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## ZONING BOARD OF APPEALS MEETING MINUTES

Wednesday, June 12, 2019 | 7:00pm

**CALL TO ORDER:** The meeting was called to order at 7:00pm by Chair James Bitzer with the Pledge of Allegiance.

**ZBA MEMBERS PRESENT:** Chair James Bitzer, Secretary Charles Openlander, Chad Cooley, and Mark Zarkovich.

**STAFF PRESENT:** Planning Director Andrea Polverento.

**COMMUNICATIONS RECEIVED:** None.

### AGENDA APPROVAL:

Motion by Cooley, seconded by Zarkovich, to approve the agenda as presented. Motion carried.

**PUBLIC COMMENT, NON-AGENDA ITEMS:** None

### APPROVAL OF MINUTES:

#### 1. December 12, 2018 Regular Meeting

Motion by Zarkovich, seconded by Cooley, to approve the minutes of December 12, 2018, as presented. Motion carried.

### ADVERTISED PUBLIC HEARINGS:

#### 1. Case No. 19-01 ZBA – MSU Foundation – Variance Request – 6800 Winston Ave.

Mr. Bitzer opened the public hearing at 7:05 pm and the public hearing procedure was summarized.

Polverento described the application for a variance appeal, a request to complete a land division and create a parcel that exceeds the maximum 2-acre lot size in the AP-Agricultural Preservation Zoning District.

Polverento summarized her staff report, and described the area, the adjacent uses, and the available utilities. She referenced a map provided to the board members that described the layout of the existing home, barn and associated utilities and other underground infrastructure. Due to the current location of the well, septic tank, drainfield, reserve drainfield, the requisite setbacks from property lines for those facilities, as well as existing underground irrigation lines and a geothermal system serving the property, a parcel in excess of the 2-acre maximum is necessary to divide the home and barn from the remaining, undeveloped agricultural acreage. The applicant is proposing that two land divisions already completed would be rescinded and those parcels incorporated back into the main agricultural parcel in exchange for this variance request.

Bitzer invited Mr. Adam Cooley, representing the MSU Foundation, for any additional comments he may wish to provide.

Adam Cooley stated that the foundation received this property as a gift, and that the longer the property sits on the market, the generous gift would be diminished due to the ongoing costs to keep up the house and the property. He would like to see the legacy left by the previous owner to be recognized by the foundation as swiftly as this process allows.

Bitzer asked if any other individuals would like to speak in support of the request.

Larry Henney, 6526 W. Stoll Road, stated that his property was immediately to the east of the subject property. He commented about the tree line that splits the fields associated with this parcel into two fields could be removed to increase the agricultural capacity for the parcel. He indicated that he had no opposition to the variance request.

Chad Cooley asked if the MSU Foundation also received parcels labeled "I" and "H" on the survey. Adam Cooley responded that they did also have those parcels.

Zarkovich asked what their intentions were with those parcels. Adam Cooley responded that they were already on the market.

Chad Cooley asked about the farmland, and Adam Cooley responded that a one-year lease for the land was in place with the neighboring farmer.

Bitzer asked if there were any further comments or questions from the public in support or opposition of the request, or if there were any further comments or questions from the members of the Board of Appeals. There being none, Bitzer closed the public hearing at 7:18pm.

**UNFINISHED BUSINESS:** None.

**NEW BUSINESS:**

**1. Case No. 19-01 ZBA – MSU Foundation – Variance Request – 6800 Winston Ave.**

A non-use or dimensional variance may be allowed by the Board of Appeals only where there is reasonable evidence of practical difficulty in the official record of the hearing and that ALL of the following conditions are met:

- |                                   |  |
|-----------------------------------|--|
| <b>(A)</b>                        | <b>Granting the variance will not be contrary to the public interest and will ensure that the spirit of this ordinance is observed.</b>  |
| <u>Finding</u><br><u>Of Fact:</u> | The requested variance is unlikely to be contrary to the public interest and the spirit of the ordinance can be observed.  |
| <b>(B)</b>                        | <b>Granting this variance will not cause a substantial adverse effect to property or improvements in the vicinity or in the district in which the subject property is located.</b> |

Finding  
Of Fact:

The requested variance is unlikely to cause an adverse effect to property or improvements in the vicinity or in the AP – Agricultural Preservation Zoning District.

- (C) **The variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practicable.**

Finding  
Of Fact:

The variance request is not so recurrent in nature as to require an amendment to the Zoning Ordinance. The request is specific to this parcel due to the locations of the well, septic, drainfield, reserve drainfield, and other buried onsite infrastructure.

- (D) **That there are practical difficulties in the way of carrying out the strict letter of these regulations which are caused by exceptional or extraordinary circumstances or conditions applying to the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the vicinity in the same zoning district. Exceptional or extraordinary circumstances or conditions may include:**

- (1) **exceptional narrowness, shallowness or shape of a specific property on the effective date of this Chapter**
- (2) **exceptional topographic conditions**
- (3) **by reason of the use or development of the property immediately adjoining the property in question; or**
- (4) **any other physical situation on the land, building or structure deemed by the Board of Appeals to be extraordinary.**

Finding  
Of Fact:

There is evidence of practical difficulty as described below:

- (4) The Mid-Michigan District Health Department will require the well, septic tank, drainfield, and reserve drainfield to remain with the house and barn on a single parcel. The location of these facilities, together with other buried infrastructure, including, but not limited to, irrigation and geothermal components, along with the required setbacks for these facilities, requires a parcel greater than two acres in size. Further, the applicant is proposing to rescind two previously executed land divisions and reincorporate those parcels with the vacant land to offset the additional land necessary. These two parcels could be buildable lots, but if re-incorporated with the vacant, agricultural parcel, this will benefit the spirit and intent of the AP-Agricultural Preservation Zoning District.

- (E) **That granting such variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district.**

Finding

Of Fact:

The requested variance is the minimum amount necessary to keep essential public health facilities and other critical infrastructure facilities including a geothermal system, with the main building on a single lot.

(F)

**That the variance is not necessitated as a result of any action or inaction of the applicant.**

Finding

Of Fact:

The variance request is not necessitated as a result of any action or inaction of the applicant. The applicant received, as a donation, the subject parcel and other parcels from the previous owner as part of an estate, following the death of the previous owner in 2018.

Motion by Cooley, seconded by Zarkovich, that the application of the Michigan State University Foundation, for property located at 6800 Winston Avenue, with a Parcel No. of 19-150-022-300-052-00 and issued Case No. 19-01 ZBA, a request for a variance from Sec. 28-3.1.2D to permit a parcel to be created in the AP – Agricultural Preservation Zoning District that exceeds the two-acre maximum lot size be approved based on the findings of fact which indicate a practical difficulty in accordance with Section 28-7.6 of the Watertown Charter Township Zoning Ordinance and pursuant to the Michigan Zoning Enabling Act.

*Conditions of Approval:*

- 1. Applicant shall be required to rescind the divisions of parcels "K" and "J" on the certificate of survey dated November, 2014, those parcels having identification numbers of 19-150-022-300-010-11 and 19-150-022-300-010-10.*
- 2. Applicant shall complete an application for a Land Division and provide a certified survey describing the land to be divided, along with the incorporation of the two rescinded parcels with the remaining vacant land. Legal descriptions for these parcels shall be created.*
- 3. The maximum size of the parcel to be created to include the house and pole barn shall not exceed 3.5 acres in size.*

Motion carried unanimously.

**COMMITTEE REPORTS:** Polverento reviewed the committee and staff reports.

**COMMENTS AND QUESTIONS FROM AUDIENCE, STAFF, AND BOARD MEMBERS:** None.

**ADJOURNMENT:**

The meeting was adjourned at 7:45 pm.

Date approved: 8-12-20

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James Bitzer, Chair

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Charles Openlander, Secretary