

Chair
Christopher LaGrand
Vice-Chair
Steve Gobbo
Secretary
Robert Reese, III
Board Members
Johanna Balzer, Trustee
Donald Riel
Andrew Richards
Jeff Carpenter



1401 W. Herbison Road
DeWitt, Michigan 48820
Phone 517.669.6576
Fax 517.669.6496
www.dewitttownship.org

Planner
Tory Niewiadomski

Planner
Brett Wittenberg

Recording Secretary
Linda K. Parkinson

**ZONING BOARD OF APPEALS
MINUTES
WEDNESDAY, AUGUST 20, 2014
7:00 P.M.**

The regularly scheduled meeting of the DeWitt Charter Township Zoning Board of Appeals was called to order at 7:00 p.m. by Chairman LaGrand.

The Pledge of Allegiance to the Flag was said by those present.

ROLL CALL by Secretary Reese.

MEMBERS PRESENT: Andrew Richards, Robert Reese, III, Jeff Carpenter, Steve Gobbo, Chris LaGrand and Trustee Balzer.

MEMBERS ABSENT: Donald Riel

APPROVAL OF AGENDA: Richards moved to approve the Agenda as printed. Supported. MOTION CARRIED.

APPROVAL OF MINUTES: Balzer moved to approve the minutes of the March 19, 2014 meeting. Supported. MOTION CARRIED.

CORRESPONDENCE: None.

PUBLIC COMMENTS:

UNFINISHED BUSINESS: None.

NEW BUSINESS:

- I. PUBLIC HEARING - Appeal 14-770004 – From Robert F. Maurer**, requesting a variance of thirty-five (35) feet to the required seventy-five (75) foot front yard setback requirement for structures within the IH (Industrial, Heavy) zoning district. The applicant is also requesting a ten (10) foot variance to the required twenty (20) foot side yard setback requirement as well as a five (5) foot variance to the required ten (10) foot side yard setback for 2 parking spaces within the buffer yard setback. The property is located at 2050 Glenn Road, Lansing, MI 48906, in the southwest ¼ of Section 35 of DeWitt Charter Township (Parcel #050-035-300-010-01).

- A. Open Public Hearing. **Chairman LaGrand declared the Public Hearing opened at 7:05 p.m.**
- B.
- C. Administrative Comments/Applicant/Public Comments.

Township Planner Brett Wittenberg briefly reviewed staff's report dated August 7, 2014 advising the applicant is requesting a variance of thirty-five (35) feet to the required seventy-five (75) foot front yard setback requirement for structures within the IH (Industrial, Heavy) zoning district. The applicant is also requesting a ten (10) foot variance to the required twenty (20) foot side yard setback requirement as well as a five (5) foot variance to the required ten (10) foot side yard setback for 2 parking spaces within the buffer yard setback. The property is located at 2050 Glenn Road, Lansing, MI 48906, in the southwest ¼ of Section 35 of DeWitt Charter Township (Parcel #050-035-300-010-01).

Wittenberg noted the applicant was originally granted a variance for the same request on October 17, 2012. Since construction did not commence within six months the variance became null and void.

The subject site is zoned IH (Heavy, Industrial). The surrounding zoning consists of IL (Industry, Light) to the north and west, and IH (Industry, Heavy) to the east and south. The surrounding land uses consist of Commercial, Industrial and vacant.

The site plan shows the approximate required setback lines for the property and the proposed location of the building and parking as well. The subject property is currently a legal non-conforming lot. The existing building encroaches into the minimum side yard setback and the proposed expansion would not encroach any closer to the side yard setback. In addition the additional two parking spaces along the east property would not encroach further into the required buffer yard setback for parking.

Wittenberg went on to review the request for compliance with all four of the Basic Conditions and two Special Conditions stating the following:

Basic Conditions:

Basic Condition a) – *Granting the variance will not be contrary to the public interest or to the intent and purpose of this Ordinance.*

Granting the variance would not be harmful to the public interest for this request since the context of the area is surrounded by industrial uses and are industrially zoned properties.

Basic Condition b) – *Granting the variance shall not permit the establishment within a district of any use which is not permitted by right, under special conditions, or by special use permit within that district.*

The proposed addition is permitted within the IH zoning district.

Basic Condition c) – *Granting the variance will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.*

There is no reason to believe that granting the variance would have a significant adverse impact on surrounding property values. The surrounding properties are zoned for Industrial uses and this particular property is appropriate for this type of development.

Staff finds that the request complies with this condition.

Basic Condition d) – *The variance is not one where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical.*

Requests of this type have not been frequent or consistent so as to demonstrate the need for an amendment to the Zoning Ordinance. Staff finds that the request does comply with this condition.

Special Conditions:

Special Condition a) – *Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district and when such circumstances or conditions shall not have resulted from any act of the applicant subsequent to the adoption of this Ordinance and when such circumstances or conditions shall not have resulted from any act of the applicant in violation of a prior zoning ordinance applicable to said property.*

The subject property is approximately 0.46 acres and is narrow. The only reasonable means of expansion for the parcel would be on the north side of the building. Since the front yard setbacks within the Industrial zoning districts are 75 feet and the surrounding properties are zoned industrial, staff feels that it seems reasonable to allow a reduction in the setback requirements. It should also be noted that at the prior public hearing regarding this variance request, the Board of Appeals had raised a concern with the required 75 foot setback within the industrial districts. Staff is currently in the process of amending the setback requirement within the industrial districts and this request is consistent with the proposed language.

Special Condition b) – *Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.*

The subject property is a legal non-conforming situation that would still be able to be used without expansion.

Gobbo questioned if there have been any changes with this request since the initial request was granted.

Wittenberg stated nothing has changed with the request before the Board of Appeals. The previous request included a request for a rear yard variance. Since they are now not making improvements on the rear of the building a variance is not necessary.

Discussion followed regarding the fact that staff has been drafting an ordinance amendment that would require only a 40 foot front yard setback which would be consistent with what the applicant is requesting at this time.

Chairman LaGrand invited the applicant to speak.

Jeff Kyes, KEBS, Inc. 2116 Haslett Road, Haslett, MI 48840, representing the applicant, stated he is the engineer on the project. He stated they are requesting a variance from the Board of Appeals because the applicant would like to begin this project as soon as possible rather than wait for the ordinance amendment to be approved.

Ruth Maurer, 1917 N. Hayford, Lansing, MI 48912, applicant, stated that their business is growing and they are in need of more space to conduct their carpet/rug cleaning business.

Chairman LaGrand invited public comment.

- D. Close Public Hearing. **Hearing no public comments Chairman LaGrand declared the Public Hearing closed at 7:21 p.m.**
- E. Discussion and possible action by Board of Appeals.

LaGrand stated he understands why the applicant would want to move forward with the project before the winter weather hits.

Gobbo moved that Appeal 14-770004 from Robert F. Maurer to allow the construction of a 35 foot addition that would encroach 35 feet into the 75 foot required front yard setback and encroach 10 feet into the 20 foot required side yard setback as well as an encroachment of 5 feet to the required ten 10 foot side yard setback for parking within buffer yard setback of the property located at 2050 Glenn Road, Lansing, MI 48906 be approved. Approval is based on a finding that the request meets all four of the Basic Conditions and Special Condition (a) listed in Section 42-70 of the Zoning Ordinance. Findings are due to the topography of the site, the existing space and narrowness of the lot in addition to the anticipated change to setbacks in the future.

Supported

ROLL CALL vote on motion:

AYES: 6 NAYS: 0 ABSENT: 1 (Riel)

MOTION CARRIED.

- E. Possible Certification of Decision.

Gobbo moved to approve the Certification of Decision for Appeal 14-770004 from Robert F. Maurer as stated in the above motion.

Supported. MOTION CARRIED.

PUBLIC COMMENTS ON NON-AGENDA ITEMS: None.

TRUSTEES REPORT:

Trustee Balzer gave a brief report on business conducted and action taken by the Board of Trustees at their recently held meetings.

DISCUSSION: None.

ADJOURNMENT: **Gobbo moved to adjourn the meeting at 7:29 p.m. Supported. MOTION CARRIED.**

Linda K. Parkinson
Linda K. Parkinson, Recording Secretary

Robert Reese III
Robert Reese, III, Secretary