

SAUGATUCK TOWNSHIP BOARD OF APPEALS

April 26, 2007

The Saugatuck Township Zoning Board of Appeals met on April 26, 2007, at the township hall on Blue Star Highway, Saugatuck, Michigan 49453.

Present: Marczuk, Oyler and VanOss

Absent: None

Z.A. Ellingsen, Tom Barnes, Dept. of Agriculture, Connie Krupka, Mike Schaap, acting agent for Ken Denison, Jim Schipper, Attorney for Ken Denison & many neighbors opposing the farm labor housing located at 6212 126th Ave.

Chairman Oyler called the meeting to order at 4:00 P.M.

Two items were scheduled: A request from Harold Krupka, 2645 68th St., Fennville, MI 49408 for a variance from several subsections of Section 40-659 regarding minimum requirements for single family dwellings. The applicant wishes to place 4(Four) single wide units on a 5(Five) acre site located at 6212 126th Ave. , Fennville, MI 49408(Parcel # 0320-035-001-00) for the purpose of housing farm workers.

Approval of January 4, 2007 ZBA minutes, motioned by Marczuk to approve the ZBA minutes as amended, VanOss seconded. Unanimously approve.

Z.A. Ellingsen stated under normal circumstance single wide trailers are not allowed in the township. He had the Krupka's come in for a variance to meet the minimum standards under section 40-659. Farm working housing is allowable use in the A-1 zone.

Tom Barnes, 6533 111th Ave, Fennville, Michigan Department of Agriculture. Part of his job is inspecting farm labor homes. Making sure the water & sewer and building requirements and types of units are acceptable. Mr. Barnes was contacted by the Krupka's to build a migrant housing site. Krupkas already have 3 housing sites already license through the State of Michigan. Mr. Barnes stated that the housing needs to be 50 feet away from pesticides being sprayed.

Oyler asked why the Dept of Agriculture is involved. Mr. Barnes stated that its state law. Act 368, Public Act 1978 part 124 requires any housing on an attractive land to have a license for migrant housing 5 or more workers living there. Licensing is triggered by the number of workers, at least 5, looking for agriculture work. State law requires Mr. Barnes job is for the safety and protection of the workers residing on that property. Chair Oyler stated it is state law that migrant housing be allowed in townships. Barnes stated Attorney General decision says it cannot be ruled out by zoning and based upon that the Dept of Agriculture decision is that the township cannot prevent migrant housing. Chair Oyler stated that the township can do external zoning through the planning commission and the zoning board of appeals to place conditions on farm housing.

Based on the Attorney General's opinion, Tom Barnes read the last paragraph from the 5 page report stating township zoning authority over migrant labor camps. "It is my opinion, therefore, that while a township may enact reasonable zoning regulations not inconsistent with state statutes or regulations governing agricultural labor camps, a township may not use its zoning power to effectively prohibit such camps in agricultural areas."

Chair Oyler stated according to State Law in his opinion this farm housing will be allowed & the ZBA will be placing conditions on the farm housing.

Attorney Bultje stated that Chair Oyler's opinion was not a final official decision in this hearing.

Public comments:

James Dejonge, 2489 62nd St., Opposing the farm housing believes it will lower his property values.

Don Maeder, 6383 126th Ave., Opposing the farm housing because it's on a 5 acre corner lot. Wants to know how many trailers can be put on a 5-acre lot. Mr. Barnes answered by the Health Dept. is a limited factor for the amount of trailers in farm housing.

Richard Runowski, 6390 126th Ave., Opposing the farm housing. Issue on how many workers are going to be living in each trailer? Mrs. Krupka stated there will be approximately 7 people per home. Marczuk asked how many homes could be on that 5-acre lot. Mr. Barnes stated it depends on the sewage permit from the health dept. & the size of the property. Mr. Barnes stated that 4 are probably the most they could get on this particular parcel. Mr. Runowski stated that the farm is incidental and believes that this is not a viable farm, which the Krupka's never intended to have a farm there.

Rex Felker, 6238 126th Ave., adjacent to the proposed farm housing, opposing the farm housing he feels that the farm housing will be in inappropriate area. No density approaching those 5 acres. He is asking the Krupka's to withdrawal their application.

Ken Hokse, Vacant land on the corner of 126th & 62nd across from Krupka's, Mr Hokse is opposing the farm housing believes you should have more than 5 acres of land for farm housing.

Attorney Bultje responded that the zoning does allow 5 acre farms. It does allow migrant housing labor. The Krupka's adding the blueberry bushes after the fact means nothing. The fact of the matter is that they did add the blueberry bushes. The Attorney General opinion states the township may establish reasonable conditions on migrant labor housing. Bultje concluded if the ZBA would apply the migrant labor housing to the single family dwelling requirements it would be kicked out court because it would violate the Attorney General opinion and that's why we are here to establish reasonable conditions. In the future if the parcel is not farmed than it would no longer be eligible to farm labor & housing. Migrant workers are not limited to be force to work on just that farm that they live on.

Z.A Ellingsen stated any tract of land regardless of size or area devoted to general agriculture activities including or related to dwelling or building accessory use is considered a farm.

Daniel Molenkamp, 6195 126th Ave., Opposing the 4 units for housing farm workers. Juliet Michele, 2578 62nd St., Property adjacent to the Krupka's, Opposing the farm housing labor. She has concerns with the environmental issues. Feels her property value will go down.

David Michele, 2578 62nd St., Concerned that his well is too close to the property that the bushes are being sprayed with chemicals. Feels Krupka's need to go by guidelines & regulations when it comes to spraying his bushes.

Char Felker, 6238 126th Ave. Opposing the farm housing. Her concern is the sewer & water and the erosion. Feels that where the trees were taken down by Consumers that should be replaced with something to help stop the erosion.

There were six letters submitted before the meeting opposing the farm housing from Joseph Mirto, Gerardo & Maria Michele, Steve Lindholm, Randy & Mary Ann Baumbach, Theresa & Richard Runowski, and Alan & Elizabeth Roerig.

Chair Oyler stated that the ZBA cannot delay the decision and needs to act now and that the Planning Commission can be addressed after this hearing. Under the Attorney General's opinion the ZBA can attach conditions. Oyler stated that Bultje's legal opinion is that our ordinance permits migrant housing but does not have any conditions.

Attorney Bultje stated if the Planning Commission establishes new conditions the Krupka's migrant farm would be grandfathered in, as long as the site remains farmed. Bultje explained if the migrant farm labor housing brings your assessment down meaning that you cannot sell your house for what it's worth and you can provide proof to present it to the Board of Review.

Chair Oyler closed the hearing. The ZBA will make their decision and will determine if the migrant housing is allowable and attached the appropriate conditions.

Bultje stated the ZBA will have another public meeting for their decision. It will only be posted outside.

Motion to table the variance requested. Marczuk motion to table the variance, VanOss seconded.

Second hearing was a request from Mike Schaap Builders, 12969 Greenly, Holland, MI 49424 acting as agent for Ken Denison, 3530 66th St., Saugatuck, MI 49453(Pt. of Parcel #0320-004-002-00) to allow for an expansion of a non-conforming use as stated in Section 40-1012 (b). The applicant wishes to replace an existing 3200 sq.ft. house with a 3800 sq.ft. single family residence and an existing 1300 sq.ft. garage with a 1500 sq.ft.

garage on a 5 acre parcel. The current use is non-conforming because Section 40-341 requires any use in the R-4 zone to be adjudicated as a PUD(Planned Unit Development).

Z.A. Ellingsen stated last year they changed the zone R-2 to R-4 zone exempting several parcels under 13 acres that existed. Mr. Denison did a land division prior to the sale of the property and separated 2-5 acre parcels. He wants to build a house on 1 of the 5 acre parcel. Since the ordinance does not allow him to do that except through a PUD. Mr. Denison is here at the ZBA to seek some relief for that particular parcel, he wants 1 single family residence which was excluded from any other parcel under 13 acres when the R-4 was passed. That parcel became non-conforming because it was allowed in that zone prior and now its not. This issue is created by the change in the zoning. Marczuk stated that when the Planning Commission & Township Board rezoned they did not anticipate Mr. Denison splitting it.

Chair Oyler went through the conditions.

- 1) Can the land be reasonably built or used in conformance with the Ordinance?
Oyler-No, Marczuk-No, VanOss-No
- 2) Was the hardship self-imposed? Oyler-No, Marczuk-No, VanOss-No
- 3) Do unique circumstances exist for this parcel? Oyler-Yes, Marczuk-Yes, VanOss-Yes
- 4) Would a variance alter the character of the neighborhood? Oyler-No, Marczuk-No, VanOss-No
- 5) Do unique or exceptional extraordinary conditions apply to this property that generally do not apply to other properties in the same zoning district? Oyler-Yes, Marczuk-Yes, VanOss-Yes

Motion to grant the variance from the findings of these factors. VanOss motion to approve the variance, Marczuk seconded. Conditions other than PUD requirements the applicant must apply to all the other requirements of the zoning ordinance. Unanimously approved.

The ZBA drafted some guidelines for conditions for the farm housing labor.

- 1) Setbacks have to conform from the drawings submitted, 160ft.
- 2) Screening, fast growing hedges.
- 3) No outside storage
- 4) 30ft apart from trailers, Fire department approval
- 5) Ongoing farming
- 6) Driveway, Road commission
- 7) Seasonal usage, March thru Nov. (ask Tom Barnes time frame)

Chair Oyler asked Bultje to draft the motion for these conditions. The next meeting will be 2 weeks from today, May 10, 2007 at 4:00 p.m.

Marczuk motion to adjourn at 5:45 p.m.

Lori Babinski, Recording Secretary