

CHARTER TOWNSHIP OF MERIDIAN
ZONING BOARD OF APPEALS MEETING AGENDA
5151 MARSH ROAD, OKEMOS, MI 48864-1198
(517) 853-4000
WEDNESDAY, July 13, 2016 6:30 PM
TOWN HALL ROOM

A. CALL MEETING TO ORDER

B. APPROVAL OF AGENDA

C. CORRECTIONS, APPROVAL & RATIFICATION OF MINUTES

- o Wednesday, June 8, 2016

D. UNFINISHED BUSINESS

E. NEW BUSINESS

1. ZBA CASE NO. 16-07-13-1 MERIDIAN CHARTER TOWNSHIP, 5151 MARSH ROAD, OKEMOS, MI, 48864

DESCRIPTION:	2055 Towner Road
TAX PARCEL:	04-276-008
ZONING DISTRICT:	RR (Rural Residential)

The applicant is requesting variances from the following sections of the Code of Ordinances:

- Section 86-471(b)(1), which states all structures and grading activities shall be setback from the edge of wetlands regulated by the Township, the state, or by federal law equal to or greater than two acres in area by 40 feet.

The applicant is requesting a variance to grade and construct a paved trail/boardwalk within the 40-foot setback from water features associated with the development of Towner Road Park located at 2055 Towner Road, Haslett, MI

- ☞ Variance requests may be subject to change or alteration upon review of request during preparation of the staff memorandum. Therefore, Sections of the Code of Ordinances are subject to change. Changes will be noted during public hearing meeting.

F. OTHER BUSINESS

G. PUBLIC REMARKS

H. BOARD MEMBER COMMENTS

I. ADJOURNMENT

J. POST SCRIPT – BRIAN BEAUCHINE

Information regarding the request may be examined at the Department of Community Planning and Development, 5151 Marsh Road, Okemos, Michigan 48864-1198, between the hours of 8:00 am and 5:00 pm, Monday through Friday. Comments may be made in writing addressed to the Zoning Board of Appeals at 5151 Marsh Road, Okemos, MI 48864 or may be made at the hearing.

BRET DREYFUS, CMMC
TOWNSHIP CLERK

ZONING BOARD OF APPEALS PUBLIC HEARING PROCEDURE

Persons wishing to address the topic of a scheduled public hearing are encouraged to present their remarks during the public hearing portion of the Zoning Board of Appeals meeting. **If you do intend to speak before the Zoning Board of Appeals please sign in at the door.** During a public hearing, the following order shall be used:

1. Township Staff Review
2. Comments by the applicant or applicant's designee(s)
3. Comments by other persons
4. Applicant rebuttal
5. ZBA members discuss the case. If necessary, the applicant may be asked to respond to questions from the ZBA members
6. Action by the ZBA

Persons wishing to appeal a decision of the Zoning Board of Appeals shall do so in accordance with Michigan Court Rules of Appeals to Circuit Court MCR 7.101.

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**CHARTER TOWNSHIP OF MERIDIAN
ZONING BOARD OF APPEALS MEETING MINUTES ***DRAFT**
5151 MARSH ROAD, OKEMOS MI 48864-1198
517.853.4000
WEDNESDAY, June 8, 2016**

PRESENT: Members Jackson, Lane, Ohlrogge, Chair Beauchine
ABSENT: Member LeGroff
STAFF: Mark Kieselbach, Director of Community Planning and Development

A. CALL MEETING TO ORDER

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

B. APPROVAL OF AGENDA

COMMISSIONER JACKSON MOVED TO APPROVE THE AGENDA AS WRITTEN.

SECONDED BY MEMBER LANE.

VOICE VOTE: Motion carried unanimously.

C. CORRECTIONS, APPROVAL, & RATIFICATION OF MINUTES

Wednesday, May 11, 2016

MEMBER OHLROGGE MOVED TO APPROVE THE MINUTES OF WEDNESDAY, May 11, 2016 AS WRITTEN.

SECONDED BY COMMISSIONER JACKSON

VOICE VOTE: Motion carried unanimously.

D. UNFINISHED BUSINESS

None

E. NEW BUSINESS

Chair Beauchine addressed the applicant stating one Zoning Board of Appeals member was absent and gave the applicant the option to defer the case until a full board could be present or to move forward with the hearing.

Applicant requested the case be heard.

1. ZBA CASE NO. 16--06--08-1 CHRIS HUMPHREY, 4495 MILLWATER DRIVE, POWELL, OH, 43065
DESCRIPTION: 2055 W Grand River
TAX PARCEL: 21-276-010
ZONING DISTRICT: C-3 (Commercial)

The applicant is requesting variances from the following sections of the Code of Ordinances:

- Section 86-405(b)(1), which states the required minimum lot area in the C-3 district is ten thousand square feet, except where otherwise specified.

- Section 86-405(b)(2), which states the required minimum lot width in the C-3 district is one hundred feet, except where otherwise specified.

The applicant is requesting variances to allow a drive-up ATM on a licensed area that does not meet the C-3 district required minimum lot area and minimum lot width requirements on the Meijer site at 2055 West Grand River Avenue, Okemos, MI

Director Kieselbach outlined the case, stating in the C 3 zoning district a drive-up requires a "special use permit." He further stated the Township's Land Division Ordinance defines a land division as the portioning or spiting of property for the purpose of sale or lease for more than one year. He noted Huntington Bank has a license with Meijer's to use the area for the ATM.

Director Kieselbach made a correction to the staff report noting a lot width, is defined in the zoning ordinance as the dimension along the street, pointing out the proposed area had no street frontage. Instead of the 22 feet in the staff memo it should read zero (0), making the variance request one hundred (100 feet). He commented the elimination of 17 parking spaces for the ATM was not an issue for Meijer's, as they already meet the minimum requirement for parking spaces.

Director Kieselbach concluded by stating, if the ZBA is in favor of granting the variance, staff would recommend it be conditioned on the Planning Commission granting a "special use permit."

Chair Beauchine called on the applicant.

Chris Humphrey, representative for Huntington Bank, 4495 Millwater Drive, Powell, OH 43065, stated this is a license agreement, not a lease, a sale, or easement between Huntington Bank and Meijer. The license does define a particular location and orientation for the ATM and its stacking lane.

Chair Beauchine opened the meeting for public remarks.

Being none Chair Beauchine closed public remarks.

Chair Beauchine questioned Director Kieselbach pertaining to a lease/license and whether the variance stays with property for the life of the lease/license.

Director Kieselbach stated the variance would stay with the "special use permit" for the ATM. If the ATM is discontinued, the land division would no longer be valid. He continued by stating based on the Township Attorney's opinion, a license is the same as a lease and is subject to the land division ordinance.

Director Kieselbach continued to explain a land division is subject to the Director of Community Planning and Development approval, and cannot be approved, unless it meets lot area and lot wide requirements.

Commissioner Jackson questioned the concept of a land division, since the property belongs to Meijer.

Director Kieselbach commented if there is a sale or lease for more than one year, it is defined as a division and subject to the State Land Division Act and the Township's Land Division Ordinance.

Member Ohlrogge requested Director Kieselbach to help her understand review criteria two, Section 86-221, which reads, these special circumstances are not self-created. She stated these circumstances are imposed by the State Land Division Act.

Director Kieselbach remarked the land division ordinance is separate from the zoning ordinance, it is the land division ordinance which states the minimum lot area and lot width requirements for the zoning district must be met.

Chair Beauchine commented, as we are trying to understand the differences in the law and review criteria, the ZBA must remember this variance is limited to the term of the lease and tied to a "special use permit."

Member Lane commented the land division according to the Township Attorney and staff, with this particular variance request, falls under the Land Division Act and under the land division ordinance and since it is a license for over a year, the land division is necessary.

Member Lane questioned since this is the Township Attorney's interpretation, would the applicant be able to challenge his interpretation?

Director Kieselbach stated yes it could be appealed.

Member Ohlogge expressed concern over the ATM being abandoned and becoming an unusable property when the lease is terminated.

Director Kieselbach cautioned the ZBA not to mix the land use with the division of land, stating the Planning Commission under a "special use permit" can attach conditions.

Chair Beauchine read review criteria one, which reads, 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. He commented he viewed this as a unique circumstance being a lease for more than one year and the variance will be temporary since it is attached to the license/lease. He further stated these special circumstances are not self-created, as the applicant has not started construction.

Member Ohlogge stated the circumstances are not unique based on the fact this situation could come up in other locations, she also believed it was self-created since they are adding area for the use.

Director Kieselbach commented in a self-created case the person did something to create the situation. In this case the applicant is requesting the variance first prior to starting the project.

Chair Beauchine read review criteria three, which reads, strict interpretation and enforcement of the literal terms and provisions of the Ordinance would result in practical difficulties.

Commissioner Jackson questioned if the practical difficulty would be finding a property suitable for the drive-up ATM.

Chair Beauchine stated yes, the applicant would need to find property with 100 ft. of frontage on Marsh Road, Grand River Avenue, or Okemos Road.

Member Ohlogge disagreed stating Huntington Bank was still able to do banking within Meijer's without a drive-up ATM.

Chair Beauchine read review criteria four, which reads, 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. He felt it was unnecessarily burdensome not to grant the variances as it is temporary in nature based on the lease and the Planning Commission would enforce the guidelines for the "special use permit."

Member Lane agreed with Chair Beauchine statement.

Chair Beauchine read review criteria five, which reads, 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.

Commissioner Jackson stated she could support criteria five as a valid reason.

Member Ohlrogge stated she was concerned with secure public safety which is a substantial part of review criteria five.

Chair Beauchine inquired of Director Kieselbach if Meijer's could put in an ATM anywhere they wanted in their parking lot.

Director Kieselbach stated an ATM whether walk up traffic or drive-up required a "special use permit."

Chair Beauchine read review criteria six, which reads, granting the variance will not adversely affect adjacent land or the essential character in the vicinity of the property.

Commissioner Jackson agreed the design did not adversely affect the area or the activity on the site.

Member Ohlrogge disagreed referring to the new restaurant coming to the same area, and concern with congestion created by the restaurant and their drive-up, she believed it could be a safety issue.

Director Kieselbach reminded the ZBA the Planning Commission will deal with the land use and safety issues. The ZBA deals with the size and width area, and will it adversely affect adjacent land.

Member Ohlrogge commented she believed the size of the area can affect adjacent land, because it is taking up space and does not meet the State requirement for size.

Chair Beauchine stated if the ZBA does approve a variance; it should be with the condition requiring the applicant to receive a "special use permit." The Planning Commission will work through the details.

Member Ohlrogge stated the difficulty she is having in addressing the size of the area without taking into consideration the safety issues.

Chair Beauchine suggested the ZBA should offer a motion to either to deny, table or approve.

MEMBER LANE MOVED TO APPROVE THE REQUEST, BASED UPON THE APPLICANT RECEIVING A SPECIAL USE PERMIT FROM THE PLANNING COMMISSION.

CHAIR BEAUCHINE SECONDED THE MOTION.

Member Lane commented his concerns over safety were alleviated. With no building or parking to be consider, and the entire construction is the width of the existing parking spaces.

Chair Beauchine commented the current curb along the service drive on the west side creates a barrier providing safety.

Member Ohlrogge voiced her concern over the additional traffic coming in and out of the drive-up, which covers lot width and length.

Commissioner Jackson replied the lot width and length becomes an issue before the Planning Commission in evaluating the appropriateness of a drive-up.

Director Kieselbach stated the Planning Commission will be looking at traffic circulation and hazards attached to use for the "special use permit."

Commissioner Jackson summarized the question for the ZBA is based on lot width and lot area.

Member Ohlrogge stated is this going backwards, should the applicant have gone to the Planning Commission first.

Commissioner Jackson commented the applicant had a choice to come before the Planning Commission, and then appear before the ZBA. However, it was the applicant's choice to appear before the ZBA first to get the variance.

Member Lane added he felt it was unique because the ZBA is conditioning the variances on the "special use permit." He said it was not relevant which order the applicant proceeded with the project.

Chair Beauchine agreed. Stating the "special use permit" is tied to the ATM, and the lease is temporary.

Chair Beauchine repeated the motion to approve ZBA case NO. 16-06-08-1 with the condition the applicant acquires a special use permit from the Planning commission for the proposed ATM.

ROLL CALL TO VOTE YES: MEMBER LANE, CHAIR BEAUCINE, COMMISSIONER JACKSON
NO: MEMBER OLROGGE
Motion carries: 3-1

F. OTHER BUSINESS

G. PUBLIC REMARKS

Being none Chair Beauchine closed public remarks.

H. BOARD MEMBER COMMENTS

Director Kieselbach stated there would not be a ZBA meeting for Wednesday, June 22, 2016

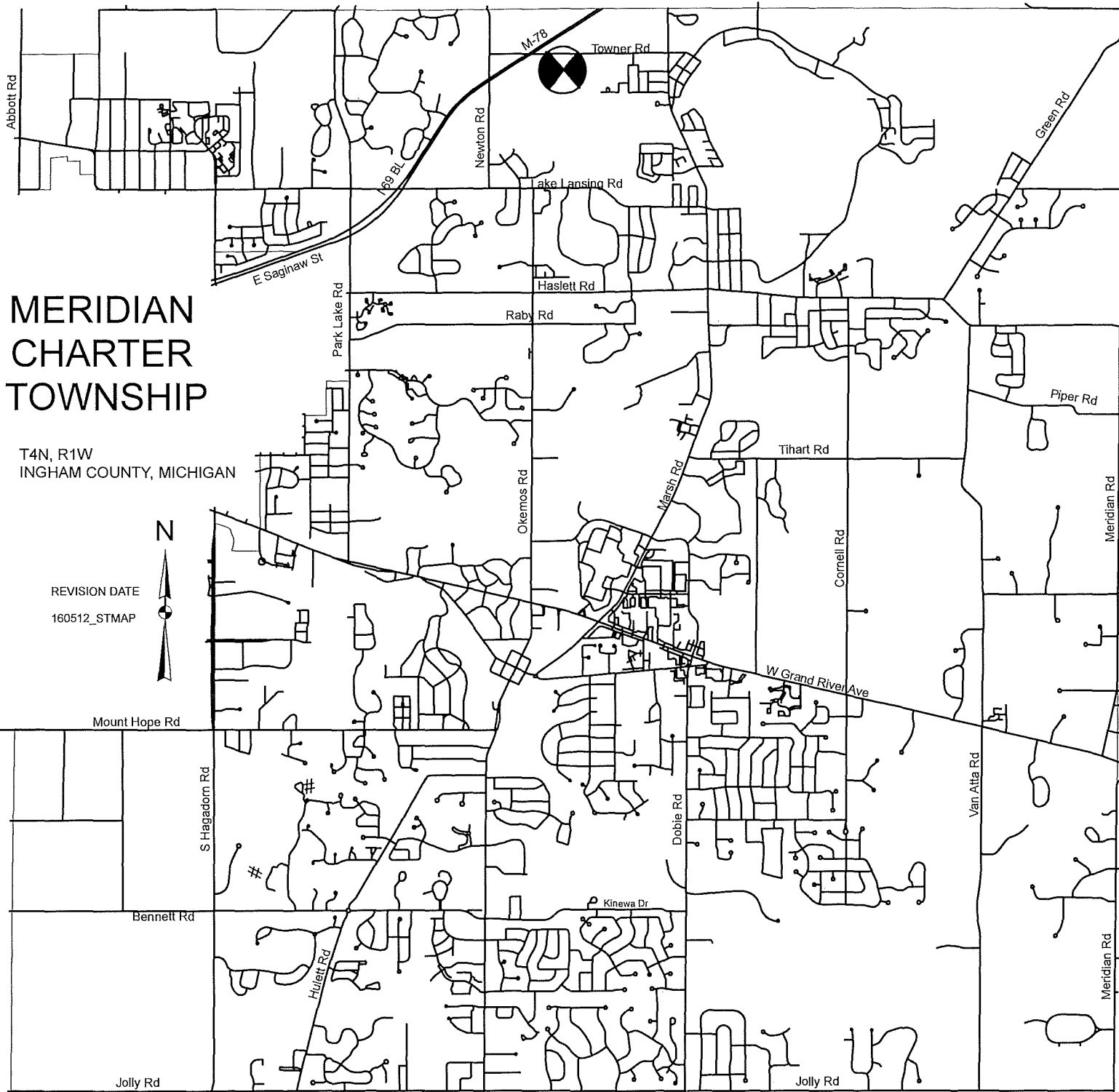
I. ADJOURNMENT

Chair Beauchine adjourned the meeting at 8:08 PM

J. MEMBER LANE POST SCRIPT

Respectfully Submitted,

Rebekah A. Lemley
Recording Secretary



MERIDIAN CHARTER TOWNSHIP

T4N, R1W
INGHAM COUNTY, MICHIGAN

REVISION DATE
160512_STMAP



LOCATION MAP

MEMORANDUM

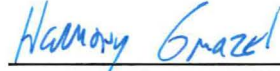
TO: Zoning Board of Appeals

FROM:



Mark Kieselbach

Director



Harmony Gmazel, AICP

Associate Planner

DATE: June 24, 2016

RE: ZBA Case No. 16-07-13-1

ZBA CASE NO. 16-07-13-1 CHARTER TOWNSHIP OF MERIDIAN (PARKS)
5151 MARSH ROAD, OKEMOS, MI 48864

DESCRIPTION: Towner Road Park, 2055 Towner Road

ZONING DISTRICT: RR (Rural Residential)

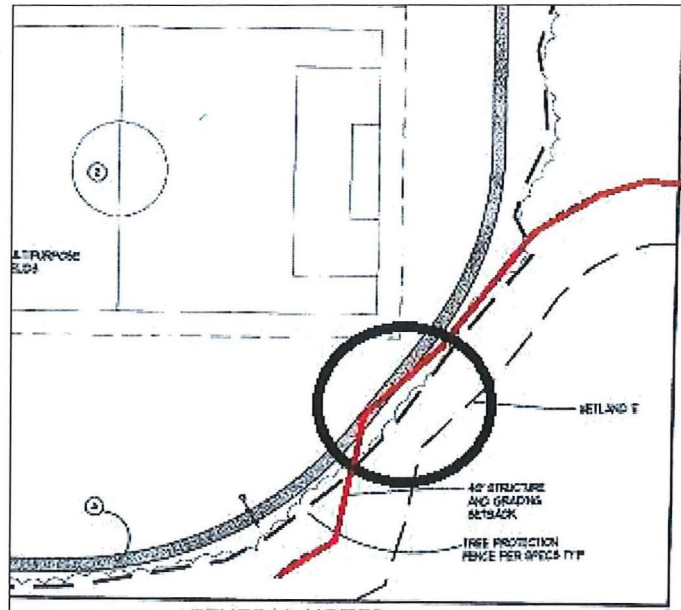
The applicant is requesting a variance from the following section of the Code of Ordinances:

- Section 86-471(b)(1), which states all structures and grading activities shall be setback from the edge of wetlands regulated by the Township, the state, or by federal law equal to or greater than two acres in area by 40 feet.

The applicant intends to grade and install an eight-(8) foot wide paved trail within the 40-foot setback from water features associated with a regulated wetland on the site of Towner Road Park. Wetland E is identified on the Township Wetland Map as part of Wetland #4-22 which is 47.75 acres in size, extends off of the Towner Road Park property and is regulated by the Township and the State. The trail project is part of the development of a public park on a vacant unused property that was previously a golf driving range. The overall park development plan is to provide facilities for active and passive recreation such as nature watching, walking, baseball, soccer, lacrosse, rugby, and football.

The applicant proposes to construct a paved trail and to grade within the 40-foot setback of Wetland E. The paved pathway will, at its widest, extend 6.5 feet into the setback. The area of grading is approximately 2,960 sq. ft. in size, with 162 sq. ft. to be paved. Exhibit A, below, depicts the southwest corner of the park, with a circle enclosing the area where the paved pathway will encroach into the 40-foot wetland setback.

Exhibit A: The Pathway and Setback Location Map



If the Zoning Board of Appeals decides to approve the request, staff recommends the following conditions:

- The applicant shall install appropriate soil erosion and sedimentation control measures during construction to ensure there are no impacts to wetlands outside of project area.
- The applicant shall place a silt fence along the location of the 20-foot natural vegetation strip boundary associated with Wetland E.
- The applicant shall obtain all necessary permits and approvals from the Township.

Attachments

1. Application Materials

**CHARTER TOWNSHIP OF MERIDIAN
PLANNING DIVISION
5151 MARSH ROAD, OKEMOS, MI 48864
(517) 853-4560**

VARIANCE APPLICATION

A. Applicant Meridian Charter Township
 Address of Applicant 5151 Marsh Rd, Okemos MI 48864
 Telephone (Work) 517-853-4604 Telephone (Home) _____
 Fax 517-853-4099 Email address: Maisner@Meridian.MI.US
 Interest in property (circle one): Owner Tenant Option Other

B. Site address/location 2055 Towner Rd
 Zoning district RR Parcel number 33-02-02-04-276-008

- C. Nature of request (Please check all that apply):
- Request for variance(s)
 - Request for interpretation of provision(s) of the "Zoning Ordinance" of the Code of Ordinances
 - Review an order, requirements, decision, or a determination of a Township official charged with interpreting or enforcing the provisions of the "Zoning Ordinance" of the Code of Ordinances

Zoning Ordinance section(s) 90-47(16)(1)

- | | |
|--|--|
| D. <u>Required Supporting Material</u> | <u>Supporting Material if Applicable</u> |
| <input checked="" type="checkbox"/> Property survey | -Architectural sketches |
| <input checked="" type="checkbox"/> Legal description | -Other |
| -Proof of property ownership or approval letter from owner | |
| <input checked="" type="checkbox"/> Site plan to scale | |
| -Written statement, which demonstrates how all the review criteria will be met (See next page) | |

[Signature] _____ Laura Maisner _____ 5/23/16 _____
 Signature of Applicant Print Name Date

Fee: _____ Received by/Date: Honora Gray (left blank, actual fee + date is unknown)
by staff

I (we) hereby grant permission for members of the Charter Township of Meridian Zoning Board of Appeals, Township staff members and the Township's representatives or experts the right to enter onto the above described property (or as described in the attached information) in my (our) absence for the purposes of gathering information including but not limited to the taking and the use of photographs. (Note to Applicant(s): This is optional and will not affect any decision on your application.)

[Signature] _____ 5/23/16 _____
 Signature of Applicant(s) Date

 Signature of Applicant(s) Date



1430 Monroe Avenue, NW Suite 105
Grand Rapids, Michigan 49505

313 North Burdick Street
Kalamazoo, Michigan 49007

May 25, 2016

To: Board of Zoning Appeals
From: Meridian Township Parks and Recreation Department
Project: Towner Road Park
Re: Variance Request

In an effort to meet the recreational needs of the Township and provide new recreational facilities in an area of the Township that is lacking, the Township Parks and Recreation Department is proposing a new park facility at 2055 Towner Road that includes two baseball fields, two multipurpose sports fields (soccer, football, lacrosse, rugby), pickleball, concessions, restrooms, parking, and other ancillary features. This project is in response to resident needs in the Haslett area where sports fields are in high demand but short supply. This project is also identified in the Township's 5-Year Parks and Recreation Master Plan. In addition, under the Sport Facility Inventory and Assessment section of the 5-Year Parks and Recreation Plan, it is noted that the Township, when compared to national park standards, is deficient by 2 baseball fields and deficient by 2 multipurpose fields based on the number of teams and players in the area. Therefore this project will bring the Township on par with national park standards.

The existing site is a former golf driving range that is currently vacant. The properties to the south and east contain wetlands that extend on the proposed site. Due to the location of the existing wetland areas, the Meridian Township Parks and Recreation Department is requesting a variance to Section 86-471 (b), (1) of the Zoning Ordinance to allow approximately 2,200 square feet of grading to occur within the 40-foot wetland setback of "Wetland C"; and approximately 2,960 square feet of grading and approximately 162 square feet of paved trail construction to occur within the the 40-foot wetland setback of "Wetland E" as noted on the attached plans. **It should be noted that the plan maintains a 20-foot buffer of no disturbance immediately adjacent to both wetlands; therefore the proposed grading occurs 20-feet beyond the limits of the wetlands. In addition, aside from the small area of trail, all of the disturbance within the setbacks will be green space and not developed structures.**

Responses to the Review Criteria are outlined below (responses in bold):

*1. 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. **The unique circumstances include two small existing wetlands (Wetland C and Wetland E) that are part of larger off site wetlands but extend into the site at low points on the property. These wetlands are located on the east side of the site and the southwest corner of the site. These existing site conditions are beyond the control of the applicant. If the wetlands did not exist, additional recreational facilities could be developed, therefore the applicant's ability to maximize use of the land is already limited by the wetland presence. Other land or structures in the same zoning district are not impacted by wetlands, as most of these properties are residential in nature and have much smaller development footprints.***

*2. **These special circumstances are not self created. The location and size of the existing wetlands are not self created. The existing slopes, topography, and drainage patterns are not self created.***

3. *Strict interpretation and enforcement of the literal terms and provisions of the ordinance would result in practical difficulties. Strict enforcement of the ordinance would result in practical difficulties to have enough space to properly grade the athletic fields and barrier free trail. These difficulties would limit the ability to provide adequate recreational facilities for the residents of the Township and would create difficulties in providing adequate barrier free access throughout the park.*

4. *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. Failure to grant the variance will create two difficulties due to the location of the wetlands, existing topography of the site, and slope requirements of the new fields: 1) would require the removal of one of the multipurpose fields which would limit the ability for the Township to provide adequate recreational facilities that are currently deficient in the Township and to the specific area of the Township. There is not enough space between the existing wetlands to properly layout and grade two fields. If the variance is not granted than only one field can be constructed which would not meet the goals and intent of the project. One field would not provide adequate space for tournaments which would make the site an undesirable destination for traveling teams. These fields are designed for soccer, rugby, lacrosse and football, which are widely popular sports that require large, flat, well drained fields that are currently in short supply. 2) would eliminate the ability to provide barrier free access to the proposed fields and around the park site. This would reduce and limit the ability to provide physically challenged users the same park experience as able bodied users. The Parks and Recreation Department wishes to provide barrier free access for all areas of the site.*

5. *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. Granting the variance would allow the Township to efficiently use the land to provide public recreational facilities to the residents. It would also allow the Township to have the proper facilities to hold tournaments at this site which contributes to the Township's economy. Granting the variance would meet the spirit of the ordinance as the encroachment into the setback is minimal and would consist of grading, lawn areas, and a walking path. All improvements are flush with grade and would not be noticeable to the public. There is no other way to configure the fields on the site without grading into the wetland setback due to the current grades of the site. Moving the fields to the north away from the wetland areas would require the elimination of required parking areas and other amenities.*

6. *Granting the variance will not adversely affect adjacent land or the essential character in the vicinity of the property. Granting the variance will not adversely affect adjacent land or the essential character in the vicinity of the property. The character of the site will remain as it currently is, open mowed park land. Adjacent properties are not affected by the project.*

7. *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. Typically development around wetland areas can be avoided in residential zoned areas as residential development has a small*

foot print and has the flexibility to be constructed around wetland setbacks with minimal impact. However in this case the development includes large flat athletic fields that need to be placed on a site with elevation changes and low areas, which is not a common type of development that would require the formulation of general regulations.

8. Granting the variance will be generally consistent with public interest, the purposes and intent of this Zoning ordinance. Granting of the variance will be consistent with public interest as well as the purposes and intent of the Ordinance, as the site will remain a park with the same character and uses it has currently. Granting of the variance will allow for the development of a public park facility.