



MINUTES

**THOMAS TOWNSHIP ZONING BOARD OF APPEALS  
PUBLIC SAFETY BUILDING, 8215 SHIELDS DRIVE, SAGINAW, MI 48609  
September 15, 2015 - 4:00 P.M.**

1. The Board of Appeals meeting was called to order at 4:20 p.m. by Vice-Chairman Don Milne.

Present: Mike Thayer, Don Milne, and Rene DeSander. Also present were Dan Sika, Community Development Director and Connie Watt, Planning Assistant/Code Enforcement Officer and four (4) interested parties.

Absent: None

2. **Pledge of Allegiance.**

3. **Approval of the Minutes.**

Motion by DeSander, seconded by Thayer to approve the minutes of the June 9, 2015 meeting as presented. Motion carried unanimously.

4. **Election of Zoning Board of Appeals Officers**

Nominations and voting took place for the following positions on the Zoning Board of Appeals; Chairperson, Vice-Chairperson and Secretary.

A motion was made by DeSander, supported by Thayer to elect Bailey as the Chairperson of the Thomas Township Zoning Board of Appeals. Yeas 3, Nays 0

A motion was made by Thayer, supported by DeSander to elect Milne Vice Chairperson of the Thomas Township Zoning Board of Appeals. Yeas 2, Nays 0

A motion was made by Thayer, Supported by Milne to elect DeSander as Secretary of the Thomas Township Zoning Board of Appeals. Yeas 2, Nays 0.

## Hearings:

- A. Mr. Michael Schiebner, on behalf of Bryan & Sarah Carroll, is seeking a variance to construct a two (2) story seasonal housing building located on a farm at 10125 Geddes Road.

An explanation of the Thomas Township Zoning Ordinance Section 18.26 relating to Seasonal Housing was made by Sika. Section 18.26 allows for Seasonal Housing on forty (40) plus acres. Subsection 1(b) cannot be met by the applicant. This requires all seasonal housing structures be a single story. In this case it is a two (2) story structure with a garage below and a living space above.

Michael Schiebner showed a site drawing depicting the first level of the structure for farm use, including a cooler area and crop preparation area. The level above this is for seasonal housing.

Sarah Carroll, who currently leases property from her parents at 10125 Geddes for farming explained they currently are using a 100 year old barn which has no plumbing. She added that they do provide vegetables to local restaurants and this new building would be a welcome addition. She explained that she is the seasonal employee who would be living in the second story of the structure.

Schiebner informed Sika that he had thought the height of the building would actually be around twenty-seven feet (27'). Sika informed him that according to Ordinance it must not exceed twenty-five feet (25') in height. He stated that the height would have to be adjusted. Schiebner stated he would be able to do this.

Carroll added that the land had been farmed since 1864 and needs to continue to evolve but the family wants to keep the historic quality. Schiebner added that this building looks like a farm building and would not be out of place.

DeSander questioned why it was not possible to do a single floor. Schiebner stated it was a lot simpler to incorporate by doing a second story and economically more feasible.

At this time Milne asked for any public comment. There was none.

DeSander questioned Sika as to why in residential zoning you can live above the garage area. Sika responded that in this situation if this structure were attached to the primary structure there would be no problem here. He added that in residential zoning you cannot have an apartment above the garage if there is already a primary structure on the property. Similarly in agricultural zoning there is already a primary structure on the property and the ordinance states there is to

be an allowance for seasonal housing as long as it is one story. Two story seasonal housing is not permitted by the ordinance.

Milne stated he felt that this was a matter of convenience and apparently would be a lower cost to do. He asked if the applicant felt this was unique to the property or others would want to do the same. Schiebner said they very well could, it would not be out of character. Milne questioned it was not unique then? Schiebner responded “No”.

DeSander asked what the purpose of the single story requirement was. Sika said it is a very old ordinance that was around way before he began work at the Township. He cannot give a specific reason as to why it was written the way that it is. He said he doesn't feel it is very different from what would be seen with ordinances regarding seasonal housing from other communities. Usually they are quite similar. His only thought might be an issue of fire traps, but it is not spelled out clearly why it's not allowed.

Milne suggested the possibility of putting the processing area in the basement and the first floor could be used to live in. Sika said that would be permissible by ordinance.

DeSander stated that the ordinance may be a little archaic or possibly very dated. Sika said it has never been questioned or looked at up to this point. He added that if the ZBA felt there was an issue they could ask the Planning Commission to take a look at it and compare it to others in the state.

Thayer stated the ZBA commonly runs into issues of convenience such as this one but they have an ordinance in black & white that they have to consider. He said he did understand that their way may be more convenient.

Milne mentioned that he felt there appears to be other ways to build to stay within the ordinance. He did not feel this was unique.

Schiebner noted that when Milne suggested moving the processing area to the basement and then utilizing the first floor for living was not feasible because they needed an area to pull in farm vehicles and would need to do this through the doors.

Milne added that they still could attach the building to the house or do a one story building with two (2) separate areas.

DeSander stated he felt they could stay within the ordinance and accomplish what they need by building two (2) buildings. He said there are probably others in the same situation and the ordinance is pretty straightforward. He added it was not their job to set a precedence. If this was the only one or there were property

restrictions it would be a different matter. He does feel the ordinance needs looked at but cannot give a variance based on the way that it stands.

Carroll said she believed that they, as a board, could grant a variance if they choose too.

Milne informed her that they are restricted and that would be able to grant a variance through uniqueness or an economic struggle. There are other ways the building could be completed. They can't just toss out the ordinance to grant a variance.

Carroll stated she felt that both uniqueness and economic reasons apply to the situation. She added they lease acreage, provide local produce and are a growing business. They need to keep within the historic nature. Doesn't want to go with something that would not keep within the existing appearance. Would not go with a pole barn.

DeSander said he agreed that the structure would fit beautifully but the ordinance is specific to it being a single story. He told her it is their (the ZBA) responsibility that if it can be done within the code then it should be that way.

Schiebner mentioned that by doing two (2) single story structures it would take up space and land to be farmed.

DeSander questioned Sika that if the variance is denied how long would it take for a text amendment? Sika responded anywhere from four (4) to six (6) months at least. The Planning Commission would need time to review the ordinance and at this point have not even looked at it. DeSander asked if Sika would agree with a change in the ordinance. Sika responded that for him it is hard to understand why it restricts second floor housing but there may have been issues back then he is not aware of. He would support a change based on the fact that you can have second story housing in other zoning districts but he only does the research and makes the recommendations to the Planning Commission.

Milne added that maybe after the research has been done something could be found to update the ordinance.

Sika added that in contacting the Department of Agriculture this is something they do not regulate unless there are at least five (5) units. He said there are a lot of gray areas which would warrant its review.

DeSander questioned Carroll that if the variance is denied today would six (6) months give you time to look ahead and possibly get this ordinance changed so you can build this housing.

Carroll said with the growing season beginning April to May this would make the process of building the structure run right into it. She added they have suffered for three (3) years with the existing facilities and a lot of planning went into developing this new building. She said she doesn't know of any other organic farms in Thomas Township. They have to store the vegetables to make sure they are as fresh as possible. She needs the cooler in this building for that purpose. She said they are struggling right now and this means a lot for their business.

Sika cautioned that even though the ordinance may be reviewed it does not necessarily mean anything will change in it.

Milne explained that the board would go over the checklist to see if all conditions can be met. He furthered by adding that if one (1) condition cannot be met, the variance will have to be denied.

The Zoning Board of Appeals then completed the Zoning Board of Appeals checklist as follows:

Basic Conditions:

1. Has the applicant demonstrated that this variance is not contrary to the intent and purpose of the Zoning Ordinance? The variance request is not for a unique situation but merely for convenience and aesthetics. Yes: None No: Thayer, Milne, and DeSander.
2. Has the applicant proven that a variance will not adversely impact adjacent properties? Yes: Thayer, Milne, and DeSander. No: None
3. Has the Applicant proven that a variance would not produce a nuisance condition to nearby premises? Yes: DeSander, Milne, and Thayer. No: None
4. Is the basis for the proposed variance unique and not shared by other properties in the same Zoning District throughout the Township? Yes: Thayer and Milne. No: DeSander.
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: Thayer, Milne, and DeSander No: None

A motion was made by DeSander, supported by Thayer to deny the request for a variance to construct two (2) story seasonal housing at 10125 Geddes Road because all Basic Conditions were not answered in the affirmative unanimously. Based on the facts presented to the ZBA a variance is not justified.

The Zoning Board of Appeals did feel that Ordinance Section 18.26 did need to be referred to the Planning Commission for a possible text amendment. They felt that due to the allowance for second story living space in other zoning districts a change may want to be considered for the seasonal housing ordinance as well. Motion by DeSander, supported by Thayer to refer ordinance Section 18.26 to the Planning Commission for review. Motion passed unanimously.

6. **Discussion** – None.

7. **Old Business** – None

8. **New Business**-None

9. **Adjournment**-a motion was made by Thayer and supported by DeSander for adjournment of the meeting at 5:10 p.m.

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