

MINUTES OF THE REGULAR MEETING OF THE GEORGETOWN CHARTER TOWNSHIP
ZONING BOARD OF APPEALS HELD FEBRUARY 22, 2017

The meeting was called to order at 7:30 p.m. by Chairperson Tom Healy.

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

Kendall Grable, previous ZBA alternate, was appointed to fulfill Kelly Walkotten's term until December 31, 2017 due to her resignation.

#170222-01 – Approval of the minutes

The minutes of the regular meeting held on September 28, 2016 were presented.

Moved by Joyce Weise, seconded by Greg Honderd, to approve the minutes as presented.

MOTION CARRIED UNANIMOUSLY.

#170222-02 – (VAR1701) Hudsonville Community Fair Association, 5235 Park Street, Hudsonville, is requesting the following:

- 1) to have a parking facilities and access driveways with no hard surface and no striping, a variance from Sec. 26.3 and 26.4 which requires all parking facilities and access driveways to have a hard surface with a pavement having an asphalt or concrete binder that is graded and drained and striped;
- 2) to have zero setbacks, a variance from Chapter 24 which requires front (95 feet from centerline of 40th Ave.), rear (75 feet) and sides (20 feet) setbacks;
- 3) to have parking within the front yard setback, a variance from Chapter 24, footnote (r);
- 4) to have no greenbelts (25 feet required along all borders) and no trees (1 tree required for each 20, or fraction, lineal feet), and no streetscape (required for a depth of 30 feet, one tree for each 25, or fraction, lineal feet), a variance from the greenbelt and streetscape required in Chapter 24 and Sec. 3.11 and Sec. 26.3(D),

in a (RR) Rural Residential district, in an (AG) Agriculture district and in an (I) Industrial district, on parcels of land described as P.P. # 70-14-31-200-071, 70-14-31-200-043 and 70-14-31-200-016, located at 5501 and 5493 40th Ave. and 4200 VanBuren, Georgetown Township, Ottawa County, Michigan;
([submittal materials](#))

The zoning administrator presented a [staff report](#). She also noted that a letter had been received from Dan Strickwarda, City of Hudsonville Zoning Administrator, asking that if the variance is approved to make it temporary and to require the fair to clean up any mud brought onto the public road.

Gord Miller, former president of the Hudsonville Community Fair Board, 4080 Port Sheldon, represented the applicant and presented the request. He noted that other board members were in attendance as well, including the current president, the building and grounds person, the treasurer, vice president and a worker. His comments included the following:

- The fair grounds are land locked.
- This property is for sale and can accommodate 1,400 cars rather than having them on Barry St.
- Pedestrians walk down the streets because there are no sidewalks.
- This is not nice for the neighbors on Barry St.
- They used this property last year.

- The intention is to block off Barry, stop traffic and allow people to cross to use the sidewalk.
- They will use Hudsonville Public School busses and drivers, with the fair paying the cost of gas and labor.
- At the fair, everyone wants more room and people who own animals want to park on the grounds.
- The carnival wants more rides.
- There is not enough room for parking.
- On Tuesday, Wednesday and Thursday of the fair week cars are parked all over the place.
- The fair works with the Ottawa County Sheriff's Department.
- Using this property would be a good clean way to control traffic for pedestrians and cars.

Tom Healy asked if this parking is made available, would all the parking shift off the fair grounds.

The applicant stated the following.

- Not all the parking would shift off the grounds.
- This would give them more room.
- If they had to pave twelve acres, it would be prohibitive and would mess up the farm area.
- They tried last year with the shuttle busses.
- Farmers let people park on their property and charge.
- Businesses allow parking on their property in the evening.
- This property is high ground and pretty dry.
- There is no easement for access to VanBuren. It would be nice, but they can't build a driveway through the muck and drainage ditches.
- They can't put in a road without lots of money.
- The daily activities were listed.
- This is a good program.
- They basically want more parking and to get cars out of the main stream of Barry so that people have a safe place to walk.
- They can take all the parking and put it on the Bosgraph property.
- They can't afford to pave the property.
- This is the only choice.
- If people know about the shuttles and places to park, the fair can continue to grow.

The Zoning Administrator asked him about the number of cars to be parked since he had all along told her it would be 1,000 and now he said 1,400 cars would be parked there.

Gord Miller said that they counted the spots on the plan and came up with 1,400 spaces. He said that they have a buy/sell agreement conditioned upon getting approval from Georgetown and an environmental study.

Tom Healy asked if the conditions were attached to the loan.

Gord Miller said that the property owner would carry the mortgage.

Joyce Weise asked questions about the property.

Gord Miller stated the following.

- The property was leased out for farming.
- They would clean it, seed it and mow it.

- The Hudsonville Emergency Planning would direct traffic on the road and they would hire people to direct traffic on the property. The Ottawa County Sheriff's Department would stop traffic.
- They have portable lighting.
- The Ottawa County Sheriff's Department would have mounted patrols and have a physical presence.
- There have been no problems in the past with parking.
- The building would stay but they can't rent it out because they are non-profit.

Michael Bosch asked the number of days this would be used for parking.

Gord Miller said four days for the fair, but put ten on the application for the craft shows and balloon launch. He said that the events are growing and they would hire the Sheriff's Department if they needed them to direct traffic because they are the only ones that can stop traffic.

Kendall Grable asked if the contingencies were in the buy/sell agreement and about the environmental issues due to the neighboring uses.

Gord Miller said that there were no abandoned cars near the property.

Tom Healy said that the environmental study would not impact the zoning.

Greg Honderd stated the following. Maintaining the property was not the issue. Having good workers was not the issue. Everyone wants to see the fair succeed and that is not the issue. Everyone appreciates that this is good and everyone wants to help.

Tom Healy asked if the people would pay to park on this property and was told no.

Google maps was put on the screen and Greg Honderd asked about the fair using multiple other locations for parking that were paved and had areas for busses to use and turn around. He said that these other areas would be eliminating the stacking problem on 40th Ave.

Gord Miller said that they wouldn't work.

Tim Smalligan, 2698 38th Ave., Hudsonville, stated the following. They talked to the police and they recommended this and busses will have the right-of-way. The Sheriff's Department will stop traffic and busses will only be allowed in certain areas to not interfere with the cars. They have met with the Sheriff's Department three to four times a week before the fair. Lighting will come on at dusk and will be off by 10:30 or 11:00 p.m. They are cautious not to shine lights in people's windows.

Greg Honderd said that the Hudsonville Public Schools band boosters and other organizations benefit from the fair by having booths and should offer opportunities to help.

Tim Smalligan said that the traffic out of the Bosgraph property would be directed north.

Greg Honderd said that the other areas he talked about go north and already have bus turnarounds, are paved, are more practical and the fair wouldn't have to buy the property.

Tim Smalligan said that they have 75 to 100 kids on a waiting list and the problem would not be solved by using the middle school because they might have to expand. He said they are looking for a long-term fix without using the school buildings and they are just hoping to open the fair up to more young people.

The chairman opened the floor to public comments.

Lonnie Vis, 1164 104th Ave., Byron Center, said they would have to lay out the area to take out spaces for the busses and there would be no permanency.

Alvin Kollar, 5451 40th Ave., said that he pays taxes on the easement for the driveway and nobody came to him. He wanted to know what was in it for him.

Tom Healy stated the following. He was going to make comments now while the public hearing was open and allow the members of the audience to respond. The ZBA is required to determine if the variance request meets the seven standards listed in the ordinance. In order for a variance to be granted, all seven standards must be met, not just some of them. Standard 4 can be determined to be met with the stipulations in place, but cannot be determined to be met absent the agreement. The agreement makes the standard met. The ZBA doesn't grant temporary variances, only permanent ones. The ZBA does not have the authority to grant a temporary variance, which would be ideal. The variance runs into perpetuity with the property. The Township doesn't know what would happen in the future if the fair outgrows the current site and someone gifts them property causing this property to change hands. The ZBA has to look at the possibility that the fair may not be there forever. The fair is very beneficial and we all want it to continue. The stipulated agreement is unenforceable. The ZBA can't require the fair to engage the Ottawa County Sheriff's Department, or the schools, or the busses and drivers. The ZBA cannot require the fair to engage in a contract with someone else. The ZBA cannot mandate the whole agreement because it cannot be enforced. The ZBA cannot require the fair to engage with someone else. The ZBA has no authority to require the fair to enter into a contract with a third party. Standard 5 says the variance can only be granted if it is granted for the preservation of a substantial property right possessed by other properties in the vicinity. No other properties in this vicinity have this property right. If the variance was granted, this property would have a property right that no other properties in the vicinity have and that is not fair. So this standard is not satisfied. Standard 7 is not met because the variance is necessitated by the fair's own created need due to the desire to grow the uses at the fair. The bad news is that the ZBA cannot determine that the standards are satisfied, which must be met for the variance to be granted. However, the Planning Commission and Township Board can create an ordinance to allow this event and it can be targeted for a temporary waiver for a temporary amount of time. The approval can start and end on a specific day. Then if the fair doesn't comply with the standards and conditions, the Township would have the authority to revoke a special use permit. But the Township has no authority to revoke a variance. This is in the long term best interest of the Township. The best method to deal with this is to have the Township Board pass an ordinance and it is also the best method for every other organization. The good news is that there is time to bring this to the Planning Commission and Township Board.

Gord Miller stated the following. The fair is planning to spend a half million dollars to get this property and does not want to have temporary approval with the chance the Township could decide to revoke the approval. They don't want to spend a half million dollars to find that they can't use the property for parking. They can't accept a temporary variance. They are trying to keep the land in its current state so that if someone buys it from the fair they could use it for an agricultural use.

In response to a question by the ZBA, the Zoning Administrator explained what a special use permit was.

Gord Miller said that they would not spend the money to buy the property if there was a chance the approval could be revoked.

Tom Healy explained that the stipulations provided by the fair for this application could be the conditions and the Township would not change those condition. He said that as long as the fair complied with those stipulations, the special use permit would not be revoked and that it would only be revoked if the terms are violated. He said the terms would remain the terms.

Kendall Grable said that they should look at other options.

Gord Miller said that they wanted this property to use for parking and wanted to do it right. It would be impractical to pave it.

Tom Healy said that the Township was looking to achieve the same thing and to allow it for a limited time.

Kendal Grable said that they wanted to allow it with the stipulations that the fair set forth.

Joyce Weise said that allowing this with a special use permit is fair and protects the Township.

Tom Healy said that it has to be looked at as setting a precedent and the Township would be obligated to the next organization that wants it for an event.

Gord Miller said that the Little League had no pavement or buffers.

Tom Healey said that they are grandfathered and the Township can't go back and require it now after all of these years. He said that this will work out better for the fair with a special use permit.

Gord Miller said that he wouldn't do it if the Township could snap their fingers and not let them use it any more.

Joyce Weise said that the terms could be set up together with the applicant.

Tom Healy said that they have the option to revoke if the terms are not met.

Gord Miller said that approval for ten years is not satisfactory.

The chairman closed the public hearing.

Moved by Tom Healy, seconded by Kendall Grable, to adopt the staff report as findings of fact and to deny variance (VAR1701) Hudsonville Community Fair Association, 5235 Park Street, Hudsonville, to have the following:

- 1) to have a parking facilities and access driveways with no hard surface and no striping, a variance from Sec. 26.3 and 26.4 which requires all parking facilities and access driveways to have a hard surface with a pavement having an asphalt or concrete binder that is graded and drained and striped;
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in a (RR) Rural Residential district, in an (AG) Agriculture district and in an (I) Industrial district, on parcels of land described as P.P. # 70-14-31-200-071, 70-14-31-200-043 and 70-14-31-200-016, located at 5501 and 5493 40th Ave. and 4200 VanBuren, Georgetown Township, Ottawa County, Michigan; **based on the finding that the request does NOT meet all of the seven standards of the ordinance, specifically, standards 4, 5, and 7 are not met because the ZBA does not have the authority to grant the variance for the reasons discussed during the meeting** (which included the following: Standard 4 can be determined to be met with the stipulations in place, but cannot be determined to be met absent the agreement. The agreement makes the standard met. The ZBA doesn't grant temporary variances, only permanent ones. The stipulated agreement is unenforceable. The ZBA can't require the fair to engage the Ottawa County Sheriff's Department, or the schools, or the busses and drivers. The ZBA cannot require the fair to engage in a contract with someone else. The ZBA cannot mandate the whole agreement because it cannot be enforced. The ZBA has no authority to require the fair to enter into a contract with a third party. Standard 5 says the variance can only be granted if it is granted for the preservation of a substantial property right possessed by other properties in the vicinity. No other properties in this vicinity have this property right. If the variance was granted, this property would have a property right that no other properties in the vicinity have and that is not fair. So this standard is not satisfied. Standard 7 is not met because the variance is necessitated by the fair's own created need due to the desire to grow the uses at the fair).

MOTION CARRIED UNANIMOUSLY.

#170222-03 – Public Comments

There were public comments.

#170222-04 – Election of Officers

Moved by Greg Honderd, seconded by Michael Bosch, to elect Tom Healy as chairperson, Joyce Weise as vice chairperson, and Greg Honderd as secretary.

MOTION CARRIED UNANIMOUSLY.

#170222-05 – Other Business

#170222-06 - Adjournment

Moved by Joyce Weise, seconded by Tom Healy, to adjourn the meeting at 8:46 p.m.

MOTION CARRIED UNANIMOUSLY.