

CHARTER TOWNSHIP OF HIGHLAND
ZONING BOARD OF APPEALS
APPROVED MINUTES
OCTOBER 20, 2021

The meeting was held at Fire Station #1, 1600 W. Highland Road, Highland, Michigan.

Chairman Gerathy called the meeting to order at 7:30 p.m.

ROLL CALL:

David Gerathy, Chairman
Michael Borg, Vice Chairman
Anthony Raimondo, Secretary
Peter Eichinger
Scott Green - Absent
Robert Hoffman
John Jickling - Absent

Lisa G. Burkhardt, Zoning Administrator

Visitors: 5

Mr. Gerathy noted two members are absent and stated that four affirmative votes would be required to grant a variance.

NEW BUSINESS:

1. CASE NUMBER: 21-29
COMPLAINT #: EE21-0151
ZONING: LV - Lake and Village Residential
PARCEL #: 11-12-406-007
PROPERTY ADDRESS: 3677 Woodland Drive
APPLICANT: Jay T Kessler
OWNER: Jay T Kessler
VARIANCE REQUESTED: A 50-foot variance from the Ordinary High-Water Mark (Section 9.02.D.b)

Chairperson Gerathy asked the applicant if he had any additional information or comments not included in the application.

Discussion from the Applicant:

Mr. Kessler was present. He stated that he picked the location of the shed because of the location of his septic system and the slope of the lot. He stated that he had to raise a portion of the pad eleven inches to make a level place for the shed; but that the slope was greater near the house. He stated that he needed the shed for storage of lawn equipment, lawn furniture and boating equipment. He stated that he can see that it might affect some views, but it was the only place he could put the shed.

Discussion from the Public:

Mr. Gerathy stated that a letter dated October 15 and received October 20, 2021, was submitted by Joan Cooper, 4060 Hillcrest Dr., objecting to the reduced setback. She stated that Seven Harbor residents have spoken against these types of variances to “maintain the integrity of the shoreline as well as the clear lake views of others.” She felt the lot was deep enough to meet the required setback if the shed were moved closer to the front of the lot.

Mr. Christopher McCauliffe, 3669 Woodland Dr., objected to the request as the shed blocks the view of the lake from his house. He felt that there were other locations that would not affect the view.

Mr. John Millington, 3191 Beaumont Dr., was present. He stated that he is on the board of the homeowner’s association. He offered a copy of their deed restrictions stating that the shed is too close to the water in violation of their association by-laws. Mr. Gerathy stated that the Township does not enforce private deed restrictions or association by-laws. Mr. Hoffman felt that the by-laws were consistent with Township regulations and could be considered. Mrs. Burkhart noted that typically, the Township does not enforce private deed restrictions that are inconsistent with Township Ordinances. However, deed restrictions or by-laws could be considered by the Board as guideline or statements as to the individual subdivision’s community standards or neighborhood character.

Discussion from the Board:

Mr. Borg asked what is the practical difficulty? He also noted that the shed has been built without a permit. Mr. Hoffman stated that the homeowner’s association by-laws were consistent with township ordinance.

Mr. Hoffman stated that views are important and noted that solid fences are not permitted between the house and lake under the Ordinance. There was discussion about houses blocking views. Mr. Eichinger suggested coincidentally the neighbors deck blocks Mr. Kessler’s view of the lake.

Mr. Raimondo commented that the property was unique and will consider that before the vote. Mr. Gerathy suggested that the applicant may want to table his request until a full board is present. Mr. Eichinger asked if other locations had been considered.

Mr. Kessler said he did consider other locations but thinks he’d like to look at it again.

Motion:

Mr. Hoffman made a motion to table Case 21-29, Applicant Mr. Jay T Kessler, parcel number 11-12-406-007, 3677 Woodland Drive, to the meeting of November 3, 2021. Mr. Borg supported the motion. Roll Call Vote: Mr. Eichinger-yes, Mr. Borg-yes, Mr. Hoffman-yes, Mr. Gerathy-yes, Mr. Raimondo-yes. The motion passed with 5 yes votes.

2. CASE NUMBER	21-30
COMPLAINT #:	
ZONING:	LV – Lake & Village Residential District
PARCEL #:	11-12-106-017
PROPERTY ADDRESS:	2504 Jackson Blvd
APPLICANT:	Tom & Ellen Rebeka

OWNER: Tom & Ellen Rebeka
VARIANCE REQUESTED: A 25.14-foot setback from the Ordinary High-Water Mark, a reduction from 65 feet to 39.86 feet for a covered deck/porch (Section 9.02.D.b)

Chairperson Gerathy introduced the case and asked the applicant if they wished to proceed. Mr. and Mrs. Rebeka were present.

Discussion from the Applicant:

Mrs. Rebeka stated that earlier this year they received a variance for a small addition to their house. At that time, they did not believe they were going to alter the deck. She stated that the house sits close to the water and is a pre-existing condition.

Discussion from the Public:

There was no public comment.

Discussion from the Board:

Mr. Gerathy stated that he visited the site and felt the request was reasonable. Mr. Raimondo asked the applicant if the deck will be the minimum necessary. Mr. Eichinger noted that the proposed deck will be 7 feet further from the water than the existing deck. Mr. Gerathy stated the new deck would be an improvement. Mr. Hoffman noted that the variance for the addition was previously approved. Mr. Hoffman asked if the deck would be enclosed. Mrs. Rebeka stated that the deck would not be enclosed.

Board members offered the following facts and findings:

- The proposed deck has a smaller footprint than the existing deck.
- The house was constructed prior to modern ordinances.
- A variance was previously approved for a house addition.

Motion:

Mr. Eichinger made a motion in Case 21-30, Tom and Ellen Rebeka, Parcel number 11-12-106-017, 2504 Jackson Blvd., to approve a setback variance from the ordinary high-water mark of 25.14-feet from 65 feet to 39.86 feet for a covered deck/porch per Section 9.02.D.b. Mr. Hoffman supported the motion. Roll Call Vote: Mr. Eichinger-yes, Mr. Borg-yes, Mr. Hoffman-yes, Mr. Gerathy-yes, Mr. Raimondo-yes (5 yes votes). The motion passed with 5 yes votes.

Mr. Eichinger suggested the Board execute a final determination form to allow the applicant to start the project.

Motion:

Mr. Hoffman made a motion in Case 21-30 to issue a final determination form. Mr. Eichinger supported the motion. The motion was approved with a unanimous roll call vote. Mr. Eichinger-yes, Mr. Borg-yes, Mr. Hoffman-yes, Mr. Gerathy-yes, Mr. Raimondo-yes.

3. CASE NUMBER: 21-31
COMPLAINT #:
ZONING: ARR – Agricultural Rural Residential

PARCEL #:	11-29-301-020
PROPERTY ADDRESS:	3310 Katie Lane
APPLICANT:	Derrick Sanborn
OWNER:	Derrick Sanborn
VARIANCE REQUESTED:	A 28-foot variance from the required side yard setback of 40 feet to 12 feet. (Section 4.15)

Chairman Gerathy asked the applicant if he wished to proceed with the hearing. Mr. Sanborn was present and proceeded with his case. Mr. Gerathy stated that 3 letters were received from adjacent neighbors. Mr. Gerathy asked about the application of the pole barn. Mr. Derrick Sanborn was present.

Discussion from the Public:

Mr. Gerathy stated that three letters were received from adjacent neighbors. Mr. George Weible, 1535 S. Hickory Ridge Road, Aaron Quinn, 3261 Katie Lane, and Jack DiGiovanni, 3283 Katie Lane wrote letters in support of the request.

There was no other public comment.

Discussion from the Applicant:

The applicant said the pole barn would be used for recreational purposes. He stated that the proposed pole building will be for his private workshop, storage and for recreational activities for his family. The vision of the home has changed since he moved in. Mr. Sanborn has a vision to create and addition on the existing home to create additional living space for his family. The septic field runs to the southside of the property. He noted the utility easement that runs along the property. He stated that he chose the location because of the septic system and irrigation system and to have the least impact on the views of the neighbors. Additionally, he stated that his parcel is smaller than 5 acres as the zoning requires. The applicant noted the existing irrigation system and would like to maintain the investment.

Discussion from the Board:

Mr. Raimondo offered facts and findings that the existing parcel is substandard for ARR Zoning and asked the applicant could build the structure without the requirement for a variance. Mr. Raimondo noted that the request would not alter or change the character of the community and was not opposed to the request. Mr. Borg asked for the exact dimensions of the structure. Mr. Hoffman stated he was not opposed the request and that we need to look at the long-term impact of the future residential planning. Mr. Eichinger encouraged the applicant to move the pole barn closer to the house and struggled to see the practical difficulty. The applicant proposed that moving the pole barn closer to the home would block his view

Mr. Borg suggested tabling the issue and he said the application could not state a practical difficulty.

Mrs. Burkart mentioned the parcel was previously zoned R-1B. R-1B was consistent with properties zoned for 1.5 acres that required a 30ft side lot line setback.

Mr. Hoffman suggested a 20-foot setback and other board members agreed. Mr. Gerathy stated that he was not opposed to the variance.

Mr. Raimondo offered the following facts and findings:

- The location of the septic field and utility easement creates a practical difficulty.
- The parcel is substandard for ARR zoning.
- The structure will not alter or change the character of the community.

Motion:

Mr. Hoffman made a motion in Case 21-31, Derrick Sanborn, Parcel number 11-29-301-020, 3310 Katie Lane, to approve a 20-foot variance from Section 4.15 for the required side yard setback of 40 feet to 20 feet. This variance is for a 40-foot by 60-foot pole barn. Mr. Eichinger supported the motion. Roll Call Vote: Mr. Eichinger-yes, Mr. Borg-yes, Mr. Hoffman-yes, Mr. Gerathy-yes, Mr. Raimondo-yes (5 yes votes). The motion passed with 5 yes votes.

Mr. Gerathy suggested the board execute a final determination form so the applicant can start the project.

Motion:

Mr. Hoffman made a motion in Case 21-31 to issue a final determination form. Mr. Eichinger supported the motion. The motion was approved with a unanimous roll call vote. Mr. Eichinger-yes, Mr. Borg-yes, Mr. Hoffman-yes, Mr. Gerathy-yes, Mr. Raimondo-yes.

Minutes:

Mr. Raimondo made a motion to approve the minutes of October 6, 2021, as presented. Mr. Hoffman supported the motion and it carried with a unanimous voice vote, 6 yes votes.

Discussion:

The members briefly discussed completing the by-law revisions.

Adjourn:

Mr. Hoffman made a motion to adjourn the meeting. Mr. Eichinger supported the motion. The motion carried with a unanimous voice vote. The meeting was adjourned at 8:39 p.m.

Respectfully submitted,

Anthony Raimondo
Secretary

AR/lgb