

DRAFT
MINUTES OF THE
ZONING BOARD OF APPEALS

A regular meeting of the Plainfield Charter Township Zoning Board of Appeals was held at Township Hall on February 20, 2007.

Members present were Dave Ridout Chair; Dan Wynalda, Vice Chair; Vic Matthews, Secretary; Bret Emerson and Bill Parris. Also present were Peter Elam, Staff Planner and Eric Brandt, Township Attorney.

Chair Ridout called the meeting to order at 7:00 p.m. announced the agenda and found representatives from applicants Brian Poeder and Gezon Motors in the audience. Mr. Alan Vandermeer was unable to attend the meeting.

For the audience's convenience, the Practical Difficulty, Four Point Test was placed on the back of the agenda. Therefore, the reading of it was not necessary.

1. **Approve Minutes of June 20, 2006**
Approve Minutes of January 16, 2007

Mr. Parris, supported by Mr. Wynalda, moved to approve the minutes of the Zoning Board of Appeals meeting of June 20, 2006 and January 16, 2007 subject to minor corrections in spelling and grammar.

Motion carried unanimously.

2. **Brian Poeder, Jack L. Poeder, 7436 North Division Ave N.E.**
Section 8.05 (A) - R-1 Residential, Minimum Square Footage of Home

Chair Ridout announced the Brian Poeder application and accepted a motion to remove it from the table of January 16, 2007.

Mr. Parris, supported by Mr. Wynalda, moved to removed the Brian Poeder application from the table of January 16, 2007

Motion carried unanimously.

Chair Ridout requested that Secretary Matthews read the application submitted by Brian Poeder on behalf of Phyllis Poeder (Jack L. Poeder Trust), 7346 North Division Avenue NE (Ducoma Private). The applicant has submitted an application requesting a variance to construct a 24' by 24' (576 square foot) seasonal home (cabin) where a minimum of 1,040 square feet is required per ordinance. The applicant listed practical difficulties consisting of size of the lot, the lack of suitable septic facilities and an unsuitable, nonconforming, and existing structure.

Chair Ridout recognized Mr. Poeder who explained that he wanted to build a 24 by 24 foot (576 square foot) seasonal cabin. The existing structure is a 224 square feet cabin what was built in 1950 and is served by an outhouse and a shallow well. Mr. Poeder would like to tear down the existing nonconforming cabin and construct a new larger cabin in a conforming location. The 576 square foot cabin is the maximum size permitted by the Kent County Health Department with a pump and haul septic system.

Although the public hearing for Mr. Poeder's application was held at the January 16, 2007 meeting, Chair Ridout reopened the public hearing and found no residents who wished to speak on the issue. Chair Ridout closed the public hearing and returned discussion to Staff and the Board.

Chair Ridout recognized Mr. Elam who explained he had been in contact with Mr. Paul D. Burch from the Kent County Health Department. The County is in the process of issuing a pump and haul system permit with the condition that a deed restriction is recorded limiting the use of the structure to a seasonal use. The proper paper work is being finalized and the Township will be given a copy once it is completed. The proposed cabin location meets all setback requirements and does not require any additional variances. The cabin is for seasonal use only. The alternative for the applicant is to keep and repair the existing cabin in its present nonconforming location. Mr. Elam suggested adding the following conditions of approval to the proposed variance if it is approved:

1. The variance approval is subject to the site plan and floor plan submitted by the applicant.
2. A deed restriction shall be recorded subject to approval by the Community Development Department and the Kent County Health Department restricting the structure for seasonal use only (no permanent residence).
3. The applicant shall enter into the pump and haul agreement to the approval of the Kent County Health Department.

Mr. Elam stated that the conditions were necessary because they would serve as notice to any person who purchased the property that the cabin could not be expanded and if it were at a later date, there would be language recorded attesting to the cabin's limitations.

Mr. Elam continued, staff has reviewed the application and recommends approval. Staff finds that the applicant is limited by the substandard size of the lot, has an existing nonconforming structure that deviates more significantly from the ordinance than the proposed structure and the sanitary improvements would be an upgrade over the current facilities with a positive impact on the surrounding area. The proposed structure is the maximum allowed under the permissible septic facilities and would not be detrimental to the surrounding area. Furthermore, there are three homes on Ducoma Private that are unique to that side of Little Pine Island Lake. Further, a survey has been provided illustrating the exact location of the private road easement of Ducoma Private.

Chair Ridout apologized for not entering into the public hearing the letter received from Jim and Cathy Fleming, 5806 Marble Drive, Troy, Michigan 48085 who own property immediately adjacent to the Poeder property on Ducoma Private. Chair Ridout requested that Secretary Matthews read the letter to the Board that Secretary Matthews marked as Exhibit A.

Mr. Emerson had no questions.

Mr. Wynalda led discussion in regards to the legal location of the new cabin, the placement of the septic system and the well. Additionally, the process the Kent County Health Department uses to evaluate the locations of the various utilities and facilities were also discussed along with the County's responsibility to evaluation adjoining neighbors utility locations. Discussion pursued as to the soil limitations when the lots were created. Some of the lots, in the immediate area, were created by filling on old peat bogs. The creek and the roadbed of Ducoma Private were also discussed, along with the ability of pump and haul trucks, fire and emergency vehicles being able to cross the creek without getting stuck. If the variance is approved and the applicant applies for a building permit, the Fire Department will be instructed to once again inspect Ducoma Private making sure vehicles can travel the private road satisfactorily.

Mr. Parris had questions as to how the pump and haul system worked and the size of the containers being used to retain the gray water. He liked the idea of doing away with the outhouse. Rainwater and runoff were also discussed briefly.

Mr. Matthews confirmed that the placement of the new cabin was being approved by the Kent County Health Department and that the Fleming's property had been looked at during the Health Departments permit process. He liked the idea of tearing down the old shack as the new cabin should be a definite improvement and getting rid of the outhouse would help keep the water in Little Pine Island Lake cleaner.

Mr. Wynalda, supported by Mr. Parris, moved to grant the variance as requested subject to the following restrictions and conditions of approval:

1. The main floor would be constructed per the site and floor plan presented by the applicant consisting of no more than 576 square feet on the main floor.
2. A deed restriction shall be recorded subject to approval by the Community Development Department and the Kent County Health Department restricting the structure for seasonal use only (no permanent residence).
3. The applicant shall enter into the pump and haul agreement to the approval of the Kent County Health Department.

Mr. Wynalda continued, the reasons for granting the variance are as follows:

- A. There are exceptional and or extraordinary circumstances applying to this property that do not apply generally to other properties in the same zoning district. There is one other property where this similar situation occurred, and the Board approved the variance.
- B. The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. Others enjoy having proper toilets, and we are reducing at the same time the difficulties and nonconformities that are currently existing.
- C. The variance will not be detrimental to adjacent property and the surrounding neighborhood, and in fact it will probably improve the water quality.
- D. The variance will not materially impair the intent and purpose of the ordinance. The intent is to provide stable property values for other members of the township.
- E. The immediate practical difficulty causing the need for the variance request was not created by the applicant. The property has been in its present condition for a very long time and the applicant is trying to update the property.

Motion carried unanimously.

3. **Alan Vandermeer, 3935 Four Mile Road, Section 3.01 (C),(a) (b) and Section 3.01 (E) (Nonconforming Garage) (Zoning Code prior to December 18, 2006), Tabled on January 16, 2007**

Chair Ridout announced the Alan Vandermeer variance request and accepted a motion to remove it from the table of January 16, 2007.

Mr. Parris supported by Mr. Wynalda, moved to remove the variance request from Mr. Vandermeer from the table of January 16, 2007.

Motion carried unanimously.

Chair Ridout stated that the Vandermeer variance application was head at the January 16, 2007 meeting where the public hearing was held and closed. Mr. Vandermeer was given the option of a vote that evening or tabling the decision until the meeting of February 20, 2007. However, he is unable to appear this evening, and it is the Chair's decision to proceed with the variance request. No new information has been presented from the applicant.

Mr. Emerson reminded the Board that when the application was tabled, Mr. Vandermeer was instructed to work with staff and to make a decision on how to proceed. The minutes of January 16, 2007 clearly illustrate the Board wanted to see some progress between the January 16, 2007 meeting and the meeting this evening. Further, Mr. Vandermeer was to have conversation with the Building Department and see if a remedy could be found to move the structure to a conforming location and whether or not he would do that.

Mr. Elam explained that Mr. Vandermeer had been into the office since the January 16, 2007 meeting and had met with the Building Department and himself at length about his plans for the structure. Mr. Vandermeer's wife would not allow him to cut down some of the trees adjacent to the home and therefore he is unable to move the structure. But, he is in the process of making arrangements with Belmont Baptist Church to relocate the garage to their property. He indicated that if he were not granted a variance, he would take the garage apart within 30 days and would like another 30 days to move the material. Mr. Elam wanted the project cleanup prior to late May or early June. Mr. Elam agreed that churches tend to move slowly when making decisions and if the church were to rebuild the structure, they would have to go through the Administrative Site Plan approval process adding perhaps three to four weeks to the process.

Mr. Matthews, supported by Mr. Wynalda, move that the request before the Board tonight was a request for a variance from Section 3.01 C (a) which states that an accessory building may be in the front yard if it is setback at least 80 feet from the front lot line, and Section 3.01 C (b) which states that an accessory building may be in the front yard if it is setback at least 50 feet from the side lot line. (Since the structure was built prior to the Zoning Ordinance Changes that took place on December 18, 2006, the old Zoning Ordinance rules stated above were used for requirements. Section 3.01 (E) Nonconforming Garage size had been adjusted by the new ordinance therefore the request for the variance for that section of the ordinance was not necessary.)

Mr. Matthews continued, the property has a 40 foot easement on the west side for ingress and egress for the use of the applicant and adjacent properties. The front lot line is defined as the line that separates the lot from the street right-of-way so for this application the front line would be 33 feet from the center of the easement. The required setback for the front yard accessory building will be at least 80 feet from that point or in other words 113 feet from the center of the easement. The applicant is requesting a 93 foot variance from the 113 feet required front line to retain an existing accessory building which is on the edge of the 40 foot easement.

Additionally, a 42 foot variance from the 50 foot requirement for the side yard to retain an existing accessory building which is currently 8 feet from the side lot line.

Mr. Matthews continued, he had read the application carefully and reviewed the pertinent sections of the Zoning Ordinance (new and old) and personally visited the property. He stated that he had also observed the other residences in the neighborhood. Based upon those observations and the information provided by the applicant he move that the request for the front yard and side yard setback variances be denied for the following reasons:

1. Although the site has challenges with respect to both terrain and shape, there are other properties both in the neighborhood as well as in the Rural Estate zoning district that have similar challenges. He could not find an extraordinary circumstance pertaining to this property that were not common to other properties in the neighborhood as well as other properties in the residential zoning district.
2. The applicant has been living on this property for well over a decade without a large accessory building. This clearly demonstrates that a variance is not necessary to allow this property to enjoy the same rights as other properties in the neighborhood.

3. If this variance were granted, he stated that he believed it would be detrimental to adjacent properties. Also, the variance would be inconsistent with the intent and purpose of the Plainfield Charter Township Zoning Ordinance and detrimental to the public interest. Moreover, granting a variance after the structure is already built sends an entirely incorrect message to the community as a whole.

4. Finally, the practical difficulty in this case has been created by the applicant.

Motion by Mr. Matthews, and supported by Mr. Wynalda, to deny the variance was carried unanimously.

4. **Gezon Motors, 3985 Plainfield Avenue, Mary Gezon Huizenga, Sign Ordinance, Section 28.08(B) 1 (c), Sign Height in C-3 District**

Chair Ridout requested that Secretary Matthews read the application submitted by the applicant Mary Gezon Huizenga on behalf of Gezon Motors of 3895 Plainfield Avenue, Grand Rapids, Michigan 49525. Gezon is requesting a variance to replace an existing nonconforming 35 foot tall, 150 square foot sign with a 35 foot tall, 100 square foot pylon sign in a new location. The change of sign is required by Nissan to comply with their current signage and image program. The petition stated that other signs along Plainfield Avenue for automobile dealers typically exceed 35 feet in height as well as 100 square feet in size. The replacement of the sign at the 35 foot height will help with visibility and provides Gezon Motors with signage typically enjoyed by others on Plainfield Avenue. Granting the variance is generally consistent with the spirit and intent of the ordinance and will not have a detrimental impact upon the surrounding properties.

Chair Ridout recognized Mrs. Huizenga for further comments. She shared that they had been at their present location since 1962 and had seen several changes along the way. She thanked staff for being helpful in guiding them through the process on several occasions. As the application stated, the current sign does not comply with Nissan's current signage and image program. She had provided several pictures of existing signage along Plainfield Avenue and elsewhere illustrating signage over 25 feet tall. Visibility and exposure is very important!

Chair Ridout reminded Mrs. Huizenga that several national/international corporations were attempting to dictate signage for local governments and they had a similar request from the Chrysler Dealership, Van Andel & Flikkema, when they became a 5 Star Dealership. Often, the national/international corporations will settle for a different sign package. But their insistence does put the dealerships in an uncomfortable position.

Chair Ridout opened the public hearing and Mr. Wynalda read the letter of support from Mr. Cal Verduin, who owns property located at 4021 Plainfield Avenue. Finding no others who wished to speak on the issue, Chair Ridout closed the public hearing and returned discussion to the Board and staff.

Chair Ridout recognized Mr. Elam who stated that Gezon had recently divided the property into two parcels to legally allow the applicant to have four pole signs. Further, with the help of Mr. Kovalak, from City Sign Erectors, Gezon was able to share several illustrations of existing signs that are typically at or exceed 35 feet in height. Most if not all of these signs were constructed prior to the amendments to the Sign Ordinance in 2002, which reduced the sign height to 25 feet. Most of the existing signs were approved via variances or were part of a Planned Unit Development (P.U.D.) project. So perhaps as an issue of equity, a 25 foot sign would be appropriate. However, car dealerships are somewhat unique and most of the existing pole signs that the car dealerships enjoy are already established as legal uses by variance or nonconformity rules. Staff would have preferred that the existing pole sign were refaced, however because of the redevelopment of the site and the condition of the sign required that it be removed. The proposed new sign of 100 square feet in size is reducing the nonconformity.

Mr. Parris thank Mrs. Huizenga and Gezon Motors for continuing to do business in Plainfield Township through these difficult years, and he was very much in favor of granting the 35 foot height for the new pole sign.

Mr. Matthews explained that Gezon already had a legally nonconforming 35 foot tall sign, and if the Board turned the variance down, the sign could be reworked and still stay at the 35 foot height. Gezon is asking to reduce the signage by one third, bringing it more into conformity with the current sign ordinance and asking to remain at the 35 foot height which they presently enjoy. Gezon is moving more towards conformity with the existing Sign Ordinance.

