

***BYRON TOWNSHIP ZONING BOARD OF APPEALS
REGULAR MEETING – August 22, 2007
MINUTES***

The regular meeting of the Byron Township Board of Appeals was called to order by Chairman Abe VanderWoude on Wednesday, July 25, 2007, at 7:00 p.m. at the Byron Township Offices, 8085 Byron Center Ave. Byron Center, MI.

Members present were: Abe Vander Woude, James Haagsma, Jeff Brinks, Seymour Gould & Doug Tubergen. Members Absent: Kathy Burgess. Also present were Recording Secretary LaVonne Kuiper.

Approval of the Minutes of the regular meeting – July 25, 2007

A motion was made by Haagsma supported by Tubergen to approve the minutes as written. All voted aye. (Gould abstained) Motion carried.

7:00 p.m. DeKleine Builders requesting a 285 sq ft., area variance to construct a garage addition for the property located at 1118 Shore Pointe Dr. SW

Mr. Jeff Brinks read the public notice. All property owners within 300' of the subject property were notified and no written responses were received.

Jay De Kleine was present and began by saying he would have liked to have been heard at the Planning Commission Monday night. After hearing the comments made by the Planning Commission members that night on the possibility of them considering to look at and maybe change this ordinance regarding the issue of the 60% rule for garages. This rule is old and with life style changes it merits looking into to.

Chairman Vander Woude asked Mr. DeKleine if he desired to go ahead with this public hearing or request to table this and address it at next months meeting.

A motion was made by Gould supported by Haagsma to adjourn this request until September 26, 2007 at 7:00 p.m., and if no decision is made regarding the 60% rule at the Planning Commission meeting this will be extend for another month.

All voted aye. Motion carried.

7:15 p.m. Paul Spencer requesting a 4' 2" sideyard setback variance and a 3' 2" setback variance from a principal building to construct an accessory building for the property located at 2770 - 64th St. SW

Mr. Jeff Brinks read the public notice. All property owners within 300' of the subject property were notified and no written responses were received.

Paul was present to explain his request. He began by saying he has been in the wheel chair for 30 years and he doesn't want special privileges because of his situation. He stated that he needs access to the new building as close as possible to his existing home in order to get out to the building to do his projects in the winter. Also by building this garage 20' from the lot line, instead of the 15' 10" would place it over the edge of the septic system and drain field. Furthermore he needs a straight approach for his vehicle from his driveway into the garage and moving the structure over would make it to hard an angle to maneuver around the corner of the existing structure.

Paul then gave Chairman Vander Woude a letter from Judd Meyer whose property is immediately adjacent to his at 2768 – 64th St. The letter stated his approval of the variance requests.

The board members discussed various options for the placement of the accessory building.

It was decided to take each variance separately.

After some discussion a motion was made by Haagsma supported by Tubergen to grant the 4' 2" side yard setback variance.

Roll call vote:

Brinks - no. Haagsma - yes. Tubergen - yes. Gould - yes. VanderWoude - yes.

Motion carried. Variance granted.

Gould commented the reason we require at least 10' between buildings is for fire protection. It gives an area to work in between buildings. He does sympathize with Mr. Spencer but we have to remember that the variance goes with the property.

Brinks agreed with Seymour. The 10' separation is for the safety of the residence. Keep in mind the various does remain with the property.

Chairman Vander Woude asked if a fire wall could be required? Maybe that would put a different light on the situation.

Tubergen commented that technically we can only look at the property not ones limitations. He could move the building back 3'. Fire safety is what we always look at the 10' rule. He asked the applicant if there were other buildings on the property.

Paul responded by saying there is a play fort which is going up north for a deer blind, and there is a 10' x 10' storage shed.

Brinks stated he is allowed only one building.

A motion was made by Haagsma supported by Vander Woude to grant the 3' 2" setback variance from a principal building as it meets the standards of Section 21.6 (1) & (3).

Roll call vote: Gould - no. Haagsma - yes. Tubergen - no. Brinks - no. Vander Woude - yes. Motion denied.

7:30 CK Shamrock (Kevin Green) requesting the following variances for the construction of 2 billboards for the property located at 6051 Clay aAve. & 6101 Clay Ave. SW – Billboard “A” (north) 1. A 372 sq ft., area variance, 2. A 70' setback variance from the public right away, 3. A 15' height variance. Billboard “B” (south) 1. A 372 sq ft., area variance, 2. A 70' setback variance from the public right away, 3. A 5' height variance.

Jeff Brinks read the public notice. All property owners within 300' of the subject property were notified and no written responses were received.

Mr. Jim Telman was present on behalf of Kevin Green. He commented that he is a friend of Kevin and he said Kevin was on the house floor voting on the budget and he really didn't want to leave. So this is a short notice for him. He commented that it is an honor to be here and preceeded to explain the variance request. They are requesting to construct two billboards with the south billboard being 65' high and the north billboard 55' in height. He is relocating this billboard and asking to be within 5' of the property line and asking for additional size as the notice states. He commented that he previously walked the property and it is somewhat of a unique piece of property. It sits next to the largest or 2nd to the largest interchange in the state of Michigan. The north billboard is 120' from the first road ramp and 100' to 131. The south billboard is 250' from the ramp and 150 – 200' to the 131 ramp. The reason for the height request for the south billboard is because the billboard would be setting in a hole. The CDS sign has a height of 65' and our proposed sign would be in line with the other ones. The size of the proposed billboards is 14' x 48' which is a standard size and is in keeping of what you see along US 131 going north and south and along M-6. The height of the build board of 15' above ground level is a good elevation. This will allow vehicles to go under it with out hitting it and also for liability purposes. Young children and teens have a tendency to try and get on these signs and injury themselves. So it's for additional safety. Thus this particular lot is unique in that the

property is further back from the road right of way than abutting freeway properties. If this per ordinance is unique we are begging for increase in size, setbacks and height.

Chairman Vander Woude opened the hearing to the public.

John Carlson – 7405 Cactus Cove began by saying he is a Registered Professional Engineer and wanted to know what is the love affair with the ZBA and billboards. Is it a money thing? Does the Township get a lot of tax revenue from them? He stated he has talked to the Assessor about taxes for billboards and he won't give me a good answer. Maybe it's a friendship thing. He asked if anyone looks to see if the variance requests meet code. Neither of these meet the code. Does anyone check? Has anyone of you driven by this area and checked it out? If you board members don't realize this there are 5 billboards within one linear mile. He then read the ordinance to the Board. The billboards that are in the city of Wyoming count as ours. If this is granted tonight there will be 7 billboards within the mile. It's time to stand up and make the code viable. Exxel Engineering who made the print should have checked the code. They did a disservice to the applicant. Also does Mr. Green have a State of Michigan highway permit? Does anyone know?

No further public comments were made.

A motion was made by Gould supported by Haagsma to close the public portion of the meeting. All voted aye. Motion carried.

Chairman Vander Woude commented that he is a friend of Kevin Green and has worked for his campaign. If any one on the Board or in the public had a problem with that he would step down. It was the consensus of the Board as well as the public that it was not necessary for anyone to step down due to conflict of interest.

Brinks reminded everyone that the applicant is Gainey Transportation Co. They are the one seeking the variances. Kevin Green and Mr. Telman are only here to represent Gainey Transportation.

Chairman Vander Woude then addressed some of the questions that Mr. Carlson had. He could not answer the question about taxes. But he is pretty sure billboards do not create a lot of tax base. They have not only driven by the site but walked the site as well. Regarding the highway permit that is through the State of Michigan and we know nothing about that.

Chairman Vander Woude stated that we do have a lot of signs within one linear mile. Some of these signs were relocated due to the new M-6.

It was discussed that accurate measurements are needed regarding the distance between these signs as well as the distances from the lot lines. It was suggested to adjourn this until we get accurate measurements from the applicant.

Gould agreed we do need this information before he can make any decisions. It is possible that additional variances are needed here.

Brinks addressed Mr. Carlson's comment about Exxel Engineering. They only did what was asked for. It is not their responsibility to check to code.

Items discussed by the board were the needing of another variance regarding number of billboards per linear mile, height of the billboards and size.

Mr. Telman stated that Kevin told him that he spoke to the staff and they did not tell him that he would need an additional variance for the number of billboards. The staff should have told him.

Gould stated if he had to make a motion tonight he would deny it all. He thought the wiser way to go would be to get more information.

Brinks asked exactly what do we need to know?

Chairman Vander Woude stated we need to know the distance between the signs. If we have too many billboards we are wasting our time.

Mr. Telman again commented that Kevin went to staff here at the Township and they should have told him that his request didn't meet code.

Vander Woude stated that our staff here is not a fault. They look at what you want and nothing more.

A motion was made by Gould supported by Tubergen to adjourn this request until September 26, 2007 @ 7:15 p.m. which is the next regular scheduled meeting.

All voted aye. Motion Carried. Request adjourned.

Adjournment

8:45 p.m. It was moved by Haagsma supported by Tubergen to adjourn the meeting. All voted aye. Motion Carried.

Jeff Brinks
Secretary of Board of Appeals

