

# RECORD OF PROCEEDINGS

Minutes of

**TOWNSHIP BOARD OF TRUSTEES REGULAR MEETING**

Meeting

GOVERNMENT FORMS & SUPPLIES 844-224-3338 FORM NO. 10148

Held December 22, 202021

Trustee Hirt called the meeting to order at 6:00 PM. The Pledge of Allegiance was recited. Roll call: Trustee Dress, Trustee Rozak and Trustee Hirt. Fiscal Office Assistant Susan Dress, Fiscal Officer Carolyn Adams and Fire Chief Kahler were present. Mr. Dress moved approval of the December 8, 2021 meeting minutes, Mr. Hirt seconded the motion, all voted yes.

### Correspondence

- Numerous Christmas Greetings were received.
- Ottawa County Historical Society newsletter
- Erove Career Center adult education.

### Roads

- Sackett Cemetery Wreathes Across America preparation took most of last week
- Brush Collection Site closed & obtaining quotes for grinding.
- Salt Hopper has been ordered. Waiting on delivery

Budget items to include replacing the 2007 New Holland Backhoe, approximately \$90,000. Annual Road projects will be determined by a possible Township Assistance Grant of approximately \$200,000.00-\$250,000.00.

### Police

The month of December to date recorded 202 incidents. Chief Meisler presented 2022 budget items request.

### Fire

Chief Kahler provided an update on the cost for the Englebeck access road. An additional \$9750.00 will complete the paving. Ms. Rozak motioned accepting the additional cost, seconded by Mr. Hirt. Roll call: all voted yes. Chief will have 2022 new budget requests at next meeting.

Fire & Ems Run Details						
EMS	Fire	MVC*	Alarm**	CO***	Mutual Aid	
12/22/2021	39	3	1	3	4	0
Year to date	808	43	17	76	9	7
Total	960					

\*Motor Vehicle Crash(s)

\*\* Alarm Activation(s)

\*\*\*Carbon Monoxide Investigation(s)

### Zoning

#### Permits

To-date this month there has been 13 (+5 BZA cases to-date for 2022) permit applications submitted/processed totaling \$1,528.18 collected in fees and BZA balances. We are 14 permits short, so far, of meeting last years 300 permit mark.

#### Board & Commission Activity

##### The Board of Zoning Appeals –

The BZA held adjudication hearings December 15, 2021, on the following cases via Zoom:

a. **BZA-2021-267**

**Approved as Presented**

**5677 E. Bayshore Road.** Request for a Conditional Use in accordance with Section 3.5 & 4.2 to permit the use of the structure as a Bed & Breakfast. **Daniel J. Jadwisiak, Owner; John & Carrie Tucholski, Agents/ Applicants.**

b. **BZA-2021-269**

**Approved as Presented**

**2149 Willow Cove.** Request for an Area Variance from Section 5.1.7 to allow for a new house to connect to an existing garage with a 4' east, rear-yard setback where 5' is required and to

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Section 3.5 to allow more lot coverage than permitted (43.8% proposed/ 40% required). **David Wyderka & Mary Ann Pressler, Owner/ Applicant.**

c. **BZA-2021-270**

**Approved as Presented**

**423 Maple Avenue.** Request for an Area Variance from Section 3.5. to allow for an addition onto the existing house to encroach into the north, side-yard setback (2' proposed/ 3' required). **George & Diann Tyler, Owners/Applicants.**

The Board of Zoning Appeals held their elections officers following the hearings. They have a two-year limit on officer positions, so Loretta Grentzer was elected as Chair, Lisa Bauer for Vice-Chair and Clyde Shetler for Secretary. Ms. Bauer will be requesting a reconsideration of her elected position at the next meeting because she has expressed, she would not be comfortable running the meeting in Ms. Grentzer's absence.

There is the possibility that the Board will have to hold 2 meetings in January as it appears as though we could have as many as 8 cases.

The Board has asked for Training to be provided again sometime in 2022. Much of this will depend on the Covid variants and if we can meet in person for such a thing or if we'll have to organize a Zoom event.

**The Zoning Commission -**

The Zoning Commission is scheduled to meet January 5, 2022. This meeting will likely be cancelled.

**Department Updates**

- The office will be closed Friday, December 24 thru Friday, December 31, 2021, for the week between Christmas & New Years. Just because the office is closed, won't mean I won't be working since there are so many BZA cases that need to be ready to advertise when I return January 3, 2022.

**Violations/ Complaints:**

**ILLEGAL RENTAL:**

**242 Worthy (Illegal Rental – Erie Shores Ventures)**

**Monitoring**

A "Change of Plea" hearing was scheduled for 12.10.21 at 10:45a.m. The Prosecutor's Office said it wasn't necessary for me to be there. After a week asking for an update, it sounds as though there was no plea change and new court date for a "Status Hearing" is now scheduled for January 7, 2022, at 1:15p.m. I will make sure I attend this time to see what is happening firsthand.

**Prior Info:** Certified Letter sent 04/26/21 to owners notifying them to cease & desist renting the duplex for less than 30 days as advertised. To-date the letter has not been claimed despite notice being left by the post office. It is due to be returned as unclaimed starting 05.12.21. Once it is returned, the property and owners' local residence will be posted with the notice. The properties were posted 05.13.21 and the owner called 05.14.21. Owner said they would correct the situation and remove the reservations from their website. As of 05.25.21 more complaints were received regarding the usage of the property and the website still needs work. Owner was called and told to get it done immediately. If we continue to get more complaints, then a citation may need to be issued with the Court. We continue to get calls and emails about this property. The owner has removed a large portion of their online listing and indicated that a college-aged daughter of one of the other co-owners is occupying the one unit this summer while working locally. When the property was posted 05.13.21, there was no one in either of the units. Received another complaint from someone different indicating fisherman were on the property at the time the message was received. I immediately drove to the property to observe, and again, there was no one on the property. Dianne has received concerns too regarding this property and the noise. The complainants have been advised to contact the police regarding noise. 06.18.21 Outreach has been made with the prosecutor's office. Conference call was held 06.21.21 with the Prosecutor's office to discuss next steps. We received email and phone call complaints again over the 4<sup>th</sup> of July weekend regarding the continued renting of the units at this property. Advised the complainants that it was actively being pursued with the County Prosecutor's office. Prosecutor's office was supposed to conduct a knock at the property the weekend of 07.10.21 but did not, so they are filing charges based on inquiries made on availability. Complaint was filed with Municipal Court on 07.20.21. Case # CRB2100684A. Arraignment Hearing scheduled for 08.18.2021 @ 8:30am. Received a phone call from Rich Gillum 08.06.21 who will apparently be representing the defendant and indicated that they may waive arraignment and ask for a bench trial. 08.12.21 Defendant entered written Not Guilty Plea, filed a request for discovery, to waive arraignment appearance and requested a pre-

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trial and jury. Arraignment for 08.18.21 was cancelled. 09.27.21 a neighbor reported that renting of the unit is still occurring despite charges being filed with the Court. The Prosecutor's Office has been made aware. A Pre-Trial Hearing has been scheduled for 10.22.21 at 9:30a.m. Pre-Trial Hearing was held 10.22.21. The defendant was late to the hearing, no actual 'hearing' per se took place, but rather negotiations between the Defendant's lawyer and Prosecuting Attorney. Ultimately a second pre-trial will be held. A date has not been established yet.

### **5644 E. Harbor Road (Illegal residence – Former Shepherd Canvas)**

#### **Open**

Nothing new to report. Since only one space in the front building is currently occupied as a residence, there really is no longer a violation actively occurring on the property. Nonetheless, we still want to make sure that the buildings are set-up for proper, future use.

Prior Info: This is not an illegal rental in the traditional sense of short-term. 09.01.21 the CBO and I inspected the former Shepherd Canvas per the request of a tenant. The shop at the back of the property has been converted illegally into an apartment. Certified letter was sent to the property owner 09.07.21. Property owner picked up their letter 09.22.21 and contact the zoning office immediately. Staff is working with the owner to get the necessary paperwork, reviews and inspections in order to make the property legal. Owner had inspection with Building Department 10.01.21 to find out what was needed to make the unit a legal residence. The property owner was scheduled to have a second inspection conducted 10.20.21 of the upstairs unit in the front building. Owner also said that as of 10.07.21, the tenant in the rear structure and unit that was created illegally was to move out within a few days, however, to-date, it appears as though someone is still living in the unit. As of 10.27.21 the owner was trying to get an electrician to come out and quote what it would take to bring the rear building into compliance with the Building Code for residential. The tenants in the meantime are to be completely moved out by November 5, 2021. The owner still needs an inspection of the upstairs unit in the front building. Owner reported 11.18.21 that the residential tenant from the rear building is gone and he is marketing that the space is available for commercial use. He has not had the front units inspected yet by the building department, but the upper unit is currently vacant.

### **311 Steele (Illegal Rental – Hedges)**

#### **Open**

The owner has filed the necessary paperwork to the Board of Zoning Appeals asking for a Conditional Use to operate a Bed & Breakfast. This will be decided at the Board's January hearing.

Prior Info: Certified letter was sent to the property owner 10.07.21 regarding illegal conversion of garage attic space into a dwelling and then renting it via AirB&B. Notice left 10.09.21 that letter can be picked up. Owner claimed letter 10.12.21 and reached out via email the next day. Owner also received a violation letter from the Building Department and had some paperwork she needed to file with them, which she has submitted to them, but has not been back in touch in regards to the zoning matters. 11.02.21 owner was contacted and asked to provide an update since nothing has been done on the zoning side. Inspection with Building Department is scheduled for 11.05.21. As of 11.12.21 owner stated the inspection had been completed and she was waiting on the "punch list" from the Building Department as far as what would be needed to bring the space into compliance with the Building Code. The owner reached out 12.02.21 and stated she had received her "punch list" from the County on what was needed to make the unit comply with Building Code and she has been provided what she needs from the zoning end to make it legal also.

### **ILLEGAL CAMPERS/TRAILERS:**

#### **JUNK & DEBRIS:**

##### **122 Strause (Junk & Debris, Junk Vehicles & Boat - Hurst)**

#### **Open**

The vacant lot continues to be worked on. Some brush has been cut on the house lot to be able to access where the junk & debris are at the back of the lot. Some items have been cleared in front of the house. Still a lot of items that need to be addressed. As long as they continue to show some progress, I don't plan to ride them hard thru the winter months.

Prior Info: Complaint received 09.13.21 regards the junk and debris on this property. Certified letter was sent to the property owner 09.17.21. I met with the Ottawa County Health Department that day also to determine if any joint effort could be taken on the condition of this property. There are certain items they said that would kick EPA into joining in, but this property didn't have those items. Also, the OCHD representative said that they tend to be more willing to go after properties where someone is living on it as opposed to vacant and abandoned properties. Certified Letter was returned as unclaimed. Letter was resent via regular mail 10.07.21. Owner called 10.19.21 and said he was coming up 10.25.21 to work on cleaning the property up. Told him I expected to see a lot accomplished, and we would touch base again by 11.01.21 to see how far he gets and what more needs to be done. Owner contacted 11.01.21 since he did not show up when he said he'd be

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there. Apparently had some medical issue and now says he will be coming 11.11.21. Some grass on the vacant lot across the street was mowed 11.08.21. As of 11.12.21 the vacant lot had been mowed and cleared better in order to access the junk, but all of the junk and vehicles are still on both properties. Nothing more appears to have been accomplished, and certainly not as much as he said would get done. Owner stated 11.19.21 he was still in the area and would be continuing to work on over the weekend. 12.08.21 Nothing major to report. They have not made as much progress as I had hoped but as of 12.01.21 there is a bobcat on the property that appears to be assisting in some clearing of the vacant lot and loading junk into. As of 12.07.21 there has been 1 vehicle removed from the vacant lot and nothing has been done to the house lot

### **TALL GRASS:**

#### **7291 Applewood (Tall Grass – Huddleston)**

##### **Monitor**

Nothing new to report. This is going to be one to monitor. The occupant seems to work at her own pace and refuses to answer the phone when I call or even return calls. The grass at this point is a non-issue, but the partial dilapidated fence still needs some work.

Prior Info: Certified Letter sent 07.13.21. Being returned with no forwarding address. Property was posted 07.21.21 because it was confirmed that a woman & child are living in the home. Will have until 07.28.21 to remove weeds & tall grass in rear yard. Letter also asked them to address their dilapidated fence. Occupant called 07.27.21 and stated she is on land contract to purchase the property. Discussed getting the grass & weeds dealt with over the weekend of 07.31.21 and will check back in by 08.06.21 to give her a chance to look into options for the fence. Upon reinspection 08.06.21, grass and weeds have all been addressed and there is a small dumpster on the property for other clean-up. Will recheck with occupant after Labor Day to see when fence repair will actually take place. Contractor told her he couldn't do it for 3-4 weeks. Owner called 08.07.21 and left a message for her to return my call. Owner returned my call 09.13.21 and asked for an extension on the fence until the end of October. I called her back and left a message with her that I would give her until October 1, 2021, to deal with the fence and if an extension is needed longer than that, then I want to speak to the person fixing/repairing her fence directly to have a better understanding of the timeframe they think they can get it taken care of and why it's taking so long. Occupant was called 10.05.21 since nothing has taken place with the fence. Occupant said someone was supposed to be out 10.06 & 10.07 to remove the old fence and install the new fence 10.08.21. As of 10.08.21 some fencing materials have been delivered to the property, but the old fence was not removed. Occupant was contacted again 10.22.21 asking for an update since nothing has taken place since 10.08.21 when fencing material was delivered to the property. As of 10.26.21 some of the dilapidated fencing has been removed. Some of the fencing was removed 10.26.21. New fencing has started to be installed. There is a section of fencing I'd still like to see be removed but there isn't enough material on the property to be removing it and replacing it. The owner/occupant refuses to answer the phone when I call to be able to discuss what her timeline is. Left message with occupant 11.18.21 asking for an update. East fence is complete. South fence facing Applewood still needs addressed but there isn't enough material on the property to indicate that it will be taken care of.

### **CONSTRUCTION WITHOUT PERMITS:**

#### **5686 E. Harbor Road, Unit C24 (Illegal Residential Occupancy – Audiano)**

##### **Open**

On December 8, 2022 I received a copy of the letter that the Ottawa County Prosecutor's office sent to the property owner warning them if they do not contact us, charges will be pursued. They gave the owner until January 31, 2022 to make contact.

Prior Info: 09.27.21 we received notice from the Ottawa County Sanitary Engineer's office about a joint meeting with other County agencies to discuss a storage unit in Safe Harbor Development that has been illegally converted into a residence without proper permits. Joint meeting was held 09.30.21. Certified Letter was sent to the property owner 09.30.21. Notice left 10.04.21 that letter can be picked up. Certified Letter returned as unclaimed. Letter was resent via regular mail 10.19.21. The owner has not made any contact with us. Waiting on County to coordinate how this will proceed and if any action will be taken by the Prosecutor's Office on behalf of everyone. The Prosecutor's Office sent out a letter on behalf of the Building Department but told the Building Department that they wanted to send separate letters for the other departments. On December 2, 2021 I sent an email to the Prosecutor's office requesting that they also send a letter on behalf of zoning. I have not heard back from them.

#### **425 Walnut (Fence w/out Permit – Slager)**

##### **Open**

This is one of the BZA cases I expect to receive for the January hearing.

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Prior Info: Upon inspections in Lakeside 12.01.21 it was found that this property owner is installing a fence without proper zoning permits or Lakeside review and is in violation of many sections of the zoning regulations. Letter was sent to the property owner 12.03.21.

**DEMO UPDATES:**

Nothing new to report.

**LAKESIDE MATTERS:**

**177 Kenton Road** (*More than 75% removal, alteration of NC Structure - Gehrlein*)

**Open**

This is one of the BZA cases I expect to receive for the January hearing.

Prior Info: Upon inspections in Lakeside 12.01.21 it was found that this house has voluntarily demolished, removed or structurally altered more than 75% of the floor area contained in the nonconforming structure. The entire second floor of the structure is being altered, which was not approved and specifically noted that said work was not covered under the permit issued. Additionally, a new garage footer has been poured without the necessary zoning permits and no Building permits have been issued for any of the work taking place at the site. A formal Stop Work Order letter was sent to the owner, architect and contractor 12.02.21. At this point, their only options are to move the entire house into compliance or apply for a variance to exceed the 75% and allow the house to remain where it is. The next available BZA hearing for them to get on isn't until January 19, 2021.

**351 Cedar** (*More than 75% removal, alteration of NC Structure - Nicholson*)

**Open**

The owner has filed the necessary paperwork to the Board of Zoning Appeals. This will be decided at the Board's January hearing.

Prior Info: Upon inspections in Lakeside 12.01.21 it was found that this house has voluntarily demolished, removed or structurally altered more than 75% of the floor area contained in the nonconforming structure. Additionally, the entire roof has been removed from the structure. A formal Stop Work Order letter was sent to the owner, architect and contractor 12.02.21. At this point, their only options are to move the entire house into compliance or apply for a variance to exceed the 75% and allow the house to remain where it is. The next available BZA hearing for them to get on isn't until January 19, 2021. The only work they are being allowed to complete is the construction and installation of the roof and shingles by December 23, 2021 to protect the integrity of the structure's interior and work completed to this point.

**OTHER:**

**9268 E. Bayshore** (Red's Tavern/ Red's Summer House)

Nothing new to report.

Prior Info: According to the property owner 12.03.21 they received their final kitchen plans 12.02.21 and have a few minor tweaks that will have to be made. They are now hoping to have the new plans into zoning by January. They have found that there was a major roof leak on the east end of the building that has resulted in considerable rot and damage to the roof on that end of the building that will need to be addressed immediately. Apparently, there was the original roof and a secondary roof built over top. Moisture build-up has caused it to be completely in need of being removed and a whole new roof system to be installed. Additionally, they are investigating any potential damage to the side walls of that part of the structure because water was trickling down the sides also. As of 12.07.21, I believe the architect has the parking situation worked out and he indicated they just need to finalize the detailing on the plans. The roof issue thru them all for a loop and was unexpected.

Ms. Dale provided the zoning department inventory as of 12/31/2021

**Old Business**

Trustees discussed employee health care coverage. Our current agency, One Digital and Rankin and Rankin have attended our meetings to answer questions about their proposals for 2022. After discussion, Mr. Hirt motioned accepting Rankin and Rankin with the provision they would agree to the reduced commission fees. Ms. Rozak seconded the motion. Roll Call Mr. Dress No, Ms. Rozak Yes, Mr. Hirt Yes.

Ms. Rozak to contact George Wilber, attorney for the Ahrens Family, regarding the donated property transfer. Trustees preferred a Fudiciary or General Warrantee Deed.

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Clarification was received from the Prosecuting Attorney regarding a Trex liquor permit transfer.

The sale of property to Bayside Comfort has been approved by Regional Planning Commission.

### New Business

Brief discussion of General Fund and Fire EMS levy renewals to be on the Fall 2022 ballot. Employee Performance evaluation forms and the Vacation Policy being sent to Department Heads for their input.

Trustees signed the renewal letter of agreement for DOT consortium.

### Fiscal Business

A motion by Mr. Dress and seconded by Mr. Hirt to approve the payroll and bills totaling \$782,191.19 or the period 12/9 – 12/22 Roll call was unanimous and motion carried. Jennifer Widmer County Auditor communicated the last Budget Commission meeting will be December 29<sup>th</sup>.

Mr. Dress moved acceptance of the November bank reconciliation, seconded by Mr. Hirt. Roll call was unanimous. There being no further business before the Board, Mr. Dress moved and Ms. Hirt seconded a motion to adjourn at 7:30 p.m.

#### Executive session #1 on December 22, 2021

Ms. Rozak moved, seconded by Mr. Hirt to move to executive session at 7:41 p.m. to discuss employee discipline and to invite Tim Almendinger and Chief Kahler to the discussion. All aye.

Ms. Rozak moved, seconded by Mr. Dress to adjourn executive session at 8:28 p.m. All aye. The trustees consulted with Mr. Almendinger and Chief Kahler regarding the process for disciplinary steps as outlined in the Danbury Township Policy and Procedure Manual.

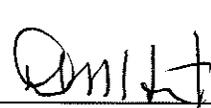
#### Executive session #2 on December 22, 2021

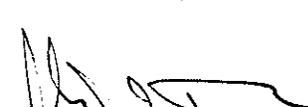
Ms. Rozak moved, seconded by Mr. Hirt to move to executive session at 8:30 p.m. to discuss a complaint against a public employee. All aye. Ms. Rozak moved, seconded by Mr. Dress to adjourn executive session at 8:45 p.m. All aye. No action taken.

There being no further business before the Board, Mr. Dress moved and Ms. Hirt seconded a motion to adjourn at 8:45 p.m.

  
\_\_\_\_\_  
Fiscal Officer

  
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Danbury Township Board of Trustees