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**Charter Township of Kalamazoo
Minutes of the Zoning Board of Appeals
Held on April 18, 2018**

A regular meeting of the Kalamazoo Charter Township Zoning Board of Appeals was held on Wednesday, April 18, 2018 at the Township Hall.

Call to Order.

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

Present Were:

Chairman Jim Short
Ann Simmons
Fred Nagler
Steve Leuty
Chris Mihelich, Alternate

Absent was: Warren Cook

Also present were: Township Attorney Roxanne Seeber and five members of the audience.

Roll Call.

Nagler moved, supported by Simmons to excuse Cook. The motion passed unanimously.

Set Agenda.

Hudson indicated that the Planning Commission had requested removal of the 1821 Gull Road – Borgess Hospital surgery expansion height variance request from the ZBA agenda as it was felt that a variance was not needed. Nagler moved, supported by Mihelich to approve the agenda as amended. The motion passed unanimously.

Approval of the Minutes of January 17, 2018 .

The first item on the agenda was approval of the minutes of the January 17, 2018 Zoning Board of Appeals meeting. Simmons noted an incorrect spelling of her name on the initial listing of members. Simmons moved, supported by Leuty to approve the minutes as amended. The motion passed unanimously.

PUBLIC HEARINGS

Michelle Quillin, 3738 Market Street—Accessory Building Size

The next item on the agenda was consideration of the request of Michelle Quillin, 3738 Market Street, for a 960-foot variance from the permitted 768-square foot total size of accessory building permitted in Section 2.02 B of the Zoning Ordinance in order to construct a 36' x 48' x

1 12' detached pole building on the property for storage of vehicles and personal items. The
2 applicant proposes to eliminate a 550 square foot barn that is rotting. The property is
3 approximately 8.49 acres in size and is located in the R-2 "Single Two Family Residential
4 District" Zoning Classification.

5
6 Quillin indicated that she wished to construct an accessory building in which to store motor
7 vehicles and equipment. She stated that there was some kind of animal pasture, perhaps for
8 goats on the property and that there was a remaining lean-to which was virtually empty on the
9 property. She was willing to demolish the lean-to if the variance was granted. Quillin stated
10 that she has a 2500 pick-up truck with a plow on the front. She stated that the current garage
11 is too small to fit the pick-up truck in, even without a plow.

12
13 Hudson indicated that the applicant wishes to construct a 1,728 square foot pole barn for
14 vehicle storage on the property, which is 8.49 acres in size. The parcel is improved with a single
15 family residence, a 792 square foot garage and a 480 square-foot accessory building. The
16 surrounding properties are all zoned R-2, Hudson said. The proposed structure is intended to
17 be 36' x 48' with a 12' height at the midpoint of the gable end of a gambrel roof. It is to be
18 located 35 feet from the house, 19 feet from the west side lot line, 250 feet from the east side
19 lot line and 35 feet from the existing garage which is to be retained. Hudson estimated that
20 the proposed location for the accessory building is around 100 feet from the centerline of the
21 road.

22
23 Hudson stated that the height limitation for parcels over one acre in R-2 is 18 feet. The
24 maximum floor area for accessory buildings is 768 square feet, and no more than two accessory
25 buildings are permitted per parcel.

26
27 Hudson read from his memorandum as to the standards for approval contained in Section
28 21.05 (sic) of the Township Zoning Ordinance. Initially, he noted that the property owners had
29 approached the Township in 2012 requesting to keep horses on the property. While up to 3
30 horses would be permitted, the use of the proposed structure is listed as "vehicle storage", he
31 said.

32
33 As to standard two, Hudson stated that the subject property abuts commercial zoning on the
34 east and the lots to the west are similar in size and only minimally occupied. He voiced
35 concern as to the large size of the structure. As to standard three, Hudson asked the ZBA to
36 consider whether a smaller structure would satisfy the needs of the resident. Hudson stated
37 that the use of the proposed building would determine, in large part, as to whether the
38 problem was self-created. He noted that the parcel is large for an R-2 zoned piece. Hudson
39 further recommended that the smaller accessory structure be demolished in order to satisfy
40 the two-accessory structure standard. He further stated that the parcel can be used as zoned.

41
42 Hudson recommended that the ZBA should determine the intended use of the building and
43 whether the second existing accessory structure should be demolished as part of the granting
44 of any variance. If the building is to be used for more than three animals, a larger size may be
45 warranted, he said. The building height measurements should be confirmed, he said. Further,

1 staff does not recommend the granting of variances for general conditions common to all
2 properties similarly situated.

3
4 In response to an inquiry from Short, Quillin indicated that the property does not go all the way
5 to Sprinkle Road. Simmons inquired as to how the applicant determined the size of the
6 building being requested. Quillin stated that they had considered all of the vehicles and parts
7 that they wished to store and then basically drew a line around them to see what area was
8 needed. They have an Artic Cat, a John Deere tractor, a truck and a plow. Additionally, she has
9 two daughters approaching legal driving age and she has obtained 4 wheel drive vehicles for
10 each of them. Due to the fact that she wanted 4 wheel drive for her daughters, those trucks
11 were also quite large and one of them came with a plow on it.

12
13 Nagler wished to confirm that only one variance was being requested as the applicant
14 indicated an intention to raze the lean-to/barn. The applicant confirmed this. Leuty noted that
15 the ordinance permitted a maximum accessory building size of 768 square feet. Leuty
16 indicated that one way to get more storage would be to add onto the house, making it an
17 attached accessory building and thus not subject to the square footage limitation for detached
18 accessory buildings. Hudson stated that a larger accessory building could be attached to the
19 house so long as the total lot coverage percentage stayed below 25. This, he said, would not be
20 a problem given the size of the parcel. However, it would be considerably more expensive than
21 detached and engineered plans may be required. Short inquired as to whether the applicant
22 was keeping the accessory building height within the required limitations. Nagler quickly
23 calculated the height based on a 3/12 pitch and it was concluded that no height variance was
24 needed. Quillin indicated that they had gone to the Menard's project center to do the
25 calculations and determine what rafters would be required.

26
27 The chairman opened a public hearing. Chris Pick, 303 Espinola, Parchment wished to address
28 the board. He stated that he had filed a FOIA on April 2, 2018 regarding 3738 Market. He had
29 requested applications from January 2000 when Quillin acquired the property to the present.
30 The Township clerk had prepared a response to the FOIA request, indicating that there had
31 been no ordinance violations on the property. Next, Pick continued, he had gone to the county
32 clerk's office and asked for businesses registered at 3738 Market Street. Two businesses had
33 been located. He presented certified copies of the business licenses to the Zoning Board of
34 Appeals. The first business was "Quality One Home & Lawn Maintenance"
35 and the second was "Precision Lawn and Snow" listing Michelle Quillin as owner and Mike
36 Oisten at Plainwell Michigan as the registered agent. He handed the certified copies to the
37 chairman. Pick stated that Article 12.00 of the zoning ordinance provided the listing of
38 permitted uses in the R-2 zoning district. The activities taking place on the property were not
39 listed. Additionally, he said, there was a significant amount of fill added to the property
40 without a fill permit. He provided photographs of the property. He was concerned that the
41 applicant's real motive was to expand the business because there were a number of
42 commercial plows, trailers and snow plows on the property. There was no additional public
43 comment. The chairman closed the public hearing.

1 Short inquired about the number of vehicles on the property and whether the applicant was
2 conducting a business or businesses. Quillin indicated that Quality One Home and Lawn
3 Maintenance was her business. She used to do lawn maintenance, but now she only did house
4 cleaning. She had kept the name because her clients know it. Mr. Oisten who was with her
5 opened Precisions Lawn 1.5 months ago. He wanted to start up the lawn care business and he
6 was in the process of getting her name off of it. He would normally run the business out of his
7 house in Plainwell, but it had been flooded. They were looking at a location off of East Main
8 and 30th Street to get the trucks stored off site. He would also change the address to his
9 Plainwell address.

10
11 Quillin reiterated that her need for a bigger building was based on the number of vehicles that
12 she owns and the need for additional vehicles for her two daughters. She did some
13 subcontractor work for plow services in the winter and she has her own plow. They have an
14 Artic Cat and a Yamaha that they take to Silver Lake with them. She also has a dump trailer and
15 three enclosed trailers. She has three additional trailers that she keeps for sorting scrap, one
16 for each of two types of aluminum and one for scrap metal. She had gotten a warning for
17 unsightly debris in the yard and had moved the scrapping into the trailers shortly thereafter.

18
19 Short noted that the trailers were lined up neatly on a landing. In response to an inquiry from
20 Short, Quillin confirmed that there would be no signage. Hudson photocopied the
21 photographs and the documents from Pick and passed copies out to the members and to
22 Quillin.

23
24 Quillin indicated that the lot was low and she had brought in some fill. She didn't know that
25 she needed a permit from the Township because she knew that the property was not in the
26 flood plain. She stated that there is a trailer on the property that presently has no wheels.
27 She is fixing that up for someone else and it will not be staying on the property. Quillin
28 indicated that the other green trailer belonged to Oisten. They had to move his equipment to
29 her house due to the flooding in Plainwell. In response to an inquiry from Short, Quillin
30 indicated that two of the trailers would be moved. They are renting a building on 30th and East
31 Main.

32
33 Nagler stated that he was looking for a way to justify a variance. The way that the ordinance is
34 written, he stated, he cannot come up with one. He reviewed the criteria for granting a
35 variance from the zoning ordinance. Nagler stated that a large building on a lot this size would
36 have a minimal impact. However, he said, the zoning ordinance does not differentiate between
37 lot sizes. He could not find any justification for a variance. Short was concerned about the
38 size of the variance. If a hardship or a practical difficulty was offered, there may be
39 justification for a smaller building. However, he could not find a difficulty. Needing a large
40 facility is not a hardship because you have too much stuff, he said. Leuty indicated that his
41 reasoning for asking about the attached accessory building was that there was a reasonable
42 solution to the problem. Quillin indicated that there has been an increase in crime in her area
43 and she just wants everything inside and secured. Leuty discussed the ZBA training that he had
44 just been to. Another option was to ask the Planning Commission to consider a text
45 amendment. There was no additional discussion among the board members.

1 Nagler moved, supported by Leuty to deny the variance request because there was no practical
2 difficulty; the variance request does not meet the standards for approval. The motion passed
3 unanimously.

4
5 **Stephan Kerr, 3808 N. Pitcher Street –monument sign setback**

6
7 The next item on the agenda was the request of Stephen Kerr, Valley City Sign for a 12.5 foot
8 variance from the required 12.5 foot setback contained in Section 7.03 D. of the Township
9 Zoning Ordinance in order to replace an existing nonconforming freestanding sign at 3808
10 North Pitcher with a 32-square foot 5-foot high freestanding sign depicting the name of the
11 new owner in the same nonconforming location. The property is located in the I-2 “General
12 Industrial District” Zoning Classification and is approximately 1.25 acres in size.

13
14 Steven Kerr, Valley City Sign, indicated that Crystal Flash had recently purchased the former
15 Knapp Energy property. He stated as a hardship that there are three mature pine trees in the
16 front yard. The sign as proposed was two feet further back than the existing sign. It was
17 proposed to be in line with the closest tree to the road. Visibility at the driveway and main
18 entry for the incoming traffic was important, he said. The smaller freestanding sign for Citgo
19 and one of the two wall signs had already been removed, Kerr stated.

20
21 Seeber provided some background information regarding the proposed sale. She stated that a
22 small portion of the building was actually located on adjoining property, which was part of the
23 railway system. The former owner had proposed a land exchange with the Township, which
24 the Township was willing to make. However, it was determined that the trail property was
25 purchased in part with grant money. Therefore, the county and the applicant were in the
26 process of finding an alternative land portion for a land swap. She stated that the building
27 predated the zoning ordinance and that the parcel was pretty tight.

28
29 At the chairman’s invitation, Hudson read through his report. The property is an irregularly-
30 shaped 9.98 parcel which is in the process of being sold. The property is only 67.75 feet wide
31 at the north end. It is nearly triangular in shape. The property abuts a railroad right-of-way
32 which bisects the parcel. The existing industrial building is nonconforming as to front and rear
33 setbacks. It is only 5 feet away from the right-of-way line and it crosses the rear line into the
34 railroad right-of-way

35
36 Hudson stated that signs are to be located 12.5 feet from the right-of-way. He went through
37 and made statements as to each of the standards for approval contained in Section 21.060 of
38 the zoning ordinance. He noted that the property is located in the General Industrial District
39 in an area planned for heavy industry. It abuts industrial property on all sides, he stated.
40 Hudson indicated that the applicant was concerned that the required location of the sign would
41 result in a reduction of visibility due to the location of the buildings and the posted speed limit
42 on North Burdick in the area. Further, the applicant had issues with existing vegetation.
43 Hudson noted that the situation is not self-created. The parcel has been nonconforming and
44 the existing structures were in place prior to the time the ordinance was written, he said. As

1 an alternative, Hudson stated, some of the existing vegetation could be removed so as to
2 provide better visibility.

3
4 Hudson recommended that the ZBA consider the irregular size and shape of the parcel,
5 together with the location of the building and its proximity to the road. The variance to
6 change the sign face in the existing location was acceptable, he said.

7
8 Mihelich moved, supported by Nagler to approve the variance due to the decrease in the
9 degree of nonconformity, the irregular shape of the lot and the existence of vegetation. Leuty
10 indicated that the three conifers were worth saving and that they were not a self-created
11 problem. In response to an inquiry from Mihelich, Kerr indicated that the sign was not only for
12 marketing, but also for visibility for trucks as they approach the location. There would be a very
13 small amount of retail on-site, he said. In response to an inquiry from Leuty, Kerr stated that
14 the other monument sign was on the back side of the property. The motion passed
15 unanimously.

16
17 **Proposed bylaws.**

18
19 The Zoning Board of Appeals next took up the question of bylaws. Hudson had provided the old
20 bylaws with some updates that had been recommended to Hudson by Seeber. The members
21 went through the bylaws and the proposed changes. Leuty detailed his comments on page 5.
22 He had indicated that a determination of a conflict of interest should be made. The ZBA
23 members discussed whether a person was required to leave the room if he or she was not able
24 to vote due to a conflict. Seeber indicated that a Planning Commission is required to have
25 bylaws and a conflict of interest statement, whereas this was optional for the Zoning Board of
26 Appeals. Short indicated that a person who might have a conflict should consult with the
27 Township attorney. Seeber indicated that a conflict is generally defined as a person that has a
28 personal financial interest in the outcome and/or shares a property line with an applicant. This
29 being said, she stated, the Zoning Board of Appeals has the luxury of an alternate. Sometimes
30 declaring a conflict would be seen as avoiding an appearance of impropriety, she said, even if
31 there was no true legal conflict. The members further discussed whether a person would be
32 required to leave the room if a conflict was declared. Seeber suggested that the person could
33 declare the conflict and be recused and that he or she may be asked to leave at the
34 recommendation of the chair upon discussion with the Township Attorney, if necessary. Short
35 did not recall more than one or two significant issues of conflict in all his years on the Zoning
36 Board of Appeals. Mihelich realized that he did not have a highlighted copy of the bylaws. He
37 had been to ZBA training recently and inquired about an issue with minutes and approving
38 them at the very next meeting. Seeber stated that there is a new court rule that addresses this.
39 ZBA decisions can be appealed to circuit court for thirty days after the minutes were approved.
40 This was found to be difficult in many places that may have only one or two Zoning Board of
41 Appeals meetings in a year. Thus, the appeal period was open for a considerable period of
42 time. The court rules now state that the appeal period runs for thirty days after the approval
43 of the meeting minutes or it commences upon the delivery of a decision form signed by the
44 chairman to the applicant. She and Short recalled that a decision form had been used recently.
45 Short and Mihelich recommended that a decision form be prepared for all ZBA decisions, so as

1 to minimize the appeal period. Several other smaller changes to the bylaws were suggested
2 by members of the Zoning Board of Appeals. Hudson indicated that he would prepare a final
3 set of bylaws for ZBA consideration at the next meeting. He stated that the Township board
4 did not approve the ZBA bylaws, only the ZBA did. However, he would send a courtesy copy of
5 the approved bylaws to the Township Clerk. Short inquired as to whether taking the oath of
6 office before the Township clerk was required after every appointment. Seeber stated that the
7 oath of office could be taken in front of a notary as well, so if a member could not get to the
8 clerk, she or another notary could administer the oath of office. Additionally, she felt that
9 reappointment did not necessarily require a new oath to be made for an existing member.

10
11 **Citizen Comments.**

12
13 None.

14
15 **Board Member Comments.**

16
17 Simmons inquired as to the reason that the Planning Commission told the Borgess applicant
18 that a variance was not needed. Nagler stated that the footprint of the building was not
19 changing. The only difference was an upward construction of a new surgery unit and the parts
20 of the Borgess structure were already six stories in height. Short recalled that there have been
21 issues with signage at the Borgess site in the past. He said that the hospital is the largest
22 business in the Township and the largest building. He asked the members what they thought
23 about a text amendment applicable to hospitals. All were in favor of this and Short asked
24 Nagler to bring the matter to the Planning Commission's attention for a possible text
25 amendment.

26
27 **Report of the Planning Commission Member**

28
29 Nagler reported on recent Planning Commission activities, including proposed text
30 amendments on commercial vehicle parking and the approval of a special use for a medical
31 marijuana provisioning center on Foster. The site plan had been tabled, he said.

32
33 Leuty reported on recent Township board activities and stated that the strategic plan was
34 moving forward.

35
36 There being no additional business before the Zoning Board of Appeals, upon motion of Nagler,
37 supported by Leuty, and unanimous approval, the meeting was adjourned at 8:40 p.m.

38
39 Respectfully Submitted,

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43 _____
44 Ann Simmons, Secretary

Synopsis of Actions Taken by the Kalamazoo Township ZBA on April 18, 2018

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- 1. Denied an accessory building size variance for 3738 Market Street; and
- 2. Approved sign location variance for 3808 N. Pitcher; and
- 3. Recommended changes to ZBA bylaws and requested amended draft be prepared for the next meeting