

Township of Thetford
Minutes of the Board of Appeals
July 27, 2016
6:30 p.m

The Pledge of Allegiance was led by the Board of Appeals
The meeting was called to order by Chair Dennis Bloss

Members Present: Chair Dennis Bloss, Trustee Gary Stevens, Gregg Bryan, Theo Gantos, Alan Levijoki

Staff Present: Leanne Pennington, Clerk, Record of Minutes
Chief Robert Kenny
Trustee Eric Gunnels

Motion by Gregg Bryan, supported by Alan Levijoki to open the public hearing at 6:33 p.m Motion Carried

Chair Dennis Bloss read the request for the public hearing.

Joseph and Lorraine Stanislaw, 9333 N Saginaw Road, Mt Morris, MI 48458. They are appealing the policy that nonconforming use of a property eliminates the ability to use the property as permitted in the district it's in, that nonconforming use residents in the General Commercial District be treated as Residential Districts by requiring a commercial enterprise in the GC District adjacent to them to have fencing (as required by the Zoning Ordinance Section 14.11 WALLS if a commercial enterprise in the GC District is next to a Residential District), and the requirement that nonconforming residential use in the General Commercial (GC) District be relinquished to use a property for use a property for uses permitted in the GC District.

There is no basis for this, and it conflicts with the Zoning Ordinance which states, "It is the intent of this Ordinance that nonconformities shall not be enlarged upon...nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district." This statement does not prohibit permitted uses, only what is already prohibited. The policy interferes with, and is preventing permitted uses, and thus is in conflict with the intent of the Ordinance, and in violation of MCL 125.3210 which states that the Zoning Ordinance controls in the event that anything conflicts with it. This policy is treating all "Residential Use" in the GC District as Residential Districts by not allowing permitted uses, and treating adjacent commercial enterprises as if next to Residential District by requiring them to have fencing. This, in essence, is the same as spot zoning. We believe Township officials have misinterpreted that Zoning Ordinance, and that is says the opposite of how it's being applied.

Public Comment:

- Is this about a fence or what is it about? Would prefer a fence to be put up, the one that was good is been knocked down. Cannot see anything changing
- The area is zoned commercial hasn't it been zoned that for 40 years?
- Not against anyone having a business, just would like it cleaned. (presented pictures of property from two days ago)
- Was not aware of this being a public hearing, who made that decision? The Board of Trustee didn't approve this or no about it
- Was it published correctly as a public hears? I had no clue about it being a public hearing

Motion by Alan Levijoki, supported by Gregg Bryan to close the public hearing at 6:50 p.m, Motion Carried

Motion by Gregg Bryan, supported by Theo Gantos to approve the April 27, 2016 meeting minutes as presented. Motion Carried

Chair Dennis Bloss asked Joseph and Lorraine Stanislaw to the podium.

Lorraine Stanislaw before the meeting gave Clerk Leanne Pennington information to give to the board that she would be talking about. They are attached to the minute's four pages of a letter and twenty three pages of documents and information regarding there reason of appealing.

Theo Gantos ~ asked Mrs. Stanislaw what licensing have you applies for, also asked Mrs. Stanislaw if they were asking for a variance to reside on a commercial property

Lorraine Stanislaw ~ "No"

Gregg Bryant ~ that a residence is not permitted on property with a business located in the General Commercial District

Lorraine Stanislaw ~ stated that 14.02.3 permits a residence within GC zoning

Alan Levijoki ~ stated that 14.02.3 addresses caretakers necessary for a business not owner operators.

Joseph Stanislaw stated they are resident mangers for the business

Alan Levijoki ~ observed that the Stanislaws were appealing past ZBA decisions, but did not offer any new facts or data, rather a collection of past documents and their personal opinions.

Chair Bloss ~ also noted their appeal stated that the ZBA had misinterpreted and misapplied ordinances pertaining to their past requests and appeals. Chair Bloss stated

that the he felt the ZBA had properly interpreted and applied the ordinances, as supported by multiple Court decisions.

Gregg Bryan ~ also made observations about the lack of new facts being presented in the appeal.

Alan Levijoki ~ stated that the ZBA does not have standard process for decisions. The ZBA has reviewed many variation requests over the years and each is treated on a case by case basis as each has unique elements.

Motion by Chair Dennis Bloss, supported by Gregg Bryan to deny the appeal that Joseph and Lorraine Stanislaw has presented on the policy that nonconforming use of a property eliminates the ability to use the property as permitted in the district it's in, that nonconforming use residents in the General Commercial District be treated as Residential Districts by requiring a commercial enterprise in the GC District adjacent to them to have fencing (as required by the Zoning Ordinance Section 14.11 WALLS if a commercial enterprise in the GC District is next to a Residential District), and the requirement that nonconforming residential use in the General Commercial (GC) District be relinquished to use a property for use a property for uses permitted in the GC District. Roll Call 4-0-1 Abstain Gary Stevens Motion Carried

Public Comments

- Was surprised that the attorney was not here and that ordinances should be so clear that a case by case decision would not be necessary
- Very good ran meeting
- Well ran meeting

Comments made by the board

Board Members had a lengthy discussion about the changes to the Zoning Board of Appeals agenda which it now a public hearing.

Motion by Gregg Bryan, supported by Alan Levijoki to adjourn at 7:38 p.m Motion Carried