

Chair
Gail Watkins
Vice-Chair
Jim McClelland
Secretary
Mark Simon
Members
Roger Lerg
Rex Ferguson
Justin Padgett, Alternate

CLINTON COUNTY
ZONING BOARD OF APPEALS

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Planning & Zoning Secretary
Wendy Ward
Building & Zoning Administrator
Joel Haviland
**Community Development
Department**

ZONING BOARD OF APPEALS MEETING MINUTES
Tuesday, July 16, 2019 @ 6:00 p.m.
Clinton County Commissioners Chambers

1. Call to Order and Roll Call –

The Clinton County Zoning Board of Appeals met on Tuesday, July 16, 2019 at 6:00 p.m. in the Clinton County Commissioners' chambers, Clinton County Courthouse, St. Johns, Michigan, with Chair Watkins presiding. A quorum was reported.

Members present - Gail Watkins/Chair, Jim McClelland/Vice-Chair, Mark Simon/Secretary, Rex Ferguson, Roger Lerg, Justin Padgett (alternate)

Staff present – Doug Riley, Community Development Director, Wendy Ward, Planning & Zoning Secretary, Dan Hufnagel, Building Inspector, Community Development Department

Visitors Present – Bryan and Joann Kurtz, Keith and Eileen Evans, Jason Chant

2. Pledge of Allegiance

The pledge of allegiance was given to the flag of the United States of America.

3. Approval of Agenda –

ZONING BOARD OF APPEALS ACTION/MOTION

Motion by Vice-Chair McClelland, support by Lerg to approve the July 16, 2019 ZBA agenda, as presented. There being no further discussion, motion carried unanimously [Vote of 5-0, all in favor, none opposed].

4. Approval of Zoning Board of Appeals Meeting Minutes – June 18, 2019

ZONING BOARD OF APPEALS ACTION/MOTION

Motion by Secretary Simon, support by Vice-Chair McClelland to approve the June 18, 2019 ZBA meeting minutes, as presented. There being no further discussion, motion carried unanimously [Vote of 5-0, all in favor, none opposed].

5. Communications -

There were no communications presented.

6. Public Comments -

There were no public comments presented.

7. **Old Business –**

There was no old business presented.

8. **New Business**

A. **ZC-09-19 VR – Application for a Variance**

(Public Hearing)

An application for a variance has been submitted by Bryan Kurtz. Applicant is requesting variance approval to **Section 203 – Definitions and Section 501– Accessory Buildings, Structures and Uses** to allow an accessory structure across the road from the residence (separate lot). The vacant property (where the shed is proposed) is located on Victoria Shore Drive, Parcel ID#19-140-180-000-091-00, Lot 91, Westchester Heights, across the drive (to the west) from the residence, which is located at 6623 Victoria Shore Drive, Lot 30, Westchester Heights, Section 12, Victor Township.

Director Riley provided a brief review of the staff report. Applicant is requesting to install an accessory structure (shed of up to 200 square feet) on a vacant lot across the road from his home. There is no place to locate the shed on the same lot as his home due to the slope, lake and required setbacks. The applicants can comply with the setbacks for placement of the shed. The shed has no foundation requirement so this doesn't trigger a building permit.

There are the potential motions provided in the staff report.

All property owners within 300' of said property were noticed as well as the standard noticing in the paper. We received 43 signatures from adjacent property owners supporting this variance.

Township / Local Agency Comments –

Victor Township- The Victor Township Board submitted correspondence dated July 8th, 2019 requesting that this variance application be deferred over to the Lake Victoria Property Owners Association (LVPOA) as LVPOA restrictions cover this request and that Clinton County Planning & Zoning understand that all future requests concerning property within the boundaries of the LVPOA should be acted upon by the LVPOA first. No action was taken by the Township Board.

Clinton County Road Commission (CCRC) - The Road Commission submitted correspondence dated June 5, 2019 indicating they have no objection to the variance application. They indicated that they recently approved a drive entrance on the vacant parcel to provide it with access.

Clinton County Drain Commission (CCDC) - The Drain Commissioner's Office submitted correspondence dated June 7, 2019 indicating that there are no County drains present on either of the lots involved, so they don't see any concerns for the requested variance to allow construction of an accessory structure.

John Moore, President, LVPOA Board of Directors, also submitted correspondence dated July 16, 2019, stating that the LVPOA Board of Directors has read the July 8th correspondence and are in full support of this issue being deferred back to the LVPOA.

Director Riley commented on previous legal opinions regarding this issue; we, as a County, cannot enforce the homeowner association covenants or restrictions. We also cannot defer a zoning matter to a private association. Mr. Kurtz will still have to seek approval (on his own) from the LVPOA should the ZBA approve the variance. The ZBA concurred.

Bryan and Joann Kurtz, 6623 Victoria Shore Drive, applicants, were present; Bryan Kurtz approached the Board. Keith and Eileen Evans, 6611 Victoria Shore Drive, neighbors to the north of the Kurtz's, were present in support of the variance. Mr. Kurtz spoke briefly of the township meeting. He has spoken with John Moore (President of the LVPOA) and stated that he just wants to be in compliance. He feels he can preserve the spirit of the zoning ordinance if this variance was granted. There will be no foundation, the shed will just slide in and he can comply with all the setbacks.

Chair Watkins opened the floor for public comment.

There being no public comment, Chair Watkins closed the floor for public comment.

Vice-Chair McClelland questioned what the second variance request was. Director Riley stated that there is a variance to allow an accessory structure across the road from the residence (separate lot) and a variance to allow an accessory structure on a lot with no principal structure (home). Board member Lerg added that the structure is not fixed; this is not a fixed building. The issue is that the proposed structure is across the road; not on the same property; the lots are not contiguous.

Chair Watkins stated that if the Board is inclined to grant the variance, it should be specific to a waterfront property and that the principal structure fills the lot so that the accessory structure cannot be built on that property.

ZONING BOARD OF APPEALS ACTION/MOTION

Motion by Secretary Simon to approve Case ZC-09-19 VR based on the rationale that the seven (7) basic conditions have been met, there will not be any adverse action on the property, the uniqueness of the situation, the number of situations that there are on other lots in this area, the specific features of the property, and the slope going down to the lake. The two (2) issues at hand here are that the shed will be on a lot with no home and it is all pushed tight on the home lot. Support by Vice-Chair McClelland. Secretary Simon added a friendly amendment to the motion to include that at least one of the special conditions has been satisfied; specifically special condition #1 and that no building permit is required as it's under 200 square feet. Chair Watkins questioned Director Riley about the Homeowners Association concerns and pointed out that this has no bearing on our enforcement of the zoning ordinance. The Township Board did not make a recommendation. Chair Watkins added that this is an R-1, Single Family Residential platted property on a body of water where there has been allowance for accessory structures on non-contiguous lots previously. There being no further discussion, motion carried [Vote of 5-0, all in favor, none opposed].

NOTE: Following an explanation of his being an adjacent property owner within 300' of the applicant, Roger Lerg, ZBA member, abstained from participating on the next agenda item and removed himself from the Board while this case was reviewed. Justin Padgett, alternate member, was present to review this case and take action.

B. ZC-10-19 VR – Application for a Variance

(Public Hearing)

An application for a variance has been submitted by Chris Chant. Applicant is requesting variance approval to **Section 905.C.5; the remainder of parent parcel after proposed division must meet the dimensional requirements of Section 432**; specifically a *variance to the 4 to 1 depth to width ratio* (lot exceeds 4 to 1 by 1,600') and a *70' variance to the minimum road frontage requirement* (frontage is 260' where 330' is the minimum requirement). Applicant is requesting to split a 1.2-acre parcel containing the single family home (under the Ag Homestead Lot Provisions of the Zoning Ordinance) from a 40-acre parent parcel that will remain farmed. The property is located 4652 E. Walker Road, Parcel ID#19-120-007-100-010-00, Section 7, Ovid Township.

The applicant is proposing to split off the existing home and accessory buildings under the Performance Standards for an Agricultural Homestead Lot of the Zoning Ordinance. While the proposed 1.24 acre homestead lot will comply with the standards of the Zoning Ordinance in terms of size, setbacks, etc., the remaining parcel would be left with two dimensions that require a variance from the Zoning Board of Appeals (ZBA). These are:

- 1) The remaining parcel would be left with 260 feet of continuous frontage to E. Walker Road; (where 330' of continuous road frontage is the Ordinance standard). **Therefore, this equates to a 70 foot frontage variance.**
- 2) The remaining parcel would have a lot depth to width variance exceeding 4 to 1. With the largest continuous frontage/width at 260 feet wide, the maximum depth would normally be a maximum of 1,040 feet. The existing parcel depth is 2,640 feet. **Therefore, this equates to a 1,600 foot lot depth to width variance.**

The proposed Agricultural Homestead Lot and remaining acreage would otherwise meet all other dimensional standards of the Zoning Ordinance. However, an actual survey will need to be completed, including new legal descriptions, to verify the final acreages and dimensions to finalize the land division process with the County and Ovid Township.

Township / Local Agency Comments –

Ovid Township- The Ovid Township Board submitted correspondence dated July 16, 2019 indicating that they have no objection to the variance.

Mid-Michigan District Health Department (MMDHD) - The Health Department submitted correspondence dated June 27, 2019 indicating that they would require that the on-site water supply system and the on-site sewage disposal system remain wholly contained on the new parcel containing the dwelling, and the new property line is 10 feet or more from the sewage disposal system.

Clinton County Road Commission (CCRC) - The Road Commission submitted correspondence dated June 25, 2019 indicating that they have no objections.

There are the three potential motions provided in the staff report.

If the ZBA is so inclined to approve the variance, there is one recommended condition of approval included for consideration listed on page 10 of 11 of the staff report that complies with the Health Department requirement prior to finalization of the split with the County and

Ovid Township.

All property owners within 300' of said property were noticed as well as the standard noticing in the paper and no comments were received.

Jason Chant, son of Chris Chant, applicant, was present and approached the Board. He stated that the drain field is brand new and there is room for a mound system (replacement septic) on the other side of the driveway or the front yard if needed.

Chair Watkins opened the floor for public comment.

There being no public comments, Chair Watkins closed the floor for public comment.

ZONING BOARD OF APPEALS ACTION/MOTION

Motion by McClelland to grant the variance request(s) based on the following rationale – the 70 foot frontage variance because of the location of the home (right in the center of the parcel) and the 1600 foot variance to the depth to width ratio because the County is populated with ½ mile long parcels. The variance(s) also meets the seven (7) basic condition and at least one of the special conditions; specifically #2, Ovid Township Board has no objections to the granting of the variance, an actual survey will need to be completed, including new legal descriptions, to verify the final acreages and dimensions to finalize the land division process with the County and Ovid Township and to include condition #1 (in staff report) -**The applicant shall comply with all requirements of the Mid-Michigan District Health Department in regards to meeting the setback/isolation distances for the existing well and septic systems to the proposed property lines. This shall be verified prior to the finalization of the lot split by the Community Development Department and Ovid Township.**

Support by Ferguson. There being no further discussion, motion carried [Vote of 5-0, all in favor, none opposed, 1 abstain vote].

9. Other Business-

There was no other business.

10. Community Development Report-

Director Riley provided a brief discussion –

There will be a ZBA meeting in August; we have received one variance application in our office as of today's date.

Recreational Marihuana and the passage of the law – created five (5) different businesses to potentially be established in the Villages and Townships of the County unless they opted out from allowing these businesses. As of last Monday, the last township (Victor) opted out. All 11 Townships that we do Planning & Zoning for have all opted out of allowing any recreational marihuana businesses.

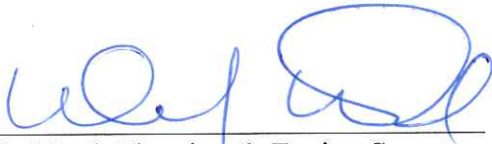
11. Adjournment –

ZONING BOARD OF APPEALS ACTION/MOTION

Motion by Vice-Chair McClelland, support by Padgett to adjourn the July 16, 2019 ZBA meeting.

There being no further discussion, motion carried unanimously [Vote of 5-0, all in favor, none opposed].

With no further business to come before the Zoning Board of Appeals, Chair Watkins declared the meeting adjourned at 7:15 p.m.



Wendy Ward, Planning & Zoning Secretary

NOTE: The July 16, 2019 minutes were approved at the regularly scheduled meeting of August 20, 2019