

Mason County Planning & Zoning Department

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October 17, 2018

Minutes of the Mason County Zoning Board of Appeals meeting on October 17, 2018, 7:00 p.m.
held at 102 E. Fifth St., Scottville, MI.

MEMBERS PRESENT: Jerry Jensen, Richard Anderson, Doug Robidoux, Cary Shineldecker

MEMBERS ABSENT: Joanie Wiersma (excused)

OFFICIALS PRESENT: Brady Selner, Cayla Christmas

The meeting was called to order at 7:00 pm by Chairman Jerry Jensen.

A motion was made by Doug Robidoux with second by Dick Anderson to approve the meeting minutes of September 5, 2018 as written. Motion carried, 4 yes 0 No.

Additions to Agenda: None

Public Comment: None

Correspondence: None

Jerry Jensen opened the public hearing for application PZ18164, Jeff and Melissa Pinch, a request for a variance to place a 32' x 50' detached accessory building in the front yard, approximately 70' from the front lot line. The subject property is located at 5977 W. North Avenue, Summit Township, parcel 014-135-012-01, zoned RR. Brady Selner presented the staff report and photos. Mr. Selner stated he received correspondence from Frank Banko and Keith Theis in support of the application. A portion of the staff report is below:

FINDINGS OF FACT

1. The accessory building will be used to store personal items.
2. Access to the garage will be from the driveway in the front of the house. There will not be a new driveway coming off the private road.
3. The garage would be well screened with existing trees; the owners plan to only take down trees that are necessary to build the accessory building.
4. The property owner is allowed up to 1600 sf of detached accessory buildings. The request for a 32' X 50' is within ordinance guidelines as long as the shed on the property is removed upon completion of the proposed accessory building.
5. The proposed building is approximately 100' from the primary dwelling.
6. W. North Ave. is a private road.
7. The parcels shown on the site plan were combined into one parcel on 2/6/2014.

PHYSICAL SITE CHARACTERISTICS:

1. Septic is located on the southwest corner of the dwelling.
2. Well is located in the front of the house.

52 3. The property has varying topography with areas of land.

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54 Cary Shineldecker asked if the front yard was considered off the private drive or off North Ave.

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56 Brady Selner clarified the front yard was off the private drive.

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58 Cary Shineldecker made a motion to accept the staff report as presented. Second by Dick
59 Anderson. Motion carried, 4 yes 0 no.

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61 Jerry Jensen asked if the applicants had anything to add.

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63 Doug Reames, contractor and representative for the applicants, stated they set the building off
64 the road as far as possible due to topography. Mr. Reames stated if they were to meet the
65 setback requirement as stated in the Mason County Zoning Ordinance, they would need to bring
66 300 yards of fill dirt and remove many trees.

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68 Cary Shineldecker questioned the distance from the house to the proposed building.

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70 Doug Reames stated they could move it closer to the house, but that was where the owners
71 decided to put it as it met all other setbacks and was the flattest spot with the fewest amount of
72 trees.

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74 Cary Shineldecker stated he would want the impact to neighboring properties to be lessened by
75 requiring the building to be closer to the dwelling than the proposed 92'.

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77 Doug Robidoux stated the proposed site plan would be less disruptive to the natural area the
78 way it was planned.

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80 Dick Anderson agreed with Doug Robidoux.

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82 Gary Bateson, former land owner, stated he was concerned with buffers between the driveway
83 and the building.

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85 Cary Shineldecker asked Gary Bateson if there were any covenants in place when the property
86 was subdivided. Mr. Bateson stated there were not.

87
88 Jerry Jensen read the standards for granting a variance from Section 24.05 (3) A through D of
89 the Mason County Zoning Ordinance.

90
91 A. **The strict compliance with the ordinance would cause a practical difficulty and**
92 **deprive the owner of rights enjoyed by all other property owners within the same**
93 **zoning district.** The strict enforcement would deprive the owner of rights enjoyed as the
94 ZBA has considered buildings in the front yard in the past due to topography and
95 drainage, but they have also denied requests. The strict enforcement would also cause a
96 practical difficulty as the owner would be required to purchase and bring in 300 yards of
97 fill to meet the setback requirement and would also be filling in a drainage area. Meets
98 standard, 4 yes 0 no.

99
100 B. **The conditions and circumstances unique to the property were not created by the**
101 **owner or his predecessor in title.** The conditions are unique to the property and are
102 natural. Meets standard, 4 yes 0 no.

103
104 C. **The requested variance will not grant special privileges that are denied other**
105 **properties similarly situated and in the same zoning district.** The Zoning Board of
106 Appeals has approved similar requests in the past. Meets standard, 4 yes 0 no.

- D. **The requested variance will not be contrary to the spirit and intent of this Zoning Ordinance.** The request is not contrary to the spirit of the ordinance. Part of the reason for the ordinance is for appearance, and there are circumstances which the spirit and intent is not to deny. Meets standard, 0 yes 4 no.

Cary Shineldecker made a motion to approve application PZ18164 based on the topography and a large depression conditional upon never creating a driveway for the accessory building off the private drive and a north setback minimum of 30'. Second by Dick Anderson. Motion carried, 4 yes 0 no

Jerry Jensen opened the public hearing for application PZ18169, Kreg and Shanese Young, a request for a 32' variance from the required 50' front yard setback to construct a 12' x 40' deck to replace a 12' x 12' deck that previously existed as a legal nonconforming structure prior to deconstruction. The subject property is located at 2611 W. Chauvez Road, Riverton Township, parcel 011-004-004-10, zoned AG. Brady Selner presented the staff report and photos. There was no correspondence received. A portion of the staff report is below:

FINDINGS OF FACT:

- 1) The dwelling was constructed in 1948, prior to zoning.
- 2) The legal-nonconforming deck was removed to be replaced with a new 12'X40' deck.
- 3) The new deck would sit approximately 51' from the centerline of the road.
- 4) The new deck will not be any less conforming than the old deck.
- 5) The new deck and addition will meet the 25' side setback.

Doug Robidoux made a motion to accept the staff analysis as presented. Second by Dick Anderson. Motion carried 4 yes 0 no.

Jerry Jensen asked the applicant if she had anything to add.

Shanese Young stated they had to completely remove the existing structure as it was "in bad shape" and there was a need for something more safe and secure for their child with special needs.

Cary Shineldecker stated he appreciated the homeowner looking into the requirements for replacing the deck.

Jerry Jensen read the standards for approving a nonconforming structure as outlined in Section 3.27, 3, c. in the Mason County Zoning Ordinance.

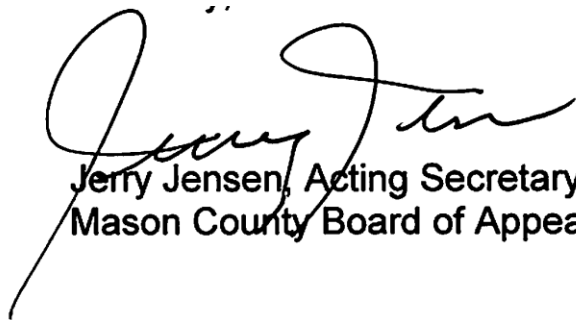
- A. **The replacement of the nonconforming structure will not interfere with the use of any other properties in the vicinity for the uses for which they have been zoned or with the current use of such other properties in compliance with this Ordinance.** It would not as all of the other setbacks are met. Meets standard, 4 yes 0 no.

- B. **That the replacement structure, to the maximum extent possible, is consistent with the dimensional regulations and character of those structures permitted within the district.** The proposed deck size is standard and not oversized. Meets standard, 4 yes 0 no.

Doug Robidoux made a motion to approve application PZ18169 as requested. Second by Dick Anderson. Motion carried, 4 yes 0 no.

Unfinished Business: Brady Selner stated the interpretation by the ZBA regarding the definition of "predecessor in title" was correct according to the attorney.

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162 New Business: None
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164 Zoning and Building Director Report: Brady Selner stated there were not any applications in the
165 forecast.
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167 Planning Commission Report: None.
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169 Public comment: None
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171 Meeting adjourned at 8:03 pm.
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**Jerry Jensen, Acting Secretary
Mason County Board of Appeals**