

**MINUTES OF A SPECIAL MEETING OF THE COOPER CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS HELD ON THURSDAY, JANUARY 19, 2017**

A meeting of the Zoning Board of Appeals for Cooper Charter Township was held on Thursday, January 19, 2017, at the Cooper Charter Township Hall, 1590 West D. Avenue, Kalamazoo, Michigan.

Members Present: Urban, Magura, Flowers and Reynolds.

Members Absent: Gluchowski

Also Present: Michael D. Homier of Foster, Swift, Collins & Smith, Township Attorney; Russ Wicklund, Township Planner, Applicants, Christopher and Marcie Lynn.

Selection of Chairperson

Due to the absence of Chairperson Gluchowski, a motion was made by Comm. Reynolds, supported by Comm. Flowers, to appoint Comm. Urban to act as Chairperson for tonight's meeting. Motion carried 4-0-1, with one member absent.

The meeting was called to order at 4:30 p.m. by Comm. Urban.

Review and Approval of Minutes

Motion by Comm. Flowers, supported by Comm. Magura, to approve the Minutes from the Zoning Board of Appeals Meeting held on June 30, 2016. Motion carried 4-0-1, with one member absent.

Request for Variance by Christopher and Marcie Lynn, 5784 Rocky Road, Parchment, Michigan, Parcel No. 02-36-176-130.

Mr. Lynn would like to construct an accessor building which would require the Zoning Board of Appeals to grant three variances, the size, sidewall height and setback of the garage. In response to Chairperson Urban's request, Mr. Lynn explained that he is restoring a 1969 Charger and eventually he would like to have a car lift in the building. The ordinance allows a sidewall height of 10 feet; however, it would be better to have a 12 foot sidewall to accommodate the car lift. Mr. Lynn obtained some pole barn information from Menards and those packages would increase the overall dimensions from 24x36 to 24x40. Due to the topography in the back yard, there would be less excavating if the garage could be 7 feet from the property line rather than 9 feet. Chairperson Urban summarized the Lynns' request as follows: the higher sidewall is to provide a building more suited for a lift, the additional length is to provide a more common structure as authored by Menards and the setback variance request is so that there is less excavating work to do. The Lynns agreed with the summary. Mr. Lynn also stated that the difference in elevation should not obstruct the neighbors' view.

Chairperson Urban asked for comments or questions from the Commissioners. Mr. Wicklund stated that this is the first variance request considered under the new ordinance adopted in early

2016 for accessory buildings. The current application is dated 12-8-16. Comm. Flowers asked the applicants if they were going to put in an improved driveway, to which Mr. Lynn indicated they would be putting in a gravel driveway on the side of the house. Comm. Magura questioned the number of accessory buildings which can be allowed on a parcel less than one acre. Mr. Wicklund stated one accessory building is allowed. The shed which is shown on the drawings is not considered to be an accessory building because it is less than 200 square feet. Comm. Reynolds confirmed that the applicants are requesting three variances: sidewall height, size of building and side line setback.

#### Open Public Hearing

Jack and Delores Shilts live two houses down from the Lynns. They would like some clarification as to the purpose of the variance request. Their first question was whether this extension was part of the present building or a separate building. Chairperson Urban indicated it is a free standing building. It was also confirmed that the building is located at the back of the property and not an addition to the existing garage. They also wanted to know if this building was for personal use or as part of a commercial operation. Mr. Lynn stated it was for personal use only.

#### Close Public Hearing

#### Discussion by the ZBA

Comm. Reynolds reminded the Commissioners of a similar variance request which prompted revisions to the ordinance regarding sidewall height, size of the building and setbacks. For this application, Comm. Reynolds has some concerns regarding the sidewall height. While he understands why the applicant wants a variance, there has to be some practical difficulty in not meeting the ordinance requirements. He doesn't believe the size of the building and the sidewall height meet the practical difficulty standards.

Comm. Magura stated that he hasn't heard anything from the applicants that would convince him to agree that a variance should be granted.

Mr. Wicklund presented correspondence from Eric Tindall, 5806 Rocky Road, Kalamazoo, Michigan 49004, which was read into the record. Mr. Tindall opposes the granting of the variance due to the location of the proposed building and the setback variance requested.

Chairperson Urban stated that the ZBA needs to follow the law and there must be hard concrete reasons why they should grant this variance.

A Motion to close this discussion was made by Comm. Reynolds, supported by Comm. Flowers. Motion carried 4-0-1, with one member absent.

#### Reopen Public Comment

Motion to reopen public comment was made by Comm. Magura, supported by Comm. Flowers. Motion carried 4-0-1, with one member absent.

Jack Shilts asked Chairperson Urban what the main objection is to the variance - the height, the size or the setback?

Chairperson Urban stated that the ZBA itself doesn't have any objections; however, they have to follow the zoning ordinances. At this time Chairperson Urban does not believe the applicants have met the standard of practical difficulty.

Meeting Recessed

Chairperson Urban requested a recess at 5:10 p.m.

Meeting Reconvened

The meeting was reconvened at 5:14 p.m.

Chairperson Urban stated that pursuant to past practices and the revised zoning ordinance, the ZBA should give some consideration to providing a variance on the setback issue, given that it is a one foot variance. The lay of the land could cause some undue financial hardship to an individual. Mr. Urban, in his capacity as a Commissioner and not the Chairperson, stated he was open to that idea. He believes there are design alternatives that would allow the applicant to stay within the zoning ordinances. He also believes this is a self-created hardship.

Comm. Magura would like some testimony from a licensed excavation or building contractor as to exactly why the one foot setback is critical and would add undue excavation expense. Mr. Wicklund stated that the setback requested is for two feet.

Comm. Flowers asked Mr. Lynn why he was putting the building so far back on the lot. He stated it would seem that if the building was located closer to the house, there would be less excavation costs. Mr. Lynn stated that he needed room to drive around the house to get to the building and then back out, turn around and drive out. Comm. Flowers stated that there has to be some sort of hardship shown and at this point he would have to deny the variance request.

Comm. Reynolds stated that the ordinances are designed to protect not only the property owner but also the neighbors.

Close Discussion

A motion to close the discussion was made by Comm. Reynolds, supported by Magura. Motion carried 4-0-1, with one member absent.

A motion to deny the request for a sidewall height, deny the request for the length, and approve the request for setback variance was made by Chairperson Urban. There being no support for the motion, the motion died for lack of support.

A motion to deny the variance requests was made by Comm. Flowers for the reason that the applicant has failed to provide any basis for granting the variances and has not demonstrated any practical difficulties to warrant the variances, supported by Comm. Magura. Motion carried 3-1-1, with one member absent.

Update on Moran Matter

Comm. Reynolds informed the Commissioners that the Planning Commission adopted a resolution to deny the site plan because it didn't fulfill the requirements of the Zoning Ordinance.

Adjournment

There being no further business to come before the Board, a motion to adjourn was made by Comm. Magura, supported by Comm. Flowers. Motion carried 4-0-1, with one member absent.

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