

**CITY OF MASON
ZONING BOARD OF APPEALS MEETING
MINUTES OF JANUARY 8, 2020**

Sabbadin called the meeting to order at 5:30 p.m. in the Maple Room at 201 W. Ash Street, Mason, Michigan.

Present: Fisher, Harris, Madden, McCormick, Sabbadin, Wilson

Absent: None

Also present: Elizabeth A. Hude, AICP, Community Development Director; Sarah Jarvis, City Clerk

OATH OF OFFICE

Jarvis administered the Oath of Office to Bob McCormick.

ELECTION OF LEADERSHIP

Hude opened nominations for Chair.

Fisher nominated Sabbadin for the position of chair. Wilson seconded.

Hude closed the nominations for Chair.

Sabbadin: Yes (6) Fisher, Harris, Madden, McCormick, Sabbadin, Wilson
No (0)
Absent (0)

MOTION PASSED: Sabbadin confirmed as Chair

Hude opened nominations for Vice-Chair.

Wilson nominated McCormick for the position of Vice-Chair. Fisher seconded.

Hude closed nominations for Vice-Chair.

McCormick: Yes (6) Fisher, Harris, Madden, McCormick, Sabbadin, Wilson
No (0)
Absent (0)

MOTION PASSED: McCormick confirmed as Vice-Chair

PUBLIC COMMENT

None.

APPROVAL OF MINUTES

MOTION by Fisher second by Madden, to approve the Zoning Board of Appeals minutes from the October 9, 2019 meeting.

Yes (6) Fisher, Harris, Madden, McCormick, Sabbadin, Wilson
No (0)
Absent (0)

MOTION APPROVED

PUBLIC HEARING

A. Appeal of Administrative Decision to require permits for work being done on the property located at 882 Stag Thicket Lane in Mason, MI, received from Scott & Kimberly LaMacchia, homeowners.

Before opening the public hearing, Sabbadin asked for disclosure of conflicts of interest. Angela Madden shared she does have a conflict of interest as she serves on the Hunting Meadows Property Owners Association, and will abstain from voting. Discussion took place regarding the need for her to exit the room and was put to a vote.

MOTION by Fisher, second by Wilson, to require Madden to exit the room during the Public Hearing.

Yes (1) Fisher
No (4) Harris, McCormick, Sabbadin, Wilson
Abstain (1) Madden

MOTION FAILED: Madden is allowed to stay but she will not vote.

Sabbadin opened the public hearing at 5:35 p.m.

Public Comments/Discussion:

Scott LaMacchia, on behalf of he and his wife, Kimberly LaMacchia, 882 Stag Thicket Lane, stated that he is not challenging the need for permits, he is challenging the time frame necessary to turn in required documents as he has been out of state for work and only home on weekends this past year. They met with Director Hude earlier in the week, he is working with an engineer, and he is diligently trying to prepare what is needed. He did misunderstand the need for a permit for the grading he did earlier in the year but he now understands where he was wrong. He is asking the Board to change the deadline required.

Director Hude noted this appeal is based on a Notice of Violation which was sent by the Code Enforcement Officer. This issue began in July of 2018 as a minor landscaping project but it was realized that there was more work going on that required grading and filling. A Stop Work order was issued so the project could be evaluated. It was then learned that the project would include a hot tub and retaining wall which can also trigger the need for a permit. A request for more information was made. Despite the numerous Stop Work Orders issued in a year and a half, the applicant continued to work on the project. It was later realized that the property includes a wetland delineation, and that the project needed to be approved by the Homeowners Association.

What was cited in the violation notice was that it appeared to be an amendment to a previously approved subdivision grading plan which triggers notification to the City. Director Hude referenced the different

Chapters in the Code of Ordinances that were affected. The most recent Notice of Violation, sent November 27, 2019, had a deadline date of compliance of December 9, 2019, which the applicant failed to meet.

Director Hude provided the Board with copies of photos regarding 882 Stag Thicket Lane, received from a local homeowner, that show a hole in the yard, from a cottonwood tree, that was filled in with dirt that could have been leveled instead.

McCormick asked Mr. Lamacchia if work had been done on the premises. Mr. Lamacchia responded that yes, some work has been done with grading and moving dirt around to reshape the retaining wall and lower the hot tub, and that he used the leftover dirt to level out the back yard. He admitted that work was done and as he reread one of the letters sent, he realized there was a cease work order in it that he did not realize was there earlier.

Wilson noted in the packet information it was stated that there were stickers put on the door to stop working and those were taken off. Mr. LaMacchia replied that he realized there was a problem then. Wilson commented that work continued even after that. Mr. LaMacchia does not believe that is true. He did stop.

Harris asked how long it would take to get the needed documents together to be in compliance. LaMacchia answered that it would depend on the engineer and their timetable.

Sabbadin called for comments from the floor.

Lisa Messler, 874 Stag Thicket Lane, shared that she is not sure when her landscaping was done as it was there when she purchased the home, and they knew it was a wetland. When she made a complaint in January of 2019, she was told by Chuck Goeke, Code Enforcement Officer at the time, that Scott LaMacchia said he was building up his dirt to cause the water to flow in her direction.

Mr. LaMacchia rebutted Ms. Messler's comment. He claimed that he never said anything like that. A building inspector told him to move the dirt to bring the grade of the property back to its original state and the inspector removed the sticker off the door.

McCormick asked if he had hired an engineer already. LaMacchia replied that he is close to hiring one, they are meeting with him this week.

Billie O'Berry, Code Enforcement and Community Resource Officer for the City of Mason, stated she was glad that the LaMacchia's are trying to work to comply with the office's request, but she wanted to make sure it is realized that this case has taken a substantial amount of time. There has not been a small amount of dirt moved, it has been months of trying to get needed information to make sure the work being done will not harm other homeowners. O'Berry met with Jason Lynn from the Ingham County Drain Commission at the site and they told them they needed a silt fence to stop erosion which reduced water permeability. She feels it is necessary to have a written statement from EGLE based on the plans being prepared regarding the wetland. She also shared the LaMacchias need to be specific on timelines as staff doesn't want to be six months down the road and still be dealing with this problem.

Tim Dickinson, 2830 Tomlinson Rd., Mason, shared he is a builder and is working with the LaMacchia's on this issue to expedite the process as he has pulled permits before and worked with DEQ on wetland delineations.

Sabbadin closed the public hearing at 6:02pm.

Fisher stated "The question before the ZBA at this time is whether or not to affirm the decision of the Zoning Official so that they may continue with enforcement activity."

Harris asked that since the parties are working together, do they need to continue with enforcement? Fisher believes there still needs to be a time frame.

Director Hude clarified the decision they have to make as they can't waive the requirement of the permits and enforcement. The board needs to decide whether or not to affirm the decision of the Zoning Official regarding for enforcement. She noted that enforcement happens in two ways - proactively through the permitting process, and reactively if permits are required but not obtained or in violation of the ordinance. Staff's next step would be to issue a citation with a fine, and continue to work with them and allow more time for preparing the required documents. If they do not comply in that timeline, then another citation would be issued.

ORIGINAL MOTION

MOTION by Wilson, seconded by McCormick to affirm the decision of the Zoning Official to continue enforcement activity that will include working with the homeowners on the process of obtaining permits and assessing any fines that may be required and adopt as Findings of Fact, letters from multiple agencies including local, county, and state and the materials in the staff report, and the statement from the homeowner regarding his culpability in the matter.

AMENDMENT

MOTION by Harris, seconded by Wilson to amend the Motion, to add the allowance for staff to work out a time frame that is appropriate.

VOTE ON AMENDMENT

Yes (5) Fisher, Harris, McCormick, Sabbadin, Wilson
No (0)
Abstain (1) Madden

MOTION PASSED

VOTE ON AMENDED MOTION

Yes (5) Fisher, Harris, McCormick, Sabbadin, Wilson
No (0)
Abstain (1) Madden

MOTION PASSED

UNFINISHED BUSINESS

A. Staff update on James Bonfiglio

Director Hude attended an Ingham County Drain Commission Board of Determination meeting Tuesday night where they agreed that there is sufficient evidence that the ICDC can move forward and take action on the Willow Creek Drain.

NEW BUSINESS

Sabbadin referenced the 2020 Meeting Schedule in the packet.

Citizen Planner Workshops from MSU Extension. Director Hude asked board members to let her know if they are interested in attending any or all of the sessions.

LIAISON REPORT

Sabbadin referenced the City Managers report from January 2, 2020.

ADJOURN

The meeting adjourned at 6:25 p.m.



Elizabeth A. Hude, AICP, Community Development Director