

**Ash Township  
Zoning Board of Appeals  
Meeting Minutes  
April 2, 2013**

**Held on:** Meeting was called to order by Chairman Stumpmier on Tuesday, April 2, 2013, at 7:30 p.m. in the Ash Township Hall, 1677 Ready Rd., Carleton, MI.

**Members Present:** Sid Stumpmier, Jerry Hunter, Jim Booth, Ace DeVillez and Darrell Mossburg.

**Members Absent:** Ron Keilman.

**Others Present:** Jim Vaslo – Twp. Manager, William Godfroy – Twp. Attorney, and 9 citizens

Chairman asked if everyone received a copy of the March 5, 2013, minutes and if there were any additions or corrections?

**Motion #120 Motion to Approve Minutes.**

Motion by Booth supported by Mossburg to approve as presented the Zoning Board of Appeals meeting minutes of March 5, 2013. Voice vote taken. Motion carried.

**Motion #121 Agenda Approval.**

Motion by Mossburg supported by DeVillez to approve the agenda as presented. Voice vote taken. Motion carried.

**Old Business:**

None

**New Business:**

1. A **Public Hearing** for Cheryl Koerber, the owner of parcel #5801-023-065-10, commonly known as 2750 Creek Road, Carleton, MI 48117, who is requesting a variance to the frontage requirement in the Agricultural District. A seven (7) foot variance is requested.

**Motion #122 Open the Public Hearing.**

Motion by DeVillez supported by Booth to open the Public Hearing for Parcel #5801-023-065-10. Voice vote taken. Motion carried.

Manager Vaslo informed the Board that the applicant, Ms. Koerber, had applied to the building department for a permit to construct a new home on the property but was denied a permit due to the lack of required road frontage. The property is zoned AG, Agricultural, which requires 200 feet of road frontage for a buildable lot. The property has only 193 feet. A notice of the public hearing was published in the local newspaper and properties within 300 ft were mailed hearing notices.

Ms. Koerber was present and answered several questions from the Board and audience. Mr. Angelo Sultana, an adjoining property owner, had questions regarding the ZBA process and why has grading and filling already taken place on the property if the applicant is just now coming in front of the Board. It was explained that until now no activities on the property required any action by the ZBA.

Manager Vaslo stated that there were no concerns or objections to the proposed variance voiced and no written objection were received by the township prior to the meeting.

**Motion #123 Close the Public Hearing.**

Motion by Booth supported by Stumpmier to close the Public Hearing for Parcel #5801-023-065-10. Voice vote taken. Motion carried.

**Motion #124 Open the Finding of Facts.**

Motion by Stumpmier supported by Mossburg to open the finding of facts for the road frontage variance request. Voice vote taken. Motion carried.

- Fact-Stumpmier- The Township Master Plan calls for the property to be RE, Rural Estates and residential in nature. Supported by Booth.
- Fact-DeVillez- The request is minor in nature requiring less than a 7 ft variance. Supported by Stumpmier.
- Fact-Stumpmier- There was a home on the property in the past. Supported by DeVillez.

**Motion #125 Close the Finding of Facts.**

Motion by DeVillez supported by Mossburg to close the finding of facts. Voice vote taken. Motion carried.

**Motion #126 Grant Requested Variance.**

Motion by DeVillez supported by Booth to grant the requested variance of 7 ft for road frontage to parcel # 5801-023-063-10. Roll Call: 5-Yes, 0-No. Motion carried.

1. A **Public Hearing** for Richard Adel, the owner of parcel #5801-027-030-10, commonly known as Northern Homes, 10101 Telegraph Rd, Carleton, MI 48117, who is appealing a determination by the Ash Township Planning Commission who denied site plan approval for additional uses to the existing business on January 15, 2013.

**Motion #127 Open the Public Hearing.**

Motion by Booth supported by Hunter to open the Public Hearing for Parcel #5801-027-030-10. Voice vote taken. Motion carried.

The applicant was represented by General Manager J.C. Karwick and Attorney Matt Vititoe. Mr. Vititoe started the discussion by noting that under Section 24.07 of the Township Zoning Ordinance the ZBA has the power and duty to hear appeals where it is alleged by the appellant that there has been an error in a decision by an official of the Township, in this case the Planning Commission. Mr. Vititoe alleges that the Planning Commission at their January 15, 2013, meeting did not follow the standards for approval as outlined in Section 16.05 of the Zoning Ordinance and ignored the recommendation of Planning Consultants Wade Trim to table the site plan. Mr. Vititoe also noted that under Section 11.02 of the Zoning Ordinance the additional uses sought by his client could have been approved by the Planning Commission had they determined the uses to be of the same general character as, and compatible with the other permitted uses on the property and in the area.

Township Attorney Godfroy concurred from a quick review of the meeting minutes from the 15<sup>th</sup> that perhaps the Planning Commission focused more on the current state of the property and the presence of the unapproved uses as well as a 20 year history of violations of both blight and zoning when making their decision than on the site plan itself. Mr. Godfroy did quantify his comments by saying he was not at the meeting and his comments were based solely on the meeting minutes. There were two member of the Planning Commission in the audience and they voiced their concerns over existing unapproved uses and a long history of the property owner not following proper procedures when it came to additional uses on the site and allowing blight related factors to exist.

The commission members had many questions for the applicant and the attorneys. They asked Mr. Godfroy for direction on proper procedure and what their legal options would be in this particular case. Several scenarios were offered as well as possible motions were discussed. Manager Vaslo stated that no concerns or objections on this matter, either voiced or written, were received by the township prior to the meeting. It should be also noted that a notice of the public hearing was published in the local newspaper and properties within 300 ft were mailed

hearing notices.

**Motion #128 Close the Public Hearing.**

Motion by Booth supported by Stumpmier to close the Public Hearing for Parcel #5801-027-030-10. Voice vote taken. Motion carried.

**Motion #129 Open the Finding of Facts.**

Motion by Booth supported by Hunter to open the finding of facts for the appeal of determination. Voice vote taken. Motion carried.

- Fact-Booth- The property and its uses have been out of compliance for years. Supported by Stumpmier.
- Fact-Stumpmier- the Planning Commission did follow proper procedures and followed the ordinance in this case. Supported by Mossburg.

**Motion #130 Close the Finding of Facts.**

Motion by Mossburg supported by Stumpmier to close the finding of facts. Voice vote taken. Motion carried.

**Motion #131 To Remand.**

Motion by Mossburg supported by Booth to reverse the Planning Commission decision of 1/15/13 to deny site plan approval and to remand back to the Planning Commission as a tabled site plan for parcel #5801-027-030-10. Roll Call: 5-Yes, 0-No. Motion carried.\*

\*It should be noted that Mr. Vitoe objected to Chairman Stumpmier voting on the motion as he is a member of the Planning Commission.

**Motion #132 Adjournment.**

Motion by Mossburg supported by booth to adjourn at 8:40 p.m. Voice Vote taken. Motion approved.

Respectfully Submitted,  
Jim Vaslo  
Township Manager