Location: Ray Township Hall

64255 Wolcott, Ray MI 48096

Present: Tom Hancock, Chairman

Harold DeMan Jr., Vice-Chairman

Marvin DeBuck, Secretary

Members: Gary Engel

Betty Youngblood

Absent: None.

Also Present: Jerome Schmeiser, Planning Consultant & Lisa Hall, Planning & Zoning Clerk

Attendance record on file.

1. CALL TO ORDER- PLEDGE OF ALLEGIANCE AND ROLL CALL.

Chairman Hancock called the meeting to order at 7:30 p.m. The Pledge of Allegiance was recited. All members were present

1. APPROVAL OF AGENDA

**MOTION by DeMan supported by Youngblood to approve the agenda as presented.**

**MOTION carried.**

1. APPROVAL OF MINUTES: March 28, 2017

**MOTION by DeMan supported by Engel to approve the meeting minutes of March 28, 2017 as presented.**

**MOTION carried.**

1. Scheduled Public Hearings-
2. Request for a variance to Township Zoning Ordinance: Section 400 (R-1 Agriculture Residential Yard Dimensions.) Minimum Front Yard Setback; Located on the north side of 29 Mile Road, approximately ½ mile east of Township Limits and Washington Township. Permanent Parcel No. 05-18-300-013; Address of Property: 15611 29 Mile Road; Section 18. Kenneth and Barbara Jurek- Applicant.

Chairman Hancock explained the public hearing procedure, to come to the podium, state their name and address and state any comments they may have regarding the agenda item.

**MOTION by DeBuck supported by Engel to open the public hearing at 7:33 p.m.**

**MOTION carried.**

Public Comments:

Ken Jurek, Petitioner stated the request is to create a 2.08 acre parcel, with the house in the 110’ front yard setback.

Mr. Schmeiser, Planner presented his findings dated June 21, 2017, they are as follows:

“The applicant is requesting a variance to allow a new parcel to be created with an existing farm house located within the minimum required front yard setback. (see attached drawings based on a certificate of survey that illustrate “Existing Conditions” and “Proposed Conditions”)

The existing parcel of land is 43.78 acres in size and located as noted above. The applicants’ intention is to split the existing parcel into two parcels; labeled Parcel A and Parcel B. The land division ordinance specifies that all resultant parcels of a split meet all provisions of the zoning ordinance. The current front yard 79.30’ setback for the existing house, rather than the required 110’ setback would prohibit the split from being approved without obtaining relief from the Zoning Board of Appeals.

Characteristics of the property can be summarized as follows:

Current zoning – R-1 agricultural Residential

Present Use – single family residence with two existing accessory buildings. One existing building that is located on the future Parcel A will remain. The other existing “old” building located on Future Parcel B must be removed.

Size and dimensions of property: Subject parcel has a rectangular shape with 706.90 ft. of frontage along 29 Mile Road and depth of 2,390.99’ and contains 43.78 acres.

The general description of the surrounding properties is as follows:

The properties adjoining on the east and west on the north and south side of 29 Mile Road are zoned R-1 and are large acreage parcels with scattered site single family residences undeveloped land or used for agriculture.

The subject parcel is adjoined on the east line by a 99 ft. wide Consumers Power Gas Right-of-Way.



The Township Master Plan impacts subject property and the request as follows:

The Master Land Use Plan depicts the area as SINGLE FAMILY RESIDENTIAL-MEDIUM DENSITY 20,000 Sq. Ft. MINIMUM LOT SIZE.

The Master Thoroughfare Plan indicates that the future of 29 Mile Road is planned as a major thoroughfare with 120’of future R-O-W.

**Wetlands**: None identified

**Gas Fields**: None identified

**Natural Features**: None identified, none impacted

**Floodplain:** None identified

**Woodlands**: Woodland identified on the north approximate ¼ of parent parcel but not impacted in any way by the request for variance relief.

**Watershed**: Subject parcel is within the Middle Branch of Clinton River Watershed

Public Comments:

April & Justin Gentner, 15925 29 Mile Road, asked why the parcels are being split.

Ken Jurek, Petitioner stated they would like to split the parcel so it will be easier to sell. Further stated the old building has been removed from the property.

**MOTION by DeBuck supported by Youngblood to close the public hearing at 7:42 p.m.**

**MOTION carried.**

Hancock stated the existing house was built before the zoning ordinance requirement of a 110’ front yard setback without the variance, they would be prohibited to splitting the property.

**MOTION by DeBuck supported by DeMan to Approve to vary Section 400 of the Zoning Ordinance to allow the 79.30’ setback for the existing house rather than the required 110’ setback and The Existing Building identified on the Certificate of Survey as “Old” Building and being part of the proposed Parcel “B” must be removed prior to the split becoming effective for Permanent Parcel No. 08-18-300-013. The approval was based upon the Planners recommendations, based upon the follow:**

**It is the opinion of the undersigned that although in subject appeal an existing primary structure (house) on the applicant’s land would remain inside the minimum setback line; if granted the impact of granting the request is mitigated by the following factors:**

**The approval of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district as noted above given that the variance will acknowledge an existing dwelling built prior to the existing ordinance that does not impact any adjoining parcels, buildings or public ways either on subject site or adjacent parcels.**

**The applicants did not create the need for a variance; they purchased subject property based on the record that the primary building was constructed prior to the existence of the Township Zoning Ordinance.**

**The Zoning Board may give relief with full belief that the spirit of the ordinance will be observed and public safety and welfare secured. The public record would rightfully recognize and verify that the resultant effect is no negative impact on future purchasers of subject parcel.**

**Finally, the Zoning Board would be granting the request with full assurance that the action will not be inconsistent with any element of the Township Master Plan as adopted by the Planning Commission in 2010 including the Land Use Plan, Master Thoroughfare Plan, Wetlands, Gas Fields, Natural Features, Woodlands, and Flood Plains.**

**FOR THIS MOTION: Yes: DeBuck, DeMan, Youngblood, Engel, Hancock.**

**No: None.**

**MOTION carried.**

1. Request for a variance to Township Zoning Ordinance: Section 1700-O; Wireless Communication Towers; Subsection 2.e. (3), request to vary the installation of greenbelt screening of fencing from public right-of-way. AND Subsection 2.e.(4)b.; request would allow the tower to be located 145 feet closer to the east property line and 130 feet closer to the north property line than required when adjoining a residential district. Permanent Parcel No. 05-16-400-019; 20301 29 Mile Road.

**MOTION by DeBuck supported by Youngblood to open the public hearing at 7:47 p.m.**

**MOTION carried.**

Vicki Wolber, Macomb County Emergency Management & Communication, explained the communication tower allows for first responders to communication throughout the State. The proposed tower will allow police and fire to communication including HCMA. She explained the task force for the new communication tower and the need to cover the northern part of Macomb County and to fix the dead zone areas. She stated they are requesting for a variance for the greenbelt screening and for the location of the tower. She explained they want visibility at the tower and are requesting to construct a 8’ chain link fence with barbed wire. Further stated the barbed wire is required by State law.

Sean McCarthy, Macomb County Emergency Management & Communication, provided a map of Macomb County showing the current communication coverage and, also provided a map with the communication tower installed, showing the coverage areas.

**MOTION by DeMan supported by Youngblood to close the public hearing at 7:58 p.m.**

**MOTION carried.**

Mr. Schmeiser presented his findings and recommendation of June 21, 2017, they are as follows:

The applicant is requesting a variance to allow the construction of a Macomb County Public Safety Communications Tower on the site of the Ray Township Fire Hall. See attached drawings included within an eight (8) page packet describing a Radio System Enhancement Project of the Macomb County Public Safety Communications System.

The existing parcel of land is 2.008 acres in size and located as noted above. The applicant seeks approval to erect one new radio communications tower. The tower would be a free-standing monopole tower 195 feet tall. Included with the tower would be and equipment room and mezzanine.

The tower would be erected within a small compound on the parcel immediately north of the existing Ray Township Fire Station which faces 29 Mile Road. The tower would be erected 140 ft. from the centerline of Wolcott Road; 120 ft. from the north property line; 235 ft. from the centerline of 29 Mile Road and 105 ft. from the east property line. The tower would be secured within a compound chain link fence with a 12 ft. wide gate access from the north.

Zoning Ordinance Requirements:

Subsection 2. e. (3), requires the installation of greenbelt screening of fencing from public right-of-way; The greenbelt screening required is noted as an obscuring greenbelt. The width of such greenbelt is not specified; however Section 1802 –Screening of Dissimilar Uses provides in Subsection B.-2. That a single row of evergreens, fifteen feet wide; six to eight feet in height shall be planted along a wall at intervals not exceeding twenty-feet on center. However, since the applicable section in the communications tower regulations require only greenbelt; it is our opinion that a greenbelt without a wall is the applicable requirement.

Subsection 2.e.(4)b.; requires that since the tower would adjoin parcels zoned for residential purposes R-1 (Agricultural-Residential) the tower must be setback from both the north and east property lines 249 feet. Therefore, the request if granted would allow the tower to be located 145 feet closer to east property line and 130 feet closer to north property line than required.

Characteristics of the property can be summarized as follows:

Current zoning – R-1 agricultural Residential Present Use – Existing Fire Station

Size and dimensions of property: Subject parcel has a rectangular shape with 250 ft. of frontage along 29 Mile Road and 350’ of frontage along Wolcott Road and contains 2.008 acres.

The general description of the surrounding properties is as follows:

The properties adjoining on the east and the north are under the control of the Huron Clinton Metropolitan Authority; the parcels along the north and south side of 29 Mile Road east and west of subject site are zoned R-1 and are large acreage parcels with scattered site single family residences undeveloped land.



The applicant has submitted an opinion letter from Jason M. Lambert, PE addressing the expected performance of the proposed tower as intended to be placed on subject site. Based on the letter as submitted, it is the opinion of Mr. Lambert, PE that the in effect the tower has been designed in such a manner that if an unexpected event should occur to cause such severe distress to the tower it would collapse on itself. The letter as submitted is stamped with a State of Michigan Seal of a Licensed Professional Engineer No. 6201058100; and dated April 05, 2017.

The Township Master Plan impacts subject property and the request as follows:

The Master Land Use Plan depicts the area as AGRICULTURAL- RESIDENTIAL- 90,000 Sq. Ft. MINIMUM LOT SIZE.

The Master Thoroughfare Plan indicates that the future of 29 Mile Road is planned as a major thoroughfare with 120’of future R-O-W.

**Wetlands**: None identified

**Gas Fields**: None identified

**Natural Features**: None identified, none impacted

**Floodplain:** None identified

**Woodlands**: Woodland identified on the north approximate ¼ of parent parcel but not impacted in any way by the request for variance relief.

**Watershed**: Subject parcel is within the North Branch of Clinton River Watershed

RECOMMENDATION TO THE ZONING BOARD OF APPEALS

It is recommended by the undersigned that the variances as requested should be approved.

REGARDING Subsection 2. e. (3); The requirement for the installation of greenbelt screening of fencing from public right-of-way;

It is the opinion of the undersigned that although the greenbelt would provide improved aesthetical quality to the site which is important to the residential character of the surrounding area; the greenbelt in this situation results in public safety concerns. There is another option available that avoids the safety issue and offers aesthetical quality to the site; that being a brick wall enclosure.

REGARDING Subsection 2.e.(4)b.; The requirement that the tower must be setback from the north and east property lines a distance of 249 ft.

It is the opinion of the undersigned that two primary factors eliminate the need for the strict application of this distance requirement.

* The first is the fact that the adjoining parcels are owned and under the control of a public entity, HCMA Metro-park. The property will remain in an undeveloped state in perpetuity with absolutely no likelihood of said property ever being used for residential purposes. The concern that said property would be developed at some future date for residential purposes is the sole reason for the extra setback requirement.
* The second is the opinion letter submitted by Jason M. Lambert, PE regarding the structural design and performance of the structure if ever subject to collapse.

The approval of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district as noted above given that the variance will acknowledge the placement of the tower as planned and made part of this record that does not impact any adjoining parcels, buildings or public ways either on subject site or adjacent parcels.

The Zoning Board may give relief with full belief that the spirit of the ordinance will be observed and public safety and welfare secured. The public record would rightfully recognize and verify that the resultant effect is no negative impact on future purchasers of subject parcel.

Finally, the Zoning Board would be granting the request with full assurance that the action will not be inconsistent with any element of the Township Master Plan as adopted by the Planning Commission in 2010 including the Land Use Plan, Master Thoroughfare Plan, Wetlands, Gas Fields, Natural Features, Woodlands, and Flood Plains.

The Recommendation however should be subject to the following:

* The tower design used tower must meet the standards as noted in the letter submitted by Mr. Lambert, PE.
* The foundation design used in association with the proposed tower must meet the standards as noted in the letter submitted by Mr. Lambert, PE.
* The chain link fence should be replaced by a brick wall.

Chairman Hancock stated the variance request is to eliminate the greenbelt screening and to construct a chain link fence around the area in question. Further stated the Planners are recommending a brick wall.

Mr. Schmeiser recommended a brick wall to screen the cabinets for the communication tower and to shield the area from public viewing.

Vicki Wolber, Macomb County Emergency Management & Communication stated the cabinet equipment will be located within the Township pole barn and they would prefer a chain link fence with barbed wire so the area is visible. Further stated barbed wire is required by State law.

Staci Reynolds of Motorola stated in a past experience there was an homeless person living in the area with a brick wall.

Chairman Hancock asked if there were any comments received from HCMA, the adjoining property owner.

Vicki Wolber, Macomb County Emergency Management & Communication stated HCMA is also part of first responders that will utilize the communication tower.

**MOTION by DeMan supported by Engel to vary the requests to Township Zoning Ordinance: Section 1700-O; Wireless Communication Towers; Subsection 2.e. (3), request to vary the installation of greenbelt screening of fencing from public right-of-way. AND to vary Subsection 2.e.(4)b.; to allow the tower to be located 145 feet closer to the east property line and 130 feet closer to the north property line for Permanent Parcel No. 05-16-400-019; 20301 29 Mile Road. The approval is subject to the following conditions:**

* **The tower design must meet the standards as noted in the letter submitted by Mr. Lambert, PE.**
* **The foundation design used in association with the proposed tower must meet the standards as noted in the letter submitted by Mr. Lambert, PE.**
* **The equipment for the communication tower shall be located within the Township Pole Barn.**

**FOR THS MOTION: Yes: DeBuck, DeMan, Engel, Youngblood, Hancock.**

**No: None.**

**MOTION carried.**

6. Report from the Planning Commission Representative

Chairman Hancock stated the Planning Commission has repealed and replaced Section 211 of the zoning ordinance regarding medical marijuana. Further stated it was forwarded to the Township Board and has been tabled at this time.

7. Public Comments:

Vicki Wolber, Macomb County Emergency Management & Communication, thanked the Zoning Board of Appeals for approving the variances.

8. Adjournment

**MOTION by Engel supported by Youngblood to adjourn the meeting at 8:23 p.m.**

**MOTION carried.**

Tom Hancock, Chairman Marvin DeBuck, Secretary Date

Respectfully submitted,

Lori R. Lascoe, Recording Secretary

Township Clerk