

Location: Ray Township Hall
64255 Wolcott, Ray MI 48096

Present: Tom Hancock, Chairman
Harold DeMan Jr., Vice-Chairman
Members: Marvin DeBuck
Gary Engel
Betty Youngblood

Absent: None.

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

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

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

2. APPROVAL OF AGENDA

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

3. APPROVAL OF MINUTES: October 25, 2016

MOTION BY DeBuck supported by DeMan at approve the meeting minutes of October 25, 2016 as presented. MOTION carried.

4. Scheduled Public Hearings-

Request for two variances to Township Zoning Ordinance for parcel identified as 05-32-300-008.

a. Benesh- 17447 26 Mile Road – 05-32-300-008 – Variance request to create a parcel where the existing house will be located within the required 152’ front yard setback

AND

b. Benesh- 17447 26 Mile Road – 05-32-000-008 – Variance to allow existing barns to be located in the Front Yard. Thomas and Kathryn Benesh, Applicants.

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

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

Joe Jarzyna, of 57710 Romeo Plank, stated he is representing his sister and brother-in-law, Kate and Tom Benesh, himself and his brother, John Jarzyna. He explained his sister owns two homes fronting on 26 Mile Road and they are planning on retiring and selling the two homes. He stated they would be combing the rear portion of both homes that front on 26 Mile Road, parcels 1 and parcel 2 and combine the rear property to parcel 3, which contains a farmhouse and existing barn that was built in 1933. Parcel 1 would comply with the ordinance and be 2.066 acres and parcel 2 would comply with the ordinance and contain 2.757 acres. He stated the variance request is for the existing farmhouse to be allowed within the required 152’ front yard setback and for the existing barn which was built in 1933 to be located in the front yard. He stated the barn was built before the zoning ordinance and the plan for the farmhouse to be moved on the property in two years when the renters lease is up.

Jerry Schmeiser, Planner reviewed his findings dated January 19, 2017, they are as follows:

The applicant is requesting two variances to allow a parcel to be created from segments of three other separate parcels with an existing dwelling located within the required front yard setback and existing barns to be located in the Front Yard of the existing dwelling.

Characteristics of the parcels under consideration are summarized as follows:

Current zoning – B-2 General Business District

Present Use – single family residence

Size and dimensions of property under consideration:

- Parcel 05-32-300-008; Measures 210 ft. x 672 ft.; frontage on north side of 26 Mile Road 2,011 ft. east of Romeo Plank Road. Contains the existing residence with one barn; the residential structure is located 105.2 ft. from the centerline of 26 Mile Road; the required setback is 152 ft. The barn is 69.6 ft. from the east property line of the proposed new parcel which meets the required setback of 30 ft. This parcel will be the one whole parcel to make up the newly created parcel.
- Part of Parcel 05-32-300-022. The segment to be attached will measure 290 ft. x 672 ft. and will be part of the west property line of the new parcel. Contains an existing barn setback 164.4 ft. from the centerline of 26 Mile Road.
- Part of Parcel 05-32-300-015. The segment will be attached to the north 571 ft. of parcel -008 and will measure 243 ft. x 571 ft. This segment is undeveloped and will be taken from a parcel that contains a single family residence with 243 ft. fronting on 26 Mile Road. The existing residence to remain complies with the zoning ordinance with respect to setbacks and the parcel size of 3.7 acres exceeds the minimum lot area of 90,000 sq. ft.
- Part of Parcel 05-32-300-016 the segment will be taken from the north 868.59 ft. of existing parcel -016 and attached to the east line of parcel -015 to the west. This segment is undeveloped and will be taken from a parcel that contains a single family residence with 240 ft. fronting on 26 Mile Road. The existing residence to remain complies with the zoning ordinance with respect to setbacks and the parcel size of 2.0 acres exceeds the minimum lot area of 90,000 sq. ft.
- The immediate proposal is for the existing residence to remain in place. At a future date the plan is to move the residence back (north) to be in line with the existing residential structures east of existing structure and out of the required front yard setback. When that move takes place the barns would be in front of the primary structure thus being contrary to the requirement that accessory structures (barns are accessory structures) shall not be in the Front Yard which is the open space in front of the primary structure.

The general description of the surrounding properties is as follows:

1. The properties to the north are zoned R-1 and contain acreage parcels fronting to Romeo Plank Road and side to subject parcel.
2. There remain seven properties to the west are zoned B-2 and contain 4 single family residences and 3 vacant on acreage parcels.
3. The property to the west is zoned B-2 and is agriculture until the corner of 26 Mile/Romeo Plank which is used for commercial.
4. The property to the south across 26 Mile Road is in Macomb Township

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

The Master Land Use Plan as Amended by the Township Board in 2016 depicts the area as **Residential**. The commercial area designation east of Romeo Plank was reduced to ten acres at the northeast corner of 26 Mile Road and Romeo Plank Road and the balance of the acreage between the Romeo Plank and Luchtman is planned for a RESIDENTIAL designation with Single Family Residential High; 15,000 sq. ft. lots.

1. The Master Thoroughfare Plan indicates that the future of 26 Mile Road is planned as a major thoroughfare with 204' of future R-O-W.
2. **Wetlands:** None identified
3. **Gas Fields:** None identified
4. **Natural Features:** None identified
5. **Floodplain:** None identified
6. **Woodlands:** None identified
7. **Watershed:** Subject parcel is within the **North Branch of the Clinton River Watershed**

Mr. Schmeiser presented his recommendation to the Zoning Board of Appeals, dated January 19, 2017 as follows:

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

It is the opinion of the undersigned that although in subject appeal an existing primary structure (house) on the applicants' 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. The variance as requested would give fair and reasonable justice to the parcel as it relates to the preservation of the use of land for agricultural purposes for the immediate and short term future of subject property by allowing the existing barns to remain in place for agricultural use. The subject parcel to be created can be used for agricultural purposes while protecting the value of the remaining residences along the 26 Mile Road frontage east of subject property.

The existing house would remain in place for a period then moved back in line with the residences to the east. There is more value to all concerned that the house is moved back so that the primary residence will be then in conformance with the front yard setback requirement and out of the right-of-way of any future roadway widening. The barns would be functioning as part of agriculture use and remain out of the future right-of-way of highway widening.

The use would be in line with the amended Master Land Use Plan thus while being in a non-conforming state with respect to the current Zoning Ordinance; the proposal before the Zoning Board is consistent with the Long Range Land Use Plan of the Township. The request before the Board would allow the development of subject parcel to take place consistent with the Master Plan subject to a rezoning to the appropriate residential zoning district when plans are put in place for water and sewer to suit the district. Until that time the variance would allow for the parcel to operate as an Agricultural/Residential use complimentary with nearby 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 and Amended in 2016 including the Land Use Plan, Master Thoroughfare Plan, Wetlands, Gas Fields, Natural Features, Woodlands, and Flood Plains.

Public Comments: None.

**MOTION by DeMan supported by DeBuck to close the public hearing at 7:48 p.m.
MOTION carried.**

Engel stated they are requesting to combine the properties and the house would be eventually moved from the road right of way.

Discussion was held that the buildings are already non-conforming with the zoning ordinance.

MOTION by Engel supported by DeMan to approve the variance request to create a parcel where the existing house will be located within the required 152' front yard setback based upon the Planners recommendation, dated January 19, 2017 for Permanent Parcel 05-32-200-008, A.K.A. 17447 26 Mile Road, Thomas and Kathryn Benesh, Applicants.

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

No: None.

MOTION carried.

MOTION by DeBuck supported by DeMan to approve the variance request to allow the existing barn to be located in the front yard based upon the Planners recommendation, dated January 19, 2017 for Permanent Parcel 05-32-200-008, A.K.A. 17447 26 Mile Road, Thomas and Kathryn Benesh, Applicants.

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

No: None.

MOTION carried.

5. Other Matters to be reviewed by the Zoning Board of Appeals:

a. Election of Officers – Chairman Hancock asked for nominations of Chair, Vice-Chair, and Secretary

MOTION by DeMan supported by DeBuck to reappoint Tom Hancock as Chairperson.

MOTION carried.

MOTION by Engel supported by DeBuck to reappoint Harold DeMan as Vice-Chairperson.

MOTION carried.

MOTION by DeMan supported by Youngblood to appoint Marvin DeBuck as Secretary.

MOTION carried.

6. Report from the Planning Commission Representative

Chairman Hancock stated the Commission is reviewing amending the medical marijuana ordinance based upon the changes of the law. Further stated several members will be attending a medical marijuana workshop hosted by Michigan State Extension. Further stated the Board held a workshop meeting and discussed Washington Townships Firearms ordinance which requires no shooting within 450 feet of a home, barn, building without written approval from the neighboring property owner. Further stated the Planning Commission and Board approved rezoning the IR property along the east side of North Avenue from 26 Mile Road to 27 Mile Road to residential except the immediate north parcel that abuts the B-2 corner. Discussion was held on the Master Plan that was adopted in 2016.

Mr. Hancock suggested the members attend the Planning Commission and Board meetings to stay up to date.

Mr. Schmeiser stated the Commission will be writing an ordinance for a vineyard business. Further stated he will be providing a Master Plan map.

7. Public Comments:

Mr. DeBuck inquired further on Washington Township hunting ordinance.

Mr. Hancock stated Washington Township hunting ordinance requires written approval from the neighbor/landowner for any hunting 450' from any out building.

8. Adjournment

**MOTION by DeMan supported by Engel to adjourn the meeting at 8:11 p.m.
MOTION carried.**

Tom Hancock, Chairman

Marvin DeBuck, Secretary

Date

Respectfully submitted,
Lori R. Lascoe, Recording Secretary
Township Clerk