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**ZONING BOARD OF APPEALS MINUTES
WEDNESDAY, DECEMBER 19, 2012
7:00 P.M.**

The regular meeting of the DeWitt Charter Township Zoning Board of Appeals was called to order at 7:00 p.m. by Vice Chairman Gobbo.

The Pledge of Allegiance to the Flag was said by those present.

ROLL CALL by Secretary Reese.

MEMBERS PRESENT: Steve Gobbo, Andrew Richards, Jeff Carpenter, Donald Riel, Robert Reese, III

MEMBERS ABSENT: Christopher LaGrand

VACANCY: One (Calder)

OTHERS PRESENT: Township Planner Tory Niewiadomski.

APPROVAL OF AGENDA: Niewiadomski noted New Business Item I. should be Appeal 12-770008 rather than 12-770005.

**Carpenter moved to approve the agenda as amended. Supported.
MOTION CARRIED.**

APPROVAL OF MINUTES: **Richards moved to approve the minutes of the October 17, 2012 meeting. Supported. MOTION CARRIED.**

CORRESPONDENCE: DeWitt Charter Township Meeting Dates and Closings for Year 2013 was received by the Board.

PUBLIC COMMENTS: None.

UNFINISHED BUSINESS: None.

NEW BUSINESS:

- I. PUBLIC HEARING - Appeal 12-770008 – From Daniel Rathke, requesting a variance to create a parcel with 66 feet of lot frontage which would require a reduction to the minimum lot frontage requirements as specified in Section 42-857 of the Zoning Ordinance. The property,**

located on the south side of Round Lake Road, west of US 27, in the southwest ¼ of Section 4 (#050-004-300-010-00) is proposed to be split into three (3) separate parcels. Two of the parcels would conform to ordinance requirements whereas the last parcel would require a variance to reduce the minimum lot frontage requirements.

- A. Open Public Hearing. **Carpenter moved to open the Public Hearing at 7:05 p.m. Supported. MOTION CARRIED.**
- B. Administrative Comments/Applicant/Public Comments.

Niewiadomski briefly reviewed staff's report dated December 11, 2012 pointing out the location of the site. The applicant currently has an option to purchase the vacant property located on Round Lake Road (Parcel #050-004-300-010-60). The request is for a variance to the minimum lot frontage requirements of the Zoning Ordinance be allowed to create a parcel with 66 feet of lot frontage. The site consists of two zoning districts. Approximately 7.67 acres are zoned Industrial, Light and the remaining 13.79 acres are zoned Agricultural.

Niewiadomski went on to advise the surrounding land uses consist of Agricultural to the north, Industrial to the east, residential to the south and west. The surrounding zoning consists of Agricultural to the north, south and west, and Industrial, Light to the east. It should be noted that a portion of the site is currently within the Flood Zone A as indicated on the FEMA map. The applicant intends to construct a home on the site, north of the flood zone area.

The applicant is proposing to divide the site into three (3) separate parcels. Two (2) of which would meet the current Zoning Ordinance requirements. The third parcel would be approximately 13.79 acres and would have 66 foot of frontage on Round Lake Road. The only way to access the back portion of the 13.79 acre parcel reasonably would be to use the proposed 66 foot of frontage.

Brief discussion followed regarding the fact that the dimensions of the proposed parcels are most accurate on staff's power point presentation rather than what is indicated in the staff report. This is due to the fact that the applicant submitted a survey with exact dimensions.

Niewiadomski reviewed the request for compliance with all four Basic Conditions and at least one Special Condition. He noted the subject site has two (2) zoning districts. However, only one primary use is allowed on a piece of property. Approval of the variance would allow the applicant to access the Agricultural district at the rear of the site and use it as residential. The applicant also intends to rezone a portion from Industry, Light to Agricultural. This would not be contrary to public interest and would therefore meet Basic Condition a).

Brief discussion followed regarding the fact that zoning districts do not always follow property boundary lines.

The proposal is to split the property so that it can be reasonably used for permitted uses within the respective zoning districts. As mentioned previously, portions of the parcel that would require a variance are currently zoned Industrial, Light, which does not allow for residential construction. If the Board of Appeals approves the variance, it should be based on the condition that the applicant rezone the portion of the property that is to be used for single family be rezoned from Industrial to Agricultural to conform to the rest of the property. Staff finds that the request and conditions comply with Basic Condition b).

There is no reason to believe that granting the variance would have significant adverse impact on surrounding property values. The applicant's proposal would create two (2) parcels that are zoned industrial which would be adjacent to the other industrially zoned property. The third parcel that would require the variance would act as a buffer to the surrounding properties that are zoned as Agricultural to the south and west. Therefore, staff finds that the request meets Basic Condition c).

Requests of this nature have been infrequent. Additionally, requests of this type have not been consistent so as to demonstrate the need for an amendment to the Zoning Ordinance. Staff finds the request also complies with Basic Condition d).

With respect to Special Condition a), compliance with this condition is at the discretion of the Board of Appeals. The applicant feels that due to the odd shape of the lot, it presents issues for them to reasonably use the property. Also, the property currently has two zoning classifications (Agriculture and Industrial Light) which presents special issues for the use of the property. The circumstances of this parcel creates a unique situation for the use of the property since the front portion of the lot is zoned as Industrial, Light and the back portion of the lot is zoned as Agricultural. The conditions of this property create a situation where only a portion of the lot could be used either as Industrial or Agricultural, which limits the amount of usable acreage for this parcel. Staff finds that Special Condition a is met.

With respect to Special Condition b), compliance with this condition is at the discretion of the Board of Appeals. The applicant feels that without splitting the property, that the back portion of the property would not be able to be reasonably used since it is zoned for Agricultural uses whereas the frontage of the property is zoned for Industrial uses. Because of the multiple zoning designations on the property, the property owner would be limited to either using the property for industrial uses only or agricultural uses only and those uses would only be permitted on the portions of the property that are zoned appropriately. There is significant acreage that would be unusable without dividing the parcels. Staff finds that Special Condition b is met.

In closing, Niewiadomski advised twenty-three (23) letters were sent out notifying the public of this request. Four residents came into the Township offices inquiring exactly where the subject site was located. None of the residents provided comments.

Vice Chairman Gobbo invited the applicant to speak.

Daniel Rathke, 1922 Donora Street, Lansing, MI, applicant, pointed out the location where he intends to build a residence. The location was chosen based on the topography of the land. He noted the only property he intends to buy is the parcel where he would like to build.

There were no questions or comments.

Vice Chairman Gobbo invited public comment.

Jason Hallenbeck, 1640 W. Dill Road, DeWitt, MI 48820, expressed concern with the applicant building a home on the property because he does not care to see it from his home.

There were no further questions or comments.

- C. Close Public Hearing. Carpenter moved to close the Public Hearing at 7:35 p.m. Supported. MOTION CARRIED.
- D. Discussion and possible action by Board of Appeals.

Carpenter stated he drove by the site. The request seems reasonable and would make the most sense for accessing the site.

Reese moved Appeal 12-770008, to allow the applicant to be relieved of the minimum frontage requirements of the property located at Round Lake Road, be approved with the condition that the applicant rezone the remainder of the parcel requiring the variance that is currently zoned Industrial Light to Agricultural. Approval is based on a finding that the request meets all four of the Basic Conditions and Special Conditions (a and b) listed in Section 42-70 of the Zoning Ordinance.

Supported.

ROLL CALL vote on motion:

AYES: 5 NAYS: 0 ABSENT: 1 (LaGrand) VACANT: 1
MOTION CARRIED.

- E. Possible Certification of Decision.

Richards moved to approve the Certification of Decision for Appeal 12.770008, as stated in the motion above.

ROLL CALL vote on motion:

AYES: 5 NAYS: 0 ABSENT: 1 (LaGrand) VACANT: 1

PUBLIC COMMENTS ON NON-AGENDA ITEMS: None.

TRUSTEES REPORT: None.

In the absence of Trustee [Name], the Board will proceed with the meeting.

DISCUSSION: None.

ADJOURNMENT: Reese moved to adjourn the meeting at 8:45 p.m. Supported. MOTION CARRIED.



Linda K. Parkinson, Recording Secretary



Robert Reese, III, Secretary