

Armada Township

ZONING BOARD OF APPEALS

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ZONING BOARD of APPEALS

Minutes

October 20, 2015

7:00 p.m.

1. CALL TO ORDER
 2. PLEDGE OF ALLEGIANCE
 3. ROLL CALL
 4. APPROVE / AMEND AGENDA
 5. APPROVAL OF MINUTES: September 14, 2015
 6. PUBLIC HEARING: Alan & Lauren Clinton variance request
 7. NEW BUSINESS: Alan & Lauren Clinton variance request
 8. OLD BUSINESS
 9. PUBLIC COMMENTS
 10. ADJOURNMENT
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1. Call to Order: Chair Hicks called the meeting to order at 7:00 p.m.

2. Chair Hicks led the audience in the Pledge of Allegiance.

3. Roll Call: Members Present: Hicks, Xagoraris, Goetzinger, and Kehrig. Members Absent: Kappa. Also present: Christine White, Recording Secretary

4. Approve/Amend Agenda: Motion made by Kehrig, seconded by Xagoraris, to approve the agenda as presented. All ayes: Motion Carried.

5. Approval of Minutes: Minutes from September 14, 2015. Motion made by Kehrig, seconded by Xagoraris to approve minutes from September 14, 2015 as presented. All Ayes: Motion Carried.

6. Public Hearing: Motion made by Kehrig, seconded by Xagoraris to open the Public Hearing at 7:03 p.m. All Ayes: Motion Carried. Chair Hicks went over the procedure of the public hearing, and confirmed the receipt and adequacy of the publication of notice. Mr. Alan Clinton went over his variance request with the board. He presented that he moved into the property at 15775 Reid Rd. in 2008 and has been farming since then. He did not apply for a building permit because he was farming, but did apply for a zoning compliance permit, and was denied because the building was in the setback. He has 1.4 acres on a corner lot. The setback requirement is 110 feet from the center of the road back. Because he is on a corner lot, he would be required to meet the setbacks for both roads. He is requesting a 60 foot set-back variance. After looking at other places on his property, there is nowhere else it can be placed. The high tunnel is a temporary structure that is 30 X 72 in size. They received grant money from the NRCS in order to be able to put it up. He sells wholesale not retail, bag lettuces and tomatoes. Having the tunnel lets him grow through the winter months.

Kevin Bialk, 78225 McFadden Rd. has lived here for thirty two years and has no issue with the greenhouse. They are good neighbors. He worked for the Road Commission for twenty seven years and does not know of any road right of way issues.

Ed Moegle, 78230 McFadden Rd. has lived here since 1948. He has no problem with the greenhouse. He feels strongly that this variance should be granted. The ordinance book is not cast in stone, it is not a strait jacket. It is a tool that helps with problems that come up from time to time. Everything should not conform to it. He was supervisor from 1981-1984.

Lois Maljak, 77940 McFadden Rd. lives kitty corner. Has a very good view of the greenhouse. Feels that the Clinton's are being industrious and has no problem having the greenhouse.

Mike Ternes, 78175 McFadden Rd. has lived here since 2006, shares a lot line with the Clinton's and has no problem with the variance being granted. Is happy with where the greenhouse is located.

Frank Nastasy, 15503 Reid Rd. has no problem with the greenhouse. He thinks it is a great thing. Neighborhood kids help work there and it teaches them responsibility, and also shows them the process from seed to final outcome where food comes from.

Kelly Michal, 15755 Reid Rd. has no problem with the greenhouse; the Clinton's came and talked to her before they put it up. She can see the greenhouse right out her door wall. It helps her daughters learn by picking weeds, etc. It is located in the best possible spot.

Mel McNutt, building inspector for Armada Township appreciates folks coming in for their neighbors. They are obviously very fine people. His job is to enforce the setbacks for the township. It is a nice building. The Michigan Building Code recognizes greenhouses as accessory structures. The issue is that it is built within the front yard setbacks. If it is allowed, the township might as well throw out its ordinance book. Precedence will be set. That is what he was enforcing. Nothing that the Clintons are doing is wrong, as far as their operation. He thinks what they are doing is wonderful. He commented on what a good neighborhood it is and how they enjoy and support each other. His opinion is based on the township ordinance and the Michigan Building Code. Even a seasonal structure is considered a structure. And it is in the setbacks. He is only doing his job.

Kehrig asked Mr. McNutt if this was a complaint that came in or if it was something he noticed. He said that he was sent out there on a complaint.

Alan Clinton says that he has an odd size lot.

Mr. Bialk wanted to know how many times this is going to happen. That this will probably never happen again.

Mr. Moegle feels that if the variance was granted it was not going to make the ordinance null and void.

Motion made by Kehrig, seconded by Xagoraris to close the Public Hearing at 7:27 p.m. All Ayes: Motion Carried.

7. New Business: Alan & Lauren Clinton variance request: The members went through the criteria for granting a variance and discussed each item. Kehrig explained the process for finding of fact. He thanked Mr. Clinton for the information that he provided to the board. He explained that a regular lot size is 165 foot wide; a corner lot size is 215 feet wide. Mr. Clinton has 180 feet. He has what is called a non-conforming lot. The setbacks have been the same since 1979. There was some confusion as to when the language changed in the ordinance book. Kehrig explained the difference between one acre lots in the residential district versus one and three-fourths acres in the ag-preservation district. Mr. Clinton has a non-conforming lot, and the sixty-six and two thirds rule would apply. He cannot meet this with the greenhouse. He did provide information about the high tunnels, and they are described as a structure, and would not be treated the same as a low tunnel or a trellis. Mr. Clinton uses this as a farming tool, he is not storing anything in it. Kehrig commented that it is bigger than most people houses and is a stretch to say it is a farm tool. The whole issue is that it is built in the setbacks. It is in the proposed right of way, not the existing right of way. The township goes off of the proposed right of way. It is approximately 50 feet from the center of the road. This is why a sixty feet variance is being requested. The strict enforcement of the provisions would cause practical difficulty and deprive the owner the right enjoyed by all other property owners owning property within the same zoning district because it is unique and it is a non-conforming lot that limits him to a twenty foot strip. The conditions and circumstances unique to the property, which are not similarly applicable to other properties, are that he did not create the lot, but he did

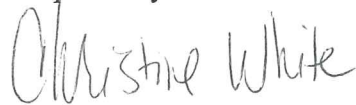
create the circumstance. The structure is considered temporary. It is not permanent. A variance could be granted for a temporary not permanent structure. Most parcels of land are larger in the northern section of the township. The greenhouse is a permitted use in that area. The board looked at how many small corner parcels there are in the township. Roughly only three percent of the parcels throughout the township are corner lots; of them a very small percentage would be applicable. The conditions and circumstances unique to the property were not created by the owner, or his predecessor in title. The owner did not create that parcel, the corner, or the size of the parcel. The requested variance will not confer special privileges that are denied other properties similarly situated because the totality of circumstances contained in this unique farm are such as could not be easily duplicated. The requested variance will not be contrary to the spirit and the intent of the Zoning Ordinance because the intent of the agricultural district is to preserve agricultural. This does encourage the use of the land in an agricultural way. **Motion made by Goetzinger, seconded by Kehrig to approve a sixty foot set-back variance only for the use of a temporary AG high tunnel for a bona-fide farm use. The strict enforcement of the zoning ordinance creates practical difficulty on a unique size corner non-conforming lot. The variance does not confer special privileges that other properties are denied because the totality of circumstances contained in this unique farm are such as could not be easily duplicated elsewhere. The spirit of the zoning ordinance is upheld by the promotion of agricultural. If a bona-fide farm operation moves or ceases to exist the AG high tunnel must be removed. All Ayes, Motion Carried.**

8. Old Business: None

9. Public Comments:

10. Adjournment: Motion made by Kehrig, seconded by Xagoraris to adjourn meeting at 9:06 p.m. All Ayes, Motion Carried.

Respectfully submitted:



Christine White
Recording Secretary

Approved:

Gail Hicks, Chairperson

Date