REQUEST

(VAR2108) Association for Covenantal Reformed Christian Education (for First Reformed Protestant Church), 1675 Baldwin St., is requesting to have a 3.68-acre site to be used for a K-12 school, a variance of 36.32 acres from the minimum site size required in Sec. 20.4(U)(1) which states the minimum site size for elementary schools shall be 20 acres, middle schools shall be 30 acres, and high schools shall be 40 acres – where a combination exists, the greater land area shall apply, and a variance from Sec. 20.4(U)(4) which states a greenbelt shall be provided in accordance with Sec. 3.11 where, in the opinion of the Planning Commission, screening is needed to minimize visual, noise, or other impacts from the proposed development; in a Low Density Residential (LDR) district, on a parcel of land described as P.P. # 70-14-15-279-046, located at 1675 Baldwin St., Georgetown Township, Ottawa County, MI.

Zoning Board of Appeals Review for August 16, 2021
PROPERTY HISTORY

The property is zoned Low Density Residential (LDR) and has been zoned as such as far back as July 1963 based on a zoning map still kept in the Township office. There is no record of when the church was built. There was an addition to the church in 1987 and a 46’ x 64’ accessory building was constructed in 1997. In 2008, a 192 sf flat roof was replaced with a gable roof. Based on Township records, at least 3 churches have used the building: Chapel Pointe, then Solomon’s Porch Community Church, and now First Reformed Protestant Church. First Reformed Protestant Church purchased the property on May 21, 2021.

PROPOSAL

The applicant is seeking a variance to have a 3.68-acre site operated as a small, private Christian K-12 school for approximately 50 students of the applicant’s affiliated church – First Reformed Protestant Church. This is a variance of 36.62 acres from the minimum site size required in Sec. 20.4(U)(1) which states the minimum site size for elementary schools shall be 20 acres, middle schools shall be 30 acres, and high schools shall be 40 acres – where a combination exists, the greater land area shall apply. The existing church facilities will be used to provide in-person and remote classes to a small K-12 student body. No athletic facilities, recreational facilities, or formal school buildings are proposed; the use will be limited to the existing church facilities and parking lot, both of which will not be expanded. The application also includes a variance from Sec. 20.4(U)(4) which states a greenbelt shall be provided in accordance with Sec. 3.11 where, in
the opinion of the Planning Commission, screening is needed to minimize visual, noise, or other impacts from the proposed development.

**DISCUSSION**

The important elements relating to this request are:

- Sec. 20.4(U)(1)
- Sec. 20.4(U)(4) and Sec. 3.11(A)

Regarding Sec. 20.4(U)(1), although the site is only 3.68 acres, the applicant’s proposed use does not require traditional K-12 facilities. The use will be a small, private Christian K-12 school for approximately 50 students, therefore, the applicant states such a large property (40 acres) is not necessary for the operation. The operation will be held within the existing church facilities and no site improvements are proposed. The applicant is open to offering a hard cap of 78 students.

Regarding Sec. 20.4(U)(4) and Sec. 3.11(A), the operation will be limited only to the existing church facilities and does not include athletic fields, recreational facilities, or expanded parking that are consistent with traditional K-12 schools. This is a unique request where the scope of the use is categorized as a K-12 school but will not operate at the capacity of a typical K-12 school where screening is needed to minimize visual, noise, or other impacts from the proposed development.

**NOTE:** The ZBA is not to determine whether the property meets the greenbelt requirement, rather, must determine if the seven standards in Sec. 28.11(C) are met in order to grant a variance from the greenbelt requirement in Sec. 20.4(U)(4). If the ZBA does not grant a variance from Sec. 20.4(U)(4), the Planning Commission may still waive the greenbelt requirement when it reviews the special land use request.

**VARIANCE HISTORY**

There has not been any similar variance requests in the past. The Township does not have record of any church being used to operate a small, private Christian K-12 school per Sec. 20.4(U).

The only past request pertaining to Sec. 20.4(U) is (VAR0004) Unity Christian High School being granted a variance on February 23, 2000 to have athletic fields closer than 200 feet from any property line abutting a residential district, a variance from Sec. 20.4(U)(3). Unity Christian High School was approved to have tennis courts 55 feet from the property line, two football practice fields 65 feet from the property line, a baseball practice field 75 feet from the property line, a baseball competition field 50 feet from the property line, a softball practice field 120 feet from the property line, a softball competition field 120 feet from the property line, a stadium with field events-stadium 115 feet from the property line and field events 35 feet from the property line, a competition soccer field 85 feet from the property line, and three practice fields 45 feet from the property line. Although this request was related to a K-12 school, staff does not see it as a solid comparison and it is only to point out the fact that there has only been one variance request pertaining to a K-12 school in the past.

**NOTE:** MCL 380.1263(3) states, “The superintendent of public instruction has sole and exclusive jurisdiction over the review and approval of plans and specifications for the
construction, reconstruction, or remodeling of school buildings used for instructional or noninstructional school purposes and, subject to subsection (4), of site plans for those school buildings.” Subsection 4 applies to cities and villages, not townships. Therefore, Jenison Public Schools and Hudsonville Public Schools are not required to submit zoning requests to the Township regardless of whether or not a variance is needed. All zoning requests only come from private schools.

REVIEW – For a variance of 36.32 acres from the minimum site size and a variance from the greenbelt requirement.

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.

<table>
<thead>
<tr>
<th>Variance ID</th>
<th>VAR2108</th>
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<tbody>
<tr>
<td>Applicant</td>
<td>Association for Covenantal Reformed Christian Education (for First Reformed Protestant Church)</td>
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<tr>
<td>Address</td>
<td>1675 Baldwin St.</td>
</tr>
<tr>
<td>Request</td>
<td>To have a 3.68-acre site to be used for a K-12 school, a variance of 36.32 acres and to have a variance from the greenbelt requirement.</td>
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<td>Date</td>
<td>For August 16, 2021 meeting</td>
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### CONDITIONS (Chapter 28.11-C)

<table>
<thead>
<tr>
<th>#</th>
<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
<td>1</td>
<td></td>
<td>Granting the variance(s) will be in the public interest and will ensure that the spirit of the Ordinance shall be observed.</td>
</tr>
<tr>
<td>2</td>
<td>X</td>
<td>Granting the variance shall not permit the establishment within a district of any use which is prohibited, nor shall any use variances be granted.</td>
</tr>
<tr>
<td>3</td>
<td></td>
<td>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.</td>
</tr>
<tr>
<td>4</td>
<td>X</td>
<td>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.</td>
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<tr>
<td>5</td>
<td></td>
<td>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.</td>
</tr>
<tr>
<td>6</td>
<td>X</td>
<td>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.</td>
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<tr>
<td>7</td>
<td></td>
<td>That the variance is not necessitated as a result of any action or inaction of the applicant.</td>
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FINDINGS

Staff has determined standards 2 and 6 are objectively met and standard 4 appears to be met. The ZBA should determine if they agree with the review presented or not and also determine whether standards 1, 3, 5, and 7 are met.

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

The ZBA will determine if this standard is met. The ordinance permits K-12 schools in the LDR district as a special land use, provided such schools are not operated as commercial enterprises. Special land uses require special consideration in relation to the welfare of adjacent properties and the community as a whole. The regulations and standards for special land uses are designed to allow, on one hand, practical latitude for the investor or developer, but at the same time maintain adequate provision for the protection of the health, safety, convenience, and general welfare of the community. Although the subject property does not meet the standards of Section 20.4(U)(1) and Section 20.4(U)(4), the entire Section 20.4(U) was intended to be written for traditional K-12 facilities, rather than a small, private Christian K-12 school being operated within a church for a limited number of students, which the applicant states is approximately 50 students. All operations will be held within existing church facilities, and the applicant is not proposing to make any changes to the existing structures or church ground. Considering the current use as a church, the property meets the standards in Section 20.4(E) for the use of a church, which does not require 20, 30, or 40 acres nor does it require a greenbelt.

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. K-12 schools, provided such schools are not operated as commercial enterprises, are permitted as a special land use in the LDR district.

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.

The ZBA will determine if this standard is met. The subject property is an existing church located on an approximately 3.6-acre parcel that is surrounded on all sides by developed properties. The applicant is affiliated with the First Reformed Protestant Church, and proposes using existing church facilities to provide in-person and remote classes to a small K-12 student body who are also affiliated with the church. The Site Design Standards of Section 20.4(U) are intended to apply to large, traditional K-12 schools serving hundreds of students. The applicant does not propose to add any athletic facilities, recreational facilities or formal school buildings requiring a site of at least 40 acres. The applicant’s use will be limited only to the existing church facilities.
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. It appears that there will be no detrimental impacts to adjacent properties in the vicinity. The proposed school and small student body will not require facilities consistent with traditional K-12 schools. Applicant will not be making any improvements to existing church facilities and will not expand the footprint of the existing structures. No athletic, recreational or expanded parking facilities are planned that would require extensive screening or that would cause additional noise or visual impact affecting adjacent properties. The ZBA should inquire about hours of operation to determine if it will impact the existing church operation. Since variances stay with the property, the ZBA may want to consider imposing conditions to eliminate or sufficiently mitigate potential detrimental impacts.

Through email communication with staff, the applicant is open to offering a hard cap of 78 students, all of whom will be affiliated with the church. Does the ZBA consider this hard cap an appropriate condition to adopt?

Since the applicant is not proposing any improvements or expanding the footprint of existing structures and the property meets the ordinance’s size requirement for a church, should any future site improvements or expansions of existing buildings/structures for the K-12 school only be permitted if it is used in conjunction with the church and may only be constructed, erected, moved, placed, maintained, reconstructed, used, extended, enlarged, or altered by the church?

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. Under Section 20.4(U)(1), the applicant is currently prohibited from using the subject property due to its size. Sites meeting the 40-acre size requirement are not available to the applicant or its affiliated church, and such a large property is not necessary for the operation of a small Christian school. The applicant will not require any outdoor athletic or recreational facilities or expanded parking areas that would be located on such a large parcel.

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.

Met. Nothing is non-conforming.

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

The ZBA will have to determine if this standard is met. As far back as Township records go, the only change in the layout of the site was in 1997 when the 46’ x 64’ accessory
building was constructed. Other than that, there is no record of any other changes to the footprint of the church facilities and it is not known when the church was built.

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NOTE

**The ZBA has the authority to grant a variance up to or less than what is requested and published in the notice, but not for more.**

OPTION FOR MOTION TO APPROVE

If the ZBA determines that all seven standards of the ordinance are met for granting the variance, then the following motion to approve with conditions is offered:

Motion: To adopt the staff report as finding of fact and move to approve the variance for (VAR2108) Association for Covenantal Reformed Christian Education (for First Reformed Protestant Church), 1675 Baldwin St., to have a 3.68-acre site to be used for a K-12 school, a variance of 36.32 acres from the minimum site size required in Sec. 20.4(U)(1) which states the minimum site size for elementary schools shall be 20 acres, middle schools shall be 30 acres, and high schools shall be 40 acres – where a combination exists, the greater land area shall apply, and a variance from Sec. 20.4(U)(4) which states a greenbelt shall be provided in accordance with Sec. 3.11 where, in the opinion of the Planning Commission, screening is needed to minimize visual, noise, or other impacts from the proposed development; in a Low Density Residential (LDR) district, on a parcel of land described as P.P. # 70-14-15-279-046, located at 1675 Baldwin St., Georgetown Township, Ottawa County, MI; based on the finding that the request meets the seven standards of the ordinance. Specifically, standards (__________) have been met and the reasons are __________.

With the following conditions of approval:

1. If added in the future, athletic fields shall not be located closer than two hundred (200) ft. from any property line abutting a residential zoning district.
2. The hard cap for the K-12 school is to be 78 students, all of whom are affiliated with the church, as offered by the applicant.
3. Any future site improvements or expansions of existing buildings/structures for the K-12 school are only permitted if they are used in conjunction with the church and may only be constructed, erected, moved, placed, maintained, reconstructed, used, extended, enlarged, or altered by the church.
OPTION FOR MOTION TO DENY

Even if one standard is not met, per Sec. 28.11(C), the ZBA does not have the authority to grant the variance and the following motion to deny is offered:

Motion: To adopt the staff report as finding of fact and move to deny the variance for (VAR2108) Association for Covenantal Reformed Christian Education (for First Reformed Protestant Church), 1675 Baldwin St., to have a 3.68-acre site to be used for a K-12 school, a variance of 36.32 acres from the minimum site size required in Sec. 20.4(U)(1) which states the minimum site size for elementary schools shall be 20 acres, middle schools shall be 30 acres, and high schools shall be 40 acres – where a combination exists, the greater land area shall apply, and a variance from Sec. 20.4(U)(4) which states a greenbelt shall be provided in accordance with Sec. 3.11 where, in the opinion of the Planning Commission, screening is needed to minimize visual, noise, or other impacts from the proposed development; in a Low Density Residential (LDR) district, on a parcel of land described as P.P. #70-14-15-279-046, located at 1675 Baldwin St., Georgetown Township, Ottawa County, MI; based on the finding that the request does not meet the seven standards of the ordinance. Specifically, standards (__________) have not been met and the reasons are __________._