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**ZONING BOARD OF APPEALS MEETING MINUTES
WEDNESDAY, JUNE 16, 2010
7:00 P.M.**

The regularly scheduled meeting of the DeWitt Charter Township Board of Appeals meeting was called to order at 7:00 p.m. by Chairman LaGrand.

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

ROLL CALL by Jim Foulds, Township Planner.

MEMBERS PRESENT: Steve Gobbo, Donald Riel, Andrew Richards, Trustee Musselman, Chris LaGrand, Dale Glynn.

MEMBERS ABSENT: Robert Reese, III

APPROVAL OF AGENDA; **Gobbo moved to approve the Agenda as presented. Supported. MOTION CARRIED.**

APPROVAL OF MINUTES: **Gobbo moved to approve the minutes of the April 21, 2010 as amended and distributed at the meeting. Supported. MOTION CARRIED.**

CORRESPONDENCE: None.

PUBLIC COMMENTS: None.

INFORMATION-MILLAGE: Diane K. Mosier, DeWitt Charter Township Clerk

Trustee Musselman reported on behalf of Clerk Mosier regarding the upcoming primary election, to be held on Tuesday, August 3, 2010. He specifically addressed the millage renewal proposal for the Township's Police Department and Fire Department. A fact sheet from the Clerk's Office was made available to anyone interested.

UNFINISHED BUSINESS: None.

NEW BUSINESS:

I. **PUBLIC HEARING - Appeal 10-770003 – From Magen Cole**, requesting a variance of eight-hundred (800) square feet to the maximum allowed nine-hundred and sixty (960) square feet of accessory space as set forth in Section 6.1.5 of the Zoning Ordinance to allow the construction of a 32-foot by 40-foot pole barn structure on property located at 15943 Burton Street, Lansing, MI 48906, the northeast corner of Burton Street and State Road, Lot #1 of Ballentine’s Wee Acres Subdivision, in the southeast ¼ of Section 28 of DeWitt Charter Township.

A. Open Public Hearing. **Chairman LaGrand declared the Public Hearing opened at 7:10 p.m.**

B. Administrative Comments/Applicant/Public Comments.

Township Planner Jim Foulds briefly reviewed staff’s memorandum dated June 8, 2010 advising the nature of the variance request (see above). The proposed pole barn structure would be 1,280 sq. ft. in size. There is also an existing 480 sq. ft. detached structure on the site for a total of 1,760 sq. ft. Therefore, the total area of accessory space would exceed the 960 sq. ft. maximum allowed by 800 sq. ft.

Foulds went on to review additional information distributed at the meeting which included staff’s findings and three recommendations. He pointed out that the previous six (6) variances which were approved by the Board of Appeals over the past seven (7) years averaged 578 square feet over the permitted square footage maximum. The largest variance granted was in 2006 for 1,656 square feet for the property located at 15811 Turner Road (Variance Appeal 06-770005). Foulds noted that that particular site was a rather large eight (8) acre site.

Foulds advised that he has had discussions with the applicant regarding utilization and access to the proposed pole barn structure. The applicant indicated there will be no request for a driveway permit on State Road. Therefore, the existing access to the site will remain from Burton Street. Additionally, the applicant advised staff that there is no Home Occupation anticipated that would be associated with this variance request. The use of the proposed structure will be for the storage of personal vehicles and household items.

As the sketch indicates, the applicant intends to locate the structure in the northeast corner of the property. The surrounding land uses consist of Single Family Residential to the north and west and Non-Residential to the east and south. The east property line of the subject site abuts a utility easement, as well as a commercial business. In addition, on the south side of State Road, across from the site, there also exists a commercial use.

Musselman questioned what the subject site is designated for on the Future Land Use Map.

Foulds advised the Board that the site is designated as SF-H (High Density Single Family Residential) on the Future Land Use Map.

Glynn suggested that should the Board of Appeals approve this request, a condition should be included in the motion that would specifically state that there can be no driveway access onto State Road.

Gobbo questioned if the subject site could be split.

Foulds advised that the minimum lot size for the R5 (Residential Single and Two Family) zoning district. Therefore, the lot could be divided. Since the lot is in a platted subdivision, the split could only take place if it were approved by the Township Board of Trustees.

Riel questioned if the proposed location of the pole barn structure meets setback requirements.

Foulds advised the Board that the proposed location of the structure does meet setback requirements.

Musselman expressed concern with setting a precedent for future variances of this magnitude. However, he noted that a unique situation exists due to the commercial property to the east and south sides of the site. He questioned if there were any responses to the notification letters that were sent out to surrounding property owners.

Foulds advised the Board that one resident came into the Planning Department to get clarification on the request.

Hearing no further questions or comments, Chairman LaGrand invited the applicant to speak.

Andrew Leech, 15943 Burton Street, Lansing, MI 48906, representing the applicant, stated he would like to build the pole barn structure to house their vehicles, quads, snowmobiles, jet skies, lawnmower, etc. Approving the variance would allow their property to be more aesthetically pleasing to the neighbors.

Gobbo questioned why the applicant is proposing to place the structure in the northeast corner of the property.

Leech stated it seemed like the ideal location for him. The proposed location would allow for some open space in the backyard for recreational area. However, he is not opposed to changing the location.

Leech further advised the Board that he had initially contacted the Township and was advised by a gentleman that he could build an accessory structure up to 2,000 square feet. After purchasing the materials for a 32'x40' pole barn he called back with further questions and was told he could not build a structure of that size because it would exceed the maximum allowed square footage for accessory space.

Foulds questioned Leech if he knew who he had spoken to the first time he called.

Leech stated he did not get the name of the person.

LaGrand asked for clarification on who the applicant was.

Magen Cole, applicant, 15943 Burton Street, Lansing, MI 48906, stated she is the homeowner. Mr. Leech resides with her and will be constructing the pole barn structure.

Gobbo pointed out that there appears to be some trees in the area of the proposed structure. In addition, he asked if the applicant intends to have a foundation under the structure.

Leech stated there are approximately four (4) trees that would need to be removed. Also, he has talked to the neighbor, who is present at the meeting, and she has no problem with them being removed. He would like to place poured concrete as a foundation under the structure. There would also have to be some fill brought in prior to pouring the foundation.

Glynn questioned if the applicant intends to remove the 120 square foot shed shown on the sketch plan submitted.

Leech stated he fully intends to remove the existing 120 square foot shed from the property.

Jill McNamara, 15939 Burton Street, Lansing, MI 48906, stated she lives adjacent to the property. She would be very happy if the applicant removed some of the trees on his property because they hang over her property and are constantly losing large limbs. She requested that the structure be oriented so that the door faces State Road. She expressed concern with the fact that the applicant does not intend to construct a driveway. She suggested that the applicant place a fence along the property line to screen the building from her view. In closing, she added that she is glad that the house has been purchased and that the conversations she has had with Mr. Leech have been very amicable.

LaGrand asked for clarification from Ms. McNamara. He stated that it sounds like McNamara is somewhat in favor of the request, as long as the door of the structure is oriented towards State Road and that there is some type of buffer between the applicant's property and her property.

McNamara stated that Mr. LaGrand was correct. She is also somewhat concerned with how the applicant would access the structure if there will be no driveway. She does not like the idea of them driving on the grass.

Riel suggested that perhaps some shrubs could be planted as a buffer in place of fencing.

There was discussion regarding certain properties in the vicinity of the site.

Musselman noted that the Township is currently working on property maintenance code to aid in the enforcement of blighted areas.

McNamara commended the Township on handling a blight issue in her neighborhood related to unlicensed vehicles and tall grass.

Margareta Hicks, 15854 Burton Street, Lansing, MI 48906, expressed concern with all of the automobiles and recreational vehicles that are on the proposed site. She also expressed concern with the size of the proposed structure and questioned why the applicant would not choose to live in the country rather than a residential area. She feels the structure would be used commercially for automobile repair. In closing, she stated that there are other properties on her street that are unsightly and she wishes the Township would try to rectify the situation.

Magen Cole, applicant, 15943 Burton Street, Lansing, MI 48906, stated that they do not run their recreational vehicles through the neighborhood because she understands that it is not allowed in a residential neighborhood. They take them out in the country to use them. They have no intention of engaging in commercial activities on their property. With regard to the concern with all of the vehicles in the yard, she stated that this is why they would like to build the pole barn so that they can be placed inside the structure and make the property look better.

Gobbo questioned how the applicant intends to access the proposed structure.

Cole stated he intends to access the structure along the southern boundary of the property.

Gobbo asked for clarification as to whether the applicant would be willing to change the location of the structure (closer to the house) and if the applicant would be willing to reduce the size of the structure.

Leech stated he would be willing to make any changes that the Zoning Board of Appeals feels would be necessary. He realizes that the automobiles and recreational vehicles in his yard are not aesthetically pleasing and that is why he would like to build the pole barn structure so that he can store them inside. He would also be willing to explore the option of a privacy fence along the northern boundary of the applicant's property. Leech concluded by saying it was unfortunate that he purchased the building materials based on the information he was given the first time he called the Township to inquire about what size structure he was allowed to have.

C. Close Public Hearing. **Hearing no further comments, Gobbo moved to close the Public Hearing at 7:50 p.m. Supported. MOTION CARRIED.**

D. Discussion and possible action by Board of Appeals.

Gobbo expressed concern with the proposed location of the structure. Perhaps it could be located closer to the house. He stated that the property could at some point be divided and the current location could cause a problem with access to the site.

LaGrand stated a land division is subject to the approval from the Board of Trustees. He feels the chances of a land division approval are quite speculative.

Musselman stated he would prefer that the structure be located where the applicant has proposed it due to the following: fact that it backs up to commercial property; it allows more access to the backyard; if it were closer to the applicant's house it would also be closer to the neighbors house. In closing, Musselman stated that the neighbors seem to want the site to be cleaned up and are for the most part in favor of the proposed structure.

LaGrand stated that the site is unique in that it abuts commercial property and a commercial easement on the east and south sides. In addition, since the applicant's garage is detached they are allowed only 960 square feet of accessory space. If the garage were attached they would be allowed 1,200 square feet for attached accessory space plus the 960 square feet for detached accessory space.

Glynn stated he is in favor of approving the request due to the special circumstances involved and the fact that the applicant is trying to clean up the property.

Richards questioned if any issues would arise from the applicant constructing a privacy fence.

Foulds advised the Board that privacy fences are permitted as an accessory use with a maximum height of eight (8) feet. Anything less than six (6) feet in height does not require a Building Permit.

Discussion followed regarding approval with the condition of providing landscaping or fencing.

Riel stated the property is unique due to the fact that it abuts a utility easement and there is commercial property across State Road to the south.

Discussion followed regarding a condition of approval requiring a screening buffer along the north property line and how long it should be.

Musselman moved that Appeal 10-770003 from Magen Cole to allow the construction of a thirty-two (32) foot by forty (40) foot pole barn structure which exceeds the maximum permitted accessory structure by eight hundred (800) square feet, as shown on the

application materials submitted on May 19, 2010, be approved. Approval of the request is based on the finding that the request meets all four Basic Conditions and Special Conditions listed in Section 4.2.3 of Zoning Ordinance 60 have been met, based on items listed during discussion. Approval is based on the following conditions:

1. A mutually agreed upon screening material be used to the north side of the pole barn structure.
2. No commercial activity shall take place at the property address.
3. There will be no curb cut on State Road to access the site.

Supported.

ROLL CALL vote on motion:

AYES: 6 NAYS: 0 ABSENT: 1 (Reese)

MOTION CARRIED.

- E. Possible Certification of Decision.

Musselman moved to approve the Certification of Decision for Appeal 10-770003. Supported. MOTION CARRIED.

PUBLIC COMMENTS ON NON-AGENDA ITEMS: None.

TRUSTEES REPORT:

Trustee Musselman gave a brief report on business conducted and action taken at the previous regularly scheduled May/June meetings of the Board of Trustees.

DISCUSSION:

Brief discussion regarding potential use for the former L & L Food Center site located at 12950 S. US 27, DeWitt, MI 48820.

ADJOURNMENT:

Glynn moved to adjourn the meeting at 8:05 p.m. Supported. MOTION CARRIED.

Linda K. Parkinson, Recording Secretary

Robert Reese, III, Secretary