

***BYRON TOWNSHIP ZONING BOARD OF APPEALS
REGULAR MEETING – June 25, 2008
MINUTES***

The regular meeting of the Byron Township Board of Appeals was called to order by Chairman Abe VanderWoude on Wednesday, June 25, 2008, at 7:00 p.m. at the Byron Township Offices, 8085 Byron Center Ave. Byron Center, MI.

Members present were: Abe VanderWoude, Seymour Gould, Jeff Brinks, Kathy Burgess and Doug Tubergen. Absent: James Haagsma. Also present was Township Building Inspector Randy Zomerlei and Recording Secretary LaVonne Kuiper.

7:00 p.m. – Titan Equipment - requesting a variance to have a non-paved outdoor equipment storage area (Sec. 16.4 (1)) for the property located at 6190 & 6158 Clyde Park Ave. SW

This request was adjourned at the May 28, 2008 meeting to be addressed at the June 25, 2008 meeting at 7:00 p.m.

A motion was made by Gould supported by Burgess to take up this request for discussion.

Gould commented that the Planning Commission did approve the Site Plan for Titan Equipment at the June 16, 2008 Planning Commission with this approval included were 4 stipulations and one of those stipulations was that the parking/storage area shall be paved. The Planning Commission has asked the Township Attorney and the Township Planner to draft an ordinance concerning non-paved area. That report should be available at the July, Planning Commission meeting.

Brinks stated that he was present at that meeting of the Planning commission when they discussed this issue. The planner Larry Nix presented several suggestions regarding non-paved areas. The first is that non-paved surface should only be permitted behind the front of a building, second that a non-paved surface should not be permitted in a front yard, third, the storage area with a non-paved surface should be substantially obscured from public view, forth, a non-paved surface shall be a non public area, fifth, the proposed type of non-paved surface shall be approved by the Township Engineer, and the use of a non-paved surface could only occur in unusual circumstances if approved by the Planning Commission during the site pland review process upon recommendation by the Township Engineer. After some discussion regarding these suggestions it was the consensus of the Planning Commission to have

the Township lawyer to create an ordinance for the Planning Commission to review. We as the ZBA did ask for their input as to how to deal with this type of variance request.

Burgess asked who pays for the cost of the Engineer to determine what type of surface should be used for a project.

Brinks stated that it would be taken care of under the Site Plan process.

Brinks felt it would be a good idea if the Planning Commission would offer maybe two certain types as options for the applicant to choose from.

Gould commented that once the ordinance is adopted it would be nice to have two options.

Brinks stated if we say no tonight to Titan's request they can pave it.

Gould stated he would still like to see it all asphalt millings. Remember that a variance goes with the property and once we grant this variance and just say that Titan out grows the property in a couple years and a different owner moves in, they have to know what has been approved for this property.

Burgess agreed that she likes the crushed asphalt idea. It will have less dust than crushed concrete. The oil in the asphalt helps to keep the dust down.

Vander Woude reminded the owner of Titan that crushed asphalt millings is what is being discussed not concrete. Crushed asphalt millings pack better and it lets the water through for better drainage.

Brinks stated he completely understands what this business needs but we are dealing with the property not the business. With this particular business we have had no complaints or issues. It is working good. But if we grant this and the new owner moves on the property they do not have to come for site plan approval if they have the same type of business.

Gould asked if we could have the applicant put on his deed restriction that if the property changes owners the new owners have to comply with the Township Ordinance.

Burgess was wondering if we receive complaints what happens.

Randy Zomerlei commented that first a letter is sent out. If they do not respond to that letter than a ticket (civil infraction) is issued. But 99% of the time the letter gets their attention.

After some additional discussion a motion was made by Brinks supported by Gould to grant the variance request for Titan Equipment to have a non-paved outdoor equipment storage area with the following stipulations:

1. The surface is to have 8" of crushed concrete or 6" minimum of recycled asphalt millings.
2. Type 1 landscape buffering to be provided along Clyde Park Ave., and along the first 75' east of the north property line.
3. A deed restriction to be recorded with the County stating if this property is sold that the new owners must comply with the Township Zoning Ordinance.
4. A revised site plan must be submitted for approval indicating the type of surface that will be used and showing the landscape buffer.

Roll call vote: Burgess - yes. Brinks - yes. Gould - yes. Tubergen - no. VanderWoude - yes. Motion carried. Variance granted.

7:15 pm – Kenneth Houseman – requesting a permit to move a house from 1778 – 84th St. to 8869 & 8877 Burlingame Ave. SW.

Mr. Jeff Brinks read the public notice and affirmed that the notice was published once in the South Advance and to all property owners within 300' of the subject property were notified. No written responses were received.

Kenneth Houseman was present and stated he is requesting permission to move a house from the 84th St., to a lot on Burlingame Ave.

Chairman VanderWoude asked if everyone had an opportunity to walk through the house.

Chairman VanderWoude stated the house is very nice inside. Windows are in good condition.

Gould thought the garage door should be replaced including the service doors. Also some of the trim should be painted.

No public comments were made.

A motion was made by Gould supported by Brinks to close the public portion of the meeting. Motion carried.

Tubergen also noticed that the garage door and the service doors to the garage should be replaced.

It was noted that water and sewer is available on the subject property where the house

will be moved to.

Board members asked if the two lots would be combined. Kenneth stated they would be combined.

Kenneth was also asked who would be living in the house. He commented that he intends to make it his home.

Brinks stated this home would fit very well in this neighborhood. It will look very nice.

A motion was made by Gould supported by Brinks to allow this house to be moved from 1778 - 84th St. to 8869 - 8877 Burlingame Ave. with the following stipulations:

1. The garage doors and service doors to the garage are to be replaced and the trim painted.
2. A letter of credit or bond to be established with the Township Clerk in the amount of \$15,000 to expire on November 30, 2008.
3. Landscaping is to be completed by October 30, 2008.

Roll call vote: Tubergen - yes. Gould - yes. Brinks - yes. Burgess - yes. VanderWoude - yes. Motion carried. Variance granted.

7:30 p.m. – Raymond & Amy Wiersema – requesting a 580 sq ft., accessory building area variance for the property located at 6850 Kenowa Ave.

Mr. Jeff Brinks commented that an error had been made in determining if this variance was necessary on the property. He stated that a separation zoning line runs through the middle of this property. The northern part of this parcel is zoned RR and the southern part is zoned RA. The Township Zoning Ordinance gives direction when it says that part of the property being used. In this case it is the southern part of the parcel. So the zoning being RA this request is not necessary. It is an error on the Township's part so we will request a refund per Township Board approval.

A motion was made by Brinks supported by Burgess that since an error was made on the part of the Township a request to the Township Board for a refund of the application fee will be made.

Yes - 5. No - 0. Motion carried.

Approval of Minutes – May 28, 2008

A motion was made by Gould supported by Burgess to approve the minutes as written. Yes - 4. No - 0. Abstained - 1. (VanderWoude absent from May meeting)
Motion carried.

Miscellaneous -

Gould asked the status of the house move at 6580 Burlingame Ave.

Jeff stated a letter was sent out stating that the landscaping was suppose to be completed by October 31, 2007. We asked that they comply with the condition of approval and install the landscaping within 30 days of the letter which was dated June 16, 2008. Randy also went to the home and did the final building inspection but would not issue a Certificate of Occupancy until the landscaping was completed. This was also addressed in that letter that was sent out stating that the Certificate of Occupancy will not be issued until landscaped or a bond of letter of credit in the amount of \$7500.00 is presented to the Township Clerk to expire on August 31, 2008.

7:45 p.m. – Jon Bratt – requesting the following variances to construct a billboard at 6147 Burlingame Ave, SW 1. A 372 sq ft., area variance. 2. A 65’ setback variance. 3. A 200’ setback variance from a residential zoning.

Mr. Jeff Brinks read the notice and affirmed that the notice was published once in the South Advance and to all property owners within 300’ of the subject property were notified. No written responses were received.

Jon Bratt was present and stated that he is requesting that the size of the billboards to be allowed be the same size as other billboards along M-6 in Byron Township which is 672 sq ft. Also the setbacks from M-6 be allowed to be 10’ like the other billboards in the area. The distance from residential districts to be 100’ since the nearest residential zone is a public utility just north of the property. The Industrial zone is adjacent to M-6 which makes it a good location for billboards. There are 2 other billboards both 672 sq ft., on M-6 and they enjoy closer setbacks to the highway. The spacing requirements of Byron Township only allow three billboard structures per mile, so this will limit the amount of signage along M-6. He is just asking for the same property rights that are enjoyed by others. He is requesting two billboards 1,000’ apart and it is in Industrial zoning which a billboard is allowed.

John Carlson – residence of Cactus Cove – was present to discuss a few of his concerns. He feels a review of the State and Township Ordinances are in order. Regarding the liner mile rule – if you do approve this request you are limiting no other billboards either way. To him it is an unfair use of land. He also questioned if the applicant had the state permits that are required. For this request alone he would have to have seven permits. Looking at the applicant’s application it is unclear that he is proposing two billboards. Industrial zone is a good location for a billboard but it has nothing to do with location and size. The two other billboard off M-6 are actually on US131. This has nothing to do with what happens on M-6. According to the State Highway Act valid permits must be obtained. Does he have these permits?

VanderWoude asked the applicant if he indeed is requesting permission for two billboards.

Jon Bratt commented yes he is seeking two billboards and yes he does have the needed permits.

No further public comments were made.

A motion was made by Gould supported by Burgess to close the public portion of the hearing. Motion carried.

Brinks did have some issues with the advertising of this hearing. The paper work that was submitted did not indicate multiple structures. The site plan showing the two billboards was submitted late. We can only deal with one and will have to re-advertise to hear the other one.

Gould asked if both billboards need all the same variances.

Jon Bratt stated that the billboard to the west does not need the 300' from a residential area.

Vander Woude thought maybe it would be a good idea to adjourn this request and re-advertise for two billboards.

Burgess agreed that maybe we should table this request.

Tubergen commented that the Township Ordinance states that you can not have a billboard on property that already has another use.

Jon Bratt stated that the house will no longer be residential but will house the business for billboards.

VanderWoude commented that is still two uses. We are going to have to get an interpretation from the Township Attorney

After some additional discussion a motion was made by Gould supported by Burgess to adjourn this request until July 23, 2008 at 7:00 p,m, the notice will be re-advertised in the Advance and new notices will be sent to those who are within 300'.

Yes - 5. No - 0. Motion carried. Request adjourned until July 23, 2008 at 7:00 p.m.

8:00 p.m. – Keith & Julie Irwin – requesting a 184 sq ft., accessory building area variance for the property located at 815 Alles Dr. SW

Mr. Jeff Brinks read the public notice and affirmed that the notice was published once in the South Advance and to all property owners within 300' of the subject property were notified. No written responses have been received but the applicant did obtain 10 signatures of neighbors who are in agreement with this request.

Keith & Julie were present to explain their request. Keith stated that he is requesting to build a 544 sq ft., accessory building to be located approximately 13' north of the principal residence building and approximately 11' of the north property line and running even with the eastern edge of the principal residence. He stated that he needs to build this building to put his pool equipment inside. Winter is hard on this equipment when it has to be stored out doors. He intends to tear down the existing shed on the property once the new one is constructed. The 544 sq ft., building that is being proposed is smaller than all the accessory buildings in his neighborhood. The property to the north has a 574 sq ft., building, the property to the west has a 624 sq ft. building the property across the street to the north has a 700 sq ft., building. The location he has chosen is the only good buildable spot.

Tubergen liked the idea of the corner lot and the location will be behind the front of the garage. He asked if the old accessory building would be removed.

Keith stated that it would be removed once the new one is finalized. He also stated their would be no new drive way going to the accessory building.

Gould commented that it looks neater to have everything stored inside.

A motion was made by Tubergen supported by Gould to grant this request for a 184 sq ft., accessory building area variance with the stipulation that once the accessory building is completed the old accessory building must be removed within 30 days.

Roll call vote: Gould - yes. Brinks - yes. Burgess - yes. Tubergen - yes. VanderWoude - yes.

Motion carried. Variance granted.

Adjournment

8:45 p.m. It was moved by Brinks supported by Gould to adjourn the meeting. All voted aye. Motion carried.

Jeff Brinks
Secretary of Board of Appeals

