

THORNAPPLE TOWNSHIP ZONING BOARD OF APPEAL

Regular Meeting, Wednesday, August 17, 2022

7:00 P.M.

1. Call to Order:
 - A. The meeting was called to order by Chairman VerHey at 7:00 p.m. at the Thornapple Township Hall, 200 E. Main St. Middleville, MI 49333.
 - B. Present: Tim VerHey, Martin Wenger, Curt Campbell, Craig Stolsonburg. Linda Gasper was absent. Also present: Catherine Getty, Amy Brown, Eric and Tanya VanderLoon, Vance and Diane Hoskins, and Dick Thompson.
2. Approval of Agenda:
 - A. **MOTION** by Stolsonburg, **SUPPORT** by Campbell to approve the agenda as presented, **MOTION CARRIED** with 4 yes voice votes.
3. Approval of Minutes: **MOTION** by Campbell, **SUPPORT** by Stolsonburg to approve the May 24, 2021, minutes. **MOTION CARRIED** with 4 yes voice votes.
4. Officer Elections: Chairman VerHey explained that it was time to elect officers again and asked if anyone of the board was interested in making any changes. **MOTION** by Wenger, **SUPPORT** by Campbell to re-elect the current slate of officers. **MOTION CARRIED** with 4 yes votes by roll call.
 - A. Officers:
 - i. Chairperson – Tim VerHey
 - ii. Vice-Chairperson – Linda Gasper
 - iii. Secretary – Curt Campbell

ROLL CALL VOTE:	Wenger, Marty:	Yes
	Gasper, Linda:	Absent
	VerHey, Tim:	Yes
	Stolsonburg, Craig:	Yes
	Campbell, Curt:	Yes

5. Public Comments: (matters not on the agenda) None.
6. New Business: Getty informed the ZBA members that the Planning Commission was performing a Zoning Ordinance Audit and will look at a draft at their September meeting. Getty will also email the draft to the ZBA members to review and would like their input. It has been 10 years since the last audit, so it is time to review them.
7. Public Hearings:
 - A. ZBA File 115 – Eric and Tanya VanderLoon

- i. Staff introduction – Getty explained that the property is located at 2725 Old Dutch Rd. and is on 4.49 acres. The existing dwelling is a pole barn house built prior to the current ordinance which was passed 4 years ago. The ordinance allows for an attached garage to be 75% of the useable main floor dwelling area. However, it was built prior to the passage of the ordinance, so it is a legal nonconforming structure with a garage 100% the size of the main floor area. The residents are requesting to enlarge the dwelling area and attached garage sizes. They are requesting a variance to allow the proposed attached garage to be enlarged to 167% of the useable main floor of the dwelling.
 1. Chair VerHey asked Getty if a notice was sent to the neighbors. Getty stated that it had been, and no feedback had been received.
- ii. Applicant Presentation – Eric and Tanya VanderLoon – Tanya explained that the home had been built handicap accessible for her due to an issue with her foot. She would like the extra space in the garage so that she can park both her Jeep and her golf cart inside the garage to avoid winter weather hazards. She uses the golf cart to move around the property. She would also like it for storage.
- iii. OPEN Public Hearing 7:10 PM - CLOSE Public Hearing 7:18 PM
 1. Vance Hoskins – He stated that he and his wife are the adjoining property owners and have reviewed the remodel plans. He believes the change would be an improvement to the neighborhood.
 2. Diane Hoskins – She stated that the neighbors are very good, responsible, and hardworking people who have entered the remodel with thoughtfulness and detail. Diane understands the ordinance and feels the purpose of it is so that the structure doesn't look like a small home with a large garage. However, this plan is not going to look like that. Also, Tanya has mobility issues, and it is important for her to have safe, accessible storage on her property. She feels that if the variance is not allowed, the move would be of a discriminatory measure since it wouldn't allow for equal access to her property.
- iv. ZBA Deliberation and Decision – VerHey asked when the property was built. Tanya replied that it was built in 2009. He apologized for asking intrusive questions but explained that it was necessary in determining her need for the variance. VerHey asked if the handicap was permanent and if she had the paralyzed foot when the home was built. Tanya replied

yes to both. VerHey asked if she had a legal designation. Tanya replied that she does have a handicap plate and is parked in the handicap parking spot in the lot tonight. VerHey also asked when they would like to start their remodel. Tanya replied as soon as possible. Stolsonburg asked where the addition would be in relation to the road. Eric VanderLoon presented the blueprint and he and Getty explained the layout with the location of Old Dutch Rd. for ZBA members. Getty confirmed it would meet the setback requirements. Wenger commented that it was a nice design and that there is good reason to do it. He said if the property was over 5 acres it would be allowed without variance. Stolsonburg reminded members it was already a legal nonconforming building. VerHey explained to members and the applicant that the process requires them to start at a "No" answer and work through the "Findings of Fact" to see if a variance was permissible. He did recognize that the questions look at the characteristics of the property rather than the needs of the occupant because the property will remain long after the occupant has moved on. VerHey asked Getty if the ZBA was allowed to consider the physical limitations of the occupant. Getty stated she was not qualified to answer to those legal implications but suggested that if members felt that was important to know, it would be possible to contact legal counsel and return for another meeting to make a final decision. Campbell felt that it would be good to talk through the questions now. Stolsonburg said they could look at the questions in the same way as any other occupant. Campbell and other members agreed to answer the "Findings of Fact" questions as state law requires and then ask the attorney any further questions if necessary. ZBA members worked through the following questions beginning with question #6 and #5.

1. VerHey pointed out that the language of the question was 'can include' and Getty stated that only one item (a,b,c, or d) need be met for the answer to question 1. to be yes. Campbell stated that d. "any other physical condition **on** or involving the land;" meant that it was permissible to consider the property owner's physical condition. Campbell also felt that practical difficulties (in item c.) were involved in this instance. All ZBA members agreed that at least one item was a yes so that they could answer question #1 with a yes.
2. VerHey stated that the house in its current condition did not allow its resident to utilize it to the same extent as another resident and

therefore “is not of a general or recurrent nature.” All ZBA members agreed that question #2 was a yes.

3. VerHey and members felt this was a redundant question and agreed that question #3 was a yes.
4. VerHey stated that this property is not located in a neighborhood area such as others covered by the ordinance and that they had heard from the adjacent neighbors who believe the remodel looks good. Stolsonburg and Wenger also stated that they felt the remodel improves the look. ZBA members all agreed that question #4 was a yes.
5. VerHey stated that the ordinance wouldn’t be impaired if they were allowed to base the approval on a situation where the occupant has a documented handicap. Stolsonburg asked Getty about the intent of the original ordinance that the property must be over 5 acres. He wondered why they had determined the dividing line there. Getty stated that the Planning Commission had made the determination and asked Campbell, as a Planning Commission member, to explain further. Campbell explained the intent was to limit a homeowner in a residential neighborhood from building a small home and an oversized garage in an area that would negatively impact the neighborhood. However, Stolsonburg said this property isn’t visible from the road due to the tree line and there are not several homes nearby that would be impacted. VerHey asked if it would be permitted to limit the variance to only occupants with a qualified disability. Therefore, members believed the variance would not impair the intent of the ordinance and that they could answer question #5 with a yes.
6. Wenger said he didn’t think the practical difficulty was self-created. Stolsonburg stated that the practical difficulty was not self-created as the home was built prior to the ordinance. Campbell stated he could answer yes to this question. All members agreed they could answer question #6 with a yes.
7. VerHey stated that the issue does involve a practical difficulty due to the occupant’s physical limitations. ZBA members all agreed that question #7 could be answered with a yes. **MOTION** by Stolsonburg, **SUPPORT** by Campbell. **MOTION CARRIED** by roll call vote. 4 yes votes and 1 absent.

ROLL CALL VOTE:	Wenger, Marty:	Yes
	Gasper, Linda:	Absent
	VerHey, Tim:	Yes
	Stolsonburg, Craig:	Yes
	Campbell, Curt:	Yes

8. ZBA Member Comments – Getty acknowledged this was a difficult decision. Getty then introduced Dick Thompson and explained he had previously been a member of the Planning Commission, Board of Review and ZBA. She felt he would make a good alternate member as Diane Vanderwerp was no longer available. Getty discussed the need for an alternate if some members can't be present at the meeting. It is necessary to have enough members present to have a quorum to be able to vote.
9. Adjournment: **MOTION** by Campbell, **SUPPORT** by Wenger to adjourn the meeting at 8:01 p.m. **MOTION CARRIED** with 4 yes voice votes.



Curt Campbell, Secretary



Amy Brown, Recording Secretary

Approved 11-27-2023