

# **BOARD OF ZONING & APPEALS MINUTES**

**Tuesday, August 13, 2013**

**7:00 P.M.**

## **A. ROLL CALL**

Members Present:

Mike Hall– Chairman  
Jane Ohlmansiek  
Rick Pope  
Ken Nelson  
Phil Darling

Arnold McGill – Attorney  
Nicole Daily – Enforcement Officer

Members Absent:

None

## **B. ACTION ON MINUTES**

Mrs. Ohlmansiek makes a motion to approve the April 9<sup>th</sup>, 2013 minutes as amended. Mr. Pope seconds. All in favor. None oppose. Motion carries.

Mr. Pope makes a motion to approve the May 14<sup>th</sup>, 2013 minutes. Mr. Darling seconds. All in favor except Mr. Nelson who abstains. None oppose. Motion carries.

Mr. Nelson makes a motion to approve the June 11<sup>th</sup>, 2013 minutes as amended. Mrs. Ohlmansiek seconds. All in favor except Mr. Pope who abstains. None oppose. Motion carries.

## **C. OLD BUSINESS SCHEDULED TO BE RE-OPENED**

There was no old business.

## **D. OLD BUSINESS TO REMAIN TABLED**

There was no old business.

## **E. NEW BUSINESS**

**1. Request:** Variance from landscaping requirements.  
**Applicant/Owner:** Heart House  
**Site Location:** US 50  
**Legal:** Sec. 12, T4, R2, Map #11-12, Parcel #058.002  
**Township:** Washington **Size:** 2.44 Acres  
**Zoning:** Manufacturing Class 1 (M-1)

Mrs. Daily explains that the owner wants to waive the landscaping requirements and some drainage control measurements from an approved 2005 site plan. Applicant is asking for a 100% tree reductions in front yard, 100% tree reduction in side yard, 40% tree reduction in the rear yard. Also requesting changes in the drainage control measures by eliminating the rip rap and channel dams along the east side yard. She reviews the existing conditions of the area and site. She also states that the original site plan was for three storage unit buildings, but only one storage building has been constructed. She also reviews the inspection history and how the current improvements are different from the approved site plan. Mrs. Daily presents the staff report.

Mrs. Ohlmansiek asks about the 2009 site plan that was submitted.

Mrs. Daily says that there was a site plan submitted in 2009 but the applicant was told that he would have to come in front of the BZA to be approved. The applicant never came in front of the BZA for the approval so the variance will come from the 2005 site plan.

Mr. Hall asks how many trees are proposed to be planted in the rear yard.

Mrs. Daily states that 11 trees are proposed to be planted in the rear yard.

Craig Beckley representing the Heart House gives the status of the Heart House. He states that funding for the Heart House is very tight, and that it is operated as a non-profit. He passed recent photos of the rip rap and states that there is no sign of erosion. He states that the rip rap is not needed because the other two building were never built. The 2005 site plan included the rip rap because of the run off calculated from the three buildings.

Mr. Pope asks if the rip rap was proposed for water retention or to prevent erosion.

Mrs. Daily states that it was more for erosion control and not for retention. It was to slow down the runoff and not store it.

Mr. Hall clarifies that that type of improvement is mainly to slow down runoff and not to detain the runoff. He states that it is more of a filter system. He states that the rip rap would have prevented erosion from the runoff from the three proposed buildings but since the other two building were never built, the storm water hits the gravel causing sheet runoff from there.

Mr. Beckley states that he does not know if they will ever have the funding to build the other two buildings. He then states his case for the landscaping variance. He states that he is not

sure why you would want to hide a commercial building. He states that he has planted trees several times but they have been mowed down by mowing service. He states that the rear yard is next to a manufacturing area and that no one can see from there because it's a recycling business. Also says that trees buffering the yard would create an unsafe condition and creates an environment for drug use.

Mike asks who prepared the original site plans and if the applicant had reviewed them? Why was it not an issue then?

Mr. Beckley states that Herzo engineering prepared the plans, and that he reviewed them before they were submitted. He states that it was an issue then but he had the funding for the project and needed the revenue from the storage units to operate. He decided to go with the plans despite his concerns with the plans.

There was no public to comment.

Mr. Nelson makes a motion to eliminate 100% of the landscaping requirements and the elimination of the rip rap and rock channels. Mrs. Ohlmansiek seconds. Mrs. Ohlmansiek amends the motion to include that the two additional building must be removed from the 2005 site plan and if the heart House wants to build the additional building, they must submit a new site plan and come before the BZA. All in favor. None oppose. The motion carries.

<b>2. Request:</b>	<b>Front Yard Variance for a second home.</b>
<b>Applicant:</b>	<b>Michael Ballinger / Owner: David &amp; Ellen Wozniak</b>
<b>Site Location:</b>	<b>Mt Pleasant Road</b>
<b>Legal:</b>	<b>Sec. 20, T6, R1, Map #06-20, Parcel #045.000</b>
<b>Township:</b>	<b>Miller                      Size: 21.64 Acres</b>
<b>Zoning:</b>	<b>Agricultural (A)</b>

Mrs. Daily explains that this case is for a front yard building setback of 10 feet for a secondary residence. She explains that a secondary residence is permitted in the Ag zone as long as it is used to house family members or employees of the landowner. She shows the aerials of the property and of the site. Mrs. Daily explains that the driveway as shown on the plan will be reviewed by the County Engineer and will most likely be moved due to driveway spacing issues. She also stated that the housing unit could not go any further back because of a steep slope past the 90 feet mark.

Michael Ballinger states his case for the variance. He states that he works for the landowner, and that he wants to put a secondary residence on the property.

Mr. Nelson asks if the parcel is going to stay as one parcel or will it be split.

Mr. Ballinger states that it will stay as one parcel.

There was a discussion about whether this is employee housing or a guest house. Mrs. Ohlmansiek clarifies that in order to allow a second residence to be built on a parcel, the

house must be used to house a family member or an employee. Mr. Ballinger states that he does work for the property owner, and he will only be there about 150 days of the year.

Mr. Hall asks if he plans on leaving the trees in front of the proposed building site that runs along the road.

Mr. Ballinger states that a few scrub trees will be removed but nothing significant. He states that from the road, the structure will not be visible.

Mr. Hall states that he has been out to the property, and he can vouch that the housing unit cannot go any further back because of the slope. He states that it is a confined building site.

#### Open Public Comment

Patricia Statt wants clarification where the proposed building site is located in relation to her property. Mr. Hall explains the location of the proposed building site.

#### Close Public Discussion

Mr. Nelson makes a motion to grant the 10 feet variance as requested. Mr. Pope seconds. All in favor. None oppose. The motion carries.

### **F. ADMINISTRATIVE**

Mrs. Daily explains the history of Batta's past case with the BZA. She explains that Batta wants to amend his site plan. The original site plan included a fence along the west side of his property but now he does not want to erect the fence. There is an existing house on the adjacent parcel, and the landowner states that he does not care if there is a fence or not. Mr. Batta states that he and his neighbor likes to keep an eye on each other's property. A discussion ensues between the board members, and they agree that a fence is not needed.

Steve Callahan states that his neighbor has a complaint about his RV that is parked in the front of his house. The ordinance states that RVs must be stored on the side or rear of a house. Since a complaint has been made, the Planning and Zoning department must start an enforcement case. He states that he and his neighbor has been in an ongoing dispute. He states that the front yard is the best location because of the odd shape of his parcel. He states if he moves it, it will be more visible to the surrounding parcels and the road. Mr. McGill states that the board cannot make any decision on this matter until Mr. Callahan applies for a variance. The board suggests that Mr. Callahan should apply for a variance.

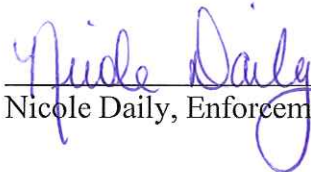
Finally, Mrs. Daily gives an update on the Lynch Fireworks case. She states that fireworks were detonated from the parcel that has the conditional use. Mrs. Daily went to the property and verified that fireworks were being set off from the restricted property. She is asking the board how she should handle this matter. Mr. McGill suggest that Planning and Zoning should send a letter stating that they need to stop or they will be sued. There was a discussion over what commercial fireworks mean. Does it mean a level of firework or does it mean fireworks

that are being detonated for the purpose of selling or demoing them. A discussion ensues over what can be enforce and what can be proved. The board recommends that Nicole should send a certified letter stating that they are in violation of the conditional use that was granted on that property. Also they asked Nicole to research what the ATF license gives Lynch the right to do and not do.

Mr. Nelson makes a motion to adjourn. Mr. Darling seconds. All in favor. None oppose. Motion carries.

Meeting adjourned at 8:33 P.M.

  
Mike Hall, Chairman

  
Nicole Daily, Enforcement Officer