

MINUTES

DRAFT

**THOMAS TOWNSHIP ZONING BOARD OF APPEALS
THOMAS TOWNSHIP PUBLIC SAFETY BUILDING
8215 SHIELDS DRIVE, SAGINAW, MICHIGAN
May 23, 2023
4 O'CLOCK P.M.**

Members Present

R. Iamurri
M. Lenczewski
D. Milne
R. Desander

Members Absent

M. Thayer

Others Present

D. Sika, Dir. Of Community Dev
A. Bicigo, Planning Asst/Code Enf.
Wendy Buse
Brandon Kulhanek
Leasa Androl

Iamurri called the meeting to order at 4:00 p.m.

Approval of Minutes:

Motion by Milne, supported by Lenczewski, to approve the minutes of February 28, 2023 as presented.

Hearings:

- A. An appeal has been submitted by Wendy Buse to allow the 6-foot privacy fence she constructed in her front yard to remain as constructed.**

Community Development Director Sika explained that per the ordinance, in the front yard area of a property you can only have a 4-foot-high transparent fence to allow visibility for cars entering and exiting the property. The variance being requested is to allow a 6-foot fully solid fence in this space. Applicant Wendy Buse explained that her property is surrounded by businesses on all sides. There is a lot of traffic from the car wash that turns around in her driveway, coupled with traffic from the landscaping business behind her. With the fence in place, this problem has been eliminated. Milne questioned if headlights turning into the car wash are part of the nuisance that is solved by the fence. Buse responded in the negative. She explained that her residential property is on a private road in a business zoning. Iamurri asked who does the maintenance on the

private road. Buse responded that Mike Kretz, the owner of the landscaping business maintains the road. Milne asked what the zoning of the property is. Sika replied that it is B-3, which allows most types of business uses, and would generally have a stepdown zoning before any residential use to provide a buffer. Buse's residence was built before the current zoning went into effect, but would not be allowed to be built there with the current zoning. Desander stated his reluctance to grant this variance on the grounds that it may set a precedent allowing others to do the same in the future.

Iamurri closed the public hearing at 4:13 PM at which time the board began its deliberations. Iamurri explained the use of the checklist to ensure that all applicants for a variance are treated the same and a variance is truly needed. Iamurri read the questions and discussion took place on each and a vote was taken after the discussion of each question. The checklist and the results of the vote on each question are listed below, along with an explanation:

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 ___3___ NO ___1___

Milne stated that because the intent of the ordinance to provide sight distance, granting this variance is not contrary to that intent. There are only two residences on the private roadway, so sight distance from the driveway is irrelevant.

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

YES ___3___ NO ___1___

Iamurri stated there will be no effect to the car wash or the property behind.

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

YES ___3___ NO ___1___

Iamurri stated that because the only neighbors are the car wash and the landscaping business, there will not be any nuisance to other properties.

- 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___4___ NO_____

Milne stated that it would be essentially impossible to find another property with the same situation within the township.

- 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___3___ NO___1___

Iamurri stated that there is not enough traffic with the fence in place for it to cause any safety issues.

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 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 properties or uses in the same zoning district and were not caused by an act of the applicant? Explain.**

YES___3___ NO___1___

Iamurri stated that there are no other properties in the township that share the same conditions as the one in question.

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

YES_____ NO_____

Iamurri stated that all of the conditions of the checklist had been met. Motion by Lenczewski, supported by Milne to approve the variance requested.

ROLL CALL VOTE:

YEAS: Milne, Iamurri, Lenczewski

NAYS: Desander

ABSENT: Thayer

MOTION CARRIED

B. A request was made by Brandon Kulhanek on behalf of Spectrum Autism for a front yard parking lot setback variance of 11.1 feet, and a side yard parking lot setback variance of 20 feet.

Sika explained that Spectrum Autism is requesting a variance to allow a parking lot to be built within the 20-foot required side and front yard setbacks. The property to be used was sold to the applicant by the Township for this purpose. The property that the Township retained that abuts the applicant's property is to be used for a lift station, and will not be impeded by the proposed parking lot. Kulhanek stated that they need a full 20' variance to build up to the property line on the north, and 11.1' on the east. Sika explained that the road commission is not allowing an extra driveway; they will continue to use the existing parking entrance. They currently are using the lot as is, which gets very muddy, and poses a safety risk with the ability of traffic to park right up to the roadway. Desander asked how access will be controlled into the new parking lot area, and how people will be kept from parking in the space between the existing fence and the road. Kulhanek stated there will be no access added, and curb and gutter will be installed for the new lot. Desander suggested a no parking sign be installed on the fence to keep people from parking too close to the roadway. Desander also asked if fencing would be installed around the new parking area. Leasa Androl stated a fence will be put up separating the Township property and the new lot per the agreement made when the property was purchased. Milne asked if the space to the west is not being used for parking due to a rear lot setback. Sika stated there is a considerable slope that prevents parking to the west, as well as a rear setback requirement. Milne asked if consolidating the two existing driveways to one would be possible for safety purposes. Iamurri suggested directional signage or painting could be done to create directional flow. Androl explained that the drive is currently used for the clients to be dropped off and picked up. Traffic enters from the north, flows through, and exits to the south. It is used like a school drop off drive, and is part of the work they do with their clients.

Iamurri closed the public hearing at 4:40 PM at which time the board began its deliberations. Iamurri explained the use of the checklist to ensure that all applicants for a variance are treated the same and a variance is truly needed. Iamurri read the questions and discussion took place on each and a vote was taken after the discussion of each question. The checklist and the results of the vote on each question are listed below, along with an explanation:

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___4___ NO_____

Lenczewski stated that this will be an improvement in safety.

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

YES___4___ NO_____

Iamurri stated that the only adjacent property impacted is the Township, which will not be adversely affected in any way.

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

YES___4___ NO_____

Milne stated that the improvement in safety will actually be a benefit to nearby premises.

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___4___ NO_____

The board agreed that the property is unique from the rest of the B-1 district.

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___4___ NO_____

Iamurri reiterated that this will improve the safety for everyone on the property and those around it.

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 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 properties or uses in the same zoning district and were not caused by an act of the applicant? Explain.

YES___4___ NO_____

The board agreed that the situation with the Township property abutting the applicant's property and the slope in the rear made this situation unique.

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

YES _____ NO _____

Iamurri stated that all of the conditions of the checklist had been met. Motion by Desander, supported by Milne to approve the variance requested with all contingencies listed.

Contingencies:

- Install directional signage and painted arrows to direct traffic through the two existing driveways as needed.
- Install fencing between the new parking lot and the Township property to the north per the agreement made with the Township when the property was purchased.
- If parking along the roadway becomes an issue, install a “No Parking” sign to prevent parking between the fence that separates the two existing driveways, and the roadway. This is also contingent on road commission approval to put up a “No Parking” sign.

ROLL CALL VOTE :

YEAS: Milne, Iamurri, Lenczewski, Desander

NAYS:

ABSENT: Thayer

MOTION CARRIED

Adjournment:

Motion by Desander, supported by Lenczewski, to adjourn the meeting at 4:46 p.m.

VOTE 4 YEAS 0 NAYS 1 ABSENT MOTION CARRIED