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**Charter Township of Kalamazoo
Minutes of the Zoning Board of Appeals
Held on November 20, 2019**

10 A regular meeting of the Kalamazoo Charter Township Zoning Board of Appeals was held on
11 Wednesday, November 20, 2019.

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Call to Order.

17 The Chairman called the meeting to order at 7:00 p.m.

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Present Were:

24 Jim Short, Chairman
25 Steve Leuty
26 Shawn Blue

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Absent was:

33 Robert Mihelich
34 Fred Nagler

35 Also present were: Township Planner Patrick Hudson, Township Attorney Seth Koches and five
36 members of the audience.

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Roll Call.

44 Chairman Short called the roll, noting that Mihelich and Nagler were absent. Leuty moved,
45 supported by Blue, to excuse Mihelich and Nagler from the meeting. The motion passed
46 unanimously.

Approval of the Agenda.

47 The ZBA members received a copy of the agenda in the member packets. Hudson
48 recommended revising 1215 Wayside Road to 1315 Wayside Road contained in agenda item #5.

49 Leuty moved, supported by Blue, to approve the agenda as revised. The motion passed
50 unanimously.

Approval of the Minutes of the September 18, 2019 ZBA Meeting.

51 The next item on the agenda was approval of the minutes of the September 18, 2019 regular
52 Zoning Board of Appeals meeting. The draft meeting minutes were provided to all ZBA
53 members in their agenda packets. There were no additions or revisions made to the minutes.

1 Blue moved, supported by Leuty, to approve the minutes of the September 18, 2019 regular
2 ZBA meeting as presented. The motion passed unanimously. The minutes were provided to
3 Hudson for transmission to the Township staff.

4

5 **Public Hearings.**

6

7 **Vacant lot Wayside Road across from 1315 Wayside Road – Lonnie and Stephanie Page –**
8 **accessory building on vacant lot and minimum lot area and width variance requests**

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10 The first item set for public hearing was consideration of the request of Lonnie and Stephanie
11 Page, 1315 Wayside Road, Kalamazoo, MI 49048, for a variance from the requirements of
12 Section 2.03.A.1 of the Township Zoning Ordinance to allow for the construction of an
13 accessory structure on a parcel that has no principal building already established thereon; and,
14 a request for up to a 6,320 square-foot variance from the required 13,200 square foot
15 minimum lot width requirement from Section 25.02 of the Township Zoning Ordinance to allow
16 for the construction of an accessory structure on the unaddressed property known as Lot #14
17 and the north half of Lot #13 of the Hopkins Plat on Wayside Road, Kalamazoo, MI 49048
18 (“subject property”). The parcel identification number is 06-11-499-142 and the parcel is
19 located across the street from applicant’s property addressed as 1315 Wayside Road, within the
20 Township. The subject property is approximately .16 acres in size and is located in the R-2
21 Single and Two-Family District Zoning Classification.

22

23 Hudson noted that Section 2.03.A.1, titled, Timing of Construction, of the Township Zoning
24 Ordinance states,

25

26 No accessory building, structure, or use shall be constructed or established on a
27 parcel unless there is a legally established principal building, structure, or use
28 being constructed or already established on the same parcel of land. A parcel
29 may not be divided if such division would result in an accessory building,
30 structure, or use on a parcel on which there is no principal building, structure or
31 use.

32

33 Hudson said that Section 3.04.C, titled Non-Conforming Contiguous Lots under same
34 Ownership, states,

35

36 If two or more lots or combination of lots with contiguous frontage in single
37 ownership are of record at the time of adoption or amendment of this
38 Ordinance, and if all or part of the individual lots do not meet the requirements
39 established for lot width and area, the lots involved shall be considered to be an
40 individual parcel for the purposes of this Ordinance. No portion of said parcel
41 shall be used, occupied, or sold in a manner which diminishes compliance with
42 lot width and area requirements established by this Ordinance, nor shall any
43 division of a parcel be made which creates a lot with width or area less than the

1 requirements stated in this Ordinance. These provisions shall not apply to
2 contiguous lots in single ownership where each of the lots is occupied by an
3 existing home.
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5 Hudson prepared and summarized his staff report, which was contained in the ZBA's Board
6 packet. Hudson discussed Section 25.02, Schedule of Regulations, contained in the Township
7 Zoning Ordinance, regarding minimum lot width, maximum structure height, and setback
8 requirements. Hudson said Section 2.03.C.3 of the Township Zoning Ordinance regulated the
9 size of detached accessory buildings and structures, which states:

10
11 Size

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13 The maximum floor area of an accessory building or structure is 768 square feet,
14 provided that the accessory building or structure together with all other
15 buildings and structures does not cover more than twenty-five percent (25%) of
16 the total area of the parcel, exclusive of road rights-of-way. Notwithstanding the
17 percentage of lot coverage requirement, each parcel shall be permitted
18 accessory building or structure floor area totaling 576 square feet, provided that
19 in no case shall an accessory building or structure exceed the square foot area of
20 the principal building on the parcel.
21

22 Hudson said that the subject property was owned by Steve Waksmundski who also owns the
23 adjacent parcel (1410 Wayside Road). Hudson said Waksmundski owned 5 ½ platted lots in the
24 Hopkins Plat and sold only the north half of lot 13 and lot 14 to the Pages, which totals 8,880
25 square feet within only 66' of frontage; the Pages live across the street at 1315 Wayside Road
26 on a non-conforming lot, 44' by 103' (4,532 square feet). The Pages would like to build a 768
27 square foot garage on the parcel which does not currently have a dwelling on it.
28

29 Hudson said all of the parcels on the west side of Wayside road are 44' wide and 4,532 square
30 feet, and have single family dwellings built thereon. The parcels on the east side of Wayside
31 Road have houses built on multiple lots. The plats to the east and west of Hopkins Plat have
32 larger lots, but have structures built thereon. Hudson said that the R-2 District requires a
33 minimum lot area of 13,200 square feet; a minimum lot width of 80'; and, maximum lot
34 coverage of 25%. Hudson noted that the accessory building front yard setback requirement is
35 25'; the side yard and rear yard setback is 5'; and, the maximum structure height is 15'. The
36 applicant proposed to build an accessory structure on the north half of lot 13 and lot 14, which
37 does not contain a principal dwelling.
38

39 Stephanie Page addressed the Board. She said that the purpose for buying the subject property
40 was to construct a garage. Page said her family has out-grown the house they have lived in for
41 35 years and needs to build a storage area. Page said that the subject property has been vacant
42 and people have dumped litter on the property throughout the years. Page said their house has
43 a 16' x 20' garage that is only big enough to store one car. Lonnie Page asked the board why
44 their request would be denied.

1 Short opened the public hearing and invited any interested party to give public comment in
2 support of or in opposition to the applicant's request for a variance. George Brannum said that
3 he has lived in the neighborhood for 48 years and that the subject property has been vacant
4 during that time. Brannum said that people litter on the subject property and he had no
5 objection to the applicant building a garage. Susan Brannum said she supported the applicant's
6 request for variances, noting that the proposed garage would be an improvement to the
7 neighborhood.

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9 Hearing no additional public comments, Short closed the public hearing and the Board
10 members entered into deliberations.

11
12 Leuty discussed the issues with smaller lot sizes within the Westwood and Eastwood
13 neighborhoods. Leuty noted that these lots were created in the 1950's and 1960's and the
14 Township Zoning Ordinance creates issues for property owners with respect to use of their
15 property. The Board discussed the issue of authorizing an accessory structure on a parcel that
16 does not have a principal dwelling. Blue said that the applicant purchased the property, but the
17 Township Zoning Ordinance precludes them from using it. The Board dismissed the applicant's
18 unique situation because of the lot sizes of the properties on their street.

19
20 The Board considered each request for a variance separately. Koches recommended that the
21 Board review the standards of approval of granting a request for a variance which are
22 contained in Section 26.05.4, titled "Variances," which states,

23
24 "The ZBA shall have authority in specific cases to authorize one or more
25 dimensional or "non-use" variances from the strict letter and terms of this
26 Ordinance by varying or modifying any of its rules or provisions so that the spirit
27 of this Ordinance is observed, public safety secured, and substantial justice done.
28 A dimensional or non-use variance allows a deviation from the dimensional (i.e.,
29 height, bulk, setback) requirements of the Ordinance. A use variance authorizes
30 the establishment of a use of land that is otherwise prohibited in a zoning
31 district. The ZBA is not authorized to grant use variances by this Ordinance.

32
33 Such authority shall be exercised in accordance with the following standards.

- 34
35 a. The ZBA may grant a requested "non-use" variance only upon a finding that
36 practical difficulties exist and that the need for the variance is due to unique
37 circumstances peculiar to the property and not generally applicable in the
38 area or to other properties in the same zoning district. In determining
39 whether practical difficulties exist, the ZBA shall consider the following
40 factors:

- 41
42 (1) Strict compliance with restrictions governing area, setback, frontage,
43 height, bulk, density or other non-use matters, will unreasonably

1 prevent the owner from using the property for a permitted purpose
2 or will render ordinance conformity unnecessarily burdensome.

3 (2) The variance will do substantial justice to the applicant, as well as to
4 other property owners.

5 (3) A lesser variance than requested will not give substantial relief to the
6 applicant and/or be consistent with justice to other property owners.

7 (4) The problem and resulting need for the variance has not been self-
8 created by the applicant and/or the applicant's predecessors. (For
9 example, a variance needed for a proposed lot split would, by
10 definition, be self-created, so such a variance typically would not be
11 granted.)

12
13 b. In all variance proceedings, it shall be the responsibility of the applicant to provide
14 information, plans, testimony and/or evidence from which the ZBA may make the
15 required findings. Administrative officials and other persons may, but shall not be
16 required to, provide information, testimony and/or evidence on a variance request.”
17

18 Hudson confirmed that the approval of a variance does not require each standard to be
19 satisfied. Koches said that each Board member may weigh the facts to each standard to
20 determine whether the standards are satisfied. Koches said once the Board discusses and
21 considers each standard of approval, each Board member can weigh whether standards are
22 satisfied to the level that granting the variance request should be approved or denied. Koches
23 read through each standard for the Board to consider.
24

25 Leuty noted that only three Board members were present at the meeting and he was interested
26 to hear the perspective of the other Board members before making a final decision. He also
27 recommended that the Planning Commission review the minimum lot area requirements and
28 other ordinance restrictions that impact smaller lot sizes within the Township. Koches explained
29 the process for creating and adopting text amendments. Hudson noted that discussion
30 regarding these text amendments is an agenda item on the December 5, 1029 regular Planning
31 Commission meeting. The Board discussed tabling the applicant's request until every Board
32 member was present to discuss the applicant's request and consider the standards of review
33 for granting a variance. Koches said that if the request is tabled to a date certain, a notice of
34 public hearing and mailed notice to the appropriate property owners and/or occupants would
35 not be needed. Hudson confirmed that the next regular ZBA meeting is scheduled for
36 December 18, 2019 at the Township Hall.
37

38 Blue moved, supported by Leuty, to table the request of Lonnie and Stephanie Page, 1315
39 Wayside Road, Kalamazoo, MI 49048, for a variance from the requirements of Section 2.03.A.1
40 of the Township Zoning Ordinance to allow for the construction of an accessory structure on a
41 parcel that has no principal building already established thereon; and, a request for an up to a
42 6,320 square-foot variance from the required 13,200 minimum lot width requirement from
43 Section 25.02 of the Township Zoning Ordinance to allow for the construction of an accessory
44 structure on the unaddressed property known as Lot #14 and the north half of Lot #13 of the

1 Hopkins Plat on Wayside Road, Kalamazoo, MI 49048 (“subject property”) to Wednesday,
2 December 18, 2019 at 7:00 p.m. at the Township Hall (the next regularly scheduled ZBA
3 meeting). The motion passed unanimously.

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5 **Old Business.**

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7 None.

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9 **New Business.**

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11 None.

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13 **Other matters to be reviewed by the ZBA.**

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15 **None.**

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17 **Citizen Comments.**

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19 None.

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21 **Correspondence received.**

22

23 Hudson noted that a copy of the Planning and Zoning informational newsletter was received
24 and distributed copies of it to the ZBA members.

25

26 Hudson asked the Board to adopt the proposed 2020 regular ZBA meeting dates. A copy of the
27 proposed 2020 regular ZBA meeting dates was provided to the Board members. Leuty moved,
28 supported by Blue, to approve the 2020 regular ZBA meeting dates as presented. The motion
29 passed unanimously.

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31 **Board Member Comments.**

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33 Leuty discussed non-motorized pathways within the Township and provided an update
34 regarding the Township’s park plan.

35

36 **Report of the Planning Commission Member.**

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38 None.

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40 **Adjournment.**

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42 There being no additional business Blue moved, supported by Leuty, to adjourn the ZBA
43 meeting. The motion passed unanimously and the meeting was adjourned at 8:23 p.m.

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1 Respectfully Submitted,
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4 _____
5 , Secretary of the Zoning
6 Board of Appeals
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9 **Synopsis of Actions**
10 **ZBA meeting November 20, 2019**
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12 Regarding the request for variances from Kalamazoo Probation Enhancement Programs:
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- 14 1. Tabled the request of Lonnie and Stephanie Page, 1315 Wayside Road, Kalamazoo,
15 MI 49048, for a variance from the requirements of Section 2.03.A.1 of the Township
16 Zoning Ordinance to allow for the construction of an accessory structure on a parcel
17 that has no principal building already established thereon; and, a request for up to
18 6,320 square-foot variance from the required 13,200 minimum lot width
19 requirement from Section 25.02 of the Township Zoning Ordinance to allow for the
20 construction of an accessory structure on the unaddressed property known as Lot
21 #14 and the north half of Lot #13 of the Hopkins Plat on Wayside Road, Kalamazoo,
22 MI 49048 (“subject property”) to Wednesday, December 18, 2019 at 7:00 p.m. at
23 the Township Hall (the next regularly scheduled ZBA meeting); and,
24
25 2. Approved the 2020 regular ZBA meeting dates as presented.