

ISABELLA COUNTY  
ZONING BOARD OF APPEALS

July 17, 2024

A Regular Meeting of the Isabella County Zoning Board of Appeals was held on July 17, 2024 at the Commission on Aging Building, 2200 South Lincoln Street, Mt. Pleasant, Michigan.

MEMBERS PRESENT: Jim Wynes, Tom Riley, Brent Duffett Phillip Vogel, Tom Kromer

MEMBERS ABSENT: None

SUPPORT STAFF PRESENT: Tim Nieporte, Community Development Director  
Ray Johnson, Planner/GIS Analyst  
Mackenzie Rahl, Administrative Assistant, Recording Secretary

The meeting was called to order by the Chair at 9:00 a.m.

The Pledge of Allegiance was recited by the Board.

APPROVAL OF AGENDA

Mr. Wynes called for a motion to approve the agenda.

A motion was made by Mr. Riley supported by Mr. Duffett to approve the agenda.

Yes: Jim Wynes, Tom Riley, Brent Duffett Phillip Vogel, Tom Kromer

No: None

Motion carried.

PREVIOUS MINUTES

Minutes from the October 18, 2023 regular meeting were circulated to the Board prior to the meeting for their review.

Mr. Wynes called for a motion to approve the May 15, 2024 regular meeting minutes.

A motion was made by Mr. Duffett supported by Mr. Riley to approve the minutes as presented.

Mr. Wynes called for a vote.

Yes: Jim Wynes, Tom Riley, Brent Duffett Phillip Vogel, Tom Kromer

Non: None

Motion Carried

PUBLIC COMMENT – Opened at 9:01 a.m., Closed at 9:01 a.m.

### **Variance #24-04 – Byler – Isabella Township**

Mr. Johnson reviewed his staff report regarding the variance request. He indicated the request is for a 166-foot setback to a property line that contains a residential use where 250 feet is required. He stated that the applicant came to the Community Development Office to inquire in building a new home on the property and use the existing home on Omar Byler's property as office space for his business.

Mr. Johnson reviewed various meetings with Mr. Byler in the office which was to assist him with submitting his application to the Board of Appeals. Mr. Johnson also informed the board that comment on Section 14.04 C of the ordinance was not received from the applicant prior to the hearing after multiple attempts of explaining the requirement to Mr. Byler.

Mr. Duffett asked if the current house was turned into office space what would happen to the setbacks.

Mr. Johnson specified that Mr. Byler no longer intends to expand the business. He also indicated the variance request is only to approve the setback from the existing building to the property line. Mr. Johnson stated that this application is the first step towards Mr. Byler applying for a Special Use Permit to operate the business.

Mr. Johnson informed the Board a letter was received this morning from Andrew Thompson an attorney on behalf of Mrs. Clouse. Mr. Johnson stated that Mr. Thompson informed staff he will summarize the letter during the public hearing period.

Mr. Wynes asked where the proposed building was on the plans.

Mr. Johnson indicated where the building was on the submitted plans.

Mr. Nieporte explained that Byler needs a variance for a setback on the business that had no permits previously issued.

Mr. Wynes asked if the variance was denied what would happen.

Mr. Nieporte stated that Mr. Byler will not be able to operate the business, however he could re-apply with a different proposal.

Mr. Johnson reminded the Board that if the variance is approved, the applicant must still apply for and be approved for a special use permit in order to operate a business on the property.

The Chair invited the applicant to speak and provide his justification with regard to Section 14.04 C of the ordinance.

Omar Byler thanked the Board and Ray for their time. Mr. Byler stated that the building was already there when he purchased the property. Mr. Byler informed the Board that he had been running his business since 2012 with no complaints from the neighbors. He stated that he is not going to expand his workshop but wanted to continue operating as normal. Mr. Byler stated that he thought having the building already there when he purchased the property that it would be grandfathered in.

The Chair opened public comment at 9:13 a.m.

Andrew Thompson - Attorney for Kathy Clouse a resident of 860 E Denver Rd immediately East of Mr. Byler's property. Mr. Thompson informed the Board that Mrs. Clouse is not apposed to the request but asked the Board to ensure Mr. Byler comply with the ordinance requirements. Mr. Thompson asked for conditions of screening, the number of employees be limited as per the ordinance, and that storage be within an enclosed building.

Mr. Nieporte informed the Board that those would be requirements the Planning Commission would review to ensure compliance at a future public hearing.

Mr. Thompson thanked the board for their time.

Mr. Vogel asked about having a noise level for this type of use.

Mr. Nieporte stated there is no noise requirement for this type of use.

Tony Clouse asked if the existing storage shed on Mrs. Clouse's property could be expanded if they ever wanted to or would it be affected by how close Mr. Byler's building is to their property line.

Mr. Nieporte stated that the request is for Omar Byler's property only and has no impact to Mrs. Clouse's property and any future construction on her property.

Hearing no other public comment, the Chair closed the public comment period at 9:17 a.m.

The Chair called for Board discussion.

Mr. Wynes asked about how they handle an existing building and a use currently taking place without permits.

Mr. Nieporte indicated the Board should review the request as if the use or building was not currently in place and apply the review criteria in Section 14.04 C of the ordinance.

Mr. Duffett stated that he thought the letter provided by Mr. Thompson appears to be directed toward Planning Commission requirements and not the Zoning Board of Appeals. Mr. Duffett asked if the Zoning Board of Appeals can impose a condition on an approval requiring Mr. Byler to apply for a special use permit?

Mr. Nieporte stated that can be done.

Mr. Wynes asked if there is a time frame for Mr. Byler to complete the special use process?

Mr. Nieporte stated that there is no time frame however, Mr. Byler cannot operate his business until he obtains all required permits for his business.

Mr. Riley asked if they could table the variance until a response to Section 14.04 C was provided.

Mr. Nieporte stated that the Board can table the variance until a specific date to give Mr. Byler time to submit the information. He indicated, if tabled, it should be until the next meeting, August, 21, 2024.

Mr. Wynes asked if Mr. Byler could address Section 14.04 C now.

Mr. Nieporte asked Mr. Byler if he was prepared to address the criteria in Section 14.04 C.

Mr. Byler stated that he was not good at public speaking.

Mr. Nieporte informed Mr. Byler if he was not comfortable talking the Board would likely table the request to a future date.

General discussion regarding Section 14.04 C occurred.

At 9:25 am the Chair called for a 5-minute recess for Mr. Byler to review 14.04 C of the ordinance.

The Chair called the meeting to order at 9:30 a.m.

Mr. Byler indicated he would like to provide written comment on Section 14.04 C of the ordinance.

Hearing no further discussion, the Chair called for a motion.

A motion was made by Mr. Kromer to table Variance Number 24-04 (VAR#24-04) until August 21, 2024 at 9:00 a.m. at the Commission on Aging Building, 2200 S. Lincoln Rd., Mt. Pleasant, Michigan.

The motion was supported by Mr. Riley.

Mr. Wynes called for a vote.

Yes: Jim Wynes, Tom Riley, Brent Duffett, Phillip Vogel, Tom Kromer

No: None

Motion carries.

### **Variance #24-05 – Calloway – Denver Township**

Mr. Johnson reviewed his staff report regarding the variance request. He indicated that the request was for a 2.28-mile setback from an existing communication tower or antenna where 3 miles is required.

Mr. Johnson stated that there was a letter of opposition from the resident to the west. Additionally, he stated he met in the office with the resident to the east to answer questions. He stated the neighbor to the east did not provide any written comment.

The Chair invited the applicant to speak.

Leland Calloway provided a background on the need for the tower. He indicated that Verizon intended to be the first provider. Mr. Calloway stated the tower would provide additional services and offloading of cellular traffic along US-127 and the surrounding area.

Mr. Riley asked where the need for additional towers comes from.

Mr. Nieporte indicated that Mr. Calloway provided the information on the need and coverage maps in the application.

General discussion by the board on the location and height of the tower.

Mr. Vogel asked if there was a reason the tower should not be more than 3 miles from another tower.

Mr. Calloway discussed the historical use by phones for voice only versus the utilization of data and the limitations on cellular towers.

The Chair opened public comment at 9:46 a.m.

Pat Mogg asked if the tower was below 200 ft and if it would need lights.

Mr. Nieport stated only if the FAA required them.

Mr. Calloway stated, in this case, the FAA did not require lights on the proposed tower.

Rhonda Wezensky asked about the gap area for more services, the number of customers in need, and what providers will be on the tower.

Mr. Calloway discussed leasing of space for provider antennas. Mr. Calloway stated need is based on the number of dropped calls in the area.

Vyonne Stein discussed her opposition of the proposed tower.

The Chair closed public comment at 9:58 a.m.

The Chair called for Board discussion.

Mr. Wynes asked for a summary of what was just discussed on the proposed tower.

Mr. Nieporte provided a summary on the discussion regarding Variance #24-05.

Mr. Duffett indicated he felt the applicant thoroughly demonstrated they are meeting all requirements in Section 14.04 C. and he agrees 100% on an approval of the request.

Hearing no further discussion, the Chair called for a motion.

A motion was made by Mr. Duffett to approve Variance Number 24-05 (VAR#24-05) as submitted by Leland Calloway for a 2.28-mile setback from an existing communication tower or antenna where 3 miles is required for this parcel in the Restrictive Agricultural (AG-1) district.

The motion was supported by Mr. Vogel.

Mr. Wynes called for a roll call vote.

Mr. Kromer: Yes

Mr. Vogel: Yes

Mr. Riley: Yes

Mr. Duffett: Yes

Mr. Wynes: Yes

Motion carries.

### **Variance #24-06 – Brecht – Lincoln Township**

Mr. Johnson reviewed his staff report regarding the variance request. He indicated that the request was for a newly created parcel to have a width of 73 feet where 165 feet of road frontage is required.

Mr. Wynes asked for clarification on the request.

Mr. Johnson stated that the applicant is looking to split a parcel into two new parcels preserving the former homestead and the land used for farming.

The Chair invited the applicant to speak.

Tyler Brecht thanked the Board for their time and provided a history of the purchase of the property. He indicated there is no intent to change the use of either of the new parcels.

The Chair opened public comment at 10:08 a.m.

The Chair closed public comment at 10:08 a.m.

The Chair called for Board discussion.

Mr. Duffett reviewed 14.04 C and noted because of the separate mortgages on each property and the preservation of agricultural land, the applicant has demonstrated a practical difficulty.

Hearing no further discussion, the Chair called for a motion.

A motion was made by Mr. Kromer to approve Variance Number 24-06 (VAR#24-06) as submitted by Tyler Brecht for a newly created parcel to have a width of 73 feet where 165 feet of road frontage is required for this parcel in the Restrictive Agricultural (AG-1) district.

The motion was supported by Mr. Riley.

Mr. Wynes called for a roll call vote.

Mr. Kromer: Yes

Mr. Vogel: Yes

Mr. Riley: Yes

Mr. Duffett: Yes

Mr. Wynes: Yes

Motion carried.

### **Variance #24-07 – Barker – Sherman Township**

Mr. Johnson reviewed his staff report regarding the variance request. He indicated that the request was for a front yard setback of 16 feet 3 inches where 25ft is required.

Mr. Johnson stated that a desktop review of the homes on Manitonka Ln., shows that at least three of the homes are a similar distance from or are closer to the Manitonka right of way.

The Chair invited the applicant to speak.

Mary Barker informed the board that her husband planned it out and had the concrete slab there before the ordinance changed back in the 90's.

Mr. Wynes asked if there could have been approval for this back in the 90's.

Mr. Nieporte stated that is unknown however, the proposal is sited and the ordinance prevents it from being any closer to the water.

General discussion on the location occurred.

The Chair opened public comment at 10:17 a.m.

Robert Numerick introduced himself as a member of the Architectural Committee for the Ojibwa Association. Mr. Numerick requested the Board deny this variance request until approved by the association.

Mr. Nieporte stated that the Board approves and denies variance requests based on the Isabella County Zoning ordinance.

The Chair closed public comment at 10:17 a.m.

The Chair called for Board discussion.

General discussion on the location of the proposed building and the currently developed road.

The Chair called for a motion.

A motion was made by Mr. Vogel to approve Variance Number 24-07 (VAR#24-07) as submitted by Mary Barker for a front yard setback of 16 feet 3 inches where 25 feet is required for this parcel in the Lakes Area Residential (L-R) district to construct a 24-foot x 36-foot pole barn in the Lakes Area Residential (L-R) district. He indicated the approval is based upon the applicant demonstrating they have met the requirements in Section 14.04 C.

The motion was supported by Mr. Riley.

Mr. Wynes called for a roll call vote.

Mr. Kromer: Yes

Mr. Vogel: Yes

Mr. Riley: Yes

Mr. Duffett: Yes

Mr. Wynes: Yes

Motion carried.

STAFF COMMENTS – None

APPEALS BOARD MEMBER COMMENTS – General discussion on public comment procedures.

ADJOURNMENT

Mr. Wynes adjourned the meeting at 10:28 a.m.

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Brent Duffett, Secretary  
Mackenzie Rahl, Recording Secretary

UNAPPROVED