

**Cannon Township Zoning Board of Appeals  
Regular Meeting Held Tuesday, November 18, 2014 at 6:15 PM**

**Business Agenda Items:**

ZBA 14-5 Kipp Bronk  
ZBA 14-3 Ruth Kaminski

**Members Present:** Birn, Eslinger, Hanna & Masterson

**Members Absent:** Levan & McBrien

**Staff Present:** Zoning Administrator Lovelace & Attorney Van Essen

The invocation was offered by Commissioner Eslinger

**Approval of Minutes: Move to approve minutes from October 7, 2014 as written. Motion: Eslinger. Second: Birn. Voice vote: Yes – 4, No – 0. Motion carried.**

**Public Comments:** None.

**Public Hearing (time open 6:15 p.m. and closed 6:20 p.m.):**

ZBA 14-5 Kipp Bronk  
7007 Silver Lake Dr. Rockford MI 49341  
41-11-09-278-028

The applicant appeals a decision under Zoning Ordinance Section 3.03B4a (Accessory Structure size limitation) and asks the Board to grant relief from this ordinance.

Kipp Bronk 7007 Silver Lake - There is no proper frost wall on the existing garage. It is built on a slab. He would like to modify the garage. He felt his suggested addition is the most compromising with the ordinance.

**New Business:**

ZBA 14-5 Kipp Bronk  
7007 Silver Lake Dr. Rockford MI 49341  
41-11-09-278-028

The applicant appeals a decision under Zoning Ordinance Section 3.03B4a (Accessory Structure size limitation) and asks the Board to grant relief from this ordinance.

**Move to deny request for addition because the garage is already larger than that allowed in this zoning district: Eslinger. Second: Birn. Roll Call: Birn - Yes, Eslinger – Yes, Hanna – Yes, Masterson – Yes. Motion carried 4-0.**

**Pending Business:**

ZBA 14-3 Ruth Kaminski  
5430 Shawkoto Trail Belmont MI 49306  
41-11-20-300-042

The applicant appeals a decision under Zoning Ordinance Section 19.08 (Standards for Private Roads Serving 10 or more lots) and asks the Board to grant relief from this ordinance.

Attorney Tom Amon spoke on behalf of Ruth Kaminski. Mr. Amon reviewed Ms. Kaminski's situation with the Board. He mentioned the previous variances for Geer and Wiersma. He pointed out that there is a curb cut on Ms. Kaminski's property even though the property has not been split. He does not feel that it will be a problem allowing Mr. Geer and Mr. Wiersma to join the private road agreement, though Kaminski does not have the final say. She cannot force the neighbors pitch in to pay for the turnaround. He suggested that the Board granted previous variances without conditions. Ruth Kaminski (5430 Shawkoto) wanted to reiterate that she felt like she is not being treated fairly. She felt like her lot was grandfathered in. She would not support letting Geer or Wiersma join the road agreement if she could not get her variance. Bob Alighire 5500 Shawkoto trail would like to see the variance granted. Richard DeGraaf (5530 Shawkoto) felt like Kaminski had more of a right to the variance than Geer and Wiersma did. Rich Huizenga (5465 Shawkoto) supported granting the variance. Nicholas Turner (5550 Shawkoto) approved granting the variance. Paul Geer (5959 Cannonsburg) has a parcel on the north boundary of Kaminski's property. The property does have a transformer for electric at the property to be split. He and Ruth Smiley had no objection to her variance. Jonathan Ertle (5475 Shawkoto) was in favor of the variance. He felt it was unwise of the Township to give a variance to the people on the other side of Shawkoto. He did not want the road improved. He was not in favor of adding more houses to the road. Sean Cordier (5525 Shawkoto) has a 10-acre parcel farthest to the north. Their lot would be able to be split. He felt like this problem dated back at least 25 years. He supported Kaminski for the variance. He had no intention of splitting his lot now, but he may in the future. He would bear the full burden of upgrading the entire road if this variance were granted. He questioned the legality of the Township's decision to grant the variances for Geer and Wiersma. That decision was explained by Attorney Van Essen. Their easement predated Shawkoto Trail. The variance was conditional on their abandonment of that easement. Easements are private property rights and do not require Township approval. Therefore, the Township had no say in the matter when the easements were drawn up. The Township and the Road Commission would never have allowed two private roads running side by side. Mr. Cordier asked the ZBA why they did not ask for improvement of the road at the time the Geer/Wiersma variances were granted. The private road agreement does not require the 11<sup>th</sup> person to pay for upgrades according to the residents present. Mr. Hanna reminded the audience that the ZBA asked for the very least upgrade, which was a turnaround. Kaminski thought the issue was not who has to upgrade the road, but that the Board took her right as the 10<sup>th</sup> property away. Attorney Van Essen said he has not seen any evidence that Kaminski had the right to the 10<sup>th</sup> spot. The lot has not yet been split. No one "took" Ms. Kaminski's right away; she did not "perfect" her right by splitting her lot. Mr. Cordier had issue with the lots being added along the west side of the road, which took their place in line for splits. Mr. Cordier said that the Board was concerned about the health and welfare of the residents, but they added more burden to the road. Attorney Van Essen said at some point in time someone will need to be turned away when they ask for a variance. The question is where to draw the line. He reminded the residents that they must formally recognize that 12 is the limit for variances. That would be drawing the line. Eslinger also asked for the Association's position on the turnaround. Kaminski did not feel these things should be tied to her variance. She reiterated that no contingencies were put on the previous variances. The residents in the room did not all agree to grant the previous variances, but stated they all agreed to grant Kaminski's. Van Essen reminded the audience that the previous variances were indeed conditional. They had to abandon their right of their easement. Attorney Amon stated that the Board tried to address a private easement issue and were not concerned at the time with a turnaround.

Kaminski stated that the previous owner of Cordier's property had no intention of splitting their property. DeGraaf asked what it would take to upgrade the road. Lovelace explained that the ordinance requires a full upgrade up to the new lot. The ZBA requested a turnaround in lieu of that upgrade with additional two conditions spelled out at the last meeting. Attorney Van Essen said that the Township could condemn the road and do a special assessment of Shawkoto Trail to do a full upgrade. Hanna verbalized his disappointment that the Private Road Association did not meet to discuss the three criteria prior to the meeting. Van Essen gave his opinion that, if the two conditions were met, he would support the granting of the variance without the turnaround. The ZBA could grant a variance conditional on showing that the first two conditions have been met. Van Essen also stressed that the turnaround is a very important factor to the Fire Chief for the safety and welfare of our residents. Chief Morris could ask the Board for a special assessment. Attorney Van Essen would like some commitment/document endorsed by the entire Shawkoto Community that agreed that no additional variances would be applied for after this. They would also need to show proof that Geer and Wiersma have been allowed by buy into the Association.

**Board Comments:** Eslinger would like to see the neighbors on Shawkoto in agreement. Birn stated that Kaminski and all of the neighbors were of the understanding that the Kaminski lot would be #10. He felt it would be unfair to not grant the variance. He had no problem with the first two conditions from the Township. He felt that this was extraordinary and unique. He felt the ZBA created the issue by not requiring the turnaround with the Geer/Wiersma variances. He felt this would be substantial justice if the variance were granted with conditions. He would like to see a time limit on the conditions.

**Move to grant the variance contingent upon:**

- 1. The Association submits condition in writing that they will allow Geer, Wiersma, & Kaminski to buy into private road agreement signed by all current owners.**
- 2. Another document stating they understand this would be the last variance from improving Shawkoto Trail signed by all current owners.**
- 3. These conditions must be reviewed and approved by Attorney Van Essen and must be submitted within 90 days. MOTION: Eslinger. Second: Hanna. Roll call: Birn – Yes, Eslinger – Yes, Hanna – Yes, Masterson - Yes. Motion carried 4-0.**

**Move to adjourn: Hanna. Second: Eslinger. Yes – 4. No 0. Motion carried.**

**Adjournment:** 7:54 p.m.

**Next Meeting:** December 16, 2014

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Julie Lovelace  
Zoning Administrator

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Hanna  
Chair, Zoning Board of Appeals