

**MINUTES SILVER CREEK TOWNSHIP  
ZONING BOARD OF APPEALS HEARING HELD ON MARCH 20, 2019**

**VARIANCE REQUEST BY RONALD AND KOLLEEN ZEILER**

Chairman Bruce Nevins called the Zoning Board of Appeals Hearing to order at 7:00 p.m. on Wednesday, March 20, 2019. The Pledge of Allegiance to the Flag of the United States of America was recited.

MEMBERS PRESENT: Dave Grabemeyer, Jean Rowe, Bruce Nevins, Mike Glynn, Adele Straub

OTHERS PRESENT: Recording Secretary Lindsay Krohne, three members from the public.

ABSENT: None

**APPROVAL OF MARCH 14, 2019 MINUTES**

Mike Glynn motioned to approve the March 14, 2019 Zoning Board of Appeals minutes. Dave Grabemeyer seconded. Motion passed by voice vote.

**PUBLIC HEARING**

Chairman Bruce Nevins read the Notice of Public Hearing, which explained the variance request:

- The request of Ronald and Kolleen Zeiler, 32899 Haley Road, Dowagiac , MI respecting the property that they own addressed as 32854 Dixon Street, Dowagiac, MI 49047 (Parcel No. 14-130-005-024-02) in the AG –Residential District Zoning Classification for a variance from Section 155.051(D)3 of the Zoning Ordinance in order to permit them to structurally alter and improve a lawfully non-conforming single-wide mobile home trailer beyond its natural life. The applicants wish to remodel the single-wide trailer inside and outside. The Zoning Administrator has determined that the proposed action will increase the degree of nonconformity by extending the life of the structure and that the proposed repair/remodel is more than minimal maintenance needed in order to maintain public safety. An appeal from the zoning administrator’s decision may also be requested. Standards of review for the Zoning Board of Appeals are contained in Section 155.253 of the Zoning Ordinance.
- Such other and further matters as may properly come before the zoning board of appeals.

**BUILDING/ZONING ADMINISTRATOR COMMENT**

Secretary Adele Straub read aloud a letter by Building/Zoning Administrator Todd Herter in his absence, which explained the situation and that the non-conforming structure was gutted and remodeled, rewired and plumbed, without permits or inspections and altering a building/structure beyond its natural life.

## PUBLIC COMMENT

Applicant Ron Zeiler introduced himself and stated that he purchased the place mainly because it had a pole barn on it and had access to his other property. Ron Ziler stated that he had rented it in the past, and one of his friends rented from him and fixed it up before moving out. Mr. Zeiler stated that he is remodeling the home for his son. Mr. Zeiler added that it started with new paint and carpet, and one thing lead to another. Mr. Zeiler stated that he took down some walls to see what was behind them, but didn't restructure any walls or make any structural changes whatsoever. Mr. Zeiler stated that he did the electric and plumbing himself, and did not pull a permit over the two year process. Mr. Zeiler stated that he wants to clean the place up, and that it is livable. Mr. Zeiler stated he wasn't sure if Todd mentioned anything about it being a HUD home, and requiring the original floor plan, adding that he doesn't know how old the place is. Mr. Zeiler explained that he has all the closing documents and nothing mentions it being a HUD home.

Chairman Bruce Nevins stated that he doesn't know about HUD homes either. Dave Grabemeyer commented that his trailers fall under a different set of circumstances because it's a labor camp, so it's a little different. Bruce Nevins asked Mr. Zeiler if Todd called his mobile home a HUD home, and Mr. Zeiler answered that he said all mobile homes are HUD homes.

Neighbor Andrew Connor stated that he and his wife are attending the meeting out of curiosity after receiving a notice. He questioned if they are only changing the interior, and added that he is not in favor or opposed. He also questioned if the applicant were to not do anything, would he be allowed to continue having the building where it is. Mike Glynn answered that the way the ordinance reads, it may as long as it is maintained. Mr. Connor stated that he sees nothing wrong with the applicant doing what he is proposing to do.

Katherine Connor asked the applicant if he will rent it to just anyone when his son moves out and Mr. Zeiler answered that he would rent it to family or use for out of town guests.

Adele Straub asked if the home is in use right now, and Mr. Zeiler answered that it had been a year and a half to two years since the last renter moved out.

## COMMUNICATIONS

None.

## COMMISSION MEMBER DISCUSSION

Dave Grabemeyer referred to and read Section 155.051 Non-Conforming Buildings and Structures:

(B) *Reconstruction or movement.*

(1) A nonconforming building may be rebuilt on its same nonconforming footprint, provided it complies with as many requirements as possible of the zoning district in which it is located.

(2) Should a nonconforming building or structure be moved for any reason and for any distance, it shall be moved to a location which complies with the requirements of this chapter.

(3) Should the owner of a nonconforming building or structure take any action that causes such building or structure to be removed, either partially or fully, any reconstruction of such building or structure shall be in compliance with the requirements of the zoning district in which it is located.

(C) Expansion of nonconforming buildings or structures

(2) Such alteration, remodeling, or modernization will not substantially extend the life of any nonconforming building or structure.

(D) *Restoration and repair.*

(1) Subject to the provisions of this section, nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any part of any building or structure which is unsafe.

Dave Grabemeyer stated that they need to look at pages 97-99 adding that he doesn't see anything in there saying he couldn't do what he's asking to do. Discussion followed.

Jean Rowe referred to the next page, stating that all repairs and maintenance required to keep a non-conforming building or structure in sound condition may be made, but it shall not be structurally altered to permit the use of such building or structure beyond its natural life, except for repairs necessary to maintain public safety. Jean stated that she is not exactly sure what they mean by natural life, or if the repairs are above and beyond what is necessary.

Bruce Nevins stated that the public safety, in his opinion, would be the electrical. He added that the applicant made a mistake, and would have to get all the permits and inspections if the variance is approved. Bruce commented that he remembers years back when the mobile home owners were forced to have tin roofs put on, and there is also one on Indian Lake Road. He stated that once you install that type of roof, it is not going to leak and the issue of extending the natural life is not in his book anymore.

Mike Glynn stated that a mobile home is a manufactured home, no different than a double wide nowadays, just the way it was built. He added that there were several manufacturers around, and HUD approved them as a manufactured engineered system. Mike added that when these first came out and they started going in, the electrical systems could be maintained, but you couldn't alter anything. He added that electricians weren't allowed to go in and change the electric panels without a signed waiver.

Mike Glynn stated that when he peaked in the window, it appeared that the walls were framed, and Mr. Zeiler answered that they were not. Mike questioned if there were 2x4's, and Mr. Zeiler

answered that one was changed from a 2x2 to a 2x4. Mike stated that it appeared petitions had been removed. Mr. Zeiler stated that all the walls are exactly in the same spot.

Mike Glynn stated that the alterations in the home would have to be brought up to today's codes and he isn't sure what codes apply to a mobile home, and if using the Michigan Residential Code that we use for housing, there would be footing and foundation issues with bringing it into compliance.

Mike Glynn stated that we don't rebuild mobile homes because there are no standards for our building inspectors to use. He added that you would have to bring in an engineer to say what you can and cannot do in order to comply with today's housing standards including wiring, insulation, and energy.

Discussion followed.

Dave Grabemeyer stated he read the natural life for a mobile home is 35-55 years, unless there are extra things done during the 55 years, such as the roof. Discussion took place on how well this particular structure sits on the pads.

Bruce stated that there is a HUD mobile home on Indian Lake Road that Todd is not allowed to talk about or enter because it's an official HUD home.

Mike Glynn explained that when the mobile homes came from the manufacturer, they came with a cord. They would put the service up, plug them in and be done, and the Building Inspector didn't have anything to do with the inside. He added that since it's been completely re-gutted and redone, the whole HUD standards issue is out the window and you have to use the standards of a normal home.

Mike Glynn stated that if the variance is granted, the applicant will have to pay fines and permit fees. He explained that townships across Michigan had to decide whether they wanted to have mobile homes, and they decided against it. He explained that they put standards into place so that when the mobile homes aged and fell into disrepair, they had a mechanism to get rid of them and move in stick built housing.

Bruce Nevins stated that it is only partially that reason, the other reason being the amount of taxes collected for mobile homes, specifically for the schools and emergency services. Mike Glynn stated that he doesn't agree with Bruce.

Mike Glynn stated that townships, by state statute, must allow a place for trailers. He stated that owners of brick homes in a nice subdivision didn't want trailers moving in, so they excluded mobile homes in new subdivisions. He added that it was not just communities and their taxes, but communities and what they wanted to live next door to.

Bruce Nevins questioned the expansion of the width requirement for homes to 23' and whether it had anything to do with safety. He stated that it had to do with schools and taxes.

Jean Rowe redirected the Zoning Board of Appeals members to the Zoning Ordinance. She stated that the alterations will substantially extend the life of the non-conforming building.

Bruce Nevins stated that he doesn't think it has anything to do with extending the life of the building.

Adele Straub questioned if the category of non-conforming use throws it into all of these other regulations. Mike Glynn explained that it's because it is a mobile home, and it's non-conforming because it's in an agricultural district where it is not allowed, making it a non-conforming use. He added that the reason all the other regulations come into place is because it's a single wide trailer.

Bruce Nevins added that non-conforming means that it could have started out as conforming, but as the zoning changed it became legal non-conforming. Adele Straub added that it is a lawfully non-conforming single wide home.

Mike Glynn stated that the problem is that it has met its natural life, and referred to Mobile Homes, Section 150.04 for discussion.

Mike stated that if the variance is approved, Section 150.04 would apply, and the home would need to be brought into conformity and follow the requirements. He added that he's not sure if the township would pursue it that way or not, but it is there.

Mike stated that the application would go in front of the township board if approved, the way he reads it, due to the location of the mobile home. He referred to Section 150.02, where it states whether occupied or not, no mobile home as defined in the section should be located outside of a licensed mobile home park. Mike stated that those standards that do allow it, requires a hearing in front of the township board, which could kick in if the variance is granted.

Bruce Nevins asked if they would be granting the variance to move it before the township board, and Mike Glynn answered no.

Ron Zeiler stated that the mobile home is structurally sound, and is a solid home.

Mike Glynn questioned if they determine that the mobile home hasn't reached the end of its natural life, where does Todd go with the building code? What happens then, does the building department treat it like a house, even though it's a mobile home?

Bruce Nevins stated that the natural life was extended when the roof was made to be put on.

Jean Rowe recited the ordinance stating that such alteration/remodeling or modernization will not substantially extend the life of any non-conforming building or structure. Jean added that it is clear to her.

Bruce Nevins stated that it is clear, but it was done, and this type of alteration was put in affect in the township when they required the roof and that's when this issue went out the door.

Jean questioned Bruce on his point about the roof. Bruce answered that the natural life was extended when the roof was put on.

Dave Grabemeyer asked if there are new windows, and Mr. Zeiler answered that he only replaced two.

Adele Straub referred to the sentence Jean had just read, and added that it goes on to state that the provisions in this section shall not prevent the strengthening or restoring to a safe condition of any part of any building which is unsafe, and further describing things about repairs or maintenance work required. Jean answered that it refers to normal maintenance, and in her opinion, rebuilding is not normal maintenance.

Bruce questioned Mr. Zeiler if Todd was inside the home, and Mr. Zeiler answered that he had not seen him in there himself, but he may have been. He added that Todd told him he could not change any walls, and that he had not changed a single wall. Discussion followed.

Jean Rowe commented that since she didn't see the home before Mr. Zeiler started remodeling it, she couldn't visualize what changes have been made.

Mike Glynn stated that when you strip a building down to the studs, that's remodeling and is not normal maintenance. He added that it's extending the mobile home beyond its natural life.

Mr. Zeiler stated that someone started the process before him, and Bruce Nevins agreed, referring back to the tin roof.

Adele Straub asked if they can arbitrarily say that at any given point, the mobile home has passed beyond its natural life. Mike Glynn answered no, and that all repairs and maintenance work required to keep a non-conforming structure in sound condition may be made, but it shall not be structurally altered to permit the use of the building or structure beyond its natural life, except for repairs necessary to maintain public safety. He added that the act of rewiring, re-plumbing, and stripping it down to the studs has extended its natural life.

Mr. Zeiler stated that someone was living there two years ago. He added that one thing led to another and he wanted it to look nicer.

Dave Grabemeyer questioned if the variance is granted, when will its natural life be over? Bruce Nevins answered that it would be just like his home.

Jean Rowe stated that if the applicant had not started his repairs, and had come to them asking for a variance, she doesn't believe it would be granted, and the problem is he already started the repairs. She added that she can't imagine it would be allowed if he had proposed this.

Mike Glynn questioned the applicant about how long the mobile home has been empty. Mr. Zeiler agreed that it had been a year and a half to two years.

Mike Glynn stated that he believes this will have to go back to the township at some point and referred to Section 150.04 #6, stating that a non-conforming mobile home or trailer shall lose

their status as non-conforming use if they remain unoccupied for six months or more. He added that it's not a part of the hearing tonight, but just a heads up that it may be something to have to deal with later on.

Jean Rowe read the Standards of Review for a Non-Use Variance:

**155.253 STANDARDS OF REVIEW.**

(A) *Granting of non-use variances.* A non-use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are addressed.

(1) The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.

All members agreed it would not be detrimental.

(2) The variance will not impair the intent and purpose of this chapter.

All members agreed it would impair the intent and purpose of this chapter.

(3) The immediate practical difficulty causing the need for the variance request was not created by any action of the applicant or predecessor.

Jean Rowe stated that it would because the applicant already started the remodeling. Dave Grabemeyer answered no. Mike Glynn stated that they would not be there if he had pulled the permits.

(4) The variance requested is the variance necessary to meet the purpose and intent of the chapter and to meet the other standards of review in this section.

Dave Grabemeyer answered yes, because he's bringing it up to be safer and longer lasting. Mike Glynn said no, because he's extending the life of the unit.

(5) Would a lesser relaxation than applied for give substantial relief to the owner of the property involved and be more consistent with justice to other property owners, and whether relief can be granted in such fashion that the spirit of the chapter will be observed and public safety and welfare secured.

Jean answered no. Members agreed.

**MOTION TO DENY VARIANCE REQUEST**

Mike Glynn motioned to deny the variance request to permit alterations to a non-conforming structure, extending it beyond its natural life. Jean Rowe seconded.

Motion denied by roll call vote:

Yes (2): Jean Rowe, Mike Glynn

No (3): Dave Grabemeyer, Bruce Nevins, Adele Straub

Absent (0):

Mike Glynn stated that they have no idea what happens now, but Mr. Zeiler must get his permits.

**ADJOURNMENT**

Bruce Nevins adjourned the meeting at 8:05 p.m.

Respectfully submitted,

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Lindsay Krohne

Recording Secretary

To be approved at the next Zoning Board of Appeals meeting

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Adele Straub, Secretary