

GREEN LAKE TOWNSHIP ZONING BOARD OF APPEALS
9700 Riley Road, Interlochen, MI
6:00 p.m., Wednesday January 8, 2020

MINUTES

1. CALL TO ORDER: By Chairman Volkening at 6:00 pm.
2. PLEDGE OF ALLGIANCE: Was recited by all.
3. ROLL CALL: Board members present: Volkening, McDonald, Haight and Marshall. Also, present Alycia Reiten, Planning and Zoning Director and Mary Jo Barck, acting Recording Secretary.
4. APPROVAL OF AGENDA: Moved by McDonald supported by Marshall to amend the agenda to include item 11. A. Annual Election of Officers and Annual Calendar Approval to the agenda. Carried.
5. CONFLICT OF INTEREST STATEMENT: None.
6. APPROVAL OF MINUTES: Moved by McDonald and supported by Marshall to approve the minutes of the meeting held on November 13, 2019. Carried.
7. PUBLIC HEARING:

ZBA 20-001 – A request for the granting of variances to Article 4 General Provisions, 4.13 Fences, B. Dimensional standards - fences six feet (6') and over front setback equal to setback for primary building or the front building line, whichever is less; Side and rear setbacks equal to setback for primary building, located at 8832 South Road, Interlochen, MI and owned by Calvin Wilson. The applicant is requesting a variance of 33 feet from the front yard setback from South Road, a variance of 22 feet from the front yard setback from Lochwood Drive and a variance of 26.5 feet from the eastern side yard setback to install a six-foot (6') perimeter fence.

Chairman Volkening asked if the applicant was present and if they would like to speak during this hearing. Mr. Calvin Wilson introduced himself to the members. He presented argument beginning with a daycare operating at the address which requires the fencing. Photos of the fence, an overhead view showing shape of parcel, including property line, pie shaped lot from the packet were referenced. Photos were provided at the meeting (Attachment A).

Mr. Wilson said he is requesting a variance under 15.4 practical difficulties (Attachment B) and all of the following conditions apply: burden (safety of children, drug use, dogs, cars, state requirement). The first fence installed was a see through and the smell of marijuana from the neighbor drifted through. Went to a six (6) foot to prevent smell and this person from watching house for two (2) years.

Mr. Wilson is also requesting for substantial justice, (child safety and occupant safety, safe space between playground equipment, property has no backyard, only eight (8) feet from property line, other property owners piece of mind).

Item c., noted by Mr. Wilson size needed for playground proper placement, safety and visibility.

Item d., unique to property, it is an unusual lot size, not square, virtually no backyard, and located at an intersection.

Item e., a 35 (thirty-five) foot (*front yard*) setback makes the yard unusable, not large enough play area, height of fence for safety, better look for neighborhood.

Mr. Wilson added he would have liked to put the play area somewhere else for the safety of the children but no other area will work. The see-through fence was being climbed by the children and became a safety hazard and liability.

Chairman Volkening asked the members if they had questions.

Chairman Volkening asked if it was a licensed daycare. Respondent, yes. Not initially aware a fence permit needed, it's a private road. He came in the same day letter of received and has stayed in touch with the hall to make sure things were done right.

Chairman Volkening asked if respondent knew the status of Lochwood Road. Mr. Wilson stated it is a paper road, a two track not in use.

Mr. McDonald asked if plantings would be considered to soften the fence along the road. Mr. Wilson said as a landscaper it would not be practical to put plants there, he would have to have irrigation to water which would stain the fence and not look appealing.

Mr. Volkening verified applicant is seeking relief on South Road, West Road and does house hit within setback. Mr. Wilson clarified the relief being sought and yes, the house does sit within setbacks.

CHAIRMAN VOLKENING OPENED THE PUBLIC HEARING AT 6:22 P.M.

Dale Chandler, 8785 South Road; lived in neighborhood longer than most. Mr. Wilson has improved neighborhood, plows and grades road – he is a good neighbor.

Nancy Forbes, 8856 South Road; Ditto. Road takes a beating and Mr. Wilson helps to maintain it. She added things happen. A big fence went up and a lot of people prefer not watching toddlers in the act. This is a good family who didn't go into this breaking rules. Realize it could happen to anyone and should not cost more money to change. Not a problem for her.

Clark Dale, 8928 Interlake Blvd; Mr. Wilson has cleaned up the road and more importantly he placed the good side of the fence out, not many people do that. He is a conscientious, good neighbor.

Chelsea Sophiea, 6331 Karlin Road; Mrs. Wilson is her daycare provider and the fence is awesome. It provides privacy so no one is watching the kids. Eliminates public toddler moments from being seen. The height is a great safety, too tall for kids to throw ball over and because it is wood they cannot climb it like a link fence. Also people cannot photograph her kids. This is an accommodating couple who always look for a win-win. Please let them keep fence.

Courtney Wallace, 1348 Nightingale Lane; Children attend this daycare. The fence keeps out dogs, eliminates kids seeing drugs used and is safe place for children. Fence was an ideal solution and she would like board to approve variance.

CHAIRMAN VOLKENING CLOSED PUBLIC HEARING AT 6:32 P.M.

Mr. McDonald commented on the unusual lot size and dimension. A lot of those parcels do not conform to new standards.

Mr. Volkening asked when fence was installed, response Spring 2019.

Mr. Volkening noted the unique circumstances under 15.4 have been met.

Mr. Marshall added it is a small, non-conforming lot and he would approve the fence.

Motion by Chairman Volkening, supported by Mr. Marshall to approve ZBA 20-001, fencing variances for Calvin Wilson, 8832 South Road under 15.4 having met requirements #1 - #5. Roll Call Vote: Volkening – aye; McDonald – aye; Marshall – aye; Haight – aye. Motion carried. Chairman Volkening commented this is a small unique lot, the fence adds child safety.

ZBA 20-002 – A request for the granting of variances to Article 4 General Provisions, 4.35 Specific Requirements and Standards, F. Contractor Shop / Contractor Yard, 1. Use shall be located on a minimum five (5) acre parcel; Article 8 Zoning Districts, 8.5 District Provisions, I. Commercial C, 1. Intent & General Standards parking areas and driveways shall be paved with asphalt or concrete and include concrete curbing located at 6176 US 31, Grawn, MI and pending purchase by Joseph E. Prieskorn (owned by Randall Hartgerink). The applicant is requesting a variance of 2.4 acres to the minimum lot size, a variance from the requirement to pave all parking areas and driveways with asphalt or concrete and a variance to the requirement to include concrete curbing.

Chairman Volkening asked if the applicant was present. Mr. Joe Prieskorn announced he was the applicant and wished to share a letter from a MacGregor Way resident, (Attachment C). Presentation began with Mr. Prieskorn stating he would like to purchase a 2.6 acre parcel to host his contracting business. He is aware the ordinance requires 5 acres but there are no larger parcels to fit his budget. This location is perfect for his business and the 2.6 acres will accommodate staff and equipment. He is also asking for relief from the curbing requirement, the only curbing he has noticed is on US31 and the requirement for paving all drives and parking areas. Mr. Prieskorn would like to use a more pervious material, crushed stone for better drainage and not incur the \$100,000 cost for paving.

Mr. Volkening asked if he was currently the owner. Mr. Prieskorn is not but does have a letter to act as agent.

Mr. Volkening asked if the existing building was going to be used. Mr. Prieskorn will use one for office staff and the other for equipment and tools. Most large equipment stays on the job until project completion.

Mr. Volkening asked Planning and Zoning Administrator, Alycia Reiten to clarify the paving requirements. Her response is currently all driveways and parking areas are required to be paved.

Mr. Volkening asked if a site plan would be submitted in the future for the business. Mr. Prieskorn said he anticipated the question and brought a copy (Attachment D) with him for this meeting. The plan noted a DTE utility easement which the members discussed and then affirmed it is a main line rather than a service line. Two driveways in the plan are in addition to two existing driveways. Mr. Volkening asked Ms. Reiten to clarify the ordinance regarding driveways. She stated the zoning ordinance does not currently limit the number of driveways. Mr. Prieskorn noted almost all properties on the road have two driveways, he is requesting the additional for semitruck deliveries. Mr. Prieskorn added the paving of the entire yard is not only costly, but will require a larger drainage basin that combined with the utility easement results in a lot of un-useable area. He also stated a 4' foot buffer for landscaping will be added – and he has always shown pride in his property which the members were told they could contact previous neighbors if they wanted to verify. The driveways would be crushed stone and maintained, with an asphalt approach. Mr. Volkening liked the approach paved but the members discussed how far into the drive the asphalt should extend. Mr. McDonald said it is generally ten (10) to twenty (20) feet into the parcel, however he did ask if Mr. Prieskorn would be willing to go to the gate, as seen in the plan. Mr. Prieskorn replied he will pave right up to the building.

Mr. Volkening asked if this was planned for 2020. Mr. Prieskorn said he would like to get started once all approvals are granted.

PUBLIC HEARING OPENED AT 6:53 P.M.

Matt Guide, 4522 Brookview, Williamsburg; Real Estate Broker for parcel. Frequently hear complains about the five (5) acre minimum, seems very excessive. Owned a similar business on less than two (2) acres, 2.6 acres seems adequate. There will be no dust with crushed stone and pervious is more responsible. Ample parking is available and meets the definition of industrial, Siler's Landscaping is behind this parcel, new business will conform to neighbors.

CLOSED PUBLIC HEARING AT 6:58 P.M.

Mr. Volkening stated five (5) acres is excessive. He is aware the Planning Commission may be revisiting the requirement with intent to change, could be two (2) months or two (2) years. The paving should be set back far enough to protect MacGregor Way, but how to word the motion to show this was discussed.

Motion by Mr. McDonald to approve variances as presented as to lot size and curbing not required, supported by Mr. Volkening. Roll Call Vote: Volkening – aye; McDonald – aye; Marshall – aye; Haight – aye. Motion carried.

Motion by Mr. McDonald to grant variance to not pave all areas other than those required for ingress and egress from MacGregor Way to front setback lines, supported by Mr. Volkening. Roll Call Vote: Volkening – aye; McDonald – aye; Marshall – aye; Haight – aye. Motion carried.

Mr. Prieskorn thanked the members for their approval.

ZBA 20-003 – A request to appeal the determination of the Zoning Administrator on the property located at 10385 Diamond Park Road which includes 10397 Diamond Park Road being used as 10393 Diamond Park Road, Interlochen, MI and owned by Jamie Julian. The parcel includes two (2) dwelling units. Article 4 General Requirements, 4.9 Number of Dwelling Units of the Green Lake Township Zoning Ordinance, where the ordinance permits a dwelling, not more than one (1) dwelling unit shall be permitted per lot, except as may otherwise be permitted by the provisions of the VR, C and VC Districts and the provisions of Articles 11 and 12. The applicant proposed to demolish and replace the second dwelling unit. Article 16 Non-conformities, 16.1 nonconforming uses, D. Any nonconforming use changed to a conforming use shall not thereafter revert to any nonconforming use. The determination is that to demolish the second dwelling unit eliminates the non-conformity therefore cannot be replaced because not more than one (1) dwelling unit shall be permitted.

Chairman Volkening asked if applicant was in attendance. Ms. Jamie Julian stood to announce her attendance and asked to provide a comment (Attachment E). Ms. Julian stated the property is in the Lake Residential district with two (2) homes. Her family home is currently the rear home, a 1978 modular placed on a brick foundation, which was allowed per the 1977 Green Lake Township Ordinance. The other home is a small one bedroom, one bath home and is not occupied other than as a mancave. After forty-one years the modular home is no longer safe. There is no floor, no joists – beams are not able to support a wall replacement process. The electrical only has some switches working and the furnace quit working. Their intent is to demolish the whole house and replace with a stick-built home. She is a licensed builder but will use licensed electrical and heat professionals during construction and added she has built several homes in the area.

Ms. Julian continued this (*rebuild*) will make the home safer, improve the neighborhood. She is currently paying taxes on two homes, which she doesn't mind. The front house is too small for

her family to live, when asked she said they are currently living in a rental her husband owns. This new home will not look any different just better. The ordinance though will not allow for her to rebuild if demolished.

Mr. Volkening asked if there was a basement, Ms. Julian replied there is a full brick basement.

Mr. Marshall asked the timeline. Ms. Julian said she generally completes her projects in 6 (six) months, no more than a year.

Mr. Volkening asked Ms. Reiten to explain her determination to the members. Ms. Reiten explained the determination was based on the ordinance in place in 1977, guest houses were allowed. However, the members are not here to debate the structure, only the use but once you remove the structure the use is gone. Removing a non-conforming use does not allow to replace the non-conforming. Ms. Reiten read Article 16 for the members. To demolish the 2nd dwelling removes the non-conformance so to replace it is not allowed.

Ms. Julian asked if the basement is left doesn't it count? Mr. Volkening asked why they can't do a wall at a time – and are you living in the home right now? Ms. Julian stated they have not lived in the home for two months, there is no furnace and it is not safe.

Mr. Height asked if the two homes share a septic. Ms. Julian said they do not although she does not know where the septic is for the smaller cottage.

Mr. Volkening asked Ms. Reiten how many more of these parcels are left in the township. She replied maybe a handful. In 1977 a guest house was a permitted use, but it is no longer a permitted use.

PUBLIC HEARING OPENED AT 7:27 P.M.

Mr. McDonald stated what the ordinance says in checking re: law, our ordinance may be illegal. He suggested we check with our attorney for an opinion to see if we are in good standing. Could this be brought back next month. What he saw mandated by statute to allow her to do what she wants to do. Our ordinance may not be in compliance. Mr. Volkening asked Ms. Reiten if she had seen anything like that, she responded no. She added we will check with the township attorney.

McDonald said the board has sixty (60) days to respond to the application, which ends February 18, 2020. The next meeting is February 12, 2020. Motion by Mr. McDonald, supported by Mr. Haight to adjourn to February 12, 2020 meeting for attorney clarification. **Roll Call Vote: Volkening – aye; McDonald – aye; Marshall – aye; Haight – aye. Motion carried.**

Ms. Julian asked how she will be notified if illegal ordinance, Ms. Reiten stated she will contact her right away.

8. CORRESPONDENCE: None.
9. OLD BUSINESS: None
10. PUBLIC COMMENT: None.
11. BOARD COMMENTS:
 11. A. Election of Officers: Motion by Mr. McDonald, supported by Mr. Marshall to approve the current slate of office for the 2020 calendar year, Mr. Volkening Chairman, Mr. Haight Secretary. The Vice Chair position will remain vacant until new members are appointed. **Roll Call Vote: Volkening – aye; McDonald – aye; Marshall – aye; Haight – aye. Motion carried.**
 11. B. Annual meeting schedule.
2020 Zoning Board of Appeals meeting schedule.

The Zoning Board of Appeals meets the 2nd Wednesday @ 6:00pm at Golden Fellowship Hall.

January 8, 2020
February 12, 2020
March 11, 2020
April 8, 2020
May 13, 2020
June 10, 2020
July 8, 2020
August 12, 2020
September 9, 2020
October 14, 2020
November 18, 2020
December 9, 2020

Motion by Mr. McDonald, supported by Mr. Marshall to accept the 2020 ZBA Meeting Calendar as printed above. **Roll Call Vote: Volkening – aye; McDonald – aye; Marshall – aye; Haight – aye. Motion carried.**

12. ADJOURNMENT: Motion by Mr. Volkening, supported by Mr. McDonald to adjourn the meeting at 7:40 p.m. Motion carried.

CHRIS HAIGHT, SECRETARY
GREEN LAKE TOWNSHIP ZONING BOARD OF APPEALS

MARY JO BARCK, ACTING RECORDING SECRETARY
GREEN LAKE TOWNSHIP ZONING BOARD OF APPEALS

NOTE: THESE MINUTES ARE SUBJECT TO AMENDMENT AND/OR CORRECTION PRIOR TO THEIR ACCEPTANCE.