

MINUTES OF THE REGULAR MEETING OF THE GEORGETOWN CHARTER TOWNSHIP
ZONING BOARD OF APPEALS HELD MAY 22, 2019

The meeting was called to order at 7:00 p.m. by Chairperson Tom Healy.

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

#190522-01 – Approval of the minutes

The minutes of the regular meeting held on February 27, 2019 were presented.

Moved by Kendall Grable, seconded by Michael Bosch, to approve the minutes as presented.

MOTION CARRIED UNANIMOUSLY.

The minutes of the special meeting held on April 17, 2019 were presented.

Moved by Michael Bosch, seconded by Kendall Grable, to approve the minutes as presented.

MOTION CARRIED UNANIMOUSLY.

#190522-02 - (VAR1903) Advantage Industries, 2196 Port Sheldon St., is requesting to have zero trees for landscaping/streetscape on Port Sheldon, a variance of 15 trees from the minimum of 15 trees required in Sec. 3.11, in an (I) Industrial district, on a parcel of land described as P.P. # 70-14-22-368-004 (-001, -002, -003), located at 2196 Port Sheldon St., Georgetown Township, Ottawa County, Michigan ([submittal materials](#), [plans](#))

The zoning administrator presented a [staff report](#).

Tom Miedema, Miedema Metal Buildings, represented the applicant and presented the request. He stated the following. Trees and shrubs would block the vision for traffic. The cars using Center Industrial Dr. have to be considered and trees would obstruct vision for the cars turning. There is no financial reason the business don't want the trees. They just don't want an accident because of the trees. In 2000 they put up a sign and they weren't allowed to put it in a spot that obstructed traffic. The sign had to be off the edge of clear vision. They could put something in low to the ground, but that would not help with aesthetics.

Kendall Grable asked about the MDOT report and the clear vision area.

The Zoning Administrator explained that Port Sheldon was a road owned and controlled by the Ottawa County Road Commission and not MDOT. She said that she had spoken with Fred Keena, Ottawa County Road Commission, and he said that the Road Commission had no authority to control areas outside of the road right of way.

Tom Miedema said that they have trees and other landscaping closer to the building, and parking spaces; however, the trees would be closer to the road and would be more of an obstruction.

Tom Healy stated that this is a difficult corner and he agrees that this could be dangerous.

The chairman opened the public hearing. No one was present to make comments. The chairman closed the public hearing.

Joyce Weise stated the following. She frequently drives in this area and always wondered why there were no trees. Having something lower could be more obstructive than other trees. There are several varieties that may be less obstructive and better than the Norway trees with the heavy canopies shown on the site plan.

Tom Miedema said that Pierce Trucking uses this street and their trucks were 5 feet tall and taller. He said that the trees would be detrimental to the semis.

Joyce Weise said that with the curve in the road and the vehicles approaching the intersection, vehicles should be slowing down.

Tom Miedema said that they don't slow down and this affects those vehicles coming from Center Industrial Dr.

Joyce Weise said that there were other opportunities to place trees further back. She has had to work in situations with overhead lines and the trees could be moved to the front of the building, but they don't want to block the sign.

Tom Miedema said that they already have a lot of landscaping by the building and they already have enough landscaping if they can count that.

Tom Healy said that the landscaping is required to be in a certain area in order to be considered to fulfill the requirement of the streetscape. He said that the trees can be clustered.

Tom Miedema said that they don't want the additional 15 trees on the east end.

Joyce Weise said that there could be more trees to the west of the drive and that would lessen the impact of the trees.

Michael Bosch stated the following. There is a problem with the landscaping ordinance that requires trees to block businesses. He is opposed to the landscaping ordinance and is opposed to the Township Board putting landscaping around the Township. He would like to change the landscaping ordinance. Clustering makes it worse. There aren't a lot of trees in the surrounding area anyway. This is a unique lot and it is already nicely landscaped. He had the same issues when the Township Board tried to put trees along Chicago Dr. It should be the owner's choice and not an ordinance. The Township should not require this for the 600 square foot addition in the back of the building. The Township opened this can of worms for the business just for this small addition. The Township should not require businesses to add this landscaping just because they are putting a small addition on.

Joyce Weise said that there is a lot more to the ordinance requiring landscaping. She said that trees are important to add shade and make oxygen. She said that she does not agree with his statement that trees are not necessary and that it is very important that this ordinance is followed.

Kendall Grable stated that adding the required 15 trees to the eastern yard along Center Industrial Dr. would be overload.

Tom Miedema said that it would overload that yard and they wouldn't want to do that.

Kendall Grable said there were alternatives.

Tom Miedema said that anything would provide some obstruction and they couldn't in good conscience put up landscaping.

Brock Nanninga stated the following. He tried to find similar situations so he could see how the trees would provide an obstruction. He wished the applicant had submitted another alternate plan of some type of landscaping to be added or something to try to meet the spirit and intention of the ordinance. They are asking for all or nothing. The spirit and goal of the ordinance is to keep up the aesthetics of the environment. This is the same situation for the other neighbors of this site. If they put up an addition it causes the requirement of the landscaping to kick in.

Tom Miedema said that whatever they put in can't go more than 6 inches.

Mike Meadows, 9393 56th St., Hudsonville, stated the following. They are working through this. If a person is driving out that driveway and making a left, they have to watch traffic. The cars go much faster than 45 mph. They don't want obstacles for Center Industrial Dr. There are a variety of vehicles. He loves the trees and bushes, but the corner causes a unique situation.

Tom Healy asked if they hired Postema and Associates to provide the study.

Tom Miedema said yes and they used MDOT standards. He said petunias would be the only thing that would be safe.

Tom Healy stated the following. He addressed the comments about the Township opening a can of worms by requiring landscaping for additions even as small as 600 square feet. The requirement for landscaping has to begin at some point. So if a site changes in any way, the Township requires the landscaping. Even though this is not a substantial addition, the Township needs a beginning point. The Township Board is made up of elected officials and they are the ones who approved the ordinance. Therefore, it is important that this Board respects that landscaping ordinance and makes a determination for the variance based on the seven standards in Sec. 28.11 that have to be met for a variance to be granted. This board has to recognize that the Township Board has a beautification goal and has installed landscaping in areas throughout the Township. In addition, the Master Plan also has a goal for the beautification and aesthetics of the Township. However, the single public safety issue can be used as an overriding point to determine that the standards in Sec. 28.11 are met to grant a variance. Standard number one in Sec. 28.11 talks about the spirit and intention of the ordinance. Every business in the Township contributes in some way. Landscaping helps to maintain the character of the Township and contributes to the concepts in the Master Plan. This is intentional and this ordinance was approved by the elected Township Board. In broader compliance, the seven standards in Sec. 28.11 have to be taken into account and have to be met in order for a variance to be granted. The public health, safety and welfare can be used to excuse the strict language in the ordinance requiring one tree for every 25 feet. That strict requirement can be waived and compliance with the spirit of the ordinance can be met with more minimal landscaping. The ZBA could grant the variance to waive the requirement of the 15 trees and allow the applicant to meet with the Zoning Administrator to develop an alternative plan that all sides can agree to. Then the variance can be approved with the alternative landscaping satisfying the intent of the ordinance.

Moved by Tom Healy, seconded by Kendall Grable, to adopt the staff report as finding of fact and to approve variance (VAR1903) Advantage Industries, 2196 Port Sheldon St., to waive the requirement of one tree for every 25 feet, a variance of 15 trees from the minimum of 15 trees required in Sec. 3.11 for the streetscape, in an (I) Industrial district, on a parcel of land described as P.P. # 70-14-22-368-004 (-001, -002, -003), located at 2196 Port Sheldon St., Georgetown Township, Ottawa County, Michigan.; based on the finding that the request meets the seven standards of the ordinance, and with conditions as follows:

- a. The applicant shall present an alternate landscaping plan and come to “common ground” with the Zoning Administrator for some alternate landscaping in order to comply with the intent and spirit of the ordinance.**
- b. Failure to comply with the variance as granted results in a violation of the Zoning Ordinance section that is the subject of the request, which is Sec. 3.11.**

Brock Nanninga said that he would like to see the minimum.

Kendall Grable stated the following. There is definitely a public safety and health issue. When he leaves the gymnastics place and the sunset is earlier, there is a tremendous hazard. He agrees that the number of trees is too many for this site. The site plan as drawn with trees is unsafe. He would like to see alternatives.

Tom Healy said that reasonable people can come to a determination.

Joyce Weise stated the following with suggestions as to where to locate trees. Trees could be located in other areas and species could be a variety that are not tall and do not provide shade. They can use creativity with locating the trees in an area that won't impede a truck or moped. She understands the health, safety and welfare issue and drivers need to pay attention. The trees should not be placed in a location that provides an obstruction; however, there are plenty of other places where the trees could be planted.

Michael Bosch said that due to the health, safety and welfare issue, with the parameters and scope, landscaping might not be reasonable. He said personally he would put them in the farthest corner, but Port Sheldon should be exempt.

Tom Healy said that the 15 trees could be put in one area that doesn't obstruct vision.

Michael Bosch said that this is an industrial area and sidewalks have been waived. He said that this does not have to be beautiful like a downtown area.

Tom Healy said that the motion could be amended to permit any tree to satisfy the requirement.

Michael Bosch said that the motion eliminated the requirement of one tree for every 25 feet, but there could be some other form of landscaping. He said that four trees on Port Sheldon is too loose.

Tom Healy stated the following. He gets the safety hazard; however, there can be alternate types or location that wouldn't be an obstruction. With the variance being granted, no trees are required. The variance waived the requirement of the 15 trees. The new plan to be presented by the applicant doesn't have to include trees, but could. No one is being “railroaded” and the applicant has the opportunity to appeal the Zoning Administrator's determination if he doesn't agree with it. Then the ZBA could hear their argument.

There was discussion about alternative options, landscaping types, and locations.

Yeas: Tom Healy, Brock Nanninga, Kendall Grable, Michael Bosch

Nays: Joyce Weise

MOTION CARRIED.

#190522-03 – (VAR1904) Brian S. Jones, 3388 Kayelin Ct., is requesting to locate an accessory building in the front yard, a variance from Sec. 3.4(A) which states that accessory buildings and uses shall not be erected in any front or required side yard and from Sec. 3.4(F) which states in residential districts, a detached accessory building shall be located in the rear yard or non-required side yard of the lot; in an (AG) Agriculture district, on a parcel of land described as P.P. # 70-14-05-200-040, located at 3388 Kayelin Ct., Georgetown Township, Ottawa County, Michigan ([submittal material](#)).

The zoning administrator presented a [staff report](#) and stated the following. The building was located as shown on the plan for the first variance; however, the numbers for dimensions to the lot lines were different, likely because this was a private street and the applicant didn't know where to measure for the dimensions. Also, no inspections on the building had taken place.

Brian Jones stated that there had been a miscommunication with the builder and the builder was the one who pulled the permit. He said that some inspections had been conducted.

The Zoning Administrator stated that Professional Code Inspections conducts the inspections and they only conduct inspections after the Township approves the survey. She said that the survey had not been approved by the Township because the setbacks did not match the dimensions that had been approved by the ZBA; consequently, no inspections had been conducted.

Kendall Grable asked about the private street.

The Zoning Administrator explained that all the people in the development owned the private street and it was on property owned by the people in the development.

The chairman opened the public hearing. No one was present to make comments. The chairman closed the public hearing.

Brock Nanninga said that he didn't know that the applicant didn't have to have a survey to show the proposed location.

Tom Healey said that the applicant did have a diagram that showed where the building was intended to be. He said that he visited the site and it looked like the building was where the diagram showed.

Brock Nanninga said that if they had a survey, they would know the exact dimensions.

The Zoning Administrator explained that this was a private street and the applicant didn't understand that there was a 66 foot easement which actually goes on the applicant's property, rather than the 66 foot right-of-way owned by the road commission. She said that this was an unusual situation that does not normally occur.

Michael Bosch said that expiration dates should be on the Township website under common questions and he has been saying that more information should be provided there.

It was noted that this was not a common question and any information about this on the website may just bring more confusion.

Moved by Joyce Weise, seconded by Tom Healy, to adopt the staff report as finding of fact and to approve variance (VAR1904) Brian S. Jones, 3388 Kayelin Ct., to locate an accessory building in the front yard, a variance from Sec. 3.4(A) which states that accessory buildings and uses shall not be erected in any front or required side yard and from Sec. 3.4(F) which states in residential districts, a detached accessory building shall be located in the rear yard or non-required side yard of the lot; in an (AG) Agriculture district, on a parcel of land described as P.P. # 70-14-05-200-040, located at 3388 Kayelin Ct., Georgetown Township, Ottawa County, Michigan; based on the finding that the request meets the seven standards of the ordinance, and the building looks nice in that location, and because there was confusion with dimension due to the street being private, and with the following conditions:

- 1) The accessory building shall meet all other ordinance requirements, including size, height, location on the lot (other than it may be in the front yard) and shall be constructed in the location as shown on the survey from Feenstra and Associates dated 12-17-2018.**
- 2) The accessory building shall contain no residential use and no home occupation.**
- 3) The property owner shall have all building inspections conducted and the accessory building SHALL meet all building codes.**
- 4) If it is not possible to have the building inspections conducted or if the accessory building does not or could not be brought into compliance with all applicable building codes, it shall be removed, moved or demolished immediately.**
- 5) There shall be no use of this building until it has been verified that the structure complies with all applicable building codes.**
- 6) Failure to comply with the variance as granted results in a violation of the Zoning Ordinance section that is the subject of the request, which is Sec. 3.4(A) and Sec. 3.4(F).**

Tom Healy stated the following. The former Planning Commission chairperson, who previously was on the ZBA, had said that they had tried to draft an ordinance allowing accessory buildings in the front yard in certain circumstance related to elevation changes on the lot and with woods, but the language had become too cumbersome. There are elevation changes on this lot, there are woods, and there was confusion with dimensions because of the private street. This is a perfect situation to go to the ZBA. Standards 1, 5 and 7 are met.

MOTION CARRIED UNANIMOUSLY.

#190522-04 – (VAR1905) Todd and Sara Cozolino, 2025 Jackson St., are requesting to locate an accessory building in the front yard, a variance from Sec. 3.4(A) which states that accessory buildings and uses shall not be erected in any front or required side yard and from Sec. 3.4(F) which states in residential districts, a detached accessory building shall be located in the rear yard or non-required side yard of the lot; in a (RR) Rural Residential district, on a parcel of land described as P.P. # 70-14-34-300-028, located at 2025 Jackson St., Georgetown Township, Ottawa County, Michigan ([plans](#), [application](#))

The zoning administrator presented a [staff report](#).

Todd Cozolino presented the request and said there was 200 feet of woods on Jackson.

Michael Bosch said that he assumed that the variance went with the property for eternity.

Joyce Weise said that she remembered that application.

Michael Bosch asked if applicant was told that the variance expires.

Joyce Weise said that it is the same thing with a site plan and that it expires after one year if construction commences.

The Zoning Administrator explained the following. The ordinance states that a variance expires after one year unless extended prior to the expiration or unless a different time frame is stipulated by the ZBA. Once in a while a plat or site plan expires, but this is the first variance that has expired due to no construction commencing.

Michael Bosch said that a building permit remained valid as long as construction was commencing within six months.

The chairman opened the public hearing. No one was present to make comments. The chairman closed the public hearing.

Moved by Brock Nanninga, seconded by Kendal Grable, to adopt the staff report as findings of fact and to approve variance (VAR1905) Todd and Sara Cozolino, 2025 Jackson St., to locate an accessory building in the front yard, a variance from Sec. 3.4(A) which states that accessory buildings and uses shall not be erected in any front or required side yard and from Sec. 3.4(F) which states in residential districts, a detached accessory building shall be located in the rear yard or non-required side yard of the lot; in a (RR) Rural Residential district, on a parcel of land described as P.P. # 70-14-34-300-028, located at 2025 Jackson St., Georgetown Township, Ottawa County, Michigan; based on the finding that the request meets the seven standards of the ordinance as detailed in the staff report. In addition, standard 3 and 5 were met because of the unique topography and most residents in the vicinity have homes a great distance off the road with the accessory buildings in front of the homes. Also, there are many ravines making it impossible for vehicle access. For standard 5, others have accessory buildings in the front yards, but not the required front yard and not in the required site yard, with the following conditions:

- 1) The accessory building shall meet all other ordinance requirements, including size, height, location on the lot (other than it may be in the front yard) and shall be at least 200 feet from the centerline of Jackson.**
- 2) All other accessory buildings and structures (regulated by Sec. 3.4(I)) shall be removed from the site prior to the issuance of the Certificate of Occupancy.**
- 3) The accessory building shall contain no residential use and no home occupation.**
- 4) Failure to comply with the variance as granted results in a violation of the Zoning Ordinance section that is the subject of the request, which is Sec. 3.4(A) and Sec. 3.4(F).**
- 5) The variance expires in one year unless an extension is approved.**

MOTION CARRIED UNANIMOUSLY.

#190522-05 - (VAR1906) The Redmond Company, for Members First Credit Union, is requesting to have a front yard setback of 0 feet and to have parking and drives within the front yard setback, a variance of 30 feet from the 30 feet required in Chapter 24; to have a rear yard setback of 0 feet, a variance of 40 feet from the 40 feet required in Chapter 24; and to have 3 stacking spaces for each of the three drive-up lanes, a variance of 1 stacking space for each drive-up lane from the 4 stacking spaces required in Sec. 26.8, in a (CS) Community Service Commercial district, on a parcel of land described as P.P. # 70-14-13-400-001, located at 195 Chicago Dr., Georgetown Township, Ottawa County, Michigan ([site plan](#)).

The zoning administrator presented a [staff report](#).

Sara Lepich, the Redman Company, represented the applicant and presented the request.

Joyce Weise said that MDOT will allow landscaping in the right-of-way on a case-by-case basis, depending on the road improvements. She said sometimes they want nothing in the right-of-way.

Michael Bosch said that he has spoken with people from MDOT and shrubs are ok, but if they have to get to the property and damage the landscaping, they don't replace it.

Joyce Weise said that there are three trees in the right-of-way already.

Michael Bosch said that if trees already exist, they can be counted toward the required number of trees.

Sara Lepich stated the following. They have been working on this site and it formerly was a financial facility. The circulation was confusing and it would be confusing for those using the drive-up. They fully intend to comply with the ordinance by providing the required trees and they will work with MDOT. They are already working with MDOT to change the curb cut and they are reviewing the landscaping.

Joyce Weise asked if it was necessary to have two-way traffic.

The applicant stated that it was necessary for the health, safety and welfare.

Tom Healy asked if traffic control devices would work if they said "do not enter."

The applicant said that it was a wide expanse and yes, they are effective.

Discussion took place of the site plan and traffic flow.

Tom Healy asked the Zoning Administrator to show on the screen the definitions in Sec. 2.13 and 2.18.

The Zoning Administrator presented the following two definitions.

Sec. 2.13 BUILDABLE AREA.

The buildable area of a lot is the space remaining after the minimum setback and open space requirements of this Ordinance have been complied with.

Sec. 2.18 BUILDING SETBACK LINES.

Lines marking the setback distance from the lot lines which establish the minimum permitted front, side, or rear yards.

Tom Healy stated that if the setbacks were zero everywhere and a zero setback was required from the property line everywhere, they could build right up to the property line.

The applicant explained that they only wanted the driveway and no building structures.

There was discussion about adding conditions of approval for parking and drives only to be allowed.

Tom Healy said that they should not grant a variance to have a zero setback.

Kendall Grable said that they building would not be touched.

The applicant stated that they would only update the canopy and façade, and there would be no change to the building footprint.

Tom Healy said that if they grant a variance to have a zero front yard setback, they couldn't limit what would go in there.

The Zoning Administrator stated that she had initially proposed a 10 foot setback.

A question was raised as to where snow would be stored with zero setbacks.

The applicant said that they had a paved area, and that the 10 foot setback would not work because they needed more space.

Tom Healy stated the following. There is an existing 5 foot rear yard setback and he suggested that the five feet be the absolute minimum. The ZBA cannot compel a contract between the applicant and the State of Michigan for the streetscape. If MDOT wants the trees gone, the trees will have to be taken out. The Township put some trees in the right-of-way already. This is the same concept as earlier. If they count the trees in the right-of-way, they would be there until the State takes them out. Then they would have to come back for another variance.

Michael Bosch said that the side yard setback in the Office Service Commercial District is zero.

Tom Healy said that it is the same for the Community Service Commercial district, with a 30 foot front yard setback and a 40 foot rear yard setback. He said that if the variance was granted to have a zero front and rear yard setback, the entire parcel could be a building.

Michael Bosch said that this is a unique parcel and it is not like Chicago Dr. is right on the property line.

Kendall Grable said that if the building goes to the property lines, they would not be able to satisfy the parking requirement.

Joyce Weise asked why they were increasing the number of parking spaces.

The applicant said that it would be for the six to eight employees.

The chairman opened the public hearing.

Eric Brubacker, 195 Chicago Dr., stated the following. They have looked at the site and it is challenging. What they proposed gives them the best chance of success. They were currently located at 7565 Cottonwood and are moving. They are hoping for success and they need to create a traffic pattern within the site for ease of flow and safety.

The chairman closed the public hearing.

Tom Healy said that with a 5 foot front yard setback, they might be losing some parking, but they could make it work.

Kendall Grable stated the following. It is in everyone's interest to make this work and they need to keep in mind that the variance runs with the land. The standards of the ordinance are satisfied and this lot is not a typical shape. The Township doesn't want an empty building with no use.

Joyce Weise said that the employees would have to walk across traffic to use the four parking spaces. She said that if they eliminate the spaces, they could add the 3rd space at the far west end, mostly likely to be used by employees.

The applicant said that for the 6 to 8 employees, they could add striping for a walkway.

Brock Nanninga said that customers have to go across the drive-in lane at McDonalds. He said that they could modify the drive-in lane.

Joyce Weise said that a car could use the 9 foot area as a bail-out lane.

Discussion took place on possibilities.

Joyce Weise asked about fighting a fire if needed from the front of the building.

The applicant stated that they are not planning on doing work to the back of the building.

Tom Healy said that in 1996 a variance was granted to allow a 5 foot rear yard setback and the building was changed with the addition of a covered canopy.

The applicant stated that she didn't believe that the rear yard setback for the building was 5 feet.

A survey was submitted showing less than 5 feet.

Brock Nanninga stated that he appreciates them working with a unique lot.

The Zoning Administrator explained that if something exists and is nonconforming, it does not have to be removed unless changes are made to it.

Moved by Tom Healy, seconded by Joyce Weise, to adopt the staff report as finding of fact and to approve variance (VAR1906) The Redmond Company, for Members First Credit Union, to have the following:

- 1. A four foot rear yard setback to correct the variance to reflect what currently exists, a variance of 36 feet from the 40 feet required in Chapter 24;**

- 2. A front yard setback of 5 feet and to have parking and drives within the required front yard setback (not within the 5 feet setback), a variance of 25 feet from the 30 feet required in Chapter 24,**
- 3. To have 3 stacking spaces for each of the three drive-up lanes, a variance of 1 stacking space for each drive-up lane from the 4 stacking spaces required in Sec. 26.8;**
- 4. To approve allowing the existing trees in the right-of-way to count toward the total landscaping requirement with the condition that the applicant either replaces those trees or comes in for another variance if those trees are ever removed;**
- 5. Failure to comply with the variance as granted results in a violation of the Zoning Ordinance section that is the subject of the request.**

in a (CS) Community Service Commercial district, on a parcel of land described as P.P. # 70-14-13-400-001, located at 195 Chicago Dr., Georgetown Township, Ottawa County, Michigan; based on the finding that the request meets the seven standards of the ordinance.

Tom Healy stated that the request meets standards 6 and 7 because the lot is unique and the request is not the result of act or inaction of the applicant because the lot has had the same setup for many years.

MOTION CARRIED UNANIMOUSLY.

#190522-06 – Public Comments

There were no public comments.

#190522-07 – Other Business

#190522-08 - Adjournment

The meeting was adjourned at 9:40 p.m.