

**ANN ARBOR CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
WEDNESDAY, APRIL 21, 2010**

I. ROLL CALL

The meeting was called to order at 3:03 pm by Chair Richard Mitchell at the Township Hall, 3792 Pontiac Trail, Ann Arbor, MI 48105.

Present: Chair Richard Mitchell, Commissioners Larry Burgess, Karen Mendelson and Doug Price, Clerk Rena Basch.

Also present: Building and Zoning Official John Hamlin, Township Supervisor Michael Moran

II. APPROVAL OF MINUTES

Price moved approval of the Zoning Board of Appeals minutes from October 15, 2008; Basch seconded. Motion passed unanimously.

III. OLD BUSINESS - NONE

IV. NEW BUSINESS

A. **ZBA-1-10** – To consider an application filed by the City of Ann Arbor Wastewater Treatment Plant at 49 Dixboro Road, to renovate the facility on an existing, nonconforming site, I -09-36-100-007, due to existing nonconforming ground floor coverage and floor area ratios.

1. Petitioner's Presentation by Mike Amichangela from the Wastewater Treatment Plant gave an overview of the project, which is basically replacement of the west plant.
2. Zoning Official's Report by John Hamlin – Mr. Hamlin reported that the treatment plant needs to be renovated. Since the plant is located in a floodplain and the project includes upgrading the berm and dike onsite, the City has applied to FEMA; they are still awaiting FEMA approval. The upgrades to the west plant facilities should improve odors. Project will improve the community in general.
3. Board comments and questions – none.
4. Public Hearing – Mitchell opened and closed the public hearing at 3:08 pm. There were no comments.
5. Zoning Board of Appeals discussion
Mitchell reported from the Planning Commission that the planning and environmental work done on this project has been very impressive, and

that if viewed in the aggregate, the rehab project actually lowers the ground floor coverage (GFC.) Moran gave additional background on the parcel, explaining that a rezoning was previously required to recognize the existing wastewater treatment plant on its particular parcel as a permissible use. The WWTP staff answered questions about flows, capacity and odor control.

Price moved to grant the variance requested in the application filed by the City of Ann Arbor Wastewater Treatment Plant to renovate the facility which sits on an existing, nonconforming site at 49 Dixboro Road, (I -09-36-100-007) which will result in the requested change to ground floor coverage and floor area ratio, citing that the renovation is in the best interests of public health, safety and welfare, and the petitioner satisfies all the conditions for variance determination listed in Section 74-223.

Burgess seconded the motion.

Motion passed unanimously.

- B. **ZBA-2-10** – To consider an application filed by Matthew Bertoni of 4990 Whitmore Lake Road (I -09-05-100-005) for a variance from Zoning Ordinance Section 74-223 Expansion and substitution of nonconformities, in order to renovate an existing home on a 2.75 acre lot that is zoned A-1, which requires a minimum lot size of 10 acres, and for a variance from Section 74-217, Construction of an accessory structure on a nonconforming lot, in order to construct a new hoop greenhouse
1. Petitioner’s Presentation by Mr. Bertoni – Mr. Bertoni explained to the ZBA that he would like to perform the following improvements to his property: 1) raise the roof on his house to get more access to attic storage and add a porch and extra stairs; he would also like to add a dormer and other improvements. 2) He would like to improve the pole barn/”sprout bin” structure, and 3) he would like to install a “hoop house” for agricultural use, and explained its usage and the preferred site on his property that he would like to build it on.
 2. Zoning Official’s Report by John Hamlin – Mr. Hamlin reported that last fall he requested that Mr. Bertoni clean up some of his property, and Mr. Bertoni is doing some clean-up. In March of 2010 Hamlin noticed that Bertoni had constructed a hoop house, and notified him that it was a nonconforming structure that would have to come before the ZBA; Bertoni disassembled the hoop house and filed an application for the variances before the Board today. Since Bertoni’s lot is a nonconforming lot of record (2.75 acres in an agricultural zoning that requires 10 acre minimum lot size) renovation of the existing home requires a ZBA variance. Also, the hoop house was a nonconforming structure since accessory buildings must be not be located in front of the rear line of the principle building, or in the case of a corner lot, such as Bertoni’s in the required corner side yard. It was clarified that there are really three separate variances being requested.

Mr. Hamlin explained the building height limitations in effect in all zoning districts only allow 2.5 stories, and he explained how the ½ story is calculated. The proposed project to raise the building’s roof would constitute a 3rd story and is not allowed. In fact granting such a variance would constitute a “legislative act” which the ZBA cannot do.

3. Board comments and questions – It was discussed and determined that re-building or restoring the existing pole barn did not require a ZBA variance, since it was an accessory building already located on the property in compliance with the zoning ordinances. The closest neighbor to Bertoni is Tom Braun’s property, approximately ¼ mile south on Whitmore Lake Road. The hoop house will be used for sprouting vegetables.
4. Public Hearing – Mitchell opened the public hearing at 3:45 pm.

Justin Polasky, an EMU business student, has moved into Mr. Bertoni’s property and assists him with his tree service business and managing his properties. He explained to the Board their plans for using the hoop house to sprout vegetables; he explained that long term they would re-located the lumber from the back of the property, but wanted to start growing in the hoop house this spring.

John Hamlin stated he has been working with Justin to find uses for the lumber that is currently stored on Bertoni’s property.

Mitchell closed the public hearing at 3:47 pm.

5. Zoning Board of Appeals discussion and action – The ZBA agreed to consider each of the requested variance items separately.
 - i. The request to raise the roof of the home, etc would be a variance under Section 74-223, Expansion and substitution of nonconformities. It was agreed that the ZBA cannot grant this variance.

Price moved that this variance to renovate the existing home be denied as it is beyond the boundaries of ZBA authority and would constitute a legislative act to change the height and building storing ordinances. Burgess seconded. Motion passed unanimously.

- ii. It was determined that restoration of the pole barn could proceed without a ZBA variance.
- iii. Section 74-217 construction of accessory structure. The original site of the hoop house is the preferred site, both short term and long term, for the petitioner because of its improved soil, access to water and to the residence. The petitioner re-iterated that other proposed hoop house sites were not as desirable to him. It was determined that the original site is very close to Whitmore Lake road, an arterial road, and likely sits within the road setbacks, possibly even the road right of way. It was also discussed that the variance request was for

construction of an accessory structure, not a variance from setbacks, so a variance to allow the proposed hoop house site would have to follow the ZBA public hearing process from the beginning, and not be considered today. It was also discussed that a hoop house could be constructed within the required rear building line setbacks once a large amount of lumber was relocated from the center of Bertoni's property.

Price moved to approve the request for a variance from Section 74-217 to allow construction of an accessory structure on a nonconforming lot, but within the setbacks specified in the Zoning Ordinances, stating that the conditions for determination have been met. Burgess seconded the motion which passed unanimously.

Mitchell recommended that Bertoni work with Hamlin to find a site for the hoop house that meets the setbacks such that another variance would not need to be applied for.

V. PUBLIC COMMENT

Mr. Bertoni thanked the ZBA for approving the hoop house and explained that he does have a lot of projects going on at once, but that he would work hard to clean up the lumber on his property and repair the barn.

Mike Moran brought up to the Commissioners that we have very few ZBA meetings and that he was concerned the petitioners need to know the outcome promptly because they only have a limited amount of time to complete the improvements granted in the variance before it expires. John Hamlin and Clerk Basch affirmed that all petitioners are sent a letter immediately following ZBA meetings so that petitioners do not have to wait for the minutes of the meeting to be approved.

VI. ADJOURNMENT – Burgess moved to adjourn at 4:24 pm. Meeting was adjourned.