



MINUTES

THOMAS TOWNSHIP ZONING BOARD OF APPEALS
PUBLIC SAFETY BUILDING, 8215 SHIELDS DRIVE, SAGINAW, MI 48609
June 12, 2018 - 4:00 P.M.

1. The Board of Appeals meeting was called to order at 4:00 p.m. by Chairman Steve Witt.

Present: Rod Iamurri, Steve Witt, Rene DeSander, Don Milne and Mike Thayer. Also present were Dan Sika, Community Development Director Connie Watt, Planning Assistant/Code Enforcement Officer, Russ Taylor, Township Manager, Michael Beck and several interested parties.

Absent: None

2. **Pledge of Allegiance.**

*** A motion was made by Desander, support by Iamurri to change the order of the Agenda as presented and to begin with Hearing "B". Motion passed unanimously.***

3. **Approval of the Minutes.**

Motion by Iamurri support by Thayer to approve the minutes of the May 22, 2018 meeting with two typographical changes. Motion carried unanimously.

4. **Hearings:**

B. Ordinance interpretation of the term “Country Clubs”, which is a Use by Special Permit” in A-2 Zoning; is the use similar to that of a “Wedding Barn”?

Sika explained what an interpretation is. He said the Zoning Board of Appeals is being asked to do an interpretation of the Thomas Township Zoning Ordinance. Specifically A-2, “General Farming, Open Space, Woodlot and Conservation Development District”. Within that zoning district is a “Use by Special Permit” called “country clubs” which is allowed in this zoning district. What the Zoning Board of Appeals is being asked to do is look at a use called “Wedding Barns” to see if it would fit into that district based on the information provided. This isn’t any type of approval whatsoever. The Zoning Board of Appeals as part of their required tasks can interpret the Zoning Ordinance but do nothing else. If someone wants to bring in a project it would go to the Planning Commission. The Planning Commission reviews the project for such things as lighting, parking, building height, hydrant location all those sort of things are looked at. The Zoning Board of Appeals is only interpreting the Zoning Ordinance as to whether this item “country clubs” and “wedding barn” are similar and should a “wedding barn” be allowed in the zoning district. That is all they do.

Witt opened the Hearing to public comment at 4:06 p.m. Roy Lafray, of 4711 North River Road spoke. He stated he was concerned about the approval and traffic issues. He said traffic there is always a real “cluster”. People use the strip from Apple Mountain as a drag strip now. Witt stated that the ZBA is only dealing with an ordinance interpretation now. Nothing else. Lafray stated that the people were there because they were told there was going to be a “ruling” today. Angie Williamson of 9361 Tittabawassee Road addressed the ZBA. She was questioning a new law she was told that had passed allowing farm land to be converted to business. Wanted to know if this had happened? Sika stated he was not aware of the law she’s referring to. Russ Taylor, Thomas Township Manager added that he did not know the details but he knew of a bill going through state legislature allowing for agritourism, which would in turn allow for wedding barns. Taylor added to put in context, the Township was faced with a question of does a wedding barn fit into current zoning. Normally the process would be that the Community Development staff would approach the ZBA and ask for interpretation and get direction. In that context, no requirement to notify property owners exists but after discussion, the Township felt it better to be as transparent as possible and let the property owners know of this hearing taking place to see if the use could even go there. Our alternative was not to notify you and you would not have known of the hearing. At that time if the interpretation was in the affirmative and we went to the Planning Commission with a site plan you would

have thought what happened at that secret hearing. That's why we invited you and I'm sure there may have been some misunderstanding. As Dan stated this is all we are going to discuss is an interpretation this evening but we wanted you to know about it.

Jim Finkbeiner of 4783 North River spoke. He stated not everyone received the letters of notification. One man in the neighborhood did and made copies to let the other neighbors know. The question he had is if this is decided it is allowed and the Planning Commission gets a request, do more people get notified? The man who received it was told only those within 500' got letters. There are more involved than that. Would the Planning Commission send letters to the whole neighborhood? Sika responded that any property within 500' of a request based on an outline of the property in question would be notified. Finkbeiner felt this would be limited then. Sika answered that State law requires notification of anyone within 300'. The Township actually goes to 500'. Finkbeiner stated that you'd have to find out by word of mouth then. Sika told him if we are given a name of an individual and their address who would like a copy, we will send one to them. Witt interjected that the ZBA is not dealing with a site proposal just an interpretation of whether a wedding barn falls under a country club and if they are similar in nature. The site could be anywhere, Lone Road, Gratiot Road, and property zoned A-2. It is not any particular property it is an interpretation. Witt asked for any further public comment. With no further comment, the public hearing was closed at 4:15 p.m. Desander requested that Sika read the listing of Uses by Special Permit in the A-2 Zoning District. Sika read off the list. Milne then requested to have the Uses by Right for the A-2 Zoning District read as well. Sika read those uses. Desander reemphasized the ZBA is there to determine if a wedding barn is any different than a country club or any of those other uses for the zoning district. Sika said the country club seemed to be the closest fit but it could be compared to any of the uses. Milne questioned what "Open Air Business" referred to as this is allowed in the Zoning District. Sika stated they are. This could be something such as tree sales. Witt added that if this interpretation passes then it is up to the Planning Commission to review the rules and requirements for something like this to be put in the Zoning District. Sika said yes, you can say it fits in the A-2 zoning and is similar to a country club but it does not give approval of anything. Someone would need to apply to the Township, the staff would review the site plan and then it would go before the Planning Commission at a public hearing. The Planning Commission would look at everything related to the development, driveways, asphalt parking, striping, lighting, fire hydrants, fire protection, water & sewer etc. are all looked at by the Planning Commission. It is a separate task altogether. Iamurri questioned that this would be for all properties in the A-2 district in the Township. Any A-2 could fall into that area. Sika added that the interpretation was for the entire

Township no any specific location. It is not tied to any location and not being granted for any specific location. Milne said in his view it does not fall into the category of being similar to a country club. He gave several difference in the two. He felt it was more of an open air business which is allowed in the zoning district also. Desander questioned that if this is the focus and Milne is correct then the ZBA would not have to go through this process. Sika stated no, because the term wedding barn doesn't appear anywhere in that zoning district it would still come before the ZBA for interpretation. Thayer stated it is his opinion that it seems to fit. Iamurri agreed with Thayer. A roll call vote was taken.

Iamurri-Yes
Milne-No
Witt-Yes
Desander-Yes
Thayer-Yes.

Approval was received by a 4-1 vote that a wedding barn is similar to a country club and could be considered as such as a Use by Special Permit in the A-2 Zoning District.

Witt stated three letters had been received from residents to the Zoning Board of Appeals regarding the text interpretation. They were presented as part of the minutes.

4:35 p.m.-Thayer excused himself from the meeting at this time due to another commitment.

A. Michael Beck of 801 South Thomas Road is requesting an eight foot (8') side yard variance. Parcel #28-12-3-27-3012-000.

Sika explained that Mr. Beck has a parcel zoned A-2 which is currently legal non-conforming. It is about ½ the size of the current requirements for this agricultural district. Mr. Beck is requesting an eight foot (8') side yard variance in order to put an addition on his home. Mr. Beck has pointed out some obstacles and what he has tried to do one of which was to buy property to the north but was not able to come to agreement on it. In addition there is a septic field in the rear with a septic tank, not that it can't be moved but it is directly behind the house. Beck added that he only has twenty-eight feet (28') on one side and about three feet (3') on the other. Most residents on this side of the road are about fourteen feet (14') to the lot line. Witt stated that these properties to the south are "grandfathered" in. Beck added that his dimensions don't meet current standards and he did want to buy the parcel next door which is in a trust. Three of the four parties in that

trust agreed but the fourth would not. Taylor questioned if the parcel could be rezoned. Sika said it would become spot zoning as there is no other residential zoning in the area. Future Land Use shows agricultural zoning. Milne questioned if the septic field was near the house. Beck stated it was. He didn't know if it could be moved, if there was room based on the standards today. Desander added that he would have to also have a piece of land equal to the septic field size to set aside as per the new rules and that just by moving the field it probably would not work for him. Witt asked for any public comment. There was none.

At this time the ZBA members answered the questions as listed under "Basic Conditions" and "Special Conditions" of the Zoning Board of Appeals Checklist. The results were as follows:

ZONING BOARD OF APPEALS CHECKLIST

(A variance will only be granted if all of the following Basic Condition questions are answered "yes")

BASIC CONDITIONS

The Zoning Board of Appeals shall have the power to authorize, upon an appeal, specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements, provided that all of the Basic Conditions listed below are answered "YES" and one (1) of the Special Conditions listed thereafter can be satisfied;

1. Has the Applicant demonstrated that this variance is not contrary to the intent and purpose of the Zoning Ordinance? Explain.

YES 2 NO 2

2. Has the Applicant proven that a variance will not adversely impact adjacent properties? Explain.

YES _____ NO _____

3. Has the Applicant proven that a variance would not produce a nuisance condition to nearby premises? Explain,

YES _____ NO _____

4. Is the basis for the proposed variance unique and not shared by other properties in the same Zoning District throughout the Township? (If the Board of Appeals finds that the hardship is not unique, but common, then an amendment to the zoning ordinance or a re-zoning should be pursued.)

YES _____ NO _____

5. Has the Applicant shown that a variance will not otherwise impair the public health, safety, or general welfare of the residents of Thomas Township?

YES _____ NO _____

SPECIAL CONDITIONS

When all of the foregoing Basic Conditions can be satisfied, a variance may be granted when any one of the following Special Conditions can be clearly demonstrated:

1. Are there non-economic practical difficulties or unnecessary hardships, which prevent carrying out the strict letter of this Ordinance? Explain.

YES _____ NO _____

2. Are there unique or extraordinary physical conditions that do not apply to other property or uses in the same zoning district and were not caused by an act of the applicant? Explain.

YES _____ NO _____

3. Is the variance necessary to preserve a substantial property right possessed by other properties in the same zoning district? Explain.

YES _____ NO _____

Motion by Milne, supported by Iamurri to deny the eight foot (8') side yard variance request because question 1 of Basic Conditions received a "No" vote. Motion passed unanimously.

6. **Old Business** – None

7. **New Business-None**

8. **Adjournment**-a motion was made by Iamurri and supported by Milne for adjournment of the meeting at 4:50 p.m. Motion carried unanimously.

Respectfully submitted by Connie Watt, Planning Assistant/Code Enforcement Officer.