

**BEDFORD TOWNSHIP
BOARD OF ZONING APPEALS (BZA)
REGULAR MEETING MINUTES
MONDAY, NOVEMBER 2, 2009 OFFICIAL MINUTES**

Present: Korleen Bialecki (Chair), Ron Herr, Richard Brunt, Robert Potter (BZA Alternate), and Mike Bassinger (Planning Commission Representative). **Also Present:** Duane Tucker (Planning, Zoning, & Building Administrative Assistant, Board of Zoning Appeals (BZA) Facilitator, Land Division Administrator, and Recording Secretary), Dennis Kolar (Building Official), and Leah Bailey (Township Attorney-Lennard, Graham & Goldsmith P.L.C.). **Absent (Excused):** Gail Hauser-Hurley (Township Board Trustee Representative).

Call to Order: Ms. Bialecki (Chair) called the November 2, 2009 “Regular” meeting to order at 7:00 p.m., followed by the Pledge of Allegiance.

Ms. Bialecki introduced the members of the Board and Township facilitator(s) to the public present. This meeting was held at 8100 Jackman Road, Bedford Township Government Center, in Board Room.

Citizen Participation Information: Ms. Bialecki welcomed the audience and shared citizen participation guidelines for public commentary.

Approval of Agenda: Motion to approve the “agenda” as presented was made by Mr. Herr and seconded by Mr. Brunt. Motion passed.

NEW BUSINESS (CHAIRPERSON): Ms. Bialecki opened the new business and public hearing with the first variance hearing.

First (1st) variance petition: ***The Appeal of R. W. Palmer, 1288 Rutledge Drive, Temperance, MI 48182, requesting a 3.9 foot ± side yard setback variance (Ordinance 400.1800), for a building addition on a dwelling in an R-2B District (One Family Residential District) on land described as 58-02-697-045-00, Winding Brook Subdivision, Lot # 45, 1288 Rutledge Drive.***

Ms. Bialecki swore in the applicant/authorized agent (R. W. Palmer, 1288 Rutledge Drive) and explained the voting process followed by background information presented by Mr. Tucker. Mr. Palmer opted to continue with the variance process. The previously described parcel is approximately .23 ±

MONDAY, NOVEMBER 2, 2009 OFFICIAL MINUTES

acre in size, having approximately 80.00 ± foot frontage on Rutledge Drive and a lot depth of 125.00 ± feet, while being identified as Lot # 45 in the “Winding Brook” platted subdivision. The applicant’s proposed construction, an attached four-season room, is 14’ by 18’, or 252 square feet in area. For the record, the Bedford Township Assessing Department has this dwelling measured at 1,463 square feet. Note, this residential dwelling was built in 1990. Per Bedford Township Ordinance 400.1800 Schedule of Regulations for an R-2B Zoning District (One Family Residential District) the following is in effect: *“the minimum side yard construction set-back shall be a minimum of 8 feet from one (1) side yard while equaling a minimum cumulative total of 20 feet for both side yard set backs.”* For the record, six (6) -property owners expressed support for this variance petition: Mrs. Elaine and Mr. Michael Gaines of 1296 Rutledge Drive (WINDING BROOK SUBDIVISION LOT 44), Mrs. Shawna and Mr. Ernest Smith of 1280 Rutledge Drive (WINDING BROOK SUBDIVISION LOT 46); Mr. Timothy Armstrong 1289 Rutledge Drive (WINDING BROOK SUBDIVISION LOT 63); and Mrs. Yuanita Duran of 1315 Winding Way (WINDING BROOK SUBDIVISION LOT 37). Mr. Kolar explained “Section R302-Exterior Wall Location” of the 2006 Michigan Residential Code.

Mr. Palmer stated that they have lived in this dwelling since spring of 2003 whereby the in-ground swimming pool was already in place within the rear yard. Mr. Palmer noted that they presently have a sunset awning, thus during the summer insects tend to be a problem. The proposed sunroom addition (18’ by 14’) will be used when individuals come out of the swimming pool and to meet his family’s needs. Mr. Palmer mentioned that a 6’ privacy fence would block this room from their west neighbor’s view. The 4.1’ space from the property line and proposed wall will have a gate for emergency services.

Mr. Palmer addressed the existing cement steps that take up a large portion of the room, therefore the proposed room was extended 18 feet out.

Ms. Bialecki opened the BZA meeting to public commentary.

Mrs. Cathy Beckwith (1276 Rutledge Drive) stated that they have lived in the Winding Brook Subdivision since 1981, whereby the planned “Home

MONDAY, NOVEMBER 2, 2009 OFFICIAL MINUTES

Owners Association” never came to fruition to protect property owners. Mrs. Beckwith expressed “nonsupport” for the proposed variance because this approved variance would potentially lead to other variances on these small lots, which would be detrimental to the subdivision. Mrs. Beckwith stated that this proposed variance just places the residential dwellings too close together.

Ms. Bialecki closed the public hearing while having no further public comment.

Board of Zoning Appeals discussion followed regarding other potential construction placement alternatives. Mr. Kolar emphasized that it doesn't matter where the exterior wall is placed, the Building Code would make it a safe situation for the neighborhood and this should not be a concern of the BZA. Mr. Kolar noted that only the side-yard setback variance would be needed.

Mr. Palmer stated that they presently have a concrete patio with a sun-setter awning that was attached to the dwelling when they purchased it. Mr. Palmer explained that they are removing the existing concrete patio from the steps, with the steps not being replaced. The existing steps (step down) tend to take a great deal of the space (2.7' or approximately 30' of the proposed room), which also poses a problem.

Mr. Herr reviewed the possibility of rotating this proposed addition approximately 90 degrees while having the proposed addition 18' further to the swimming pool. It was pointed out that a minimum of 7' setback (swimming pool wall to proposed construction wall) is required by the Township Ordinance.

Mr. Herr suggested that the applicant shorten up the proposed structure to be a 14' by 14', which would conform to the Ordinance. Mr. Palmer responded that this proposal would not work because of the 2 steps (down from the kitchen from the sliding glass door) and limited size would be very inhibitive.

Motion by Mr. Potter to deny the following variance petition/request: The Appeal of R. W. Palmer, 1288 Rutledge Drive, Temperance, MI 48182,

MONDAY, NOVEMBER 2, 2009 OFFICIAL MINUTES

requesting a 3.9 foot ± side yard setback variance (Ordinance 400.1800), for a building addition on a dwelling in an R-2B District (One Family Residential District) on land described as 58-02-697-045-00, Winding Brook Subdivision, Lot # 45, 1288 Rutledge Drive. Reason(s) for the variance being denied is that the applicant has not demonstrated a practical difficulty. Note, the existing ordinance regulations are not unreasonably restrictive and conformity with the code(s) is not unreasonably burdensome for the applicant. Secondly, the property is not unique and there are no circumstances that are uniquely identifiable to this lot. Thirdly, the problem is self-created, whereby there are reasonable constructive alternatives for the applicant to comply with the ordinance. Mr. Herr seconded the motion for discussion purposes.

The motion carried on a roll call vote as follows: Voting Aye: Bassinger, Brunt, Herr, Potter, and Bialecki. Voting Nay: none. Variance petition is denied.

Mr. Tucker stated the following regarding the question of whether the Bedford Township Board of Zoning Appeals (BZA) has the “obligation” to re-hear/reconsider another variance/appeal/BZA Administrative Ordinance Review (similar/same/initial), once a Board of Zoning Appeals (BZA) decision has been made. Mr. Tucker’s noted, unless so ordered in Circuit Court, the general law principal would not allow a variance hearing (reconsideration) unless there is substantial evidence of a material change in circumstances or material circumstances differ. Also, conditions involving all of the reasons for the original denial have been significantly/materially (similar/same/initial) altered or new conditions or circumstances exist, which change the nature of the original request; thus, no specific timeline(s) or obligations are established to re-appeal, although it must clearly demonstrate a noticeable change in circumstances.

Approval of Minutes: Motion to approve the BZA minutes as revised for October 5, 2009 (regular meeting) made by Mr. Herr and seconded by Mr. Bassinger. Motion carried and Mr. Potter abstained. The minutes of October 5, 2009 are approved and official as so noted.

Public Comment: None.

MONDAY, NOVEMBER 2, 2009 OFFICIAL MINUTES

Formal Adoption: The 2010 Board of Zoning Appeals (BZA) meeting dates, applicant deadliness, and date of newspaper publication was adopted as presented. Motion by Mr. Potter and seconded by Mr. Herr for discussion purposes only. Motion carried and approved as submitted. Following the approved adoption of the 2010 Board of Zoning Appeals (BZA) meeting dates, applicant deadliness, and date of newspaper publication, extensive BZA discussion followed regarding the proposed number of variance petitions needed for a regular meeting. Thus, this area (the suggestion of 2-variance petitions needed to hold a regular meeting @ \$275.00 each) still remains under discussion, while having no approval at this time.

Board of Zoning Appeals/Township Representative Comments: The next regular BZA meeting is scheduled for Monday, December 7, 2009 with all materials to be submitted by Monday, November 16, 2009 (noon). Mrs. Bailey provided an update regarding September 8, 2009 variance petition Circuit Court petition: *“The Appeal of Masserant’s Feed and Grain Lambertville LLC, a Michigan Limited Liability Company, (3546 Mill Street, Newport, MI 48166).*

Adjournment: Ms. Bialecki duly adjourned the meeting at approximately 7:50 p.m.

Respectfully submitted,

Duane L. Tucker,
BZA Recording Secretary & Facilitator

ANY LOT SPLIT/DIVISION VARIANCE GRANTED MUST BE RECORDED WITH THE MONROE COUNTY REGISTER OF DEEDS WITHIN SIX (6) MONTHS OF THIS BOARD’S MEETING MINUTES APPROVAL. SECONDLY, ANY VARIANCE GRANTED ALLOWING THE ERECTION OF ANY STRUCTURE MUST BEGIN WITHIN SIX (6) MONTHS OF THIS BOARD’S MINUTES APPROVAL OR THE VARIANCES GRANTED WILL BECOME NULL OR VOID.

MINUTES APPROVED ON 12-7-2009