



Meeting Called to Order by: Vice-Chairperson, @ 7:32 PM

Members Present: Vice-Chairperson Hays requested Member Roll Call

*Each member must announce at the beginning of the meeting they are participating remotely and, except, for military absence, must identify the county, city, township, or village and state from which they are attending remotely.

*Matt Batchelder X
Solon Twp Hall, Cedar Springs, MI

*Rich Hays X
Solon Twp Hall, Cedar Springs, MI

*Brynadette Powell X
21 E. Maple, Cedar Springs, MI

*Jon Stout X
Solon Twp Hall, Cedar Springs, MI

*Jon Tilburt AB

*Joe VandenBerg X
Solon Twp Hall, Cedar Springs, MI

Others present: Attorney – Leisman, Supervisor – Ellick, Zoning Administrator – Gross

Pledge of Allegiance: N/A – Virtual Meeting

Approval of Minutes: Motion to accept November 20, 2019, Meeting Minutes as corrected by Powell, second by Stout; Correction - Carroll Matulis was not in attendance. All ayes, Motion Carried.

Approval of Agenda: Motion to approve agenda by Stout, second by Powell; all ayes, Carried.

Comment: Secretary Powell stated virtual meeting was being recorded.

Public Comment - Matters not the Subject of Public Hearing/Agenda Items:

Hays: Called for any public comment not associated with agenda items. Question asked (Whalen)if public comment would be allowed later on variance request. (Hays) Answer – yes, this is for any comment outside agenda items.

Hays: With no further comment, Public Comment session closed.

Agenda Item 1: Election of Zoning Board of Appeals Officers

Hays: Called for nominations for chairperson. Jon Tilburt nominated. With no other nominations, Hays called for motion to elect Jon Tilburt as ZBA Chairperson. Motion by Hays, second by Stout.

Hays: Called for nominations for vice-chairperson. Rich Hays nominated. With no other nominations, Hays called for motion to elect Rich Hays as PC Vice-Chairperson. Motion by Stout, second by Batchelder.

Hays: Called for nominations for Secretary. Brynadette Powell nominated. With no other nominations, Hays called for motion to elect Brynadette Powell as Secretary. Motion by Hays, second by Stout.

Hays: Called for Roll Call Vote on all motions for Election of Officers.

Matt Batchelder Aye

Rich Hays Aye

Brynadette Powell Aye

Jon Stout Aye

Jon Tilburt AB

Joe VandenBerg Aye

Hays: All approved, motions carried.

Agenda Item 2: Scheduled Public Hearing - Variance Request for 17622 Simmons Ave., Cedar Springs, MI 49319 by Rick Fosburg.

Hays: Explanation of issue being set-back encroachment upon existing easement and unsafe passage of bridge for emergency vehicles; Variance for accessory building to remain.

Hays: Opened Public Hearing with explanation of procedures: Public will be recognized by Vice-Chair; may comment once; must state name and address; keep comments to 3 minutes. Hays recognized participants.

Public Comment: James and Christine Jacobs: 3248 Rau Drive, Sand Lake, MI 49343. Not excited about granting variance; shouldn't be approved; is a zoned community.

Public Comment: Keith and Linda Sawade: 17612 Simmons Ave., Cedar Springs, MI 49319. Reiteration of Jacobs' comments; procedures not adhered to; damages done to neighbors thus far.

Public Comment: Thomas Robinson: 3420 Eno Drive, Sand Lake, MI 49343. Owns additional neighboring property at 3509 and 3575 Rasco, Sand Lake, MI; Extremely object to homes without fire protection – is a liability for township and neighboring properties.

Public Comment: Andrew Mateskon – 11855 21 Mile Rd., Sand Lake, MI, Spencer Township – Attorney representing Rick Fosburg: Points to address: Condition of bridge there through negligence of people on easement, is their responsibility; no one is worse off if variance is granted as far as EMS is concerned.

Public Comment: Erik Skelonc: 17831 Marsh Creek, Sand Lake, MI 49343. Objects to variance; rules willingly violated by Mr. Fosburg; Township has been consistent on that property's rules for many years; police report was needed due to Mr. Fosburg trespassing/digging on his property.

Public Comment: Robert Whalen: Sparta, MI - property owner at 3046 Rau, Sand Lake, MI 49343. Was asked to address ZBA on behalf of Upper Lake Association: Applicant violated permits procedures; should have to demonstrate to ZBA hardship case; self-created issue by applicant; multiple reasons to deny - granting would set a precedent.

Public Comment: Erik Skelonc: 17831 Marsh Creek, Sand Lake, MI 49343. Objects to variance; rules willingly violated; police intervention was needed for Mr. Fosburg trespassing on his property.

Public Comment: Steve Skelonc: 16791 Trenton, Cedar Springs, MI 49319. No Comment.

Public Comment: Duane Gritter: 1651 17 Mile, Cedar Springs, MI 49319. No Comment.

Public Comment: Roni Stout: No reply.

Public Comment: Rick Fosburg: 3001 72nd St., SW, Byron Center, MI 49315 – Applicant for Variance request.

Talked with township in 2019 – was told Simmons and Marsh Creek same road; was told others have asked and been told unbuildable because of bridge; he brought up 22 Mile and told as long as work done on bridge, this is a buildable piece – all prior to purchase; did homework – went to Kent County Road Commission and Kent County Health Department for permits – was approved; submitted those and prints for both house and barn to township on January 19, 2020; received electrical permit for barn; a builder since 2005 – never had these problems before; barn too close to easement because of measurement from center of road – had surveyed – could push easement over so barn went in; January 17th – Mr. Gross promised he'd get permit; people complaining are breaking rules; only people complaining live right next to him; signed maintenance agreement should be for all neighbors – he shouldn't have to pay whole bill; neighbor's negligence is reason he cannot get permitted; driveway is fine; told he could put house there with emergency drive for vehicles.

Public Comment: Arlinda Robertson: 17614 Simmons Ave., Cedar Springs, MI 49319. Lives at last house on road – has been road improvements over the years; Mr. Fosburg's pole barn is not a principal residence; Stop Work Orders have been ignored; damages and blocked access to their driveway sustained; Many requests to Mr. Fosburg ignored; concerned that a concrete business will be conducted from Mr. Fosburg's property; cost to Solon taxpayers and them; shouldn't be granted variance.

Public Comment: Don Robertson: 17614 Simmons Ave., Cedar Springs, MI 49319. Previous buyer interests haven't purchased due to township requirements; Requirements were ignored – Mr. Fosburg moved forward anyway; Reiterate costs to township and taxpayers; Disregard for safety of residents; blocked drive with berm which they had to remove; numerous calls/visited with Michigan State Police and Kent County Sheriff Departments; granting variance would set a precedent; ZBA shouldn't bail Mr. Fosburg out.

Hays: Called for additional comment. (*Whalen*) Clearly a self-created incidence. (*Fosburg*) No, he did his homework. "they did first...;" they put in blockade(s). (*Don Robertson*) Clarification - he didn't build fence in easement.

Hays: With no additional comment, closed public hearing on this issue.

Hays: Called for input from township officials, recognized Supervisor/Building Inspector Ellick – Solon Twp Hall, Cedar Springs, MI: Repeated – self-created problem; began to address in late February; Stop Work Orders – March 2nd, March 4th, March 6th. Michigan Building Code empowers building official to approve building permit after Zoning Application has been approved; He did his best to enforce township rules; Mr. Fosburg didn't obtain proper permits; Mr. Fosburg's behavior made it obvious he didn't care about neighbors, i.e. dumped sand in middle of road; ZBA should not confuse feelings with responsibility; clarification – Mr. Sawade did not write township ordinance as alleged by Mr. Fosburg; Stop Work Orders were ignored so it was necessary to access 63rd District Court judge who issued two injunctions against Mr. Fosburg; he could've stopped after first order when only post holes were in but continued with structure. (*Hays*) Date of court order? (*Ellick*) Approximately April, 2020.

Hays: Recognized Zoning Administrator Gross: Unfortunately, many things needed to be addressed in court – continues to be addressed in court; is ZBA going to give variance for home? Variance for existing building? Mr. Fosburg

indicated township officials, “didn’t have anything better to do.” Indicated all ordinance violations were being put on him; was questioned whether this was a road or a drive per ordinance – determined as a road with greater setbacks.

Hays: Recognized Solon Township Attorney Leisman – Ada, Michigan - for a description/explanation of two proposed resolutions.

Discussion: (Powell) In previous dealings with property purchase there was issue with bridge; previous houses were grandfathered in; Robertson’s passed because just a pole barn; concern now for emergency vehicles getting down road and across bridge. *(Gross)* Now fire trucks are bigger - 23,000 lbs/axle; would have 2 axles on bridge at one time. *(VandenBerg)* What would it take for engineer to determine bridge safe? Mr. Fosberg stated he had an engineer look at it. *(Gross)* Certified engineer approval – no documents presented. ZBA reviewed Denial of Emergency Access Variance. All agreed no changes to Findings of Facts, Item #1, or Item #2, Requested Variances; Agreed to review each subsection under Item #3, Denial of Requested Emergency Vehicle Variance.

- Subsection (a): Not satisfied. *(Powell)* Mr. Fosburg bought property knowing conditions.
- Subsection (b): Not satisfied – there was room to build; circumstances not unique. *(Powell)* re: private road - should become an issue where people come together to build up bridge and save their structures. *(Stout)* on Fire Department for 22 years; always a concern for safety there; improvements to widen the road have been made but still an issue; Mr. Fosburg was told what needed; proceeded without bridge inspection or standards met; steps not done properly. *(Batchelder)* Re: Release of Liability – concern how much danger posed to other residents; can’t limit emergencies to Mr. Fosburg’s progress. *(Attorney Mateskon)* An engineer with KCRC did inspect bridge and sent findings to Mr. Ellick; neighbors unwilling to keep up easement; Road to the north – attempt was made by Mr. Fosburg to improve; Michigan law allows an easement hold to improve; to “comply with emergency vehicles” should be foreclosed on their easement. *(Ellick)* Has not received any report on this from KCRC. *(Gross)* County engineer would not certify – not able to do so – is not his job. *(VandenBerg)* re: improving easement, what would Mr. Fosburg have to do? *(Leisman)* existing issue for ZBA is for right now; speculation not needed at this point.
- Subsection (c): Not satisfied. *(Powell)* Property was purchased fully aware – has the ability to enjoy the lake. *(Stout)* He had full disclosure – not done with proper procedures; *(VandenBerg)* How do you confirm full disclosure? *(Stout)* Referenced in his own comments. *(Powell)* Obvious private road – no more development w/o improvements. *(Hays)* Anything written? Obvious to a builder? *(Robertson interjection)* Have told previous realtors is not buildable. *(Powell)* Can’t confirm disclosure. *(Leisman)* Is common knowledge. *(Ellick)* Mr. Fosburg called township prior to purchase; was told a problematic piece; advised to should not buy; plenty of warning. *(Gross)* Many calls on this property from realtors; has told them not buildable; ordinance is in place because of that bridge.
- Subsection (d): Not satisfied. *(Hays)* Bridge a huge concern; ordinance there for a good reason. *(Powell)* Ordinance keeps EMS safe. *(Stout)* Not certain it’s been satisfied. *(Batchelder)* Agreed – wave liability would cause danger to neighbors. *(VandenBerg)* Agreed.
- Subsection (e): Not satisfied. *(Powell)* If we agree this will bring more need for EMS affecting residents. *(Stout)* As a builder for more than 20 years, Mr. Fosburg should’ve been well aware prior to construction; another residence there not justifiable. *(VandenBerg)* Agreed. *(Batchelder)* Agreed.

Attorney Leisman mentioned termination in Item #4, Additional Findings – “practical difficulties” vs. “practical hardship.” Board agreed is okay. *(VandenBerg)* Mentioned how to go forward if KCRC did evaluate the bridge? *(Leisman)* Should rule on ordinance as is now.

Conclusion: Attorney Leisman verified additional language he’d make to resolution as:

- Subsection (a): Applicant hardships self-inflicted
- Subsection (b): Fire Department aware of problem for over 20 years ??? recurring; township not presented with evidence bridge is safe.
- Subsection (c): property bought with knowledge; common knowledge in community.
- Subsection (d): spirit of ordinance not satisfied; purpose is safety; fire truck in excess of 22,000 lbs.; problem for years.
- Subsection (e): adding another principal residence increases problem.

Hays: Called for motion to accept Resolution Denying Variance for Accessory Building as changed by Attorney Leisman.
Motion by Stout, second by Batchelder.

Hays: Called for Roll Call Vote motion.

Matt Batchelder Aye
Jon Stout Aye

Rich Hays Aye
Jon Tilburt AB

Brynadette Powell Aye
Joe VandenBerg Aye

Hays: All approved, motion carried.

Hays: Called for any additional comment.

Hays: With no further comment, session closed.

Other Matters to be reviewed by the Zoning Board of Appeals: N/A

Old Business: N/A

Open discussion for Issues not on the Agenda: (Powell) Thanked new Board members for stepping up and all of the hard work.

Report of Township Board Representative Tilburt: N/A

Report of Planning Commission Representative Tilburt: N/A

New Business: N/A

Hays: Called for motion to adjourn: Motion by Hays, second by Stout.

Hays: Called for Roll Call Vote motion.

Matt Batchelder Aye
Jon Stout Aye

Rich Hays Aye
Jon Tilburt AB

Brynadette Powell Aye
Joe VandenBerg Aye

Hays: All approved, motion carried.

Adjourned: 9:57 PM

Next Scheduled Meeting: Wednesday, March 17, 2021, 7:30 PM.


Secretary
3-29-21 - Date