

Submitted by: S. Longstreet

Approved: _____

**MARION TOWNSHIP
ZONING BOARD OF APPEALS
SEPTEMBER 9, 2019**

MEMBERS PRESENT: Larry Fillinger, Linda Manson-Dempsey, Larry Grunn, Dan Lowe, and Ed Galubensky (alternate for Dan Rossbach)

MEMBERS ABSENT: Dan Rossbach

OTHERS PRESENT: Dave Hamann, Zoning Administrator

CALL TO ORDER

Larry Fillinger called the meeting to order at 7:32 p.m.

MEMBERS PRESENT

The members of the Zoning Board of Appeals introduced themselves.

APPROVAL OF AGENDA

Linda Manson-Dempsey motioned to approve the agenda as presented. Larry Grunn seconded. **Motion carried.**

CALL TO THE PUBLIC

No response.

APPROVAL OF MINUTES

July 1, 2019 Regular Meeting: Linda Manson-Dempsey motioned to approve the minutes as presented. Ed Galubensky seconded. **Motion carried.**

OLD BUSINESS: None

NEW BUSINESS

ZBA Case #03-19—Evergreen Outdoor, Inc., 386 Lucy Rd., Howell MI, Tax Code #4710-01-200-004; Variance Request for Section 10.01 E 3 Minimum Setback; Section 6.07 Accessory Structures; Section 6.13 B Landscaping Buffer

The owner of the property, Dan Brockway, was present to ask for variances for a proposed contractor’s storage yard on his legal, non-conforming lot that is zoned Light Industrial (LI.) He is requesting a 67’ front yard setback rather than the 100’ that is required; he said many of the existing buildings on Lucy Road are similar distance from the front lot line. The ordinance requires a 150’ side yard setback; however, his property is only 150’ wide. He is also asking for a variance for the size and location of the pole barn (Section 6.07.) Lastly, he’s asking that the required landscape buffer on the front be reduced from 50’ to 22’, and the buffer on the side and rear yards be

reduced from 25' to 6', that the minimum tree and shrub requirements be waived, and the fencing requirement along the side and rear yards be waived. Mr. Brockway said the site plan provided to the ZBA is essentially the same as was presented to the Planning Commission, with their requests for water retention added.

Dan Lowe asked about the 30' section between the proposed new building and the landscaping in front; he would prefer that area not be used for storage. He also feels that a 6' setback for the building on the north side of the property is too small, and a 10' setback would be more appropriate.

No response was heard from the Call to the Public.

Mr. Brockway said he would be willing to provide something in writing regarding future screening if there's a change in the surrounding property use.

The ZBA members discussed whether Section 6.07 applies to commercial property; the consensus was that section is intended for residential properties.

Dave Hamann reminded the ZBA members that this site plan will go back to the Planning Commission for final review.

Motion

Linda Manson-Dempsey motioned for ZBA Case #03-19—Evergreen Outdoor, Inc., 386 Lucy Rd., Howell MI, Tax Code #4710-01-200-004, to grant a 33' front yard variance, a side yard setback variance on the north side of the property for 10' rather than 150', and 6' on the south and west sides of the property. The Zoning Board of Appeals members determined that a variance for Section 6.07 isn't required, as they feel that section is not meant for commercial property. The ZBA members also request that the owner provide a notarized letter to the township regarding fencing on the north, south and west sides of the property in the event there is a change in the adjoining properties. A variance for Section 6.13 B was granted to reduce the greenbelt buffer requirement to 6' on side and rear of the property. The ZBA granted these variations considering the following criteria:

1. That the restrictions of the township zoning ordinance would unreasonably prevent the owner from using the property for a permitted use. *This lot was created prior to the current ordinance, and the restrictions would present the owner from using the property.*
2. That the variance would do substantial justice to the applicant and a lesser relaxation than that requested would not give a substantial relief to the owner of the property. *For the same reason as number 1 above, this lot is very small and in an industrial area.*
3. That the request is due to the unique circumstances of the property. *This request is granted because of the unique circumstances.*
4. That the alleged hardship has not been created by a property owner. *This property owner did not create the hardship.*
5. That the difficulty shall not be deemed solely economic. *Economics is not a factor for this variance*

Larry Grunn seconded. Roll call vote: Lowe, Grunn, Fillinger, Manson-Dempsey, Galubensky—all yes. **Motion carried 5-0.**

ZBA Case #04-19—Patricia Wolf, 3003 Jewell Rd., Tax Code #4710-09-400-012; Variance Request for Section 8.01 F1a and 8.01 F3a Minimum Setback

Patricia and Dan Wolf were present for this ZBA case. Mr. Wolf said they don't want to make any changes, they want the property to be used as it has been for 35 years, and they are obligated to follow the instructions in Dorothy Esper's trust that the property be sold. A document was filed with the Register of Deeds in 1984, but only

three of the four parcels were “created.” They need a tax parcel number in order to sell the 1.44 acre parcel that contains the house. One of the variances they are requesting is lot size: the current requirement in that zoning district is two acres, but at the time of the land division, the requirement was less. They are also asking for a variance for the front yard setback because the remainder parcel is a “flag lot” and doesn’t meet the setback requirement for structures currently on it.

Linda Manson-Dempsey said she feels that the applicant doesn’t need a variance; Dan Lowe agreed.

Call to the Public

Patrick Esper, 3025 Jewell Rd., representing Joanne Esper, said he has concerns about the utility easements if the parcel is split. Linda Manson-Dempsey said that isn’t a consideration for the ZBA.

No other comments were received.

Letters supporting this request were received from Pauline Hastie, Laura Wolf, Melissa Wolf, John Esper, and Tricia McDaniel, all grandchildren of John and Dorothy Esper.

Mr. Wolf said they want to be able to sell this parcel to a family member, but they need a tax code number in order to proceed.

Dan Lowe said he believes the parcel was actually created when the documents were recorded.

Stacy Dunlap, 5155 Preston Rd., said the township attorney took his time in responding to this situation.

Motion

Linda Manson-Dempsey motioned for ZBA Case #04-19 that because this has been a lot of record since 1984 and the intent to divide the parcels was clear, there are no variances required for this request. This is a valid split and the ZBA asks that the assessor issue a tax code number for the 1.44 acre parcel. Larry Grunn seconded. Roll call vote: Galubensky, Manson-Dempsey, Fillinger, Grunn, Lowe—all yes. **Motion carried 5-0.**

CALL TO THE PUBLIC

No response.

ADJOURNMENT

Linda Manson-Dempsey motioned to adjourn at 8:37 pm. Larry Grunn seconded. **Motion carried.**