

**DEWITT CHARTER TOWNSHIP
1401 W. HERBISON ROAD, DeWITT, MICHIGAN 48820
BOARD OF APPEALS MINUTES
WEDNESDAY, JUNE 21, 2006**

The regularly scheduled meeting of the DeWitt Charter Township Zoning Board of Appeals was called to order at 7:00 p.m. by Chairman LaGrand.

The Pledge of Allegiance to the Flag was said by those present.

ROLL CALL by Secretary Reese.

MEMBERS PRESENT: Andrew Richards, Robert Reese, III, Dale Glynn, Stephen Gobbo, Christopher LaGrand, Shannon Schlegel.

MEMBERS ABSENT: Trustee Musselman.

APPROVAL OF AGENDA: **Gobbo moved to approve the Agenda as amended. Supported. MOTION CARRIED.**

APPROVAL OF MINUTES: **Gobbo moved to approve the minutes of April 19, 2006 with the following correction:**

Trustee Musselman was present rather than Trustee Baumann.

Supported. MOTION CARRIED.

CORRESPONDENCE: None.

PUBLIC COMMENTS: None.

UNFINISHED BUSINESS: None.

NEW BUSINESS:

- I. **Appeal 06-770002 – From Rodney E. Bennett and Carol Fata**, requesting a variance of 6 ft. to Section 5.11.3 (4)(i) of the Zoning Ordinance, which requires individual mobile home units to be setback a minimum of 20 ft. from any part of an attached structure of another mobile home unit used for living purposes. If approved, the applicant would be allowed to construct an 11 ft. x 20 ft. addition to the existing unit located at 69 Nettie Avenue, Lot #69 of Valley Estates Mobile Home Park, in the southeast ¼ of Section 33 of DeWitt Charter Township, that would be 14 ft. from the neighboring unit.

- A. Open Public Hearing. **Chairman LaGrand declared the Public Hearing opened at 7:05 p.m.**
- B. Administrative Comments/Applicant/Public Comments.

Assistant Planner Harmony Gmazel briefly reviewed staff's report dated June 12, 2006 pointing out the location of the site. The applicant is requesting a variance of 6 ft. to Section 5.11.3 (4) (i) of the Zoning Ordinance, which requires individual mobile home units to be setback a minimum of 20 ft. from any part of an attached structure of another mobile home unit used for living purposes. If approved, the applicant would be allowed to construct an 11 ft. by 20 ft. addition six feet into the 20 foot setback. This would result in a 14 ft. separation from the neighboring home to the east.

The surrounding zoning consists of A (Agricultural) to the north, west and south; R3 (Residential Single Family) to the south; and IL (Light Industrial) and R5 (Residential Single and Two Family) to the east.

One hundred and seventy-five (175) letters were sent out notifying the public of this request. Staff has received two phone calls for clarification of the location of the applicant's home and one letter in opposition of granting the request.

Gmazel went on to review two alternative options discussed with the applicant. The first option involves decreasing the width of the addition from 11 ft. to 9 ft., and increase the length of the addition from 20 ft. to 22 ft. This would decrease the requested setback variance by two (2) feet. This would be in keeping with a previous 2002 variance granted to the neighbor to the east of the applicant's home (Appeal #02-770006 granting a 4 ft. variance to construct an addition). The applicant has expressed concern that the altered size of the addition would interfere with the location of existing windows on the home.

The second option would be to place the addition on the west side of the existing home. The dimensions of the proposed addition would remain the same and would not pose a setback issue. The applicant has expressed concern that the same setback issues will arise on the west side of his home.

Gmazel went on to review the request for compliance with variance standards set forth in Section 4.2.3 of the Zoning Ordinance. Basic Condition a) requires that granting of the variance will not be contrary to the public interest or to the intent and purpose of this Ordinance. While staff has verified that a number of homes in the park encroach into the setback, these encroachments typically involve carports and covered porches, rather than living space. If the variance is granted, the fire safety

issue is contrary to the public interest. Therefore, staff finds that the request does not comply with Basic Condition a).

The proposed addition is a component of the residential use permitted by right in the MHP (Mobile Home Park) zoning district, so granting the variance would not allow a use not already permitted within the district, consistent with Basic Condition b).

There is no reason to believe that granting the variance would have a substantial adverse impact on surrounding property values. Therefore, the request complies with Basic Condition c).

With respect to Basic Condition d), requests of this nature have not been recurrent. Therefore, the request complies with this condition.

Gmazel went on to review the request for compliance with at least one of the three Special Conditions set forth in Section 4.3.2 of the Zoning Ordinance. There do not appear to be any practical difficulties associated with the subject property. Therefore, the request does not comply with Special Condition a).

Although the applicant has noted that several homeowners in the Park have encroached into the 20 foot setback. Upon staff's site visit it was verified that this is the case. However, the encroachment typically involves carports, porches, and sheds, rather than living space. Based on the fire safety issue, and the fact that option 2 would not require a variance, staff finds that the request does not comply with Special Condition b).

Lastly, the applicant is able to use the property for single family residential purposes, just like the neighboring properties. Therefore, the variance is not necessary to preserve a substantial property right. The request does not comply with Special Condition c).

In closing, Gmazel stated that based on the conditional findings, staff finds that a variance is not necessary to overcome the constraints on this site. There is one alternative that would allow the addition to be built without a variance (Option 2). There is also an option to reduce the size of the requested variance, similar to the past variance approved in 2002 (Option 1). Staff is hesitant to recommend an incremental increase in setback variances, should the situation become recurrent in the future.

Gobbo questioned if existing structures in the park that exceed setback requirements were approved by the Zoning Board of Appeals. Or, are these illegally constructed structures that have been built without approval. He further questioned if Options 1 and 2 had been discussed with the applicant.

Gmazel advised that the structures staff has referred to which exceed setback requirements are attached to the units, such as carports are in violation of the Zoning Ordinance. Staff is not aware of any variances granted for these structures. The neighbor to the east of the site was granted a 4 ft. variance in 2002 to construct an addition on the west side of the existing unit to be used for living space.

Glynn stated he recalls the Board of Appeals requiring a resident to tear a carport down due to noncompliance with setback requirements.

Schlegel asked staff to clarify if the variance approved in 2002 for the neighboring unit was for an addition to living space.

Gmazel confirmed that the variance for the neighboring unit east of the applicant's site was granted a 4 ft. variance to construct an addition onto the west side of their unit to be used as living space.

Hearing no further questions, Chairman LaGrand invited the applicant to speak.

Rodney Bennett, 69 Nettie Avenue, Lansing, applicant, commented that staff's information is incorrect. He stated that the neighbor's addition was approved to be 16 ft. from his unit. Instead, the addition was constructed 14 ft. away. The overhang extends an additional 2 ft. Bennett explained that his proposed addition would add extra living space to his kitchen and family room. Option 2 would require him to reconfigure the inside of his home due to the location of the master bedroom and bathroom being on the west side. In addition, Option 1 would not be feasible because a hallway leading to an exit door would be blocked. It would also reduce his driveway approximately $\frac{3}{4}$ of a car length. The driveway currently fits two cars. In closing, he expressed that several units exist in Valley Estates Mobile Home Park that have living quarter additions that encroach into the 20 ft. separation requirement.

Gobbo questioned the location of the resident who submitted a letter in opposition to the request being granted.

Bennett pointed out that the Furgala unit is west of his unit and one street north of his street.

Glynn questioned if the applicant's plans include an overhang on the proposed addition.

Bennett stated that a small overhang of approximately 3 inches would be on his proposed addition.

Gobbo questioned if moving the addition to the northern end of the unit would be a feasible option.

Bennett stated that the park manager would not allow that location. It would block access to the plumbing located under the unit. This would cause a problem if maintenance is required.

Chairman LaGrand invited Carol Fata to speak.

She stated she had no comments.

- C. Close Public Hearing. **Hearing no further questions or comments, Chairman LaGrand declared the Public Hearing closed at 7:30 p.m.**
- D. Discussion and possible action by Board of Appeals.

Discussion followed regarding the fact that the current 16 ft. separation between the unit on Lot #68 and the applicant's unit on Lot #69 does not account for the overhang on the addition to Lot #68.

Gobbo expressed concern that although the neighbor was granted a variance, it was for 2 ft. less than the applicant is requesting. Staff has provided an option that would reduce the applicant's request which would be more in keeping with the neighbors approved variance. He suggested perhaps additional information on the approved variance and the rationale supporting the approval would be helpful.

Glynn expressed an interest in determining how many units in the park are currently out of compliance. He noted that the applicant is attempting to go through the proper steps for approval, rather than building an addition without approval.

Glynn moved to table Appeal 06-770002 from Rodney Bennett and Carol Fata to obtain the following information:

- 1. Determine the number of other units in the park that are out of compliance.**
- 2. Additional information on approval of Appeal 02-770006 granted to the neighboring unit, as well as any conditions imposed upon the applicant.**
- 3. A layout of the interior of the applicant's unit be provided.**
- 4. An opinion from the Fire Chief addressing any fire safety issues involved**

with granting the request.

Supported.

ROLL CALL vote on motion:

AYES: 6 NAYS: 0 ABSENT: 1 (Musselman)

MOTION CARRIED.

PUBLIC COMMENTS ON NON-AGENDA ITEMS: None.

TRUSTEES REPORT:

Due to the absence of Trustee Musselman, no Trustee report was presented.

DISCUSSION: Brief discussion followed regarding Appeal 06-770002.

ADJOURNMENT: **Gobbo moved to adjourn the meeting at 7:40 p.m. Supported.
MOTION CARRIED.**

Linda K. Parkinson, Recording Secretary

Robert Reese, III, Secretary