

I. **Call the meeting to order.**

Chairman Zuehlke called the meeting to order at 6:30 p.m.

II. **Roll Call.**

Present: Dave Zuehlke, Chairman  
Ralph Woznick, Secretary  
David Maloney, Board Member  
Colleen Murphy, Board Member  
Ellie Pinner, Board Member  
Steve Reno, Board Member

Absent: Garry Crake, Vice Chairman

Also Present: Bob Vallina, Community Planning and Development Director  
Colleen Pote, Stenographer  
Stacy St. James, Environmental Coordinator  
Applicants and general public numbering approximately 14

III. **Approve the Minutes**

**MOTION AND VOTE:**

*Moved by Reno*

*Supported by Woznick; RESOLVED, to **APPROVE** the Minutes of the November 2, 2010, regular meeting of the Zoning Board of Appeals as printed.*

*MOTION CARRIED UNANIMOUSLY.*

*(6 – 0)*

IV. **Approve the Agenda**

**MOTION AND VOTE:**

*Moved by Woznick*

*Supported by Reno; RESOLVED, to **APPROVE** the Agenda of the December 7, 2010, regular meeting of the Zoning Board of Appeals as printed.*

*MOTION CARRIED UNANIMOUSLY.*

*(6 – 0)*

V. **PUBLIC HEARINGS**

**NEW BUSINESS**

**Case No. 5335**

**Sidwell No. 13-32-428-017**, Section 32, Lot 61, "Waterford Meadows", T3N, R9E, Waterford Township, Oakland County, Michigan

**Requesting** a 3 ft. variance from Section 2-103 to allow a 48 ft. ham radio antenna structure to be located on the subject property (Antenna structure shall not exceed by more than 15 ft. the height limitation of the district in which it is located. Subject property is located in the R-1A zoning district, where the height limitation is 30 ft.).

**Property Location:** 1210 Meadowview  
**Property Zoned:** R-1A, Single Family Residential  
**Applicant:** Paul Zsenyuk

### **PUBLIC HEARING RECORD**

#### **Applicants and/or Representatives Present:**

Paul Zsenyuk, Applicant

**Mr. Zsenyuk** stated that he has lived in his home for 32 years; the ham radio antenna tower was erected nine years ago. Recently a 10 ft. section was added to allow the tower to extend above the trees. He then stated that he does not understand what the problem is with the tower and why none of the neighbors came to him to address any concerns they had with the tower.

**Chairman Zuehlke** stated that the Zoning Ordinance limits this type of antenna tower structure to a height of 45 ft. in a residential district.

During the public comment portion of the meeting the following comments were heard.

**Joe Kelty**, 1168 Meadowview, stated that he is opposed to the request to allow the tower to be 48 ft. in height; in his opinion the property is beginning to look like a commercial property with all of the dishes and ham radio communication tower. He further stated that he believes that the applicant can already have a 45 ft. tower; increasing the height is not necessary and will contribute to the reduction in property values. He is also concerned that a tower with excessive height may interfere with radio and television reception on the neighboring properties. He concluded by stating that the applicant's hobby should not be allowed to be a burden on the neighboring properties.

**Terry Glisson**, 1198 Meadowview, stated that he is opposed to the request in this case; in his opinion the tower is already an eyesore that he has to look at from his dining room window. Allowing an increased height will only worsen his ability to reasonably enjoy his property. He also has concerns with the safety of the tower and the damage it could cause if it falls.

**Michael Schons**, 1203 Meadowlark, stated that property values are declining; the Board should protect the value by holding the applicant to the requirements of the Zoning Ordinance. He then questioned if the tower is properly installed and secured. He believes that if the tower should fall it will fall directly into his swimming pool. He

further stated that the tower does not yet have an antenna; he believes that once the antenna is attached the total height of the structure will exceed 48 ft. There are also FCC regulations that guide the use of such radio transmission towers.

**Janice Schons**, 1176 Meadowood, stated that she is opposed to the variance; she believes that a tower with a height that exceeds what is allowed will reduce home values and pose a safety hazard.

**Jackie Price**, 1196 Meadowlark, stated that the tower is already unsightly and she believes that allowing an increased height will contribute to the reduction in property values.

**Mr. Glisson** stated that the applicant's statement that the tower has been up for nine years is not correct.

**Tim Kennedy**, 1184 Meadowlark, stated that he is opposed to the request and that the tower has not been on the property for nine years.

**Chairman Zuehlke** stated that the request before the Board is for a 3 ft. variance to allow the tower to be 48 ft. in height. The Board can only consider whether or not the applicant has a practical difficulty that warrants relief by way of a variance from the requirements of the Zoning Ordinance for the additional height.

**John Bojczyk**, 1217 Meadowview, stated that the subject property looks like a radio station. He has a view of the tower from his kitchen window. He further stated that the tower has not been on the property for 9 years and that he believes it was erected without all of the proper approvals.

**Linda Kennedy**, 1184 Meadowlark, stated that the applicant has requested the height variance due to the applicant's concern that the height of the tower must always be above the trees. Ms. Kennedy wanted to know if in the future the applicant would continue to request height variances as the trees continue to grow.

Hearing no further comments, the public portion of the meeting was closed.

**Chairman Zuehlke** stated that the applicant must adhere to the Township building permit and inspection requirements for a structure of this type. He believed that the Zoning Ordinance height limitation of 45 ft. is not a practical difficulty and that compliance with the strict letter of the ordinance would not unreasonably prevent the applicant from using the property and would not render conformity with the ordinance unnecessarily burdensome.

**Board Member Maloney** stated that the applicant's statement of being a long time resident of the Township does not allow one to violate the Township ordinances. He then stated that there are antennas on the rear porch and questioned what they will be used for.

**Mr. Zsenyuk** stated that the antennas were removed from the house when the roof was replaced and that he could always re-install the roof antennas instead of increasing the tower height if that is what the neighbors really want.

Discussion ensued regarding the concern that the total height of the tower structure will exceed the requested 48 ft. once an antenna is installed on the tower.

**Board Member Reno** stated that he is very familiar with ham radio operations and recognizes that this type of communication can be vital during severe weather, however, with his experience he is also aware that there are ways to ensure communications without erecting a 48 ft. tower structure. He then stated that he is strongly opposed to allowing this type of structure to exceed 45 ft. in height in a residential district. He concurs with Chairman Zuehlke that the Zoning Ordinance height limitation of 45 ft. is not a practical difficulty and that compliance with the strict letter of the ordinance would not unreasonably prevent the applicant from using the property and would not render conformity with the ordinance unnecessarily burdensome. He also has concerns that if a variance is granted based on the applicant's rationale of needing the tower above the tree-line, the applicant will keep returning to the ZBA to request further height variances as the height of the surrounding trees increases.

**Board Member Reno** asked for and received clarification that the tower structure is cemented to the ground and has stability wires.

**Board Member Pinner**, questioned if the applicant had considered trimming the trees to alleviate the interference issue.

**Mr. Zsenyuk** stated that the trees are not on his property.

#### **MOTION AND VOTE:**

*Moved by Reno*

*Supported by Woznick; RESOLVED, to DENY Case No 5335 in that:*

- *No practical difficulty exists in this case.*
- *Compliance with the strict letter of the ordinance would not unreasonably prevent the petitioner from using the property and would not render conformity with the ordinance unnecessarily burdensome.*
- *The applicant has not provided any proof that the requested variances would ensure fairness for the owner of the subject property as well as surrounding property owners.*
- *The applicant has not demonstrated that there is anything unique about the property that would warrant the requested variances.*
- *The request is self created.*

**MOTION CARRIED UNANIMOUSLY.**

**(6 – 0)**

**Case No. 3692-D**

**Sidwell No. 13-20-151-001**, Section 20, T3N, R9E, Waterford Township, Oakland County, Michigan

**Requesting** a variance from Section 4-003.5 to extend the timeframe of the validity of the approved site plan extension from December 29, 2010 to December 31, 2013 (All extensions must be authorized by the approving body).

**Property Location:** Vacant, NE Corner Pontiac Lake Road & Hospital Road  
**Property Zoned:** R-M2, Multiple Family  
**Applicant:** Kevin O’Grady

**PUBLIC HEARING RECORD**

**Applicants and/or Representatives Present:**

Kevin O’Grady, Applicant

**Chairman Zuehlke** stated that the request in this case is to allow an extension of the validity of the approved site plan for a three year period due to the poor economic conditions.

**Mr. O’Grady** stated that is correct.

**Board Member Reno** commended Mr. O’Grady on his efforts to complete the development he is currently working on before starting a new one in these economic times.

During the public comment portion of the meeting, no comments were heard either in support of or opposition to the applicant's request.

**MOTION AND VOTE:**

*Moved by Pinner*

*Supported by Reno; RESOLVED, to **APPROVE** Case No 3692-D*

*MOTION CARRIED UNANIMOUSLY.*

*(6 – 0)*

**VI. Adjourn the meeting.**

Chairman Zuehlke adjourned the meeting at 6:58 p.m.

**December 7, 2010**

**Case No. 5335**

**Property:** 1210 Meadowview

**Applicant:** Paul Zsenyuk

**Zoning:** R-1A, Single Family Residential

**Site Use:** Single family residential

**Proposal:** To allow 48 ft. ham radio antenna tower

**Analysis:** In October 2010, Township code enforcement staff received a complaint that an antenna tower exceeding the height limit prescribed by the Zoning Ordinance was erected on the subject property. Upon investigation, code enforcement staff found that a ham radio antenna tower had been erected on the subject property and exceeded the maximum height of 45 ft. allowed by the Zoning Ordinance for such antenna structures. As soon as the applicant was notified of the violation, they immediately applied to the ZBA to resolve this issue. The applicant states that the antenna needs to be higher than the surrounding trees for it to properly function.

Staff cannot support the applicant's request since it does not conform to the letter of the Zoning Ordinance and a 45 ft. antenna structure can be located on the subject property without requiring variances. However, if the applicant can explain to the ZBA's satisfaction that limiting the antenna to a 45 ft. height is a practical difficulty due to tree interference, variance relief could be considered as warranted. If the applicant cannot effectively claim a practical difficulty for the additional 3 ft. in antenna height, then staff recommends denial of the applicant's request.

If the Zoning Board of Appeals chooses to deny the applicant's request, the following is a draft motion that will reflect such a decision:

**Draft Motion For Denial**

In the matter of ZBA case No. 5335 I move that the petitioner's request for non-use variances be denied because the petitioner did not demonstrate practical difficulties exist in this case. In that:

- No practical difficulty exists in this case.
- Compliance with the strict letter of the ordinance would not unreasonably prevent the petitioner from using the property and would not render conformity with the ordinance unnecessarily burdensome.
- The applicant has not provided any proof that the requested variances would ensure fairness for the owner of the subject property as well as surrounding property owners.
- The applicant has not demonstrated that there is anything unique about the property that would warrant the requested variances.
- The request is self created.

**December 7, 2010****Case No. 3692-D**

**Property:** Vacant, NE Corner Pontiac Lake Road & Hospital Road

**Applicant:** Kevin O'Grady

**Zoning:** R-M2, Multiple Family Residential

**Site Use:** Vacant, Site Plan Approved for Multiple-Family Residential Development

**Proposal:** To extend site plan approval deadline from December 2007 to December 2010

**Analysis:** The applicant completed a site plan for improving their property, which was approved on December 29, 2006 in accordance with the approval authorization granted by the Planning Commission. The applicant requested and received from the ZBA an extension of this site plan approval until December 2010. The applicant had requested this extension due to the current state of the economy, causing delays beyond their control in initiating construction under the site plan. The applicant is actively working on completion of another housing project in the Township, building a unit and selling/leasing it before constructing the next unit. The applicant would like to fully complete this project before initiating the project on the subject property. Since the current housing construction market continues to be in a depressed that likely may last for several years, the applicant is requesting an additional three-year extension, to December 31, 2013.

The applicant continues to show his intent to continue working on completing his approved projects in Waterford Township through an incremental construction approach. This incremental construction approach adopted by the applicant not only makes good business sense for the applicant, but it also assists with the stabilization of the Township's housing stock by ensuring that new housing units are introduced at a rate where they can be occupied and not sit vacant. Also, since the current economic conditions are beyond the applicant's control and are not self-created, and the applicant intends on proceeding with their proposed redevelopment project, staff is not opposed to granting the requested extension so that the site plan approval previously granted remains valid for an additional three years. The ZBA may want to indicate to the applicant how many more extensions it is willing to consider.