

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



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

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Clinton County Zoning Board of Appeals

MEETING MINUTES MAY 17, 2022

CALL TO ORDER	The Clinton County Zoning Board of Appeals met on Tuesday, May 17, 2022 at 6:00 p.m. with Chairperson Watkins calling the meeting to order.
ROLL CALL	Beth Botke Gail Watkins Greg Armbrustmacher Mark Simon Rex Ferguson
STAFF PRESENT	Joel Haviland, Building Official/Zoning/SESC Administrator Jessica Plesko, Planning & Permit Technician Dan Hufnagel, Building/SESC Inspector
VISITORS	Bob Patten, 16888 Erins Way Chris Fisher, 16797 Erins Way Chuck Lawson, 13900 Oneida Road Conner Luttig, 4611 Addison Don Potts, Riley Township Supervisor Ernie Luttig, 4505 W. Pratt Road Jack McNamara James Heckman, 16848 Erins Way Jon Novakoski, 16800 Erins Way Marc Parshall, 12650 Eaton Highway Nick Polentas, 16916 Erins Way Patti Schafer, Eagle Township Supervisor Penni McNamara, 718 Spring Street Shawn Anthony, 13170 S. Tallman Road Tom Anthony, 13170 S. Tallman 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> Mark Simon moved, supported by Beth Botke to approve the agenda as presented. Motion carried.
APPROVAL OF ZONING BOARD OF APPEALS MEETING MINUTES	<u>ZONING BOARD OF APPEALS ACTION:</u> Beth Botke moved, supported by Mark Simon to approve the April 19, 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

ZC-05-22 VR

Chairperson Watkins called on Joel Haviland for report.

- Joel Haviland reviewed case **ZC-05-22 VR – Application for a Variance** as detailed in the Staff Report (which includes the variance criteria to be reviewed by the ZBA).
- Rex Ferguson questioned if any farming is done on this property?
- Joel Haviland answered, no.
- 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: 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 called on the applicant.
 - Asked Mr. Parshall how old the subdivision is?
- Marc Parshall explained that he purchased the property in 1985 and created the subdivision in 1990.
- Mark Simon inquired how wide the driveway is proposed to be?
- Marc Parshall stated that the proposed driveway width is 66 feet.
 - Noted that the County allowed this application without a legal survey.
 - Apologized to the Board for the engineer on the project being absent for this meeting.
 - Commented, he was supposed to be present but has a previous conflicting commitment.
- Chairperson Watkins asked if, realistically, the drive would be around 10 feet wide?
- Marc Parshall agreed, noting it will be whatever is the normal requirement.
 - Indicated that he could address any potential drainage issues by installing a culvert in the drive and tying it into the ditch on the west side of the property – which ultimately runs into the river.
- Chairperson Watkins asked Mr. Parshall if he lives on the west side of the subject property currently?
- Marc Parshall confirmed.
 - Noted that the intention of leaving the subject parcel separate from his current home parcel (rather than combine it) was to build a home on it for retirement and sell the parcel where he currently lives.
- Chairperson Watkins asked Mr. Parshall if his intention now is to build another home?
- Marc Parshall indicated that he does not intend to build a new home, but rather, sell the property.
 - Stated that has had many issues over the years with trespassing.
- Chairperson Watkins asked Mr. Parshall if he spoke with the property owners that would have his proposed new drive in their backyard?
- Marc Parshall confirmed that he spoke with all but 2 of the property owners.
- Chris Fisher asked the ZBA to deny this variance request based on the 7 basic conditions not being met.

- Believes a house with a driveway along the homes within the subdivision's backyards will have a negative effect on character and value of said properties.
- Referenced Clinton County's Zoning Ordinance regulations in regards to self-created issues;
 - Believes the ZBA has no ground for approval based on the history – due to the subdivision and property in question being created by Marc Parshall.
- Jack McNamara inquired how this proposed split would affect the road frontage of the remaining property, as a potential interested party.
- Chairperson Watkins deferred to Staff.
- Joel Haviland stated that if this variance is granted, the road frontage would not meet existing zoning requirements.
 - The resulting properties would need to be rezoned.
- James Heckman expressed his concerns about drainage, adding, there has been a history of drainage issues in this location.
 - Also concerned about potential traffic issues and future developments beyond residential uses.
- Nick Polentas voiced his concerns in regards to safety related to tree clearing.
- Jon Novakoski referenced the basic conditions in regards to impacts to character and quality of life, noting that this proposal would result in a driveway running along his corner lot (i.e., along 2 sides of his property).
 - Referencing basic condition number 3, believes this would adversely affect his property.
 - Also has concerns in regards to potential future development – with speculation of an intent to create a “common road”.
- Patti Schafer discussed resident disputes, property rights, and common issues of impacts to surrounding properties, referring to her experience as a Township Supervisor.
- Chairperson Watkins asked Mr. Parshall if he would like to approach the Board once more?
- Marc Parshall declined.
- 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: Mark Simon 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.]

- Greg Armbrustmacher inquired if the ditch that was referenced earlier is a natural waterway or a county drain?
- Marc Parshall indicated that the ditch in question was originally a low spot that was further dug to flow to the river.
- Chairperson Watkins asked for better clarity on if there is an engineered drain there.
- Marc Parshall clarified; it is not an engineered drain.
- Greg Armbrustmacher questioned if the petition for Zone Map Amendment (Rezoning) would result from approval of this variance request?
- Chairperson Watkins confirmed.

ZONING BOARD OF APPEALS ACTION: Mark Simon moved, supported by Rex Ferguson to deny *Variance Request – ZC-05-22 VR, Parshall*, for the requested lot depth to width ratio variance for a proposed parcel on W.

Eaton Highway in Section 34 of Eagle Township based upon the following reasoning:

- Reasoning: **(1)** The proposal does not satisfy basic conditions 3 and 6 as set forth in Section 720F.1 of the Zoning Ordinance. **(2)** The proposal does not satisfy at least one of the special conditions as set forth in Section 720F.2 of the Zoning Ordinance.
- Chairperson Watkins offered a friendly amendment to add basic condition numbers 1 and 7 to the reasoning.
- Mark Simon accepted the friendly amendment.
- Rex Ferguson seconded 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.]

ZC-06-22 VR

- Joel Haviland reviewed case **ZC-06-22 VR – Application for a Variance** as detailed in the Staff Report (which includes the variance criteria to be reviewed by the ZBA).
- Chairperson Watkins clarified, without the granting of the requested variance, there will not be a rezoning case to follow.
 - 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: Greg Armbrustmacher 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.
- Conner Luttig explained that he has a family and is looking into moving out of Lansing.
 - His father, Ernie Luttig, offered to split his property so that he could build a home.
 - Believes the neighborhood (area surrounding the subject property) will only continue to be developed.
 - Wishes to preserve agricultural character as much as possible.
 - The area he wants to build a new home on is not great farmland.
 - Also spoke with some adjacent property owners and most of them are in support of his request.
 - Has full intentions of making this his “forever home”.
- Rex Ferguson asked Mr. Conner Luttig about the natural low area that he stated, “isn’t good farmland”, noting that he drove by the property and observed that it is planted currently.
- Conner Luttig confirmed that it is currently planted; however, it doesn’t grow well.
 - Commented that because the house is proposed to be built on higher ground, the farmer would lose about ½ an acre of good farmland.
- Ernie Luttig stated that during the 9 years that he has lived on the subject property, he has witnessed poor growth in the low area.
- Beth Botke asked Mr. Conner Luttig how the low area might affect his proposed drive?
- Conner Luttig explained that he intends to place a drive off Ernie Luttig’s property.
 - Will work with the Clinton County Road Commission to achieve this.
- Don Potts spoke on behalf of Riley Township:

- Believes placing the drive on the west side of the property is the only option with the consideration of the low area.
- Reached out to Charity Little with the Mid-Michigan District Health Department about well and septic requirements for this site but was unable to reach her.
- Concerned about this proposal not matching the Future Land Use Map.
- Conner Luttig rebutted:
 - Has no concerns regarding well and septic because there is higher ground behind the location of the proposed home.
 - Expressed that he understands adhering to zoning regulations; however, there is an appeals process for a reason.
- 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: Greg Armbrustmacher 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: Rex Ferguson moved, supported by Greg Armbrustmacher to deny *Variance Request – ZC-06-22 VR, Luttig*, for the requested lot depth to width ratio variance for a proposed parcel on W. Pratt Road in Section 24 of Riley Township based upon the following reasoning:

- Reasoning: **(1)** The proposal does not satisfy basic conditions 4 and 7 as set forth in Section 720F.1 of the Zoning Ordinance as referenced in the staff report. **(2)** The proposal does not satisfy at least one special condition as set forth in Section 720F.2 of the Zoning Ordinance as referenced in the staff report.
- Chairperson Watkins offered a friendly amendment to add basic condition numbers 1 and 6 to the reasoning.
- Rex Ferguson accepted the friendly amendment.
- Greg Armbrustmacher seconded 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.]

ZC-07-22 VR

- Joel Haviland reviewed case **ZC-07-22 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.
- Rex Ferguson inquired if the Michigan Department of Environment, Great Lakes, and Energy (EGLE) overrides Federal Emergency Management Agency’s (FEMA) Flood Maps?
- Joel Haviland stated that FEMA is not being overridden in this instance because the survey indicates the proposed site is 7 feet above the floodplain.
 - The applicant could submit a Letter of Map Amendment (LOMA) and, essentially, have the map amended to remove the area from the floodplain.
- Rex Ferguson inquired what the front elevation is proposed to be.
- Joel Haviland guessed that it would be about 4-5 feet.
- Mark Simon, referring to the staff report photos, inquired about the vegetative condition of the proposed lot.

- Joel Haviland explained that it is mowed grass.
- 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: Beth Botke moved, supported by Mark Simon 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.
- Shawn Anthony explained to the Board that he wants to bring his family back to the family farm.
 - Does not believe the proposed build site is susceptible to flooding.
 - However, he does plan to build up (fill) to ensure it does not flood.
- Rex Ferguson asked for information on the field area.
- Shawn Anthony stated that it is used for horses and a pasture area.
- Rex Ferguson asked Mr. Anthony who owns the house to the east of the subject site?
- Shawn Anthony answered, Linda Heffron owns the home.
 - Commented that she has no concerns about his proposal to build.
- Mark Simon asked Mr. Anthony is he has done his due diligence to ensure the proposed build site will not flood?
- Shawn Anthony confirmed that he has.
 - Noted, his father-in-law has not seen flooding in the build site, ever.
 - Ensured that, regardless, he intends to build the site up to protect against flooding.
- Patti Schafer spoke on behalf of Eagle Township:
 - Noted the uniqueness of this proposal being a non-conforming parcel in the floodplain.
 - Assured the Board the Shawn Anthony and his mother-in-law have done their due diligence on this matter.
 - Highlighted that the applicant is proposing to build his home higher than his in-laws' home.
 - Commented that these types of requests will be continuous as we see this shift of people/families coming back home.
- 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: Mark Simon 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.]

ZONING BOARD OF APPEALS ACTION: Beth Botke moved, supported by Mark Simon to approve *Variance Request – ZC-07-22 VR, Kincaid-Anthony*, for the requested road frontage width variance for a proposed 10-acre parcel on S. Tallman Road in Section 15 of Eagle 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 720F.1 of the Zoning Ordinance as referenced in the staff report. **(2)** The proposal satisfies special condition 2 as set forth in Section 720F.2 of the Zoning Ordinance as referenced in the staff report.
- Conditions: **(1)** The applicant shall obtain all required permits through the Health Department, Road Commission, and the Building Department prior to construction of a home.

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 the saving grace for this case was the large un-usability of the parcel.
- Rex Ferguson agreed that the parcel is unique.

OTHER BUSINESS None

- COMMUNITY DEVELOPMENT DIRECTOR'S REPORT
- Chairperson Watkins called for the Community Development Director's Report.
 - Joel Haviland:
 - Noted, there will be 2 cases for the month of June.

ADJOURNMENT **ZONING BOARD OF APPEALS ACTION:** With no further business to come before the Board, Greg Armbrustmacher moved, supported by Beth Botke to adjourn the meeting at 7:31 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 June 21, 2022.