parcel with RR zoning directly across Loomis Road to the west.

- Rex Ferguson inquired about the location of the door(s).
- Joel Haviland answered: the applicant is proposing an overhead door to the west side.
- Rex Ferguson asked how a vehicle could enter the proposed building without driving over the drain field?
- Joel Haviland deferred to the applicant.
- Logan Byrne questioned why the applicant is requesting a height variance?
- Joel Haviland responded: the applicant has an RV that they would like to store inside the proposed building.
- Chairperson Watkins asked for more information about the drive.
- Joel Haviland explained that the applicant has already begun installation of the drive ahead of necessary permitting.
  - The Clinton County Road Commission (CCRC) indicated they will be required to remove the drive and submit for permit approval.
- Chairperson Watkins asked for any additional comments from the Board.
  - Hearing none, Chairperson Watkins called for a motion to open the public hearing.

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

- Chairperson Watkins called on the applicant.
  - Inquired why he is proposing a building in this location?
- James Cunningham explained that he feels this is the only place the landowners can put it while meeting Clinton County Zoning Ordinance requirements.
- Chairperson Watkins reiterated Rex Ferguson's question – where will the drive be to avoid driving over the drain field?
- Rex Ferguson added an inquiry: if Mr. Cunningham has met with the CCRC regarding the drive?
- Chairperson Watkins requested Mr. Cunningham to show the ZBA where the drive is proposed to be.
- *James Cunningham pointed to where the building and drive are proposed.*
- Beth Botke asked Mr. Cunningham to clarify, the drain field ends up being to the east of the proposed building?
- Chairperson Watkins asked Mr. Cunningham to address the request for the height variance.
- James Cunningham stated, his RV requires 14-foot ceilings to store inside.
- Rex Ferguson asked Mr. Cunningham to clarify the situation with the driveway.
- James Cunningham explained, the drive will have to come off Loomis Road to the west of the home, around the drain field, and connect to the north (front) end of the barn.
- Rex Ferguson inquired how far the west wall of the proposed barn will be from the drain field?
- Larry March responded, about 40 feet.
  - Noted, the site plan is incorrect.
    - The drain field is actually parallel with the front of the home.
    - It will not be as difficult to maneuver around as it appears.
- 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 Greg Armbrustmacher 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.]

- Logan Byrne commented that he does not believe the applicants' request for a variance to Section 4.1.F.2.c (i.e., front yard setback) is an issue but has reservations about the variance request to Section 4.1.F.2.f (i.e., height requirements).
- Greg Armbrustmacher asked if the existing Ordinance standards for height for an accessory structure are for aesthetics purposes?
- Chairperson Watkins answered, originally; so neighboring properties are not hindered by an excessively tall wall.
  - Deferred to Doug Riley for further explanation.
- Doug Riley agreed with Chairperson Watkins' explanation.
  - It could also be considered a character issue due to the nature of tall wall heights.
  - As well as considered for impacts to roadways.
    - Screening is often a point of discussion to help soften tall buildings from roadways.
- Chairperson Watkins inquired what the slope of the property is.
- Joel Haviland answered, 5 feet.
- Chairperson Watkins asked if there is an easement for the drain?
- Joel Haviland confirmed, there is.
- Greg Armbrustmacher inquired, what size is the proposed building?
- James Cunningham responded, 30 feet by 45 feet.
- Chairperson Watkins asked the ZBA if they see any issues with the proposed placement?
  - Height?
- Logan Byrne indicated that he is conflicted about the issues pertaining to height as the height of the proposed structure won't affect the use of the property.
  - Also conflicted with Basic Condition #6 (i.e., self-created hardship) in this review.
- Beth Botke asked if there is anywhere else the barn could be placed?
- *The ZBA discussed issues, such as wet areas, which lead to the applicant's proposed placement.*
- Logan Byrne questioned if the condition of the soils could lend to this request meeting Basic Condition #6?
- Chairperson Watkins reasoned that it could be a potential argument in the applicant's favor.
  - However, if there were no building at all, there would also be no hardship.
  - Asked Joel Haviland if he knew of any examples of height variances approved in the County that he could share with the ZBA?
- Joel Haviland indicated that he did some research on this and, ultimately, found 3 denials and 1 approval.
  - The approval was a corner lot situation as well.

**ZONING BOARD OF APPEALS ACTION:** Logan Byrne moved, supported by Beth Botke to approve *Variance Request – ZC-09-22 VR, Cunningham*, for the requested accessory structure distance and height variance in Section 21 of Olive Township, based upon the following reasoning and subject to the following conditions:

- Reasoning: **(1)** The proposal satisfies the basic conditions as set forth in Section 720F.1 of the Zoning Ordinance as referenced in the staff report. **(2)** The proposal satisfies special conditions #1 as set forth in Section 720F.2 of the Zoning Ordinance as referenced in the staff report.
- Conditions: **(1)** The applicant shall remove the non-permitted driveway along Alward Road and obtain any additional permit and approval needed from the Clinton County Road Commission prior to the issuance of Building Permits. **(2)** The applicant shall place the barn floor height 1 (one) foot above the Locher County Drain culvert per Clinton County Drain Commission's office recommendations. This height shall be verified by a signed and sealed document from a professional surveyor and recorded with the building permit, prior to the Occupancy and Final inspection of the building. **(3)** The applicant shall protect the septic system from damage during construction, as recommended by the Health Department. **(4)** The applicant shall obtain permits from the Community Development Department prior to commencing construction of the accessory structure.

Voting on the motion by roll call vote, AYES: Beth Botke, Greg Armbrustmacher, Logan Byrne, Gail Watkins; NAYS: Rex Ferguson, motion carried. [Vote of 4-1, four in favor, one opposed.]

OTHER BUSINESS

None

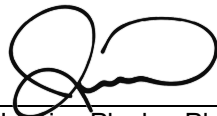
COMMUNITY  
DEVELOPMENT  
DIRECTOR'S REPORT

- Doug Riley, Director provided a brief update:
  - The mileage reimbursement will increase from 0.53 cents per mile to 0.625 cents per mile in July, 2022.
  - Would like to resume training discussions at regular meetings.
  - Has begun to discuss potential ordinance amendments, as suggested by the ZBA, with the Planning Commission (PC).
- Beth Botke commented that she liked how Joel Haviland was able to provide the number of similar cases and their verdicts from County records.
- Doug Riley concluded, there were no applications submitted prior to the submittal deadline for the July ZBA meeting.
  - Recommended the ZBA cancel the July meeting.

**ZONING BOARD OF APPEALS ACTION:** Rex Ferguson moved, supported by Logan Byrne to cancel the July 12, 2022 Zoning Board of Appeals meeting. Voting on the motion by roll call vote, motion carried unanimously. [Vote of 5-0, all in favor, none opposed.]

ADJOURNMENT

**ZONING BOARD OF APPEALS ACTION:** With no further business to come before the Board, Greg Armbrustmacher moved, supported by Rex Ferguson to adjourn the meeting at 7:37 p.m. Voting on the motion by roll call vote, motion carried unanimously. [Vote of 5-0, all in favor, none opposed.]




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Jessica Plesko, Planning & Permit Technician

NOTE: These minutes were approved by the Zoning Board of Appeals on September 20, 2022.