

**BEDFORD TOWNSHIP
BOARD OF ZONING APPEALS (BZA)
REGULAR MEETING MINUTES
MONDAY, JUNE 1, 2009 OFFICIAL MINUTES**

Present: Korleen Bialecki (Chair), Ron Herr, Richard Brunt, Gail Hauser-Hurley (Township Board Trustee Representative), and Mike Bassinger (Planning Commission Representative). **Also Present:** Duane Tucker (Planning, Zoning, & Building Administrative Assistant, Board of Zoning Appeals (BZA) Facilitator, Land Division Administrator, and Recording Secretary), Dennis Kolar (Building Official), and Phil Goldsmith (Township Attorney-Lennard, Graham & Goldsmith P.L.C.). Absent (Excused): None

Call to Order: Ms. Bialecki (Chair) called the June 1, 2009 “Regular” meeting to order at 7:00 p.m., followed by the Pledge of Allegiance.

Ms. Bialecki introduced the members of the Board and Township facilitator(s) to the public present. This meeting was held at 8100 Jackman Road, Bedford Township Government Center, in Board Room.

Citizen Participation Information: Ms. Bialecki welcomed the audience and shared citizen participation guidelines for public commentary.

Approval of Agenda: Motion to approve the “agenda” as presented was made by Ms. Hauser-Hurley and seconded by Mr. Brunt. Motion passed.

NEW BUSINESS (CHAIRPERSON): Ms. Bialecki opened the new business and public hearing with the first variance hearing.

First (1st) variance petition:

The Appeal of David Rupert, 6976 Secor Road, Lambertville, MI 48144, requesting a variance for a proposed accessory building to be located in a front yard (400.1903 Accessory Building), on a corner lot, in an R-2A District (One Family Residential District), on land described as 58-02-650-001-00, 6976 Secor Road.

Ms. Bialecki swore in the applicant/authorized agent (David Rupert, 6976 Secor Road) and explained the voting process followed by background information presented by Mr. Tucker. Mr. Rupert opted to continue with the variance process. For the record, ‘David A. Rupert’ has granted Roger L. Stuart “Authorization to Act as Agent/Representative” for this variance appeal. Mr. Stuart is an agent of “All Phase Building Garages—5860 Secor Road”. The previously described parcel is approximately .675 ± acres in size while having approximately 239.80 ± foot frontage on Secor Road and 54.92 ± foot frontage on Underhill Drive, while being identified as Lot # 1 in the Valleybrook Park platted subdivision. For the record, this residential dwelling was constructed in 1954 well in advance of May 5, 1977, when Bedford Township adopted the zoning ordinances. The

applicant's proposed construction, a detached accessory building/garage, is 24' by 24', or 576 square feet in area. This lot has a very unusual shape while having exceptional topographical conditions/hills/terrain/landscaping. The above lot (Lot # 1 of Valleybrook Park platted subdivision) is considered a corner lot, thus having 2 front yards (inclusive of front yard set-back requirements) for any proposed residential construction. The following Bedford Township Ordinance is in effect: *400.1903 Accessory Buildings*.

Sec. 1903. Accessory buildings, except as otherwise permitted in this Ordinance, shall be subject to the following regulations: 4. Accessory buildings shall not be erected in any minimum side yard setback nor in any front yard pursuant to the Schedule of Regulations set forth in Article XVIII of the Bedford Township Zoning Ordinance. The placement of all accessory buildings erected in a rear yard shall conform to the Accessory Building Table requirements set forth in this Article XIX, Section 1903, Subsection 7 of the Bedford Township Zoning Ordinance. Definitions. Yards. The open spaces on the same lot with a main building unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance, and as defined herein: a. Front yard. An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building.

Mr. Rupert stated that his house was built on/in the side of a steep hill (12' ±) while practically having no back yard. The proposed placement of the garage will not block anyone's view and the driveway will come off of Secor Road, right straight to the garage. The house has an attached garage that is only 12' wide, which is very small, and a dilapidated shed. The proposed detached garage will house/store garden tools, a tractor, and to park the cars in. Mr. Rupert also noted that this lot has a very unusual shape. The proposed garage (24' by 24") will be off to the side of the dwelling, while being not directly in front of the dwelling and out of the view of all.

Ms. Bialecki opened the BZA meeting to public commentary.

Beverly Monaham (3277 Edgevale Drive) stated that she lives at the top of the hill, behind Mr. Rupert's home. Mrs. Monaham noted that Mr. Rupert just recently purchased this lot and meticulously takes care of the grounds (lawn and property). Mrs. Monaham stated that she is in support of Mr. Rupert building this garage in the front yard for this lot has very unusual circumstances/terrain.

Roger L. Stuart (Dundee, MI), general contractor and authorized agent was sworn in by Ms. Bialecki. Mr. Stuart stated that it would not be a cost effective measure to put the proposed garage out of the front yard. The cutting away of the hill in the rear yard would cause some type of erosion while numerous trees would need to be removed, thus creating a poor situation. The existing asphalt driveway will go directly to the proposed garage. Mr. Stuart indicated that the proposed garage would be white vinyl to match existing dwelling.

Mr. Goldsmith stated that the granting of this variance is "not precedent" setting for unique and special circumstances exist that is only pertinent to this lot. In addition, a

clear practical difficulty (topographical configuration) has been established within the background information.

Ms. Bialecki closed the public hearing while having no further public comment.

Further BZA discussion followed. Mr. Kolar stated that the platted lots are buildable and considered lots of record within Valleybrook Park. Although, these lot must have suitable water and sewer/septic system while maintaining the existing zoning set-backs.

Motion by Ms. Hauser-Hurley to grant/approve the following variance petition/request: The Appeal of David Rupert, 6976 Secor Road, Lambertville, MI 48144, requesting a variance for a proposed accessory building to be located in a front yard (400.1903 Accessory Building), on a corner lot, in an R-2A District (One Family Residential District), on land described as 58-02-650-001-00, 6976 Secor Road. Reason being, this variance petition has three (3) practical difficulties: First (1st), this lot has a very unusual shape while having exceptional topographical conditions/hills/terrain/landscaping. Secondly, this house was constructed on or about 1954, well in advance of May 5, 1977, when Bedford Township adopted the zoning ordinances. Thirdly, The above lot (Lot # 1 of Valleybrook Park platted subdivision) is considered a corner lot, thus having 2 front yards and double the front yard set-back requirements. Also, the proposed accessory building in a front yard variance will not have an adverse effect on adjacent properties and will not be materially injurious to surrounding properties. The following are conditions of this variance approval: The applicant shall satisfactorily meet all Michigan Building Code requirements and Township Ordinances while securing proper building permits (electrical, mechanical, & building permits). The setbacks outlined in Bedford Township Ordinance 400.1903 "Accessory Buildings" shall be made whole. Mr. Bassinger seconded the motion for discussion purposes.

The motion carried on a roll call vote as follows: Voting Aye: Bassinger, Brunt, Hauser-Hurley, Herr, and Bialecki. Voting Nay: None. Variance petition is granted/approved.

Second (2nd) Variance Petition

The Appeal of Bedford Township (General Law Municipal Corporation), 8100 Jackman Road, Temperance, MI 48182, requesting two (2) minimum parcel width variances (81.2 ±' frontage with fourteen [14] acres for a proposed cemetery and 80.0 ±' frontage with eighteen point seven [18.7] acres), Ordinance 400.1800, on Lewis Avenue for a proposed land division into two (2) parcels within an Agricultural District (AG), on vacant land described as 58-02-011-010-80, Lewis Avenue.

Ms. Bialecki swore in the applicant/authorized agent (Bob Schockman, Bedford Township Clerk) and explained the voting process followed by background information presented by Mr. Tucker. Mr. Schockman opted to continue with the variance process. Mr. Bob Schockman, Bedford Township Clerk and Township Cemetery Committee representative acted on behalf of Bedford Township (General Law Municipal Corporation) in this variance petition. The Bedford Township Park Board purchased and

deeded this property on March 31, 2006 (LIBER 8085 PAGE 99). The proposed frontage variance(s) are to divide the existing parcel (32.7 ± acres) into two (2) parcels. One (1) parcel will be used for a proposed Bedford Township cemetery (14 ± acres and being the southern-most proposed parcel) and the other parcel (northern most) will also be seeking a frontage variance [18.7 ± acres]. (Per the G.B. Warnke & Associates, Inc. Professional Land Survey, dated 3-13-2009, JOB No. 09-0018). Per 400.1800 (Schedule of Regulations), the following is in effect for conforming Agriculture (AG) Zoned parcels: *The parcel shall have a minimum parcel size/area of 5 acres and a minimum parcel continual frontage width of 330 feet.* Based on the current Agriculture (AG) zoning district minimum requirements, coupled with the existing parcel frontage on a certified or dedicated public road and minimum lot/parcel size requirement, a land division/split could not be legally done by the Bedford Township Land Division Administrator without a frontage variance of 81.2 ± feet for parcel area of 14.0 ± acres, and a frontage variance of 80.0 ± feet for parcel area of 18.7 ± acres. The proposed parcel size/area of a minimum of five (5) acres is in compliance within the AG Zoned District for the land division process. Per Article II (Construction of Language and Definitions), Section 400.201 Construction of Language, the following is in effect: *Frontage. The full length of a parcel or lot, or other plot of land, measured alongside the front lot line, which must be continuous and uninterrupted, and located on only one road or street. Frontage may not be measured along two or more roads or streets on a corner lot or through lot. Frontage may not be measured along two or more portions of a front lot line that are separated by another parcel or lot.* The granting of the above-requested variance for a proposed land division would create two (2) non-conforming parcels. Per Bedford Township Ordinance 400.1902: Non-conforming Lots, Non-conforming Uses of Land, Non-conforming Structures, and Non-conforming Uses of Structures and Premises. Sec. 1902. 2. *An appeal to vary yard dimensions, frontage, or other requirements not involving area or width, or both, of the lot or parcel or split portion of lot, may be made to the Board of Appeals, which the Board of Appeals may or may not grant, based on the normal standards of review and consideration applicable generally to the Board of Appeals. Per 400.1901 (AG District Uses/Regulations), the following is in effect: Principal uses permitted. Cemeteries, provided that large deciduous or evergreen trees shall be planted adjacent to the entire perimeter of the site, not more than 50 feet on center and in accordance with Section 1907 [Section 400.1907].*

Ms. Bialecki opened the BZA meeting to public commentary.

Ms. Bialecki closed the public hearing while having no further public comment.

Mr. Schockman stated that there are several hardships evident especially the high voltage power lines, which don't afford as much property area as it appears. Secondly, the low-lying areas by Johnson Drain also pose a hardship for it precludes the placements of burial lots to be created. The proposed variance is to carve out a badly needed Township Cemetery off of Lewis Avenue. Bedford Township has invested approximately \$70,000.00 into the purchase of a 14-acre cemetery area. Mr. Schockman further stated that there are "no places" in Bedford Township to publicly bury residents. In addition, Mr. Schockman (Township Clerk) is in charge of public cemeteries and public resident

burials. Plans to break ground for the new cemetery coupled with start of sales for cemetery lots, will be the summer of 2010. Mr. Schockman emphasized that the problem of the high voltage power lines in the eastern most section, has created major problems. Another section of high voltage power lines, running northeast to southwest, has also created major planning/placement problems. Mr. Schockman further noted that Bedford Township owns all the land (proposed cemetery [14.00 acres], the proposed remaining parcel [18.7 acres], and the park under the grant [35.774 acres]). Mr. Schockman also noted that the frontage off of Samaria Road (M-151) is almost unusable due to the high voltage electrical lines and easements. In addition, the high voltage electrical lines and easements that runs diagonally from the north-east to the south-east, greatly inhibits the potential cemetery use.

Mr. Bassinger questioned the width to depth ratio for the proposed land divisions. Mr. Tucker stated that the following is in effect per Bedford Township Land Division Ordinance (300.09): *E. Each resulting parcel, but not necessarily resulting subdivision lot, outlot or parcel, or portion thereof, shall have a depth which is not more than four times the width of the parcel (4:1 ratio), exclusive of access roads and easements serving other parcels. The 4:1 depth to width ratio shall not apply to the remainder of the parent tract or parcel retained by the applicant or to any resulting parcel which is 10 acres or larger.* Thus, Mr. Tucker, the Bedford Township Land Division Administrator, noted that the proposed land divisions are in ordinance compliance.

Further BZA discussion followed regarding the irregular and unusual proposed land division configuration. Concerns were raised by the BZA over the strip of land located to the south of the proposed cemetery, which will be part of the proposed remaining parcel (18.7 acres). The proposed remaining parcel, 18.7 acres, completely wraps around the proposed cemetery (14.0 acres), which seems to be unusable and could be avoided in the land division process if figured differently.

Mr. Tucker reviewed a potential variance condition to be considered by the BZA: The portion of the parcel that will be approximately $18.7 \pm$ acres, which will be dedicated as "park-land", shall be combined as one (1) park parcel with the park-land described as $35.774 \pm$ acres, known as "Lewis Ansted Community Park". The above described land combination shall be completed within one (1) year of the park grant expiration. Much discussion followed regarding this potential variance condition. Mr. Goldsmith alluded that all proposed parcels (18.7 acres, 14.0 acres, and 35.774 acres) would be owned by Bedford Township and he is not concerned about the proposed parcel lines.

Mr. Schockman stated that the cemetery committee must plant trees around the cemetery while being fenced in. Mr. Schockman further added that the area under the high voltage wires becomes unusable because you can't bury people under them. Thus, the goal is to create a cemetery that is "entirely usable" which causes the irregular land division configuration.

Mr. Bassinger questioned as to why the strip of land between the cemetery and the park existed. Mr. Bassinger said, in his opinion the division should follow the existing/same park boundary line, whereby this cemetery proposal (14.0 acres) has created an “odd ball” configuration.

Mrs. Bialecki discussed the practical difficulties of this piece of property. One practical difficulty to consider is the various frontages on Samaria Road and Lewis Avenue. Secondly, the vast high voltage utility easements and placements create a practical difficulty. Thirdly, the low-lying areas create another practical difficulty due to the fact that this prohibits certain areas from being used for burials plots. The lack of other available cemetery space in Bedford Township also becomes an important factor.

Motion by Mr. Brunt to grant/approve the following variance petition/request: The appeal of Bedford Township (General Law Municipal Corporation), 8100 Jackman Road, Temperance, MI 48182, requesting two (2) minimum parcel width variances (81.2 ±' frontage with fourteen [14] acres for a proposed cemetery and 80.0 ±' frontage with eighteen point seven [18.7] acres), Ordinance 400.1800, on Lewis Avenue for a proposed land division into two (2) parcels within an Agricultural District (AG), on vacant land described as 58-02-011-010-80, Lewis Avenue. This motion is based on the following practical difficulties: located on this property is a high voltage electrical service and easements which run north and south on the eastern side of the property and also diagonally on the northern 18.7 acres, which prevents a cemetery use in these areas; the low lying areas close to the Johnson Drain that run east and west prohibit are not suitable for burial purposes; and the lack of available and suitable cemetery space in Bedford Township. The following conditions are in effect for the above-mentioned variance approval. All Bedford Township Ordinances and State Land Division processes, regulations, fees, requirements, etc. shall be made whole as deemed by the Bedford Township Land Division Administrator. Any lot split/division variance granted must be recorded with the Monroe County Register of Deeds within six (6) months of this Board's meeting minutes approval. The Bedford Township Park Board and Bedford Township Cemetery Committee shall comply with the Bedford Township Planning Commission “site plan” review and process for both created parcels, as required. Ms. Hauser-Hurley seconded the motion for discussion purposes.

The motion carried on a roll call vote as follows: Voting Aye: Bassinger, Brunt, Hauser-Hurley, and Bialecki. Voting Nay: Herr. Variance petition is granted/approved.

Mr. Herr offered clarification as to his variance no vote. Mr. Herr stated that he voted no for the following reason: One (1) of the practical difficulty test is that strict compliance is unreasonably restrictive and unreasonably burdensome. In Mr. Herr's opinion, one (1) of these two (2) parcels could be re-structured to be in compliance.

Third (3rd) Variance Petition

The Appeal of Victor Lucarelli, 8484 Adler Road, Lambertville, MI 48144, requesting a 5.5-foot front yard front setback variance (Ordinance 400.1800), for a building

addition on a dwelling in an R-2B District (One Family Residential District) on land described as 58-02-019-077-00, 4005 Consear Road.

Ms. Bialecki swore in the applicant/authorized agent (Victor Lucarelli, 8484 Adler Road) and explained the voting process followed by background information presented by Mr. Tucker. Mr. Lucarelli opted to continue with the variance process. The previously described parcel is approximately .89 ± acre in size while having approximately 117.00 ± foot frontage on Consear Road with a parcel depth of 330.00' ±. The proposed front yard setback variance is for a proposed dwelling addition being 22' in width with a depth of 32' or 704 square feet in area. Also, the proposed dwelling addition will be symmetrical with the front building line. For the record, the Bedford Township Assessing Department has this dwelling measured at 640 square feet. Note, this residential dwelling was built in 1953, well in advance of May 5, 1977, when Bedford Township adopted the zoning ordinances. Per Bedford Township Ordinance 400.1800 Schedule of Regulations for an R-2B Zoning District (One Family Residential District) the following is in effect: *“the minimum front yard construction set-back shall be 90 feet from the center of Consear Road, or 57' from the road right of way.*

Ms. Bialecki opened the BZA meeting to public commentary.

Mr. Lucarelli stated that this residential dwelling is very small, whereby this proposal is to upgrade this rental house. Mr. Lucarelli stated that this addition would be placed on the side of the home, whereby the rooflines would be extended straight on through. By extending the roofline straight through, the dwelling will not look like it is added on. A septic leach field is to the back, which also prohibits the addition placement on the east side of the house. Also, the original house has a very small bedroom (8' by 8'), whereby the bedroom would be enlarged and a second bedroom would be added. Ms. Bialecki closed the public hearing while having no further public comment.

Further BZA discussion followed. Mr. Kolar reviewed the proposed addition floor plan with the Board, which demonstrated the reason the applicant needs to line up the proposed construction. Mr. Kolar indicated that this plan is constructionally sound and the proposed addition needs to line up with the side of the house.

Motion by Ms. Hauser-Hurley to grant/approve the following variance petition/request: The Appeal of Victor Lucarelli, 8484 Adler Road, Lambertville, MI 48144, requesting a 5.5-foot front yard front setback variance (Ordinance 400.1800), for a building addition on a dwelling in an R-2B District (One Family Residential District) on land described as 58-02-019-077-00, 4005 Consear Road. This variance approval motion is based on the following practical difficulties: the existence and location of the septic leach field and the existing usable dwelling area of 704 square feet is very small per today's standards. Condition of variance approval: The applicant shall satisfactorily meet all Michigan Building Code requirements and Township Ordinances while securing proper building permits (electrical, mechanical, & building permits). This variance would not be materially injurious to surrounding properties nor does it create a negative impact within the existing neighborhood. Mr. Herr seconded the motion for discussion purposes.

The motion carried on a roll call vote as follows: Voting Aye: Bassinger, Hauser-Hurley, Brunt, Herr, and Bialecki. Voting Nay: None. Variance petition is granted/approved.

Approval of Minutes: Motion to approve the BZA minutes as revised for April 6, 2009 (regular meeting) made by Mr. Herr and seconded by Mr. Brunt. Motion carried. The minutes of April 6, 2009 are approved and official as so noted.

Public Comment: None.

Board of Zoning Appeals/Township Representative Comments: The next regular BZA meeting is scheduled for Monday, July 6, 2009 with all materials to be submitted by Monday, June 15, 2009 (noon). Mr. Goldsmith reviewed the status of Monroe County Circuit Court File Case No. 06-22108-AA (Bedford Township v. Roy Hamilton d/b/a Bedford Asphalt, et. al.)

Adjournment: Ms. Bialecki duly adjourned the meeting at approximately 9:25 p.m.

Respectfully submitted,

Duane L. Tucker,
BZA Recording Secretary & Facilitator

ANY LOT SPLIT/DIVISION VARIANCE GRANTED MUST BE RECORDED WITH THE MONROE COUNTY REGISTER OF DEEDS WITHIN SIX (6) MONTHS OF THIS BOARD'S MEETING MINUTES APPROVAL. SECONDLY, ANY VARIANCE GRANTED ALLOWING THE ERECTION OF ANY STRUCTURE MUST BEGIN WITHIN SIX (6) MONTHS OF THIS BOARD'S MINUTES APPROVAL OR THE VARIANCES GRANTED WILL BECOME NULL OR VOID.

MINUTES APPROVED ON 8-3-2009