

CHARTER TOWNSHIP OF MONITOR
ZONING BOARD OF APPEALS
September 18, 2014

The meeting was called to order by Vice-Chairman W. Sinke at 7:00 p.m.

Members present: D. Darland, W. Sinke, T. Miller, J. Krueger
Members absent: J. Horen, J. Gwizdala
Also present: Dave DeGrow representing Kathy Card

Also in Attendance Were: See Sign in Sheet

Pledge of allegiance was recited.

Opportunity to withdraw their request and be heard at a later date was given to applicants since two members of the Board were absent.

W. Sinke explained that the task of the Zoning Board is to interpret Zoning Ordinance 52 according to hardship defined in Sec. 18.10, not change the ordinance.

Motion by D. Darland , seconded by J. Krueger to adopt the agenda as presented.
Motion carried.

Motion by D. Darland seconded by J. Krueger to approve the minutes of July 17, 2014 as presented.
Motion carried.

Public Input

Public input was opened and closed at 7:00 p.m. with no other public wishing to speak.

New Business

DeYoung side yard setback 1076 Midland Rd., 09-100-021-300-280-01

Mr. DeYoung described the addition he wished to put on his house due to health issues. The footprint of the home would remain the same. It is a non-conforming property due to current setbacks not being met.

Discussion with members of the ZBA.

Moved by D. Darland to approve a 2 1/2 foot side yard variance from the ten foot minimum setback on the west side of Parcel #09-100-021-300-280-01 being that 18.10 a) the existing structure doesn't meet the current side yard setback and by not allowing this variance we would be causing an undue hardship. 18.10 b)The spirit of the ordinance is met and substantial justice is done.

18.10 c) The condition does not appear at this time to be so general or recurrent in nature as to make reasonably practical the formulation of a general regulation for such a condition. Supported by J. Krueger.

Roll call vote:

Yes: Darland, Miller, Sinke, Krueger

No: None

Absent: Horen, Gwizdala

Motion carried to grant the variance.

Glashauser front yard setback, 1002 E. Midland Rd., 09-100-021-300-240-01

Mr. Glashauser would like to extend the existing store building to the extent of the existing fence. It appears that the requested footage in the public letter is in error it would need to be re-noticed.

Motion by W. Sinke to table the variance request for 1002 Midland Rd. and re-notice it to the neighbors with the correct information at no additional cost to the applicant. Supported by D. Darland.

Roll call vote:

Yes: Miller, Sinke, Krueger, Darland

No: None

Absent: Horen, Gwizdala

Motion carried to table.

Card side yard setback, 4364 Mackinaw Rd., 09-100-016-400-040-05

Dave DeGrow was asked by the Card's to represent them at this meeting. Since he is not the Zoning Administrator, he felt that there would be no conflict of interest. He asked that the letter that was sent to the neighbors notifying them of the variance request be read.

Krueger read the opinion that she requested from the Township Attorney defining the definition of an arena.

Mr. DeGrow argued that he disagreed with the conclusion of the Attorney's opinion in that animals are not housed in an arena. There will be no stables in the arena.

John Engel and Pam Evans of 4400 Mackinaw Rd., expressed opposition and discussion developed between them and D. Darland around their non-conforming property which they bought as is. Mr. Engel argued that a hardship does not exist for the Cards as the applicant has 28 acres. He also felt strongly that this case was decided in June and should not be heard again. Board members informed him that this was a different request and could be heard.

In response to a question regarding the size of his barn that is next door to the applicant, Mr. Engel responded that it was 160' including the apartment at the end. When questioned, he said that they called it an apartment but that it was a viewing area.

Darland argued that there is a hardship because of the topography, the flood plain, and practical difficulty.

Kristy Stecker of 5241 3 Mile Rd. spoke during public comment in support of the Cards' application. She suggested that the topography allows only the location requested.

Public comment closed.

Mr. DeGrow pleaded his case for the Card request:

- 1) He questioned the definition provided by the township attorney and reiterated the difference between "stable" and "barn;"
- 2) Pictures were provided showing the flood plain. The property is 28 acres, 60% in floodplain, 45% wetlands which argues for a practical hardship.
- 3) When the property was split, it was done illegally. The Cards would like to rectify that by getting a variance for the building requested, legalizing their old barn as well.
- 4) The view should have no bearing on the decision.
- 5) A small barn that was rebuilt in the past 2-3 years interferes with a possible further setback for the requested arena.
- 6) The arena would be in closer proximity to other horse related activities and to build it further away would be impractical, taking away from pasture, and be in the floodplain.

Mr. Engle argued that the cards knew what they were buying.

Mrs. Card indicated that she spoke to David Rochow, the Zoning Administrator, about the barn/arena in that spot before purchasing the property and he said that he drove to the property and that he did not see a problem that.

Darland read Section 18.10 of Ordinance 52.

Moved by Darland to approve a side yard setback of 30 feet along the south line of parcel 09-100-016-400-040-05 for the purpose of allowing an indoor training arena. This variance conforms to Section 18.10 of Ordinance 52 in that:

- a) The topography conditions (60% floodplain and wetlands) and the use of the immediately adjoining property to the south;**
- b) The spirit of the ordinance is met and substantial justice is done;**
- c) The property situation is not a general reoccurrence and the variance sought is not so general or recurrent in nature to make practicable the formulation of a general regulation for such conditions or situations in the ordinance. Supported by Sinke.**

J. Krueger disagreed with Mr. DeGrow on the setback. She believes that an arena is an indoor corral and cannot in good conscious make the adjoining property more non-conforming than it already was in 1978 when it became nonconforming. Thirty feet from the property line for the displacement of water is too close.

T. Miller would like to speak with township personnel that were mentioned and get more information before proceeding.

D. Darland, maker of the motion, requested that the motion to approve be withdrawn. W. Sinke who seconded the motion, also withdrew his support.

Motion to table this request to seek more information and fact-check by T. Miller, seconded by J. Krueger.

Roll call vote:

Yes: Sinke, Krueger, Darland, Miller

No: None

Absent: J. Horen, J. Gwizdala

Motion carried to table the request.

D. Darland suggested that the next meeting be held on October 23, 2014 as some members will not be available on the regular meeting date. The front office will check availability and arrange.

Communications

Move to accept Communications by T. Miller seconded by D. Darland. Motion carried.

Motion to adjourn by W. Sinke, seconded by T. Miller.

The meeting was adjourned at 8:45 p.m.

Respectfully,

Terry Miller
Secretary