

**CHARTER TOWNSHIP OF BANGOR
ZONING BOARD OF APPEALS**

MINUTES OF SEPTEMBER 20, 2016 MEETING

A regular meeting of the Charter Township of Bangor Zoning Board of Appeals was held on the 20th day of September, 2016 at the Bangor Township Administrative Building, 180 State Park Drive, Bay City, Michigan, pursuant to notice of said meeting.

REGULAR MEMBERS PRESENT: Banaszak, LaPlant, Phelps

MEMBER (S) ABSENT: Corrion, Schisler

ALTERNATE MEMBER PRESENT: Rowley

Mr. Banaszak called the meeting to order at 6:00 p.m.

The Pledge of Allegiance was recited.

The first item on the agenda was approval of the minutes of a regular meeting held August 16, 2016 and special meeting held August 23, 2016. *Mr. LaPlant moved to approve the minutes. Mr. Rowley seconded the motion. Four (4) ayes, no (0) nays. The motion passed.*

The next item on the agenda was a petition filed by Ophelia & John Lange for property at 241 Lagoon Beach Drive which is on the northeast side of Lagoon Beach Drive between Lincoln and Revilo for the purpose of a variance to have a 4' privacy fence projecting approximately 35' into the waterfront yard setback on both sides of property and extending 20' into the front yard. Parcel is zoned Residential.

The Department of Water and Sewer wrote DWS takes no exception to the proposed site plan.

The Fire Marshal had no comment.

The Bay County Road Commission wrote with regard to the petition filed by Ophelia and John Lange for property at 241 Lagoon Beach Drive, they have no objection to the petition. Based on the plan submitted, the proposed fence construction is well away from the road (47' on one side, 83' on the other side). Thus, the fence should not interfere with BCRC maintenance activities.

Mr. Lange stated they are replacing the fence on the East side. They have two small children and want to keep them safe by the water.

There was no one in the audience for or against the request.

Mr. LaPlant stated the wrong property was outlined in the information. He had concern the fence would go into the line of sight. He didn't think a fence would be detrimental to the area.

Mr. Phelps commented there are 10' shrubs. The adjacent neighbor did not have an issue with the fence. The Lange's are upgrading and replacing the existing fence and trying to protect their children.

Mr. Rowley stated there is an existing fence. Mr. Banaszak agreed with all the comments. He added that down the road there are privacy fences all the way to the water line.

Mr. Phelps moved to approve the petition filed by Ophelia & John Lange for property at 241 Lagoon Beach Drive which is on the northeast side of Lagoon Beach Drive between Lincoln and Revilo for the purpose of a variance to have a 4' privacy fence projecting approximately 35' into the waterfront yard setback on both sides of property and extending 20' into the front yard. The applicant has young children they want to protect from the Lagoon.

The fencing is being upgraded. Mr. LaPlant added the line of site should not be hampered. Mr. LaPlant then seconded the motion. Four (4) ayes, no (0) nays. The motion passed. The applicant has six months to pull a building permit.

The next item on the agenda was a petition filed by Chris Izworski & Sarah Delahanty for property at 281 Donohue Drive which is on the north side of Donohue Drive off of Bangor Road for the purpose of a 25' front yard variance to be 0' (25' is required) off the front property line for a new home. Parcel is zoned Residential.

The Department of Water and Sewer wrote DWS takes no exception to the proposed site plan.

The Fire Marshal had no comment.

The Bay County Road Commission wrote with regard to the petition filed by Chris Izworski and Sarah Delahanty for property at 281 Donohue Drive, they have no objection to the petition. Based on the plan submitted, the proposed house construction is well away from the road (the garage is 47' from the road centerline). There have been questions regarding the location of this and adjacent homes in this area. From the tax maps and other mapping sources, it appears Donohue Drive leaves its designated right-of-way and some of the existing homes are built within the road right-of-way. This may or may not be the case. As with other plats in Bangor and in other townships that border Saginaw Bay, the Kawkawlin River or cuts that lead to the Kawkawlin River, things do not necessary "add up". This appears to be one of those cases. It is the BCRC's position that, unless otherwise shown by survey or brought to the BCRC though an objection with supporting documentation, they strongly recommend Bangor Township not allow the location of a new home (or accessory building) be any closer to the roadway than that of existing homes or accessory buildings. With the house proposed being 47' from the centerline of Donohue Drive, they do not anticipate any interference with BCRC routine maintenance activities.

Mark Wahl, the builder, represented the request. He presented an aerial photo of the area to show its uniqueness. He showed the location of the adjacent homes. The proposed home is further off the road than the existing adjacent homes. They would be 16'10" into the right-of-way.

A gentleman spoke on behalf of Sarah Delahanty. He stated there was peculiar difficulty with the lot. If the proposed home was pushed back out of the right of way, it would move into the line of sight of the waterfront yard. This is not self-created.

Don Hayes of 277 Donohue Drive stated he owned the adjacent property and the one across the street. He wanted to be sure he was not losing any of his property. Ms. Hayes added the waterline is in the right-of-way.

Mr. LaPlant commented the property line situation is strange. He added the applicant needed to be cautious with the utility lines.

Mr. Rowley stated he was not concerned.

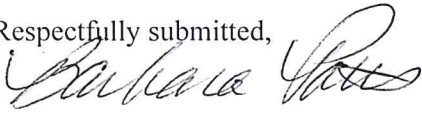
Mr. LaPlant moved to approve the petition filed by Chris Izworski & Sarah Delahanty for property at 281 Donohue Drive which is on the north side of Donohue Drive off of Bangor Road for the purpose of a 25' front yard variance to be 0' (25' is required) off the front property line for a new home. Relief is necessary to meet the requirements on the waterfront side of the property. Variances would be needed to build anything on the property. Mr. Phelps seconded the motion. Four (4) ayes, no (0) nays. The motion passed. The applicant has six months to pull a building permit.

Ms. Potts asked if the ZBA could give an interpretation of the Zoning Ordinance regarding fences. She explained that in Section 5.21 it states "No fence or wall shall be placed within the waterfront yard, the yard adjacent to the water." But in Section 16.02 it states " ...In no instance shall the principal structure or any accessory structures be located within forty (40) feet of the waterfront property line or high water mark, whichever is to the structure." She asked the ZBA to interpret whether or not a fence was a structure and could it be in the waterfront yard if it was more than 40' off the water. Discussion took place. The Zoning Board of Appeals determined the wording

of Section 16.02 needed to be changed to exclude fences as accessory structures. They recommended the zoning amendment.

Having no other business before the Board, Mr. LaPlant moved to adjourn. Mr. Rowley seconded the motion. Four (4) ayes, no (0) nays. The motion passed and the meeting was adjourned at 6:35 p.m.

Respectfully submitted,



Barbara A. Potts
Zoning Board of Appeals Coordinator