

Township of Thetford
Minutes of the Board of Appeals
May 22, 2013
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, Liz Helms, Gary Stevens, Alan Levijoki, Gregg Bryan

MEMEBERS ABSENT: Clyde Howd not needed at this meeting

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

Chairmen Bloss wanted to welcome Gary Stevens to the Board of Appeals. Also thanked John Congdon and Dan Case for their time on the board. Thanked Leanne Pennington for the great job of the minutes last month.

.APPROVAL OF MINUTES: Motion by Gregg Bryan, supported by Liz Helms to approve the April 24, 2013 public Board of Appeals minutes as printed. All in favor. Motion carried
Motion by Gregg Bryan, supported by Liz Helms to approve the April 24, 2013 regular Board of Appeals minutes as printed. All in favor. Motion carried

CHANGES TO THE AGENDA: None

PUBLIC COMMENTS: None

OLD BUSINESS: None

NEW BUSINESS:

Case # 5913 ~ Ken and Marilyn Kingsley ~ 3416 East Lake Road, Clio, MI 48420 ~
Use "berm" to raise 6ft fence due to loss of privacy ~ there are pictures in the package to show what they are asking for.

Chairmen Bloss ~ is Ken or Marilyn here?

Marilynn ~ I am here, my husband couldn't make it he still is at work. First I would like to say I have had several companies over for professional landscaping. Michigan Fence and Fenton Fence said that I would lose 2 feet of my property because the berm would dismantle my brand new fence I just put in last May and I don't want to have to do that My husband and I don't want to do that. We have talked to the other fence people and they recommend put up a more of a an arbor type thing to attach to our fence so we can put bamboo that would make it look attractive but yet get a hold of our privacy again. It will be put up professional and it will be done on an angle so that the wind so that is the wind comes in it won't take it down. I don't want my post construction; I put 3000 dollars in that privacy fence last May. We saved a long time for that, it was taking away in a snap of a finger with a tree stand.

Chairmen Bloss ~ could you explain what that is I seen pictures but explain what it going on?

Marilynn ~ you have great pictures there with no leaves in the trees right now, I cannot even see if there is anyone up in the tree except for the seat. I guess they put a tree stand with a zip line. So the tree stand is about 9 feet up, 3 feet over my fences. The picture I took was mainly from inside my home. One from my bedroom, one inside my shower so if someone wanted to go up there in the dark and my lights are on I wouldn't know if anyone was looking at me various positions in my room and what not. My privacy has been striped. My pool not to mention my pool, don't get me started on that. Stand in the middle of my yard ***** (cannot understand). It's one thing your house, I lived there for twenty one (21) years we live out in the country for a reason.

Gary Stevens ~ so you want to increase the height of the fence?

Marilynn ~ we want to put an extension on it but because we cannot put just solid wood up there. We need to do it so it stays up there. My husband is also a contractor he won't have anything looking bad. It was also suggested to put a net up there and tell them that I and my husband were taking up soccer. We don't want to look ugly, we want it look attractive we have an attractive yard. I don't know what else to say... If I have to call it an arbor that's what it will be called. I know in Flushing they had a similar situation the fence people were telling me, the lady had the same exact thing and she had to put an arbor up. I can put grow a vine up there it will grow it will be beautiful but I want my privacy back. You know that commercial that is on TV that can very well be me. You know that commercial on TV where that guy builds that beautiful tree house for his boys, they are up there all those hours. The neighbor comes over and says "yes, have you taken in all the consideration that you have built it over Mrs. Radford bedroom window. You look over where the boy has binoculars and there going "Hello Mrs. Radford" That's how I feel.

Alan Levijoki ~ but I think and one of the concerns, at least what I would see here, is that you might be elevating no pun intended, but you may be elevating the battle. Anything can keep going.

Marilynn ~ that's what the fence people mention too.

Alan Levijoki ~ a larger concern too in the society in today privacy is not guaranteed unless you are in the middle of fifty (50) acres or something like that.

Marilynn ~ I understand.

Alan Levijoki ~ therefore in subdivisions in this township and other townships throughout the county you do have houses separated only by twenty (20) feet in some cases.

Marilynn ~ exactly.

Alan Levijoki ~ therefore the privacy is maintained by shading of the windows that sort of situation.

Marilynn ~ I understand just let me explain based on the history of living there and the turbulence of being neighbors with those people, it was just not there it was recently put there for the kids.

Gregg Bryan ~ have you asked them to put it down?

Marilynn ~ I did talk to Trenton who is actually the one who put it up for his kids I said "Trent do you realize your tree house direct, I can see my, I can take you to my bedroom I told him. You can see directly from my bedroom window of my shower. Because he was up in the tree stand when I was talking to him, he kind of looked befuddled. He said I was just building a tree stand for my kids. I said I understand that Trent but not in the expense of my privacy. He just kind of looked upset again he said well they are not going to be up here looking in your windows. And I said Trent how am I going to know that and not to mention the older boys. I said when there are leaves in those trees you cannot tell if there is anyone up there. Then I added if this was your mother she would have had a fit.

Gregg Bryan ~ so in other words they refuse to take it down?

Marilynn ~ basically they are adding to it. There is no railing on it; if I ever find out what insurance company they have I am calling their insurance company.

Gregg Bryan ~ I was out there I looked the best I could. There is a substantial amount of timber in the area. Could he move it?

Marilynn ~ sure he could of.

Gregg Bryan ~ as I recall correct me if I am wrong but you have timber on the other side is his yard as well it could have been utilized.

Marilynn ~ what timber? What are we talking about?

Gregg Bryan ~ as I said before correct me if I am wrong.

Marilynn ~ I don't understand what you are talking referring too.

Gregg Bryan ~ ok

Marilynn ~ I put the good side on his side might have had, it looks pretty nice from his side of the yard. We were always good neighbors; he asked to chop trees down my husband said sure. We have always gone and done everything they wanted or requested from us. Every single time, we lose tree because they wanted them chopped done. What was the timber you are referring to so we know what we are talking about?

Chairman Bloss ~ he saying just from where he could see road that there was a lot of trees.

Marilynn ~ he's got fifty (50) some tree in there he planted a tree every year they lived there. Ok so ya they got trees in their back yard. So there is a substantial height. That was one of the reasons we put the fence up because we kept getting debris in our yard twelve months of the year when it wasn't picked up.

Gregg Bryan ~ it seems like it would be a simple task to just move the thing

Marilynn ~ to move the fence or move the tree house?

Gregg Bryan ~ (inaudible) thank you

Chairmen Bloss ~ let me back up and see if we are clear on a couple of things. First of all you are withdrawing the request of a berm because, and this is something a couple of us thought of, to put the berm in and not go on the neighbor's property, you would necessary have to take move the fence.

Marilynn ~ and we would have to cut our fence right off and stagger it

Chairmen Bloss ~ it is an artificial way making the fence taller, in any event

Gregg Bryan ~ you have a beautiful place

Marilynn ~ thank you

Chairmen Bloss ~ so let's see if I have this right, what are asking to do is to add some sort of structure to the top to support vines.

Marilynn ~ yes, tastefully I might add. And it has to be done, like I said it's going to cost us a good chunk of change. It's going to be done professionally not done by us.

Chairmen Bloss ~ I understand it's still a pretty sufficient request. Pictures of what it would look like and photograph, drawings, ect., would be very useful. Just to go a little bit farther if it was self supporting with plants, trees, and bushes that had nothing to do with the fence you would not even have to be here.

Marilynn ~ of course it would be self sufficient

Chairmen Bloss ~ I understand that. I am just re-stating the obvious

Marilynn ~ right

Chairmen Bloss ~ the ordinance does say 6 foot maximum, so your request you is to add structure to that fence to support something else.

Marilynn ~ correct

Chairmen Bloss ~ any more question from anyone on the board?

Gregg Bryan ~ well the concern that I have in this situation in allow her to do this and this stops it for today and in next November he has another one put up in another tree fifteen (15) feet down the line. Are we going to allow her to put up another one and the following November he goes fifteen (15) feet more down the line. Are we going to allow her to put up another one? You are travel an exceptionally slippery sloop here in an effort to resolve this issue.

Marilynn ~ my I add something please

Chairmen Bloss ~ sure

Marilynn ~ we are only doing twenty five (25) feet that's it. If he decides to build a tree stand down by that shed of ours to look at the deer. I don't care I am trying to regain my pool and my house. My husband and I are retired, we have no children we are at the age we would like to go out in the pool enjoy ourselves in our back yard. I cannot even walk out of my garage in my

nighty and have a cup of coffee with my husband on a Sunday morning because the tree stand is right there eyeballing everything.

Alan Levijoki ~ my concern is it will set a precedence every house next to one another in Thetford Township could be doing the same thing, and we would end up a mess. And I remember the Flushing case that you describe I don't quite have a picture in my mind what that ended up with. It would be helpful to see what that was and basically what you are proposing. I would certainly like to see of what that treatment was I would feel more comfortable about it. I am concerned that every house in Thetford Township would end up in a disagreement with a neighbor, if that's what causes that everyone throwing up a fence six (6) feet high then adding a vineyard support structure to the top of it, I don't think we would like to see that in the township. That's what my concern is.

Marilynn ~ I own the pool and I want to be tropical I was going with the bamboo. Bamboo will let the air to flow through it will be a solid structure its actually going to be attractive. There's going to be posts that are going to be structure on the existing post. So I don't have to use new materials, before I was going to have a complete fence added to my yard. How crazy is that? And I can have it as tall as I want might I add because it's in my yard. There is always a way to get around things. The one rule they go in Michigan that should be change and I already know it's going to be a ordeal and it will never get changed but they have a big complaint about what's going on in Detroit all the time because of how close the houses are. I understand that that's your pay off for living in the city, I live in the country for twenty one (21) years if I wanted to go out there nude. I cannot go out nude no more.

Chairmen Bloss ~ I think you may have been able to do that but Alan made the point that it's not rights that you don't have in your back yard anymore.

Marilynn ~ the police said that I did, the police officer here said I had every right to be in my yard anyway I want to

Chairmen Bloss ~ well yes you can

Marilynn ~ ok

Chairmen Bloss ~ but I don't think you have the right to have the neighbor to stop looking into your yard. That's the point, you can do anything you want in your yard pretty much but I don't think anything will stop him for standing on a step ladder and looking over the fence.

Marilynn ~ that's fine, but then again if you have to live in my home and understand where I am coming from. I put the privacy fence up for a reason my husband told me to keep my composure but as a woman I always felt violated in that back yard. When I put the fence up it didn't feel that way anymore it was like having an extra room until our house we felt freedom for one whole summer.

Chairmen Bloss ~ any other comments or observation from the board?

Gregg Bryan ~ Mister Chairmen, what is he using this platform for is this a playhouse for the children or is he hunting there?

Marilynn ~ he cannot hunt there, that's it he cannot hunt there

Chairmen Bloss ~ the children climb up to the platform, there's a zip line attached to the tree they hang onto the zip line

Gregg Bryan ~ I didn't see no zip line

Chairmen Bloss ~ I didn't see it either but that's what the applicant described

Marilynn ~ that was put on after the pictures

Gregg Bryan ~ did he get a permit to put that in? Is there a permit requirement?

Chairmen Bloss ~ I don't think there's a permit requirement

Gregg Bryan ~ yes or no

Chairmen Bloss ~ there may be one in Vienna Township but not the Thetford Township

Gregg Bryan ~ I haven't found one but my question is I guess my question is, is it a tree stand and or the zip line? Is that an applicable use? In the situation with the property. There such a thing as a attracted nuisance and I have to question if that zip line become a attracted nuisance.

Chairmen Bloss ~ I don't know that often used in with conjunctions with liability, like a pond being attracting small children

Gregg Bryan ~ I agree

Chairmen Bloss ~ or a structure that's not fenced in, attracting children, with the possibility of getting hurt. It would be extremely useful to see what your fencing company has purposed. If you told me you just want to build same kind of fence and make it taller eight (8) or ten (10) foot then I would have an opinion on that. I don't know what your are is purposing, if it was an arraignment that you were putting it up all along the entire property line, and the neighbors could see it, that could be intentional grounds for a public hearing, if we thought a public hearing would add to our knowledge. So comments on the board on the next step: a public hearing would be an over kill, postponement to look at what is being proposed or a straight vote right now? I would retain comments from the board.

Liz Helms ~ I think we should wait and see what she got purposed. We really don't have much to go by what we have here and we would like pictures of what she is purposing and a proposal

Marilynn ~ sir, if you won't let me put up a extension on top of the fence then I am going to recommend that we put something inside our fence and put the arbor inside our yard.

Chairmen Bloss ~ I understand, the ordinance doesn't really get into that. All it talks about is the fence.

Marilynn ~ exactly

Chairmen Bloss ~ and you assume the fence is on the property line? I really don't know, about structures inside the fence. Gary, do you have any thoughts on structure inside a fence

Gary Stevens ~ I think if we can go with what you purpose and see some kind of direction of what you want it to look like on top of the fence

Marilynn ~ the guy from Michigan Fence told me to call him as soon as we are done here and let him know what you said to draw up the plans for and let you know.

Chairmen Bloss ~ let me give you an example of an application, not involving fencing. One of our common requests is to build a pole barn it's larger or taller than the ordinances allow. When the applicant comes in, it makes our decision easier if they have a record of what it looks like, a drawing or a picture of one like it, a layout of where it's going to go on the property, the dimensions answer to those questions. You are trying to describe what this bamboo arrangement looks like and to give you full consideration I would really like to see it. If the board decided and supported this move, you would come back next month and bring those drawings and plans along, so we can more fully consider your application. That's really the two choices: vote now or give you the opportunity of showing us what it looks like. We would especially like to see a completed example of what it look like. That would be useful to us.

Marilynn ~ ok

Chairmen Bloss ~ any further comments with the board

Gregg Bryan ~ under section 2.75 Nuisance factors ~ an offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line, page 14 (old zoning book). I think the beginning of the regulating nuisance factor applies to the gentlemen with that zip line and platform. When adding that in the position is violating her comfort and privacy. That rather than her going through all the difficulties of this arbor or anything else I think this could apply to his removal of his platform and zip line.

Chairmen Bloss ~ that's a good point to consider, but that goes beyond the authority of this board. That would really become a matter of enforcement. So that would mean, Gary correct me if I am wrong, talking to the building inspector, supervisor and possibly our township attorney, about the nuisance ordinance, and see if that it would apply. Does that make sense?

Gary Stevens ~ that makes perfect sense?

Gregg Bryan ~ that's what I would suggest

Chairmen Bloss ~ what Gregg is offering is just a suggestion from the board

Leanne Pennington ~ the ordinance enforcer is Chief Kenny

Marilynn ~ so are you saying this applies to it

Chairmen Bloss ~ what we are saying is that it is a possibility. Chief Kenny is our primary enforcer he will look at it and probably ask advice from Bob Swartwood, our township attorney. Does this make sense? This would be separate from your request to add some kind of structure to your fence to that twenty five foot (25). So I will have Leanne make a copy of that ordinance for the Chief.

Marilynn ~ thank you

Gregg Bryan ~ trying to come up with the best case scenario for both of the residents. If this is applicable with our code enforcer officer this may be a solution to your problem.

Chairmen Bloss ~ any other comments to our next step from the board. If not I entertain an motion on our next step

Gregg Bryan ~ I move that we table this until further investigation

Chairmen Bloss ~ ok, that's one motion to table it so that applicant can talk with Chief Kenny about the application of the nuisance ordinance. That's one reason to postpone.

Alan Levijoki ~ I move that we postpone it until we see rendering or additional detail of what is being purposed for an addition to the fence. Then make a decision.

Chairmen Bloss ~ ok, ok

Leanne Pennington ~ combining the two?

Chairmen Bloss ~ it's really a combine motion, Alan is recommending that we table the request until the next regularly scheduled board meeting so the applicant can bring in some evidence of the intended addition to the existing fence and give the applicant an opportunity to investigate the nuisance ordinance. So Gregg and Alan made the motion and Gary supports it. Any question on that motion. All vote yes. Motion Carries

OTHER BUSINESS: none

AUDIENCE COMMENTS: none

BOARD COMMENTS:

Gary Stevens ~ I hope we can come to a resolution for both parties, that works for you and your neighbor.

Chairmen Bloss ~ very good, thank you Gary, with that I entertain a motion to adjourn the meeting.

Motion by Gregg Bryan, supported by Alan Levijoki to adjourn. Motion carried at 6:53 p.m