



**MORTON TOWNSHIP ZONING BOARD OF APPEALS
MEETING MINUTES – OCTOBER 14, 2020**

Meeting called to order at 6:00 P.M. by Jeff Cross
Pledge of Allegiance to the Flag by all
Members Present: Dennis Morawa, Yulanda Bellingar, Jeff Cross
Members Absent: None
Others Present: Zoning Administrator, Fritz Pins; Recording Secretary, Vicky Esch
Public Present: Mark Klumpp- Supervisor; John Conati, Brian Wilber

Motion by: Dennis Morawa
To Approve the minutes of the July 29, 2020, meeting as presented.
2nd by: Yulanda Bellingar
Vote: 3 Ayes 0 Nays 0 Absent Motion Carried

Dennis Morawa addressed the board that he had accepted the chair position on the Planning Commission and that he has stepped down as the chair of the Zoning Board of Appeals. He cannot chair for both.

Motion by Dennis Morawa
To appoint Jeff Cross as Chairman of the Zoning Board of Appeals.
Jeff accepted the nomination by Dennis Morawa
2nd by: Yulanda Bellingar
Vote: 3 Ayes 0 Nays 0 Absent Motion Carried

Jeff Cross thanked Dennis for his service as the chair of the Zoning Board of Appeals.

Open Public Hearing

New Business

A. Application to hear an appeal of the Zoning Administrators decision to deny zoning permit application (PZ20-060), for a 2-sided carport in violation of Section 5.15 (#3), of the Morton Township Zoning Ordinance. The appeal is asking for an 18-foot variance on the back.

Facts:

Property Code: 5411-037-057-000 Property Address: 9717 Midshore Drive
Owner/Applicant: Brian Wilber Zoning: R-1
Notice in Big Rapids *Pioneer* on September 29, 2020
Letters sent to 11 neighboring property owners on September 29, 2020

Chairman, Jeff Cross, presented the facts of the appeal as listed above.

Comments by Fritz Pins, Zoning Administrator:

- Mr. Wilber applied for a zoning permit to put up a carport.
- Application denied based on setback rules in the zoning ordinance.
- Offered to him that he could appeal to ZBA.
- Asking for a variance.

Comments by John Conati (as the President of the Midshore Drive Association):

- The road is not necessarily the lot line.
- Have been told that part of the concrete in his driveway could be on association property. Has a survey been done?
- Object if is on a part of association property, do not want the structure on it.

Comments by John Conati (as a neighboring property owner, 2 doors down):

- Lots are small. I'd like to see lots improved.
- What is the setback from the house?
- Mine was surveyed when I bought it. Ok with variance up to line, just not on association property.

Comments by Brian Wilber (applicant):

- All homes are on association property.
- Concrete is already there. Telephone pole right there. Road is not where it should be.
- Just asking for a carport on a cement slab that has been there for 20+ years. Since before I bought the property.

Comments/Questions ZBA members:

- It is hard to say yes or no with the way the road is.
- Is there a covenant? *Yes, no permanent structures on association property. (response from John Conati)*
- Only variance we can approve here would be for the property owner. Association rules are not settled here. We are only here for the appeal of the denial.
- Concrete pad is already there. Driveways are not subject to setbacks.

Close Public Hearing

The Zoning Board of Appeals members review the 5 standards that must be used as a basis of substantial evidence to determine whether or not to grant a non-use variance:

In the Finding of Facts:

1. Whether compliance with the regulations would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. *Nature of property with respect to the road would render conformity with such restrictions unnecessarily burdensome. The concrete pad pre-existed.* Standard is satisfied.
2. Whether a grant of the variance applied would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that requested would give substantial relief to the owner and be more consistent with justice to other property owners. *Granting would give substantial relief to the owner – able to protect vehicles from the elements.* Standard is satisfied.
3. Whether the plight of the owner is due to unique circumstances. *There are unique circumstances with the size of the lot, uncertainty of where the road is, and that the concrete pad was already there* Standard is satisfied.
4. Whether the problem is self-created. *Practical difficulty was not created by an action of the applicant. Not self-created. Concrete pad existed and owner just wants to utilize it for the carport.* Standard is satisfied.
5. Whether relief can be granted in such that the spirit of the ordinance will be observed, and public safety and welfare served:
 - Will not be contrary with the intent and purpose of the zoning ordinance.
 - Will not cause a substantially adverse effect on adjacent properties.
 - Will relate only to the property of the owner.
 - Will not essentially alter the character of the surrounding area.
 - Will not increase the hazard from fire, flood, similar dangers, or increase traffic congestion.
 Standard is satisfied.

The Zoning Board of Appeals finds that all 5 standards have been met.

Motion by Dennis Morawa

Determination of this board is:

In the finding of facts as per the Morton Township Zoning Ordinance, in granting a non-use variance, the Board **grants** the non-use variance as stated Zoning Ordinance, Section 12.2, Variance, Paragraph 3 (B) "would do substantial justice to the applicant as well as to other property owners in the district, and would give substantial relief to the owner and be more consistent with justice to other property owners".

The request for a non-use variance on the back side (north) of 18 feet is approved.

2nd by Yulanda Bellingar

Vote: 3 Ayes 0 Nays 0 Absent Motion Carried

The appeal request for a non-use variance is approved.

Intermission while decision forms are completed and signed by the ZBA members.

Old Business - None

Jeff Cross on behalf of the board thanked Fritz Pins for his service to the township and wish him very well in his new endeavors.

Adjourn Meeting.

Motion By: Dennis Morawa

To adjourn the meeting.

2nd By: Yulanda Bellingar

Vote: 3 Ayes 0 Nays Motion Carried

Meeting adjourned at 7:00 P.M.

Respectfully Submitted,

Vicky Esch

Vicky Esch, Recording Secretary