

**BRADY TOWNSHIP ZONING BOARD OF APPEALS  
MINUTES OF MEETING HELD AUGUST 17, 2010**

A meeting of the Brady Township Zoning Board of Appeals was held August 17, 2010. Chairman Jim Dyke called the meeting to order at 7:00 p.m.

Members Present: Chairman Jim Dyke  
Ed Haberle  
Joe Timko  
Mike Oswalt  
Alternate Aileen Greanya

Absent was Gerrit VanderKamp.

Also attending were Township Trustee Randy Smith, Township Attorney Craig Rolfe, Zoning Administrator Chris Hamilton and nineteen others.

**APPROVAL OF MINUTES**

A **motion was made** by Jim Dyke to approve the minutes of June 15, 2010 as written. Joe Timko **seconded** the motion. The motion was **carried unanimously**.

**REQUEST FOR A VARIANCE by Melissa Bacon**

Melissa Bacon has requested relief from the front yard setback requirements in order to build a 10' roofed front porch onto the house she owns at 9565 East YZ Avenue in Brady Township. The front of the house is 106' from the center of the road, and 108' is required. A front porch could not be constructed to meet the required front yard setback.

Chairman Jim Dyke opened the Public Hearing.

Chairman Dyke stated that no written correspondence has been received on this variance request.

Mrs. Bacon stated that she obtained a building permit for the house, including the front porch, in 1999, but that the front porch was never added.

Attorney Craig Rolfe noted that the building permit approved in 1999 has long ago expired.

Joe Timko asked if the porch could be built on the side of the house. Mrs. Bacon responded that the porch cannot be on the sides of the house because one side has no access doors or windows and the other side connects to the garage. There is a deck on the back of the house.

Mrs. Bacon stated that the location of the existing house is the difficulty that prevents her from adding the front porch without a variance approval. She acknowledged being involved with the selection of the site for the house when it was built in 1999.

There were no further public comments, and the Public Hearing was closed.

The Zoning Board of Appeals considered the variance request pursuant to the variance standards in Section 23.8 of the Zoning Ordinance.

It was agreed by all members present that item 1(a) is not met. Mrs. Bacon was unable to show that there are practical difficulties with the land itself to prevent building within the ordinance.

It was agreed that item 1(b) is met.

It was agreed that item 1(c) is not met. There are no exceptional or extraordinary circumstances of conditions of this property that set it apart from others in the area.

It was agreed that item 1(d) is not met because adding a roofed front porch is not a substantial property right.

The ZBA agreed that item 2 is met because no economic hardships have been cited.

The ZBA agreed that item 3 is not met because the difficulty was self-created.

Joe Timko **made a motion** to deny Mrs. Bacon's variance request to build a 10' roofed porch onto the front of her house, based on the findings that the variance standards: Section 23.8 items 1 (a), 1(c), 1(d) and item 3 are not met. Mike Oswalt **seconded** the motion. The motion was **carried unanimously**.

Mrs. Bacon was advised to contact the Kalamazoo County Road Commission to make sure that the road way is in the center of the Right of Way, as that could affect the calculation of the existing setback.

Upon request, Attorney Craig Rolfe stated that Mrs. Bacon has recourse to request that the Planning Commission recommend a text change to the Zoning Ordinance to change front yard setbacks. Chairman Dyke added that the matter could also be taken to Circuit Court.

**REQUEST FOR A VARIANCE** by Ron and Sharron Butler

Ron and Sharron Butler, 11925 W. Indian Lake Drive, have requested relief from the number of dogs allowed in the R-1 zoning district. They are requesting the number allowed be changed from 3 to 11.

A Public Hearing on the request was opened.

Chairman Dyke asked the applicant to explain what there is about their property that precludes the keeping of the allowed number of dogs on their property.

Mrs. Butler stated that she has kept dogs on her property for more than 40 years. She stated that she should be considered “grandfathered in”. She further stated that the Kalamazoo County has issued to her a license for the keeping of three or more dogs for more than 40 years.

In further discussing any basis for a variance derived from some exceptional characteristic of the property, the Butler’s stated that there is nothing about the property itself that creates their problem with the three dog limitation.

There was a question of whether the Butler’s own all of the dogs, and they responded that they do own all 11 dogs.

Dave Locey, 11797 W. Indian Lake, noted that one’s enjoyment of his property should not infringe upon the enjoyment of other property owners.

Tracy Locey, 11797 W. Indian Lake, asked if the county laws supersede Brady Township Ordinances. Attorney Rolfe stated that that these are two different layers of government, independent of each other. The State Dog Law is concerned about the humane care and keeping of the animals, but Brady Township can set its own regulations on how many dogs are allowed in each zoning district.

Leroy Rawlinson, 5297 East V Avenue, asked if only three dogs have always been allowed and if the Butlers were ever in compliance with the ordinance. Attorney Rolfe responded that there is no evidence that the Butler’s keeping of more than three dogs on their property has ever been conforming or lawfully non-conforming.

Correspondence has been received on this matter from Willard and Linda Teare, 11981 West Indian Lake, asking the ZBA to deny the variance request because of noise and odors caused by the keeping of the dogs.

After further discussion, the Public Hearing was closed.

The Zoning Board of Appeals considered the variance request pursuant to the variance standards in Section 23.8 of the Zoning Ordinance.

It was agreed by all members present that item 1(a) is not met. The Butler's were unable to show that there are practical difficulties with the land itself to prevent the keeping of three dogs, therefore conforming to the ordinance. The Township Attorney advised that, as the Butler's explicitly acknowledged this fact, which is fatal to the variance request, the Board need not make findings on the remainder of the variance standards.

Joe Timko **made a motion** to deny the Butler's variance request to change the number of dogs allowed on their R-1 zoned property from three to eleven, based on the findings that the variance standard : Section 23.8 item 1 (a) is not met. Aileen Greanya **supported the motion**, and it was **passed unanimously**.

Ed Haberle **made a motion** to adjourn at 8:40 p.m. Jim Dyke **supported the motion**, and it was **passed unanimously**.

Respectfully submitted,

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Jim Dyke  
Chairman

Brenda Brock  
Recording Secretary

