

CHARTER TOWNSHIP OF HIGHLAND
ZONING BOARD OF APPEALS
APPROVED MINUTES
November 3, 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
Robert Hoffman
John Jickling

Lisa G. Burkhart, Zoning Administrator

Visitors: 6

Mr. Gerathy stated that a full board is present and reminded those in attendance that four affirmative votes are required to grant a variance.

Mr. Gerathy asked the applicant if he wished to proceed. Mr. Kessler indicated that he wished to proceed.

Mr. Hoffman made a motion to remove Case Number 21-29, Parcel Number 11-12-406-007, 3677 Woodland Drive from the table to begin discussion. Mr. Raimondo supported the motion and it carried with a unanimous voice vote (7 yes votes).

NEW BUSINESS:

1. CASE NUMBER:	21-29	<i>Tabled from October 20, 2021</i>
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 anything he wished to add, any new information or dimensions?

Discussion from the Applicant:

Mr. Kessler stated that he thought he could place the shed without a permit because he thought it was

temporary. It was purchased and he didn't know he need a variance from the high-water mark or that he needed the building department to approve it. He admitted that he was wrong but is willing to do what is right with the building department and ask for a variance. Mr. Kessler added that he did not know that the subdivision was going to attend and was not aware of any complaint or concern from the association. He did not feel that he should be dealing with the association in front of the Zoning Board of Appeals and wants to talk to them at their next association meeting.

Discussion from the Public:

Mr. Christopher McCauliffe, 3669 Woodland Dr., stated that they take full advantage of the lake and really enjoy the deck and outdoor activities. He presented pictures from a recent property appraisal and pictures of the view with the shed. Mr. McCauliffe stated that his neighbor had approached him about placing a shed; however, he was shown a different location that did not impact his view. He stated that he was surprised when the shed was placed so close to the water in a location that obstructed his view of the lake. Mr. McCauliffe referenced the application worksheet question seven. He felt that the requested variance was not the minimum necessary: that the applicant's yard is large enough to place the shed in conformance with the Ordinance. Another location may require leveling and cost more money, but that finance is not a practical difficulty. Mr. McCauliffe further referenced that application package stating that the applicant's failure to apply for proper permits was self-created and is not a basis for a variance.

Mr. John Millington, 3191 Beaumont Dr., was present and indicated that he is a board member of the homeowner's association. He indicated that the shed does not meet their by-laws. He also speculated that the shed was not placed on the other side of the house because it would block the applicant's view.

Discussion from the Board:

Mr. Green stated that enforcement of the by-laws is up to the association. He asked if there was a reason why the shed couldn't be closer to the house or on the other side. Mr. Kessler stated the septic location, and a tree would interfere, and the steeper grade would require more leveling, costing twice as much money. He also indicated that he had to be 10 feet from the property line.

Mr. Hoffman felt that the Board should give weight to the by-laws especially since they are consistent with the Ordinance. He felt that there are better locations for the shed.

The members discussed the application of by-laws in this instance. It was pointed out that if a variance is granted contrary to association by-laws; that the association can still seek enforcement through the courts. Mr. McCauliffe expressed concern that anyone can do what they want by ignoring by-laws and ordinances and getting a variance. Mr. Borg stated that the applicant was cited by the Building Department for building without a permit; yes, he did it in the wrong order. Now, procedurally, the Board is reviewing the request as if the shed is not there and the applicant can demonstrate practical difficulty.

Mr. Eichinger noted that there are other visual obstructions in the neighborhood such as gazebos, sheds, boats, and motor homes. Mr. Hoffman noted that the Ordinance does not allow obscuring fences on the waterfront.

Mr. Winny Schoeb, 3490 E. Clarice, president of the homeowner's association, was present. He noted that the association meeting is a regular monthly meeting, and this isn't specifically on the agenda. He thought that the parties could talk and come to a resolution. Mr. Hoffman suggested tabling this item until after the association meeting. Mr. Kessler did not want to postpone the vote.

Mr. Raimondo pointed out that planting pine trees along the property line would block the view of the lake and would not be against the Ordinance. Mr. Millington stated planting as described is also against the by-

laws. Mr. Raimondo noted when he visited the site, a lot of accessory structures including a chicken coop.

Mr. Hoffman felt that there may be other violations of the Ordinance and by-laws in the neighborhood; however, “we are here for this particular case where they have a concern”. He pointed out other locations on the parcel where a shed could be placed that would have less impact on the neighbors.

Mr. Raimondo asked about side yard setbacks for sheds. Mr. Burkhart stated that sheds under 150 square feet and less than 10 ft. tall can be as close as 5 feet to a side lot line. A shed under 240 square feet and less than 15 foot tall can be as close as 10 feet to a side lot line. The setback from the ordinary high-water mark is 65 feet.

Mr. Raimondo offered the following facts and findings:

- The property slopes towards the lake.
- The house and deck do not meet the 65-foot setback.
- The proposed variance would alter the essential character of the area.
- The proposed shed will impair the surrounding properties light and view of the lake.

Mr. Hoffman suggested moving the shed closer to the house to improve the setback and be a great compromise between neighbors. Mr. Hoffman stated that would not block the neighbor’s view. Mr. Kessler stated that it would not be a good location because it would require cutting into the hill or building it up. Mr. Kessler stated that he turned the shed trying to minimize the view. Based upon the discussion here, Mr. Raimondo stated that the requested variance would not be the least amount necessary. Mr. Green stated that by tabling to work out a new location, the applicant saves a new application fee.

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 December 1, 2021. Mr. Eichinger supported the motion. Roll Call Vote: Mr. Jickling–yes, Mr. Hoffman–yes, Mr. Green–yes, Mr. Eichinger–yes, Mr. Borg–yes, Mr. Gerathy–yes, Mr. Raimondo–yes. The motion passed with a unanimous roll call vote (7 yes votes).

Minutes:

Mr. Hoffman made a motion to approve the minutes of October 20, 2021, as corrected. Mr. Eichinger supported the motion and it carried with 5 yes votes, Mr. Jickling and Mr. Green abstained.

Adjourn:

Mr. Hoffman made a motion to adjourn the meeting. Mr. Green supported the motion. The motion carried with a unanimous voice vote. The meeting was adjourned at 8:27 p.m.

Respectfully submitted,

Anthony Raimondo
Secretary

AR/lgb