

Chairman Porretta called the regular meeting of the Metamora Township Zoning Board of Appeals to order at 7:43 p.m. at the Metamora Township Hall, 730 W. Dryden Road, Metamora, Michigan.

Present: Chairman Frank Porretta, Members Dean Bedford and Phil Bellinger

Absent: None

Also Present: Kimberly Mathis, Rodney Mathis, Darlene Homer, Steve Jones, James Jones, Pamela Jones, Gary Shevnock, Marshall Baeckeroot.

Approval of Agenda

Motion by Member Bellinger, supported by Member Bedford, to approve the agenda as submitted. Motion carried, all voting aye.

Approval of Minutes

Chairman Porretta noted that the next item is to approve the minutes of June 18, 2015. **Motion by Member Bedford, supported by Member Bellinger, to approve the minutes of the Zoning Board of Appeals meeting of June 18, 2015, as presented. Motion carried, all voting aye.**

Public Comments: Non-Agenda Items

None.

Unfinished Business

- A. **Decision on Public Hearing—Rodney & Kimberly Mathis for approval of a variance from the Metamora Township Zoning Ordinance No. 23, Article 13. Schedule of Regulations, Section 1300 for the side setback to be reduced from the required 15 feet to 6 feet.**

Chairman Porretta noted the next item is the decision on the request of Rodney and Kimberly Mathis for a variance. Chairman Porretta suggested approval of the variance with conditions which would include shifting the proposed location of the garage. Mr. Mathis stated he was not in favor of a compromise on the location of the garage. There was discussion of using an air spade for the excavation on the side of the garage facing the neighbor's (Darlene Homer) trees. Changing the grade was discussed and Mrs. Mathis stated the proposed placement area of the garage is the flattest part of the yard so would require the least amount of fill. Soil was discussed and Mr. Bellinger stated the topsoil in that area is a good quality as it was brought up from the riverbed when the lakes were constructed.

Mr. Bellinger suggested a pole barn style construction with posts and a rat wall which would only go approximately 18 inches deep and Mr. Baeckeroot stated this would still impact the root system.

Board discussion.

**APPROVAL OF VARIANCE
1405 Pebble Creek Road
Tax Parcel No. 44-015-103-073-00**

Motion by Chairman Porretta, supported by Member Bellinger, that the Metamora Township Zoning Board of Appeals hereby grants a variance from Article 13, Schedule of Regulations, Section 1300 of the Zoning Ordinance to allow a reduced side setback for the construction of a 28' x 30' garage on property owned by Rodney and Kimberly Mathis at 1405 Pebble Creek Road with the following conditions: 1. That the setback be ten (10) feet rather than the requested six (6) feet, and 2. That an air spade be used for the excavation process on the side toward the neighbor's trees. The grounds for this decision are stated on the attached Final Decision of the Metamora Township Zoning Board of Appeals. Roll call vote: Porretta, aye; Bedford, aye, Bellinger, aye. All ayes, no nays, no absent. Motion carried.

This decision was certified pursuant to the attached Final Decision of the Metamora Township Zoning Board of Appeals dated April 21, 2016.

New Business

None.

Matters for Discussion from the Commission Members

Nothing at this time.

**Motion by Member Bedford, supported by Member Bellinger, to adjourn at 8:03 p.m.
Motion carried, all voting aye.**

Respectfully submitted,
Darlene Wise, Recording Secretary



Frank Porretta, Chairman

cc: All Board Members
Persons requesting same

Township of

Metamora

Jennie Dagher

Clerk

Form M-1-PT

The Rego Press, Inc., Flint, Michigan

Chairman Porretta called the Metamora Township Zoning Board of Appeals public hearing to order at 7:02 p.m. at the Metamora Township Hall, 730 W. Dryden Road, Metamora, Michigan.

Present: Chairman Frank Porretta, Members Dean Bedford and Phil Bellinger

Absent: None

Also Present: Kimberly Mathis, Rodney Mathis, Darlene Homer, Steve Jones, James Jones, Pamela Jones, Gary Shevnock, Marshall Baeckeroot.

The Pledge of Allegiance was recited. Chairman Porretta indicated that this is a public hearing on the application of Rodney and Kimberly Mathis for approval of a variance from the Zoning Ordinance under Section 1300 for a side setback to be reduced from the required 15 feet to 6 feet. The property in question is located at 1405 Pebble Creek Road and is zoned R-1.

The applicant, Rodney Mathis, addressed the Board stating he is seeking a variance to have a two-car garage constructed in the location indicated on the drawing attached to his application which would be between the house and the engineered septic field on the east side of the property. Kimberly Mathis passed out to the Board a basic building design, sewage disposal system permit with drawing, a Google Earth photo of the lot, a survey including the location of the proposed garage, and a recap of their reasons for the variance request. Rodney and Kimberly Mathis stated they propose to use the new garage to store their boats, golf cart, etc. Chairman Porretta stated he has viewed the subject property and asked the applicants why they would not be able to comply with the ordinance. The applicants referred to the photo of their lot and responded the lot is long and narrow and since the ordinance states that garage doors cannot face the road they would have to cut down trees in their circle drive in order to pull into the proposed garage; that the required 15 foot setback would put the proposed garage directly in front of the house; and that they would have more re-routing of their septic lines.

Mr. Porretta asked if anyone in the audience had any comment on this issue. Darlene Homer of 3277 Sandy Shore Drive, next door to the subject property, stated she has a row of Norway spruce trees located along her property line adjacent to the subject property that have been there since 2001. She states the construction of the proposed structure will cut the roots of her trees and she retained an arborist to give his expert opinion on potential damage to her trees. Marshall Baeckeroot of 853 Oak Tree Lane in Lapeer states he has a bachelors degree in forestry and a masters in urban forestry and has 40 years experience as an arborist including teaching at Oakland Community College. Mr. Baeckeroot states he viewed Ms. Homer's property and the stringed area for the proposed garage. He states there are branches of the Norway spruce trees that go into the stringed area and that the root systems are 2 to 3 times as wide as the branches and states the roots would be impacted by the construction and that soil compaction causes suffocation of trees. He states that an individual is allowed to trim branches of a neighbor's tree that grow onto the individual's property but is not allowed to damage the root system of that tree. There was a question and answer period between the Board and Mr. Baeckeroot. Mr. Baeckeroot clarified that the construction process rather than the existence of a structure will damage the roots. Ms. Homer stated she is also concerned that changing the grade would have an impact on the roots. Mr. Bellinger discussed moving the barn up a few

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Township of

MetamoraJennie Dagher

Clerk

Form M-1-PT

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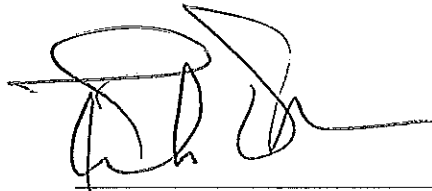
feet and Mr. Bedford suggested a compromise could be made. Mr. Baeckeroot relayed there would still be an impact on the root system and suggested that a plant healthcare program be implemented. Discussion continued regarding the use of an air spade to dig the trench and the roots could then be clean cut rather than torn and ripped.

Jim Jones of 2931 Farmers Creek Road questioned if an air spade were used could they have the 6 foot setback.

Gary Shevnock of 2953 Farmers Creek Road questioned whether he would be legally responsible for the roots of a neighbor's tree.

There being no further questions or comments from the audience, and no written correspondence in response to the Notice of Public Hearing in this matter, **Motion by Member Bellinger, supported by Member Bedford, to close the public hearing at 7:43 p.m. Motion carried, all voting aye.**

Respectfully submitted,
Darlene Wise, Recording Secretary



Frank Porretta, Chairman

cc: All Board Members
Persons requesting same



Metamora Township

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Metamora Township, Lapeer County

Final Decision of the Metamora Township Zoning Board of Appeals

For an appeal by right of this decision to be timely, it must be made to the circuit court for the county in which the property is located within 30 days of the date of this order. (MCL 125.3606).

Appeal Name: _____ Hearing Date: 4-21-16

Applicant: Rodney and Kimberly Mathis

Address: 1405 Pebble Creek

Phone Number: 989-245-0896 Fax Numbers: _____

Type of Request to ZBA (variance, interpretation of zoning map, administrative appeal, other etc.)

ZBA Findings of Fact:

Petitioner wants to build garage. Has limited area because of lot size, large trees, septic field. Neighbor has concerns about potential damage to roots of her trees. Aerial expert opinion supports her.

ZBA Decision:

Variance granted with restrictions

- ① Variance for side setback to 10 ft instead of 15.
- ② Air spade to be used to excavate on side toward neighbor's trees.

Reasons for Decision:

Compromise will allow petitioner sufficient room to build garage; neighbor to have less potential for tree damage.

Votes of ZBA Members:

Frank Porretta Yes No

Dean Bedford Yes No

Phil Bellinger Yes No

Signatures of Members

[Handwritten signatures of Frank Porretta, Dean Bedford, and Phil Bellinger]

I, Darlene Wise, Recording Secretary of the Metamora Township Zoning Board of Appeals, certify that on this date I witnessed the signatures set forth above and attest to the accuracy of this final decision report.

Darlene E. Wise

Darlene Wise, Recording Secretary Zoning Board of Appeals

