

MINUTES OF THE REGULAR MEETING OF THE GEORGETOWN CHARTER TOWNSHIP
ZONING BOARD OF APPEALS HELD JANUARY 24, 2024

The meeting was called to order at 7:00 p.m. by Chairperson Kendall Grable.

Members Present: Kendall Grable, Michael Bosch, Kevin Kelly, Susan Ouellette, Trevor Petroelje (alt)
Members Absent: Tom Healy
Others Present: Kevin Austin, Secretary and Zoning Administrator (ZA)

#240124-01 – Approval of the Minutes of the December 13, 2023 Zoning Board of Appeals Meeting

The minutes of the regular meeting held on [December 13, 2023](#) were presented.

Moved by Kevin Kelly, Susan Ouellette, to approve the minutes as presented.

MOTION CARRIED UNANIMOUSLY.

#240124-02 – Public Hearing – (VAR2304) Guggenheim Development Services, LLC, representing Jiffy Lube, 2739 Port Sheldon St, Jenison, MI, 49428 are requesting the following variances on a parcel of land described as P.P. # 70-14-21-400-092 in a Neighborhood Service Commercial (NS) Zoning District, Ottawa County, Michigan ([Application](#), [Narrative](#), [Site Plan](#), [Letter of Support](#)):

- 1.To have a front yard setback of 85 feet for a building, a variance of 5 feet from the 90 foot required setback in Chapter 24 Footnote B (2) along Port Sheldon Street.
- 2.To have a front yard setback of 18.93 feet for a building, a variance of 11.07 feet from the 30 foot required setback under Chapter 24, along Cedar Grove Trail.
- 3.To have parking and drives 44.67 feet from the centerline of Port Sheldon, a variance of 45.33 feet from the 90 foot required setback (30 foot setback measured from a point 60 feet from the centerline of Port Sheldon) to the centerline of Port Sheldon, required in Chapter 24, footnote (L) which states that except for necessary drives and walks, the front yard setback shall be landscaped and not used for parking, loading or accessory structures.
- 4.To have a building setback of 42 feet from the Right-of-Way line, a variance of 8 feet from the 50 feet required in Chapter 20.4 Site Design Standards, subsection AD(3).
- 5.To have a dumpster enclosure 23.18 ft from the Right-of-Way line, a variance of 26.82 ft from the 50 ft required in Chapter 20.4, subsection AD(3), which requires all structures be located not less than 50 ft from any Right-of-Way line.
- 6.To have a pole mounted sign 45 feet from the C/L of Port Sheldon, a variance of 15 feet from the required 60 ft in Sec 25.6 of the township sign ordinance.

The ZA presented the [Staff Report](#).

David Caldon, with Varnum Law, presented for the applicant. He stated that the applicant is seeking 6 dimensional variances for the purpose of redeveloping this lot and that he believes all standards are met for all variances requested. He noted that standards 2 and 6 were met for all requests so he will not comment on those standards. In reference to standard 1, he stated that the redevelopment aspect of this application fulfills the spirit of the ordinance. The site is currently vacant and the current home is in disrepair. He further stated that if the other standards are met for this request then the spirit of the ordinance is also fulfilled. In speaking on standard 3 he stated that this standard is the meat of the request. There are obvious practical difficulties in fulfilling the current ordinances

due to the size of the lot and the zoning district in which it resides. He remarked that this lot is smaller than most of the commercial lots in this area of the township. He cited excerpts within the staff report that acknowledge the challenges that are posed to commercial development on this lot without variances. He agrees that not every use is appropriate for every parcel however the applicant is requesting a relatively small development in comparison to many commercial uses and it still cannot meet the requirements. The firm has evaluated other types of commercial uses involving other layouts and variances are still required. In addressing Standard 4, he stated that the current ill-repaired home is more of a detriment than the proposed development of the lot. Further he noted that any type of redevelopment will produce increases in activity and traffic due to the fact that the parcel is currently stagnant and unoccupied. The area surrounding this parcel is highly commercialized with many similar uses around it. Further, he noted that the variance will permit the building to be further away from the residential development. He noted that Tannis Trucking abuts this site and creates far more disturbances with closer proximity than the proposed use. He stated that the Site Plan Review process will implement additional screening and buffering requirements. He provided traffic analysis estimates that state that a vehicle service station generates less peak-hour trips than many commercial uses. In addressing Standard 5, he noted that the general vicinity contained many properties which have similar setbacks and parking as requested in this application, which is evidence of its necessity to allow development. In addressing Standard 7, he noted that this request is not an example of a self-created hardship, and that the size and zoning district regulations create the hardship. He stated that the Staff Report essentially provides that the proposed use is the hardship. He remarked that this is not the appropriate test for fulfilling Standard 7 and that the applicant's actions did not create the hardship. He stated in conclusion that a practical difficulty exists and that the applicant would like to enjoy similar rights as other commercial developments in the area.

Chairman Grable opened the floor to questions from the ZBA.

Kendall Grable stated that the practical difficulty is the design layout and use sought by the applicant in regard to this site and that the constraint is an economic one due to the desire of the applicant to build a larger development than what can reasonably fit on this parcel. He asked the applicant if he is wrong in this statement.

David Caldon stated that the use is not providing the practical difficulty in this situation.

Kendall Grable asked if many different commercial uses can be on this parcel.

David Caldon stated that the current zoning is restrictive towards many types of commercial development on this parcel which constitutes a taking by the local municipality.

Kendall Grable stated that many other uses permitted under the NS Zoning district can occur on this lot, but it is just that nothing the applicant wants to do can fit here.

David Caldon reiterated that the use does not create the hardship.

Kendall Grable asked if the applicant can build a 3 bay service station.

David Caldon stated that they did evaluate less bays, however, that resulted in a deeper building projection which runs in to a similar setback constraint.

Trevor Petroelje stated that many of these requests are marginal requests and that he believes the ZBA exists for this purpose, which is to evaluate if a property owner has a valid claim to vary from the ordinance due to fulfilling the articulated standards. He compared this situation to the Arby's application which permitted similar variances.

Kendall Grable stated that the variances granted to Arby's were granted in acknowledgement of the similarity of the surrounding commercial area which received many variances and had adjacent businesses with the same setbacks. He stated that variances are with the land in perpetuity. He asked the applicant if they are prepared for all Site Plan Requirements including the streetscape ordinance which requires 1 tree per 25 feet of frontage.

Jason York of Excel Engineering stated that they have roughly 5 ft of front yard to provide the required streetscaping.

The ZA provided the requirements under Sec 3.11 of the township streetscape ordinance.

Chairman Grable opened public comment.

Mick Zinsli, 6591 Cedar Grove Trail, stated that he disagrees with all of the statements made by the applicant's representative besides for the acknowledgement that this lot is too small for this use. He remarked that the surrounding community is already serviced by a similar provider of this service. He stated that traffic would almost certainly increase from this proposed use and that the required streetscape would make visibility even more difficult.

Mary Jo Ott, 6591 Cedar Grove Trail, stated that she strongly opposes granting variances for this development for this site. She is confused by the role of ordinances if anyone is allowed to apply for numerous variances. She stated that the rear of her unit in Cedar Grove faces Tannis Trucking and there is already so much noise and disturbances created by having that use adjacent. This is a very small property that should limit the types of uses provided within it.

Kay Zinsli, 6591 Cedar Grove Trail, stated that she is in opposition of granting the variances for this development. She questions whether or not they will request a driveway to exit on to Cedar Grove Trail. She stated the building and use will be an eyesore for the residents using Cedar Grove Trail. She also mentioned that she is concerned about the increased traffic flow that will be created and the possibility of people utilizing the condo roads as a cut-through to avoid the intersection. She believes the "dinging" associated with oil service stations will be a nuisance.

Lee Smits, 2666 Cedar Grove Trail, stated that the number of variances being requested for this one site is overwhelming. He remarked that the residential character of this area is inconsistent with a Vehicle Service Station on this adjacent site. He stated that affording these variances to this developer is not a wise decision for the township and this area.

Chairman Grable closed public comment.

David Caldon responded to the questions posed by the members of the public. He stated that this process is always difficult for adjacent property owners. He noted that with the previous rezoning approval, the Planning Commission did agree that this parcel can be commercial instead of residential. He stated that the development firm did assess development options such as an 800 sqft coffee shop and it was determined through their assessment that similar variances would need to be requested for that type of development layout. He reiterated that any redevelopment of this lot

will increase traffic from its current use of a vacant residential site. He stated that the applicant is looking forward to working with the township on continued site plan requirements if these variances are approved.

The ZA provided options for motions.

Trevor Petroelje stated that in assessing the requested variances that the 3rd and 5th request seem to be the substantial variances, and that the others are quite nominal. He is in support of granting the variances.

Kendall Grable recapped all conditions that must be met and noted that they all apply to each of the 6 variance requests. For the first variance he noted that staff found that standards 1 and 2 were met, so he questioned if the ZBA believed that Standard 3 was met for this request.

Trevor Petroelje noted that this parcel provides significant constraints for commercial development.

Kevin Kelly stated that it is obvious that required setbacks provide a challenge for development on this lot. This necessitates that the development be the correct fit for the available envelope. He remarked that their job is to assess the variance request against the standards and to determine if the multiple requests are permissible due to meeting the standards.

Kendall Grable mentioned that the ZBA should not be discussing the use of the property and compared to the ability to vary from setback requirements, because the variance will stay with the land.

Susan Ouellette stated that she was struck by the size of the lot and how that size impacts the capability for commercial redevelopment due to setback requirements. She did feel that the Kendall Grable's question on whether or not a smaller service operation was valid in this situation and should be considered.

Jason Bolling, Guggenheim Development Services, described that when they assessed a 2-bay layout, that it required similar variances due to a required depth of the building that encroached on setbacks.

David Caldon mentioned that these variances were in consideration of the buffer needed from the adjacent residential to the rear of the lot.

Michael Bosch stated that these variances would not be a substantial detriment or deviation from the character and layout of the commercial area in the immediate vicinity being that the parcel is abutted by Industrial to the east and Commercial Service across the street.

The ZA provided comments on his findings and highlighted portions of the verbiage of the standards which require the ZBA to make the comparison "to the same zoning district". He noted that an added consideration should be made by the ZBA being that the subject parcel is zoned Neighborhood Service Commercial (NS) and is one of few parcels in that corridor with that zoning, as it is abutted by Industrial and Commercial Service district. Comparisons in the immediate vicinity should be done understanding that the zoning is a different class of commercial.

David Caldon stated that the Rite Aid to the west is the same zoning district and has parking within the front setback.

The ZA stated that he had looked at the electronic records on the Rite Aid parcel and had not seen any approved variances for that development so he is unaware of the timing of that construction and site plan approval.

Kendall Grable asked the ZBA how they would like to proceed in making their determination for each variance.

The ZA explained that the approach best taken would likely be to determine which variances are determined to be met and notate that those will be included in a motion of approval at the end, and any others will be notated for a motion of denial.

Kendall Grable recapped the variances requested.

Trevor Petroelje stated that he finds the seven standards are met for Variance 1.

Moved by Trevor Petroelje, seconded by Kevin Kelly, to approve (VAR2401) Guggenheim Development Services LLC, for Variance 1, to have a front yard setback of 85 feet for a building, a variance of 5 feet from the 90 foot required setback in Chapter 24 Footnote B (2) along Port Sheldon Street at 2739 Port Sheldon St, Jenison, MI, 49428, on a parcel of land described as P.P. # 70-14-21-400-092 in a Neighborhood Service Commercial (NS) Zoning District, Ottawa County, Michigan: based on the finding that the request meets the seven standards of the ordinance. Specifically, standards 1,2,3,4,5,6,7 have been met and the reasons are that the request makes the property consistent with the surrounding commercial district, it would not be a detriment to the area, and that there are practical difficulties in complying with the current ordinance.

Yeas: Michael Bosch, Susan Ouellette, Kevin Kelly, Trevor Petroelje

Nays: Kendall Grable,

MOTION CARRIED.

The ZA states that the preferred method of review and approval would be to discuss all the variances and their meeting of the standards and then include the approved variances in a motion of approval, and the unapproved variances in a motion of denial. The first variance has been approved by the latest motion, however, Variances 2 – 6 should follow this format.

Kendall Grable asked the other members of the ZBA if the 2nd dimensional variance request didn't meet the standards.

No other members highlighted any issues.

Kendall Grable asked the ZBA to discuss the 3rd dimensional variance request.

Trevor Petroelje stated that any type of commercial redevelopment will need to receive some type of variance to build on this lot and meet site plan requirements and that much of the commercial area down Port Sheldon has parking and drives within the required front setback.

Michael Bosch stated that the neighboring parcels appear to have similar parking setbacks.

Kendall Grable reiterated that there are many legal-nonconforming parcels in this area of Port Sheldon that were approved prior to the ordinance amendment requiring landscaping and restriction of uses in the front setback. As noted, they are able to remain until there is a major site plan amendment or redevelopment.

Michael Bosch stated that this aspect of the ordinance is convenient if everyone starts from a blank slate, however there are situations such as this with parcels of different dimensions seeking to be redeveloped. He stated that the 3rd dimensional variance request meets all standards.

Susan Ouellette stated the standards are met as well.

The ZBA began discussion on the 4th dimensional variance request.

The ZA elaborates that this setback is applied as a site specific standards for the special land use of a Vehicle Service Station, and must be met for the PC to grant site plan approval, unless receiving an approved variance.

Susan Ouellette stated that the standards are met for this variance and that it is a marginal difference from the setback already granted to the building with variance 1. She remarked that the size of this lot necessitates this variance.

The ZBA began discussion on the 5th dimensional variance request.

Kendall Grable stated firmly that this request does not meet the standards of the ordinance and that he cannot think of a situation the ZBA has approved to have a dumpster screen within the front yard.

Kevin Kelly agreed with Kendall Grable.

Trevor Petroelje stated that he also agreed with Kendall Grable and wondered if the applicant could do a can service instead of a dumpster.

The ZA stated that if they have a dumpster, it must be screened by a 6' screening feature on all sides and that the ordinance doesn't specify the receptacle.

The ZBA agreed that the standards are **not met** for the 5th dimensional variance request.

The ZBA began discussion on the 6th dimensional variance request.

Kevin Kelly, Trevor Petroelje, Susan Ouellette, and Michael Bosch agreed that the 7 standards are met for the 6th dimensional variance request.

Kendall Grable stated that this variance application is not ideal and that there are standards that are not met. He stated that he believes this situation with a small commercial lot needing multiple variances was caused by the township and its lack of foresight to see how the changing character and zoning designation of areas will impact the setback requirements on particular lots and that the elected officials are responsible for this situation.

The ZBA discussed the options for motion.

Moved by Trevor Petroelje, seconded by Kevin Kelly, to approve (VAR2401) Guggenheim Development Services LLC, representing Jiffy Lube, 2739 Port Sheldon St, Jenison, MI, 49428, for following variances:

- 2. To have a front yard setback of 18.93 feet for a building, a variance of 11.07 feet from the 30 foot required setback under Chapter 24, along Cedar Grove Trail.**
- 3. To have parking and drives 44.67 feet from the centerline of Port Sheldon, a variance of 45.33 feet from the 90 foot required setback (30 foot setback measured from a point 60 feet from the centerline of Port Sheldon) to the centerline of Port Sheldon, required in Chapter 24, footnote (L) which states that except for necessary drives and walks, the front yard setback shall be landscaped and not used for parking, loading or accessory structures. ZBA Meeting January 24, 2024**
- 4. To have a building setback of 42 feet from the Right-of-Way line, a variance of 8 feet from the 50 feet required in Chapter 20.4 Site Design Standards, subsection AD(3).**
- 6. To have a pole mounted sign 45 feet from the C/L of Port Sheldon, a variance of 15 feet from the required 60 ft in Sec 25.6 of the township sign ordinance.**

on a parcel of land described as P.P. # 70-14-21-400-092 in a Neighborhood Service Commercial (NS) Zoning District, Ottawa County, Michigan: based on the finding that the request meets the seven standards of the ordinance. Specifically, standards 1,2,3,4,5,6,7 have been met and the reasons are that the dimensions of the site create a unique hardship relative to the parcels in the commercial vicinity making compliance difficult and that the variances allow consistency throughout the commercial corridor.

Yeas: Trevor Petroelje, Kevin Kelly, Susan Ouellette, and Michael Bosch

Nays: Kendall Grable

MOTION CARRIED.

Moved by Kendall Grable, seconded by Kevin Kelly, to adopt the staff report as finding of fact and to deny the variance request (VAR2401) Guggenheim Development Services, LLC, representing Jiffy Lube, 2739 Port Sheldon St, Jenison, MI, 49428, to have a dumpster enclosure 23.18 ft from the Right-of-Way line, a variance of 26.82 ft from the 50 ft required in Chapter 20.4, subsection AD(3), which requires all structures be located not less than 50 ft from any Right-of-Way line, on a parcel of land described as P.P. # 70-14-21-400-092 in a Neighborhood Service Commercial (NS) Zoning District, Ottawa County, Michigan: based on the finding that the request does not meet the seven standards of the ordinance. Specifically, standards 1,3,4,5,7 have not been met and the reasons are provided in the staff report.

MOTION CARRIED UNANIMOUSLY.

#240124-03 – Election of Officers

Moved by Michael Bosch, seconded by Kevin Kelly, to reelect as Kendall Grable as Chairperson of the Zoning Board of Appeals.

MOTION CARRIED UNANIMOUSLY.

Moved by Kendall Grable, seconded by Kevin Kelly, to reelect Tom Healy as Vice Chairperson of the Zoning Board of Appeals.

MOTION CARRIED UNANIMOUSLY.

Moved by Susan Ouellette, seconded by Kendall Grable, to elect Kevin Kelly as Secretary.

MOTION CARRIED UNANIMOUSLY.

#240124-04 – Public Comments

No comments were made.

#240124-05 – Other Business

There was no other business at this time.

#240124-06 – Adjournment

Moved by Kevin Kelly, seconded by Mike Bosch, to adjourn the meeting at 9:32 p.m.

MOTION CARRIED UNANIMOUSLY.