

**DEWITT CHARTER TOWNSHIP
1401 W. HERBISON ROAD, DeWITT, MICHIGAN 48820
BOARD OF APPEALS MINUTES
WEDNESDAY, MAY 21, 2008**

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. There was no audio recording of this meeting.

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

ROLL CALL by Planning Director Gray.

MEMBERS PRESENT: Christopher LaGrand, Dale Glynn, Steve Gobbo, Andrew Richards, Donald Riel, Trustee Musselman, and Robert Reese, III (arrived at 7:03 p.m.).

MEMBERS ABSENT: None.

STAFF PRESENT: Planning Director Gray.

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

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

CORRESPONDENCE: None.

PUBLIC COMMENTS: None.

UNFINISHED BUSINESS: None.

NEW BUSINESS:

- I. **Appeal 08-770002 – From Raymond and Marie Mohre**, requesting a variances of 2.8 feet to the required 75 foot front setback requirement and 3.3 feet to the required 40 foot rear yard setback listed in Section 5.18.1, Schedule of Regulations, of the Zoning Ordinance, for property located at 16231 S. US-127BR (formerly US-27), Lansing, MI 48906, at the southeast corner of Wieland Road and S. US-127BR, in the northwest ¼ of Section 34 of DeWitt Charter Township. Approval of the requested variances would allow the applicant to construct a 40 foot by 40 foot addition to the existing building that would be 72.2 feet from the front property line and 36.7 feet from the rear property line.

- 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 14, 2008. Gray advised the applicant is requesting a variance of 2.8 feet to the 75 foot front yard setback and 3.3 feet to the 40 foot rear yard setback requirements for the BC (Business, Community) zoning district as listed in Section 5.18 of the Zoning Ordinance, Schedule of Regulations. If approved, the applicant would be allowed to construct a 40 foot by 40 foot addition to an existing pole barn to operate a water softener retail establishment that would be 72.2 feet from the Right-of-Way of US-127BR and 36.7 feet from the rear property line.

The surrounding zoning consists of BC (Business, Community) to the north, south, east, and west. The surrounding land use consists of Commercial to the north, south, and west, and Single Family Residential to the east.

Gray advised that the applicant went before the Township Planning Commission on May 5, 2008, and his proposal was recommended for approval to the Township Board, who will take action on Special Use Permit 08-990004 at their May 27, 2008 meeting.

With respect to notifications, Gray advised that staff sent out Twenty-five (25) letters notifying the public of this request. No responses have been received.

Gray went on to review the request noting that the proposed site is located in the south central area of the Township. The Township is currently developing a South Central Area Plan that includes a preliminary setback study for parcels in this area. There are many properties in this area that are configured in such a way that if existing buildings were to be removed, they could not be rebuilt to today's setback standards without a variance. In an effort to preserve the viability of smaller properties in the south central area, the final South Central Area Plan is expected to address the setback issue described above by allowing for smaller setback requirements by means of a zoning overlay district.

Gray further reviewed the request for compliance with Section 4.2.3 of the Zoning Ordinance. He advised that granting the variance will not be contrary to the public interest or to the intent and purpose of the Ordinance. The proposed construction will be consistent with the setbacks of the existing structure. Therefore, staff finds that the request complies with Basic Condition a).

With respect to Basic Condition b), the proposed addition/retail building is a component of the commercial use permitted by right in the BC (Business, Community) zoning district, so granting the variance would not allow a use not already permitted within the district, consistent with Basis Condition b).

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

With respect to Basic Condition d), staff finds that requests of this nature have not been recurrent. The request complies with this condition.

Gray further reviewed the request for compliance with at least one of the two Special Conditions set forth in Section 4.2.3 of the Zoning Ordinance. Special Condition a) states that 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. Gray advised that the applicant's request presents a unique circumstance. In addition to the south central area setback issue, the proposed addition is in keeping with the placement of the existing building onsite, and the applicant is proposing a six (6) foot solid fence between the property and the single family home to the east.

With respect to Special Condition b), the applicant is able to use the property for commercial purposes, similar to the neighboring properties. Therefore, the variance is not necessary to preserve a substantial property right possessed by other properties in the same zoning district. Staff finds that the request does not comply with Special Condition b).

It is staff's finding that the applicant's request meets all four Basic Conditions and Special Condition (a) listed in Section 4.2.3 of the Zoning Ordinance.

There were no questions or comments.

Chairman LaGrand invited the applicant to speak.

Raymond Mohre, applicant, 16101 S. US-127BR, Suite A, Lansing, MI 48906, was present for questions.

Hearing no questions, Chairman LaGrand called for public comments.

- C. Close Public Hearing. **Hearing no public comments, Chairman LaGrand declared the Public Hearing closed at 7:07 p.m.**
- D. Discussion and possible action by Board of Appeals.

Glynn moved that Appeal 08-770002 to allow the construction of a 40 foot by 40 foot addition to an existing pole barn for retail purposes on property located at 16231 S. US-127BR to encroach 2.8 feet into the required 75 foot front yard setback and 3.3 feet into the required 40 foot rear yard setback, as set forth in Schedule 5.18 of the Zoning Ordinance, be approved. Approval is based on a finding that the request meets all four Basic Conditions and Special Condition (a) listed in Section 4.2.3 of the Zoning Ordinance. Supported.

**ROLL CALL vote on motion:
AYES: 7 NAYS: 0
MOTION CARRIED.**

- E. Possible Certification of Decision.

Musselman moved to approve the Certification of Decision for Appeal 08-770002. Supported.

**ROLL CALL vote on motion:
AYES: 7 NAYS: 0
MOTION CARRIED.**

- II. Appeal 08-770003 – From JNL Properties, LLC, requesting a variance of 60.56 feet and 70.25 feet to Section 5.15.4(7) of the Zoning Ordinance that requires all developments in the BSC (Business, Shopping Center) zoning district to include a 100-foot wide transition strip along all property lines that abut a residential district. Approval of the requested variances would allow the applicant to construct a 2,850 sq. ft. addition to the existing building at the northeast corner of the site that would be 39.44 feet from the north property line and 29.75 feet from the east property line. The property includes the following addresses: 13109, 13151, 13151 ½, 13157, 13161, 13165, 13167, 13169, 13171, 13173, 13175, 13177, 13179, 13181, 13183, and 13191 Schavey Road, DeWitt MI 48820 (DeWitt Shopping Center), Lot #84 of Country Meadows Estates Subdivision, in the northeast ¼ of Section 18 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 14, 2008. Gray advised that the applicant is requesting variances of 60.56 feet from the north property line and 70.25 feet from the east property line to the required 100-foot wide transition strip set forth in Section 5.15.4(7) of the Zoning Ordinance for the BSC (Business, Shopping Center) zoning district. Approval of the request would allow the applicant to construct a 2,850 sq. ft. addition to the existing building at the northeast corner of the site that would be 39.44 feet from the north property line and 29.75 feet from the east property line.

Gray advised that the applicant is proposing a number of other improvements to the shopping center. These include a new building near the Schavey Road entrance, a drive-through automated teller machine (ATM), and improvements to the landscaping and circulation of the parking lot. All of these improvements were considered for site plan approval by the Planning Commission at their May 5th regular meeting (Site Plan Review 08-150002). The Planning Commission acted to approve the site plan with the condition that the applicant obtains the requested variance for encroachment into the transition strip.

Gray went on to state that the site is currently developed with four structures that include a mixture of commercial and office uses. It is currently zoned BSC (Business, Shopping Center). The surrounding zoning consists of M-3 (Multiple Residential) and PO (Professional and Office Services) to the north, M-3 (Multiple Residential) to the east and south, and R5 (Residential Single and Two Family) and M-2 (Multiple Residential) to the west. The surrounding land uses consist of Apartments and the DeWitt Public Library to the north, apartments to the east and south, and Single Family Homes and Commercial to the west.

Gray noted that a number of the existing buildings on the site encroach into the 100-foot transition strip area. If the variance is approved, the applicant would maintain the same setback from the north property line as the existing structure. The proposed addition would also maintain the same setback from the east property line as the existing building to the south.

After completing a brief review, staff found that the shopping center received site plan review approval in 1978 (Site Plan Review 0007). At the time, the property was located in the BL (Business, Local) zoning district. Therefore, the plan was approved with a finding that the buildings conformed to the setbacks that existed at the time for the BL district. The property was subsequently rezoned to the BSC (Business, Shopping Center) zoning district in June of 1978 (Rezoning 0020).

The Planning Department sent out forty-eight (48) letters notifying the public of this request. Staff has received no comments.

Gray went on to review the request for compliance with Section 4.2.3 of the Zoning Ordinance. He noted that the addition proposed by the applicant is in keeping with the established character and setbacks of the developed center and will not be closer to property lines than the existing surrounding buildings. Therefore, staff finds that granting of the variance will not be contrary to the public interest or to the intent and purpose of the Zoning Ordinance, consistent with Basic Condition a).

The proposed addition will accommodate commercial and office uses that are similar to others already existing in the development and that are allowed in the BSC (Business, Shopping Center) zoning district, consistent with Basic Condition b).

The proposed addition will be consistent with the setbacks and character of the existing center. In addition, there is no reason to believe that such a variance would result in a substantial adverse impact on any of the surrounding properties, consistent with Basic Condition c).

With respect to Basic Condition d), staff finds that requests of this nature have not been recurrent. The request complies with this condition.

Gray further reviewed the request for compliance with at least one of the two Special Conditions set forth in Section 4.2.3 of the Zoning Ordinance.

With respect to Special Condition a), Gray advised that the center has operated in its present location for 30 years and has never posed an adverse effect on the surrounding properties. Staff recommends that the historical conditions related to the development of this site present a unique circumstance, consistent with this Special Condition.

With respect to Special Condition b), the applicant is able to use the property for commercial purposes, similar to the neighboring properties. Therefore, the variance is not necessary to preserve a substantial property right possessed by other properties in the same zoning district. Staff finds that the request does not comply with Special Condition b).

It is staff's finding that the applicant's request meets all four Basic Conditions and Special Condition (a) listed in Section 4.2.3 of the Zoning Ordinance.

There were no questions or comments.

Chairman LaGrand invited the applicant to speak.

Kevin VanErmen, VanErmen, 1661 Ramblewood Drive, Suite 100, East Lansing, MI 48823, representing the applicant was present for questions.

Hearing no questions or comments, Chairman LaGrand called for public comments.

- C. Close Public Hearing. **Hearing no public comments, Chairman LaGrand declared the Public Hearing closed at 7:20 p.m.**
- D. Discussion and possible action by Board of Appeals.

Musselman moved that Appeal 08-770003 from JNL Properties, LLC to allow the construction of a 2,850 square foot addition at the DeWitt Shopping Center that would encroach into the 100-foot transition strip by 60.56 feet from the north property line and 70.25 feet from the east property line, as shown on the site plan last revised on April 24, 2008 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 4.2.3 of the Zoning Ordinance. Supported.

**ROLL CALL vote on motion:
AYES: 7 NAYS: 0
MOTION CARRIED.**

- E. Possible Certification of Decision.

Musselman moved to approve the Certification of Decision for Appeal 08-770003. Supported.

**ROLL CALL vote on motion:
AYES: 7 NAYS: 0
MOTION CARRIED.**

III. Election of Officers for the Year 2008.

Chairman LaGrand opened the floor for nominations for the office of Chairman.

Gobbo nominated Christopher LaGrand for the office of Chairman.

Hearing no further nomination, Gobbo moved to close the nominations for the office of Chairman and cast a unanimous ballot for Christopher LaGrand for Chairman.

Supported.

ROLL CALL vote on motion:

AYES: 7 NAYS: 0

MOTIN CARRIED.

Chairman LaGrand opened the floor for nominations for the office of Vice Chairman.

Musselman nominated Steve Gobbo for the office of Vice Chairman.

Hearing no further nominations, Glynn moved to close nominations for the office of Vice Chairman and cast a unanimous ballot for Steve Gobbo for Vice Chairman. Supported.

ROLL CALL vote on motion:

AYES: 7 NAYS: 0

MOTION CARRIED.

Chairman LaGrand opened the floor for nominations for the office of Secretary.

Glynn nominated Robert Reese, III for the office of Secretary.

Hearing no further nominations, Glynn moved to close the nominations for the office of Secretary and cast a unanimous ballot for Robert Reese, III for Secretary. Supported.

ROLL CALL vote on motion:

AYES: 7 NAYS: 0

MOTION CARRIED.

The Zoning Board of Appeals Officers for the year 2008 are:

Christopher LaGrand, Chairman

Steve Gobbo, Vice Chairman

Robert Reese, III, Secretary

PUBLIC COMMENTS ON NON-AGENDA ITEMS: None.

TRUSTEES REPORT:

Trustee Musselman gave a brief report on business conducted and action taken at the regularly scheduled meetings of the Board of Trustees.

DISCUSSION:

Gobbo requested that the road relocation report for DeWitt Road be provided to the Planning Commission.

Glynn requested that staff provide a summary of the recent amendments to the Zoning Ordinance at the next Board of Appeals meeting.

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

Linda K. Parkinson, Recording Secretary

Robert Reese, III, Secretary