

Waterloo Township Zoning Board of Appeals

Draft Meeting Minutes

January 31, 2018

Meeting called to order at 7:00 pm.

Pledge of Allegiance

Roll Call: G. Hannewald, C. Burgess, M. Martin, D. Lance, and R. Schumacher. Also present: Attorney Stephen Delie

Acceptance of: January 31, 2018 Meeting Agenda: Moved by R. Schumacher, supported by D. Lance to accept agenda as presented. **Motion carried.**

Public Comments: Bill Richardson read a statement prepared by Bill and Cynthia Richardson regarding their observations concerning the Milkey Variance issue. Attached to minutes.

Acceptance of: July 20, 2017 ZBA Meeting Minutes: Moved by M. Martin, supported by D. Lance to accept minutes as presented. **Motion carried.**

Unfinished Business:

- ❖ **Milkey Variance Issue**
- ❖ Moved by R. Schumacher, supported by D. Lance to close regular meeting and open Public Hearing at 7:07pm. **Motion carried.**
- ❖ **Public Hearing**
 1. Jason Milkey stated he was concerned about whether storage was permitted on the west side of the pole barn.
 2. Attorney Stephen Delie read the minutes from the 8/30/16 ZBA meeting which prohibited storage and lighting on both the northern and western sides of the pole barn.
 3. The ZBA Findings of Facts and Clarification document was reviewed and discussed.
 4. J. Beck will inspect the Milkey's property 30 days after agreement of conditions stated in Clarification document.
 5. Jason Milkey stated he was not trying to be dishonest and can comply with all conditions.
- ❖ Moved by R. Schumacher, supported by D. Lance to close Public Hearing at 7:27pm. **Motion carried.**
- ❖ Moved by D. Lance, supported by M. Martin to reopen regular meeting at 7:28pm. **Motion carried.**
- ❖ Moved by R. Schumacher, supported by D. Lance to approve the Clarifications from the ZBA August 30, 2016 Variance Decision: **Roll call vote all YEA.** Signed and approved document attached.

New Business: None

Public Comments: None

Adjournment: Moved by D. Lance, supported by R. Schumacher to adjourn at 7:31 pm. **Motion carried.**

Ralph Schumacher
Planning Commission Secretary
1/31/18

WATERLOO TOWNSHIP ZONING BOARD OF APPEALS
DECISION CLARIFYING A CONDITIONAL APPROVAL OF A VARIANCE

Applicant: Jason and Sarah Milkey, 7900 Clear Lake Road, Jackson, MI 49240 (“Applicant”).

Subject Property: Parcel Number: 000-05-36-176-002-00, commonly referred to 7900 Clear Lake Road, Jackson, MI 49240 (“Property”).

Applicant has requested a clarification of the Zoning Board of Appeal’s (“ZBA’s”) decision dated August 30, 2016. The ZBA issues this decision to definitively establish Applicant’s obligations under its prior decision.

Findings of Fact:

- 1) Applicant’s property is Zoned A-2.
- 2) On July 18, 2013, Applicant sought a variance from the setbacks required by the Zoning Ordinance (“Ordinance”) to construct a pole barn on the Property. The ZBA granted the requested variance, which allowed Applicant to build a pole barn on the Property with a setback of fifteen (15) feet, rather than the ordinary thirty (30) foot setback required by Table 9-4 of the Ordinance.
- 3) Applicant constructed the pole barn with an approximately six-foot setback, in violation of the variance. The lean-to portion of this barn encroached further, and was located on the neighboring property.
- 4) Following notice of same from the Township, Applicant removed the lean-to and requested a second variance from the ZBA to permit the barn to be built up to six (6) feet from the neighboring property line. After a public hearing on August 30, 2016, the ZBA conditionally granted Applicant’s second variance.
- 5) The ZBA’s August 30, 2016 conditional approval of a second variance required the following:
 - a. No storage facilities on either the Northern or Western sides of the barn;
 - b. No lighting on the same;
 - c. Removal of any millings previously placed on the neighboring property; and
 - d. Registration of the above conditions as deed restrictions within forty-five (45) days of the variance decision.
- 6) Applicant seeks additional clarification of the ZBA’s decision, contending that the ZBA intended to forbid storage or lighting only on the side of the barn facing the neighboring property, i.e. the Northern side.

Zoning Board of Appeals Decision: Based upon the above, the ZBA hereby expressly affirms its August 30, 2016 decision, subject to the following clarifications. For purpose of clarity, the following conditions are the only conditions which Applicant shall be required to meet to satisfy the requirements of his second variance:

1. Applicant shall refrain from storing materials, or installing a storage facility, on the Northern side of the barn on the Property.
2. Applicant shall refrain from placing any lighting on the Northern side of the barn on the Property.

3. Applicant shall remove any millings remaining on the neighboring property.
4. These conditions shall be recorded as a deed restriction on the Property no later than thirty calendar days from the date this decision is issued.
5. These conditions shall be met not later than thirty calendar days from the date this decision is issued.

Roll Call Vote of the Zoning Board of Appeals:

- | | |
|---|------------------|
| <input checked="" type="radio"/> (Yes) / (No) | Chair Hannewald |
| <input checked="" type="radio"/> (Yes) / (No) | Co-Chair Martin |
| <input checked="" type="radio"/> (Yes) / (No) | Douglas Lance |
| <input checked="" type="radio"/> (Yes) / (No) | Ralph Schumacher |
| <input checked="" type="radio"/> (Yes) / (No) | Carmen Burgess |

Signature of Zoning Board of Appeal's Chair (or authorized Member):

The Zoning Board of Appeal's Chair certifies that a majority of the entire Zoning Board of Appeals membership voted to approve the above decision.

Maria L. Hannewald
 Zoning Board of Appeal's Chair/Authorized Member

Dated: 1-31-16, ~~2017~~ 2018 RKS

CERTIFICATION

I, the duly acting Secretary of the Waterloo Township Zoning Board of Appeals, certify that on this date I witnessed the signature set forth above and attest to the accuracy of this Decision, which was approved by the Zoning Board of Appeals at a duly scheduled meeting on 1/31/2016, ~~2017~~ 2018 RKS

RK Schumacher
 _____, Zoning Board of Appeals Secretary

Dated: 1/31/2016, ~~2017~~ 2018 RKS

Bill & Cynthia Richardson
7920 Clear Lake Road, Grass Lake, MI

Please attach to the ZBA 1/31/18 meeting minutes

From our notes and observations, the following has occurred regarding the Milkey setback variance:

1. Jason Milkey applied for a zoning variance to build a 32'x52' pole barn within 15' of a property line he shares with us, the Richardson's. A variance would be necessary because the required setback according to the township ordinance is 30 feet.
2. Milkey submitted a site drawing with the zoning variance application that showed only a 32'x52' pole building. No lean-to was shown on the site plan.
3. After the township granted Milkey's requested variance for only a 32'x52' pole building and only a 15 foot setback, the Milkey's then proceeded to build the barn, and attach a 12.5 foot lean-to to the back of it, knowing full well that this lean-to would put them not 15 feet from the property line, but 2.5 feet from the property line.

These actions indicate an attempt to deceive both the township, and us, the Richardson's.

4. In December of 2015, we (the Richardson's) paid to have a survey done on our entire property line. That survey indicated that the lean-to was in fact built 6.5 feet over the property line and onto our property.
5. This incident lead to the finding that the Milkey's never bothered to have their own survey done, all the while attempting to build a structure 2.5 feet from the property line after receiving a variance to build only within 15 feet of the property line.
6. We (the Richardson's) met with the Milkey's multiple times in an attempt to resolve the situation, but were unsuccessful.
7. The Milkey's eventually removed the lean-to portion, but the building itself was still 6 feet from the property line, still in violation of the 15' variance that was granted.
8. Another ZBA meeting was held on August 30th, 2016. Milkey had to submit a new request for a 6' variance due to the unlawful encroachment to the property line. Reluctantly, we (the Richardson's) agreed, as long as some conditions were met. The Milkey's agreed to the conditions and we thought the issue was resolved.

Sometime after the August 30th, 2016 ZBA meeting, we began to hear that the Milkey's were not honoring the conditions. Now here we are, another year and a half later, in our 3rd ZBA meeting for a single variance.

We want this issue resolved, and soon. We don't want to be discussing this again at the July 2018 ZBA meeting. If we had it to do all over again, we would not have agreed to the variance and would have done what we could to argue against it. The Milkey's have been dishonest throughout the entire process and we feel like we are paying the price.

The above facts should also be considered if the Milkey's are ever to apply for another variance within our township.

 1/31/18
 1.31.2018
Bill & Cynthia Richardson