

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



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

*Clinton County Courthouse
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St. Johns, Michigan 48879-1571
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Clinton County Zoning Board of Appeals

MEETING MINUTES AUGUST 17, 2021

CALL TO ORDER	The Clinton County Zoning Board of Appeals met on Tuesday, August 17, 2021 at 6:00 p.m. with Chairperson Watkins calling the meeting to order.
ROLL CALL	Beth Botke Gail Watkins Justin Padgett Mark Simon Rex Ferguson
STAFF PRESENT	Dan Hufnagel, Building/SESC Inspector Doug Riley, Community Development Director Erin McElroy, Building Department Secretary/Accounting Clerk Jessica Plesko, Planning & Permit Technician Joel Haviland, Building Official/Zoning/SESC Administrator
VISITORS	Greg Armbrustmacher, Zoning Board of Appeals Alternate Logan Byrne, Zoning Board of Appeals Alternate Don Potts, Riley Township Supervisor Chad Reust, 2727 W. Lehman Road Joe Rewerts, 3191 E. Townsend Road Julie Townsend, 4615 Alward Road Kari Dickenson, 3975 Harmon Road Lois Bracey, 5500 S. Hollister Road Lorie Devereaux, 5277 E. Townsend Road Sheri Applebee, 3320 E. Townsend Road Wayne Neveau, 4095 W. Lehman Road
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. <u>ZONING BOARD OF APPEALS ACTION:</u> Justin Padgett moved, supported by Rex Ferguson to approve the agenda as presented. Motion carried.
APPROVAL OF ZONING BOARD OF APPEALS MEETING MINUTES	<u>ZONING BOARD OF APPEALS ACTION:</u> Mark Simon moved, supported by Beth Botke to approve the June 15, 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

None

NEW BUSINESS

ZC-07-21 VR

Chairperson Watkins called on Doug Riley, Director for report.

- Doug Riley:
 - Reviewed case **ZC-07-21 VR – Application for a Variance** as detailed in the Staff Report (which includes the variance criteria to be reviewed by the ZBA).
- Mark Simon asked Doug Riley if there are enough acres of land to allow the proposed square footage of building?
- Doug Riley replied that the standard in question is being met in this proposal.
- Chairperson Watkins asked when the home was constructed?
- Chad Reust explained that the home was constructed in 1998.
- Chairperson Watkins inquired about the size of the proposed building.
- Chad Reust answered that he owns a lot of “toys”.
- Chairperson Watkins inquired about the topography of the site.
- Chad Reust responded that the site has an intense slope.
- Chairperson Watkins asked if the slope would require a lot of fill and subsequently, if there are any low areas to cause concern?
- Chad Reust confirmed that both, the slope and low areas are concerning factors.
- Justin Padgett questioned the dimensions of the proposed building.
- Chad Reust explained that his builder recommended the proposed dimensions.
- 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: Mark Simon 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 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: Rex Ferguson moved, supported by Justin Padgett 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: Mark Simon moved, supported by Rex Ferguson to approve *Variance Request – ZC-07-21 VR, Reust* for the requested accessory structure front setback variance in Section 29 of Olive Township based upon the following reasoning and subject to the following condition:

- 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 #2 as set forth in Section 1506B on the Zoning Ordinance as referenced in the staff report.
- Conditions: The applicant shall obtain a building permit from the Community Development Department prior to commencing construction of the accessory structure.

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

- Chairperson Watkins commented that he feels this variance request makes sense as there is a limited amount of flat ground on the subject property.

ZONING BOARD OF APPEALS ACTION: Rex Ferguson moved, supported by Justin Padgett to waive the 5-day waiting period for *Variance Request – ZC-07-21 VR, Reust*. Voting on the motion by roll call vote, motion carried unanimously. [Vote of 5-0, all in favor, none opposed.]

ZC-08-21 VR

- Doug Riley:
 - Reviewed case **ZC-08-21 VR – Application for a Variance** as detailed in the Staff Report (which includes the variance criteria to be reviewed by the ZBA).
 - The owner currently has a local farmer that is interested in farming the remaining ag land.
- Justin Padgett asked when the barn was constructed?
- Laurie Devereaux stated her best guess is approximately 30 years ago.
- Chairperson Watkins mentioned that the Board has a history of wanting to see contiguous road frontage.
 - Asked the applicant if she just wants to sell the remaining ag land?
- Laurie Devereaux clarified that she wants to keep the house and the barn and sell the tillage land (farmland) only.
- Beth Botke asked Ms. Devereaux if she could modify her proposal to encompass the eastern portion of the property and drop the orchard (shorten the proposed westerly property line) to achieve the required road frontage?
- Laurie Devereaux explained that the drainfield placement prevents that modification.
- Justin Padgett asked Ms. Devereaux to clarify where the access is for the farmland by pointing to the assumed location.
- Laurie Devereaux confirmed.
- Mark Simon asked for clarification on the potential agreement she has with the interested farmer/usage of existing barn?
- Laurie Devereaux replied that she is proposing to keep the barn with the home as the farmer is interested in the farmland only.
- 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: Mark Simon 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 asked for any comments from the public.
- Joe Rewerts asked if a house could be built on the remaining ag land?
- Doug Riley responded that a home could be built if it met the required criteria as stated in the Ordinance.
- Joe Rewerts stated that he believes there is a lot of interest in the property as a whole (as the property exists).
- 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 Justin Padgett 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.]

- Justin Padgett expressed his initial concern about the variance request being a self-created hardship.
 - However, being that this parcel was developed 30(+) years ago, prior to the 2005 Ordinance change, this hardship was not created by the applicant.
 - The contiguous nature of the proposed road frontage is ideal.
- Chairperson Watkins stated that this standard can be confusing with the Ordinance being changed in 2005 to allow homestead-land divisions in 1–5-acre parcels.
 - This Ordinance change had no regard to contiguous frontage; however, the Board has come to standardize contiguous road frontage in their reviews.
 - With no specific rule in these regards, this case is unable to achieve the required 330 feet of road frontage due to the location of the drainfield.
- Beth Botke commented that she can understand why the applicant would want to keep the orchard with the home but believes the minimum required road frontage can be met if the split was occurring on the eastern side of the property (excluding the orchard).
- Doug Riley assured Beth Botke that per the surveyor, and his own review, the required road frontage could not be achieved due to the septic setbacks.
- Beth Botke concluded that if her suggested modifications were implemented the requested variance would be less (more conforming).

ZONING BOARD OF APPEALS ACTION: Mark Simon moved, supported by Justin Padgett to approve *Variance Request – ZC-08-21 VR, Bohley Trust* to grant the requested parcel width and lot depth-to-width ratio variances for a proposed parcel on E. Townsend Road in Section 24 of Bingham Township based upon the following reasoning and subject to the following condition:

- 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 on the Zoning Ordinance as referenced in the staff report.
- Conditions: The applicant/property owner shall complete the land division with Bingham Township within 6 months of this approval for the variance to remain valid under the terms of the Clinton County Zoning Ordinance.

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

ZC-09-21 VR

- Doug Riley:
 - Reviewed case **ZC-09-21 VR – Application for a Variance** as detailed in the Staff Report (which includes the variance criteria to be reviewed by the ZBA).
- Rex Ferguson inquired if the subject parcel satisfied the 4:1 lot depth-to-width ratio, would it be over the 5-acre ag-homestead land division exemption?
- Doug Riley responded that calculations depending, it may have been able to meet those standards.
 - However, the applicants wanted to keep as much of the farmland together as possible.

- Beth Botke asked why the applicant is requesting a variance for lot depth?
- Lois Bracey explained that there is a garden shed in the back of the proposed lot (parcel) that she wants to keep with the home.
 - Would like to keep as much of the farmland together as possible for the sale to the potential buyer (farmer).
- 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: Mark Simon 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 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 Mark Simon 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.]

- Justin Padgett inquired if moving the shed would allow the required depth to be achieved?
- Beth Botke commented that moving the shed would at least make the proposed parcel more conforming.
- Justin Padgett reviewed Ms. Bracey's reasoning to request the variance: power poles and preserving farmland.
 - Pointing out, there is still some farmland included in the proposed parcel (in question).
- Lois Bracey stated that the farmer interested in purchasing the farmland would still farm the section included in the proposed parcel in question (on a contractual basis).

ZONING BOARD OF APPEALS ACTION: Mark Simon moved, supported by Beth Botke to approve *Variance Request – ZC-09-21 VR, Bracey Trust*, for a proposed parcel on S. Hollister Road in Section 2 of Victor Township 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.
- Beth Botke offered a friendly amendment to include the following condition:
 - Condition: The applicant/property owner shall complete the land division with Victor Township within 6 months of this approval for the variance to remain valid under the terms of the Clinton County Zoning Ordinance
- Mark Simon accepted the friendly amendment.
- Rex Ferguson consulted the Board: inquiring if adding 55 feet to the width of the proposed parcel would make it a conforming lot?
- Chairperson Watkins stated that he would not support the motion as he believes the Ordinance standards are just as important as agricultural preservation.
 - He believes the 4:1 lot depth-to-width ratio Zoning Ordinance standard can be met in this case.

- Beth Botke asked for clarification on how much additional width would be required for the proposed parcel to be conforming.
- Doug Riley reviewed the potential conformity of the property on the County GIS website.
- Rex Ferguson instructed Doug Riley to add 55 feet to his road frontage measurement on GIS.
- Doug Riley confirmed that adding 55 feet would create a conforming parcel at approximately 4.99 acres.
- Lois Bracey questioned why economic difficulties are not allowed (as referenced in Special Condition #1)?
- Chairperson Watkins explained that Special Condition #1 indicates there has to be a practical difficulty – not economic.
- Doug Riley addressed Chairperson Watkins, on behalf of Lois Bracey, stating that the applicant would like to make a comment.
- Chairperson Watkins allowed Ms. Bracey to address the Board.
- Lois Bracey explained that she did not understand why Chairperson Watkins was not in support of the motion to approve.
- Chairperson Watkins called for a roll call vote.

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

ZC-10-21 VR

- Doug Riley:
 - Reviewed case **ZC-10-21 VR – Application for a Variance** as detailed in the Staff Report (which includes the variance criteria to be reviewed by the ZBA).
- Mark Simon asked for clarification regarding the adjacent property.
- Doug Riley reviewed the adjacent parcels on the aerial photo.
- Chairperson Watkins questioned if the property slopes south of the road?
- Chris Heyboer indicated that he is not sure as he only uses the property for farmland.
- Chairperson Watkins commented that the existing parcel is odd due to the bisecting road.
 - 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: Justin Padgett 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 asked for any comments from the public.
- Don Potts, Riley Township Supervisor indicated that Riley Township was initially concerned about the 5-acre minimum Ordinance standard with this case but feels the property is unique enough for this variance to make sense.
 - Noting, the smaller proposed parcel (south of W. Lehman Road) is not really usable as is.
- 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: Beth Botke moved, supported by Justin Padgett 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 Beth Botke to approve *Variance Request – ZC-10-21 VR, Heyboer*, for the requested variance for a proposed parcel on W. Lehman Road in Section 24 of Riley 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 1506A of the Zoning Ordinance as referenced in the staff report. (2) The proposal satisfies special condition #1 as set forth in Section 1506B on the Zoning Ordinance as referenced in the staff report.
- Conditions: (1) The applicant/property owner shall complete the surveying and land division with Riley Township within 6 months of this approval for the variance to remain valid under the terms of the Clinton County Zoning Ordinance. (2) The applicant/property owner shall obtain a demolition permit within 6 months to remove the dilapidated barns on the property.
- Chairperson Watkins offered a friendly amendment to base the reasoning for the motion to approve off Special Condition #2.
- Justin Padgett accepted the friendly amendment.

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

OTHER BUSINESS

None

COMMUNITY
DEVELOPMENT
DIRECTOR'S REPORT

- Chairperson Watkins called for the Community Development Director's Report.
- Doug Riley:
 - Happy to be back in-person.
 - Will have a September meeting.
 - Advised the Board to add "review of By-Laws" to the September Agenda.
- Chairperson Watkins accepted.
 - Inquired which members' terms would expire in 2021?
- Jessica Plesko responded Gail Watkins and Greg Armbrustmacher's terms would be expiring in 2021.
- Doug Riley asked the Board for their feedback on the presentation format.
- The Board provided positive feedback with the exception of the height of the monitor facing the Board.

ADJOURNMENT

- **ZONING BOARD OF APPEALS ACTION:** With no further business to come before the Board, Rex Ferguson moved, supported by Justin Padgett to adjourn the meeting at 7:23 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

NOTE: These minutes were approved by the Zoning Board of Appeals on September 21, 2021.