

MINUTES OF THE REGULAR MEETING OF THE GEORGETOWN CHARTER TOWNSHIP
ZONING BOARD OF APPEALS HELD SEPTEMBER 25, 2019

The meeting was called to order at 7:00 p.m. by Chairperson Tom Healy.

Members Present: Tom Healy, Michael Bosch, Brock Nanninga, Joyce Weise, Kendall Grable
Members Absent: None
Others Present: Mannette Minier, Secretary and Zoning Administrator

#190925-01 – Approval of the minutes

The minutes of the regular meeting held on July 31, 2019 were presented.

Moved by Joyce Weise, seconded by Brock Nanninga, to approve the minutes as presented.

MOTION CARRIED UNANIMOUSLY.

#190925-02 - (VAR1909) Daniel and Jennie Boone, 1146 Glenwood Dr., are requesting to operate a Bed and Breakfast under Sec. 8.3(M) without public sanitary sewer service, a variance from Sec. 20.4(D)(1) which states that the Bed and Breakfast establishment shall be directly serviced by public water and sanitary sewer services; in a (LDR) Low Density Residential district, on a parcel of land described as P.P. # 70-14-23-474-014, located at 1146 Glenwood, Georgetown Township, Ottawa County, Michigan. ([application survey](#), [Ottawa County Health Department record](#))

The zoning administrator presented a [staff report](#) and a letter from the applicants. She explained that in the late 70s or early 80s the Township received a subsidy from the Federal Government to pay half to put sewer in the Township; however, this neighborhood decided to opt out. She noted that the applicants were requested to have action postponed until a septic inspection could be conducted.

Daniel and Jennie Boone presented the request, including the following comments. They have a septic inspection scheduled for tomorrow. They tried to have the inspection before the meeting but the rain slowed the Health Department down. He explained his septic system and noted that he had scheduled the detailed inspection including a water inspection.

Kendall Grable asked if the entire house would be used in the operation.

The applicant said that they would only use three bedrooms.

Kendall Grable asked if the fire department limited the number of people who could be in the house and if there would be undetermined numbers of additional people that could affect the neighbors and the septic system.

Daniel Boone said that he had three bedrooms and he would not want a lot of people to come to his beautiful property and destroy it. He said that he was looking for a maximum of seven people.

Jennie Boone said that it would not be year round, but mainly in the winter and they would not have a large number of people.

Brock Nanninga asked if this was a recent purchase.

Daniel Boone stated the following. He has lived there for 30 years and has spent a lot of money fixing his property. Grandville has 22 bed and breakfasts and they have no regulations. Most ask for \$70 to \$100 per night. He was planning to ask \$150 or higher to attract a clientele who could afford it. He did the work on his house himself and doesn't want it destroyed.

Joyce Weise asked if they lived in the house year round.

Daniel Boone said that they lived there three seasons of the year.

Tom Healy asked if the special use approval for a bed and breakfast went in perpetuity with the land or the people.

The Zoning Administrator stated that the special uses goes in perpetuity with the land and not the people.

Tom Healy clarified that another owner could still have the same use at this site.

Daniel Boone said that he doesn't see more than one family coming at a time and the City of Grandville has 22 with no problems.

Tom Healey asked where the drain field was located.

Daniel Boone said that it was behind the house and the system was built big enough to handle the swimming pool.

Joyce Weise asked about the pool.

Daniel Boone said they have not used the pool in years, but a sprinkling line broke causing a water bill of \$900 and the water went through the drain field with no problem. He said that it could handle 100,000 gallons of water.

The chairman opened the public hearing. No one was present to make public comments. The chairman closed the public hearing.

Tom Healy stated the following. The use of a bed and breakfast is not a property right by the ordinance. The use is allowed only with a special use permit and one requirement is a connection to public services. The reason is for the public health, safety and welfare. Public sewer is not installed in the street and this site has no access to connect to it. He asked if the applicant contacted the neighbors to see if 51% would sign a petition to bring the sewer to their street.

Daniel Boone said no, this is the first application for a variance.

Tom Healy clarified that they haven't sought out the remedy to determine if the other neighbors wanted sewer to be installed in their street.

The Zoning Administrator clarified that they would not be required to do that.

Michael Bosch stated that it would cost each property owner about \$25,000 for sewer to be installed in their street.

Tom Healy said that they should exhaust their remedies with taking the ZBA out of the picture by using the option to see if other neighbors wanted sewer and the goal of the Township Board is for everyone to be hooked up to sewer.

Michael Bosch said that no road will be repaired or resurfaced without sewer being installed. He said that one of the standards in the ordinance needing to be met to grant a variance is to determine if this is a preservation of a property right held by the neighbors and one street over they could get the special use permit for a bed and breakfast.

Tom Healy stated the following. The people on the street over could have a bed and breakfast special use permit predicated upon the fact that they have public sewer services which meets the ordinance requirement without the necessity of a variance. He noted that the adjacent neighbors do not have that right in absence of the connection to sewer services, therefore, this standard is not met.

Joyce Weise asked if they would not have more than seven people.

Daniel Boone said that they had three bedrooms and had seven people living there using the shower. He asked how this is different.

Michael Bosch said that there is not a deviation with the Planning Commission, but the Board should use reason and there should be parameters.

Tom Healy said that by moving toward requiring sewer in every street with everyone connected to the public sewer system, the Board's movement is in effect addressing the requirement of sewer and their goal to have everyone hooked up to public sewer.

Michael Bosch said yes, but that is only the current Board.

Kendall Grable said that there was a concern about polluting ground water and with gravel there was no holding capacity. He said that is the reason they are pushing sanitary sewer.

Joyce Weise said that the sewer system is treated.

Tom Healy said that the Board is requiring the installation of sewer in all streets before they are repaired or resurfaced across the Township, which clarifies their goal of having everyone connected to public sewer.

Michael Bosch said that any construction that is 200 feet away from an existing sewer is exempt.

The Zoning Administrator stated that the Board directed the installation of sewer in the roads before they are resurfaced or repaired and currently new homes that are on metes and bounds parcels along the western end of the Township where there is no sewer in the street do not have to hook up because there is no sewer there.

Joyce Weise stated the following. She had a hard time with this and would rather let the Planning Commission decide. If a septic system is good enough for a larger family, she asked why it is not good enough for a bed and breakfast. She had a concern about the broken sprinkler line and thought that the septic was obviously working okay. The Planning Commission should decide if this is okay.

Tom Healy stated the following. This question should go before the Planning Commission to determine if they want to eliminate this standard from the special use requirements. There has to be some control so that problems do not occur. However, he doesn't know if the Planning Commission would want to revise the ordinance to allow a bed and breakfast in a situation without public sanitary sewer. This ordinance was reviewed by a Planning Commission and adopted by a Township Board prior to 1991. It is the number one standard that the bed and breakfast is required to be serviced by public sewer. It doesn't matter that it wasn't adopted by the current Board, only that it was adopted by a Board. That makes it a current ordinance that is in effect. The current Board has revised the ordinance many times; however, they have chosen to leave this ordinance alone and this is not the first bed and breakfast to be considered. That means that this ordinance is currently in effect.

Joyce Weise said that many people in this neighborhood could have this use.

Tom Healy said that only the neighbors who live where public sewer service is available where it is connected could have this use.

Joyce Weise said that she knows what she would want if she lived in this neighborhood and sewer will come to this street when it is time to repave the road.

Daniel Boone stated the following. They have public water. Septic systems have been around for years. Septic systems need oxygen. Microbes and oxygen breaks down the waste. A lot more square footage is needed in clay than gravel. Regardless of the soil, the State has a minimum size and the quality of the water is spelled out. The Ottawa County test will compare 1967 with today to find if it functions like it should and if it still works like it did in 1967. He was willing to pay \$200 for the test. He has been living there for 30 years with seven people and it didn't compromise the system. If they are polluting, the report will tell. They are not going to put in public sewer and they are not going to get a new road. They don't want pollution. This was set up with standards. Approval of the system as acceptable-substantial conformance would substantiate this request.

Tom Healy asked why they didn't have the test three months ago so that the results would have been available tonight.

Daniel Boone said that he just asked three weeks ago because this process was all new to him and he didn't know.

Tom Healy said that he understands and that others came in for landscaping waivers without having an alternate plan.

Dan Boone stated the following. An Airbnb was used for a vacation and the people would not stay in the home. They would not even serve breakfast. This is different from a rental. His system works as well as sanitary sewer. He has lived here for 30 years and this is his community.

Tom Healy stated the following. He doesn't think that a favorable test result will solve the problem of meeting all the seven standards because some of the seven standards would not be met even with a favorable report. The Township Board adopted this ordinance and it is not the applicant's fault that sewer is not in his street. This should be reviewed by the Planning Commission to see if this standard of being serviced by public sewer for a bed and breakfast should still be required. The reason for the standard is to require a larger than normal capacity use to be tied to public services. The results of the test will not change the results of the noncompliance with some of the rest of the standards that are currently not met and need to be met for a variance to be granted.

Michael Bosch said that it was not a current ordinance.

The Zoning Administrator stated that this standard was listed for a bed and breakfast in the 1991 Zoning Ordinance and so it has been in effect since then and is currently an ordinance that is in effect.

Kendall Grable stated that when this ordinance was adopted there was no concept of an Airbnb and so they were asking for an archaic provision to determine their fate.

The Zoning Administrator stated the following. Many words in the ordinance are not the same as the words used in today's language; however, she was responsible to interpret the Zoning Ordinance and this was the use she determined to be the same as an Airbnb. Technically a bed and breakfast is the same use as a short term rental of a bedroom. She said that people had the right to appeal her interpretation to the ZBA if they thought that the uses were not similar.

Michael Bosch stated the following. The current Board is pushing sewer hookup where sewer is available. They are forcing everyone to hook up because it is their long term goal. The septic system works and each site is different. This is a blanket circumstance but if it isn't unique what would be the reason to grant a variance. The Board motion requiring connection to sewer was one vote he regretted he made. He keeps bringing it back to the Board to rescind the vote to require hookup to sanitary sewer but the rest of the Board won't do it. Sewer hookup should be based on each septic system which accomplishes the same goal.

Tom Healy said that his suggestion was for the applicant to talk to the Planning Commission to see if they wanted to revise the ordinance to eliminate the requirement for a bed and breakfast to be serviced by sanitary sewer. He said that by evaluating the request against the seven standards, even with a favorable test result from the Health Department, all the standards needing to be met have not been met. He doesn't see how this could be granted if all the standards have not been met.

Michael Bosch said that State Law says that the Township cannot prohibit this use.

Tom Healy stated the following. The Township cannot prohibit the use and does allow the use. However, the Township has the authority to create standards that have to be met for the use. This is what the Township Board has done to protect the health, safety and welfare. They made a blanket ordinance that requires the site of a bed and breakfast to be serviced by public sewer, which means that all septic systems for a bed and breakfast do not meet that specific standards. It is not up to the ZBA to rewrite the ordinance, but to accept the current ordinance which is in effect. It is the job of the ZBA determine if the seven standards in the ordinance are met that have to be met for a variance to be granted. If even one standard is not met, the variance cannot be granted. This request does not meet all of the seven standards, regardless of the result of the test by the Health Department.

Joyce Weise said that it was a Board before 1991 that adopted this ordinance and not the current Board.

Tom Healy stated the following. This ordinance was duly adopted and has been in place since before 1991. The current Board has had the option of bringing it up and revising it if they so choose. But it has not been revised and it is, therefore, currently in effect. No one would propose a Holiday Inn Express with a septic system.

Joyce Weise said that this is not a Holiday Inn Express.

Michael Bosch said that there were going to be apartments at Bauer Rd. and 40th Ave. with only a septic system not connected to public sewer.

Brock Nanninga stated the following. The ZBA has to consider the ordinance as written and does not have the authority to rewrite the ordinance. It is black and white. The number one standard is that they have to hook up to sewer to have the bed and breakfast. The ordinance does not take into account different septic systems and the ordinance really does apply. The ordinance is not vague enough to consider different systems. The ZBA has to vote on whether or not this request meets the seven standards needed to grant a variance.

Joyce Weise said that they need to see if the current Board agrees with the requirement of sewer.

Brock Nanninga said that the standard was probably based on health ramifications and what if it fails after they move out.

Tom Healy said that if the ZBA denies the variance and the Planning Commission and Board later change the ordinance by eliminating that requirement, the applicant could still apply for the special use permit.

Joyce Weise said that they should table the request to wait for the results of the Health Department and give the Planning Commission and Board time to look at the ordinance since it was adopted prior to 1991.

Brock Nanninga stated that that as the chairperson noted, the results of the inspection do not really impact the ZBA decision because even with if the test results were positive, the request does not meet the seven standards needed to grant the variance.

Kendall Grable asked when the next Planning Commission meeting was and he was told October 2, 2019.

Tom Healy said that the consequences of the test result is not relevant because even with a good result, six out of the seven standards needed for a variance to be granted have not been met.

Kendall Grable stated the proper channel was to see if the Planning Commission was in agreement with the requirement of public sewer service.

Tom Healy said that the language could be brought to the Planning Commission.

Joyce Weise said that she does not have enough information to make a decision today and she would like to table the request until the results of the test by the Health Department come in and to see if the Planning Commission wants to review the ordinance.

Tom Healy said that the Planning Commission will likely not come to a conclusion at the next meeting.

Joyce Weise said that the thing to do is to give the applicant a fair shake.

Tom Healy said that if the Planning Commission says the connection to public sewer is not needed, then the variance is not necessary. He said that the point he is making is that in order to grant the variance, the request has to meet the seven standards and even if the test result come back with a good result, the application does not meet all seven standards.

Joyce Weise said that she agreed.

Tom Healy stated the following. The request does not meet the seven standards of the ordinance even with a favorable test result from the Health Department. Postponing this application solves nothing because if the Planning Commission and Board revise the ordinance to eliminate the requirement to be serviced by public sewer they would qualify and not need the variance.

Joyce Weise said that she agreed.

Tom Healy said that the outcome will not change with the results of the test and there was no reason to delay action.

Joyce Weise said that she doesn't have all the information she needs to make a decision and she does not want to limit their opportunity.

Michael Bosch said that they should take their time and compare the letter of the law with the spirit of the ordinance. He said that if they followed the letter of the law they shouldn't even be allowed to apply for a variance.

Tom Healy stated the following. The ordinance will be revisited by the Planning Commission. He recommends denial of the variance because the request fails to meet all of the seven standards needed to be met in order for a variance to be granted, even if the report comes back and solves standard number 4.

Moved by Tom Healy, seconded by Brock Nanning, to adopt the staff report as finding of fact and to deny variance (VAR1909) Daniel and Jennie Boone, 1146 Glenwood Dr., the request to operate a Bed and Breakfast under Sec. 8.3(M) without a connection to public sanitary sewer service, a variance from Sec. 20.4(D)(1) which states that the Bed and Breakfast establishment shall be directly serviced by public water and sanitary sewer services; in a (LDR) Low Density Residential district, on a parcel of land described as P.P. # 70-14-23-474-014, located at 1146 Glenwood, Georgetown Township, Ottawa County, Michigan; based on the finding that the request does not meet the seven standards of the ordinance.

Tom Healy stated the following. Standard one is not met because it is in the public interest to have properties serviced by sanitary sewer for the public health, safety and welfare. The Township Board has a goal to have properties connected to sanitary sewer and demonstrated the dedication to this goal by unanimously approving a motion to require all properties to connect to sewer where sewer is available. The Board also approved a motion to state that no streets will be paved or resurfaced with the installation of sewer. Standard two is not met because granting the variance would allow the use of a bed and breakfast without a connection to sewer. Standard three is not met because not all uses are allowed on every property. The applicants have the right to continue to reside in the house at it currently exists. Standard four is not met at this point because the additional usage could result in problems. Even if the test results come back with a good report and satisfy this standard, the other standards are not met. Standard number five is not met because none of the neighbors without a connection to sewer have the right to have this use and are not allowed to have this use. Even though the neighbors one street over could have this use, it is because they meet the standard of having a connection to public sewer. If this application was approved, they would have a right that none of the other neighbors have. Standard number seven is not met because it is initiated by the applicant requesting a use that is not allowed on his site and he has the right to continue to use his house as he has in the past.

Tom Healy also noted the following. Even if the test comes back with a good report, the rest of the standards, other than number four, are still not met. The standard is in place for the health, safety and welfare of the residents of the Township. The proper avenue is to see if the Planning Commission wants to revise the ordinance to eliminate the requirement for a bed and breakfast to be connected to public sewer.

Michael Bosch said that they would not have time to appeal to the circuit court if the variance was denied because any ordinance change would not be adopted until after 30 days. He said that they need the extra time.

Yeas: Tom Healy, Brock Nanninga.

Nays: Kendall Grable, Michael Bosch, Joyce Weise.

MOTION DEFEATED.

Kendall Grable stated the following. If they constantly went with the letter of the law, no variance would be granted. It is their job to interpret the spirit of the law. The Board adopted the ordinance to protect the health, safety and welfare of the residents. If the Ottawa County Health Department can make the determination that the system is good, provisions could be added to satisfy the conditions.

Joyce Weise said that the variance could be granted with the condition that every couple of years they get an inspections.

Tom Healy said that it would go on in perpetuity and would be impossible to enforce.

Joyce Weise said the following. There are other ways to filter waste other than in a sanitary sewer system and that it would work just as well to filter through sand and plants. Both accomplish the same thing and the end result is the same. Either way, the Planning Commission should review the ordinance.

Moved by Michael Bosch, seconded by Joyce Weise, to table the request.

Yeas: Kendall Grable, Michael Bosch, Joyce Weise Brock Nanninga.

Nays: Tom Healy

MOTION CARRIED.

#190925-03 – (VAR1910) Mike Schaap Builders Inc., Adam Schaap, 12969 Greenly St., Holland, is requesting to have an attached accessory building (garage) with an area of 2069 square feet, a variance of 569 square feet from the maximum of 1500 square feet allowed in Sec. 3.4(E)(1), which states that a garage shall not exceed 60% of the gross floor area of the dwelling to which it is attached (6485 square feet), not to exceed 1500 square feet, in an (RR) Rural Residential district, on a parcel of land described as P.P. # 70-14-08-200-070, located at 3405 Bauer Rd., Georgetown Township, Ottawa County, Michigan ([plans](#), [application](#))

Adam Schaap represented the applicant and presented the request and noted that the nearest neighbor was 378 feet away and blocked by a wooded area.

The zoning administrator presented a [staff report](#).

The chairman opened the public hearing.

Matt Grasman, 3384 Taylor, said that he is a neighbor and is in favor of the request.

Joyce Weise asked if they were voting on the accessory building or attached garage.

The Zoning Administrator stated that the variance was for an attached garage larger than allowed and that the proposed accessory building met the ordinance requirements.

Moved by Brock Nanninga, seconded by Michael Bosch, to adopt the staff report as finding of fact and to approve (VAR1910) Mike Schaap Builders Inc., Adam Schaap, 12969 Greenly St., Holland, to have an attached accessory building (garage) with an area of 2069 square feet, a variance of 569 square feet from the maximum of 1500 square feet allowed in Sec. 3.4(E)(1), which states that a garage shall not exceed 60% of the gross floor area of the dwelling to which it is attached (6485 square feet), not to exceed 1500 square feet, in an (RR) Rural Residential district, on a parcel of land described as P.P. # 70-14-08-200-070, located at 3405 Bauer Rd., Georgetown Township, Ottawa County, Michigan; based on the finding that the request meets the seven standards of the ordinance. Failure to comply with the variance as granted results in a violation of the Zoning Ordinance section that is the subject of the request, which is Sec. 3.4(E)(1). If granted, it expires in one year if no construction has commenced during that time. Failure to comply with the variance as granted results in a violation of the Zoning Ordinance section that is the subject of the request. If granted, it expires in one year if no construction has commenced during that time.

Tom Healy noted that standards 3, 5 and 7 were met due to the unique size of the lot and house, and due to the unique consistent architecture.

MOTION CARRIED UNANIMOUSLY.

#190925-04 – Unfinished Business - (VAR1908) Chicago Dr. Ventures, DJ Vanderslik, 4720 52nd St. SE, Grand Rapids., is requesting to have two freestanding signs, a variance of one, from the maximum of one allowed in Sec. 25.6(B)(2)

(VAR1908) Chicago Dr. Ventures, DJ Vanderslik,
4720 52nd St. SE, Grand Rapids., is requesting:

1. to have no greenbelt, a variance of 50 trees from the minimum of 50 trees required in Sec. 3.11, Chapter 24 footnote (m) and Sec. 26.3(D):
2. To have two freestanding signs, a variance of one, from the maximum of one allowed in Sec. 25.6(B)(2);

in an (HS) Highway Service Commercial district, on a parcel of land described as P.P. # 70-14-28-400-051, located at 2700 Chicago Dr., Georgetown Township, Ottawa County, Michigan.

Joyce recused herself due to a conflict of interest.

Moved by Tom Healy, seconded by Michael, to remove the item from the table.

MOTION CARRIED UNANIMOUSLY.

It was noted that the circumstances of the variance request have changed based on the parcel being split. That negates the reason for the request which was the 958 feet of frontage on Chicago Dr.

Moved by Michael Bosch, seconded by Brock Nanninga, to deny the request because the circumstances related to the request no longer apply.

MOTION CARRIED UNANIMOUSLY.

#190925-05 – Other Business

#190925-06 – Public Comments

There were public comments.

#190925-07 - Adjournment

The meeting was adjourned at 8:57 p.m.