

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF A REGULAR MEETING HELD
TUESDAY, APRIL 4, 2019

LOCATION: MACOMB TOWNSHIP MEETING CHAMBERS
54111 BROUGHTON ROAD, MACOMB, MI 48042

PRESENT: CHAIRMAN: AARON TUCKFIELD
MEMBERS: DAVID PIEPER
DAVID DECOSTER

ABSENT: KRISTI POZZI (EXCUSED)
DAWN SLOSSON, SECRETARY

ALSO PRESENT: PATRICK MEAGHER, PLANNING DIRECTOR
(Additional attendance record on file with Clerk)

Call Meeting to Order.

Chairman TUCKFIELD called the meeting to order at 7:00 P.M.

1. Roll Call.

Chairman TUCKFIELD called the roll and Members POZZI and SLOSSON were absent. He indicated that he had received their phone calls in advance and know that there would be a quorum.

2. PLEDGE OF ALLEGIANCE.

Chairman TUCKFIELD asked all in attendance to join in the Pledge of Allegiance.

MOTION by PIEPER seconded by DECOSTER to refrain from calling Members POZZI and SLOSSON names from roll call votes.

MOTION carried.

3. Approval of Agenda Items. *(with any corrections)*
Note: All fees have been received and all property owners were notified by mail.

MOTION by DECOSTER seconded by PIEPER to approve the agenda as presented.

MOTION carried.

4. Approval of the previous meeting minutes.

MOTION by DECOSTER seconded by PIEPER to approve the minutes of December 6, 2018 as amended.

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MOTION carried.

5. Old Business:

None.

6. New Business:

To consider the requests for variance(s) of Zoning Ordinance No. 10 for the following:

Agenda Number/Petitioner/ Permanent Parcel No.	Zoning Ordinance Section No.
(a) Jeremy Lifshay Permanent Parcel 08-28-405-011	Section 10.0311.E.f.3. 10.0311.E.f.3. 10.0704.D.1
(b) Paul Lima Permanent Parcel 08-04-400-016	Section 10.0331.5.

a. **VARIANCE REQUEST FROM ZONING ORDINANCE**

Section 10.0311.E.f.3. - Request to reduce the required separation from an unenclosed, below-ground swimming pool to the principal building by 2' from 10' to 8';

Section 10.0311E.f.3. – Request to reduce the separation from an unenclosed, below-ground swimming pool to the side property line by 1.5', from 7.5' to 6' and Section 10.0704.D.1 – Request front yard setback reduced from 55' from centerline of Bannister Drive to 50' from centerline for a patio.

Located southeast corner of Jamestown and Bannister Drives; Section 28; Jeremy Lifshay, Petitioner. Permanent Parcel 08-28-405-011.

Patrick Meagher, Planning Director, presented the findings and recommendations of March 12, 2019. They are as follows:

The property in question is on the southeast corner of Bannister and Jamestown Drives.

VARIANCE REQUEST

1. Requests to reduce the required separation from an unenclosed, below-ground swimming pool to the principal building by 2' from 10' to 8', (§10.0311.E.f.3).
2. Requests to reduce the separation from an unenclosed, below-ground swimming pool to the side property line by 1.5', from 7.5' to 6', (§10.0311.E.f.3).
3. Also, requests front yard setback reduced from 55' from centerline of Bannister Drive to 50' from centerline for a patio. (§10.0704.D.1)

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FACTS

- The subject property is a 90' by 180', lot #183 in the Lancaster Subdivision;
- The Township has a 12' drainage easement widthwise across the subject property that begins 54' from the southernmost property line and ends 66' from the southernmost property line. Further, the Township Water and Sewer Department, granted the property owner permission to encroach into the Township easement because there are no underground drainage pipes or structures that require Township access; and
- The Macomb County Public Works Department has a 60' easement on the southernmost part of the property for the Pingle Drain. Further, the Macomb County Public Works Office granted the property owner a license to use up to 4' of the Pingle Drain easement, pending application for and execution of the License to Use Agreement.

PLANNERS' RECOMMENDATION

We recommend the ZBA grant variances #1 and #2. The Township and County easements limit the patio and pool location within the side and rear yards and demonstrate a practical difficulty. The applicant's relief request offers substantial justice because it does not generally exceed what other properties that do not face the practical difficulty created by the Township and County easements are able to build in side and rear yards. We recommend that the ZBA deny the variance #3. Although the practical difficulty remains, the R-1 zoning district does not allow for patios in required front yards and granting the rezoning request conveys a property right to this lot that is not available to other properties in R-1 zoning districts.

The petitioner submitted a letter dated July 26, 2018 in support of the request and was included into the record as follows:

"Removal of existing patio and bushes, trees etc. within the new concrete foot print. Install 16' x 32' inground pool, 90"x 120" approximate hot tub, concrete stamped surrounding all areas. Install 24' x 16' gazebo in same area. Concrete will be poured from rear of home, out 30' x 57'6" wide. This request to install the pool 6' from the rear of the home is because of limitations on building on or near the Pringle Drain. (Located after the easement in the back yard) These things limit how far I can build out away from the home. Also the home is on a corner lot where building is not permitted on the side of my backyard as well. This variance will help facilitate the family pool I hope to install. Thank you."

Bryan Winsten, representative, was in attendance to answer any question. He indicated that he did not believe any of the variances would have a negative impact on the neighborhood.

Chairman TUCKFIELD asked if the patio was going to be poured on grade.

Bryan Winsten, representative, was in attendance, and explained it would be poured at grade and as it went away it would have a step down.

Public Portion: None.

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Chairman TUCKFIELD stated his concern with the variance being sought for Section 10.0704D.1 and the position of the patio relative to the garage.

Chairman TUCKFIELD stated the board consists of five members and in order for a variance to pass tonight a full vote must be received by the board.

Bryan Winsten stated that his petitioner is not in the area and asked if he could step out and place a phone call to them to see if they would like a tabling on the third item being sought for a variance.

Chairman TUCKFIELD adjourned item 6.a. until after 6.b.

Bryan Winsten, representative, returned and indicated that he had spoken to the petitioner and he has indicated his desire to proceed forward with the first two requests and regarding the third request he would be willing to reduce the patio to meet the existing 25' setback as would be in align with the front façade of the garage.

Chairman TUCKFIELD stated his desire to table the third variance to ensure that everything is in alignment and if a variance is needed.

Bryan Winsten, representative, asked if the verbiage could be noted as "If needed" per Building Department requirements.

The following resolution was offered by PIEPER and seconded by DECOSTER:

Whereas, it has been satisfactorily presented that special conditions prevail that would cause a practical difficulty if the request would be denied, and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance No. 10 under the findings and facts herein set forth;

Now, therefore, be it resolved, that the action of the Board is to grant the requested variance of Section 10.0311.E.f.3. - Request to reduce the required separation from an unenclosed, below-ground swimming pool to the principal building by 2' from 10' to 8'; Located southeast corner of Jamestown and Bannister Drives; Section 28; Jeremy Lifshay, Petitioner. Permanent Parcel 08-28-405-011. The variance is being granted due to the grade to the rear of the lot.

FOR THIS MOTION

AYES: PIPER, DECOASTER, TUCKFIELD.

NAYS: NONE.

ABSENT: POZZI, SLOSSON.

MOTION carried.

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The following resolution was offered by PIEPER and seconded by DECOASTER:

Whereas, it has been satisfactorily presented that special conditions prevail that would cause a practical difficulty if the request would be denied, and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance No. 10 under the findings and facts herein set forth;

Now, therefore, be it resolved, that the action of the Board is to grant the requested variance of Section 10.0311E.f.3. – Request to reduce the separation from an unenclosed, below-ground swimming pool to the side property line by 1.5', from 7.5' to 6'; Located southeast corner of Jamestown and Bannister Drives; Section 28; Jeremy Lifshay, Petitioner. Permanent Parcel 08-28-405-011. The variance is being granted due to the grade of the lot and they are very restricted on how they can use the property for their benefit.

FOR THIS MOTION

AYES: PIPER, DECOASTER, TUCKFIELD.

NAYS: NONE.

ABSENT: POZZI, SLOSSON.

MOTION carried.

MOTION by DECOASTER seconded by PIEPER to table until May 2, 2019 the variance request of Section 10.0704.D.1 – Request front yard setback reduced from 55' from centerline of Bannister Drive to 50' from centerline for a patio; Located southeast corner of Jamestown and Bannister Drives; Section 28; Jeremy Lifshay, Petitioner. Permanent Parcel 08-28-405-011. This is tabled pending the determination by the Building Department or Planning Department that the variance will not be needed. Further, if it's not needed the item will be withdrawn from the agenda.

MOTION carried.

b. VARIANCE REQUEST FROM ZONING ORDINANCE

Section 10.0331.5. – Request to build a 1,780 square foot accessory building that is 380 square feet larger than the maximum allowed 1,400 square foot accessory building in the Agricultural zoning district on lots between 1.01 and 2.0 acres.

Located on the west side of Broughton Road, ½ mile north of 25 Mile Road; Section 4; Paul Linna, Petitioner. Permanent Parcel 08-04-400-016.

Patrick Meagher, Planning Director, presented the findings and recommendations of March 12, 2019. They are as follows:

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We reviewed and provided a recommendation for the variance request noted above. The property in question is on the west Side of Broughton Road ½ mile north of 25 Mile Road.

VARIANCE REQUEST

Requests to build a 1,780 SF accessory building that is 380 SF larger than the maximum allowed 1,400 SF accessory building in the AG zoning district on lots between 1.01 and 2.0 acres, (§10.0331.5).

PLANNERS' RECOMMENDATION

We recommend denying the requested variance because the application does not present any practical difficulties unique to the property that prevent ordinance compliance. Rather, the applicant presents a self-created hardship.

The petitioner submitted a letter dated March 6, 2019 in support of the request and was included into the record as follows:

“The reason for a variance request is to be able to protect and store from snow and weather vehicles like a pickup with a ladder rack and cap that will not fit into attached garage. I cannot build onto attached garage or small 20' x 20' building.

Other reasons are to protect and store more than one vehicle, motorcycles, trailer, camper and room for workshop.

I am asking for a 13 foot longer building.”

Paul Linna, petitioner, was in attendance to answer any questions.

Public portion: None.

Chairman TUCKFIELD stated that a variance is based on a practical difficulty.

Chairman TUCKFIELD offered the petitioner the same opportunity to table the item in order for all five members to be present in order for a full Board review and vote.

The following resolution was offered by DECOSTER and seconded by PIEPER:

Whereas, it has been satisfactorily presented that special conditions prevail that would cause an practical difficulty if the request would be denied, and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance No. 10 under the findings and facts herein set forth;

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Now, therefore, be it resolved, that the action of the Board is to grant the requested variance of Section 10.0331.5. – Request to build a 1,780 square foot accessory building that is 380 square feet larger than the maximum allowed 1,400 square foot accessory building in the Agricultural zoning district on lots between 1.01 and 2.0 acres. Located on the west side of Broughton Road, ½ mile north of 25 Mile Road; Section 4; Paul Linna, Petitioner. Permanent Parcel 08-04-400-016. The variance is based solely on the basis that the acreage is so close being 1.99975 to the 2.0 acre requirement.

FOR THIS MOTION

AYES: DECOASTER, PIEPER, TUCKFIELD.

NAYS: NONE.

ABSENT: POZZI, SLOSSON

MOTION carried.

7. Public Comments.

None.

8. ZBA Member Comments.

Election of Officers – Discussion only

Chairman TUCKFIELD stated he would like to continue on with the Election of Officers but to receive nominations rather than discussion.

MOTION by DECOASTER seconded by PIEPER to nominate Member SLOSSON as Secretary.

MOTION carried.

MOTION by PIEPER seconded by TUCKFIELD to nominate Member DECOASTER as Vice-Chairman.

MOTION carried.

MOTION by DECOASTER seconded by PIEPER to nominate Member TUCKFIELD as Chairman.

MOTION carried.

Chairman TUCKFIELD stated it was within the lead way of this body and that he wanted to offer Member DECOASTER a meeting to act as Chairman prior to the absence of Chairman TUCKFIELD.

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9. PLANNING DIRECTOR COMMENTS

Patrick Meagher, Planning Director, stated he is in the process of preparing an informational binder which contained rules, contact numbers, calendars, etc.

ADJOURNMENT

MOTION by PIEPER seconded by DECOSTER to adjourn the meeting at 7:48 p.m.

MOTION carried.

Respectfully submitted,

Aaron Tuckfield, Chairman

Dawn Slosson, Secretary

Beckie Kavanagh, Recording Secretary
bk