

Chairperson
Gail Watkins
Vice-Chairperson
Beth Botke
Secretary
Greg Armbrustmacher
Members
Rex Ferguson
Roni Christmas

Alternates
Logan Byrne



Clinton County Zoning Board of Appeals

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

*Clinton County Courthouse
100 East State Street, Suite 1300
St. Johns, Michigan 48879-1571
(989) 224-5180*

MEETING MINUTES

APRIL 18, 2023

- CALL TO ORDER** The Clinton County Zoning Board of Appeals (ZBA) met on Tuesday, April 18, 2023 at 5:59 p.m. with Chairperson Watkins calling the meeting to order.
- ROLL CALL** Beth Botke
Gail Watkins
Greg Armbrustmacher
Rex Ferguson
Roni Christmas
- STAFF PRESENT** Doug Riley, Community Development Director
Jessica Bolt, Planning & Permit Technician
Joel Haviland, Building Official/Zoning/SESC Administrator
- VISITORS** Brian Lawless, 7255 W. Jason Road
Don Potts, Riley Township Supervisor
James Gill, 14530 Bauer Road
Kevin Garvey, Riley Township & DeWitt Area Emergency Services Authority
Randy Whitney, Riley Township Planning Commissioner
Timothy Gill, 9201 W. Lehman Road
Trish Martens, Riley Township Trustee
- 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.
ZONING BOARD OF APPEALS ACTION: Rex Ferguson moved, supported by Roni Christmas to approve the agenda as presented. Motion carried.
- APPROVAL OF ZONING BOARD OF APPEALS MEETING MINUTES**
- *Chairperson Watkins and Roni Christmas abstained from the roll call vote having been absent for the February 21, 2023 ZBA meeting.*
ZONING BOARD OF APPEALS ACTION: Beth Botke moved, supported by Greg Armbrustmacher to approve the February 21, 2023 Zoning Board of Appeals Meeting Minutes as presented. Voting on the motion by roll call vote, motion carried unanimously. [Vote of 3-0, all in favor, none opposed.]
- COMMUNICATIONS**
- Chairperson Watkins announced Director Doug Riley's retirement: June 2, 2023.
 - Thanked Mr. Riley for his service.
 - Noted that he will be greatly missed.

ZONING BOARD OF APPEALS ACTION: Roni Christmas moved, supported by Beth Botke to receive the Communication item and place on file. Voting on the motion by roll call vote, motion carried unanimously. [Vote of 5-0, all in favor, none opposed.]

PUBLIC COMMENTS

- Chairperson Watkins called for public comments.
 - *There were no public comments.*

OLD BUSINESS

None

NEW BUSINESS
ZC-02-23 VR

- Doug Riley, Director reviewed case **ZC-02-23 VR – Application for a Variance** as detailed in the Staff Report (which includes the variance criteria to be reviewed by the ZBA).
- Chairperson Watkins called on the applicant.
- Timothy Gill, representative of James and Beverly Gill, explained that his father divided the land, including the subject property, in 1997.
 - The division ran along the County drain as a natural dividing feature, resulting in a 19.75-acre parcel, rather than creating a 20-acre parcel.
 - Noted, the 10-acre minimum parcel size was not in effect during the time of division.
 - They are not trying to change the character of the area.
 - The goal is to keep the property in the family.
 - The intention is for his father to give 8.13 acres to his son.
 - Intends to continue farming the property as well.
- Chairperson Watkins asked Mr. Gill about the condition of the property – if it is actively being farmed?
- Timothy Gill confirmed that it is being farmed.
 - Feels it makes sense to divide the property along the tree line.
 - Will not be changing the dynamics of the property.
 - There are many parcels smaller than 10 acres in the area.
 - This request would not be “out of character”.
 - Has been in touch with a surveyor and a sanitarian from the Mid-Michigan District Health Department (MMDHD) as well.
 - A survey and vacant land evaluation are lined up if the ZBA is inclined to grant this variance request.
 - Has spoken with Riley Township Supervisor, Don Potts, regarding the comments the Riley Township Board submitted in response to noticing.
 - Mr. Potts explained to him that, no matter the circumstance, the Board would recommend denial because the proposed parcel is smaller than the required 10 acres.
 - Commented that he would be willing to entertain reconfiguration, if the ZBA felt there was a better way to achieve this land division.
- Chairperson Watkins explained that the ZBA’s charge is not to design the applicant’s request.
- Timothy Gill responded that he understands.
- Chairperson Watkins asked Mr. Riley if rezoning the subject property was discussed?
- Doug Riley indicated that it was not advised as the Future Land Use Map (FLUM) promotes Agricultural Preservation (which equates to the A-2/General Agriculture zoning district) for this area.
- Greg Armbrustmacher asked Mr. Gill where his father resides?
- Timothy Gill answered, Bauer Road in Eagle Township.

- Chairperson Watkins asked for any additional comments or questions from the ZBA.
 - Hearing none, Chairperson Watkins called for a motion to open the public hearing.

ZONING BOARD OF APPEALS ACTION: Rex Ferguson moved, supported by Roni Christmas 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 stated his position of opposition to the variance request.
 - Feels the property shouldn't be divided because it can't according to the County's regulations.
 - Land divisions should meet the 10-acre minimum lot size.
 - Noted, there is a major manure dump site in the area (east of Wacousta Road and north of Lehman Road).
 - Feels this wouldn't be pleasurable for a homeowner to deal with.
 - This area is primarily used for agricultural purposes currently and would like to see it stay that way.
 - Riley Township entertained the idea of reconfiguration, but it still doesn't make sense to do.
- Kevin Garvey, Riley Township & DeWitt Area Emergency Services Authority, stated that he feels laws/regulations should be adhered to until the law/regulation itself has changed.
 - Is concerned about setting a precedence and the effects of creating many small-sized parcels.
- Trish Martens, Riley Township Trustee, expressed that she is concerned with the precedence approval of this variance request may set.
- Randy Whitney, Riley Township Planning Commissioner, mentioned a situation where the 10-acre minimum parcel size was upheld recently.
 - Wants to see zoning regulations be upheld.
- Brian Lawless stated that he is pretty much in agreeance with Riley Township.
 - Was in the same situation as the current applicant a few years ago and was denied.
 - Feels the Ordinance should be upheld.
- Timothy Gill articulated that he respects the opposition's arguments.
 - However, feels the ZBA is here to review cases individually for exceptions to the Ordinance.
 - Respectfully disagrees with the opposition.
 - Thanked the ZBA for their time and consideration.
- 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: Greg Armbrustmacher moved, supported by Beth Botke 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.]

- Chairperson Watkins noted to Staff that this may be a topic that would benefit from greater discussion at a later time.
- Doug Riley acknowledged Chairperson Watkins recommendation.
 - Noted, the case Mr. Whitney referenced was a request to rezone that was ultimately recommended for denial by the Clinton County Planning Commission.

- Roni Christmas commented that she feels this variance request is minimal.
 - The tree line makes a good natural boundary.
 - The same family has owned the property for many years.
 - They could have made even more legal non-conforming parcels having owned it prior to 2005 (when the Ordinance changed to restrict the creation of parcels smaller than 10 acres in the A-2/General Agriculture zoning district), but they didn't.
- Chairperson Watkins agreed with Ms. Christmas' track of thought.
 - Commented that use of a ditch as a natural boundary line is a common/good practice.
- Rex Ferguson explained that he feels a natural boundary line being a tree line is not a solid argument.
 - Would agree if the proposed boundary line were a ditch.
- Roni Christmas stated, if it weren't for the ditch, the property could have complied in its initial division.
 - Feels this situation is unique.
- Beth Botke specified, the ditch was a factor in creating the 19.75-acre parcel in 1997.
 - The ZBA is reviewing at the 19.75-acre parcel for a variance to allow a new land division as it exists today.
- Roni Christmas questioned if the ditch makes this variance request unique enough not to set a precedence (as Riley Township has expressed concerns of)?
- Beth Botke explained that her perception is that the ditch is a non-factor for the timing of this consideration.
 - Is not questioning why the property was initially divided that way.
 - Feels that the existing configuration is not of consideration for this request as it has already been done.
- Rex Ferguson agreed with Ms. Botke.
 - Questioned if a variance should be considered because of a tree line?
 - Does not feel that is a good enough reason.
- Chairperson Watkins stated that the tree line is immaterial.
 - The ZBA has not granted variances for that reason in the past.
 - The subject property is a lot of record under the current Zoning Ordinance.
 - The outside dimensions are not changing.
 - The current parcel is too small to make 2 conforming parcels out of it without being rezoned.
 - Does the ditch become the limiting factor that presents a physical difficulty that prohibits the proposed land division from resulting in conforming parcels?
 - Posed the question: "can the property be divided?"
- Rex Ferguson stated that he is concerned with setting a precedence (granting non-conforming parcels).
- Chairperson Watkins explained that he feels the ditch is a limiting factor that would prevent this request from setting a precedence.
- Rex Ferguson questioned if the ZBA should consider a scenario where a landowner in the A-2 zoning district wants to divide a 15-acre parcel into a 11-acre parcel and 4-acre parcel due to a ditch dividing the property?
- Greg Armbrustmacher asked if rationalizing an approval of this variance request because of the ditch could set a precedence?
- Chairperson Watkins referenced Special Condition #2 of the variance criteria:

- *“Exceptional or extraordinary circumstances or physical conditions...that do not generally apply to other property or uses in the same zoning district...”*
- Commented that it is always better to get as close to conformity as possible.
- Greg Armbrustmacher noted that it is a limitation, but also is not current.
- Chairperson Watkins asked the ZBA if Staff elaboration on Special Condition #2 would be helpful?
- Beth Botke explained that she is struggling with considering a variance for any property without the necessary acreage for a land division.
 - Questioned if this ditch should be a factor of consideration for this review.
 - Is there a statute of limitations for when this ditch can no longer be considered a hardship?
- Chairperson Watkins asked Mr. Riley what condition a hardship would fall under?
- Doug Riley suggested it could fall under Special Condition #1 or #2.
- Chairperson Watkins commented that if the request is not found to meet the Basic Conditions, then there is no concern as to if it meets the Special Conditions.

ZONING BOARD OF APPEALS ACTION: Beth Botke moved, supported by Rex Ferguson to deny Variance Request ZC-02-23 VR, GILL for the requested parcel size variance for the property on the corner of W. Lehman and S. Wacousta Roads in Section 19 of Riley Township based upon the following reasoning:

- Reasoning: (1) The proposal does not satisfy basic conditions #1, #6 and #7 as set forth in Section 720F.1 of the Zoning Ordinance. (2) The proposal does not satisfy the special conditions as set forth in Section 720F.2 of the Zoning Ordinance.

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

OTHER BUSINESS
*(A) TRAINING
DISCUSSION*

- Doug Riley, Director:
 - *Reviewed and discussed Basic Conditions 4-7 and Special Conditions 1-3 with the ZBA.*

COMMUNITY
DEVELOPMENT
DIRECTOR'S REPORT

- Doug Riley, Director provided a brief update:
 - Informed the ZBA that the Planning Commission is considering a 1-year moratorium for utility scale solar and wind projects.
 - *Dispersed the 2022 Planning & Zoning Office reports for the ZBA's review.*
 - As no applications/cases were submitted by the noticing deadline, advised that the ZBA could consider cancelling their May 16th meeting.
 - Thanked the ZBA for being such a good group to work with.

ZONING BOARD OF APPEALS ACTION: Beth Botke moved, supported by Rex Ferguson to cancel the May 16, 2023 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 Roni

Christmas to adjourn the meeting at 7:15 p.m. Voting on the motion by roll call vote, motion carried unanimously. [Vote of 5-0, all in favor, none opposed.]



Jessica Bolt, Planning & Permit Technician

NOTE: These minutes were approved by the Zoning Board of Appeals on July 18, 2023.