

CHARTER TOWNSHIP OF MERIDIAN
ZONING BOARD OF APPEALS MEETING AGENDA
5151 MARSH ROAD, OKEMOS, MI 48864-1198
(517) 853-4000
WEDNESDAY, MAY 14, 2014 6:30 PM
TOWN HALL ROOM

A. CALL MEETING TO ORDER

B. APPROVAL OF AGENDA

C. CORRECTIONS, APPROVAL & RATIFICATION OF MINUTES

- o Wednesday, March 26, 2014, training session
- o Wednesday, April 23, 2014, regular meeting

D. PUBLIC REMARKS

E. NEW BUSINESS

1. ZBA CASE NO. 14-05-14-1 HOWARD GREEN, 6622 WHITE CLOVER DRIVE, EAST LANSING, MI 48823

DESCRIPTION: 2077 Haslett Road
TAX PARCEL: 09-427-006
ZONING DISTRICT: RR (Rural Residential)

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

- Section 86-618(2), which states nonconforming structures, other than 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.
- Section 86-654(f)(1)(a), which states none of the land or structures for erection or occupancy of any of the building housing such [nonresidential] use or any part or portion of which will be any closer than 50 feet to any property or street line.

The applicant is proposing an addition to the existing nonconforming assisted living facility and is requesting the building setback from adjacent residential zoning to the east be reduced from 50 feet to 20 feet at 2077 Haslett Road.

F. OTHER BUSINESS

1. REVIEW AND CONSIDER REVISIONS TO THE ZONING BOARD OF APPEALS RULES OF PROCEDURE.

G. PUBLIC REMARKS

H. BOARD MEMBER COMMENTS

I. ADJOURNMENT

J. POST SCRIPT – JIM HERSHISER

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
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
5151 MARSH ROAD, OKEMOS, MI 48864-1198
(517) 853-4000
WEDNESDAY, MARCH 26, 2014 6:00 PM
TOWN HALL ROOM, OPEN TO PUBLIC
TRAINING SESSION MINUTES

DRAFT

PRESENT – Chair Beauchine, Supervisor LeGoff, and Members Jackson, and Hershiser (left the meeting at 7:07)

ABSENT – Member Ohlrogge and Alternate Deschaine

STAFF – Mark Kieselbach, Richard Brown, and Martha Wyatt

OTHER – Township Attorney Ditschman and Township citizen Doris Schwartz (6:20)

A. CALL MEETING TO ORDER

Chair Beauchine called the training session to order at 6:04 p.m.

B. ZONING BOARD OF APPEALS TRAINING SESSION WITH TOWNSHIP ATTORNEY

The Township Attorney Ditschman of the Hubbard Law Firm provided handouts and went through the training session with members of the Zoning Board of Appeals and staff. Items highlighted after the introduction included:

- Effective decisions/making a public record
- Variances
- Nonconforming uses
- Avoiding zoning litigation
- Legislative/case-law/legal opinion updates

Questions and answers took place throughout the session.

C. PUBLIC REMARKS

Ms. Schwartz made a few comments to those attending.

D. ADJOURNMENT

Meeting adjourned by Chair Beauchine at 8:16 p.m.

BRETT DREYFUSS
TOWNSHIP CLERK

CHARTER TOWNSHIP OF MERIDIAN
ZONING BOARD OF APPEALS MEETING MINUTES ***DRAFT***
5151 MARSH ROAD, OKEMOS MI 48864-1198
517.853.4000
WEDNESDAY, APRIL 23, 2014

PRESENT: Members Deschaine (Alt.), Ohlrogge, Hershiser, Chair Beauchine,
ABSENT: Members LeGoff and Jackson
STAFF: Martha Wyatt, Associate Planner/Landscape Architect;
Rick Brown, Associate Planner
Mark Kieselbach, Director of Community Planning & Development

A. CALL MEETING TO ORDER

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

B. APPROVAL OF AGENDA

MEMBER HERSHISER MOVED TO APPROVE THE AGENDA AS WRITTEN

SECONDED BY MEMBER OHLROGGE

VOICE VOTE: Motion carried unanimously.

C. CORRECTIONS, APPROVAL, & RATIFICATION OF MINUTES

Wednesday, April 9, 2014

MEMBER HERSHISER MOVED TO APPROVE THE MINUTES AS WRITTEN

SECONDED BY MEMBER OHLROGGE

VOICE VOTE: Motion carried unanimously.

D. UNFINISHED BUSINESS

1. ZBA CASE NO. 13-06-12-2 MICHAEL STEVENS/STEVENS ASSOCIATES BUILDERS, P.O. BOX 127, GRAND LEDGE, MI 48837

DESCRIPTION: 4650 Moore Street
TAX PARCLE: 21-409-003
ZONING DISTRICT: PO (Professional & Office)

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

- Section 86-471(b)(3), which states the all structures and grading activities shall be setback 50 feet from the ordinary high water mark of the Red Cedar River.
- Section 86-473, which states street trees shall be required along major streets as designated in Section 86-367. Street trees shall also be required along all secondary and local streets as part of any multiple-family or nonresidential development occurring along such streets.
- Section 86-618(2), which states nonconforming structures, other than single-family structures, may be altered, expanded, or modernized without prior approval of the zoning board of appeals; provided, that structural alterations or extensions shall not increase the area, height, bulk, use, or extent of the structure and shall satisfy all other applicable site development regulations.
- Section 86-756 (11), which states where a parking area, or its associated internal access or service drives, adjoins a public street, except parking areas on individual residential driveways, a landscaped buffer at least 20 feet wide shall be provided between the parking

area and the adjacent right-of-way, as measured from the back of the parking lot curb to the right-of-way line.

The case was heard at the February 26, 2014 meeting of the Zoning Board of Appeals (ZBA) and was tabled by the ZBA until additional information was provided by the applicant. The applicant has provided a revised plan and is requesting variances to add onto a nonconforming building, place a structure (dumpster enclosure) and grade in the 50-foot setback of the Red Cedar River, provide less than the number of required street trees, and provide less than the required landscape buffer at 4650 Moore Street.

Chair Beauchine asked the applicant if they wanted to proceed with a board of only 3 members. (Member Deschaine while present at this meeting could not hear this case as he was not one of the Zoning Board of Appeals members that heard the case prior to the case being tabled.)

Mr. John Gilluly, the owner replied he would like to have the case heard this evening.

Ms. Wyatt outlined the changes to the case and asked if the Zoning Board of Appeals would remove the case from the table.

MEMBER HERSHISER MOVED TO REMOVE THE CASE FROM THE TABLE

SECONDED BY MEMBER OHLROGGE

VOICE VOTE: Motion carried unanimously

Ms. Wyatt outlined the remaining variances for discussion.

Mr. Michael Stevens, PO Box 127, Grand Ledge, the applicant and representing the owner, stated they were ready to proceed with the project now that the required parking had been worked out. He felt the other variances are all stemming from the fact the building and site are non-conforming and the current requested variances should meet the Review Criteria (Section 86-221) for approval. He said they are no longer relying on off-site parking.

Chair Beauchine thanked the applicant for resolving the parking situation.

Member Hershiser asked if there is space for a street tree to the south of the parking area.

Mr. Gilluly said he would plant a tree if there was space.

Chair Beauchine asked Ms. Wyatt if the existing trees could be counted as street trees.

Ms. Wyatt explained trees within the property could be counted if they were canopy trees and not an ornamental tree.

Chair Beauchine said he would be willing to support a variance for 2 less street trees if the owner is willing to plant another tree on the property where there is space.

Member Ohlrogge commented the area is wooded and would satisfy the requirement.

MEMBER HERSHISER MOVED TO APPROVE ALL FOUR VARIANCES WITH THE CONDITION THAT A TREE WILL BE PLANTED ON THE PROPERTY IF APPROPRIATE.

SECONDED BY CHAIR BEAUCHINE

Member Ohlrogge said the variances meet a majority of the review criteria and she would support the approval for the variances.

Chair Beauchine commented there should be a formal condition that the applicant will add a tree if possible during the site plan review. He asked for a friendly amendment to state the approval of the variances is contingent on the applicant receiving site plan review.

MEMBER HERSHISER AMENDED HIS MOTION TO STATE THE VARIANCES ARE CONDITIONED REQUIRING SITE PLAN REVIEW AND THE ADDITION OF A TREE IF POSSIBLE.

CHAIR BEAUCHINE SECONDED THE AMENDED MOTION

VOICE VOTE: YES: Member Hershiser, Ohlrogge, and Chair Beauchine
NO: None
Motion carries 3-0.

E. NEW BUSINESS

1. ZBA CASE NO. 14-04-23-1 TIMOTHY & CYNTHIA STUMP, 181 CINNABAR CIRCLE, WILLIAMSTON, MI 48895.

DESCRIPTION: 6429 E. Reynolds Road
TAX PARCEL: 02-151-034
ZONING DISTRICT: RB (Single Family-High Density)

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.

Chair Beauchine asked the applicants if they wanted to proceed with only 4 board members.

Mr. and Mrs. Stump, the owners, said they would like to proceed with the case.

Mr. Brown outlined the case for discussion.

Mr. Kevin Palmiter, 3641 E. Arbutus Drive, Okemos, representing the applicant, stated the variance is needed to improve the slope of the roof to address the issue of snow load during the winter. He explained there was damage to the roof from the snow load this past winter and the owners need a functional roof.

Member Hershiser said the case meets a majority of the Review Criteria as outlined in Section 86-221 and stated he would support the variance.

Member Ohlrogge commented the applicant did a thorough job of explaining why their project meets the review criteria, she agreed with their interpretation as outlined in the packet.

MEMBER HERSHIER MOVED TO APPROVE THE VARIANCE.

SECONDED BY MEMBER DESCHAIINE

VOICE VOTE: YES: Member Hershiser, Deschaine, Ohlrogge, and Chair Beauchine
NO: None
Motion carries 4-0

F. OTHER BUSINESS

None

G. PUBLIC REMARKS

None

H. BOARD MEMBER COMMENTS

None

I. ADJOURNMENT

Chair Beauchine adjourned the meeting at 7:08 p.m.

Respectfully Submitted,

Angela M. Ryan
Recording Secretary

MEMORANDUM

TO: Zoning Board of Appeals

FROM: 
Richard F. Brown, Jr., AICP, CBSP
Associate Planner

DATE: May 9, 2014

RE: ZBA Case No. 14-05-14-1

ZBA CASE NO.: 14-05-14-1 HOWARD GREEN, 6622 WHITE CLOVER DRIVE, EAST LANSING, MI 48823

DESCRIPTION: 2077 Haslett Road

TAX PARCEL: 09-427-006

ZONING DISTRICT: RR (Rural Residential)

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

- Section 86-618(2) - which states nonconforming structures, other than 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.
- Section 86-654(f)(1)(a) - which states none of the structure uses permitted shall be any closer than 50 feet to any property or street line.

Howard Green is proposing a 3,300 square foot addition onto an existing 2,783 square foot assisted living center situated at 2077 Haslett Road. The addition will increase its licensed capacity of the center from 12 to 20 residents. Ten off-street parking spaces, a bicycle parking rack, an approximate 420 square foot deck, and associated landscaping are proposed as part of the project.

The applicant came before the Zoning Board of Appeals on April 9, 2014 requesting six variances. The six variances were denied 3-2. Prior to moving forward on this new case, the Zoning Board of Appeals must determine whether the changes made by the applicant constitute either "changed circumstances" or "newly discovered evidence." Otherwise, the applicant must wait one year from the date of the denial before re-submitting a variance request.

- Changed circumstances is defined within Section 86-2 as: *a material alteration of facts relevant to a rezoning and/or variance request occurring since the date of the township's denial of that request.*
- New discovered evidence is defined as: *the relevant facts, data, or other proof supporting a request for rezoning and/or variance that was not known, and through the exercise of reasonable diligence could not have been known, by the applicant prior to*

the date of the township's denial of that request.

The revised request is for two variances, as the variances for the parking lot setback, the number of street trees, the four-foot building perimeter landscaping, and the deck setback have been eliminated. Five of the off-street parking spaces were moved to the front of the site along Haslett Road. Two of the living units were moved into the existing structure, thereby reducing the length of the addition by approximately ten feet. Furthermore, the addition has been adjusted to be 20 feet from the east property line instead of 19.5 feet and the deck has been reduced from 600 square feet to 420 square feet in size.

The applicant is asking for a variance from Section 86-618(2) to increase the area, height, bulk, use, and extent of the pre-existing nonconforming assisted living facility by extending the building southward by approximately 110 feet. The existing building is considered nonconforming because its east façade it is located between 9.8 and 10.5 feet from east property line. The required building setback is 50 feet.

The second variance, from Section 86-654(f)(1)(a), would allow the proposed building addition to be constructed within the required 50 foot building setback from adjacent residentially zoned properties to the east. The variance requested for the building is from 50 feet to 20 feet from the east property line.

Site History

- The original single-family dwelling was constructed in 1953.
- The subject site is zoned RR (Rural Residential), which requires a a 100 foot setback from the center of Haslett Road, a 20 foot setback from each side lot line, and a 35 foot rear yard setback.
- Special Use Permit #82021, a request to convert the single-family dwelling into a veterinary office, was denied by the Planning Commission on April 19, 1982.
- A variance (ZBA Case #85-08-14-1) was approved on August 14, 1985 to allow an addition onto the back of the existing dwelling. The variance of nine feet allowed it to be located 11 feet from the east property line instead of the required 20 feet.

The submitted plan shows the existing building to be situated as close as 9.8 feet from the east property line instead of the 11 feet allowed by the 1985 variance.

- A special use permit (SUP #86241) to operate a foster care home was approved by the Planning Commission on October 18, 1986.
- On June 28, 1989, a variance (ZBA Case #89-06-28-1) was granted to allow for an addition onto an existing nonconforming structure, but the project never took place.
- The assisted living center has been formerly known as Grandma's Pad and Ivy's Pad.
- On February 10, 2014, the Planning Commission approved Special Use Permit #14011

ZBA Case No. 14-05-14-1

May 9, 2014

Page 3

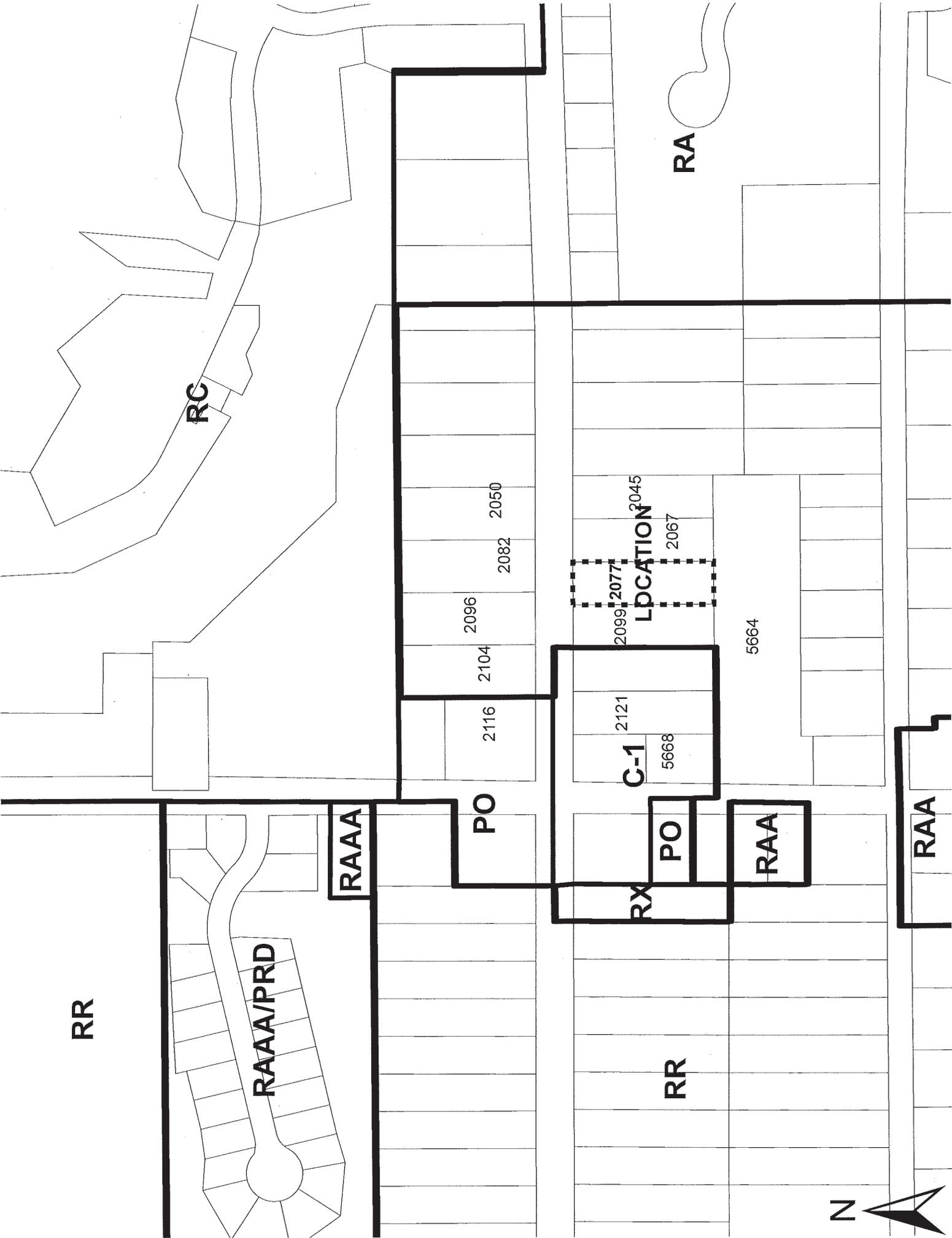
to allow the assisted living facility to expand to 20 residents, subject to conditions including obtaining the necessary variances from the Zoning Board of Appeals.

- The Zoning Board of Appeals voted 3-2 to deny Mr. Green's original request for six variances (ZBA Case #14-04-09-1) on April 9, 2014.

Attachments

1. Site Location Map
2. Application
3. Submittals from the applicant

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RR

RAAA/PRD

RAAA

PO

RX

PO

RAA

RAA

RR

RA

RC

2096

2104

2116

2082

2050

2099

2121

2067

LOCATION

5668

5664



Memorandum

To: Rick Brown
CC:
From: Greg Petru
Date: 4/21/2014
Re: 2077 Haslett Road – Variance Re-submittal

Mr. Brown,

The owner has re-evaluated the proposed site plan and has made substantial changes to the site plan in hopes of having his variance heard again. The following items have been revised on the plan, eliminating 4 of the 6 variances.

1. The building was reduced in size to 3,300 sf and a corridor was added to provide access to a deck on the West side of the building. The deck was also reduced in size and moved within the setback so that the variance for the deck was eliminated.
2. One of the existing ramps/stairs was removed on the West side of the building. By removing this, we were able to provide parking, drives and a 4' landscaped area within the parking setbacks.
3. The parking has been altered at the far North end of the property to help provide 3 new spaces near the front entrance. In addition, this helped reduce overall pavement coverage by reducing the amount of pavement needed at the South end.
4. The 2 street trees have been added to the property frontage and the entrance was widened to 25', to help eliminate the need for these additional variances.
5. Pictures have been included to show the interior of the house. After a walk through, it has been determined that the majority of the doors and aisle widths are too narrow and do not meet code. As the building currently sits, it is not usable for the special use that was granted.

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

VARIANCE APPLICATION

A. Applicant HOWARD GREEN
Address of Applicant 6622 WHITE CLOVER DRIVE
Telephone (Work) (517) 282-0556 Telephone (Home) SAME
Fax (517) 339-0051 Email address: GUNSMITH1234@AOL.COM
Interest in property (circle one): Owner Tenant Option Other

B. Site address/location 2077 HASLETT ROAD, HASLETT, MI 48840
Zoning district RR Parcel number 33-02-02-09-427-006

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) 86-68(2), 86-654(F)(1)(a)

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

[Signature] HOWARD K. GREEN 4/21/14
Signature of Applicant Print Name Date

Fee: \$450 Received by/Date: _____

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] 4/21/14
Signature of Applicant(s) Date

Signature of Applicant(s) Date

VARIANCE APPLICATION SUPPLEMENT

A variance will be granted, if the following Review Criteria are met:

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.
2. These special circumstances are not self-created.
3. Strict interpretation and enforcement of the literal terms and provisions of the Ordinance would result in practical difficulties.
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.
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.
6. Granting the variance will not adversely affect adjacent land or the essential character in the vicinity of the property.
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.
8. Granting the variance will be generally consistent with public interest, the purposes and intent of this Zoning Ordinance.

Effect of Variance Approval:

1. Granting a variance shall authorize only the purpose for which it was granted.
2. The effective date of a variance shall be the date of the Zoning Board of Appeals approves such variance.
3. A building permit must be applied for within 24 months of the date of the approval of the variance, and a Certificate of occupancy must be issued within 18 months of the date the building permit was issued, otherwise the variance shall be null and void.

Reapplication:

1. No application for a variance, which has been denied wholly or in part by the Zoning Board of appeals, shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions found by the Zoning Board of Appeals to be sufficient to justify consideration.

New Life Assisted Living Center

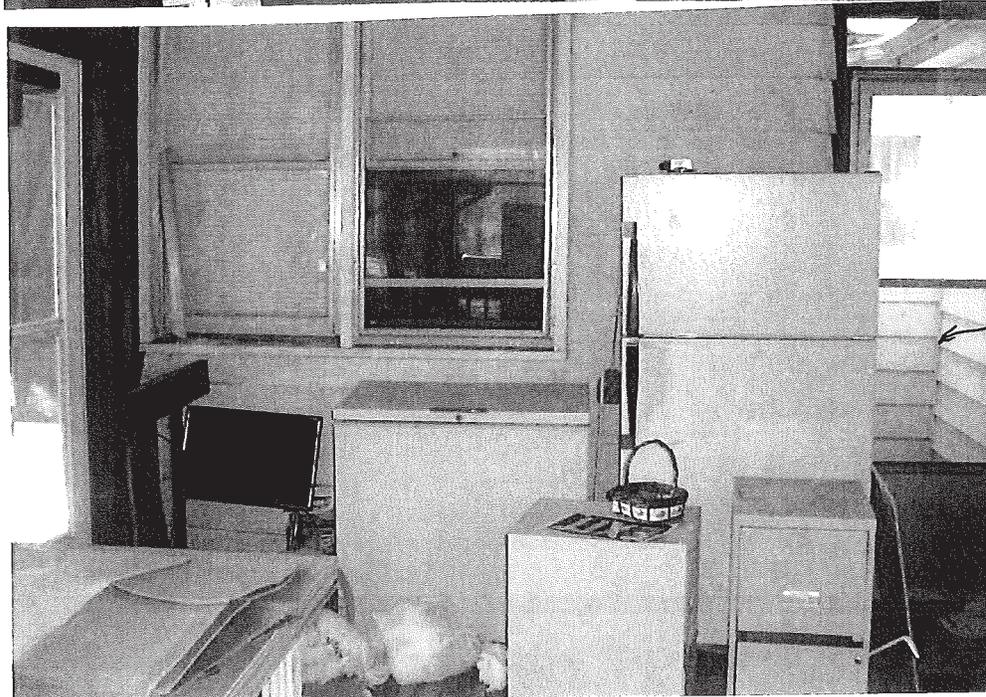
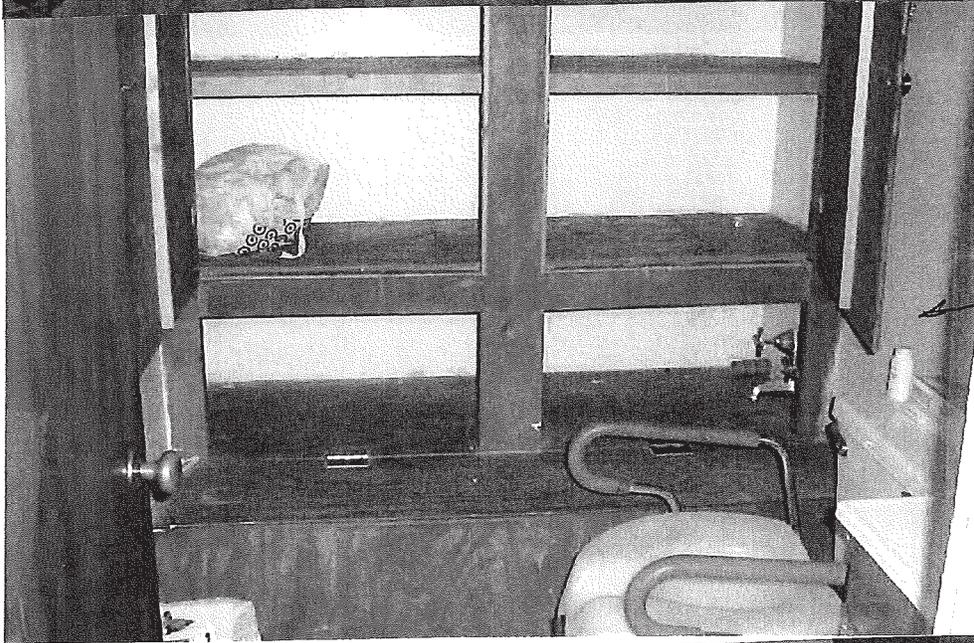
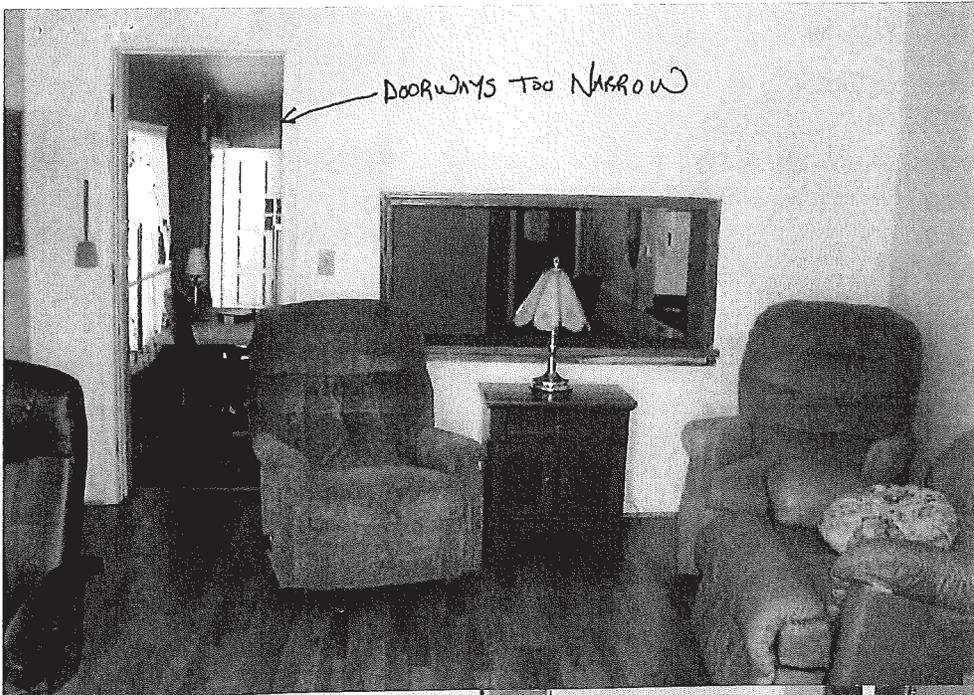
Answers to supplemental questions on Zoning Board of Appeals Application

1. This project consists of a parcel located in the RR Zoning District. The current use of the property is an assisted living center that is licensed for up to 12 residents. The recently approved special use permit allows the property to license 20 residents. This is a unique circumstance because the special use of the property exists between two properties that are also zoned RR. Typically in a RR zoned property there is a wider lot that would allow construction within the (2) 50' setbacks, but this lot is unique in that it is much longer than wider. This creates a unique situation in which the existing building and any addition could not be practically constructed and used.
2. The circumstances encumbering the site are caused by the governing Zoning Ordinance, not the developer. RR zoning with a special use (that is non-residential) adjacent to Residential zoning creates difficulties in conventional development. The site currently operates with a building that is not functional for 20 residents. In order to use the existing building for the special use, the majority of the building would have to be gutted and fully re-designed. Several of the existing doors and hallways no longer meet code requirements for this type of facility (doors and travel aisles are not wide enough). Ultimately, this ex. facility may only be able to practically service 4-5 individuals after it is brought up to code.
3. The requirements in the Zoning Ordinance make the parcels unfairly restricted in the re-development of the site. Strict interpretation of the ordinance would not allow for a feasible development mainly due to the required building and parking setbacks from a residential zoning district. (adjacent to a non-residential use)
4. RR zoning (with an approved special use that is considered non-residential) adjacent to Residential zoning creates difficulties in conventional development. The requirements in the Zoning Ordinance make the parcels unfairly restricted in the re-development of the site. (see example 2a).
5. Kebs, Inc. looked at many different layouts for this site to minimize variance requests. After reviewing the site again, some existing decks were removed and we were able to eliminate 3 additional variances. The current site has no "walkability" to the existing commercial development that exists one parcel to the West. There are currently no sidewalks on the parcel. The proposed development would be in the best interest of the public with the installation of a sidewalk, a bike rack and an improved parking area.
6. Granting the variances would not adversely affect the adjacent land or character of the area. The existing property is heavily screened from Haslett Road and is proposing to buffer itself from both existing residences even further. The owner has discussed the improvements with both adjacent residences and neither has expressed any concerns (He has agreed to provide

additional privacy fence for the owner to the West). The updated and improved facility and site layout will not affect the essential character of the area, if anything, it will improve a property that has a residence that is deteriorating quickly.

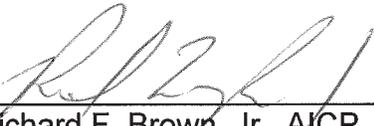
7. This site is unfairly restricted due to the requirements of the Zoning Ordinance. The Zoning Ordinance applies to most RR Zoned properties in the Township without the need for variances. This is a special case of a special use that was granted in the RR district and should not necessitate the need to revise the Zoning Ordinance.
8. Granting the variances for this project will improve the existing property and enhance the surrounding properties, which is in the best interest of the public. It will allow the outdated facility to be expanded and improved upon to make it functional for years to come. The site will be newly landscaped, buffered and enhanced with a new public sidewalk. The site improvements meet the intent of the zoning ordinance for a special use within the RR district.

Prepared by: Greg Petru, P.E.
Kebs, Inc.
2116 Haslett Road
Haslett, Michigan 48840



MEMORANDUM

TO: Zoning Board of Appeals

FROM: 
Richard F. Brown, Jr., AICP, CBSP
Associate Planner

DATE: May 9, 2014

RE: Rules of Procedure

During the Training Session held with the Township Attorney on March 26, 2014, it was recommended the Zoning Board of Appeals review and potentially update its Rules of Procedure. The current set of rules was adopted on March 18, 2009. A copy of the current rules and a marked up copy showing the proposed changes are provided. These include:

- Section 3.3 – Added language that is more consistent with recent revisions to the Open Meetings Act.
- Section 3.7(a) – Revised the text regarding open public comments.
- Section 3.7(b) – Revised the procedure to match the current process of the public providing their name and address when speaking versus filling out a form.
- Section 3.9 – Revised to be consistent with the Code of Ordinances.
- Section 3.10 – Revised to be consistent with the Code of Ordinances.

Staff has also attached a marked up copy of the rules with some minor proposed changes. These will be discussed, along with any other proposed changes by members of the Zoning Board of Appeals at the May 14, 2014 meeting. If you have any question, please do not hesitate to contact me at (517) 853-4568 or at brown@meridian.mi.us.

Attachments

1. Current Rules of Procedure
2. Draft changes

**CHARTER TOWNSHIP OF MERIDIAN
ZONING BOARD OF APPEALS
RULES OF PROCEDURE
ADOPTED MARCH 18, 2009**

RULE 1: AUTHORITY

These rules are adopted by the Charter Township of Meridian Zoning Board of Appeals (hereinafter referred to as the ZBA) pursuant to Section 86-62 of the Township Code of Ordinances and the Michigan Zoning Enabling Act (MZEA) PA 110 of 2006 (MCL 125.3101 et. seq.).

RULE 2: MEMBERSHIP

2.1 Membership. The Township Board shall establish the membership to the ZBA, as outlined in Section 86-62 of the Code of Ordinances and the Michigan Zoning Enabling Act (MZEA) PA 110 of 2006 (MCL 125.3101 et. seq.).

2.2 Chairperson and Vice Chairperson. At the first regular meeting of the ZBA each calendar year following appointments by the Township Board, the ZBA shall select a chairperson and vice chairperson from among the members, who shall not be an elected official of the Township. The vice chairperson shall be authorized to serve as chairperson in the event of the chairperson's absence or incapacity. The chairperson and the vice chairperson shall serve for one (1) year or until their successors are selected.

2.3 Temporary Chairperson. In the event that both the elected Chairperson and the elected Vice-Chairperson are not able to attend the same meeting, at the beginning of the meeting, the Zoning Board of Appeals shall establish a Temporary Chairperson for that meeting. The temporary chairperson shall not be an elected official.

2.4 Conflict of Interest. A conflict of interest arises when a member or the member's relative has a direct financial interest, positive or detrimental, in the outcome of a decision or action that the member may take as a public official; or when a member is a part of an entity which is involved in a business transaction with the Zoning Board of Appeals; or the member is engaged in or employed by or provides services to an entity whose mission is incompatible or in conflict with the discharge of the member's official duties or impairs the member's independence of judgment. A member is disqualified from voting on a matter where they have a conflict of interest as defined in this section or by a majority vote of the remaining members of the Zoning Board of Appeals. Before discussing or voting on the matter, the member shall disclose the conflict of interest. Failure of a member to disclose a known conflict of interest constitutes malfeasance in office.

RULE 3: MEETINGS

3.1 Meeting Schedule. The ZBA shall meet in regular session according to a schedule adopted at the beginning of the calendar year or as subsequently revised. Special meetings shall be called by the chairperson or shall be called at the request of three (3) members of the ZBA.

3.2 Meetings. Meetings shall be usually held at the Township Municipal Building. Meetings shall be open to the public, except where closed sessions are permitted by the Michigan Open Meetings Act. A closed session shall require an affirmative roll call vote of four (4) members of the ZBA, except where otherwise provided by the Open Meetings Act. (PA 267 of 1976 (MCL 15.261 et. seq.)).

3.3 Notice of Meetings. Notice of meetings and the agenda for business shall be published in a local newspaper in advance of the meeting and be posted in the Township Municipal Building. ZBA members shall be notified at least 24 hours in advance of any change in meeting schedule or location.

3.4 Agenda. An agenda outlining the order of business shall be developed by the Department of Community Planning and Development with concurrence of the chairperson. The following procedures shall apply:

- a. Appeals to be considered will have met criteria and deadlines for application, as adopted by the Charter Township of Meridian Code of Ordinances.
- b. The agenda may be reordered by the ZBA during a scheduled meeting.
- c. The ZBA may postpone action on an agenda item if substantive information or materials are submitted at the meeting at which the agenda item is scheduled for consideration.

3.5 Requirements for Action. All actions taken by the ZBA shall require the affirmative vote of at least three (3) members.

3.6 Representation. Any party may appear in person or by an agent or attorney at a hearing considering his or her request or appeal. Failure to appear will not necessarily deter action of the ZBA.

3.7 Public Participation. A member of the public may speak at public meetings of the ZBA in accordance with procedures adopted by the ZBA. The following procedures shall apply:

- a. Time for public comment, not to exceed 30 minutes, shall be provided at the beginning of a regular ZBA meeting. Additional time shall be scheduled at the end of such meeting, if necessary.
- b. Individuals wishing to speak are requested to complete a form listing the person's name, address, topic(s) to be addressed and position on the matter, such form to be given to a designated staff or ZBA member.
- c. Persons shall be recognized by the Chairperson before speaking and shall use a P.A. microphone, if available.
- d. Persons addressing the topic of a scheduled public hearing are encouraged to present their remarks during the public hearing portion of the meeting.
- e. During a public hearing, the following order shall be used:
 - 1) Township staff review;
 - 2) Comments by the applicant or the applicant's designee(s);
 - 3) Comments by other persons;
 - 4) Applicant rebuttal;
 - 5) Discussion and action by the ZBA.

3.8 Hearing Schedule. The ZBA may postpone a hearing and no further notice shall be required, except as provided in (PA 267 of 1976 (MCL 15.261 et. seq.)).

3.9 Performance Guarantee. In authorizing any variance, the ZBA may require that a cash deposit, certified check or irrevocable bank letter of credit of amply sum acceptable to the Township be furnished to insure compliance with the specific requirements or conditions imposed by the ZBA. If a performance guarantee is required to insure the completion of any required improvements, the Township shall make quarterly rebates of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements as work in progresses.

3.10 Stay. Upon filing and acceptance of any application for an appeal, all proceedings in furtherance of the decision appealed are stayed unless the Township Official certifies to the ZBA following notice of appeal that such stay would cause imminent peril to life or property. Upon such certification, said proceedings shall be stayed only by a restraining order granted by the ZBA or by Circuit Court.

3.11 Correction Period. All violations shall be corrected within a reasonable time period, as determined by the Zoning Board of Appeals, not to exceed six (6) months, as the ZBA may permit upon application. A violation not corrected within the specified time period shall be reported to the Township Attorney.

RULE 4: ATTENDANCE AND QUORUM

4.1 Quorum. Three (3) members of the ZBA shall constitute a quorum.

4.2 Attendance. Members of the ZBA who are absent from more than three (3) consecutive, regularly scheduled ZBA meetings or more than forty percent (40%) of the regularly scheduled ZBA meetings in a calendar year shall be subject to review and possible recommendation for removal to the Township Board. Exceptions may be made if absences are due to the conduct of other business as authorized by the ZBA. The following procedures shall apply:

- a. A member of the ZBA shall notify the ZBA staff person, who will immediately notify the ZBA Chairperson of an anticipated absence as far in advance of the meeting as possible, stating the reason for such absence.
- b. The Chairperson may postpone or reschedule a meeting in the event an alternate member is not available and a quorum will not be present.

RULE 5: RECORDS

5.1 Meeting Records. Minutes shall be maintained for all ZBA proceedings, including evidence, information and data relevant to each case under consideration, action taken, voting by members, grounds for each determination and final disposition of the case.

5.2 Maintenance of Records. Minutes of each ZBA meeting shall be filed with the Township Clerk and shall be available to the public. Minutes of closed sessions shall be maintained separately and not disclosed to the public, except upon court order.

RULE 6: COMMITTEES

6.1 Formation of Committees. The ZBA may establish committees to meet the needs and objectives of the ZBA and shall specify the number of members, terms of appointment, functions, goals and projected time period for such committees.

6.2 Appointments. Appointments to ZBA committees, or to committee vacancies, shall be made by the ZBA chairperson and confirmed by the ZBA.

6.3 Chairperson. The ZBA may appoint a chairperson for a committee or delegate such selection to committee members.

6.4 Public Notice. Notice of the formation of committees, their purpose, membership and meeting schedule shall be posted in the Meridian Municipal Building. All meetings and meeting records shall be open to the public except where otherwise provided by the Open Meetings Act or the Freedom of Information Act.

6.5 Accountability and Records. Committees shall be accountable to the ZBA. Records shall be maintained for all meetings. Reports and recommendations shall be submitted to the ZBA in writing.

6.6 Discharge of a Committee. A committee may be discharged from its responsibilities by a majority vote of the ZBA.

RULE 7: COUNSEL

The Township attorney shall act as legal counsel for the ZBA and shall be present at meetings upon request by the ZBA.

RULE 8: PARLIAMENTARY AUTHORITY

Robert's Rules of Order, Newly Revised, shall govern all questions of procedure not otherwise provided in these rules or in the Zoning Ordinance or by state or federal law.

RULE 9: SUSPENSION OF RULES

A motion to suspend these rules may be brought pursuant to an affirmative vote of three (3) members of the ZBA, as outlined in Robert's Rules of Order, Newly Revised.

RULE 10: REVIEW OF RULES

Rules and procedures adopted by the ZBA shall be reviewed when deemed necessary by the ZBA. Public notice shall be provided prior to the meeting at which this review will take place. Changes will require an affirmative vote of three (3) members of the ZBA.

**CHARTER TOWNSHIP OF MERIDIAN
ZONING BOARD OF APPEALS
RULES OF PROCEDURE
DRAFT CHANGES – MAY 9, 2014**

DRAFT

RULE 1: AUTHORITY

These rules are adopted by the Charter Township of Meridian Zoning Board of Appeals (hereinafter referred to as the ZBA) pursuant to Section 86-62 of the Township Code of Ordinances and the Michigan Zoning Enabling Act (MZEA) 110 of 2006 (MCL 125.3101 et. seq.).

RULE 2: MEMBERSHIP

2.1 Membership. The Township Board shall establish the membership to the ZBA, as outlined in Section 86-62 of the Code of Ordinances and the Michigan Zoning Enabling Act (MZEA) 110 of 2006 (MCL 125.3101 et. seq.).

2.2 Chairperson and Vice Chairperson. At the first regular meeting of the ZBA each calendar year following appointments by the Township Board, the ZBA shall select a chairperson and vice chairperson from among the members, who shall not be an elected official of the Township. The vice chairperson shall be authorized to serve as chairperson in the event of the chairperson's absence or incapacity. The chairperson and the vice chairperson shall serve for one (1) year or until their successors are selected.

2.3 Temporary Chairperson. In the event that both the elected Chairperson and the elected Vice-Chairperson are not able to attend the same meeting, at the beginning of the meeting, the Zoning Board of Appeals shall establish a Temporary Chairperson for that meeting. The temporary chairperson shall not be an elected official.

2.4 Conflict of Interest. A conflict of interest arises when a member or the member's relative has a direct financial interest, positive or detrimental, in the outcome of a decision or action that the member may take as a public official; or when a member is a part of an entity which is involved in a business transaction with the Zoning Board of Appeals; or the member is engaged in or employed by or provides services to an entity whose mission is incompatible or in conflict with the discharge of the member's official duties or impairs the member's independence of judgment. A member is disqualified from voting on a matter where they have a conflict of interest as defined in this section or by a majority vote of the remaining members of the Zoning Board of Appeals. Before discussing or voting on the matter, the member shall disclose the conflict of interest. Failure of a member to disclose a known conflict of interest constitutes malfeasance in office.

RULE 3: MEETINGS

3.1 Meeting Schedule. The ZBA shall meet in regular session according to a schedule adopted at the beginning of the calendar year or as subsequently revised. Special

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meetings shall be called by the chairperson or shall be called at the request of three (3) members of the ZBA.

3.2 Meetings. Meetings shall be usually held at the Township Municipal Building. Meetings shall be open to the public, except where closed sessions are permitted by the Michigan Open Meetings Act. A closed session shall require an affirmative roll call vote of four (4) members of the ZBA, except where otherwise provided by the Open Meetings Act 267 of 1976 (MCL 15.261 et. seq.).

3.3 Notice of Meetings. Notice of meetings and the agenda for business shall be published in a local newspaper in advance of the meeting and be posted in the Township Municipal Building. ZBA members shall be notified at least 24 hours in advance of any change in meeting schedule or location. **IF A CASE IS ADJOURNED FOR MORE THAN 36 HOURS, NOTICE SHALL BE PROVIDED IN THE SAME MANNER AS THE ORIGINAL HEARING.**

3.4 Agenda. An agenda outlining the order of business shall be developed by the Department of Community Planning and Development with concurrence of the chairperson. The following procedures shall apply:

- a. Appeals to be considered will have met criteria and deadlines for application, as adopted by the Charter Township of Meridian Code of Ordinances.
- b. The agenda may be reordered by the ZBA during a scheduled meeting.
- c. The ZBA may postpone action on an agenda item if substantive information or materials are submitted at the meeting at which the agenda item is scheduled for consideration.

3.5 Requirements for Action. All actions taken by the ZBA shall require the affirmative vote of at least three (3) members.

3.6 Representation. Any party may appear in person or by an agent or attorney at a hearing considering his or her request or appeal. Failure to appear will not necessarily deter action of the ZBA.

3.7 Public Participation. A member of the public may speak at public meetings of the ZBA in accordance with procedures adopted by the ZBA. The following procedures shall apply:

- a. Time for public comment, ~~not to exceed 30 minutes,~~ shall be provided at **DURING the beginning of a regular ZBA meeting.** ~~Additional time shall be scheduled at the end of such meeting, if necessary.~~
- b. Individuals wishing to speak are requested to **INDICATE THEIR NAME AND ADDRESS PRIOR TO MAKING THEIR COMMENTS** ~~complete a form listing the person's name, address, topic(s) to be addressed and position on the matter, such form to be given to a designated staff or ZBA member.~~
- c. Persons shall be recognized by the Chairperson before speaking and shall use a P.A. microphone, if available.
- d. Persons addressing the topic of a scheduled public hearing are encouraged to present their remarks during the public hearing portion of the meeting.
- e. During a public hearing, the following order shall be used:

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- 1) Township staff review;
- 2) Comments by the applicant or the applicant's designee(s);
- 3) Comments by other persons;
- 4) Applicant rebuttal;
- 5) Discussion and action by the ZBA.

3.8 Hearing Schedule. The ZBA may postpone a hearing and no further notice shall be required, except as provided in **THE OPEN MEETINGS ACT 267 of 1976 (MCL 15.261 et. seq.) AND SECTION 3.3 ABOVE.**

3.9 Performance Guarantee. ~~In authorizing any variance, the ZBA may require that a cash deposit, certified check or irrevocable bank letter of credit of amply sum acceptable to the Township be furnished to insure compliance with the specific requirements or conditions imposed by the ZBA. If a performance guarantee is required to insure the completion of any required improvements, the Township shall make quarterly rebates of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements as work in progresses.~~ **AT THE TIME A VARIANCE IS GRANTED, THE ZONING BOARD OF APPEALS MAY REQUIRE THAT A CASH DEPOSIT, CETIFIED CHECK, OR IREVOCABLE BANK LETTER OF CREDIT IN A FORM ACCEPTABLE TO THE TOWNSHIP TREASURER COVERING THE ESTIMATED COST OF THE REQUIRED IMPROVEMENTS BE DEPOSITED WITH THE TOWNSHIP TREASURER TO INSURE FAITHFUL COMPLETION OF THE IMPROVEMENTS. AS REQUIRED IMPROVEMENTS ARE COMPLETED, PORTIONS OF A CASH DEPOSIT OR CERTIFIED CHECK MAY BE REBATED. IN THE CASE A LETTER OF CREDIT IS ON FILE WITH THE TOWNSHIP TREASURER, AS WORK PROGRESSES, A NEW LETTER OF CREDIT MAY REPLACE THE LETTER OF CREDIT ON FILE.**

3.10 Stay. ~~Upon filing and acceptance of any application for an appeal, all proceedings in furtherance of the decision appealed are stayed unless the Township Official certifies to the ZBA following notice of appeal that such stay would cause imminent peril to life or property. Upon such certification, said proceedings shall be stayed only be a restraining order granted by the ZBA or by Circuit Court.~~ **AN APPEAL OF ANY ADMINISTRATIVE ORDER, REQUIREMENT, DECISION, OR DETERMINATION, STAYS ALL PROCEEDINGS IN FURTHERANCE OF THE ACTION APPEALED UNLESS THE DIRECTOR OF COMMUNITY PLANNING AND DEVELOPMENT, BODY, OR OFFICER CERTIFIES TO THE ZONING BOARD OF APPEALS THAT, BY REASON OF FACTS STATED IN THE CERTIFICATE, A STAY WOULD CAUSE IMMINENT PERIL TO LIFE OR PROPERTY, IN WHICH CASE PROCEEDINGS SHALL NOT BE STAYED OTHER THAN BY A RESTRAINING ORDER WHICH MAY BE GRANTED BY THE ZONING BOARD OF APPEALS OR BY THE CIRCUIT COURT.**

3.11 Correction Period. All violations shall be corrected within a reasonable time period, as determined by the Zoning Board of Appeals, not to exceed six (6) months, as the ZBA may permit upon application. A violation not corrected within the specified time period shall be reported to the Township Attorney.

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4.2 Attendance. Members of the ZBA who are absent from more than three (3) consecutive, regularly scheduled ZBA meetings or more than forty percent (40%) of the regularly scheduled ZBA meetings in a calendar year shall **MAY** be subject to review and possible recommendation for removal to the Township Board. Exceptions may be made if absences are due to the conduct of other business as authorized by the ZBA. The following procedures shall apply:

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