

Charter Township of Garfield
Zoning Board of Appeals Meeting

Wednesday, October 17, 2018 @ 6:00pm
Garfield Township Hall
3848 Veterans Drive
Traverse City, MI 49684

Chair Rick Smith called the meeting to order at 6:00pm.

Board Members Present: Steve Duell, Lynne Fricke, Kent Rozycki, Scott Swan, Rick Smith

Staff Present: Michael Green

1. **Review and approval of the agenda and declaration of a Conflict of Interest**
Rozycki moved and Duell seconded to approve the agenda as presented.

Yeas: Rozicki, Duell, Fricke, Swan, Smith

Nays: None

2. **Minutes –May 16, 2017**
Duell moved and Rozycki seconded to approve the minutes of May 16, 2018 as presented.

Yeas: Duell, Rozycki, Fricke, Swan, Smith

Nays: None

3. **Public Hearings**

- a. **Reynolds-Jonkoff**

A request has been made by Dan Jonkoff of Reynolds-Jonkoff for a variance from the wetland buffer requirement in Section 534.B of the Garfield Township Zoning Ordinance. The applicant is requesting relief from the wetland buffer requirements through a variance. The property is zoned I-L Limited Industrial and is located on the north side of Miller Creek Drive with a property number of 05-022-012-50. Jeff Cockfield with GT Engineering representing Reynolds-Jonkoff said that the request was tabled back in May and the DEQ had to become involved. There is a letter in packets stating that the DEQ has confirmed the wetland delineation. Cockfield showed board members a map of the proposed area and said that the small entrance way makes it

impossible to meet the 25' wetland buffer. The area where the proposed variance is located has an existing driveway with a culvert. The applicant would not make the culvert any larger and the DEQ is agreeable to the culvert that is already on site. Cockfield said that the applicant is simply looking to do as little paving as possible and curbing the area so that the wetlands are not impacted. Board members discussed whether the area had been filled in the past. Steve Largent, Grand Traverse County Drain Commissioner said that he went to the Wetland Mitigation Bank and there was no evidence that the property had been filled. Board members discussed the fill issue and Steve Largent talked about the property as it relates to the Cass Road drainage district and was of the opinion that the proposed variance would have a minimal effect on the wetlands. Chairman Smith opened the Public Hearing at 6:56pm.

Jeff Jocks of Sondee, Racine & Doren is representing the property owner to the west and shared concerns with water leaching onto his client's property.

Phil Putman owns the property just to the south and is very comfortable with the proposed driveway.

Smith closed the Public Hearing at 6:58pm.

Board members reviewed the Practical Difficulty standards:

- (a) Special conditions or circumstances exist that are peculiar to the land, buildings, or other structures for which the variance is sought, do not apply generally to lands, buildings or other structures in the same district, and could reasonably be addressed through the formation of general regulation of such conditions. Special circumstances or conditions to be considered for variances shall include, but not be limited to, the circumstances as described in Section 454.E.(3). Board members voted 4-1 in favor of the proposal because the existence of wetlands that wrap around the property and choke off access could be considered a "special condition or circumstance" and would not establish precedence for similar variance requests.
- (b) The special conditions and circumstances peculiar to the land, buildings or other structures did not result from a self-created condition or action taken by the applicant or an owner of the lands. Board members voted 5-0 in favor of this finding because the request for a variance is a result of natural features that appear to have existed prior to the request.
- (c) The special conditions and circumstances are such that strict application of the provisions of this ordinance would deprive the applicant of any reasonable use of the land, building, or

structure authorized by this zoning ordinance. Board members found in favor 5-0 of this finding of fact because the property could not be developed as proposed without the variance, due to the fact that the required access road could not be built at least 25 feet from a wetland unless the applicant was able to obtain permits to fill in part of the wetland.

- (d) Literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this ordinance. Board members voted in favor of this finding 5-0 because the applicant has demonstrated that the property could not be developed as proposed without the variance, due to the fact that the required access road providing sole access to the site could not be built at least 25 feet from a wetland.
- (e) A practical difficulty shall not exist because an applicant would incur additional costs to achieve full compliance or could receive additional income with less than full compliance with the ordinance. Board members voted in favor of this finding 5-0.

Board members then reviewed the General Criteria for the proposed variance.

- (a) The requested variance shall relate only to property that is under the control of the applicant. Board members voted 5-0 that the standard has been met because the applicant owns the property.
- (b) No non-conforming neighboring lands, buildings, or other structures, legal or illegal, in the same district, and no permitted buildings, or other structures in adjacent districts, shall be considered as grounds for the issuance of a variance. Board members voted 5-0 in favor of this finding.
- (c) The requested variance shall be in harmony with the general purpose and intent of this ordinance and shall not be detrimental to the public health, safety and welfare. Board members voted 5-0 in favor of this finding because a wetland setback variance for an access drive would not be detrimental to the public health safety and welfare provided that measures are put into place that would prevent direct runoff of storm water into the wetlands.
- (d) The requested variance shall not alter the essential character of the area or cause a substantial adverse effect upon properties in the immediate vicinity or in the district in which the property of the applicant is located. Board members voted in favor of this finding 5-0 because the proposed location of an industrial building would be of similar character with the two other businesses located at the end of Miller Creek Drive.
- (e) The requested variance is a minimum variance that will make possible the reasonable use of the land, building, structure, and

there is no reasonable alternative location on the parcel for the proposed improvements for which a variance is sought where such alternative location would eliminate the need for the requested variance or reduce the extent of the condition(s) necessitating the variance. Board members found this finding in favor of the variance request on a 5-0 vote because there does not appear to be an alternative location for an access drive that would eliminate the need for the requested variance. The MDEQ recommends against filling wetlands as a means to meet the 25 foot wetland setback.

Swan moved and Fricke seconded to grant the request for a variance from Section 534B of the Garfield Township Zoning Ordinance to allow a required access drive to be constructed within the twenty-five (25) feet wetland setback area based on the Practical Difficulty standards and General Criteria for granting such request being met with the condition of confirmation from the DEQ that the current culvert and access is suitable; and that the driveway be curbed to keep stormwater on the property until it is out of the stormwater setbacks as determined by Township Engineer Jennifer Hodges.

Yeas: Swan, Fricke, Duell, Rozycki, Smith

Nays: None

7. Other Business

None

8. Items for next agenda

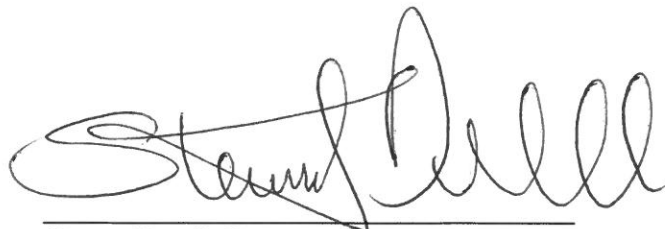
Nothing at this point

9. Public Comment

None

10. Adjournment

Rozycki moved and Swan seconded to adjourn the meeting at 7:25pm.

A handwritten signature in black ink, appearing to read "Steve Duell", written over a horizontal line.

Steve Duell, Secretary