

**City of Brighton  
Zoning Board of Appeals  
Regular Meeting Minutes  
November 14, 2019**

The Board for the Zoning Board of Appeals held a regular meeting on Thursday, November 14, 2019 at City Hall, located at 200 N. First Street, Brighton, MI.

**1. Call to Order**

Chairperson Urbain called the meeting to order at 7:00 p.m.

**2. Roll Call**

**Board Members present** were David Chaundy, Jordan Genso, Renee Pettengill, Alicia Urbain, Russ Gottschalk, Mike Schutz and Caitlyn Perry-Dial.

**Also present:** Mike Caruso, Community Development Manager and Kelly Haataja, Executive Assistant to Community Development and an audience of 13.

**3. Approval of the July 11, 2019 Meeting Minutes**

*Moved* by Board Member Genso, seconded by Board Member Chaundy to approve the July 11, 2019 Regular Meeting Minutes. **The motion carried 5-0-2**, with Board Members Urbain and Perry-Dial abstaining.

**4. Approval of the July 10, 2019 Special Meeting Minutes**

*Moved* by Board Member Pettengill, seconded by Board Member Perry-Dial to approve the July 10, 2019 Special Meeting Minutes. **The motion carried unanimously.**

**5. Approval of the November 14, 2019 Agenda**

*Moved* by Board Member Genso, seconded by Board Member Chaundy to approve the November 14, 2019 Agenda. **The motion carried unanimously.**

**Old Business**

None

**New Business**

**6. Advance Craft Builders, Inc., 1293 Brighton Lake Rd.,** is proposing to construct a single-family residential structure, with a four (4) foot setback from a Regulated Wetlands. Chapter 98, Article Sec. 98-5.15 (C), "Regulated Wetlands and Watercourses Setback", requires a minimum twenty-five (25) foot setback from the boundary or edge of a regulated wetland. **A variance of Twenty-one (21) feet is being requested.**

Mr. Caruso stated Mr. Steve Davis, Advance Craft Builders has submitted for a variance request for a side yard setback from a wetland feature. The requirement by the City Ordinance is a twenty-five (25) foot setback from any waterway or regulated wetland. Mr. Davis is requesting a

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twenty-one (21) foot setback variance to construct a new single-family home. It is zoned R-1, Single Family Residential, and located at 1293 Brighton Lake Rd.

Mr. Caruso mentioned in 2001 building permits to construct a new home were issued to the previous owner of the property, and at that time water and sewer taps were paid to the City. Due to financial reasons the property was not developed and the building permit expired. He noted the property was purchased in 2004 by Mr. Davis as a buildable parcel, and the Zoning Ordinance did not have setback limitations in regards to wetlands or waterbodies at that time. In 2018 the Zoning Ordinance changed to require a twenty-five (25) foot minimum setback from a regulated waterway or wetlands.

Chairperson Urbain opened the Public Hearing at 7:04 p.m.

**Jim Steiger, 5354 Princeton** read a letter on behalf of Jim and Judy Cash, opposing the variance request.

**Terri Meldrum, 1210 Brighton Lake Rd.** stated a four-foot variance is not adequate and the wetland serves as a filter for phosphorus that runs off Brighton Lake.

**David Petrak, 1240 Brighton Lake Rd.** stated he believes if the ZBA granted a twenty-one feet variance, it sets a bad precedence for anybody wanting a variance from the wetlands. He stated denying the variance won't make the property unbuildable, it would only decrease the building envelope. Mr. Petrak requested the Board deny the variance.

**Susan Bakhaus, 907 Brighton Lake Rd.** said if the variance is approved it's possible someone could offer the City money for lakefront properties and it could affect lake access to Brighton Lake for the homes in the neighborhood.

**Michael Simonelli, 924 Lincoln Dr.** requested the variance be denied because of the increase in animals using the wetland.

**Tom Singer, 936 Lincoln Dr.** asked the Board if they were aware of a construction barrier close to the pond. He then spoke about a house built after his that was given a variance and it now blocks his view.

**Mike Matich, 918 Lincoln Dr.** recommended denying the variance, stating four feet is not enough space to walk between the home and wetland and he believes it's a disruption to the wetland.

Hearing and seeing no further comments, Chairperson Urbain closed the Public Hearing at 7:21 p.m.

Mr. Steve Davis, Advance Craft Builders introduced himself. He explained he purchased the property fifteen years ago and was confident at that time he would be able to build a house on it, as building permits had already been issued by the City to do so to the previous owner, and water and sewer connection fees had been paid to the City. He stated he is proposing to build a 2,100 square foot home. He stated he confirmed with a consultant there is a regulated wetland

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on the property because it is within five-hundred (500) feet of Brighton Lake. He stated he will not be touching or filling the wetlands, only building next to it, there is a road and houses between Brighton Lake and the wetland, and it does not connect to the lake. He stated State and Federal Laws do not require a setback from wetlands. He stated when he purchased the property the City's zoning ordinance did not have setback requirements from wetlands. He stated he recently submitted for a building permit and learned in 2018 the City ordinance changed and it now requires a twenty-five (25) foot setback from wetlands. He stated the hardship is he purchased the lot with the knowledge of building permits already in place and water and sewer fees paid to the City and the new setback requirement introduced recently makes his lot basically unbuildable. He stated he is not filling the wetlands and the animals using it will not be disturbed and he will only be building on his property, the same way as the other homes on Lincoln Drive.

Board Member Genso asked for clarification that this is a buildable lot.

Mr. Caruso replied yes.

Chairperson Urbain asked about the front yard setback requirement.

Mr. Caruso stated the property does have the required street frontage setback. He explained all of the setback requirements of the property which leaves a thirteen (13) foot wide building envelope.

Board Member Perry-Dial asked if the property was purchased in 2004 why wasn't a house built before the ordinance changed in 2018.

Board Member Urbain indicated she wanted to clarify on some of the comments she heard from the audience. She stated that this property was always buildable up to the wetland until 2018. She noted other properties in this area have had similar and different variances granted to them and now those property owners are requesting this variance be denied.

Board Member Perry-Dial stated ordinances are set to protect the wetlands and waterways and allowing the variance will cause phosphorus to over-take Brighton Lake because it will no longer be filtered by the wetlands.

Board Member Pettengill asked how it would prevent phosphorus to be filtered if the wetlands are not going to be touched.

Board Member Perry-Dial answered by disturbing the ground around the wetlands.

Chairperson Urbain stated the statute language says the setbacks are there except for trails, boardwalks and observation platforms or other similar structures that enhance the enjoyment of the sites natural amenities. She stated she believes the enhancement of natural amenities is the object of this setback, not scientific reasons, based on what's written in the statute.

Board Member Pettengill asked if something sparked the change to this ordinance.

Mr. Caruso responded no, it is standard language used by a consulting firm the City hired for ordinance updates.

Board Member Genso said he would like for the property owner to be able to develop the property, but there needs to be a workable solution to respect the purpose of the ordinance, and a twenty-one (21) feet variance is not the smallest variance necessary to achieve the applicant's goal.

***Moved** by Board Member Genso, seconded by Board Member Perry-Dial to deny the variance request based on the property is still a buildable lot and therefore no hardship is present.*

Board Member Pettengill suggested tabling the request and recommended staff check with the City attorney to make sure a denial to the request is in compliance.

Chairperson Urbain stated she believes there could be legal grounds for a case against the City.

A roll call vote was taken. Chaundy – **NO**, Genso – **YES**, Pettengill – **NO**, Urbain – **NO**, Gottschalk – **NO**, Schutz - **YES**, Perry-Dial - **YES**

**Motion failed, 4-3.**

***Moved** by Board Member Pettengill, seconded by Board Member Genso to table the discussion.*

**The motion carried unanimously with a roll call vote.**

**7. Nomination / Election of Officers (Chairperson & Vice-Chairperson)**

***Moved** by Board Member Pettengill, seconded by Board Member Chaundy to nominate Alicia Urbain as Chairperson.*

**The motion carried unanimously.**

***Moved** by Board Member Pettengill, seconded by Board Member Genso to nominate Caitlyn Perry-Dial as Vice-Chairperson.*

**The motion carried unanimously.**

**8. Staff Updates**

Mr. Caruso advised the Board the tabled item from tonight's meeting is the only agenda item for next month's meeting as of today.

**9. Call to the Public**

Chairperson Urbain opened the Call to the Public at 7:49 p.m. Hearing and seeing no comment, the Call to the Public was closed.

## 10. Adjournment

*Moved* by Board Member Chaundy, seconded by Board Member Gottschalk to adjourn the meeting.

**The motion carried unanimously**, and the meeting was adjourned at 7:49 p.m.

Respectfully submitted,

Kelly Haataja  
Recording Secretary