

**BRADY TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF MEETING HELD SEPTEMBER 20, 2011**

A meeting of the Brady Township Zoning Board of Appeals was held September 20, 2011. Vice-Chairman Joe Timko called the meeting to order at 7:00 p.m.

Members Present: Vice Chairman Joe Timko
Ed Haberle
Ray Lezotte
Alternate Steve Phillips

Absent was Chairman Jim Dyke.

Also attending were Township Attorney Craig Rolfe, Township Trustee Randy Smith and three others.

APPROVAL OF MINUTES

A **motion was made** by Steve Phillips to approve the minutes of January 18, 2011 with the following change on page 3: paragraph 1, line 2, change the word “variance” to “requirements”. Ray Lezott **seconded** the motion. The motion was **carried unanimously**.

REQUEST FOR A VARIANCE by Ian Dingwall

Ian Dingwall has requested relief from the fencing requirements on property he owns at 11287 Ullrey in Brady Township. The 4’ high cyclone fence extends lakeside 34’ from the edge of his dwelling instead of the 10’ that is allowed.

Vice-Chairman Timko opened the Public Hearing.

Scott Graham, attorney for Mr. Dingwall, presented the reasons for the variance request. He distributed copies of an aerial photo of the area and a sketch of the parcel in relation to other parcels in the area.

Mr. Graham stated that the deck, which extends 10’ from the edge of the dwelling and a gazebo in the front yard (lakeside) existed when Mr. Dingwall purchased the property.

Mr. Graham stated that there is a tall hedge on one side of the property that extends beyond the fence and blocks the view of the lake. The hedge is not on his property and he has no control of it. The fence runs parallel to this hedge and right beside it. The fence does not obstruct the view of the lake, but the hedge, which is permitted, does in fact obstruct Mr. Dingwall's view of the lake.

Mr. Dingwall said that the fence is for security purposes, and provides an enclosed area for his rescue dogs.

Mr. Graham further stated that if the fence were to extend only 10', the gazebo would have to be removed and one corner of the deck would have to be changed. He added that the fence was put up in 2005, when Mr. Dingwall purchased the property, and he has had no complaints from neighbors about the fence.

Ed Haberle asked if there were gates on the fence. Mr. Dingwall responded that there are three padlocked gates.

Ed asked if the deck were at ground level. Mr. Dingwall said that it has two steps up.

There were no comments from the audience.

Correspondence has been received on this matter: one letter supporting the fence, on letter-writer who did not care one way or the other, and one letter-writer who is against having a fence at the proposed location. Vice-chair Joe Timko read the letters.

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

Attorney Rolfe reminded the Zoning Board of Appeals that although the fence is in existence, the board must consider the variance standards as if the fence had not been installed.

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. There is no practical difficulty because of the land itself to prevent installing the fence within the ordinance.

It was agreed that item 1(b) is met; no detriment will occur to the adjoining properties.

It was agreed that item 1(c) is not met. There are no exceptional conditions of this property as noted under item 1 (a).

It was agreed that item 1(d) is not met because a fence at the location preferred by the property owner 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 is self-created.

Ray LeZotte **made a motion** to deny Mr. Dingwall's variance request, based on the fact that there is nothing about the land that precludes building within the requirements and that the variance standards in Brady Township Ordinance Section 23.8 [items 1(a) (c) (d) and 3] are not met. Ed Haberle **supported** the motion. The motion was **passed unanimously**.

Ed Haberle **made a motion** to adjourn at 8:00 p.m. Steve Phillips **supported the motion**, and it was **passed unanimously**.

Respectfully submitted,

Joe Timko
Vice-Chairman

Brenda Brock
Recording Secretary

