

PARKMAN TOWNSHIP BOARD OF ZONING APPEALS
Regular Meeting
Tuesday July 14, 2015

Members present: Cindy Gazley, Rich Hill, Betty Jo Lengel, Kathy Preston, Lucinda Sharp-Gates, Dale Komandt and Jan Helt (Secretary)

Members not present: Nancy Ferguson

Meeting was called to order by **Cindy Gazley at 7:30 p.m.**

Ms. Gazley introduced herself and had the board members do the same. Reminded the public that they must sign the ledger being circulated if they wish to testify or ask questions during the course of the meeting.

Ms. Gazley administered the Oath of Truthfulness to Robert Hershberger, Emmanuel Hershberger, and John Spelich.

Approval of Minutes:

Ms. Lengel moved to waive the reading of the minutes and approval portion of the meeting until after the appeal has been heard. Ms. Preston seconded, and the motion passed unanimously.

Ms. Gazley stated the following, **Parcel #1-17041** and **Parcel #2-17061** Mr. Emmanuel Hershberger has requested variances for resolutions for property located at 17041 and 17061 Tavern Road, Parkman Township.

There are two **area** variances to be addressed by the board at this meeting for the same property. Ms. Gazley asked if anyone minded doing the appeals together, no one objected. Ms. Gazley asked Mr. Spelich which regulations would be applied (residential or industrial). Mr. Spelich stated industrial.

Parcel # 2015-17041 variance: Section 404.6 Minimum Yard shall be in accordance with all of the applicable regulations for the Industrial District and the following regulations: A. The minimum yards for all buildings, structures and uses shall be as follows: 1. Front yard 100 feet from the road right-of-way 2. Each side yard 50 feet.

Parcel # 2 2015-17061 variance Section 404.6 Minimum Yard shall be in accordance with all of the applicable regulations for the Industrial District and the following regulations: B. The minimum yards for all accessory buildings, structures, and uses shall be as follows: 2. Each side yard: 50 feet 3. Rear yard: 50 feet.

Ms. Gazley stated that we would be applying the Industrial Rules and Regulations since these properties were in an industrial area.

Applicant Explanation for requesting variance to Parkman Township Zoning Resolution:

Ms. Gazley asked the appellant Mr. Emmanuel Hershberger to explain why he wanted a variance to Parkman Township Zoning Resolution. Mr. Hershberger explained that he has to split his property in order to sell it. Mr. Robert Hershberger, the appellant's son, stated that there are two homes on the property and they both have their own septic systems. The first home was built 60 years ago before zoning and the second home about 30 years ago. On the flag lot there is only 60 usable feet of frontage property; the south side has a huge gully that runs all the way to Parkman. He said they will be putting in a new septic system on the property with the 60 year old home. The newer, 30 year old home has a new septic system. The son, Robert Hershberger, basically takes care of all the land right now. Mr. Emmanuel Hershberger stated that he wants to sell his property and move to another location

Ms. Gazley stated that Mr. Emmanuel Hershberger wants to split his lot. Right now he has one lot with two homes on it and he wants to make two lots. Mr. Robert Hershberger stated that the Health Department said you can only have one septic system on a property and he has two septic systems, as well as two homes.

Ms. Gazley asked if there was anything else the appellant wanted to add the answer was no. Ms. Gazley closed that portion of the meeting.

Open floor to Public.

Ms. Gazley asked if there were any other questions from the public, there were none, closed that portion of the meeting.

Board Members Questions/comments to Applicant.

Ms. Lengel questioned the application for the variance (form 12); she felt it was not filled out completely. Mr. Spelich stated that Mr. Emmanuel Hershberger was in the hospital and so he was unable to complete it. Mr. Spelich planned on meeting with him when he got out of the hospital but forgot about it. Everyone felt they had enough information to move on with the variance.

Ms. Gazley asked the board members if there were any more questions, there were none, closed that portion of the meeting.

Ms. Gazley asked if there was a motion to grant the variance. Ms. Sharp-Gates motioned to grant the variance and Ms. Lengel seconded the motion to grant the variance.

Board Member Discussion/Deliberation:

Ms. Gazley went over the applications again: Parcel #1 Section 404.6 (see above) and Section 404.5 lot width is 128 feet frontage and should be 300 feet, and 404.6 A-1 has a setback of 75 feet and should be 100 feet from right of way. The north side yard is 25 feet and should be 50 feet. Parcel #2 Section 404.5 lot width is a flag lot 60 feet, and 404.6 B-2 has 18 feet to lot line and should be 50 feet. B-3 Rear yard has 13 feet and should be 50 on south side. We are applying Industrial Resolutions to all of this application.

Ms. Gazley led the board in considering the following issues.

Is there a reasonable return or beneficial use without the variance?

It has been used this way for years, so it can continue to be used as it has been.

- 1) Is the variance substantial? **Very substantial**
- 2) Would adjoining properties suffer or be altered? **Not currently. Two legal septic systems exist right now. If both properties are sold there will be an inspection done on both. Both septic systems will be updated.**
- 3) Is variance adverse to providing government services? **Driveways are wide enough to allow emergency vehicles (fire truck, ambulance, etc.).**
- 4) Was purchase of property with knowledge of the restrictions? **No, purchased pre-zoning, as one property.**
- 5) Can predicament be obviated by means other than by variance? **No, if the property is to be sold there is no other way. Can it be sold as one property? No, because you can only have one home and one septic on your property. This property has two homes and two septic systems. The Health Department said there can only be one septic system. The Health Department overrides everything.**
- 6) Would the spirit and intent of the zoning be upheld? **Yes, but as industrial the answer would be no, but as an existing property with compliant septic the answer is yes. The lot split is necessary to update the property to Parkman Township current zoning resolutions.**

Ms. Gazley asked for any other questions or comments from the Board members, closed that portion of the meeting and asked for a roll call on the motion to grant the variance.

ROLL CALL:

Cindy Gazley-	YES
Rich Hill-	YES
Lucinda Sharp-Gates-	YES
Betty Jo Iengel-	YES
Kathy Preston -	YES
Dale Komandt -	YES

Ms. Gazley advised applicant Mr. Emmanuel Hershberger that the variance has been granted and that he has 30 days to appeal the decision. Decision Forms would be mailed within the next ten days.

2015- 17041 and 2015-17061

The members completed the Decision Form and Fact Finding Sheet.

Roll call to accept the Fact Finding Sheet.

Cindy Gazley - YES
Rich Hill - YES
Lucinda SharpGates - YES
Betty Jo Lengel - YES
Kathy Preston - YES
Dale Komandt - YES

Ms. Gazley stated that the Planning Commission will grant the lot split if the Board of Zoning Appeals grants the variances. We are all in agreement on this? Everyone agreed.

Ms. Lengel asked how current the survey was. The actual survey was done by J W Daniel in February 2015 states that Parcel #1 has 5.579 acres and Parcel#2 has 5.1000 acres land added. Robert Hershberger stated some of his land was taken legally to reach the acreage that was needed.

Ms. Gazley stated that the Zoning Commission might want to consider making this area residential instead if industrial. Years ago it was done this way to avoid having adult book stores in Parkman Township. What does everyone think about that? Ms. Lengel stated that it is certainly closer to residential frontage, setbacks, and side yards than it is to industrial. Mr. Hill stated it is not applicable to this right now.

Ms. Gazley told Mr. E. Hershberger that his portion of the meeting was done and he could leave or stay for the rest of the meeting. He chose to leave and Ms. Gazley wished him good luck.

Ms. Gazley asked Mr. Spelich if he had any updates. Mr. Spelich gave his update on what is pending, but right now there are no variances to be scheduled.

Minutes from May 12, 2015 were waived until our next meeting on August 11, 2015

Adjournment:

Motioned was made to adjourn, Ms. Preston seconded, the motion passed unanimously. The meeting adjourned at 9:00 p.m.

Respectfully Submitted by Jan Helt BZA Secretary, _____ Date _____

Chairperson, Cindy Gazley _____ Date _____

