

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF A REGULAR MEETING HELD
THURSDAY, AUGUST 6, 2020

LOCATION: VIRTUAL MEETING

PRESENT: CHAIRMAN: AARON TUCKFIELD
DAWN SLOSSON, SECRETARY
MEMBERS: DAVID PIEPER
DAVID DeCOSTER

ABSENT: MEMBER: KRISTI POZZI

ALSO PRESENT: JOSH BOCKS, PLANNING DIRECTOR
(Additional attendance record on file with Clerk)

1. Call Meeting to Order.

Chairman TUCKFIELD called the meeting to order at 7:01 P.M.

2. Roll Call.

Chairman TUCKFIELD called the roll. Members POZZI was absent.

3. PLEDGE OF ALLEGIANCE.

Chairman TUCKFIELD lead the Pledge of Allegiance.

MOTION by PIEPER seconded by SLOSSON to eliminate Member POZZI'S name from roll call votes.

FOR THIS MOTON

AYES: PIEPER, SLOSSON, TUCKFIELD, DeCOSTER.

NAYS: NONE.

ABSENT: POZZI.

MOTION carried.

4. Approval of Agenda Items. *(with any corrections)*

Note: All fees have been received and all property owners were notified by mail.

MOTION by SLOSSON seconded by DeCOSTER to approve the agenda as presented.

FOR THIS MOTION

AYES: SLOSSON, DeCOSTER, PIEPER, TUCKFIELD.

NAYS: NONE.

ABSENT: POZZI.

MOTION carried.

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5. Approval of the previous meeting minutes.

MOTION by SLOSSON seconded by PIEPER to approve the minutes of July 2, 2020 as amended.

Page 2 Election of Officers – There are three motions and wants to clarify who the motion was made for and wants to clarify who the motion was for.

Page 3 – By-Laws (has been clarified to when we meet at town hall)

FOR THIS MOTION

AYES: SLOSSON, PIEPER, TUCKFIELD, DeCOSTER.

NAYS: NONE.

ABSENT: POZZI.

MOTION carried.

6. New Business:

A. VARIANCE REQUEST FROM ZONING ORDINANCE

Section 10.0311(E)(f)(3)-To allow an unenclosed swimming pool to be located 5 feet 0 inches from a principal structure where a minimum 10 feet 0 inches in required. This request is for a dimensional variance of 5 feet 0 inches.

Located in Evergreen Estates Subdivision, 51088 Ariana Court, north of 23 Mile Road and east of Romeo Plank Road; Section 16; Dan and Jennifer Feldman, Petitioners. Permanent Parcel No. 08-16-475-024.

Josh Bocks, Planning Director, gave an background on the variance request.

The petitioner submitted a letter of practical difficulty dated June 24, 2020 as follows:

“Move the pool 5 feet from house, fiberglass pool install with Oasis Pools, concrete, auto cover, pool pump, heater and filter with various sub contracts. Variance needed because of 2 sewer easements totaling 21 feet.”

Member PIEPER asked if this was a safety issue/hazard.

Josh Bocks, Planning Director, stated he did not see this as a safety concern and indicated that neighbors had submitted letters in favor of the request.

Chairman TUCKFIELD asked about the AC Unit and if this is something that they will be seeking a variance on.

Josh Bocks, Planning Director, stated there is no variance being sought on the AC unit based on what was submitted in their letter.

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Brian Winston, representative, was in attendance.

Chairman TUCKFIELD asked Brian Winston if a variance was going to be necessary for the AC unit.

Brian Winston, representative, stated that the Building Official needs to sign off on the application.

Dan and Jennifer Feldman, petitioners, were in attendance.

Public Portion: None

The following resolution was offered by PIEPER and seconded by SLOSSON:

Whereas, it has been satisfactorily presented that special conditions prevail that would cause a practical difficulty if the request would be denied, and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance No. 10 under the findings and facts herein set forth;

Now, therefore, be it resolved, that the action of the Board is to grant the requested variance of Section 10.0311(E)(f)(3)-To allow an unenclosed swimming pool to be located 5 feet 0 inches from a principal structure where a minimum 10 feet 0 inches in required. This request is for a dimensional variance of 5 feet 0 inches; Located in Evergreen Estates Subdivision, 51088 Ariana Court, north of 23 Mile Road and east of Romeo Plank Road; Section 16; Dan and Jennifer Feldman, Petitioners. Permanent Parcel No. 08-16-475-024.

FOR THIS MOTION

AYES: PIEPER, SLOSSON, DeCOSTER, TUCKFIELD.

NAYS: NONE.

ABSENT: POZZI.

MOTION carried.

B. VARIANCE REQUEST FROM ZONING ORDINANCE

Section 10.0311(E)(f)(3)-To allow an unenclosed swimming pool to be located 10 feet 0 inches from a property line where a minimum 25 feet 0 inches is required. This request is for a dimensional variance of 15 feet 0 inches due to being a corner lot.

Located in Strathmore Condominiums, 19159 Gearhart, south side of 26 Mile Road, and west of Broughton Road; Section 4; George and Krystal Marshall, Petitioners. Permanent Parcel 08-04-126-009

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Josh Bocks, Planning Director, gave the background on the variance request and indicated the petitioner had submitted a revised plan indicating that they would not be going in the utility easement and therefore Planning and Building would be in support of the variance.

The petitioner submitted a letter of practical difficulty dated June 24, 2020 as follows:

“We would like to install an inground pool in our fenced in backyard. We live on a corner lot and are requesting the ability to encroach on the 25’ building set back by possible 15’ and the storm easement and/or public utility easement by 3 feet. In our yard we have an existing stamped concrete patio that was constructed about 4 years ago, prior to us knowing the rules/regulations regarding pool installation and building in the area extending past the width of the house.

We would like to install an inground pool roughly 18x30 bean shaped encroaching in the building setback area, curving around in front of the concrete patio. We had Kerry from Wind, Surf and Sails Pool Inc. come out for a quote, he then informed us we would not be able to install a pool primarily in front of our patio due to the size constraints of the area and the presence of the storm easement. This is why we are requesting a variance to encroach on the building set back and possibly the storm/public utility easement.

When we purchased this lot, the size of it was one of the main attractions. We always knew we would want to install a pool for our family to enjoy. Both my husband and I grew up with a pool and feel we had some of our best childhood memories swimming. Having two children (9 & 7) of our own we realized the positive impact a pool would have on them. Residing in a state where we are surrounded by water being acclimated is important. The installation of a pool would assist in developing their swimming skills as they have been involved in swim lessons since they were 3 years old. My oldest is showing interest in competitive swimming, the ability to swim at home will assist her in accomplishing her goals. Both myself and my husband serve the community working as an Emergency Department RN and a Macomb Township Firefighter. We understand the importance of physical activity and cardiovascular health. With child obesity rising we are interested in ways to continue to keep our children, family and friends active and healthy.

If this variance is granted, there would be a variety of privacy bushes and other greenery planted that is aesthetically appealing to block the direct vision upon entrance into our community. We are good neighbors who follow our HOA guidelines and have good upkeep of our property. We considered our neighbors perspective on this project, attached is a letter to reference their support. I also reached out to the board of our HOA, who did not see any problems with this project. I have provided pictures of our yard demonstrating where we would like the pool to be installed (the trampoline and play structure will be removed). Thank you for your time and consideration.”

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Member SLOSSON asked about the recommendation if the variance were to approved it stated that there were conditions upon it and wondered if those still be applicable or no longer needed due to the revision of the plat plan.

Josh Bocks, Planning Director, stated it wouldn't be a bad decision to include them into the motion should your choice be to grant the request.

Krystal and George Marshall, petitioners, were in attendance.

Chairman TUCKFIELD asked if the petitioner would be comfortable with keeping a 10 foot distance from all existing structures.

The Marshall's indicated they had no issues with that request.

Public Portion: None.

The following resolution was offered by DeCOSTER and seconded by SLOSSON:

Whereas, it has been satisfactorily presented that special conditions prevail that would cause a practical difficulty if the request would be denied, and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance No. 10 under the findings and facts herein set forth;

Now, therefore, be it resolved, that the action of the Board is to grant the requested variance of Section 10.0311(E)(f)(3)-To allow an unenclosed swimming pool to be located 10 feet 0 inches from a property line where a minimum 25 feet 0 inches is required. This request is for a dimensional variance of 15 feet 0 inches due to being a corner lot; Located in Strathmore Condominiums, 19159 Gearhart, south side of 26 Mile Road, and west of Broughton Road; Section 4; George and Krystal Marshall, Petitioners. Permanent Parcel 08-04-126-009.

FOR THIS MOTION

AYES: DeCOSTER, SLOSSON, PIEPER, TUCKFIELD.

NAYS: NONE.

ABSENT: POZZI.

MOTION carried.

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C. VARIANCE REQUEST FROM ZONING ORDINANCE

Section 10.0311(E)(f)(3)-To allow an unenclosed swimming pool to located in side yard due to being a double fronted lot when rear yard is required.

Located at 15671 25 Mile Road, north side of 25 Mile Road, and east of Hayes Road; Section 6; Allen Diegel, Petitioner. Permanent Parcel 08-06-300-037.

Josh Bocks, Planning Director, gave the background on the variance request.

The petitioner submitted a letter of practical difficulty dated June 23, 2020 as follows:

- “1. Currently, I have been unable to acquire a building permit for an above ground pool. The only ordinance that I can find regarding back yard and side yard set back requirements is Section 10.0311(E)(f)(3). This zoning requirement states a minimum of 7.5’ from side property line, a minimum of 6’ from rear property line, and a minimum of 10’ from other buildings. I have been denied access to a building permit for the pool and was told to go to ZBA for a variance. This is based on not being allowed a pool in a side yard, I have been unsuccessful in finding that ordinance. Our current parcel is more than twice the size of any average subdivision lot. We are not part of any current subdivision. This residence was deemed historic by Macomb Township and allowed to be left in place as all the house were built around it in the latest development of River Pointe Subdivision.
2. This property is unique in size and layout of the structure. The house was built over 100 years ago which is the reason why it was deemed historic and does not meet many other set back requirements that currently exist.
3. I am requesting the variance because we have plenty of room in our yard for a pool. It is 22’ away from the house, 40’ away from side property line, 110’ from 25 Mile Road, and 67’ from Clinton Avenue. Other properties don’t share this same unique layout, and most are not deemed historic.”

Allen Diegel, petitioner, was in attendance.

Public Portion: None.

The following resolution was offered by SLOSSON and seconded by DeCOSTER:

Whereas, it has been satisfactorily presented that special conditions prevail that would cause a practical difficulty if the request would be denied, and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance No. 10 under the findings and facts herein set forth;

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Now, therefore, be it resolved, that the action of the Board is to grant the requested variance of Section 10.0311(E)(f)(3)-To allow an unenclosed swimming pool to located in side yard due to being a double fronted lot when rear yard is required; Located at 15671 25 Mile Road, north side of 25 Mile Road, and east of Hayes Road; Section 6; Allen Diegel, Petitioner. Permanent Parcel 08-06-300-037. The variance is granted due to the uniqueness of the lot having a double fronting status.

FOR THIS MOTION

AYES: SLOSSON, DeCOSTER, PIEPER, TUCKFIELD.

NAYS: NONE.

ABSENT: POZZI.

MOTION carried.

D. VARIANCE REQUEST FROM ZONING ORDINANCE

Section 10.0704(d)(1)(3)-To allow a principal structure to located 24.18 feet from rear property line where a minimum 35 feet is required and to allow the principal structure to locate 50.66 feet from road centerline where 55 feet is required. This request is for a dimensional variance due to unique shape of lot and due to uncommon utility easement.

Located in Riviera Ridge II, 21857 Highland Drive, north side of 22 Mile Road, and east of Card Road; Section 23; Newmark Home of Michigan, Petitioner. Permanent Parcel 08-23-352-025.

Josh Bocks, Planning Director, gave the background on the variance request.

The petitioner submitted a letter of practical difficulty dated June 26, 2020 as follows:

- “1. The strict enforcement of this ordinance would require significant plan revisions that would cause the home plan to be atypical of area home designs lessening its value and detracting from the overall appearance of the community. We are not trying to over-build on this lot. The proposed home is 2,150 SqFt Ranch, 3 bedroom, 2 ½ Bath and 2-Car Garage. This design coincides with area home sizes.
2. This property is unique in the following ways:
 1. The lost frontage is placed halfway into the radius of a court causing the setback to be significantly reduced given the court radius.
 2. The northwest lot corner is tapered at the rear yard because of the DTE utility easement that is not regularly found next to lots.
3. These circumstances were not caused by the builder since the utilities easement and roads were already established before subdivision development
4. The request for variance on this lot should be accepted for the following reasons:

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1. Due to the DTE easement, there will be no home built on the west side or the northwest corner of the property that would be affected by this variance. There are no neighbors that would be affected by the approval of this variance.
2. The functional building area on this side is 2,650 SqFt, whereas the building area on a standard 70'x120' lot is 2,940 SqFt. This lot has a building deficiency of 290 SqFt.
3. The northwest corner of the property abuts the DTE easement. There will be no neighbor at the corner of this property that would be affected by this variance.
4. Regarding the front set back, the front of the home follows the curve of the road and will not be a visual blunder to the community. There will be no home built on the west side that would be obstructed by the approval of this variance."

Member PIEPER asked if this is an issue that should have been identified during site plan approval.

Josh Bocks, Planning Director, stated it is something that should have been seen but could understand how it had been overseen.

Sandro Palazzolo, petitioner, was in attendance.

Chairman TUCKFIELD asked if there were any house to the west of the parcel or if there was any that could be built to the west.

Sandro Palazzolo, petitioner, responded that the property to the west contains the DTE utility easement.

Public Portion: None.

The following resolution was offered by DeCOSTER and seconded by SLOSSON:

Whereas, it has been satisfactorily presented that special conditions prevail that would cause a practical difficulty if the request would be denied, and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance No. 10 under the findings and facts herein set forth;

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Now, therefore, be it resolved, that the action of the Board is to grant the requested variance of Section 10.0704(d)(1)(3)-To allow a principal structure to located 24.18 feet from rear property line where a minimum 35 feet is required. This request is for a dimensional variance due to unique shape of lot and due to uncommon utility easement; Located in Riviera Ridge II, 21857 Highland Drive, north side of 22 Mile Road, and east of Card Road; Section 23; Newmark Home of Michigan, Petitioner. Permanent Parcel 08-23-352-025. This is approved on the cut out of the DTE easement in the backyard.

FOR THIS MOTION:

AYES: DeCOSTER, SLOSSON, PIEPER, TUCKFIELD.

NAYS: NONE.

ABSENT: POZZI.

MOTION carried.

The following resolution was offered by DeCOSTER and seconded by SLOSSON:

Whereas, it has been satisfactorily presented that special conditions prevail that would cause a practical difficulty if the request would be denied, and that conditions exist that are unique to the property and the granting of the request would not confer special privileges for the petitioner that would be denied other similar properties, that the variance request would be consistent with the spirit and intent of the Macomb Township Zoning Ordinance No. 10 under the findings and facts herein set forth;

Now, therefore, be it resolved, that the action of the Board is to grant the requested variance of Section 10.0704(d)(1)(3)-To allow the principal structure to locate 50.66 feet from road centerline where 55 feet is required. This request is for a dimensional variance due to unique shape of lot and due to uncommon utility easement; Located in Riviera Ridge II, 21857 Highland Drive, north side of 22 Mile Road, and east of Card Road; Section 23; Newmark Home of Michigan, Petitioner. Permanent Parcel 08-23-352-025. This is approved on the curvature of the front yard.

FOR THIS MOTION:

AYES: DeCOSTER, SLOSSON, PIEPER, TUCKFIELD.

NAYS: NONE.

ABSENT: POZZI.

MOTION carried.

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E. VARIANCE REQUEST FROM ZONING ORDINANCE

Section 10.1305(G)-Request to allow a wall of arborvitae as screening between property that abuts to residential in place of six foot masonry wall
Located on the north side of Hall Road between North Branch and Deneweth;
Section 35; Sensusone, LLC, Petitioner. Permanent Parcel 08-35-476-045.

Josh Bocks, Planning Director, gave the background on the variance request.

The petitioner submitted a letter of practical difficulty dated July 20, 2020 as follows:

“The amended site plan for Precision Surgery Center requires a 6’ high concrete screen wall due to width of greenbelt. However, DTE poles that run east to west along the north property line prevent us from being able to safely install the necessary concrete foundation where its required to provide needed spacing from parking lot curb line. As a result, the face of the concrete wall gets to within 3.5’ of curb line and car bumpers typically require approximately 20’. To accomplish the above distance of 3.5’ from face of wall to curb line, it requires our concrete foundation to be poured within 6” of the DTE Pole and this will require a trench that is closer than 6” to the DTE Pole. We believe this to be very unsafe. Please see Illustration A, which is a cross section of the problem. The proposed (2) rows of arborvitae will provide an equal visual barrier, but much safer. We will also be installing a level (2) generator enclosure to better manage sound.

Member DeCOSTER asked if there has been any other variance granted to this parcel.

Member PIEPER stated that a variance had been granted for the height of the ceiling to allow for additional height due to the equipment.

Josh Bocks, Planning Director, wanted to mention that he had sent out a signed petition that are opposed to the vegetative wall and would rather have a masonry wall.

Member PIEPER stated the petitioner indicates that it would be difficult to construct the masonry wall and wanted it clarified that there was a difference between difficult and impossible to construct a wall with the utility poles in their given location.

Josh Bocks, Planning Director, stated the installation of the masonry wall could not be done the entire length because of the poles. There would have to be breaks in the wall to meet the requirements for spacing around the utility poles to service the equipment up on the poles. It would be impossible to have a masonry wall the entire length, but it would be difficult but not impossible to use a hybrid situation where its masonry in some places and vegetation in others.

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Mike Piette, petitioner, was in attendance and provided a diagram to illustrate the variance being requested. Planting two rows of green landscaping would be an alternative since there was no requirement for them to place landscaping between the wall and residents. Lastly, we believe from a visual prospective the landscape would be preferred and that it was a safety issue to dig the proper trench for this wall.

Member DeCOSTER stated he did see the hardship but believed there were other options available (i.e. Moving utility poles, imposing panel type masonry walls)

Member SLOSSON asked if it was an option to use the different masonry walls would that be something you would be open to.

Mike Piette, petitioner, indicated that he would not be opposed.

Chairman TUCKFIELD asked if Tom Esordi, Township Attorney, was in attendance and available for interpretation.

No response was provided.

Chairman TUCKFIELD asked if it was okay to give suggestions on possible alternatives.

Josh Bocks, Planning Director, stated he did not believe in his opinion there was an issue with providing suggestions, but believed it to be appropriate to have a resubmittal by the petitioner so that it is an official request is made and that it be tabled so no additional fees need to be paid.

Public Portion:

Vito Meatte, 45440 North Branch, stated he was surprised that anything other than a masonry wall would be considered being built since there is a 3-story facility that has visual view to the homes that are behind them. Also, the consideration of putting trees up as a border for commercial to residential when there should be a 10-foot masonry wall. Lastly, he indicated that he was opposed to the variance request and that it should be only a masonry wall.

Donald Verrier, 45300 Deneweth, stated he had been talking with the other residents and that they were opposed to the variance and noted that a petition had been submitted into the township indicating their opposition.

Denise Verrier, 45300 Deneweth, read a letter from Crystal Lappin, 45212 Deneweth, indicating her opposition to the variance request.

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Dannielle Faulkender, 45245 North Branch, stated her main concern was the safety of the vehicles entering/exiting the property in question. Also, whose responsibility would it be to take care of the proposed trees.

Chairman TUCKFIELD stated it would be the property owners.

Mike Piette, petitioner, stated the building is 2 stories not 3 stories as indicated by the neighbors. The intent is to not avoid putting a wall up, but believed that the height of a parallel row of abbreviates would create a far better visual then a 6 foot 6 inch masonry wall and that we did explore other wall alternatives to maintain that look.

Donald Verrier, 45300 Deneweth, stated he has not heard anything about the sound being addressed. He noted that he had submitted a letter into the Township about the decibels and that a concrete wall is what you need to reduce the sound.

Member DeCOSTER stated a decision could be made on the variance only. He noted that he was not recommending another type of wall but that he had seen it done at other sites.

Chairman TUCKFIELD asked Mike Piette when were the utility poles had been placed in the ground.

Mike Piette, petitioner, stated he did not have a direct answer.

A lengthy discussion ensued about the construction/location of the masonry wall in relation to the utility poles.

Josh Bocks, Planning Director, stated the best solution would be to table the variance request being sought to avoid any additional fees having to be paid. Lastly, this parcel is an office zone and not commercial as indicated and that there are some slight differences between the zones.

Chairman TUCKFIELD asked Mike Piette if he would the board to proceed with a vote or to have the item tabled.

Mike Piette, petitioner, stated he would like to have the item tabled.

MOTION by PIEPER seconded by SLOSSON to table the variance request to September 3, 2020 based upon comments received from staff and board along with the petitioner asking for a tabling.

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FOR THIS MOTION

AYES: PIEPER, SLOSSON, TUCKFIELD, DeCOSTER.

NAYS: NONE.

ABSENT: POZZI.

MOTION carried.

7. Old Business:

None.

8. PUBLIC COMMENTS:

Unidentified individual asked about the meeting being unadvertised and if there would be a letter sent out for the September 3, 2020 meeting.

Josh Bocks, Planning Director, stated that a 300-foot notification would be sent out as previously done for this meeting but would not be published in the newspaper.

9. ZBA Member Comments.

Member DECOSTER asked about holding meetings back at town hall and if there was a time frame for they would resume.

Chairman TUCKFIELD asked Josh Bocks, Planning Director, stated the Executive Order is set to expire August 11, 2020 but that there was another Executive Order in regards to the virtual meetings to extend up to 28 days beyond when the State of Emergency lapses so at this point it would be possible to meet in person September 3, 2020 if the township chooses unless the State of Emergency gets extended before August 11, 2020.

Chairman TUCKFIELD stated if there was a way to meet keeping the social distance guidelines meet he would like to go back to hosting meetings at town hall.

Member SLOSSON asked when a decision where to be made how would it be relayed to the rest of the board.

Chairman TUCKFIELD stated he would be in contact with everyone.

Chairman TUCKFIELD congratulated all those candidates that made it through the Primary Election and to those candidates that were part of the process. He also thanked Member POZZI who is also the Township Clerk for the hard work and dedication put forth in running the election.

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10. PLANNING DIRECTOR COMMENTS

None.

11. ADJOURNMENT

MOTION by SLOSSON seconded by DeCOSTER to adjourn the meeting at 8:52 p.m.

FOR THIS MOTION

AYES: SLOSSON, DeCOSTER, TUCKFIELD, PIEPER.

NAYS: NONE.

ABSENT: POZZI.

MOTION carried.

Respectfully submitted,

Aaron Tuckfield, Chairman

Dawn Slosson, Secretary

Beckie Kavanagh, Recording Secretary
Bk