

CHARTER TOWNSHIP OF MERIDIAN

ZONING BOARD OF APPEALS MEETING MINUTES *APPROVED*****

5151 MARSH ROAD, OKEMOS, MI 48864-1198

(517) 853-4000

WEDNESDAY, May 23, 2018 6:30 PM

TOWN HALL ROOM

PRESENT: Members Ohlogge, Lane, Chair Beauchine, Jackson, Rios
ABSENT: None
STAFF: Mark Kieselbach, Director of Community Planning and Development and
Keith Chapman, Assistant Planner

1. CALL MEETING TO ORDER

Chair Beauchine called the meeting to order at 6:30 p.m.

2. APPROVAL OF AGENDA

MEMBER JACKSON MOVED TO APPROVE THE AGENDA AS WRITTEN.

SECONDED BY MEMBER LANE.

VOICE VOTE: Motion carried unanimously.

3. CORRECTIONS, APPROVAL & RATIFICATION OF MINUTES

A. Wednesday, May 9, 2018

MEMBER OHROGGLE MOVED TO APPROVE THE MINUTES OF WEDNESDAY, MAY 9, 2018 AS WRITTEN.

SECONDED BY MEMBER RIOS.

VOICE VOTE: Motion carried unanimously.

4. COMMUNICATIONS

None

5. UNFINISHED BUSINESS

6. NEW BUSINESS

A. ZBA CASE NO. 18-05-23-1 (GUNASINGAM & ARUNASALAM), 2990 BRIARCLIFF STREET, EAST LANSING, MI, 48823

DESCRIPTION: 2990 Briarcliff Street
TAX PARCEL: 20-352-002
ZONING DISTRICT: RAA (Single Family, Low Density)

The applicant rehabilitated an existing approximately 842 square foot deck with the closest point being six (6) feet from the rear property line at 2990 Briarcliff Drive.

Assistant Planner Chapman outlined the case for discussion.

Chair Beauchine asked the applicant or the applicant's representative if they would like to add anything.

Abhirami Gunasingam, the applicant, 2990 Briarcliff Street, East Lansing stated she had nothing to add, but would be available for questions.

Chair Beauchine opened the floor for public comment and seeing none closed public comment.

Member Lane asked staff if the variance is approved could a condition be added subject to the approval of a building permit.

Assistant Planner Chapman replied yes.

Member Ohlrogge requested to see the survey to determine the building setbacks and questioned if the decks were a part of the original construction to the house.

Director Kieselbach stated a building permit was issued for the house but there is no record for the decks.

Member Jackson asked staff how the rear yard setback is calculated.

Director Kieselbach stated Section 86-563 has an allowance for a rear yard reduction for lots that have a lot depth less than 115 feet. The applicant's lot depth is 103 feet. The difference between 103 feet and 115 feet is 12 feet. One-quarter of 12 feet is three (3) feet. Which means, 30 feet minus three (3) feet is 27 feet for the rear yard setback.

Member Lane stated because the deck never obtained a legal non-conforming status, the deck now requires a variance to remain. Although the deck is existing the Zoning Board of Appeals (ZBA) needs to treat the deck as new construction, which makes the subject property unique.

Member Ohlrogge added the entire deck is non-conforming because the setback line goes through 1/3 of the house, which also makes this an unusual and unique situation.

Member Rios asked Ms. Gunasingam when the house was purchased, were the 2 decks existing, and if she ran a day care from the house.

Abhirami Gunasingam replied yes the decks were original with the house and she started a day care in the fall of 2017.

MEMBER RIOS MOVED TO APPROVE THE REQUEST WITH THE CONDITION THE DECKS RECEIVE A VALID BUILDING PERMIT.

SECONDED BY CHAIR BEAUCHINE.

Member Lane referenced review criteria number one (Section 86-221 of the Code of Ordinances) stating there are several unique circumstances peculiar to the subject property. The building

setback line was established after the house was built, and the non-conforming decks on this odd shaped lot created unique circumstances.

Member Lane read review criteria two which states these special circumstances are not self-created. He agreed the circumstances were not self-created.

Member Lane read review criteria three which states strict interpretation and enforcement of the literal terms and provisions of the Ordinance would result in practical difficulties. He added the deck was originally illegally constructed, but when the applicant repaired the deck they did not expand it. He added if the variance is not granted it would result in a practical difficulty.

Member Lane read review criteria four which states the alleged practical difficulties, which will result from a failure to grant the variance, would unreasonably prevent the owner from using the property for a permitted purpose.

Member Ohlogge stated the deck has been used by the applicant since they purchased the house, without the variance it would unreasonable to prevent the applicant from using the property for a permitted purpose.

Chair Beauchine stated although the second deck is not in question at this time it still would remain illegal.

Assistant Planner Chapman replied in the future if the applicant decided to rehabilitate or add to the second deck, a variance would be needed to bring the deck into compliance.

Member Jackson asked staff about the safety issues and how code applies to the decks.

Assistant Planner Chapman replied to obtain a building permit the deck would need to be brought up to code.

Member Lane stated the motion is based on the ability to obtain a building permit, if no building permit is obtained the variance would not be allowed.

Chair Beauchine stated he was in favor of the variance since the applicant would need to bring the deck up to code.

Member Lane read review criteria five which states granting the variance is the minimum action that will make possible the use of the land or structure in a manner which is not contrary to the public interest and which would carry out the spirit of this zoning ordinance, secure public safety, and provide substantial justice. He stated this criteria had been met.

Member Lane read review criteria six which states granting the variance will not adversely affect adjacent land or the essential character in the vicinity of the property. He replied the variance would not affect adjacent land; also there has been no negative feedback from surrounding property owners on the request.

Member Lane read review criteria seven which states the conditions pertaining to the land or structure are not so general or recurrent in nature as to make the formulation of a general regulation for such conditions practicable. He commented the variance is not recurrent in nature.

Member Lane read review criteria eight which states granting the variance will be generally consistent with public interest, the purposes and intent of this Zoning Ordinance. He said this criterion has been met assuming a building permit can be obtained.

ROLL CALL TO VOTE: YES: Members, Rios, Ohlrogge, Jackson, Lane, and Chair Beauchine.

NO:

Motion carried unanimously

B. ZBA CASE NO. 18-05-23-2 (WATERS), 5619 STAR FLOWER DRIVE, HASLETT, MI, 48840

DESCRIPTION:	5619 Star Flower
TAX PARCEL:	10-352-002
ZONING DISTRICT:	RA (Single Family, Medium Density)

The applicant is requesting to construct a 384 square foot building addition (attached garage) with the closest point being 0.4 feet from the side property line at 5619 Star Flower Drive.

Assistant Planner Chapman outlined the case for discussion.

Chair Beauchine asked the applicant or the applicant's representative if they would like to add anything.

Kerri Waters, the applicant, 5619 Star Flower Drive, Haslett, stated she had received favorable response from her neighbors. She replied in her subdivision 44 of the 66 houses have a 3 car garage and having a garage would secure public safety and allow for parking spaces off the main street. The location of the garage is on the north side of the house and is surrounded by land where construction is not allowed.

Chair Beauchine opened the floor for public comment.

Jane Hallitt, neighbor, 5583 Star Flower Drive, Haslett, expressed concerns over whether or not the new construction actually is within or beyond the property line, and questioned the liability issues during and after construction for the entire subdivision. She added a smaller square foot garage would be sufficient and suggested Ms. Waters purchase property from the subdivision to build on. She also stated that there were other neighbors not in favor of the garage.

Chair Beauchine asked the applicant if she would like to address Ms. Hallitt's comments.

Ms. Waters added she discussed purchasing land from the subdivision however; the entire plat would have to be amended. She did not see how the construction of garage would be a liability for the subdivision.

Chair Beauchine closed public comment.

Chair Beauchine questioned Ms. Hallitt on her statement of liability.

Ms. Hallitt replied she was looking at the issue of liability for the neighborhood as a whole.

Member Lane stated the variance request did not meet review criteria (Section 86-221 of the Code of Ordinances) three and four.

Member Ohlrogge added there were no unique circumstances that are peculiar to the land or structure that is not applicable to other land or structures in the same zoning district.

Member Ohlrogge read review criteria two which states these special circumstances are not self-created. She stated it was not a self-created situation.

Member Ohlrogge read review criteria five which states granting the variance is the minimum action that will make possible the use of the land or structure in a manner which is not contrary to the public interest and which would carry out the spirit of this zoning ordinance, secure public safety, and provide substantial justice. She replied a 3 car garage is not necessarily the minimum action.

Member Ohlrogge read review criteria six which states granting the variance will not adversely affect adjacent land or the essential character in the vicinity of the property. She stated having a garage close to the property line could affect adjacent land or the essential character in the vicinity of the property.

Member Ohlrogge read review criteria seven which states the conditions pertaining to the land or structure are not so general or recurrent in nature as to make the formulation of a general regulation for such conditions practicable. She stated it would not be recommended the ZBA remove setbacks.

Member Ohlrogge read review criteria eight which states granting the variance will be generally consistent with public interest, the purposes and intent of this Chapter. She stated the Zoning Ordinance keeps the subject property consistent with public interest and intent of the Chapter and a variance is not required.

Chair Beauchine stated of the eight review criteria, the request does not meet review criteria three, four and five.

MEMBER LANE MOVED TO DENY THE REQUEST BASED ON FAILURE TO MEET THE REVIEW CRITERIA (SECTION 86-221 OF THE ZONING ORDINANCE).

SECONDED BY MEMBER JACKSON.

ROLL CALL TO VOTE: YES: Members, Ohlrogge, Jackson, Lane, Rios, and Chair Beauchine.

NO:

Motion carried unanimously

C. ZBA CASE NO. 18-04-25-1 (SAROKI), 3650 STALLION WAY, COMMERCE, MI, 48382

DESCRIPTION: 1619 Haslett Road
TAX PARCEL: 10-430-009
ZONING DISTRICT: C-2 (Commercial)

Request to appeal the approval of Site Plan Review (SPR #18-03) to redevelop the Haslett Marathon gas station at 1619 Haslett Road.

MEMBER RIOS MOVED TO TAKE ZBA CASE NO. 18-04-25-1 OFF THE TABLE AND TO REHEAR THE CASE.

SECONDED BY MEMBER OHROLLGE.

ROLL CALL TO VOTE: YES: Members, Ohlrogge, Jackson, Lane, Rios, and Chair Beauchine.

NO:

Motion carried unanimously

Mr. William Fahey, Fahey & Schultz, Burzych, Rhodes, PLC Attorneys, representing the Township, 4151 Okemos, MI, indicated the request is not a variance but an appeal on a site plan review performed by Director Kieselbach. The ZBA role is to determine whether or not Director Kieselbach complied with all the applicable requirements of the Zoning Ordinance. This case is somewhat unique because the Township Board approved a Commercial Planned Unit Development (C-PUD). Director Kieselbach took into consideration in this site plan approval the factor's approved by the Township Board in the CPUD.

Chair Beauchine asked if the appellant if he would like to address the ZBA.

Patrick Lennon, Attorney, Honigman Firm, 650 Trade Centre Way Ste. 200, Kalamazoo, representing Stephen Wickens and Shop Town, stated when the original C-PUD notice went out it cited a different site plan than what is presented today. He stated there are seven sections in violation of the Zoning Ordinance which pertain to the appeal from the April 25, 2018 meeting. He added the site plan review fails to meet the ordinance concerning storm water drainage, traffic, access and circulation, parking, compatibility, and the Township failed to properly notice the changed plan.

Stephen Wickens, the appellant, and one of the owners of Shop Town, 2510 Kerry Street, Lansing, stated he received a copy of the original site plan that went to the Planning Commission in March of 2017. He sent an email of concern to staff in 2017 and shared some historical issues that had gone on at the subject site. He reached out to staff in late May of 2017 and again in June. He received notice from staff that the site plans had changed significantly and the new plans enlarged the store by 35% and decreased the parking spaces. He added the C-PUD Ordinance states that reasonable flexibility is supposed to be presented to adjacent property owners and no notice was given.

David E. Pierson, Attorney, McClelland & Anderson, LLP 1305 South Washington Avenue, Suite 102, Lansing, representing Robert Saroki, owner of Haslett Marathon, stated the decision made by the Township Board for the C-PUD was appealable to the Circuit Court a year ago. The conditions of the C-PUD were unchangeable once approved by the Township Board. The conditions were not changed in Director Kieselbach's decision. One issue is that the Director

approved the site plan subject to the Drain Commissioner resolving drainage on the site. The other issue is an old "Black Letter Law" from the Michigan Supreme Court dealing with public right-of-way to use a street or easement. If abandoned for public use the lot owners have a right to use the street or easement in that platted subdivision, with a fee title subject to an easement. The reason access is an issue, is the Township Board and the Road Department wanted more of the driveways closed and took away 3 of the driveways, the C-PUD reduces the number of driveways. The Township Board has the authority to change parking standards under the CPUD and the character and compatibility in downtown Haslett.

Mr. Lennon replied the C-PUD is not our concern; however there are clear review criteria for site plan reviews which apply over and above the C-PUD decisions. He referenced Section 86-156 of the Zoning Ordinance, which are the list of seven sections of criteria in violation of the Zoning Ordinance.

Mr. Fahey stated the ZBA can affirm Director Kieselbachs determinations on the site plan review, reverse his decision, or reverse his decision in part if it is felt he made an error in his approval.

Chair Beauchine closed public comment.

Member Lane stated the role of the ZBA is limited to the site plan review performed by Director Kieselbach. The approval was based on Sections 86-155 and 86-156 of the Zoning Ordinance, and the ZBA is to determine whether or not Director Kieselbach determinations on the site plan review was appropriate based on those sections of the Zoning Ordinance. Looking at the Sections of the approval the drainage system was subject to the approval of the Ingham County Drain Commissioner (ICDC) and the Township Director of Public Works, which were satisfied by the criteria under the zoning ordinance for site plan approval. In terms of traffic, a traffic study is not required for the C-PUD, and Director Kieselbach made it subject to the approval of the Ingham County Road Department (ICRD), which satisfies the review criteria in the ordinance for the site plan review. The joint access issues has not been changed from how it has been used and this also meets the review criteria in the zoning ordinance. The parking and setbacks were consistent with what the Township Board approved for the C-PUD. The ground contamination issue was approved under the condition of meeting the Ground Water Protection Standard of the Michigan Department of Environmental Quality the authority which makes the decisions in this area. He added after reviewing all sections of the Zoning Ordinance, Director Kieselbach acted appropriately within the scope of the authority under the site plan review section of the Zoning Ordinance.

MEMBER LANE MOVED TO AFFIRM THE DIRECTOR OF COMMUNITY PLANNING AND DEVELOPMENT APPROVAL OF SITE PLAN REVIEW (SPR #18-03) TO REDEVELOP THE HASLETT MARATHON GAS STATION AT 1619 HASLETT ROAD.

SECONDED MY MEMBER RIOS.

ROLL CALL TO VOTE: YES: Members, Ohlrogge, Jackson, Lane, Rios, and Chair Beauchine.

NO:

Motion carried unanimously

7. OTHER BUSINESS

None

8. PUBLIC REMARKS

Chair Beauchine opened the floor for public remarks seeing none he closed public remarks

9. BOARD MEMBER COMMENTS

Chair Beauchine welcomed Monique Field-Foster the new ZBA Alternate Member.

10. ADJOURNMENT

Meeting adjourned at 9:06 p.m.

11. POST SCRIPT - Member Lane

Respectfully Submitted,

Rebekah Kelly
Recording Secretary