

MINUTES
MECOSTA COUNTY ZONING BOARD OF APPEALS

Mecosta County Services Building

May 6, 2024

I. Roll Call

Annette Coles, Zoning Administrator, called the meeting to order at 6 p.m. Present for roll call were; Roger Carrol, Randy Bleeker, Ethan Ray, Kurt Spalding, & Kim Straley, Recording Secretary. Michael Tillman was not present.

II. 2024 Annual Meeting Election of Officers

Annette Coles called for nominations for chair. Kurt Spalding nominated Roger Carrol for chair, supported by Randy Bleeker. All members were in favor. Mr. Carrol was appointed to the chair position.

Ms. Coles turned the meeting over to the new chair, Roger Carrol, for the rest of the meeting.

Mr. Carrol called for nominations for vice chair. Randy Bleeker nominated Kurt Spalding, supported by Ethan Ray. All members were in favor. Kurt Spalding was appointed to the vice chair position.

Mr. Carrol called for nominations for Secretary. Chair Carrol nominated Randy Bleeker for secretary, supported by Kurt Spalding. All members were in favor. Kurt Spalding was appointed to the secretary position.

Mr. Carrol called for a review and acceptance of the zoning board of appeals bylaws. Discussion was had and changes were suggested as follows;

- Section 2.3 – this statement is against state requirements as written. The only reason an alternate from planning commission would be recused is when there is a monetary gain or personal connection to the applicant.

Kurt Spalding made a motion to accept bylaws with modification to remove or amend the above-mentioned item, supported by Randy Bleeker. Motion approved unanimously.

Mr. Carrol called for a review and acceptance of the Rule of Order. Ethan Ray motioned to accept the rules of order as presented, supported by Kurt Spalding. Motion approved unanimously.

III. Matters Pertaining to the Public

Chair Carrol asked if there was anyone present who wanted to address the Board regarding anything other than what was on the agenda. There was no response.

IV. Public Hearings

1. Variance Request #PZV24-001 – Mark Sherman, 15345 80th Ave, Mecosta, Martiny Township; Parcel #07 014 039 000. Property is zoned AF. Request to allow a structure to be closer to the rear setback than permitted by right.

The Chair read the request into the record. The applicant, Mark Sherman, was present to speak in favor of the application.

- Seeking a variance for proposed addition to expand living room and bedroom space in existing home.

There were no additional members present who were in favor of the petition.

There were no additional members to speak against the petition.

No one else to speak for or against the petition. Chair closed the public portion of the meeting and opened the floor to the Board for discussion and decision.

- Current structure is non-conforming.
- The addition would create a larger non-conformance as proposed.
- Per staff, rear setback is 50 ft.
- Board members suggested the option of constructing addition towards road as being more conducive. The petitioner responded that he could consider alternative location for addition.
- Addition would be more favorable to expand on the side, to the south, allowing the petitioner to add the space wishing and staying outside the current rear setback.

After discussion and based on the findings of facts listed, a motion was made by Kurt Spalding and supported by Ethan Ray to deny petition #PZV24-001, request to allow a structure to be closer to rear setback than permitted by right on an AF property. The property is located at 15345 80th Ave, Mecosta, Martiny Township; Parcel #07 014 039 000.

Roll Call Vote – 4 Yeas – 0 Nays, motion passed to deny as stated above. Petitioner to see staff in the office to discuss options and alternatives to what was presented.

2. Variance Request #PZV24-002 – Beck Revocable Trust, 8824 Pike St. Mecosta, Martiny Township; Parcel #07 072 002 007. Property is zoned LR. Request to allow the deck to be closer to the front/water setback than permitted by right.

The Chair read the application into the record. The applicant, Bryon Beck, Contractor Ray Peters, was present to speak in favor of.

- Requesting replacement of deck smaller than what is currently in place.
- There is a green space between property and water.

Corrected

Chair asked if there was anyone to speak against the applicant. None were present.

There was no one else to speak in opposition so the Chair closed the public portion of this hearing and opened the floor to the Board for discussion and decision.

- Deck is currently non-conforming.
- Deck replacement is smaller in footprint than original.
- There is sufficient distance from neighboring properties to not encroach.
- Petitioner is making smaller due to cost and consistent span of floor joists.
- Staff were unable to find permits for the original deck from previous owners in the archives. This is not uncommon for the area.
- Greenspace is more than 50 feet wide, making the use closer to the property line, not the water.

After discussion and based on the findings of facts listed, a motion was made by Kurt Spalding and supported by Randy Bleeker to allow Variance Request #PZV24-002 for a deck to be closer to front setback than permitted by right. Property is zoned LR. The property is located at 8824 Pike St., Mecosta, Martiny Township; Parcel #07 072 002 007.

Roll Call Vote – 4 Yeas, 0 Nays, motion passed unanimously. Applicants were advised to stop into the office and pick up a building permit.

3. Zoning Appeal Request #PZV24-003 – Joe Strohkirch, 13730 High Sierra Pass, Big Rapids, Colfax Township; Parcel #06 030 001 400. Request for appeal of zoning administrator decision to not enforce a civil matter over an easement debate.

The Chair read the request into record. The applicants, Joe & Julie Strohkirch, were present to speak in favor of.

- Pre-existing road originally developed by Byron Anger which extended across several properties. Was permitted as an existing road.
- The same consideration was made 17 years ago in public record. Mecosta County Road Commission had no concerns at that time.
- Referenced judgements in his submittal packet.
- Not asking for civil enforcement.
- The mortgage company or bank had requirements for road frontage.
- Wants what he believes was originally considered, a public road that connects to a private road.

There were members present who spoke in favor of the petition: Terri Strohkirch.

- Wants 911 access should an emergency arise.
- Other limitations are damage on easement, lack of gravel.

Corrected

- Since the original development, the condition of the road evolved, with neighbors making improvements to ditches and keeping it maintained. Wants returned to the original condition now.
- Have safety concerns and want privacy.

Those present to speak against were; neighbors John Strohkirch, Mandy Strohkirch, and Theresa Ventocilla.

- Several do not understand the intent of petitioner's request.
 - This was clarified by staff.
- Request was made to make road private due to a bank loan for the construction of the home on the applicants' property.
- The easement and road have always meandered through easement area -not centered and allows access to all property owners in the area.
- Some easement stakes do not represent the boundary properly. Stakes have been moved as a result of multiple surveys.
- Property lines were never written.
- Family controversy has been ongoing for several years resulting in blocking of property, water diversion, legal battles, and other conflicts for access and use of easement and private road areas.

Comments from staff member Annette Coles, Director of Building and Zoning, Zoning Administrator.

- Appeal was put in paper as civil matter easement to subdivision as this is what staff feels appeal is in regards too.
- Applicant's deed shows easement rights as the property was obtained.
- Easements are only allowed in AG & AF properties and therefore the petition for a private road should not have been considered. Although, at this time the road area is conforming due to the applicants request to rezone in 2022.
- 2007 request made by petitioner for private drive, Application states legal description and parcel # of his property only on that application.
- Year of governing ordinance clearly states all land ID numbers must be presented on application for where you wish to place the road.
- Steve Hanford's name is listed along with others, however, there is no legal description, and no property ID for any other properties.
- The petitioner, appellant, owns two parcels and therefore could be the parcels which the board mentions in the minutes from 1992.
- A road maintenance agreement was required by zoning ordinance to be recorded at the Register of Deeds office. This was done and only states Mr. Strohkirch's property legal description.
- Mr. Steve Hanford only owns 33 feet of the private easement, the other 33 feet half is on the adjacent parcel owned by Mark Hanford.
- Within the zoning ordinance it states a private road can come off from an easement or private road.

Corrected

- The petitioner is requesting staff to enforce a court judgement which is not part of staff's job.
- Petitioner would need to refer to the courts for judgement enforcement.
- Staff showed and pointed out areas on the map shown on the screen for clarification as spoke about petition appeal, so all would be aware of what is talked about and referenced too.

Rebuttal by Petitioner (Joe Strohkirch):

- Conforming elements were discussed in the original permitting of road (land division document).
- Challenging – none of this came with the house.
- The Zoning Board of Appeals is the only board that can make it a private road.
- There are stakes on the right side denoting the road placement. He placed 4 pins on (Mid-Michigan Engineering (Hanford property)).
- Easement/roadbed existed prior to 80's. It should not have been changed.

Rebuttal by other members present (John Strohkirch & Mandy Strohkirch):

- Byron Anger did not put in roadbed, it was improved upon as time evolved to keep it drivable.
- Easement / deeded property continues 33 ft. more onto the west parcel than where it should be. Does not recommend approving petition. Afraid of getting their road access cut off.

There was no one else to speak in favor or opposition so the Chair closed the public portion of this hearing and opened the floor to the Board for discussion and decision.

- Staff cannot enforce the moving of an easement, this would be handled by a civil matter in the courts.
- Staff gave a good overview of the situation and clarified that the easement on Mr. Hanford's property is not a private road.
- Clarification, Steve Hanford's property is on Sierra Drive (private easement, Joe Strohkirch's property sits on High Sierra Pass, private road) as noted in county records.
- Legal counsel, Drain Commissioner, Register of Deeds have all looked at this situation, all believing the road is for Mr. Strohkirch property only (covering his two-parcel span).
- Road maintenance agreement only states Mr. Strohkirch property on document recorded in Register of Deeds office.
- Family drama exists due to the split of family members (divorce).
- Road was required by Mr. Strohkirch to get financing from the bank for construction of house as stating in his original petition.
- Steve Hanford believes the easement is not in the current area – extends 9 ft. too far onto Steve Hanford's property, past the 33 feet easement mark. The

Corrected

easement is supposed to be 33 feet on Steve's property and 33 feet on Mark Hanford's property.

- The easement is recorded in the Register of Deeds office. It does give petitioner access to property.
- Easements per zoning ordinance must meet Mecosta County Road Commission standards. The issue of those standards does not apply to this issue. It is a civil matter for the courts to decide if alterations to easement by either party are against a civil judgement.
- Staff were asked to clarify access for emergency vehicles and the difference between this and a subdivision.
 - Staff stated that there is no difference between an easement and road usage, except for who owns it. Private roads are owned and maintained/governed by maintenance agreements which are recorded in the Register of Deeds office with all legal description of all properties involved.
- The Board believes that staff clearly made points of clarification to determine if application from 2007 is from point A to point C and subject to west 33 ft of center mark of property line between both Hanford properties. In addition, made good points of reference to what the agreement states versus what is assumed by all parties.
- Staff showed and proved facts as presented by applicant which do not assume placement of road only what is stated on applications.
- Staff proved that the original application had only the parcel ID and legal description of applicant's property to turn into a private road.

Based on the Findings of Fact, a motion was made by Ethan Ray and supported by Kurt Spalding to uphold administrative decision to not enforce a civil matter over an easement debate and deny Zoning Appeal Request #PZV24-003 – The property is located at 13730 High Sierra Pass, Big Rapids, Colfax Township; Parcel #06 030 001 400. Property is zoned AG.

Roll Call Vote - 4 Yeas, 0 Nays. Motion passed unanimously.

IV. Public Comment

The chair asked if there was anyone who wished to address the board on any subject not on this agenda. Those present to make comment were; Joe Strohkirch, Julie Strohkirch, and Terry Strohkirch.

- Each comment was on the denial of PZV24-003 and how they feel a mistake was made on this issue.

V. Business Session

Old Business

Nothing to discuss.

New Business

- 1. Need to coordinate May training date with board members for “Anatomy of a Successful Zoning Board Review”. The training will be presented by Zoning Administrator, Annette Coles.
 - After discussion and review of the calendar, a date of May 20 will work for those present. Will meet at 6 pm here at the County Services Building.

Approval of Minutes

Kurt Spalding motioned to approve the November 6, 2023, minutes, with correction of Kurt’s name spelled correctly, was supported by Ethan Ray, passed unanimously. Motion approved.

VI. Adjournment

The meeting was adjourned at 7:49 p.m.

Respectfully submitted,

Kim Straley / Recording Secretary

_____, Chair
 Roger Carroll
 Mecosta County Zoning Board of Appeals

Date Approved