

MEETING MINUTES
GRAND HAVEN CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
TUESDAY, JANUARY 26, 2016 – 7:00 P.M.

I. CALL TO ORDER

The regular meeting of the Grand Haven Charter Township Zoning Board of Appeals was called to order at 7:00 p.m. by Chair Robertson.

The Chair explained both the purpose and procedures of the ZBA.

II. ROLL CALL

Board of Appeals members present: Robertson, Loftis, Behm, Voss, Slater, and Rycenga (alternate)

Board of Appeals members absent: None

Also present: Planning & Zoning Official Fedewa

Without objection, Fedewa was instructed to record the minutes for the meeting.

III. APPROVAL OF MINUTES

Without objection, the minutes of the November 24, 2015 special meeting were approved.

Without objection, Robertson reordered the agenda to hear ZBA Case #15-12 first.

IV. NEW BUSINESS

A. ZBA Case #15-12 – Dimensional Variance – Berry

Party Requesting Variance:	Tim and Sheri Berry
Representing Agent:	David Pollock
Address:	2165 Onekama Dr SE, Grand Rapids, 49506
Parcel Number:	70-03-32-131-015
Location:	15058 Stickney Ridge (<i>Cottage No. 24</i>)

Tim and Sheri Berry are seeking a dimensional variance from Section 20.22.2.B of the Zoning Ordinance in order to construct a single retaining wall greater than 4 feet in height, which is not able to meet the setbacks of the R-1 Zoning District. The retaining wall is needed to stabilize the steep slopes, so a compliant septic system can be installed to make the dwelling habitable.

Fedewa provided an overview of the application through a memorandum dated January 26th.

Following the initial discussions the Chair invited the applicant to speak:

David Pollock – Authorized Agent:

- Applicants purchased lot in early 2015, and the Ottawa County Environmental Health Department requires an inspection of the septic system prior to occupancy. The inspection failed, and the Department is requiring a larger system be installed that is compliant with current ordinances.
- Township variance for retaining wall, and subsequent building permits are the only outstanding permits that must be obtained prior to commencement of construction.

Standard No. 1 – Exceptional or extraordinary circumstances:

- Legal lot of record, and is exceptionally small in size.
- Exceptional topography, special exception permit for steep slopes granted by the DEQ.
- Ottawa County Environmental Health Department condemned the structure until a new septic system is installed.

Ayes: Robertson, Behm, Voss, Slater, Loftis

Nays: None

Standard No. 2 – Substantial property right:

- Habitability is a substantial property right.
- Installation of retaining wall is needed to install the septic system, which is needed to achieve habitability.

Ayes: Robertson, Behm, Voss, Slater, Loftis

Nays: None

Standard No. 3 – Will not be a substantial detriment to adjacent parcels, or material impact on the intent and purpose of the Ordinance:

- Correspondence was received from the two adjacent neighbors, and both are supportive of the application for variance.

Ayes: Robertson, Behm, Voss, Slater, Loftis

Nays: None

Standard No. 4 – Request is not of such a recurrent nature as to make reasonably practical the formulation of a general regulation:

- Many unique situations in this area of the Township—legal lot of record, many aspects of the property are legally nonconforming, and the request is not of a recurrent nature.

Ayes: Robertson, Behm, Voss, Slater, Loftis

Nays: None

Motion by Voss, supported by Behm, to **approve** dimensional variances from Section 20.22.2.B of the Grand Haven Charter Township Zoning Ordinance for a single retaining wall for a Front Yard setback of 23 feet, a Rear Yard setback of 29 feet, a Side Yard 1 setback of 12 feet, and a maximum retaining wall height of 6 feet to allow the replacement of a failed septic system and installation of the retaining wall to stabilize the steep slopes at 15058 Stickney Ridge (*Cottage No. 24*). Approval of this variance is based upon this Board’s findings that all four standards have been affirmatively met. **Which motion carried**, as indicated by the following roll call vote:

Ayes: Robertson, Behm, Voss, Slater, Loftis
Nays: None
Absent: None

V. OLD BUSINESS

B. ZBA Case #15-09 – Sign Variance & Text Interpretation – Hope Reformed Church

Party Requesting Variance: Hope Reformed Church
Applicants Representative: Jim VanTol, Postema Signs & Graphics
Address: 14932 Mercury Drive, Grand Haven
Parcel Number: 70-07-01-102-068
Location: 14932 Mercury Drive

Hope Reformed Church is seeking a text interpretation of Section 24.11 for the units of measurement for an electronic message board. Furthermore, the applicant is requesting a sign variance to increase the size of a ground sign and electronic message board, which is in violation of Sections 24.12.12.A and 24.13 of the Zoning Ordinance.

Motion by Slater, supported by Loftis, to remove ZBA Case #15-09 application from the table. **Which motion carried.**

Section 2a of Public Act 196, of 1973 [MCL15.342a(3)] states a public officer may vote on, or participate in, a governmental decision despite a personal interest if all of the following occur:

1. A quorum necessary for the governmental decision to be made is not available if the public officer cannot participate because of Section 2(7).
2. The public officer is not paid for working more than 25 hours per week by the governmental entity involved.
3. The public officer promptly discloses the personal or other interest the person may have in the decision to be made.

Therefore, Slater, Loftis, and Rycenga promptly disclosed that each is an active member of the Hope Reformed Church, and Voss disclosed a former membership to the Hope Reformed Church.

Motion by Slater, supported by Loftis that the Zoning Board of Appeals enter closed session under section 8(h) of the Open Meetings Act at 7:16 p.m., to consider the contents of a written legal opinion from the Township attorney, which is exempt from discussion or disclosure under section 13(1)(g) of the Freedom of Information Act, which exempts from public disclosure information or records subject to attorney-client privilege. **Which motion carried**, as indicated by the following roll call vote:

Ayes: Robertson, Behm, Voss, Slater, Loftis
Nays: None
Absent: None

Motion by Slater, supported by Behm to adjourn from closed session at 7:30 p.m. **Which motion carried**, as indicated by the following roll call vote:

Ayes: Robertson, Behm, Voss, Slater, Loftis
Nays: None
Absent: None

Fedewa provided an overview of the application through a memorandum dated January 22nd.

Following the initial discussions the Chair invited the applicant to speak:

Jim VanTol – 15749 Kitchel Lane:

- Many new ordinances specify the “Active LED Area” as the unit of measurement for Electronic Message Boards (EMB).
- Stated the existing legally nonconforming sign on the parcel is substantially larger than what the applicant is requesting, which also includes a manual message board that is greater in size than what is permitted by Township Ordinances.

The Board discussed the interpretation request and made the following determination:

- Units of measurement concerning Electronic Message Boards shall only measure the “Active LED Area,” and exclude the cabinet from the size calculations.

The Board discussed the four standards and noted the following:

- Determined the applicant parcel does not meet the definition of a corner lot. Therefore, it is only entitled to one Electronic Message Board (EMB).
- Questioned the appropriate method to establish a maximum size based on the applicants request to eliminate the ability to install a ground sign on Groesbeck Street, and in

return have a larger sign on Mercury Drive. This determination would likely set a precedence for future cases.

- Option 1: ordinance allows one 18 square foot sign for each street frontage, so a maximum size could be 36 square feet, if the option for a second sign was eliminated.
- Option 2: limit the size by taking the Service/Professional Zoning District size restrictions into account. The maximum size of a ground sign in that district is 32 square feet.
- Option 3: establish a maximum percentage increase, rather than setting a maximum square footage.
- This is the first time a variance application has been received for this type of request, so there does not appear to be an issue with the Zoning Ordinance language. If approved, this could become “legislation by variance,” which would in effect be creating a new ordinance.
- The variance application as presented does not appear to meet the exceptional or extraordinary conditions test. Improving safety by increasing signage visibility may be unique for this location, but does not amount to extraordinary.
- Applicant is willing to alter the legally nonconforming structure by removing the copy, which would bring the property into greater compliance with the zoning ordinance.
 - Utilizing the Township Units of Measurement requirement found in Section 24.11, the three individual signs on the legally nonconforming structure total 98 square feet.
 - Manual message board totals 20 square feet
 - Two identical sign faces total 17.8 square feet

Standard No. 1 – Exceptional or extraordinary circumstances:

- Parcel has an exceptionally large sign structure that is legally nonconforming. This exceptional largeness occurs in two locations—overall size of 98 square feet (*where only two 18 square foot ground signs are permitted*), and manual message board of 20 square feet (*where a maximum of 12 square feet, or is permitted*).
- Parcel has frontage on two streets, which entitles the applicant to two 18 square foot ground signs, which would total 36 square feet of signage on the subject property.
- Approval of a variance will drastically decrease the nonconformity to the sign ordinance both in overall square footage, and the permitted size of a message board found on a ground sign (*Sections 24.12.12.A and 24.13 of the Zoning Ordinance*).

Ayes: Robertson, Behm, Voss, Slater, Loftis

Nays: None

Standard No. 2 – Substantial property right:

- Parcel is permitted two ground signs by right.
- Applicant willing to remove the copy from the legal nonconforming sign in exchange for a larger ground sign on Mercury Drive, and elimination of a ground sign on Groesbeck Street.

Ayes: Robertson, Behm, Voss, Slater, Loftis

Nays: None

Standard No. 3 – Will not be a substantial detriment to adjacent parcels, or material impact on the intent and purpose of the Ordinance:

- The existing sign structure at the church may be large in size, but the text identifying the name is small, and made of carved stone that is difficult to read from Mercury Drive. The applicants desire to erect a ground sign that has contrasting colors will improve visibility from Mercury Drive.

Ayes: Robertson, Behm, Voss, Slater, Loftis

Nays: None

Standard No. 4 – Request is not of such a recurrent nature as to make reasonably practical the formulation of a general regulation:

- This negotiation of eliminating an exceptionally large legally nonconforming sign, and eliminating the option of a ground sign on Groesbeck Street, in exchange for a larger ground sign and electronic message board on Mercury Drive is very unique and not of a recurrent nature.

Ayes: Robertson, Behm, Voss, Slater, Loftis

Nays: None

Motion by Slater, supported by Behm, to **conditionally approve** a sign variance from Section 24.13 of the Grand Haven Charter Township Zoning Ordinance to allow one 30.7 square foot ground sign on Mercury Drive at a maximum of 6 feet in height, with a 12 square foot electronic message board, which excludes the cabinet from size calculations. In approving this variance the Township is decreasing a legal nonconforming ground sign by 67.3 square feet, or a 68% size reduction; and decreasing a legal nonconforming message board that is incorporated into a ground sign by 8 square feet, or a 40% reduction. Furthermore, this variance will eliminate the option of installing a second ground sign on Mercury Drive, which enhances the aesthetic value of the Township. Approval of this variance is based upon this Board’s findings that all four standards **have been affirmatively met**. This approval is conditioned upon:

1. Prohibits 14932 Mercury Drive from installing a second ground sign on Groesbeck Street.

2. Applicant must remove the copy and manual message board from the existing legal nonconforming sign prior to issuance of a sign permit.

Which motion carried, as indicated by the following roll call vote:

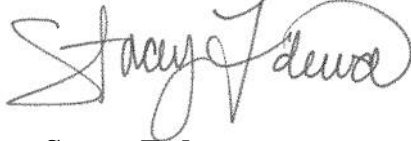
Ayes: Robertson, Behm, Voss, Slater, Loftis

Nays: None

Absent: None

- VI. REPORTS – None
- VII. EXTENDED PUBLIC COMMENTS – None
- VIII. ADJOURNMENT
Without objection, the meeting was adjourned at 8:28 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Stacey Fedewa". The signature is written in black ink and is positioned above the printed name.

Stacey Fedewa

Acting Recording Secretary