

Charter Township of Kalamazoo
Minutes of the Zoning Board of Appeals
Held on July 15, 2020

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5 A regular meeting of the Kalamazoo Charter Township Zoning Board of Appeals was held on
6 Wednesday, July 15, 2020. Due to restrictions of COVID-19 and Orders of Michigan Governor
7 Gretchen Whitmer, the meeting was conducted remotely via ZOOM video conference.

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9 **Call to Order.**

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

12
13 **Present Were:**

14
15 Jim Short, Chairman
16 Steve Leuty
17 Robert Mihelich
18 Fred Nagler
19 Shawn Blue
20 Maryanne Sydlik, alternative

21
22 **Absent was:**

23
24 None.

25
26 Also present were: Township Planner Patrick Hudson, Township Manager Dexter Mitchell
27 Township Attorney Roxanne Seeber, and 4 members of the public.

28
29 **Roll Call.**

30
31 Chairman Short called the roll.

32
33 **Approval of the Agenda.**

34
35 The ZBA members received a copy of the agenda in their member packets.

36
37 Nagler moved, supported by Mihelich, to approve the agenda with the date correction. The
38 motion passed unanimously.

39
40 **Approval of the Minutes of the June 17, 2020 Zoning Board of Appeals Meeting**

41
42 The next item on the agenda was approval of the minutes of the June 17, 2020 regular Zoning
43 Board of Appeals meeting. The draft meeting minutes were provided to all ZBA members in their
44 agenda packet.

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2 Blue moved, supported by Leuty, to approve the minutes of the June 17, 2020 regular ZBA
3 meeting with a correction on page 2, line 34. The motion passed unanimously. Mihelich
4 authorized Seeber to sign the approved minutes on his behalf and forward them to the Hudson
5 to be included in the Township's records.
6

7 **Public Hearings.**
8

9 **Preferred Property, LLC**
10

11 The first item on the agenda was consideration of the request of Travis Gernaat, and Phil Gernaat
12 & Sons, Inc. for a variance to expand an existing lawful nonconforming use (greenhouse) by the
13 construction of a 50' x 80' addition to the existing barn on the property addressed as 2527 N.
14 Westnedge (Parcel No. 06-09-235-070). The property is located in the R-2 Single & Two Family
15 Residential District Zoning Classification. Standards for variance consideration are contained in
16 Section 26.05 of the Township Zoning Ordinance.
17

18 The chairman asked Hudson to discuss the request. Hudson said that Gernaats is a long-
19 standing greenhouse occupying 6.62 acres. The applicant wishes to add a truck dock and a 50'
20 x 80' pole building. Lot coverage will increase to 65.4%. The existing buildings cover
21 approximately 184, 600 square feet (64% lot coverage). These include a small office building
22 and two greenhouse structures of c. 64,000 sq.ft. and c. 120,000 sq.ft. The office is about 70
23 feet from the street r-o-w line. The greenhouses are setback c. 150' and c. 180' from r-o-w and
24 are c. 10 from the north lot line and c. 15 feet from the south lot line. These buildings are 500'
25 from the rear lot line. Hudson noted that the land to the south is in common ownership with
26 this parcel. The property to north is zoned C-1 Local Commercial and is occupied by a large
27 greenhouse complex. The properties to the south are zoned R-2 and are vacant. There are four
28 parcels totaling 5.4 acres owned by the applicant (Phil Gernaat), these abut the US-131
29 Business Loop and are tree-covered. The properties across N. Westnedge to the east are zoned
30 C-1 and are occupied by a greenhouse, a nonconforming dwelling and a business.
31

32 Leuty inquired as why a long term business owner would need a variance in order to expand. He
33 considered whether the issue was the same as that for the Panse Greenhouse. Seeber indicated
34 that the Panses wanted to add a medical marijuana grow to their greenhouse. There is no
35 agricultural zoning in the township; and the property must be in Agricultural or Industrial for
36 medical grows. They had requested a conditional rezone to allow the medical marijuana grown.
37 Leuty and Nagler recalled significant opposition on the rezoning
38

39 The applicant was represented by Travis Gernaat, from Phil Gernaat & Sons, Inc., 2527 N.
40 Westnedge. Gernaat stated that they are just wanting to add on to their barn and that they will
41 do whatever the board will ask.
42

1 Nagler asked Gernaat about the existing building to the south. Gernaat said yes, they are adding
2 on to the East side of the pole barn into the parking lot and the loading docks will be there on the
3 North side in the grass area.

4
5 Short asked Hudson if there would be any setbacks there. Hudson said no, not in the R-2 district.
6 Hudson also said that the real issue is the expansion of the nonconforming use and the maximum
7 lot coverage but rezoning the area to C-1 would eliminate this issue.

8
9 The chairman opened a public hearing on the request at 7:18PM. No one spoke for or against
10 it. The Chairman noted a letter that was received that was in favor of the project. No other
11 communications were received. The chairman closed the public hearing at 7:19PM.

12
13 Attorney Seeber spoke and reminded the board that they discussed, and so did the Planning
14 Commission, setting forth standards for greenhouses. However, the Township Board removed
15 the greenhouses special use from the R-2 district, which in turn made them lawfully
16 nonconforming and they cannot do anything without a variance.

17
18 The board considered its standards for variance approval as follows:

19
20 a. The ZBA may grant a requested "non-use" variance only upon a finding that
21 practical difficulties exist and that the need for the variance is due to unique
22 circumstances peculiar to the property and not generally applicable in the
23 area or to other properties in the same zoning district. In determining
24 whether practical difficulties exist, the ZBA shall consider the following
25 factors:

26
27 (1) Strict compliance with restrictions governing area, setback,
28 frontage, height, bulk, density or other non-use matters, will
29 unreasonably prevent the owner from using the property for a
30 permitted purpose or will render ordinance conformity
31 unnecessarily burdensome.

32
33 Short said to this factor that strict compliance with this would create a burden because
34 board created the difficulty.

35
36 Leuty said that this is a unique situation because the property next to it is already zoned
37 C-1 and has consistent use of both as greenhouses.

38
39 Nagler said that technically this is not a permitted purpose, but it is a historical purpose
40 since the business has been their so long.

41
42 Short and the board came to a yes decision.

43

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

3
4 Nagler said that this is a definite yes. Rest of the board agreed.

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

9
10 Nagler said that this is a yes or a no; the board can grant this or not. Short agreed with
11 this point.

12
13 (4) The problem and resulting need for the variance has not been self-
14 created by the applicant and/or the applicant's predecessors. (For
15 example, a variance needed for a proposed lot split would, by
16 definition, be self-created, so such a variance typically would not be
17 granted.)”

18
19 Short said that this would not have been a problem if the zoning had been addressed by
20 the township, this has not been self-created by the application.

21
22 The Board discussed the standards of review and agreed that most had been met. Seeber filled
23 in the “Notice of Decision” form as the members considered each standard.

24
25 Nagler moved, supported by Blue, to approve the request of Preferred Property, LLC as follows:

26
27 The request to expand the nonconformity with the condition of approval of the site plan
28 from the Planning Commission.

29
30 The motion passed unanimously.

31
32 The board next considered the lot coverage variance request. Hudson had commented that a
33 portion of the adjoining parcel could be combined with the one in question so as to make a larger
34 parcel, and thus a lesser variance could be requested. He also indicated that the applicant should
35 undertake rezoning of the parcel in question, which would eliminate the need for lot coverage
36 variance all together.

37
38 Nagler said that the same answers for the factors would apply for this variance too. The group
39 discussed the rezoning suggestion. Seeber inquired of Nagler whether it would make sense for
40 the Planning Commission to take up a wider area. Nagler and Hudson discussed this, and
41 concluded that it is something that they should put on a future planning commission agenda.
42 Hudson will put together some maps showing the zoning districts and location of the
43 greenhouses. Leuty did not want to rezone into a situation that would allow marijuana to be

1 grown in all greenhouses. It did not appear that would be a problem, as greenhouses are not
2 allowed in industrial and there is no agricultural.

3
4 Nagler moved, supported by Mihelich, to approve the request of Preferred Property, LLC as
5 follows:

6
7 Grant the variance for lot coverage conditioned upon adding enough of the adjacent lot
8 that is currently owned by the applicant to create a 60% uncovered acreage.

9
10 The motion passed unanimously.

11
12 Seeber filled out the notice of decision form. Short authorized her to sign it on his behalf, due to
13 the remote meeting situation. She indicated that she would mail it to the applicant and fill in the
14 proof of service.

15
16 **Old Business.**

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18 None.

19
20 **New Business.**

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22 None.

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

25
26 None.

27
28 **Citizen Comments.**

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30 None.

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32 **Correspondence received.**

33
34 None.

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36 **Board Member Comments.**

37
38 Leuty commented on the whole greenhouse situation.

39
40 **Report of the Planning Commission Member.**

41
42 Nagler summarized the recent Planning Commission meeting.

43
44 **Adjournment.**

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2 There being no additional business, Nagler moved, supported by Sydlik, to adjourn the ZBA
3 meeting. The motion passed unanimously, and the meeting was adjourned at 7:58PM.

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5 Respectfully Submitted,

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10 Robert Mihelich, Secretary of the Zoning
11 Board of Appeals
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14 **Synopsis of Actions**
15 **ZBA meeting July 15, 2020**

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17 The Kalamazoo Township Zoning Board of Appeals undertook the following actions at its meeting
18 of July 15, 2020

- 19
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- 21 • Granted the request of Travis Gernaat, and Phil Gernaat & Sons, Inc. for a variance to
22 expand an existing lawful nonconforming use (greenhouse) by the construction of a 50' x
23 80' addition to the existing barn on the property addressed as 2527 N. Westnedge (Parcel
24 No. 06-09-235-070). The property is located in the R-2 Residential District Zoning
25 Classification. Standards for variance consideration are contained in Section 26.05 of the
26 Township Zoning Ordinance.
 - 27 • Granted the lot coverage percentage request for the same parcel, conditioned upon
28 adding enough of the adjoining parcel under similar ownership to achieve a maximum
29 40% lot coverage.
30