

**RECORD OF PROCEEDINGS**  
**Danbury Township Board of Zoning Appeals**

Minutes of

Meeting

BEAR GRAPHICS 800-325-8094 FORM NO. 10148

Held

February 20, 20 19

The Danbury Township Board of Zoning Appeals was called to order at 6:30 p.m. by Chair, Sherry Roberts, at the Danbury Township Hall. The Pledge of Allegiance was recited. The roll call showed the following members present: Ms. Sherry Roberts, Mr. Brad Bauer, Mrs. Loretta Grentzer, and Ms. Sharon Michael. Mr. Joseph Fetzer and Alternates, Ms. Cathy Bertovich and Mr. Clyde Shetler were excused. Also present were Kathryn Dale, Zoning & Planning Administrator. Visitors present were Peter Corrado, Robert & Kathleen Lucak, Kenny & Mark Montgomery, Kathy Richmond and Charles & Ruth Scott.

Ms. Dale read the rules of order for the meeting proceedings. At the conclusion of the meeting proceedings, Ms. Dale shared that only 4 members are present this evening. Each case will need majority vote (3-1) for a decision to be made. Should a vote result in a tie (2-2), then the application will automatically be placed on next month's agenda. Ms. Dale offered each applicant the option to continue on their own accord before the meeting proceeds. All applicants indicated they wished to move on this evening.

The Chair asked Mrs. Dale if all the documents relating to the case had been received and were in proper order. She indicated that they were. The Chair swore-in the Zoning and Planning Administrator, Kathryn Dale.

The Chair asked Mrs. Dale to introduce the first case of the evening.

**Adjudication Hearing**  
**Case BZA #2019-007**  
**129 Leddy Lane**

**Request for an Area Variance to Section 5.1.1.C. to allow for the construction of an 18' x 20' detached garage to be 2.5' from the east, rear-yard and 1.5' from the south, side-yard where 5' is required. Robert & Kathleen Lucak, Owners/Applicant.**

The Chair asked if there were any Board members who would have a conflict and wished to abstain from this hearing. There were none.

Ms. Grentzer moved and Mr. Bauer seconded the motion to open the public hearing. All were in favor and the motion carried.

The Chair asked the Zoning Administrator to give an overview of this application. Ms. Dale stated that the applicant is proposing to construct an 18' x 20' detached garage 1.5' from the south, side property line and 2.5' from the east, rear property line where 5' is required. The property can continue to be used for a single-family residence. According to the applicant, the variance request is not substantial because in this particular corner of their property, the neighbors also have garages and any encroachment would not negatively affect the neighbors. The essential character of the neighborhood would not be negatively impacted nor would adjoining properties be substantially altered by the variance for the same reason as above. There is no indication that there would be a detrimental effect on government services. The applicant's narrative statement indicates they are aware of zoning, in part because they recently received a variance for their fence, but at the time they purchased the property and constructed the home, it was a summer residence and did not require a garage.

The property owner's predicament arguably could be obviated without a variance by either placing the garage as an addition onto the front of the home, which is not how the house was designed and would be an issue with the front dormers, or by rotating the garage as a side-entry in the rear and connecting it via a breezeway or traditional addition onto the rear of the house. However, when this was discussed with the applicant, he stated he had given a side-entry garage some consideration, but it would have then eliminated much of his back-yard, the windows on the rear of the house and he was concerned that the turning radius into it would be too sharp and not work. With that in mind then, the only other option would be to locate the garage as they have shown. The garage is partially placed as it is with the separation requirement met between structures so they have some maneuverability to get into the garage, otherwise if all the requirements were met they would only be able to have a 7' wide door which is not wide enough for even one vehicle.

The spirit and intent would be met because the request is the least amount needed to accomplish the goal for the improvements and the request has no detrimental effect on any adjoining properties.

Robert & Kathleen Lucak, Owners, 129 Leddy Lane, both came forward and were sworn in. Mr. Lucak reviewed the paperwork and stated it was as they submitted. Mr. Lucak asked if they had the aerial photo available. Members opened their packet to that photo and Mr. Lucak shared that he has spoken to the neighbors. He said he would like to put the garage in the area where the shed is in the aerial photo. The neighbors behind them (to the east) have two garages and a carport. To the south

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there is another garage. Mr. Lucak said this corner is pretty blocked up with garages and is why he would like to put his in this same area. Mr. Lucak said he looked at taking the garage and rotating it and putting it more in the backyard and behind the house. To try and make a left turn into it would be okay, but trying to back out, maneuver to return forward facing down the driveway is not plausible. He said that he would still need a variance of some sort to even to do that option from either the building separation requirement or rear-yard setback for a structure that wouldn't really be functional and would be there then to just store junk. Mr. Lucak said with a variance to shift this structure closer to the south property line, they will be able to drive straight into the building. He said he took his wife's car, not a truck or anything larger to test the maneuverability if the garage were side-entry and it just didn't work out.

Ms. Grentzer commented that if they did place the garage behind the house, they would lose all of their backyard. Mrs. Lucak agreed and said that is also part of why they are asking for the variance to locate it as they have shown in their application. Ms. Grentzer asked for clarification on how wide the lot is. Mr. Lucak said 50' x 90' long.

There were no further questions from the Board and there was no one else with standing who wished to testify.

Mr. Bauer made a motion to close the public comment segment of the hearing, seconded by Ms. Michael. All were in favor and the motion carried.

Ms. Grentzer motioned to recess into executive session to deliberate the merits of the case. Mr. Bauer seconded the motion and the roll call vote was as follows: Ms. Michael – yes; Mr. Bauer – yes; Mrs. Grentzer – yes; Mrs. Roberts – yes. The motion carried and the Board recessed at 6:44 pm.

Mr. Bauer moved and Ms. Michael seconded the motion to reconvene. The roll call vote was as follows: Ms. Michael – yes; Mr. Bauer – yes; Mrs. Grentzer – yes; Mrs. Roberts – yes. The Board reconvened at 7:01 p.m.

The Chair asked Mrs. Dale to read the Findings of Fact for BZA Case #2019-007:

**With regard to BZA-2019-007 being a request for an Area Variance to Section 5.1.1.C.ii to allow for the construction of an 18' x 20' detached garage to be 2.5' from the east, rear-yard and 1.5' from the south, side-yard where 5' is required for the property located at 129 Leddy Lane:**

1. The property in question **will** yield a reasonable return and **can be** used beneficially without the variance because the property can continue to be used for a single-family residence.
2. The variance **is** substantial because the applicants are asking for a 50%-75% reduction on the setbacks.
3. The essential character of the neighborhood **would not** be substantially altered by the variance and adjoining properties **would not** suffer a substantial detriment as a result of the variance because the proposed structure will be behind the house and would not negatively affect the neighbors.
4. There is **no** indication the variance(s) would adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.).
5. The property owner's testimony indicates that they were aware of zoning because they recently received a variance for their fence, and previously constructed the home, but they stated they **did not** purchase the property with knowledge of the zoning restriction regarding garages.
6. The property owner's predicament **cannot** feasibly be obviated through some method other than a variance because they would not be able to have a garage wide enough to accommodate a vehicle.
7. The spirit and intent behind the zoning requirement **would be** observed and substantial justice done by granting the variance because the request is the least amount needed to accomplish the goal for the improvements and the request has no detrimental effect on any adjoining properties.

Ms. Grentzer moved that the Board adopts and makes the findings of fact as read by the recording secretary and that after considering and weighing these factors, the Board finds that Decision Standards(s) (3) (6) (7) weigh more heavily to show that:

- a. Practical difficulty **is** sufficient to warrant granting the Variance requested.
- b. There **is** a preponderance of reliable, probative and substantial testimony; and
- c. There is evidence that **supports** the applicants request for a variance.

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Therefore, the Variance should be accordingly **APPROVED**.

Motion Seconded by: Ms. Michael. Roll Call Vote was as follows: Ms. Michael – yes; Mr. Bauer – yes; Mrs. Grentzer – yes; Mrs. Roberts – yes. Vote 4-0 the motion passed.

The Chair stated the case has been Approved. The applicants may pick up their permits in the days following the next meeting.

The Chair asked Mrs. Dale to introduce the second case of the evening.

**Adjudication Hearing**  
**Case BZA #2019-013**  
**6721 E. Harbor Road**  
**(Snug Harbor, Lot 19)**

**Request for an Area Variance to Section 3.5.7 to allow the east, front yard setback to be 5' (20' required) and 2.2.172 Front Yard Definition to rotate how the setbacks are applied to the lot. Safe Harbor Marina, Mark & Kenny Montgomery, Owner/Applicant.**

The Chair asked if there were any Board members who would have a conflict and wished to abstain from this hearing. There were none.

Ms. Michael moved and Mr. Bauer seconded the motion to open the public hearing. All were in favor and the motion carried.

Mr. Mark Montgomery, Owner, 6721 E. Harbor Road came forward and was sworn in. Mr. Montgomery reviewed the paperwork and stated it was as they submitted. Mr. Montgomery stated when this property was created as a subdivision in 1957-1958, it was laid out as shown on the paperwork submitted to the Board. He said their goal is to keep the layout just like it is and sell the lots to build individual homes on those lots. He pointed to Lots 18 & 19 and said that these two at the end, were platted and turned to obviously face the water. Because Lot 19 sits on the corner, the east setback of 20' and the west side-setback of 5' makes a home only 23' once you take away the overhangs. The lot and required setbacks would allow a 21'-23' x about 85'-86' long structure on that lot and would be difficult. He said it would hard to sell a house that is that skinny and that long. He said all they are looking to do is re-orientate the setbacks to align with the lot next to it, Lot 18. They would both have 20' setbacks and be in harmony with one another.

Ms. Grentzer commented that these two lots are longer than the others, then asked for clarification if he is building houses on these lots or manufactured homes or trailers. Mr. Montgomery said these would be stick built homes. Ms. Grentzer commented on 50' wide lots. She said she thought zoning required bigger lots than that. Ms. Dale explained that this was a subdivision that was platted at recorded in 1958 and as such they are lots of record and allowed to be built on even though they do not meet our current lot size requirements. She explained that even though the lot doesn't meet current requirements of 60' -70' wide lots, that when built on, they are still subject to setbacks, lot coverage, maximum height and all other standards.

Ms. Grentzer asked Mr. Montgomery why he put in his narrative statement that Lot 19 becomes unbuildable? Is he talking about the whole property? Mr. Montgomery said no, just this one lot and to go back to her prior question, all of the lots in this subdivision are the same size of 50' x 100'. But on this particular Lot 19, the 20' setback has to be taken from the street, which is basically the side of the lot, substantially reducing the building envelope. He said on Lot 18, the 20' setback is applied to the northern property line and they would just like the setbacks to apply the same way for Lot 19. Ms. Grentzer asked if that is because of the curve of the road and Mr. Montgomery said that was correct.

Ms. Grentzer said she doesn't understand why he can't just rotate the lots so they are all facing the street. Mr. Montgomery explained that if they replat the 2 lots they would lose the setback requirements from 1958, or as a lot of record and would then have to meet current standards because they would technically be new lots. Ms. Roberts said you lose the grandfathering. He said exactly. He said if you were to subdivide this today, no one would do a 50' wide lot and they would have to be longer lots as well. Mr. Montgomery shared that the homes they have envisioned for these lots will run between 1,600s.f. and 2,400s.f, the garages will be in the rear, the fact that this is a private street, it should all work out nicely.

Ms. Grentzer said that Lots 18 & 19 will then be substantially more expensive, Mr. Montgomery said that is correct. Ms. Grentzer asked if he understood that this Board cannot take into consideration if this lot and the one next to it are more expensive, or the financial end of it for him to make more money on it. Mr. Montgomery said he understands, he said he thinks the Board can look

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at it though and say what is more conducive to the rest of the subdivision. Ms. Grentzer said she doesn't understand why changing the setbacks would make it more conducive to the neighborhood. Mr. Montgomery said it is partially on how the rest of this will be developed and how the road will come up and around in front of these lots. He said if they don't approve his request, then the reality is there is a 21' wide house that looks like a trailer compared to the other homes being planned. Ms. Dale asked Ms. Grentzer to look at the larger, colored print in front of her that shows the side-by-side comparison. On the left of that page it shows how the strict interpretation of the zoning resolution would apply the setbacks, on the right of the page it shows what Mr. Montgomery is proposing. Ms. Dale shared that they are still proposing to keep 5' side-yards, a 20' front-yard, but would just like for where that 20' setback is applied from not be along the eastern property line, but rather from the north to open up the building envelope so that it is the same size as all the other building envelopes in this subdivision. Ms. Grentzer said she sees that. Mr. Montgomery said that handout is a great representation showing what's being requested.

There were no further questions from the Board and there was no one else with standing who wished to testify.

Mr. Bauer made a motion to close the public comment segment of the hearing, seconded by Ms. Grentzer. All were in favor and the motion carried.

Ms. Grentzer motioned to recess into executive session to deliberate the merits of the case. Mr. Bauer seconded the motion and the roll call vote was as follows: Ms. Michael – yes; Mr. Bauer – yes; Mrs. Grentzer – yes; Mrs. Roberts – yes. The motion carried and the Board recessed at 7:13 pm.

Ms. Grentzer moved and Mr. Bauer seconded the motion to reconvene. Ms. Michael – yes; Mr. Bauer – yes; Mrs. Grentzer – yes; Mrs. Roberts – yes. The Board reconvened at 7:45 p.m.

The Chair asked Mrs. Dale to read the Findings of Fact for BZA Case #2019-013:

**With regard to BZA-2019-013 being a request for an Area Variance to Section 3.5.7 to allow the east, front yard setback to be 5' (20' required) and 2.2.172 Front Yard Definition to rotate how the setbacks are applied to the lot for the property located at 6721 E. Harbor Road (Lot 19, Snug Harbor):**

1. The property in question **will** yield a reasonable return and **can** be used beneficially without the variance because it can be used as a single-family residence.
2. The variance **is** substantial because the applicant is asking to reduce the required front-yard setback by 15'.
3. The essential character of the neighborhood **would not** be substantially altered by the variance and adjoining properties **would not** suffer a substantial detriment as a result of the variance because setbacks will be applied the same as the lot next to it (Lot 18) and all the other lots in the subdivision.
4. There is **no** indication the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.).
5. The property owner **is** aware that zoning is in effect in the township.
6. The property owner's predicament **can** feasibly be obviated through some method other than a variance by placing a smaller house on the lot.
7. The spirit and intent behind the zoning requirement **would** be observed and substantial justice done by granting the variance because the setbacks will still be applied consistently with the other lots.

Ms. Michael moved that the Board adopts and makes the findings of fact as read by the recording secretary and that after considering and weighing these factors, the Board finds that Decision Standards(s) (3) (7) weigh more heavily to show that:

- a. Practical difficulty **is** sufficient to warrant granting the Variance requested.
- b. There **is** a preponderance of reliable, probative and substantial testimony; and
- c. There is evidence that **does support** the applicants request for a variance.

Therefore, the Variance should be accordingly **APPROVED**.

Motion Seconded by: Mr. Bauer. Roll Call Vote was as follows: Ms. Michael – yes; Mr. Bauer – yes; Mrs. Grentzer – abstained; Mrs. Roberts – yes. Vote 3-1 the motion passed.

The Chair stated the case has been Approved. The appellants may pick up their permits in the days following the next meeting.

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The Chair asked Mrs. Dale to introduce the next case of the evening.

**Adjudication Hearing**  
**Case BZA #2019-014**  
**0 Von Glahn**

**Request for an Area Variance to Section 3.1.1.D to allow for a lot split with a minimum width at the street for the remaining parcel to be 125' wide (150' required).**

The Chair asked if there were any Board members who would have a conflict and wished to abstain from this hearing. There were none.

Mr. Bauer moved and Ms. Michael seconded the motion to open the public hearing. All were in favor and the motion carried.

The Chair asked the Zoning Administrator to give an overview of this application. Ms. Dale stated that the applicant wishes to split off approximately 1.13 acres from a 7.897 acre tract of land for the purpose of building a new home. According to the zoning resolution, a new lot in the "A" Agriculture zoning district is required to have 150' of lot width along a private or public street. Due to existing property configurations, the new lot will exceed this requirement, but the remaining portion of the property will have 125' width at the street right-of-way line. This is the portion to the east of the existing house (5863 Von Glahn) shown in the aerial photograph enclosed in the Board's packets. Ms. Dale shared that the house and land to the west of this parcel (5741 Von Glahn) obtained variances in 2016 for 140' wide lots. There are a total of 5 other properties on Von Glahn that are smaller than 150' wide (122', 120', 140', 140' and 90'). Ms. Dale reviewed the decision standards the Board would be considering.

Charles Scott, Owner, 5971 Von Glahn came forward and was sworn in. Mr. Scott reviewed the paperwork and stated it was as they submitted. Mr. Scott stated that when he and his wife purchased this property 10 years ago, he was a Trustee and certainly knew zoning was in place and what the restrictions were for the property. He said that the purpose of them buying the property was never to at the time....it was just to protect what they had. He said they own the 10 acres that are adjacent to the east, so it was more because they have their animals along the common property line and they didn't want anything; they wanted to be able to protect that area from impacting what they had done with their own farm. That was the main reason they purchased this additional acreage. Mr. Scott said about 6 months ago, their one daughter, her husband and now two children, who live in Oregon, Ohio came to them and asked if they would consider selling a portion off for them to build a house and move back to the area. Ms. Scott said what parent and grandparent wouldn't like to have their kids close to home, so he told them he would look into what could be done.

Mr. Scott said he met with Ms. Dale and Regional Planning and his bank to review some things. He said the 'back door' comment, he's not sure they understand. He said he could take a 25' strip from his 10 acre farm he lives at and attach it to the property he is before the Board about. He said that would technically then meet the zoning, but he said to him, he did not feel that is what zoning is about. Ms. Dale asked if it would be a sliver of land. Mr. Scott said yes, it would be a sliver, nothing buildable. Ms. Dale said that other property owners have done this in the past, they provide a sliver of land out at the road to meet the minimum requirement, then do a long narrow lane to the back where the buildable part of the lot is. Ms. Dale said it is a way to do it, but it's not really the intent of what the zoning resolution is supposed to accomplish in the minimum standards. Ms. Roberts clarified that he would not need a variance to do that. Mr. Scott said that would be correct. Ms. Grentzer said she doesn't see what is wrong with that. Ms. Scott said that is one part of it. The other part is the property they are asking a variance on they own out-right, there is no mortgage. The property they live on and would have to split the property off of from does have a mortgage. In order to do a 25' sliver, they would have to connect a nonmortgage property to a mortgaged property. Ms. Roberts said he would need to refinance then. Mr. Scott said no, but the bank would have to, or he would have to do something like a quick-claim deed which would result in a whole new mortgage with a new property description. Ms. Michael said it would be an inconvenience and could result in a different mortgage rate. Mr. Scott said that is correct. He said he had explored swapping equal amounts of land between the mortgaged and nonmortgage property but that is not an option either with the bank because of the legal descriptions. If the legal descriptions are changed to a property, the mortgage has to describe the correct property boundaries. Ms. Michael said then you want the variance to the nonmortgage property so you don't have to go through all that with the bank. Mr. Scott said yes. Ms. Grentzer stated it would be 25' less than what is required. Mr. Scott said yes.

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There were no further questions from the Board and there was no one else with standing who wished to testify.

Mr. Bauer made a motion to close the public comment segment of the hearing, seconded by Ms. Grentzer. All were in favor and the motion carried.

Ms. Grentzer motioned to recess into executive session to deliberate the merits of the case. Mr. Bauer seconded the motion and the roll call vote was as follows: Ms. Michael – yes; Mr. Bauer – yes; Mrs. Grentzer – yes; Mrs. Roberts – yes. The motion carried and the Board recessed at 8:00 pm.

Mr. Bauer moved and Ms. Michael seconded the motion to reconvene. The roll call vote was as follows: Ms. Michael – yes; Mr. Bauer – yes; Mrs. Grentzer – yes; Mrs. Roberts – yes. The Board reconvened at 8:32 p.m.

The Chair asked Mrs. Dale to read the Findings of Fact for BZA Case #2019-014:

**With regard to BZA-2019-014 a Request for an Area Variance to Section 3.1.1.D to allow for a lot split with a minimum width at the street for the remainder parcel to be 125' wide (150' required) for the property located at 0 Von Glahn (PIN# 0142000530464000):**

1. The property in question **will** yield a reasonable return and **can** be used beneficially without the variance because the property can continue to be used as agricultural land and would allow for a single-family residence.
2. The variance **is not** substantial due to preexisting lot configurations and the new parcel and remaining parcel will otherwise meet all other minimum lot size requirements.
3. The essential character of the neighborhood **would not** be substantially altered by the variance and adjoining properties **would not** suffer a substantial detriment as a result of the variance because the remainder will be wide enough to access the farm land.
4. There is **no** indication the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.).
5. The property owner **is** aware that zoning was in effect in the township at the time of purchase.
6. The property owner's predicament **can** feasibly be obviated through some method other than a variance because the applicant indicated that he could transfer the additional 25' from his own property to the east.
7. The spirit and intent behind the zoning requirement **would** be observed and substantial justice done by granting the variance because the bulk of the remaining parcel meets the zoning requirements for this zoning district.

Ms. Michael moved that the Board adopts and makes the findings of fact as read by the recording secretary and that after considering and weighing these factors, the Board finds that Decision Standards(s) (2) (3) weigh more heavily to show that:

- a. Practical difficulty **is** sufficient to warrant granting the Variance requested.
- b. There **is** a preponderance of reliable, probative and substantial testimony; and
- c. There is evidence that **does support** the applicants request for a variance.

Therefore, the Variance should be accordingly **APPROVED**.

Motion Seconded by: Mr. Bauer. Roll Call Vote was as follows: Ms. Michael – yes; Mr. Bauer – yes; Mrs. Grentzer – yes; Mrs. Roberts – no. Vote 3-1 the motion passed.

The Chair stated the case has been Approved. The applicants may pick up their permits in the days following the next meeting.

#### Signing of Decision Sheets

The Chair asked the Board if they had the opportunity to review the Decision Sheets presented for the following cases. There were no corrections or modifications. Mr. Bauer made a motion for approval of the decision sheets as presented for the following cases. Ms. Grentzer seconded the motion. All were in favor and the motion carried.

- a. **BZA-2019-001 9451 E. Harbor Road.** Request for an Area Variance to Section 5.5.4.B.ii.a. to allow more than one ground sign on a development site, Section 5.5.4.B.ii.c. to allow more square footage than allowed for said sign (32s.f. allowed/44.75s.f. proposed) and Section 5.5.4.B.ii.d. to allow the sign to be longer than permitted (12' max. width allowed/17'3" proposed). **Danbury Local School District, Owner & Applicant/ ADENA Corp., Glenn Guttenberg, Agent.**

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- b. **BZA-2019-002 1260 Englebeck Road.** Request for an area variance to Section 5.1.1.A.ii to allow for a 40' x 60' (2,400s.f.) Detached Accessory Structure to exceed the allowable size (1,200s.f. max allowed/ 2,540 cumulative proposed). **Seth & Tamara LeBlanc, Owners/Applicant.**

**Approval of January 16, 2019 Board of Zoning Appeals Meeting Minutes**

Ms. Grentzer made a motion to approve the January 16, 2019 meeting minutes, Mr. Bauer seconded. All were in favor and the motion carried.

**Old Business**

**Junk Properties.** Discussion continued regarding the policy of the Township and enforcement of junk and debris. Ms. Roberts expressed that she does not support the 500' radius and complaint basis only and the way of dealing with properties. She would like to prepare a letter or attend a Trustee meeting on behalf of the entire Board to talk to the Trustees and ask them to reconsider. Ms. Michael expressed wanting to see the ORC sections and the policy Ms. Roberts is referring too. Ms. Roberts indicated she would provide Ms. Michael with that information. Ms. Dale commented that it may be best, since it does not sound that everyone has the same opinion as Ms. Roberts, that they approach this as residents of the Township instead of as a representation of this Board, in-part because this Board has nothing to do with these types of issues anyway. Discussion to continue next month.

**New Business**

There was none.

**Other Business**

There was none.

**Reports and Communications from Members and Staff**

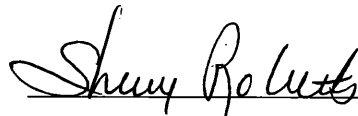
There was none.

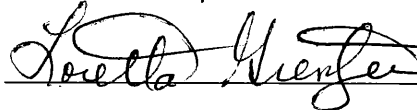
**Adjournment**

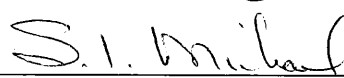
Mr. Bauer moved to adjourn the meeting and Mr. Ms. Grentzer seconded the motion. All in attendance were in favor and the motion carried.

The meeting was adjourned at 8:56 pm.

  
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