

# **BOARD OF ZONING & APPEALS MINUTES**

**Tuesday, September 10<sup>th</sup>, 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**

Rick Pope makes a motion to approve the August 13th, 2013 minutes as amended. Phil Darling seconds. All in favor. 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**

- |                         |  |
|-------------------------|--|
| <b>1. Request:</b>      | <b>Variance for privacy fence in front of the house.</b> |
| <b>Applicant/Owner:</b> | <b>Elizabeth Callaway</b>                                |
| <b>Site Location:</b>   | <b>Georgetown Rd</b>                                     |
| <b>Legal:</b>           | <b>Sec. 15, T6, R1, Map #06-15, Parcel #071.000</b>      |

**Township:**  
**Zoning:**

**Miller Size: .81 Acres**  
**Residential (R)**

Nicole explains the case and states:

This property is located in Miller Township, Section 15, Township 6, Range 1, Parcel #15-06-15-400-071.000-020, and is along Georgetown Road. The site is within a Residential zoned district(R) and the Existing Land Use of the parcel is designated as High Density Residential. The property contains approximately 0.81 acres and is recorded as part of Airy Acres Subdivision.

A variance is to permit a fence within the front yard of the property at 6 feet in height and solid. The owner wants to install a pre-fab solid, white, 6 foot privacy fence, finished on both sides and be located along the northern and southern property lines. The fence would be approximately 55' from the centerline of the road on the northern property line and approximately 70' from the centerline of the road on the southern property line.

Elizabeth Callaway states her case:

She states that the previous owner was a county surveyor and the pins have been located. She states that she knows where her property line is located and the fence will be a few feet off of the property line.

She states that she has a restraining order against her neighbor.

#### **Public Comment.**

Bert Martini states that he lives a few houses down the road. He states that the proposed fence does not match the character of the neighborhood, and it would change the look of the community.

Matt Ziegler states that he lives next door to the north of the applicant's house and he is concerned with the fence blocking his sight distance. He also states that Ms. Callaway has a restraining order against him, and that the judge stated that Ms. Callaway could not use the restraining order to get a fence in her front yard.

Becky Bargy states that she lives in the house to the south of the applicant's house. She states that the proposed fence will change the character of the community. She is also concerned that the fence would block her sight distance.

Bob Vanderberg states that the proposed fence will be an eyesore, and that the proposed fence will have a negative effect on his property value.

Mike Hall states that a letter came from a Mr. and Mrs. Young, and allows the Board time to read the letter.

Randy Zimmer states that he lives two houses to the north, and he believes the proposed fence will be an eyesore. He also states that the proposed fence will cause an unsafe driving condition on Georgetown Road.

Lawrence Monic states that he lives six houses from Ms. Callaway. He too thinks that the proposed fence does not match the character of his neighborhood.

Dick Wilson states that he lives south of the property. He states that he is against the fence.

### **Public Comment Closed**

Mr. Nelson states in his opinion that the proposed fence would change the character of the neighborhood.

Mrs. Ohlmansiek agrees with Mr. Nelson.

Mr. Darling states that the proposed fence would not meet its purpose because it only comes out halfway in the front yard. He also thinks it will have a negative impact on the character of the community.

Mr. Pope believes it would be an eyesore and would not be beneficial for the applicant.

Mr. Hall states that he does not see a need for a fence in the front yard.

Mr. Nelson makes a motion that the variance requested be denied because the proposed fence would have affected the two adjoining property owners and the shared character of the original layout of the community. Mr. Darling seconds. All in favor. None oppose. Motion carries.

<b>2. Request:</b>	<b>Variance for off premise sign.</b>
<b>Applicant:</b>	<b>Hilda Beiersdorfer / Owner: Methodist Episcopal Cemetery</b>
<b>Site Location:</b>	<b>Corner of Kuebel Rd and York Ridge Rd</b>
<b>Legal:</b>	<b>Sec. 11, T6, R2, Map #05-11, Parcel #050.000</b>
<b>Township:</b>	<b>York Size: .5 Acres</b>
<b>Zoning:</b>	<b>Agricultural (A)</b>

Nicole explains the case and states:

This property is located in York Township, Section 11, Township 6, Range 2, Parcel #15-05-11-100-050.000-024, and is on the southeast corner of York Ridge Road and Kuebel Road intersection. The site is within an Agricultural zoned district (A) and the Existing Land Use of the parcel is designated as Cemetery. The property contains approximately 0.75 acres.

A variance for permitting an off premise sign in an Agricultural zoned district. The owners of

Beiersdorfer Orchard want to place a sign on the cemetery property to direct customers to the orchard property. The sign will be approximately 26 feet from the centerline of York Ridge Road and 30 feet from the centerline of Kuebel Road. The bottom of the sign will be 10 feet off of the ground.

John Watson the attorney for Beiersdorfer Orchard gives a background of the sign. He states that the sign has been located on the adjacent property for over 30 yrs. He states the sign will be the same dimension as the previous sign. He states that it will not cause a safety issue or change the character of the neighborhood. He states that the sign is needed because the orchard sits a distance off of York Ridge Road.

The property that the proposed sign will be located on is a cemetery. The ownership of the cemetery is not clear. The deed states that a Methodist church owns the cemetery but the township has been caring for it for years. The church has been contacted, and they do not object to the sign. The township does not object to the sign either.

### **Public Comment**

Lawrence Monica states that he is in favor of the proposed sign. He states that it would support local business and help people find the orchard.

Ken Sheppard states that he's lives across the street of the property. He is favor of the proposed sign.

### **Close Public Comment**

Mr. Pope states that a sign helps customers to find the orchard, and an agricultural sign in an agricultural area fits the character of the area.

Mr. Darling states he has no problem with the proposed sign, and that local businesses should be supported.

Mrs. Ohlmansiek states she has no problem with the sign, and she thinks it would add to the character of the county.

Mr. Nelson states that the Dearborn County Comprehensive Plan promotes agriculture and the retail of agricultural goods will protect and promote the rural character of the county. He states that the proposed sign will help promote the agricultural character of Dearborn County.

Mr. Hall agrees with what the previous board members stated.

Mr. Darling makes a motion that the proposed sign should be allowed as proposed by the applicant. Mr. Nelson seconds. All in favor. None opposes. Motion carries.

## **F. ADMINISTRATIVE**

### **Lynch Property—SR 46 (Fireworks Storage)**

Mrs. Daily states that a violation letter was sent to the Lynch's regarding the property along SR 46, and it contained three items. First, the letter told the property owners to stop the detonation of fireworks on the property immediately, and if they did not, this case will be turned over to our attorney. The second item was the placement of a magazine too close to the roadway. It is not in compliance with the site plan. The letter gave him 30 days to move the magazine.

Mr. Pope asks if she is sure it was a magazine and not a storage unit.

Mrs. Daily states that she was on site, and it looked like it was used for storage. However, it is still not in compliance with the site plan.

Mrs. Daily states that Mr. Lynch came in for a location permit for a barn to be used for storage only on the property. Staff issued a permit for a barn to be used for storage only. Mr. Lynch later told the Building Department that they wanted to include a bathroom in the barn. Mr. Lynch was told during the location permit application process that if they wanted to include a bathroom in the barn, they would have to go through the major site plan process. The letter also stated that they will have to come in to fill out a major site plan application.

Since the letter was received, Dennis Lynch came in to fill out his paperwork for a major site plan permit, and it will go to Tech Review on October 7<sup>th</sup>. While Mr. Lynch was in the office, Mrs. Daily asked him if he wanted to address the other two items in the letter. Mr. Lynch stated that he did not.

Mrs. Daily then explains the differences between commercial and non-commercial fireworks. Special permits are needed from the state to purchase and detonate commercial fireworks. She states that Mr. Lynch has a permit to detonate fireworks from the state, and it allows him to detonate commercial fireworks on every Friday and Saturday until the end of the year.

Mr. McGill states that local ordinance can be more restrictive than the state law.

Mr. Nelson ask if Mr. Lynch keeps detonating commercial fireworks on the property, which is against the variance, will the state pull or not reissue Mr. Lynch's permit.

Mrs. Daily says she will look into that.

Mr. Pope ask if the BZA can rescind Mr. Lynch's variance.

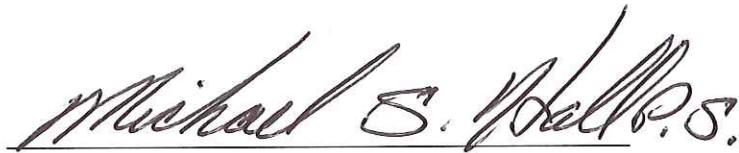
Mr. McGill says that is not an option. The only option that the BZA has is to enforce the variance.

The BZA and Mr. McGill recommends that the new major site plan permit should be tabled until the magazine is moved and the board receives a signed and recorded document from Mr. Lynch stating that he will not detonate any commercial fireworks from the property.

Mrs. Daily states that she believes the detonation is covered in the written commitments that have already been recorded.

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

Meeting adjourned at 8:15 P.M.

A handwritten signature in black ink that reads "Michael S. Hall P.S." with a horizontal line underneath.

Mike Hall, Chairman

A handwritten signature in blue ink that reads "Nicole Daily" with a horizontal line underneath.

Nicole Daily, Enforcement Officer