



Georgetown Charter Township

1515 Baldwin St., Jenison, MI 49428

Zoning Board of Appeals Meeting Agenda

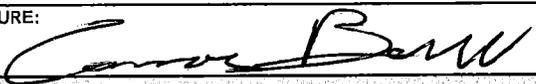
February 27, 2019, 7:00 p.m.

1. Call To Order
2. Approval Of The Minutes
3. Public Hearings
 - 3.I. (VAR1901) Conner Ball, 4475 VanBuren St., Is Requesting To Have An Accessory Building With 1200 Square Feet In Area, A Variance Of 240 Square Feet From The Maximum Of 960 Square Feet Allowed In Sec. 3.4(E)(4), In An (AG) Agriculture District, On A Parcel Of Land Described As P.P. # 70-14-30-300-013, Located At 4475 VanBuren St., Georgetown Township, Ottawa County, Michigan.

Documents:

[APPLICATION.PDF](#)
[VAR1901 STAFF REPORT.PDF](#)

4. Public Comment
5. Other Business
6. Adjournment

PERMIT NUMBER:		
APPLICATION FOR ZONING APPEAL Georgetown Charter Township 1515 Baldwin St, P.O. Box 769 Jenison, MI 49429 616-457-2340		VAR1901
revised: 1/26/09		
APPLICANT INFORMATION		
COMPANY NAME:		PHONE: 616-298-9801
APPLICANT NAME: Connor P. Ball		
ADDRESS: 4475 Van Buren St.	CITY / STATE / ZIP: Hudsonville MI 49424	
PROPERTY INFORMATION		
COMPANY NAME:		PHONE: 616-298-9801
OWNER / AGENT NAME: Connor Ball		TITLE:
ADDRESS: 4475 Van Buren St. ✓	CITY / STATE / ZIP: Hudsonville MI, 49426	
PARCEL NUMBER: 70-14-300-013 ✓	ZONING DISTRICT: Ag ✓	
EXISTING USE: Workshop/storage		
REQUEST INFORMATION		
STATE THE NATURE OF THE APPEAL, INTERPRETATION OR VARIANCE REQUEST: Requesting an accessory building of 1200 SF, a variance of 240 SF from the 960 SF allowed in 3.4(E)(4) on a Parcel of less than 2 acres in Ag		
SECTION OF THE ORDINANCE RELATING TO THE REQUEST: 3.4(E)(4)		
EIGHT (8) FOLDED COPIES OF A SITE PLAN ARE REQUIRED TO ACCOMPANY THIS APPLICATION		
APPLICANT SIGNATURE		
<small>I HEREBY ATTEST THAT THE INFORMATION ON THIS FORM IS, TO THE BEST OF MY KNOWLEDGE, TRUE AND ACCURATE AND COPIES OF ALL MATERIALS SUBMITTED TO THE BOARD WILL ALSO BE SUBMITTED TO THE TOWNSHIP. I UNDERSTAND THAT I MAY BE REQUIRED TO BE SWORN IN TO GIVE TESTAMONY. I HEREBY GRANT PERMISSION FOR MEMBERS OF THE TOWNSHIP BOARD OF APPEALS TO ENTER THE SUBJECT PROPERTY FOR THE PURPOSE OF GATHERING INFORMATION RELATED TO THIS REQUEST. IT IS THE APPLICANT'S RESPONSIBILITY TO MEET THE REQUIREMENTS OF THE TOWNSHIP ZONING ORDINANCE IN ALL RESPECTS AND TO PROVIDE THE NECESSARY INFORMATION TO THE TOWNSHIP FOR APPROVAL. COPIES OF THE ORDINANCE MAY BE OBTAINED FROM THE TOWNSHIP WEBSITE AT WWW.GEORGETOWN-MI.GOV. BY SIGNING, PERMISSION IS GRANTED FOR THE TOWNSHIP STAFF AND BOARD MEMBERS TO ENTER THE SUBJECT PROPERTY FOR PURPOSES OF GATHERING INFORMATION TO REVIEW THIS REQUEST. I ACKNOWLEDGE THERE ARE NO REFUNDS FOR ANY REASON.</small>		
APPLICANT SIGNATURE: 		DATE: 1/29/19
FOR OFFICE USE ONLY		
DATE OF ZONING BOARD OF APPEALS MEETING:	DATE ADVERTISED:	DATE PROPERTY NOTICES WERE SENT:

Sec. 28.11 of the Georgetown Charter Township Zoning Ordinance establishes the powers and duties of the Zoning Board of Appeals. All Variance requests must meet the specific standards listed in that section in order to be approved. In the space below or additional sheets, if needed, state how your request meets each of the approval standards.

Section 28.11 of the Zoning Ordinance states:

- (C) **Variations.** The Board of Appeals shall have the power to authorize, upon an appeal, specific variations from the requirements of this Ordinance, when the applicant demonstrates that ALL of the following conditions will be satisfied.

(Please describe, in detail, how your request meets each of the following standards.)

- (1) Granting the variance be in the public interest and will ensure that the spirit of this Ordinance shall be observed. *(Will the intentions of the ordinance be upheld and will there be no detrimental effects to the public if the variance is granted?)*

Barn existed from 1975 and was destroyed
By a fire

- (2) Granting the variance shall not permit the establishment within a district of any use which is prohibited, nor shall any use variances be granted. *(Is the use to which the variance relates allowed in the zoning district where the site is located?)*

The use will continue to be a workshop
and storage

- (3) That there are practical difficulties in complying with the standards of the Zoning Ordinance resulting from exceptional, extraordinary, or unique circumstances or conditions applying to the property in question, that do not generally apply to other property or uses in the vicinity in the same zoning district; and have not resulted from the adoption of this Ordinance. *(What unusual circumstances related to the property, that are different from other neighboring properties, necessitate the request?)*

Barn was destroyed by a fire

- (4) That the granting of such variance will not be of substantial detriment to adjacent properties or improvements in the vicinity; or, that the application of conditions to an approved variance will eliminate or sufficiently mitigate potential detrimental impacts. *(Present evidence that if the variance is granted, the adjacent properties will not suffer from detrimental effects.)*

I plan to rebuild with high quality materials and
Replace existing structure due to fire

- (5) That granting such variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district. *(What substantial property right are you denied under the current circumstances?)*

Requesting a variance of 1200,
240 sqft from the 960 allowed in 3.4(E)(4)

- (6) That granting such variance will not cause any existing non-conforming use, structure, or condition to be increased or perpetuated, contrary to the provisions of Chapter 27 of this Ordinance, except in accordance with Section 27.12 *(Are there any circumstances on the property that are currently non-conforming? If so, will the non-conforming be increased or enlarged?)*

The size is non conforming (1200 SF) compared
to the 960 allowed for properties under 2 acres. I plan
to replace original size of 1200 SF

- (7) That the variance is not necessitated as a result of any action or inaction of the applicant. (revised 4-23-2001) *(Is this request necessary because of anything that has been done or not done by the applicant?)*

Barn was Burned down by a fire
Barn existed from 1975

REQUEST

(VAR1901) Conner Ball, 4475 VanBuren St., is requesting to have an accessory building with 1200 square feet in area, a variance of 240 square feet from the maximum of 960 square feet allowed in Sec. 3.4(E)(4), in an (AG) Agriculture district, on a parcel of land described as P.P. # 70-14-30-300-013, located at 4475 VanBuren St., Georgetown Township, Ottawa County, Michigan.

The request is to **re-construct** a 1200 square foot accessory building on a 0.38 acre parcel to **replace the same size building that was destroyed by fire on January 19, 2019. The Fire Department reported it as a total loss. The applicant purchased the property in 2018.**



RELEVANT ZONING ORDINANCE SECTIONS

Sec. 3.4 ACCESSORY BUILDING AND USES.

Accessory buildings and uses shall be subject to the following regulations:

(E) Maximum Floor Area.

- (4) The maximum floor area of all accessory buildings, excluding attached garages, in the RR and AG zoning districts shall be based on the following scale related to parcel or lot size:
 - a. less than two (2) acres: nine hundred sixty (960) square feet;
 - b. two (2) to five (5) acres: one thousand two hundred (1200) square feet; and
 - c. more than five (5) acres: one thousand five hundred (1500) square feet.

DISCUSSION

The parcel is 0.38 acres with a 680 square foot house on it. Assessing records do not indicate when the house was built (other than it is “old”), but they do indicate that the 30 by 40 foot metal pole barn accessory building was constructed in 1975 on the property with the existing house. Assessing records further show that this subject 0.38 acre parcel was split from the larger adjacent parcel to the east in 1989, indicating a possibility that the 1200 square foot accessory could have met ordinance requirements at the time it was constructed relative to the larger parent parcel. A maximum of a 960 square foot accessory building is allowed on a parcel that is less than two acres. A 1200 square foot accessory building is allowed on a 2 to 5 acre parcel. The requirement for municipal approval went into effect with the effective date of the Land Division Act in 1997. Therefore, in 1989 the land split was likely not reviewed or approved by the Township, resulting in the creation of a nonconforming lot. The 16,296 square foot lot is nonconforming because it is much smaller than the minimum of 40,000 square feet required for an Agriculture parcel in Chapter 24.

The house is also nonconforming because it is only 680 square feet (a minimum of 1,000 square feet is now required) and has a front yard setback less than the required 40 feet. Also, there is no attached garage, as required in the current ordinance.

If not for the fire, the 1200 square foot accessory building would still exist as it has for almost 45 years with no detrimental effect on the neighborhood (which is all farmland and muck). The requirement for architectural similarity to the main structure is excluded in the AG and RR districts in Sec. 3.4(J).

HISTORY

The ZBA has consistently approved variance requests when structures have been destroyed by fire or collapse due to snow when the ZBA determines that all the standards of the ordinance in Sec. 28.11 have been satisfied, including the following applications. These are similar to the subject request because the destruction of the accessory buildings in these cases were not under the control of the property owners and the structures would still be standing today but for the occurrence of a fire or heavy snow.

1. ZBA minutes of July 23, 2014 (motion #140723-02) - Daniel and Karen McGrath, 3416 Port Sheldon, to rebuild a 840 square foot accessory building the same size that existed prior to the damage by snow)
2. ZBA minutes of April 23, 2014 (motion #140423-02) – Ploeg Farms LLC, 115 Jackson (granted to rebuild an 8,400 square foot accessory building the same size that existed prior to the damage by snow)
3. ZBA minutes of January 26, 2011 (motion #110126-05) – Jack Klawiter, 2230 Fillmore St., (granted to rebuild a 960 square foot accessory building same size as before the fire)
4. ZBA minutes of March 24, 2010 (motion #100324-03) – Nylaan Body Shop, 1224 Rosewood (granted to rebuild the building in the location prior to fire)
5. ZBA minutes of January 23, 2008 (motion #080123-04) - 7468 Glendora Ave. (granted to reconstruct the house)
6. ZBA minutes of September 13, 2006 (motion #060913-02) – 4612 VanBuren (granted to reconstruct the house)
7. ZBA minutes of December 14, 2005 (motion #051214-04) – 62 Mill (ZBA determined damage to be less than 50% so that the structure could be rebuilt)
8. ZBA minutes of November 26, 1997 (motion #971126-02) - Jacob and Janis Bosmeijer, 8662 Cottonwood Dr., accessory building 1232 SF, granted variance of 632 square feet from the maximum permitted floor area of 600 square feet in a LDR district.

The ZBA has consistently denied variance requests for larger accessory buildings (for situations not related to fires or snow collapse) when the requests do not meet the standards, including the following:

1. ZBA minutes of June 25, 2014 (motion #140625-02) – Ruth Mills, 7766 Henry, denied request to have a 1,512 square foot accessory building because the applicant did not meet the standards.
2. ZBA minutes of June 23, 2003 (motion #030623-02) – Linda VanSprange, 9165 Cottonwood, denied request to have a 1080 SF accessory building, variance of 480, in a LDR district, because the applicant did not meet the standards and was able to construct a 600 square foot accessory building on her parcel (which is fairly close to the subject site).
3. ZBA minutes of August 22, 2001 (motion #010822-02), Scot Mol, 7971 Parkside Ct., denied request to have a 1200 SF accessory building, variance of 600 SF, in a LDR district because the applicant did not meet the standards.
4. ZBA minutes of October 24, 2001 (motion #011024-04), Perry Nichols, 6487 14th Ave., denied variance to have a 988 SF accessory building, variance of 388, in a LDR district.
5. ZBA minutes of January 23, 2002 (motion #020123-02), James Todd Poelman, 6894 12th Ave., denied variance for an accessory building with 960 square feet, variance of 360, in a MDR district (Medium Density Residential district, similar to LDR, but smaller sized lots permitted along with two family dwellings).
6. ZBA minutes of August 27, 2003 (motion #030823-020, Gilbert Oosterink, 7691 42nd Ave., denied variance for an accessory building with 768.8 square feet, variance of 168.8 square feet, in a LDR district because there were no unique circumstances pertaining to the property.
7. ZBA minutes of September 24, 2003 (motion #030924-02), Donald Whittecar, 1466 VanBuren, denied variance for a 1200 square foot accessory building, variance of 240 square feet, in an RR district (Rural Residential district, residential uses and farming uses allowed on larger sized lots and larger sized accessory buildings allowed).
8. ZBA minutes of January 23, 2008 (motion #080123-02), Bruce Harder, 7681 Ridgewood Dr., denied variance to have an accessory building with 744 sq. ft., variance of 144, in a LDR district.

REVIEW

The standards that have objectively been met are noted with an “X” in the “yes” column and the standards that have objectively not been met are noted with an “X” in the “no” column. Any standards left blank could not be objectively met or not met and therefore must be determined by the ZBA.

Variance ID	VAR1901		
Applicant	Conner Ball		
Address	4475 VanBuren St.		
Request	1200 SF accessory building (variance of 240 square feet)		
Date	For February 27, 2019 meeting		
#	YES	NO	CONDITIONS (Chapter 28.11-C)
1	X		Granting the variance(s) will be in the public interest and will ensure that the spirit of the Ordinance shall be observed.
2	X		Granting the variance shall not permit the establishment within a district of any use which is prohibited, nor shall any use variances be granted.
3	X		That there are practical difficulties in complying with the standards of the Zoning Ordinance resulting from exceptional, extraordinary, or unique circumstances or conditions applying to the property in question, that do not generally apply to other property or uses in the vicinity in the same zoning district; and have not resulted from the adoption of this Ordinance.
4	X		That the granting of such variance will not be of substantial detriment to adjacent properties or improvements in the vicinity; or, that the application of conditions of an approved variance will eliminate or sufficiently mitigate potential detrimental impacts.
5			That granting such variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district.
6	X		That granting such variance will not cause any existing non-conforming use, structure, or condition to be increased or perpetuated, contrary to the provisions of Chapter 27 of this Ordinance, except in accordance with Section 27.12.
7	X		That the variance is not necessitated as a result of any action or inaction of the applicant.

FINDINGS

The variance request for location on the site appears to meet standards 1, 2, 3, 4, 6 and 7. The ZBA should determine if they agree with the review presented or not, and determine if the other standards that could not be objectively decided are met. The following is provided for information and discussion.

Standard #1 - Granting the variance will be in the public interest and will ensure that the spirit of the Ordinance shall be observed.

Appears to be met. The spirit of the ordinance is to regulate the size, height and location of buildings on the lot in order to provide for the orderly development of land and to set minimum standards to protect property values and prevent unsightly development. This accessory building was constructed in 1975 and likely complied with ordinance regulations in effect at the time which allowed larger accessory buildings based on the size of the rear yard. Then the lot was split in 1989 creating a nonconforming situation with an accessory building larger than allowed on a 16,296 square foot lot and a parcel smaller than currently allowed in the AG district. However, the building would have continued to exist as it has for the past nearly 45 years except for the fire.

Standard #2 - Granting the variance shall not permit the establishment within a district of any use, which is prohibited, nor shall any use variances be granted.

Met.

Standard #3 - That there are practical difficulties in complying with the standards of the Zoning Ordinance resulting from exceptional, extraordinary, or unique circumstances or conditions applying to the property in question, that do not generally apply to other property or uses in the vicinity in the same zoning district; and have not resulted from the adoption of this Ordinance.

Appears to be met. There does not appear to be any practical difficulties resulting from exceptional, extraordinary or unique circumstances applying to the property that prevents the construction of an accessory building that complies with ordinance standards; however, the unique circumstances applying to this situation are related to the fire which destroyed the legal nonconforming accessory building. The destruction was not under the control of the applicant.

Further, the parcel is surrounded by muck and farmland.

In the past, the ZBA has consistently (every time in the history since 1995) taken action in favor of the applicant when the variance request has been to reconstruct a building that was destroyed by fire or snow and when the seven standards have been met. This destruction is similar. It appears that the ZBA has in the past determined the unique circumstances are related to the fire or snow, which was not under the control of the applicant.

Standard #4 - That the granting of such variances will not be of substantial detriment to adjacent properties or improvements in the vicinity; or, that the application of conditions of an approved variance will eliminate or sufficiently mitigate potential detrimental impacts.

Appears to be met. The accessory building has existed on this site since 1975 with no detrimental effects to the neighbors. Further, the entire area is muck and farmland.

Standard #5 - That granting such variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district.

The ZBA will have to determine if this standard is met.

Standard #6 - That granting such variance will not cause any existing non-conforming use, structure, or condition to be increased or perpetuated, contrary to the provisions of Chapter 27 of this Ordinance, except in accordance in Section 27.12.

Appears to be met based on the accessory building because it is no longer there. The request has no relevance to the nonconforming size parcel or nonconforming size house. Allowing the reconstruction of the accessory building would not increase or perpetuate the nonconforming parcel or setback for the house. Whether or not the accessory building is rebuilt, the parcel and house will remain the same size. The extra 240 square feet will have no impact on the parcel because the building will meet the requirements for setbacks. It will have no impact on the size of the house. The lot was split in 1989 creating a nonconforming parcel. The house was constructed prior to 1975 with a setback that does not conform to the current standards. However, this parcel, house and accessory building have existed for nearly 45 years. The nonconforming accessory building was totally destroyed. Nothing, other than demolishing the house and combining the parcel with an adjacent parcel, would make those elements conforming to current ordinances.

Standard #7 - That the variance is not necessitated as a result of any action or inaction of the applicant.

Appears to be met. The action that necessitated the variance request appears to be that the previously existing 1200 square foot accessory building was destroyed by fire. The applicant is asking to replace the building that existed before the fire. The new accessory building is proposed to meet all other ordinance standards because no other variances were requested.

Note the HISTORY OF ZBA DECISIONS after the review. The history of ZBA decisions shows that the requests for larger accessory buildings for the past 20 years have been denied unless there are unique or extraordinary or unusual circumstances present. For the rare occasion when a variance was granted for an accessory building to be larger than allowed in the ordinance, there were unusual circumstances, such as an existing larger accessory building that was destroyed by fire or snow, or an applicant proposed a unique design for a very large house on two lots with the accessory building to be used as part of the garage located on the opposite side of a court yard.

OPTION FOR MOTION

(The ZBA should determine if the standards of the ordinance have been met.)

Motion: To _____ (approve or deny) variance (VAR1901) Conner Ball, 4475 VanBuren St., to have an accessory building with 1200 square feet in area, a variance of 240 square feet from the maximum of 960 square feet allowed in Sec. 3.4(E)(4), in an (AG) Agriculture district, on a parcel of land described as P.P. # 70-14-30-300-013, located at 4475 VanBuren St., Georgetown Township, Ottawa County, Michigan; based on the finding that the

request _____ (meets or does not meet) the seven standards of the ordinance. (If applicable) Specifically, standards (_____) have been _____ (met or not met) and the reasons are _____;

Options for conditions

1. The 1200 square foot accessory building shall comply with all other ordinance standards.
2. An approved demolition permits shall be obtained prior to construction commencing.