

DRAFT

MEETING

GLEN ARBOR TOWNSHIP BOARD OF APPEALS

Friday, April 23, 2021 at 1 pm

Via Zoom

**PRESENT:** Pam Lysaght, Harvey Warburton, Denny Becker, Don Lewis, Alternate Andrew Dotterweich, Zoning Administrator Tim Cypher, Recording Secretary Dana Boomer

**ABSENT:** Bill Freeman

**GUESTS:** 0

**CALL TO ORDER:** Dennis Becker, as Vice-Chair, called the meeting to order at 1:00 p.m with the Pledge of Allegiance.

**APPROVAL OF AGENDA:** Lysaght moved, Lewis seconded to approve the agenda as presented. All in favor, motion carried.

**CONFLICT OF INTEREST:** None

**APPROVAL OF MINUTES:** The board discussed the draft minutes from the March 23, 2021. Lysaght moved, Lewis seconded to approve the minutes of March 23, 2021 as presented.

Warburton asked if the meeting had been recorded; it was not. Warburton stated that under part “e”, he feels that the sentence “Warburton also asked for guidance in these areas.” is misattributed to him. It was unknown who this should be attributed to, so it will be struck out. Warburton also stated that he believes the references to “IV.4.a-h” should be “IV.1.a-h”. This change will be made.

Lewis stated that under IV.1.a, his statement should be “This is an existing”, not “There is an existing”. This will be changed.

On page 5, the ZBA discussed the discussion regarding whether a vote could be taken or whether an approval could be granted. The initial question that was asked was attributed to Lysaght, and the board discussion was moved later in the sentence. Warburton feels that the discussion moved further than was shown in the minutes, and so an additional sentence was added regarding a discussion on when approval could be granted. The ZBA then discussed whether the word “votes” should be used to cover the met/not met discussion. The final wording of the paragraph was:

*The board discussed Lysaght asked whether a vote could be taken, given that there were two items requirements on which the members had a majority of “not met” votes; the board discussed the requirements for approval. Cypher stated that there was precedent for votes to be taken on requests and requests for variance to be approved for which some items had “not met” votes, and he has found no case law that would disallow this. However, he cannot give legal advice to the ZBA. The board and staff discussed whether an approval can be granted when there were criteria that had*

*majority “not met”*. Lewis stated that over the years, the discussion and recording of discussion for ZBA meetings has become much more thorough, and so while each of the above findings are discussion items, the vote is required as a final decision. The board continued the extensive discussion on this topic, referencing state law, MSU Extension guidance documents, and the township Zoning Ordinance.

Warburton is concerned with an email that Cypher sent out this morning that recommended approving the minutes. He felt it was inappropriate. Cypher respectfully disagreed, stating that as staff he has the ability to make recommendations.

**Lysaght and Lewis withdraw their motion to approve the minutes as presented.**

**Lysaght moved, Warburton seconded to approve the minutes as amended. All in favor, motion carried.**

**PUBLIC COMMENT:** None

**ZBA members/staff discussion on procedures & process** – Cypher feels that the process for taking votes was adequately discussed during the previous meeting and during the approval of minutes.

Cypher stated that in past meetings, the procedure has been that if the applicant brings legal counsel, the ZBA has legal counsel present at the meeting. However, the ZBA may want to consider whether this should be the procedure going forward. Another option would be to consider, if a legal issue comes up, that the matter being discussed be tabled until legal counsel could be questioned.

Cypher then covered the fact that the ZBA decision is final, but that aggrieved parties may appeal the decision to the Circuit Court through the process outlined in the Zoning Ordinance. He also summarized the communication he had distributed to the ZBA, covering a passage that had been mis-cited in his staff report for the March meeting, and ZO passages related to the issue. The meeting was properly noticed and published. A revised staff report was submitted after the meeting with an updated citation; this report will be added to the file.

Warburton feels the ZBA was not properly instructed regarding how a variance should be decided regarding practical difficulty. And he asked for clarification of how ZBA decisions can be appealed if the ZBA decision is final – it was stated that ZBA decisions can be appealed to the Circuit Court.

The ZBA discussed whether meetings should be recorded. Past practice has been to record meetings at the request of the Clerk or Board Chair.

**Warburton moved to record all meetings moving forward. Dotterweich seconded.** Dotterweich stated that he has been on boards that were recorded and boards that weren't, and feels that the recordings were helpful. Lysaght asked if there has been guidance from the Township Board regarding recording meetings; there has not. **Warburton amended the motion to state that all ZBA meetings will be recorded going forward, with the recordings maintained until after the minutes are approved. Dotterweich seconded the amendment. All in favor, motion carried.**

**OTHER BUSINESS:** The ZBA briefly discussed Bill Freeman's recent vehicle accident.

**PUBLIC COMMENT:** None.

**ZBA COMMENT:** Cypher thanked the ZBA for their work and attention to a difficult case.

**ADJOURNMENT:** Lewis moved to adjourn the meeting, Lysaght seconded. All in favor, motion carried. With no further business, Dennis Becker declared the meeting was adjourned at 2:01 p.m.

Respectfully submitted,

Dana Boomer

Recording Secretary

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