

DEWITT CHARTER TOWNSHIP
1401 W. HERBISON ROAD, DeWITT, MICHIGAN 48820
BOARD OF APPEALS MINUTES
WEDNESDAY, May 16, 2007

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: Christopher LaGrand, Robert Reese, III, Dale Glynn, Andrew Richards and Shannon Schlegel.

MEMBERS ABSENT: Steve Gobbo and Trustee Seeger (**Seeger arrived at 7:32 p.m.**).

APPROVAL OF AGENDA: **Glynn moved to approve the Agenda, as presented. Supported. MOTION CARRIED.**

APPROVAL OF MINUTES: **Glynn moved to approve the minutes of the January 17, 2007 meeting as printed. Supported. MOTION CARRIED.**

CORRESPONDENCE: The following correspondence was reviewed by Planning Director Jeff Gray:

1. Memorandum from Planning Director Gray regarding proposed Ordinance amendments.

PUBLIC COMMENTS: None.

UNFINISHED BUSINESS: None.

NEW BUSINESS:

- I. **Appeal 07-770001 – From Sheffer Court, LLC**, requesting a 14.8 ft. variance to the required 20 ft. side yard setback and a variance of 38.7 ft. to the required 40 ft. rear yard setback requirement set forth in Section 5.18, Schedule of Regulations. If approved, the applicant would be allowed to rebuild a 30'x72' storage building that was destroyed by fire that would be 5.2' from the side lot line and 1.3' from the rear lot line on property located at 3707 Sheffer Avenue, south of the Capital City Airport West Service Drive, east of Airport Road and west of Capital City Boulevard, in the southwest ¼ of Section 31 of DeWitt Charter Township.

- A. Open Public Hearing. **Chairman LaGrand declared the Public Hearing opened.**
- B. Administrative Comments/Applicant/Public Comments.

Assistant Planner Harmony Gmazel briefly reviewed staff's report dated May 11, 2007 advising that the applicant intends to reconstruct a warehouse structure that was entirely damaged by fire in December of 2006. The request is for a side and rear yard setback variance set forth in the IL (Light, Industrial) zoning district. If the variance is approved as proposed, the 30'x72' building would exceed the twenty (20) foot side yard setback by 14.8 feet, and would exceed the forty (40) foot rear yard setback by 38.7 feet.

The subject property is approximately 1.8 acres and is located in Section 31 of the Township, just north of Grand River Avenue, south of Capital City Airport West Service Drive, east of Airport Road and west of Capital City Boulevard. The site itself is on the border between DeWitt Township and the City of Lansing. The entrance to the site is an access drive off of Grand River Avenue, through the Airport Tavern parking lot.

The surrounding current land use consists of Industrial to the east and west, railroad right of way/airport facilities to the north, and commercial to the south. The surrounding zoning consists of IL (Industrial, Light) to the east and west, BC (Business, Community) to the north, and Light Industrial (City of Lansing) to the south.

Gmazel went on to state that 43 notices were sent out to property owners within 300 feet of the site. No responses have been received.

The intent of the setback requirements is to assure that structures are placed at a distance from property lines that is reasonable given the minimum lot size of their respective parcel and intended density of the zoning district. Setback requirements also help to insure that adequate buffer yards are maintained between adjacent uses.

Gmazel briefly reviewed the request for compliance with variance standards set forth in Section 4.2.3 of the Zoning Ordinance. She advised that Basic Condition a) states that granting the variance can not be contrary to the public interest or the intent of the Ordinance. The variance was not found to be contrary to public interest, nor the intent of the Ordinance. This finding is based on the unique circumstance and considerable open areas on the adjoining properties.

The pole barn/warehouse building is a component of the industrial use permitted by right in the IL (Industry, Light) zoning district so granting of the variance would not allow a use not already permitted within the district, consistent with Basic Condition b).

There is no reason to believe that granting the variance would have a significant adverse impact on surrounding property values. Therefore, the request complies with Basic Condition c).

Requests of this nature have not been so recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical, consistent with Basic Condition d).

Gmazel went on to review the request for compliance with at least one of the three Special Conditions set forth in Section 4.2.3 of the Zoning Ordinance. Special Condition a) states that a practical difficulty or unnecessary hardship must exist which prevents the applicant from carrying out the strict letter of the Zoning Ordinance. There does not appear to be a “practical difficulty” or “unnecessary hardship”. Therefore, the request does not comply with Special Condition a).

With respect to Special Condition b), the site presents a unique circumstance with regard to the required setbacks. As stated above under Basic Condition a). It is important to note that the location of the site is adjacent to both a Federal Aviation Administration (FAA) tower, and a railroad, creating a unique circumstance at the site. The established tower and railroad provide considerable open areas on their own respective parcels, providing substantial setbacks between the site and its neighboring industrial parcels. Therefore, staff finds that the request complies with Special Condition b).

Lastly, the applicant is able to use the property for industrial purposes, similar to the neighboring properties. The variance is, therefore, not necessary to preserve a substantial property right. Staff finds that the request does not comply with Special Condition c).

In closing, Gmazel advised that the applicant has applied for Site Plan Review for this site. Any determination made by the Zoning Board of Appeals will be presented to the Planning Commission at their June 4, 2007 meeting.

Glynn questioned if a right of way distance from the railroad exists.

Gmazel stated the parcel line would serve as the right of way for the railroad. Planning Director Jeff Gray concurred with Gmazel. He advised that the applicant's property line meets the railroad right of way.

LaGrand questioned if the applicant intends to build on the same footprint of the previous building. He further questioned if a variance had been obtained for the building that was destroyed by fire.

Gmazel advised the applicant plans to reconstruct the building on the exact same footprint as the previous building. In addition, the prior building was a legal non conforming structure.

There were no further questions.

Chairman LaGrand invited the applicant to speak.

Mark Kerrins, P.O. Box 14073, Lansing, MI 48901, stated he is the owner of Sheffer Court, LLC which is comprised of the remaining 10 buildings on the subject site. He further stated that the cause of the fire is believed to be accidentally caused by the tenant.

Hearing no questions, Chairman LaGrand called for public comments.

- C. Close Public Hearing. **Hearing no public comments, LaGrand declared the Public Hearing closed at 7:23 p.m.**
- D. Discussion and possible action by Board of Appeals.

Glynn moved that Appeal 07-770001 to allow the construction of a 30 foot by 72 foot pole barn/warehouse building located at 3707 Sheffer Avenue 14.8 feet into the required 20 foot side yard setback and 38.7 feet into the required 40 foot rear yard setback, as set forth in Schedule 5.18 of the Zoning Ordinance is approved. Approval is based on a finding that the request meets all four Basic Conditions and Special Condition b) listed in Section 4.2.3 of the Zoning Ordinance.

Supported.

Glynn stated in support of his motion, the applicant is simply replacing what was on the site prior to the fire and is not expanding a non conforming use.

ROLL CALL vote on motion:

AYES: 5 NAYS: 0 ABSENT: 2 (Gobbo, Seeger)

MOTION CARRIED.

- E. Possible Certification of Decision.

Schlegel moved to approve the Certification of Decision for Appeal 07-770001. Supported. MOTION CARRIED.

II. Appeal 07-770002 – From Kenneth J. Yarsevich, requesting a variance of 6 ft. to the required 55 ft. rear yard setback set forth in Section 5.18, Schedule of Regulations. If approved, the applicant would be allowed to construct a 14.2 foot by 14 foot addition to the rear of the existing dwelling that would be 49 feet from the rear lot line on property located at 15216 Pinehurst Drive, Lot #261 of Clinton Village #3, in Section 27 of DeWitt Charter Township.

- A. Open Public Hearing. **Chairman LaGrand declared the Public Hearing opened.**
- B. Administrative Comments/Applicant/Public Comments.

Planning Director Jeff Gray briefly reviewed staff's report dated May 10, 2007 pointing out the location of the site. The property is located in the R3 (Residential Single Family) zoning district. The applicant is proposing a 14.2 foot by 14 foot addition to the rear of the existing dwelling. If approved, the proposed addition would extend 6 ft. into the required 55 ft. rear yard setback. The applicant indicates that the purpose of the addition is to allow the construction of a handicap accessible master bedroom and bathroom for the purpose of allowing them to remain in the house into their mature years.

Gray advised that 33 notification letters were sent out. One phone call was received in support of the request. One correspondence was received in opposition of the request.

Gray further advised that the purpose of the rear yard setback is to allow for adequate open space between residences, proportionate to lot sizes in the designated zoning district. He went on to review the request for compliance with variance standards set forth in Section 4.2.3 of the Zoning Ordinance stating that Basic Condition a) states that granting the variance can not be contrary to the public interest or the intent of the Ordinance. Although most of the lot layouts in the area meet or exceed the rear yard setback, the proposed encroachment is fairly slight. Therefore, compliance with this condition is up to the discretion of the Board of Appeals.

The single family residential use is permitted by right in the R3 (Residential Single Family) zoning district, consistent with Basic Condition b).

There is no reason to believe that granting of the variance would have a significant adverse impact on surrounding property values. Therefore, the request complies with Basic Condition c).

Requests of this nature have not been so recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical, consistent with Basic Condition d).

Gray went on to review the request for compliance with at least one of the three Special Conditions set forth in Section 4.2.3 of the Zoning Ordinance. Special Condition a) states that a practical difficulty or unnecessary hardship must exist which prevents the applicant from carrying out the strict letter of the Zoning Ordinance. There does not appear to be any practical difficulties associated with the subject property. Therefore, the request does not comply with Special Condition a).

With respect to Special Condition b), the proposed addition constitutes a small encroachment into the required setback. In addition, the adjoining home to the rear of the subject lot is set back beyond the minimum requirement, leaving considerable open space between the homes. Compliance with this condition is at the discretion of the Board of Appeals.

The applicant is able to use the property for single family residential purposes, just like the neighboring properties. Therefore, the variance is not necessary to preserve a substantial property right and does not comply with Special Condition c).

In closing, Gray stated he would be glad to answer any questions the Board may have.

Hearing no questions, Chairman LaGrand invited the applicant to speak.

Ken Yarsevich, applicant, 15216 Pinehurst Drive, Lansing, MI 48906, stated that it is his family's long term goal to stay in their current home well into their senior years. The proposed handicap accessible addition would allow them to do so.

Glynn questioned if the dwelling had been previously added onto.

Yarsevich stated that the house had been added onto prior to him purchasing it in 1995.

Gray noted that the two previous additions met setback requirements and did not require variances.

There was no public comment.

- C. Close Public Hearing. **Chairman LaGrand declared the Public Hearing closed at 7:33 p.m.**
- D. Discussion and possible action by Board of Appeals.

Reese moved that Appeal 07-770002, to allow the construction of a 14-foot by 17-foot addition that would encroach 6 feet into the 55-foot required rear setback of the property located at 15216 Pinehurst Drive be approved. Approval is based on the finding that the request meets all four Basic Conditions and Special Condition b) listed in Section 4.2.3 of the Zoning Ordinance. Supported.

Reese stated in support of his motion that it is nice to see homeowners in established subdivisions making improvements to their property.

ROLL CALLVOTE on motion:

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

MOTION CARRIED.

- E. Possible Certification of Decision.

Schlegel moved to approve the Certification of Decision for Appeal 07-770002. Supported. MOTION CARRIED.

PUBLIC COMMENTS ON NON-AGENDA ITEMS: None.

TRUSTEES REPORT:

Trustee Seeger gave a brief report on business conducted and action taken at recent Board of Trustees meetings.

DISCUSSION: None.

ADJOURNMENT: **Seeger moved to adjourn the meeting at 7:40 p.m. Supported. MOTION CARRIED.**