

Township of Thetford
Minutes of the Board of Appeals
October 23, 2013
6:30 PM

APPROVED

These minutes are recorded word for word.

The Pledge of Allegiance was led by the Board of Appeals.

The meeting was called to order by Chairman Dennis Bloss at 6:30 p.m

MEMEBERS PRESENT: Chairman Bloss, Liz Helms, Gary Stevens, Clyde Howd, Alan Levijoki

MEMEBERS ABSENT: Gregg Bryan was excused

STAFF PRESENT: Leanne Pennington ~ recording minutes
Martin Cousineau ~ Board of Trustee
Eric Gunnels ~ Board of Trustee

Chairman Bloss public hearing for case #9131 Judith Donahue, 10127 N Center Road, Clio, MI 48420 ~ asking for a variance for livestock in RU-1 zoning with 2.85 Acres.

OPEN PUBLIC HEARING: Motion by Clyde Howd, supported by Alan Levijoki to open public hearing for case # 9131 Judith Donahue at 6:32 p.m. All in favor. Motion carried.

A few rules for the public hearing is intended for this board to gather as much information as possible about the applicant on the application. In this case Judith Donahue, 10127 N Center Road. If anyone that has been invited here for this case is welcome to speak, I ask you to come up to the podium identify yourself with your name and where you live then you can make your comment. All comments are to be directed to the board and at no time should a conversation go between anybody within the audience.

Judith Donahue was present

Chairman Bloss ~ asked Mrs. Donahue if she would like to address the board and audience what she is asking to do.

Judith Donahue ~ I would like for my husband to be able to keep his horse. We moved in June 15th and July 15th we got a horse. We assumed which now is really silly that we could have a horse. He has always had a horse all his life, we sold his horse when we moved up here. So we bought a new horse, I would like a variance to keep his horse. That's why he gets up in the morning.

Gary Stevens ~ was or is there any intent to have more than one horse?

Judith Donahue ~ no, just the one we need for his buggy

Gary Stevens ~ have any special length of time you may want the horse

Judith Donahue ~ I asked last month for a six year variance but since I was here last month the doctor him that he is going to be on oxygen very shortly.

Alan Levijoki ~ you purchased the property in June I think it was. Was there any discussion with your realtor about you wanting a horse?

Judith Donahue ~ yes they knew we wanted a horse

No neighbors where present, the township received a letter from a neighbor that was not going to make it due to work. Chairman Bloss asked Alan Levijoki to read the letter from Michael L. Wiskur ~ 10155 N Center Road, and put it into records. The letter is attached.

Motion Alan Levijoki, supported by Liz Helms to close the public hearing. All in favor.
Motion Carried.

Motion by Alan Levijoki, supported by Clyde Howd to approve minutes of September 25, 2013 as printed. All in favor. Motion Carried.

CHANGES TO AGENDA:

Case #10713 ~ Denny Wasmund ~ 14247 Montle Road ~ is not going to make it due to a family emergency. Chairman Bloss and other board members have questions for him. Motion by Chairman Bloss, supported by Alan Levijoki to move case # 10713 to next month's meeting. All in favor. Motion Carried

Case #101613 ~ James Lawrence ~ 14372 N Genesee Road ~ has been removed before the meeting

OLD BUSINESS:

Case #91313 ~ Judith Donahue ~ 10127 N Center Road, Clio, MI 48420 ~ asking for a variance for livestock in RU-1 zoning with 2.85 acres.

Alan Levijoki ~ I would like to make a point, with the guidelines that we are following and looking at these conditions here. There seems to be an absence of any unique condition association with the property that really would say to use this property for a horse, there should be something unique. I don't see anything unique that says it could be done, it is in RU-1 and a standard size property. There is nothing unique, the board should look at and say we should consider a variance because there is something on

the property that would prevent this kind of use. In reality it is in RU-1 and the restriction its self that use is not permitted.

Chairman Bloss ~ RU-1 is the most restricted, ordinance 93 was passed in the 90's sometime that's the ordinance that has changed our zoning to allow the consideration of livestock in RU-1 if the applicant has twenty acres or more. That's to address the situation we have here of a mixes kind of properties here at this township, you may have a larger piece of property parcel in RU-1 but it does require 20 acres. We have had other applicants in the past that we have turned down because our abilities to enforce the issues the neighbors would have odor and flies. You have more acreage you have a better chance of not affecting your neighbors. The homes there on Center Road are close together, not like across the road where there is a lot of farm land. We had some homework from our last meeting, an option was brought up response to Mrs. Donahue declaration that they wouldn't need more than six years. So we asked our Attorney Bob Swartwood is that something we could do, his answer we can but we cannot enforce it. There is no mechanism in our ordinance to go back later and say time is up. Bob's recommendation is not to incorporate time limits in variances.

Motion by Alan Levijoki, supported by Liz Helms that the application for the variance of livestock to be denied because it is RU-1 and doesn't meet the 20 acres. Roll call vote: Liz yes, Clyde yes, Gary no, Alan yes and Denny yes. Motion carried 4 yes 1 no.

NEW BUSINESS:

Case #101513 ~ Jeff Penrod ~ 1002 E Vienna Road, Clio, MI 48420 ~ asking for a variance on building a pole barn in the front of the house ~ Zoned RU-1 with 4.99 acres.

Jeff Penrod present.

Jeff Penrod ~ has presented a site plan to build a pole barn. When you come up the driveway you approach the side of the house which the pole barn would be considered the back of the yard. My house faces east to west, I understand that this not conventional thinking if you look at in on a map. I didn't realize this was going to be an issue I have spoken to the previous Thetford Township building inspector Darryl he said we shouldn't have an issue. I applied for the permit, I had some issues with the building codes with the construction. Got that corrected, applied for a permit with Stuart Worthing he didn't have a problem with it he said the construction was fine. I finalized all my material list, purchased, had it delivered. I started site planning, then Stuart came out and said we have an issue with the permit and revoked it. He read a letter to have it put on record. (It is attached)

Gary Stevens ~ that driveway going to the barn going to obstruct water drainage?

Jeff Penrod ~ no

Gary Stevens ~ you are not planning to put a driveway to the barn?

Jeff Penrod ~ I will have a driveway to the barn currently there is a path leading to the barn that has a sewer pipe underneath it. I plan on grading it all out so it will drain properly and keep the water flowing

Chairman Bloss ~ I don't have a question but a confession. I am part of the reason you are frustrated. In the line of transparency I was asked from the building inspector to look at your property and to advice of what I thought not representing this board just an opinion. I did go to your property August 6th I believe, when looking at your property standing on your property without regards to your neighbors or roads, east of your house feels like the back it backs up to homes on Berkshire. Today I stand corrected, Stuart who is qualified to be the building inspector and I am not. Stuart corrected me that the definition of the front of a house is the side of the house that faces the road that the house is connected to or in case of a home that is built on a body of water the side toward the water is the front. With that said the side of your house that faces north is considered the front of your house which would make the pole barn being place head of the house.

Board looking at the map that was in there packet

Chairman Bloss ~ this board doesn't get involved with water rights or water flow or even drainage issues. But I do know that is an issue looks like the property to the east belongs to Mr. Long. Looks like the water drains from the back your property and flow to the south.

Mr. Long asked to show pictures

Chairman Bloss ~ we can do that, normally further discussion is done at a public hearing but if no one objects on the board you can go ahead.

No one objected, Mr. Long brought pictures and placed them on the table that was set up in front of the board.

Mr. Long ~ I can start with I have no objection with the barn being in the front yard. First of all the barn being 30 feet from Consumers he got bad advice from consumers it is 40 as per agreed upon in 1956 by Hawthorne Realty respected by (didn't catch name) and the people there of. It's registered in 1956 July 30th. We are going to start (cannot understand) this was before he purchased the land. Previous people's ramp, previous people vehicle, previous people building in the back, previous people motorhome and by the way the motorhome is still sitting there. Here is the situation see this dark area that runs here, see this county drain right here it flows right across that property into there.

Chairman Bloss ~ it not a ditch it's a natural?

Mr. Long ~ it's a swale put in by the drain commissioner permission, from all parties involved in 2006. I have a letter from the drain commission that set it up. The previous people that own the property. Did write me a letter that I can read to you

Chairman Bloss ~ no we don't need that

Mr. Long ~ ok, here's the deal, where's the other picture Roy (his son) this is his picture, this is his propose barn spot, this is the pipeline 40 feet either side of the pipeline it's not 50 30

Chairman Bloss ~ I am not aware of that

Mr. Long ~ I am though and I will show you that on the plot map anytime you want

Chairman Bloss ~ keep going

Mr. Long ~ ok, the mediate place to put this in is at the end of his driveway which this is the area that they claim is wet and low. Any wetness in that property is probably because his driveway is across the natural flow water from my property. When they put this driveway in the water use to flow until they built up the driveway. The water when I pump it over to this corner runs right across his driveway out on another piece of property in Vienna Twp. I don't see a hardship when 2.38 acres is available is in front of his house to the back. They claim this is a little wet that's not true, it is low it was a natural flow of water because water flowed on my property to the west....

Chairman Bloss ~ ok, ok I am going to suspend this discussion right now only because, let me go back this board doesn't get into water drainage issues only something how does one neighbor effects another neighbor. So that is all we need to know also try to make things work well between neighbors and we have enough issues.....

Mr. Long ~ let me make one more statement, if I was assured that the water flow from my property to the county drain I have no problem of the placement of the barn except he said he was 30 feet from the pipeline and he is not his 40.

Chairman Bloss ~ ok, I know that there has been some attorneys involved I don't know any more than that

Mr. Long ~ nope that's really not true

Chairman Bloss ~ was there attorneys involved

Jeff Penrod ~ oh, yes attorneys been involved

Mr. Long ~ Otis represents the Township of Thetford about the meeting that happened in 2006 that is the only reason he was there. Let me show you one thing..

Chairman Bloss ~ one more then you are cut off

Mr. Long ~ here is your 40 40 right there

Chairman Bloss ~ that's fine I will leave that to Stuart who is the building inspector. You can materials back to your seat. So what we have here is just one neighbor who doesn't have an issue with the variance if it doesn't affect his property in the future with his water issue. But there are other neighbors that we don't have here because there were not invited, Mr. Long was informed and he is here that's fine. If we are to go further with this request...

Jeff Penrod ~ Mr. Bloss this is my wife Brianna

Brianna Penrod ~ just wanted to say on the water issues that was originally unrelated. The Long family as well as Jeff and I meant back on October 2nd which was about 3 weeks ago and we handled the water issues from that day going forward it was going to be natural flow water. Jeff and I are already taking action to rototill and take care of all the blockage and any potential impediment of the water flow already.

Jeff Penrod ~ this is an issue that was already put to bed

Chairman Bloss ~ while again that's something we cannot get into, but we will have some homework out of this. What I hear so far is that we don't have a problem if it doesn't cause me a problem. We have already had one case where we trying to put restrictions in a variance had limitation. So one homework we will have for Miss Leanne is to talk to Bob farther about the water issue we can put conditions in a variance, I want to make sure its enforceable or that it doesn't come back as an issue. If we have a public hearing and if you were to get approval. That is several what ifs from here, do you understand what I am saying?

Jeff Penrod ~ yes

Chairman Bloss ~ any more questions for Mr. Penrod

Clyde Howd ~ I don't have a problem to approve this tonight if Stuart doesn't have a problem with it and has a letter in here saying he recommends that we approve it. I don't have the motion to approve it at this time

Chairman Bloss ~ ok anyone else

Alan Levijoki ~ I seen Stuarts letter but he didn't address the water issue in enough detail to know. As Denny has pointed out the condition and the enforcement of the condition that's a grey muddy area. That's the problem we are going to have get that one understood how is that actually going to happen.

Clyde Howd ~ if it's not our responsibility to address water issue, isn't it our responsibility just to approve the site and the variance.

Chairman Bloss ~ it's not our issue directly to deal with water issue drainage I have never done that or seen in any cases where that was done. But it is our issue to consider one neighbors action affect another neighbors. With that in mind I appreciate that applicant desire to get that building built and move along but we have only heard from one neighbor. In this case I think in my opinion we should hear from the other neighbors that means another 30 days, I am sorry about that but that's how I see it. I also think that gives us a chance to talk to our attorney about how effectively manage conditions if there are conditions.

Mr. Long ~ that would also effectively give time for the drain issue to be responded to and that would take care of my issue.

Roy Long ~ and would have time to figure the line on the pipe line

Chairman Bloss ~ Stuart would take care of the pipeline and I will talk to the attorney about the drainage issue. There are other neighbors effected with several neighbors to the east there are other neighbors up front. In a back room without any other neighbors, without a water issue if you stand on their property and look at the lay out that make since to me personally to put the barn there. That's just how it feels but we have to make sure follow procedure and give everyone a chance to add information to this case. And again I apologize for my involvement and probably costing you a month if we do a public hearing it will cost you another month I am very sorry. But it is important that we do this with some structure.

Clyde Howd ~ if you ask the attorney this is just my thought can we hold a special meeting and not have a public hearing, Can we have a special meeting so he can be approved to start this work?

Chairman Bloss ~ that's possible

Clyde Howd ~ we are getting into winter months

Chairman Bloss ~ I understand we could entertain that after talking to Swartwood and certainly talking to the other applicant who's case we have pushed to the next meeting.

Mr. Long ~ if that's the case then I object with him putting his barn there because he has more land behind his house then he does in front.

Chairman Bloss ~ that's why we are stopping this right here. We are getting into a public hearing and that is not we are doing today.

Mr. Long ~ very good

Chairman Bloss ~ that has to be held off.

Motion by Denny Bloss, supported by Clyde Howd to hold a public hearing on for case #101513

Chairman Bloss ~ any discussion from the board members

Gary Stevens ~ I was going to say normal procedure is 30 days that gives our clerk I mean deputy clerk time to affectively notify the neighbors and get all the proper procedure in place

Chairman Bloss ~ that is good point there are restriction on when notification has to go out in proper time. I will amend the motion to say

Motion Denny Bloss, supported by Clyde we hold a public hearing on this case in our regular schedule Board of Appeals meeting approximate 30 days from now. All in favor. Motion Carried

Chairman Bloss ~ what is that date?

Clyde Howd ~ Wednesday before Thanksgiving

Chairman Bloss ~ that's not an issue for me, have we moved it in the past Leanne?

Leanne Pennington ~ I can get the stuff out, if you move it to the 20th I will have time. I will just start it tomorrow.

Chairman Bloss ~ would that be a problem Gary if we move it to the 20th so we can stay away from Thanksgiving to have maximum participation

Gary Stevens ~ fine with me if it's fine with them

Chairman Bloss ~ so if you make those moves Leanne to set the meeting up the Wednesday before Thanksgiving.

Leanne Pennington ~ ok

Chairman Bloss ~ next thing on the agenda, I didn't put it on the agenda and really not sure what it is about

Leanne Pennington ~ Eileen asked for it to be on

Chairman Bloss ~ having the board approve excuse and unexcused absence

Leanne Pennington ~ if a member is missing the other members are asked to approve if it is excused or unexcused. Like Gregg is missing so the board would make a motion to excuse or unexcused him. They started it in their Board of Trustee meetings.

Chairman Bloss ~ not knowing what Eileen is asking for can I get a member of this board to kindly meet with Eileen?

Leanne Pennington ~ Gary might be able to explain his on the Board of Trustee

Motion by Gary Steven, supported by Clyde Howd to excuse Gregg Bryan because he had back surgery and pretty much a legit excuse.

Gary Stevens ~ I don't see a purpose for it when we have an alternate, to take the place of someone that needs to take a day off

Chairman Bloss ~ isn't that the really item here Gary, it isn't so much the case today that Gregg is not here. Do we feel as a board we need to have excused or unexcused?

Clyde Howd ~ I don't, if there's a as me as the alternate and I fill in if someone is missing. Because Leanne knows ahead of time.

Gary Stevens ~ as long as people know and if someone neglects and does not show up, I could see a negative on that

Chairman Bloss ~ like putting a black check by their name

Eric Gunnels ~ did Gregg contact Clyde?

Clyde Howd ~ Leanne does

Martin Cousineau ~ I think what is important at this time not what it reads. A policy needs to be made to accept and reject an excuse or not, but it's more important on an appointed board as you are that is you miss some many meetings in a row then you step down. Then we appoint someone else.

Chairman Bloss ~ we don't have that policy in place?

Martin Cousineau ~ no, we don't have that policy in place, I don't know what exactly Eileen meant there but in my opinion there that's what the board should have some sort of policy. You are doing what she put on there right now to excuse or unexcused. Now most boards have some sort of policy now if you have elected official its different we have that on our board rather you are excuse or unexcused. We have a policy in the manual but we cannot enforce it because Michigan handles rather someone is asked to step down or taken off as an elected. No an appointment you can set the standard.

Chairman Bloss ~ Marty do you know if we have that in any other appointed boards in the township?

Martin Cousineau ~ not that I know of, we have for the elected officials in the policy manual but for any of the appointed I don't think there is any policy manual. Maybe this should be discussed at another time.

Chairman Bloss ~ well I would ask, this seems appropriate to me ask a member of this board work with Eileen or other trustees and see if we find that device at excited for another township, a policy if that is what Eileen is driving at we can discuss a proposal as propose an open topic.

Alan Levijoki ~ in follow up it would seem like one policy not from other township to look at but one for all appointed boards within Thetford Township. One policy coming from the elected board saying this is the policy.

Martin Cousineau ~ if something happened, I don't know if someone is mad and just doesn't want to show up and they hold the process to have a quorum or whatever the mechanism to dismiss them. Then appoint someone else. I know that all boards have alternate and that's what happened here tonight with Gregg having surgery so Clyde was asked to step in, but there needs to be a policy across the township. I sit on board in the city, if you miss so many meetings you are disqualified from that board and they appoint someone else.

Clyde Howd ~ my thought is this, we are appointed by the board, and the board should set the policy not us.

Chairman Bloss ~ agree

Martin Cousineau ~ that's what I am saying

Clyde Howd ~ you as a trustee should come up with a policy that says you miss some many meeting then you are out. Unless they are excused, we should not be setting policy's that's not our job. Township board being that there is a planning board, zoning board, park board and I don't know how many more boards we have. Township elected officials should be setting up the policy not us.

Motion by Clyde Howd, supported by Liz Helms asking the township elected board to set up a policy for attendance and absentee for all appointed boards in the township. All in favor. Motion carried.

Leanne Pennington ~ I will talk to Eileen since I am her secretary

OTHER BUSINESS: None

AUDIENCE COMMENTS:

Mike Long ~ I appreciate your (couldn't understand) discuss what went on with your letter, Thank you

Chairman Bloss ~ sure I hate to admit it, that's three mistake this year I was going for a record (laughing)

Mike Long ~ you are forgiven

Cecil Garl ~ I am here tonight to bring up to the board that they should be well aware of some of you are and some of you are not. There has been a violation of the home occupation ordinance, this has been going on over a year. In fact these people violated the permit day one we gave it to them we bent over backwards to give them anything we could. The first violation was they put up a studio parking sign, well the supervisor said that he agreed that was not allowed they took it down, next thing they did they came to get a variance to get a sign of course we allow a sign the ordinance called for it place in front of the house. Well from where they leave and there drive way you would not see them from the road in front of the house it would be unseen and we agreed. So we gave them a permit of a variance to put that sign on the driveway that was closer to the road. Right in the minutes it says 50 feet back from the edge of road, well I am not a great distance person I have drove by their 3 or 4 times and I knew that not 50 feet. So Dan Case who was on the board at that time we measured 17 I brought it up at the next board meeting the supervisor at that meeting I told him to move that sign back according to what was put in the meeting, he said let it go its 13 feet its already up and no one has been complained you are just harassing these people. So we did nothing about it, two weeks later here comes a 4x4 foot sign up by the road that was defiantly a violation of home occupation permit. So I brought it to the supervisor he said it was temporary it's on skids, well that's beside the point if you look on your ordinances page 109 in the old book and 120 in the new book in the ordinance book it so states "there should be no changes in the outside appearance of the structures or premises, or other visible evidence of the conduct of such home occupation, other than one (1) sign not exceeding three (3) square feet in area, nonilluminated, and mounted flat against the wall of the dwelling". We gave him the permit to do that with his house, but defiantly is not according to the ordinance. I told the supervisor that four foot sign has to go, well he wouldn't enforce it. When we get a law suit because that there are other signs in the township which is true one or two that I know of but they only have one sign that's a sign ordinance this is not a sign ordinance it's a home occupation ordinance permit that they are violation. I think down the road in a few years if it isn't taking care of could come back and bite you real bad. Someone want to come in and get a home occupation permit and they want to put up a 4x4 sign they tell them they cannot do it they can sue you. You are letting this person get away with it and it's strictly against the ordinance. So I just want to bring that to attention to the new board and they know what's going on. I served on this board for about 30 years on this board right here about thirty years and that is the reason why I resigned. I couldn't sit on this board

when the township is not going to enforce the ordinances. I just wanted to bring it to your attention before it causes a lot of trouble down the road. Thank you

Chairman Bloss ~ thank you Cecil, we will take that under advisement anyone have any comments

Gary Stevens ~ we are not on the enforcement side of it we are more less than the variance, we really cannot enforce anything that's not our job

Chairman Bloss ~ Cecil, your comments will be passed on they will be included in the minutes. So anyone connected with the township certainly the elected officials will see your comments. I was on part of Cecil's board when this was all transpiring, I know the history, I only know when I discussed enforcement there was a comment by the attorney we have multiple signs variance. I appreciate your comment on home occupation but if we were going to go after signs we should...

Cecil Garl ~ it has nothing to do with the sign

Chairman Bloss ~ I understand your comments I am just telling what the attorney told them. Ok if we are going to go after a sign we should really straighten signage in the entire township. To avoid accusation and discrimination. Your comments are in the minutes and will be able to be passed on. Thank you

Clyde Howd ~ comment I have I brought that to the attorney's attention. I took his advice and that's where I stand.

Motion by Clyde Howd, supported by Gary Stevens to adjourn. All in favor. Motion carried.

Adjourn 7:23 p.m