

**CHARTER TOWNSHIP OF MERIDIAN
ZONING BOARD OF APPEALS MEETING MINUTES ***DRAFT***
5151 MARSH ROAD, OKEMOS MI 48864-1198
517.853.4000
WEDNESDAY, March 22, 2017**

PRESENT: Members Jackson, Ohlrogge, Lane, Stivers, Chair Beauchine

ABSENT: None

STAFF: Mark Kieselbach, Director of Community Planning and Development,
Keith Chapman, Assistant Planner

A. CALL MEETING TO ORDER

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

B. APPROVAL OF AGENDA

MEMBER OHLROGGE MOVED TO APPROVE THE AGENDA AS WRITTEN.

SECONDED BY MEMBER JACKSON.

VOICE VOTE: Motion carried unanimously.

C. CORRECTIONS, APPROVAL & RATIFICATION OF MINUTES

Wednesday, March 8, 2017

MEMBER LANE MOVED TO APPROVE THE MINUTES OF WEDNESDAY MARCH 8, 2017 AS WRITTEN.

SECONDED BY MEMBER JACKSON.

VOICE VOTE: Motion carried unanimously.

D. COMMUNICATIONS

None.

E. UNFINISHED BUSINESS

None.

F. NEW BUSINESS

1. ZBA CASE NO. 17-02-08-1 (LUPA), 3575 KANSAS STREET, OKEMOS, MI, 48864

DESCRIPTION:	3575 Kansas Street
TAX PARCEL:	33-352-001
ZONING DISTRICT:	RA (One Family, Medium Density Residential)

The applicant is requesting the Zoning Board of Appeals (ZBA) to rehear a previously denied variance in accordance with the following section of the Code of Ordinances:

- Section 86-225 – No application, which has been denied wholly or in part by the Zoning Board of Appeals, shall be resubmitted until the expiration of one year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed circumstances found by the Zoning Board of Appeals to be sufficient to justify consideration.

If the ZBA decides to rehear the case then the request is a variance from the following section of the Code of Ordinances:

- Section 86-373(e)(7) - Accessory buildings shall not exceed a height of 15 feet on any residential lot.

The applicant is requesting a variance to construct an accessory building exceeding the maximum height of 15 feet.

Assistant Planner, Keith Chapman, outlined the case for discussion. He stated the Zoning Board of Appeals (ZBA) at its meeting on February 8, 2017 denied the applicant's request. The applicant is requesting the ZBA to rehear the case based on changed circumstances.

Chair Beauchine stated the first part of hearing was to determine if there was substantial change to reconsider the request. He added if the ZBA moves forward and hears the case a, second motion would be needed to approve or deny the applicant's request.

Mr. Chapman stated the amended request is for a roof 18 feet in height. He added the RA Zoning District allows an accessory structure to be a maximum of 15 feet in height. The applicant is requesting a variance of 3 feet.

Member Jackson clarified the change is 18 feet in height from the originally request of 21 feet in height.

Mr. Chapman replied yes.

Member Ohlrogge questioned if the change was sufficient to justify consideration by the ZBA.

MEMBER STIVERS MOVED TO REHEAR THE CASE BASED ON THE NEW ROOF HEIGHT.

SECONDED BY CHAIR BEAUCHINE.

Member Stivers stated going from the original request of 21 feet to a new roof height of 18 feet is a change of circumstances.

Member Jackson stated because there was a 50% change in the request it did represents a change of circumstances.

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

NO: None.

Motion carried unanimously.

Mr. Chapman outlined the case for discussion.

Mr. Piotr Lupa, 3575 Kansas Street, Okemos, the owner and applicant, showed the ZBA 2 elevation plans for the accessory structure. He stated he wanted to keep the same roof design for the house and accessory structure. He referenced the proposed Okemos Pointe apartment complex which has a similar roof design. He quoted the dimensional standards from the 2017 Meridian Township Master Plan as an example for his request.

Chair Beauchine opened and closed public comments.

Member Stivers asked if the standards from the Master Plan were relevant in this case.

Member Jackson stated the standards in the Master Plan are examples of what future structures may look like and are not relevant in this case.

Member Lane added the "form based code provisions" used in the Master Plan were intended to apply to specific areas in the Township which the subject property is not in. He further added he agreed new evidence had been presented and there was a change in circumstances.

Member Jackson added the unique circumstance is the accessory structure in the front yard and whether it has a flat roof.

Member Ohlrogge asked for clarification regarding the statement in the packet which reads, "the plans submitted by the applicant were reviewed by the Township Building Inspector and he indicated the existing structure may not be able to be used unless it was entirely reconstructed."

Director Kieselbach replied the statement was added to ensure the applicant understood the reconstruction of the accessory building must meet all current construction standards.

Member Lane asked would the structure lose its nonconformity status if it was rebuilt.

Director Kieselbach stated the accessory structure was granted a variance to be in the front yard so the structure would not be nonconforming.

Member Stivers questioned if the proposed roof design is in keeping with the spirit of the zoning ordinance or would the strict interpretation of the code in fact prohibit the design.

Member Jackson stated the height requirement did not dictate whether the accessory structure had a flat roof or a gable roof. The issue before the ZBA is granting a variance in order for the applicant to use the accessory structure as he desires.

Chair Beauchine read from (Section 86-221) review criteria seven, which states the conditions pertaining to the land and or structure are not so general or recurrent in nature as to make the formulation of a general regulation for such conditions practicable. He stated the ZBA cannot modify the intent of the zoning Ordinance for a dimensional variance.

Member Ohlrogge commented the ZBA needs to make sure the accessory structure is safe. She stated an accessory structure should not be designed for livable space and the flat roof at 15 feet in height is in keeping with the zoning Ordinance.

Member Stivers questioned if the ZBA could allow a height variance for storing an RV but not allow the use for livable space.

Member Lane added the 15 feet is sufficient, and most RV owners would not store their RV's in an accessory structure. Repurposing the accessory structure in the future to store an RV does not make for a unique circumstance or hardship.

Member Ohlrogge added if the ZBA considers approval of the request based on a higher roof for RV storage, then review criteria seven cannot be met as the circumstances could become recurrent in nature.

Member Stivers read review criteria one, which states unique circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district. She stated the sloping land, varying heights of the buildings, and the accessory structure in the front yard creates unique circumstances.

Chair Beauchine read review criteria two, which states these special circumstances are not self-created. He stated he agreed with the statement.

Member Ohlrogge read review criteria three, which reads strict interpretation and enforcement of the literal terms and provisions of this chapter would result in practical difficulties. She stated a flat roof 15 feet in height could be built therefore, there was no practical difficulty.

Member Stivers asked at what point is aesthetics a practical difficulty. She stated in this case the question is not between a 15 foot flat roof versus an 18 foot flat roof but whether a gable roof meets the ordinance requirement as shown in the drawings.

Member Jackson commented the issue is not the type of roof, but the height of the roof.

Member Ohlrogge stated the applicant needs to choose a roof that meets the ordinance requirement.

Member Jackson inquired if the gable roof gave the applicant the additional 3 feet.

Director Kieselbach commented review criteria three deals with practical difficulty. He stated the applicant could build either a gable or flat roof that met the height standard. He added regarding aesthetics review criteria six deals with the essential character of the property.

Member Stivers explained it was her understanding the peak of a gable roof could be as high as 40 feet.

Director Kieselbach stated height is measured from the adjacent grade to the mid-point of the roof. The mid-point is the distance between the peak of the roof to the eave line. He added, depending on the slope of the roof and the size of the building the peak can vary in height.

Member Lane stated a practical difficulty would exist if the structure meeting the dimensional standard could not be used as an accessory structure. He added however a height of 15 feet makes it usable and as a result review criteria three is not met.

Member Ohlrogge 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 or would render conformity with such restrictions unnecessarily burdensome. She stated the applicant is not prevented from using the accessory structure.

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 stated if the ZBA agrees review criteria three and four have not been met a variance should not be granted.

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 stated the criteria had been met.

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 said an argument could be made for this criteria.

Member Lane read review criteria eight, which states granting the variance will be generally consistent with public interest, the purposes and intent of this Chapter. He replied for the reasons stated in criteria three and four granting the variance would not meet the purposes or intent of the Zoning Ordinance.

MEMBER LANE MOVED TO DENY THE VARIANCE REQUEST FROM SECTION 86-373(e)(7).

SECONDED BY MEMBER OHLROGGE.

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

NO: None.

Motion carried unanimously.

2. ZBA CASE NO. 17-03-22-1 (PARKER), 6281 W. REYNOLDS ROAD, HASLETT, MI 48840

DESCRIPTION:	6281 W. Reynolds Road
TAX PARCEL:	03-253-023
ZONING DISTRICT:	RB (Single Family-High Density), Lake Lansing Overlay

The applicant is requesting a variance from the following section of the Code of Ordinances:

- Section 86-618(1), which states nonconforming single-family structures may be altered, expanded, or modernized without prior approval of the zoning board of appeals, provided, that such alteration or extension shall not increase the area, height, bulk, use, or extent of the structure and shall satisfy all other applicable site development regulations.

The applicant is requesting to expand the footprint and square footage of the existing nonconforming single-family dwelling.

Mr. Chapman outlined the case for discussion. He added the existing structure is nonconforming as the southeast corner of the house is 0 feet from the property line.

Chair Beauchine asked if the second floor addition of 608 square feet was approved when the property came before the Zoning Board of Appeals (ZBA) in 2000 or was this a modification to the structure.

Director Kieselbach stated nonconforming residential structures are treated differently from other nonconforming structures. If the nonconformity is impacted by adding area, height, or bulk, then approval from the ZBA is required. He added the 608 square foot addition is not part of the request.

Mr. Steve Parker, 6280 Lake Drive, Haslett, the property owner and applicant, explained the proposed changes to the house.

Chair Beauchine opened and closed public comment.

Chair Beauchine indicated the Ingham County Road Department (ICRD) had approved the excavation and construction in the road right-of-way. He added the second floor deck increases the bulk of the structure.

Member Jackson asked if the decks increase the nonconformity and did the deck on the second floor go to the property line.

Mr. Chapman replied yes the deck on the first floor encroaches into the road right-of-way of the front yard. The second floor deck did go to the property line.

Member Stivers stated the property was unique, as the front yard is in the road right-of-way. She asked what the difference was between the right-of-way and the road.

Member Lane replied a public road has a section of property adjacent to the road called a right-of-way.

Member Ohlrogge asked if the variance also dealt with the front yard setback.

Chair Beauchine replied the front yard setback is at zero feet. He asked staff if the new basement required a variance.

Mr. Chapman responded because the structure is zero feet from the property line it is nonconforming and would need a variance.

Member Stivers stated the applicant is expanding the nonconformity at the northeast corner of the house by 2.5 feet from the property line.

Member Stivers stated due to the current slope of the front yard the house is not as accessible as the new design would be for emergency vehicles.

Chair Beauchine stated if the ICRD is in favor of the plan it is a point to take into consideration for the front yard setback.

Member Jackson stated the right-of-way was not as important to this case, as increasing the nonconformity of the house.

Chair Beauchine inquired if the first floor deck extends over the property line.

Mr. Chapman replied the proposed deck extends 8 feet over the property line.

Member Jackson questioned if there was a safety issue with the deck extending over the right-of-way.

Member Ohlrogge stated the ICRD approval had no bearing on Township ordinances.

Member Stivers replied a practical difficulty would not result if the variance was not granted.

Chair Beauchine asked what the side yard setbacks were for the subject property.

Mr. Chapman stated the house was 7 feet from the south property line and is 6 feet 8 inches from the north property line.

Chair Beauchine stated the side yard setback was met.

Member Stivers read review criteria one from (Section 86-221), which states unique circumstances exist that are peculiar to the land or structure that is not applicable to other land or structures in the same zoning district. She stated while the slope of the land and the location of the right-of-way was unique it was not any different from neighboring properties.

Chair Beauchine asked whether a deck was ever built when the variance was granted in 1982, and if the deck crossed the property line into the road right-of-way.

Mr. Chapman replied he believed it did cross the property line, and the variance was for 5 feet from the side yard.

Member Stivers read review criteria two, which states these special circumstances are not self-created. She agreed this situation was not self-created.

Member Stivers read review criteria three, which states strict interpretation and enforcement of the literal terms and provisions of this chapter would result in practical difficulties. She stated there was no practical difficulty.

Member Stivers asked the applicant, if he would address for review criteria three.

Mr. Parker referenced the Lake Lansing Overlay Zoning District requirements and added he was willing to remove the 8 foot deck on the first floor since it was not part of the original design.

Chair Beauchine stated it could be a practical difficulty if the basement was not allowed to be kept in the same vertical alignment with the crawl space.

Chair Beauchine asked if the retaining wall would affect the neighbor's property line.

Director Kieselbach replied the retaining wall would not go past the applicant's south property line if the line was extended into the road right-of-way.

Member Lane added if it was not for the walkout basement the retaining walls would not be needed and he could not see a practical difficulty.

Member Stivers 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. She stated there was no alleged practical difficulty.

Member Stivers 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 stated while the walkout basement provided easier access for emergency vehicles it was not the minimum action necessary.

Member Stivers 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 replied the changes could adversely affect adjacent land and she could not agree with this criteria.

Member Stivers 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 added other houses in area also have similar setback issues.

Member Stivers read review criteria eight, which states granting the variance will be generally consistent with public interest, the purposes and intent of this Chapter.

Chair Beauchine replied the request could meet review criteria eight and be consistent with public interest. With the front yard setback at zero there is no room to add to the structure.

Member Ohlrogge stated the public interest would be to have a right-of-way for public access and emergency vehicles.

Chair Beauchine stated based on review criteria three, four, and five he could not support granting the request.

MEMBER STIVERS MOVED TO DENY THE VARIANCE REQUEST FROM SECTION 86-686(3)(a).

SECONDED BY CHAIR BEAUCHINE.

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

NO: None.

Motion carried unanimously.

Chair Beauchine recessed the meeting at 9:00 p.m.

Chair Beauchine reconvened the meeting at 9:10 p.m.

3. ZBA CASE NO. 17-03-22-2 (POTENTIAL SIGN COMPANY), 6925 WINDSOR HIGHWAY, POTTERVILLE, MI, 48876

DESCRIPTION: 2273 Club Meridian Drive
TAX PARCEL: 33-100-026
ZONING DISTRICT: PO (Professional Office)

The applicant is requesting a variance from the following section of the Code of Ordinances:

- Section 86-686(3)(a), which states one freestanding sign shall be permitted.

The applicant is requesting to install a second freestanding sign.

Mr. Chapman outlined the case for discussion.

Kyle Allen, Potential Sign Company, the applicant's representative, stated the proposed sign is not illuminated and would help make the location visible.

Chair Beauchine opened and closed public remarks.

Chair Beauchine inquired if Club Meridian Drive was a public or private road.

Mr. Chapman replied it was a private road.

Member Ohlrogge agreed safety was a reason for the sign on Okemos Road and questioned the need for the current freestanding sign located on Club Meridian Drive.

Member Jackson stated if the freestanding sign on Okemos Road was sufficient then the freestanding sign in the front of the building should be removed.

Member Stivers stated she was unable to visit the subject property and questioned if the sign on the building was visible.

Member Ohlrogge stated she did see the sign on the building.

Chair Beauchine stated he did not see the sign on the building.

Member Ohlrogge asked if directional signs would be allowed.

Director Kieselbach replied yes but a directional sign could not have any branding, logo or business name on the sign.

Member Jackson referenced review criteria one from (Section 86-221) of the Code of Ordinances, by stating she could not find a unique circumstance which would support allowing a second freestanding sign.

Member Ohlrogge stated the exception is the sign on the building is not visible.

Member Stivers stated the sign on the building, which is difficult to see does not make a case for 2 freestanding signs and added improvements could be made to the sign on the building.

Member Jackson referenced review criteria two and stated the special circumstances is an issue when determining if 2 freestanding signs should be allowed.

Member Jackson read review criteria three, which states strict interpretation and enforcement of the literal terms and provisions of this chapter would result in practical difficulties. She stated there was no practical difficulty.

Member Ohlrogge asked if the address could be a part of the sign.

Director Kieselbach stated if a freestanding sign is allowed on Okemos Road, the address could be a part of the sign.

Member Jackson commented the variance request cannot meet review criteria one, two and three.

Member Jackson 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. She stated the applicant is allowed one freestanding sign and would need to decide where it should be located.

Member Jackson 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 commented it was not the minimum action.

Member Jackson 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 the review criteria could not be met.

Member Jackson 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 the review criteria could not be met.

Member Jackson 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 review criteria could not be met.

MEMBER JACKSON MOVED TO DENY THE VARIANCE REQUEST FROM SECTION 86-686(3)(a).

SECONDED BY MEMBER OHLROGGE.

Member Ohlrogge stated she wanted the applicant to understand the ZBA is supportive of the Okemos Road sign, but did not support having two freestanding signs.

Chair Beauchine asked when can a property be allowed to have 2 freestanding signs.

Director Kieselbach stated in the commercial zoning district however, the subject property is zoned PO (Professional and Office) zoning.

Member Stivers expressed support for having more signage for safety reasons and a second freestanding sign at the intersection was feasible.

Member Jackson replied there is always the option to change the location of the sign on the building.

Member Ohlrogge agreed safety was a concern and 2 freestanding signs would address the safety issue.

Member Stivers stated she would support granting the variance for the following reasons: the location of the building made it difficult to find the subject property, the existing sign on the building was too small to see, allowing a second freestanding sign was the minimum action, would improve public safety, meet the spirit of the zoning ordinance and would not adversely affect adjacent land.

Member Ohlrogge asked if the second freestanding sign could be required to be smaller.

Member Lane replied the existing freestanding sign is already smaller at 20 square feet.

Director Kieselbach stated the ZBA can put reasonable conditions on granting a variance; however there needs to be a connection between the granting the variance and the reason for the condition.

Member Jackson commented a variance would go with the land and whatever the property is used for now or in the future the second freestanding sign could remain.

Chair Beauchine asked if the variance was approved must the second freestanding sign remain in the same location or could the sign be moved or could n the ZBA restrict the location.

Director Kieselbach replied if the sign met the required setbacks it could be placed anywhere on the property unless the ZBA restricted the location.

Member Jackson stated the ZBA could propose a condition allowing 2 freestanding signs with one sign on Club Meridian Drive in front of the building and one sign on Okemos Road.

ROLL CALL VOTE: YES: Member Jackson
NO: Stivers, Ohlrogge, Lane and Chair Beauchine.
Motion failed 1 to 4.

MEMBER STIVERS MOVED TO APPROVE THE VARIANCE REQUEST CONDITION ON, ONE FREESTANDING SIGN ON OKEMOS ROAD AND ONE FREESTANDING SIGN ON CLUB MERIDIAN DRIVE

SECONDED BY MEMBER LANE.

ROLL CALL VOTE: YES: Member Jackson, Stivers, Ohlrogge, Lane and Chair Beauchine.
NO:
Motion carried unanimously.

G. OTHER BUSINESS

H. PUBLIC REMARKS

David Clearwood, Project Manager Tutor Time, 2273 Club Meridian Drive, thanked the ZBA for the variance approval.

I. BOARD MEMBER COMMENTS

Member Ohlroge thanked Chair Beauchine for leading the ZBA meetings and sticking to the details.

Member Stivers added it was better to stay longer in order to come to the correct decisions instead of rushing through just to finish.

J. ADJOURNMENT

Chair Beauchine adjourned the meeting at 9:49 p.m.

K. POST SCRIPT - Member Lane

Respectfully Submitted,

Rebekah Lemley
Recording Secretary