

**ACME TOWNSHIP
Zoning Board of Appeals
February 8, 2007**

Thursday, 7:30 p.m.
Acme Township Hall
Acme, Michigan

Meeting called to Order at 7:38 p.m.

Members present: J. Kuncaitis (Chair), L. Brohl, D. Krause, D. Smith

Members excused: L. Belcher

Staff present: J. Hull, Zoning Administrator
S. Corpe, Township Manager
N. Edwardson/Recording Secretary

1. **Review and approval of the agenda, inquiry as to conflicts of interest:** None
2. **Correspondence:**
3. **Reports:** None
4. **Hearings:**

a) **The application of Jeffrey O'Brien, 4180 N. Five Mile Rd., Williamsburg, MI 49690, for a determination pursuant to Section 9.5, Extension of Nonconforming Use of Structure, to allow a proposed addition to a nonconforming structure at 4180 N. Five Mile Rd.**

Brohl read the published public hearing notice into the record. Kuncaitis asked if there had been a hearing on the back portion of the house to which O'Brien responded three years ago he had a addition put on. O'Brien said now the addition is on the front side of house. He said the reason for the proposed addition was to create a bedroom for his two special needs daughters, a master bedroom for him and his wife and additional storage. O'Brien also has two other special needs children. Scott Ardelean, O'Brien's builder was on hand to answer any questions that might arise. There was no public comment. Krause commented that several years he had come before the ZBA for the same request. He saw no reason not to grant the request.

MOTION BY KRAUSE. SECONDED BY SMITH TO APPROVE THE APPLICATION OF JEFFREY O'BRIEN AS PRESENTED. MOTION PASSED UNANIMOUSLY.

b) **The application of Bart Nielsen/Cherryland Dairy, 56 Tayco St., Menasha, WI, 54952, for a variance pursuant to Section 5.3.3. from the front and side yard setback requirements of Section 8:20, Food Processing Plants including Cooling Stations in A-1 Districts, related to proposed construction of a cheese factory located at 9048 US 31 North.**

Brohl read the published public hearing into the record. Nielsen introduced, Mark Lewis, Inland Seas Engineering firm, retained to do site preparation work, Judith Tank Danford, friend and supporter. Nielsen gave a brief history of

himself. He comes from a family of cheese makers starting with his grandfather. Nielsen had a cheese factory in Wisconsin that he sold in 1988 to relocate to Traverse City to attend the Maritime Academy; while here he fell in love with the area and the vision of a cheese factory in this area was born. In 2000, he married and had three children. After much searching he believes he has found the ideal location at 9018 US 31 North, to build a cheese house and live in the existing house. His 80 year old parents will be living with his family.

O'Brien said that the typical setback requirements for buildings are 50 feet from the right of way and 25 feet from the side lot line. The setback requirements for a Special Use Permit for food processing on agricultural land call for a 200 foot setback from any right of way and 100 feet from any side lot line. Nielsen sited three considerations for requesting a zoning variance; Acme Township Master Plan policies regarding Watersheds, Natural Resources, Open Space and the Landscape, in Policy #9 states: "As scenic views have been identified as valuable assets of the community, the placement of build structures should be done so as not to diminish these views. The uses and total densities of structures shall not differ within any district, only the placement and pattern of development.;" he also talked about the Yuba Creek Natural Area Management Plan which states that "whenever possible, acquisition of conservation easements on adjacent property shall be sought to reduce protection costs and public impact on the Creek corridor" and lastly McDonough of the Grand Traverse Conservancy did a on-site inspection of the property and believes the ideal conservation easement would be 260 feet from the southeast corner of the parcel and 310 feet from the northeast corner of the parcel. As part of the project the Conservancy will purchase the interior approximate-half of the property and pay for a no-build easement on the eastern part of the outer half. The reasoning behind this is to keep building away from the ridge, and thereby keep buildings from being seen from the Yuba Creek Natural Area.

Nielsen is requesting that his setback requirement be allowed to be 50 feet from the right of way and 25 feet from any side lot line. Nielsen concluded that this region is very unique as much as his product will be to the area. He is excited about contributing back to the community. He has always found Acme Township to be helpful, encouraging. He is excited about working with the township.

Smith asked the size of the building. Nielsen said the first building would be 36x80. The front 12 feet would be retail space, public restrooms. The back of the building would be a covered space for the intake of the raw milk on trucks. Between the retail and the intake portion of the building will be storage. The boiler room/storage building will be 36x40. Nielsen said that there will be open space between the home and the Boiler room. He said the mature trees and hedges already planted will not be disturbed.

Krause said there is landscaping ordinance in effect, He said we do take into effect what is already there. Krause believes that some landscaping will be required along the south side of the property line and the driveway. He felt it was a excellent project, and the location was the logical spot.

Brohl also expressed that in the big picture this plan complies with the master and building plan. She said it creates a buffer for a very unique situation. A letter from the Friends for Yuba Preservation was read into the record supporting the variance request.

Kuncaitis opened up for public comment.

Judith Tank Danford, 4288 Farrell Rd, is a friend of the Nielson family. She thanked Hull for doing his "homework" for the staff report. She also believes this project to truly be an asset to the community. The property is very unique with breathtaking views of the bay; a perfect setting for this "cottage industry". She suggested that further review be done regarding cottage industries for future circumstances that come before the board.

Public comment session closed.

Kuncaitis expressed concern about this being a precedent setting in 2-3 months when another applicant would request the same variance. He felt that the definitions of food processing and cottage industries was causing some problems.

Hull commented that the ZBA is not a planning body. It is not here to engage in land use planning. The US is a nation of laws and that is important. State law says there has to be practical difficulties. Hull along with Legal have a problem with this being a practical difficulty. Hull feels the parcel is unique; however, it is not the topography that is creating the problem, it is the first desire to modify the view from another parcel that is at issue, and this is an issue because proper, legally-required screening and alternative building designs have not been considered.

Corpe pointed out that this property is surrounded on three sides by natural area. She believes this and John Pulicpher's land to be the only ones in the Township.

MOTION BY KRAUSE THAT WE APPROVE THIS ZONING VARIANCE REQUEST HAVING MET ALL THE BASIC CONDITIONS AND THAT SPECIAL CONDITION B AS STATED IN THE STAFF REPORT BE MET, ALSO THE CONDITION IF ANY EXPANSION IS DESIRED IN THE FUTURE THAT NIELSEN RETURN TO THE ZBA FOR APPROVAL. SMITH SECONDED. MOTION PASSED UNANIMOUSLY.

Brohl asked what kinds of cheese will be made. Nielsen said Cheddar, Colby, Cheese curds, parmesan, mozzarella...just a variety!!

5. **Approval of minutes from the January 11, 2007, regular meeting**

MOTION BY BROHL. SUPPORTED BY KRAUSE TO APPROVE THE JANUARY 11, 2007, MINUTES AS PRESENTED. MOTION PASSED UNANIMOUSLY.

Meeting adjourned 9:00 p.m.