

Township of Thetford
Minutes of the Board of Appeals
May 27, 2015
6:30 P.M
APPROVED

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.

MEMBERS PRESENT: Chairman Bloss, Gary Stevens, Alan Levijoki, Gregg Bryan,

MEMEBERS ABSENT:

STAFF PRESENT: Leanne Pennington recording minutes
Eileen Kerr, Supervisor, Board of Trustee
Martin Cousineau, Board of Trustee

APPROVAL OF MINUTES: Motion by Gregg Bryan, supported by Alan Levijoki to approve the April 22, 2015 Board of Appeals minutes as presented. All in favor. Motion carried.

CHANGES TO THE AGENDA: None

OLD BUSINESS:

NEW BUSINESS:

1. Case # 51115 ~ Shannon Brown ~ 10221 North Center Road, Clio, MI 48420, asking a variance to keep her 6 horses on her property ~ Zoned RU-1, 10.3 acres

Shannon Brown was present.

Chairmen Bloss ~ please describe what you are asking

Shannon Brown ~ I am just asking to use the facilities that are already there for my horses

Chairmen Bloss ~ what are those facilities

Shannon Brown ~ we have three pole barns, three fence in paddocks. I won't be doing any changes but will be asking for a permit to do a fence for an arena on the back of the property for the kids to ride in.

Chairmen Bloss ~ I have a map showing your property here. The building with the white roof, are you using for the horses?

Shannon Brown ~ I think there is two with a white roof
(Leanne Pennington handed Shannon Brown the map that the board was looking at so she would know what the board was referring to)

Chairmen Bloss ~ the larger building on the north side

Shannon Brown ~ yes that is where I plan to keep the horses in

Chairmen Bloss ~ how close is it to the property line?

Shannon Brown ~ I believe it is right on the property line

Chairmen Bloss ~ well that creates a separate issue, when you have building that are being used for livestock they need to be 50 foot off the property line

Shannon Brown ~ the yellow line shows that property line

Chairmen Bloss ~ those pictometry graphs they are generally off a little

Shannon Brown ~ the grass is actually my line, the stuff that is plowed up belongs to Mike Wiskurs

Chairmen Bloss ~ and he leases out that property and the back half of yours?

Shannon Brown ~ Nathan Tuttles rented the property before but he no longer rents it from me but he is still plowing. I gave him permission to continue to plow the property.

Alan Levijoki ~ the barn we are looking at do you know approximately know the dimensions

Shannon Brown ~ I would say, it is easily 30x80. It is a large barn

Alan Levijoki ~ that's what is wanted to know because of the property lines

Shannon Brown ~ I believe they used it before for stock car racing

Chairmen Bloss ~ so you have three out buildings

Shannon Brown ~ yes sir

Chairmen Bloss ~ it really doesn't pertain to this meeting but our ordinance says you can have two and there is a limit that if you add there total square footage there is a limit to what size they can be to your household. I think you will be ok there because you have 10 acres

Shannon Brown ~ the one small one with the white roof we are going to tear that one down it is in very disrepair. We planned to repair it and use it as hay storage if we are allowed the horses but I do believe we are going to tear it down, it is in very very bad repair.

Chairmen Bloss ~ I drove by the property I seen you have an existing paddocks. Is that what you intend to use for the horses.

Shannon Brown ~ we have three existing paddocks, as you can see there are existing lines. One very large paddock in the back side and two separate paddocks as well in the front half.

Chairman Bloss ~ Ok, I see them here.

Shannon Brown~ We may eventually also ask to be allowed to build a front paddock beside the house because I was told that originally the house did have a paddock there, they must've pulled it down, but you can see beside our property there is a large grassy area, beside the house, and I would like to have that fenced in eventually, but it doesn't have to be right now.

Gregg Bryan~ Where are you proposing to build an arena? Tell me a little bit about that.

Shannon Brown ~ If you look at the plowed up property at the very back of our paddock, Nathan Tuttle and I walked the property, we would like to do a 50' x 100' arena there right behind that paddock.

Gregg Bryan ~ Tell me what kind of an arena

Shannon Brown ~ It's just a riding arena- Three board, post a slat boards, just enough as our children are still pretty young, I don't trust them--the traffic tends to get pretty quick down this road-- I don't trust them riding down the road by themselves.

Chairman Bloss ~ Okay, question Shannon- When you bought this property you knew that it was not enough property to meet the ordinance requirements?

Shannon Brown ~ It wasn't *enough* property?

Chairman Bloss ~ Right.

Shannon Brown ~ I thought your rules were three acres for the first horse, an acre after.

Chairman Bloss ~ No, let me just take a minute and review the ordinances. Ok, first of all, you are in RU-1, Rural residential urban, it's intended to be our most restrictive of the residential districts with the intentions to provide an environment for predominantly low-density, one-family detached dwellings along with other residentially related facilities to serve the residents, to encourage the construction of continued use of land

for one-family dwellings, to prohibit business, commercial, or industrial use of the land permit any other use which would substantially interfere with the development of one-family dwellings, to encourage the discontinuance of existing uses that would not be permitted as new uses under the current ordinances. That's RU-1, there's more to it, of course, but they do allow farming, but keeping of animals is separate. If we go to Section 14.2, it refers to the keeping of pets and livestock. Class-1 Animals, and horses and cattle would be Class-1 Animals.

Shannon Brown ~ Yes 'sir.

Chairman Bloss ~ Class-1 Animals may be maintained in the RA, RSF and RE Districts, provided that they shall not be permitted on a premise of having less than three acres. That may be where you heard that number. The three acres does not apply to RU-1, there's a separate ordinance, Ordinance 93, relative to RU-1. I have that in front of me. I'll read one paragraph of Ordinance 93. Farms including the raising or housing of livestock, provided farms are located on a minimum of 20 acres, and further provided that the side, rear and yard set back for farm-related outbuildings shall be 50 feet, except when adjacent to residential districts where the minimum of front, side and rear set-backs for the farm buildings shall be a minimum of 100 feet. So the current ordinances, and in this Ordinance 93, is that if you want to entertain raising Class-1 Livestock in RU-1, you need 20 acres.

Shannon Brown ~ Okay, the property that is beside our property, is from what I understand, is for sale. I haven't had a chance to talk to Mike about it, but he did offer it to Mr. Tuttle for sale and he turned it down. So Mr. Tuttle did call me to say, If you're interested in the additional 10-acre property, that would be for sale. So, I would like to speak to him about it, I would like the additional 10 acres, but in the meantime, we are trying to switch the zoning to RA, which is agricultural, correct?

Chairman Bloss ~ This board is not authorized to change zoning lines. We are not authorized to do that. What we are authorized to consider doing are variances to existing ordinances. We don't do it often, and we do it with a lot of careful thought and what's good for the township long-term, as well as the residents. That's really what you're asking for is a variance that would say "I should have 20 acres, the ordinances require 20 acres--I only have 10—but I would like to proceed." Okay, that's what you're asking for, not a change.

Shannon Brown ~ That's what I would like to do--

Chairman Bloss ~ --Let me back up a minute, if you were several "what-ifs" from now, were to consider and buy that property next to you, and you have 20 acres, you don't have to see us.

Shannon Brown ~ Well, for the time being we'd like to ask for the variance. We are moving up from Florida, I have long-term family relations here, my grandmother has been a resident of Clio for 80 years. My best friend runs a business and has for years in

the community. We chose this community because of the long-standing roots. My children need roots here.

Chairman Bloss ~ Okay, take your time. We understand this is a big deal, it's a big deal for us, too. We take our responsibilities very seriously here but what makes it, in your case, you told me that you knew about the restrictions before you bought the property.

Shannon Brown ~ We did.

Chairman Bloss ~ Okay. Often this board is faced with residents who have purchased properties that didn't fit their requirements. We recommend you find property zoned with the ordinances that fit your requirements.

Shannon Brown ~ We were taking the chance for the variance.

Chairman Bloss ~ Okay. Is there anything else you would like to say to the board, any other descriptions of what you would like to do?

Shannon Brown ~ No.

Chairman Bloss ~ Do any of the board members have any other questions for Shannon?

Alan Levijoki ~ Well just a comment, I guess, Shannon, one of the things as a board we have guidelines and the idea is to make sure that the impact that any possible variance has, is—you know, we test it against guidelines. We are empowered to make those changes, but the guidelines are looking for things, that, is there a hardship that is not self-created, is there something unique about the property, and those are the things that we are not finding here. What we are finding are, the 10 acres versus 20, the setback from the property lines, those are things that are going to impact the neighbors.

Shannon Brown ~ Well, I've spoken to most of my neighbors, any near neighbors that would be impacted by my having horses. I believe one of the neighbors is your Treasurer up here and they've all said, we've all had horses, we've all had cows. Mike Wiskur, he actually owned the property two owners before me, he had cattle on the property, and none of them have said they would be opposed to us having horses.

Angie (Shannon's realtor) ~ I've helped her with the property and finding the property, and I'm not the listing realtor, but they did have multiple offers on the property before, the property was vandalized and a lot of things were taken out of the house. They had numerous offers on the property for as much as \$100,000 more, but because no one was living there and the property was vandalized, Shannon did get a better deal on it, and at the same time knew she was taking a risk with the variance, but it really has decreased the value of the property because the two other people with the higher offers, the reason why they backed out is because they didn't want to take the chance and not get the variance. It has really affected the value, and it is unfortunate for Shannon in this

case if she doesn't get approved for the variance, she may have to move on or buy the 20 acres next door.

Shannon Brown ~ My horses are in Florida right now. We do have 17 acres in Florida and they will stay there until I either get the variance or get denied and then I'll figure out whether or not I will continue leaving them in Florida or bringing them up here. I would prefer to bring my horses up here. They've always been on our property they've always been right here. I have cancer, so, we are moving home because of that. I want my children to have roots. This gives them the opportunity to go to a small school, which they've always gone to, they will go to Genesee. It gives us the opportunity to continue on with the things that we've done in Florida, but still maintain my family relations. If I don't get the variance, I will put the property back up for sale, I will finish the repairs that we are doing, I will put it back up for sale and I will chose to live in an area that is going to let me have the same things that I would get here. I don't want to have to do that, I love the property, and as far as I know, every single person that has owned the property has had livestock on this property.

Chairman Bloss ~ Alright, let me talk to that. One of the previous owners, was Mr. Hayden. When Mr. Hayden was residing there, the zoning was different than it was today. The zoning was changed and he was grandfathered. Of course, that grandfathering is lost when the property changes hands.

Shannon Brown ~ Yes, he explained that to me, but he did say they didn't know when it changed and all the neighbors had said the same thing to me; "when don't know when it changed but it did change across the street it's zoned RA, you're zoned RU."

Chairman Bloss~ Let me try to shed some light on that. Zoning maps do change. The reason they change is that, rural areas, people build homes, and they build more homes and they're closer together and in the real estate business you know how that happens, and areas become less agricultural and more residential, and it usually moves pretty slowly at the township but they do change lines, and it may seem awkward across the street, but you look across the street and homes have been added over there too. It's almost getting like your side of the road. Over time, that line may change, It may. That's what happens, it happens in areas where we are now commercial where we weren't commercial before, people reside in commercial districts and they're non-conforming but can stay there as long as they want. That's how those things work. Any other questions by the board?

Gregg Bryan ~I've got a couple if I can. One of the things that we're faced with when this situation comes in, you've always got neighbors that; "Oh hey! That's wonderful!" but you've always got the ones that say "I don't want the smell and the flies." I have two questions, one: How do you plan to handle sanitation issues? And question number 2: what are your future plans for that arena? What I don't want to see is a riding club starting.

Shannon Brown~ No. We don't have enough horses to have a riding club, but I do have four children. We show Western Pleasure with the APHA and the AQHA which is the American Paint Horse Association and the American Quarter Horse Association. We show Western Pleasure and Ranch Horse Pleasure, so the riding arena is basically for my children to practice and to be contained. It's hard for a child to ride on a lunge line and learn to do the moves that they're going to have to do in a riding arena. As far as the sanitation goes, we use pine bedding for their bedding, obviously, we use a manure spreader behind our tractor to spread it in our fields, we also rotate our fields so that the horses don't eat down any particular area to the dirt. I also use manure for my gardening and that kind of thing. We would have to have a particular pile for compost, but we've found that we use most of our manure for gardening and spreading on the fields. We also buy for the flies, it's an egg basically, and we buy it from Tractor Supply. It eats the flies, you set it down near the manure and it grows and eats flies. I forget what it's called, but it's a particular egg that you can buy from Tractor Supply and it just eats the flies. I've tried the baggy with the penny; It doesn't work.

Alan Levijoki ~ One other question, I understand what you've said about the neighbors agreeing, but as a board we've had a lot of reviews here with variance requests and the issues will come to life at that point and I really think we should have a formal hearing with the neighbors to make sure that we are taking into account their concerns. They do have a chance to verbalize. I grew up on a farm, I would never live on one again, for that reason, that the potential impact of the odor, the flies etcetera is something that I really think the neighbors should have an opportunity to say "yay" or "nay".

Chairman Bloss ~ Shannon, let me explain, that's a good suggestion by the way, and one we have typically done for applications like this because they can be so sensitive. A public hearing is an event that would happen here typically next month at our regularly scheduled meeting. Leanne would send out notices to people within certain distances of your property and invite them here to comment on the request that you have made. It's published in the local newspapers so they can come in and speak what they think. It's not a popularity vote, it's not what would determine all by itself what this board would do, this board would then take that information and use it in conjunction with other things we follow to make a decision. It is something at our disposal to really find out formally what the neighbors think. There's often a difference in what the applicant thinks the neighbors feel and what they would say in public.

Shannon Brown~ Is it possible to get a temporary variance until that meeting so that they can see how the horses are treated? I have four show horses. Two of my horses are horses that my children play on in the river and they ride around the house, but four of them are show horses. So, by you delaying an extra month my children are missing out on two months of showing, and our summer months are our biggest show season. So, if it were possible to get a temporary variance to bring them now so the kids can still show, I would prefer that rather than us have to go back down to Florida.

Chairman Bloss ~ Well, some comments, other folks asking for variance like you're asking for in a similar situation and the boarded their horses in one of the many facilities that are around.

Shannon Brown ~ I do have that as a secondary back-up.

Chairman Bloss~ Okay, as far as I know, and anyone can correct me, I believe anything that we do, any action that we take in terms of variances are permanent and ongoing even if you sell a property and the next person that comes in as a horse owner that's not very kind to the animals and doesn't care about manure, the variance stays. That's what makes these decisions so heavy. Other boards, if this were a special land use request, the Planning Commission can put stipulations on it for time, and if this happens, you do this, but we can't. We can only do variances that are everlasting. That's how it works.

Shannon Brown ~ So, your main objections to the property would be, that I don't have the 20 acres and that you want to make sure that the manure and the flies are not a problem.

Chairman Bloss ~ The reason for the 20 acres is separation. If you've got a farming operation with animals, things come with animals. I grew up on a farm 20 years ago I have 40 head on my fifty acres right here in this township. It is inevitable that you are going to have flies and odors but if you have acreage it gives you separation and less chance to offend the neighbors. That's what it amounts to. It's the classic description of liberties and freedom: Your liberties and freedom end where your neighbor's begin.

Shannon Brown ~ So if I buy the property beside me, we no longer have an issue and I'm automatically zoned RA?

Chairman Bloss ~ No, you're not zoned RA, you are within the ordinances for RU-1. And you're right, you don't need this board.

Shannon Brown~ Okay. Well then I guess that's my solution, huh?

Alan Levijoki ~ And in addition to that comment to, the issue with the setback, another thing the board has to weigh, if it was granted and if it looks like it is only 24-25 feet, we have disadvantaged that ten acres, whether you buy it or not that's your decision, but all of a sudden if a variance was granted as it is for the 10, we have disadvantaged for future sale, someone else buying it says, "I'm only 25 feet away from a barn." So, we have to look at the property by itself and protect its interests so it's not just your particular needs here.

Gregg Bryan ~ Mister Chairman? In respect to what Alan just said, We've obviously got some questions to whether the existing buildings are going to comply. In addition to the limited acreage, I think that given what you just said, a very valid point, that we could actually be compounding the problem. I think that we need you to have whomever is in

charge of ordinance enforcement, go out and make sure before we do anything else that they are in compliance on that property with the other buildings. Then at that point, your suggestion of a public hearing I think would be feasible. Until it is verified that the existing properties are in compliance, if we *did* make a change, if we *did* issue a variance, we're compounding the issue.

Chairman Bloss~ Yeah, it's a non-conforming structure not used for animals today, so it would be compounding, but Eileen, let me ask you a question: Would it be appropriate if we considered tabling the issue while Shannon looks into the purchase of acreage next to hers?

Eileen Kerr ~ I think that would be appropriate if she would come back before the board.

Chairman Bloss~ Correct. In other words, instead of us making a decision tonight, or electing to do a public hearing, which is an effort and expense for the township, if you're telling us that you would seriously look at the property next door which would resolve everything for you relative to this board, then we could consider tabling the procedure while you investigate that. Eileen?

Eileen Kerr ~ Well if you table it you bring it to the next meeting, but in the meantime if she decides to buy it she wouldn't have to come back. There's so many other issues, that is RU-1 and this board has turned down.

Shannon Brown~ You've turned down that much?

Chairman Bloss~ We've turned down 17 acres with a calf, and that's just history. There were a lot of neighbors in that case, and they liked the idea except they all barbequed in the backyard and didn't want to smell manure or have flies bother them. See that's where the freedom at the fence thing comes in. So, if you are telling us that you are going to actively pursue then we could make that an option to table it. If you have found out that the property is too expensive or that you don't want to do that, then we would at the next meeting reconvene and make a decision to either decide or have a public hearing.

Shannon Brown ~ One of my questions is that you're talking about if he were to sell the property to somebody that built a house there. One of the things that's throwing me off is that he does own the property on both sides of us. So, he owns the property on the far side as well as that farm land. Now the next nearest neighbor would be across the street and I believe they own quite a large piece of property as well. So, those are the only two neighbors that I would actually affect being that he does own on either side.

Gregg Bryan~ But that's *today*. Tomorrow, that whole situation might change.

Shannon Brown ~ I wasn't quite finished yet. If he and she were willing to come in, obviously they would be the public that you're asking to speak to, if they were willing to

come in and tell you that they were not bothered by the horses being there, would that resolve your issues by keeping just the 10 (acre) property?

Chairman Bloss ~ Well, what you're talking about is a pseudo-public hearing and here's how it works. There are rules in the ordinances on how close neighbors have to be to be invited. So Leanne has those rules and she would take care of that and they would be, at their discretion, they could come in and speak on your behalf or not. But that just becomes one item this board considers. It's not a vote, it's not of you get 2 out of 3 or 3 out of 4, it's an item this board would take into consideration as it makes its decision. So you're talking about what the public hearing would do.

Shannon Brown ~ I would have to talk to my family before I could make a decision on whether or not we would buy that property, or even express interest in the property. Right now my horses are in Florida, they can stay there and we will just figure it out from there.

Gregg Bryan ~ I would suggest, perhaps, if we do table this. Give her the opportunity to talk to her family and examine her resources and her ability to purchase that property.

Chairman Bloss ~ That's something we can consider if Shannon tells me she is going to look into that.

Shannon Brown~ I will look into it. I'm going to talk to my realtor and decide my options.

Chairman Bloss ~ I understand. Gary?

Gary Stevens ~ Part of the problem with this is they have downsized this farm through the years, and that's why they only ended up with 10 acres. That's why there were horses before. But now it is such a small parcel that it doesn't fit that category. The best thing to do justice for the farm and you is to add that other 10 acres back to it. I know it's expensive, but that's kind of the way things work. If you need animals, you need room for them. If you want a 4-wheeler track, you need room for them. That's kind of the way it fits into the category of keeping the neighbors and everybody happy.

OTHER BUSINESS: None

AUDIENCE COMMENTS: None

BOARD COMMENTS: Various comments.

Motion by Gregg Bryan, supported by Alan Levijoki to adjourn. Motion carried at 7:17 p.m

