

**CHARTER TOWNSHIP OF GARFIELD
ZONING BOARD OF APPEALS MEETING**

Wednesday, January 15, 2020 @ 6:00 p.m.
Garfield Township Hall
3848 Veterans Drive
Traverse City, MI 49684

A G E N D A

Call meeting to order
Roll call of Board Members

1. Review and approval of the Agenda and declaration of a Conflict of Interest
2. Election of Officers
3. Minutes – October 16, 2019
4. Public Hearings [*none scheduled*]
5. Other Business
 - a. Review Draft of Bylaws
6. Items for next agenda
7. Public Comment
8. Adjournment

The Garfield Township Board will provide necessary reasonable auxiliary aids and services, such as signers for hearing impaired and audio tapes of printed materials being considered at the meeting to individuals with disabilities upon the provision of reasonable advance notice to the Garfield Township Board. Individuals with Disabilities requiring auxiliary aids or services should contact the Garfield Township Board by writing or calling Lanie McManus, Clerk, Ph: (231) 941-1620, or TDD #922-4412.

Charter Township of Garfield
Zoning Board of Appeals Meeting

Wednesday, October 16, 2019 @ 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: Lynn Fricke, Kent Rozycki, Scott Swan, and Rick Smith

Excused: Steve Duell

Staff Present: Zoning Administrator Michael Green

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

Yeas: Fricke, Swan, Rozycki, Smith
Nays: None

2. **Minutes – August 21, 2019**
Swan moved and Fricke seconded to approve the minutes of August 21, 2019 as presented.

Yeas: Swan, Fricke, Rozycki, Smith
Nays: None

3. **Public Hearings**

- a. **A request was made by Karen and Steven Duell for a variance from the setback requirements in Section 325.D of the Garfield Township Zoning Ordinance. The applicant is requesting two variances from the 20 foot side setback requirement to allow the division of property between existing dwellings located at 922 and 978 N. East Silver Lake Road. The request, if granted, would reduce the side setback from 20 feet to 19 feet for the dwelling located at 922 N. East Silver Lake Road and would reduce the side setback from 20 feet to 10 feet for the dwelling located at 978 N. East Silver Lake Road. The property is zoned A- Agricultural and is located at 922 N. East Silver Lake Road with a property number of 05-032-003-00.**

Steve Duell spoke as a representative of the Trust. The house dates back to 1993 and the current ordinance uses the term

“dwelling” in the singular instead of “dwellings” in the plural which is why there may be more than one residences on the land. The land is in a trust and in order to settle the trust, a split needs to be made which would place each home on its own non-conforming lot. The subject parcel is currently used for agricultural and residential purposes. Smith opened the public hearing at 6:21pm and seeing no one wishing to speak, closed the public hearing. Zoning Administrator Michael Green said that the Practical Difficulty standards under Section 454.E.1 and the General Criteria under Section 454.E.2 must be met. Board members reviewed the findings of fact as written in Staff Report 2019-04.

Based on the unanimous vote for each of the standards in Section 454.E.1 and Section 454.E.2, Rozycki moved and Swan seconded to approve case number 2019-04 Section 325 Agricultural District Side Setback Requests on property number 05-032-003-00.

*Yeas: Rozycki, Swan, Fricke, Smith
Nays: None*

- b. A request made by Pro Builders on behalf of Regan Development LLC for a variance from the setback requirements in Section 319.D of the Garfield Township Zoning Ordinance. The applicant is requesting a variance from the 20 foot side setback requirement to allow an addition to an existing office building located at 1745 Barlow Street. The request, if granted, would reduce the side setback from 20 feet to 10 feet for the proposed addition. The property is zoned C-O Office Commercial and is located at 1745 Barlow Street with a property number of 05-014-054-00.**

Shaun O'Connor from Regan developments would like to add a 40x50 addition to an existing building. Other similar buildings in the mixed-use area have been built pursuant to a similar sideyard setback variance.

Smith opened the public hearing at 6:38pm and seeing no one wishing to speak, closed the public hearing. ZBA members discussed the findings of fact under Section 454.E.1 and 454.E.2.

After determining unanimously that all standards have been met under Sections 454.E.1 and Section 454.E.2 Fricke moved and Rozycki seconded to approve ZBA case number 2019-05 a side yard variance request for a building addition for parcel number 05-014-054-00.

Yeas: Fricke, Rozycki, Swan, Smith
Nays: None

4. Other Business

None

5. Items for next agenda

None

6. Public Comment

None

7. Adjournment

Swan moved and Fricke seconded to adjourn the meeting at 6:43.

Steve Duell, Secretary

Charter Township of Garfield

Grand Traverse County

Bylaws of the Zoning Board of Appeals

The following rules of procedure are hereby adopted by the Garfield Charter Township Zoning Board of Appeals to facilitate the performance of its duties as outlined in the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended and Article 4 of the Garfield Charter Township Zoning Ordinance.

SECTION 1: OFFICERS

- A. **Selection and Tenure** - At the first meeting in each fiscal year, the Zoning Board of Appeals shall select from its membership a chairperson, vice chairperson, and secretary. All officers shall serve a term of one year, or until their successors are selected and assume office. All officers shall be eligible for re-election for consecutive terms for the same office.
- B. **Chairperson** - The chairperson shall preside at all meetings, appoint committees, and perform such other duties as ordered by the Zoning Board of Appeals or Township Board. An alternate member shall not serve as chairperson.
- C. **Vice Chairperson** - The vice chairperson shall act in the capacity of the chairperson in his/her absence. In the event the office of chairperson becomes vacant, the vice chairperson shall succeed to this office for the unexpired term and the Zoning Board of Appeals shall select a successor to the office of vice chairperson for the unexpired term.
- D. **Secretary** - The secretary shall execute documents in the name of the Zoning Board of Appeals and shall perform such other duties as the Zoning Board of Appeals may determine.
 - 1. **Minutes** - The secretary shall be responsible for a permanent record of the minutes of each meeting and shall have them recorded in suitable permanent records retained by the Township Clerk. The minutes shall contain a brief synopsis of the meeting, including a complete restatement of all motions and record of votes, conditions, or recommendations made on any action and record of attendance.
 - 2. **Correspondence** - The secretary shall be responsible for issuing formal written correspondence with other groups or persons, as directed by the Zoning Board of Appeals. All communications, petitions, reports, or other written materials received by the secretary shall be brought to the attention of the Zoning Board of Appeals.
 - 3. **Attendance** - The secretary shall be responsible for maintaining an attendance record for each Zoning Board of Appeals member and report those records annually to the Zoning Board of Appeals.
 - 4. **Notices** - The secretary shall assist Township staff in the issuance such notices as may be required by the Zoning Board of Appeals.

SECTION 2: MEETINGS

The business the Zoning Board of Appeals may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act. The Zoning Board of Appeals may establish reasonable rules and regulations in order to minimize the possibility of disrupting the meeting.

- A. Regular Meetings** - The Zoning Board of Appeals may schedule regular meetings each year and by resolution shall determine the time and place of such meetings. Other meetings may be held as necessary. When a regular meeting falls on a legal holiday or upon a day resulting in a conflict, the Zoning Board of Appeals shall, if possible, select a suitable alternate meeting date in the same month as the originally scheduled meeting.

Notice of regular Zoning Board of Appeals meetings shall be posted at the Township office within 10 days after the Zoning Board of Appeals' first meeting in each fiscal year in accordance with the Open Meetings Act.

- B. Special Meetings** - Special meetings may be called by the Chairperson, the Township Supervisor or upon written request to the secretary by the least two other members of the Zoning Board of Appeals.

Notice of special meetings shall be given to the members of the Zoning Board of Appeals at least 48 hours prior to the meeting. Such notice shall state the purpose, time, and location of the special meeting and shall be posted in accordance with the Open Meetings Act.

- C. Notice** - Notice required for specific requests or actions will be given in accordance with the Michigan Zoning Enabling Act or other applicable statute.

- D. Public Hearings** - All public hearings held by the Zoning Board of Appeals must be held as part of a regular or special meeting of the Zoning Board of Appeals.

- E. Agenda** - The chairperson shall be responsible for preparing an agenda for Zoning Board of Appeals meetings. The agenda may be modified by action of the Zoning Board of Appeals.

- F. Quorum** - A majority of the members of the Zoning Board of Appeals shall constitute a quorum for transacting business and taking official action for all matters. The Zoning Board of Appeals shall not conduct business unless a majority of the members is present.

- G. Voting** - The following procedures shall be followed when taking action on any request

1. Before taking action, the voting members of the Zoning Board of Appeals shall discuss each decision standard set forth in Article 4 of the Zoning Ordinance and any relevant past precedent. Each of the standards governing variance decisions presented in Article 4 of the Zoning Ordinance shall be considered independently and a consensus reached among the voting members as to how the case meets or fails to meet each standards. Such discussion shall be fully and accurately represented within the minutes.
2. A motion to approve or deny shall be based on detailed findings of facts and shall be made by one, and seconded by another voting member.
3. To approve or deny any dimensional variance, appeal or to rule on any other matter provided by the Zoning Ordinance, an affirmative vote of at least a majority of the total membership of the Zoning Board of Appeals is required. Voting shall be by voice vote; a

roll call vote shall be required if requested by any voting member of the Zoning Board of Appeals or directed by the chairperson.

4. All Zoning Board of Appeals members shall vote on all matters, except members with a conflict of interest.
5. If a decision on a particular matter is postponed until a later meeting, only members present to hear the discussion on said matter at previous meetings shall be permitted to vote on said request.
6. In the event fewer than five members of the Board are in attendance at any meeting, the Chairperson shall advise all appellants that a majority of the total membership is required for the Board to act and, at the appellant's discretion, consideration of a matter may be postponed until the full Board is in attendance. If the applicant requests such postponement, any matter shall be tabled until the next meeting without consideration.

H. Public Records - All meetings, minutes, records, documents, correspondence and other materials of the Zoning Board of Appeals shall be open to public inspection in accordance with the Freedom of Information Act, except as may otherwise be provided by law.

SECTION 3: DUTIES OF THE ZONING BOARD OF APPEALS

The Zoning Board of Appeals shall perform the following duties:

- A. Act on applications for dimensional variances, appeals, interpretations, or other matters as authorized or required by Article 4 of the Garfield Township Charter Zoning Ordinance and the Michigan Zoning Enabling Act.
- B. Conduct site visits as deemed necessary to evaluate an application and supporting material.

SECTION 4: ABSENCES, REMOVALS, RESIGNATIONS, VACANCIES, AND ALTERNATES

- A. To be excused, Zoning Board of Appeals members shall notify the Township Supervisor, Zoning Board of Appeals Chairperson, Township Clerk, or Zoning Administrator when they intend to be absent from a meeting. Failure to make this notification prior to a meeting shall result in an unexcused absence. In the event a member has three consecutive unexcused absences in a calendar year, that member shall be subject to removal from the commission by the Supervisor or Township Board.
- B. Members of the Zoning Board of Appeals may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.
- C. A member may resign from the Zoning Board of Appeals by sending a letter of resignation to the Township Board.
- D. A successor shall be appointed as soon as practical after the term of the preceding member has expired. Successors shall serve out the unexpired term of the member being replaced, with the exception of the Planning Commission representative, whose term shall run consecutively with the term as Planning Commissioner.

SECTION 5: CONFLICT OF INTEREST

- A.** Before casting a vote on a matter on which a Zoning Board of Appeals member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Zoning Board of Appeals. Failure of a member to disqualify him or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.
- B.** Conflict of interest is defined as, and a Zoning Board of Appeals member shall declare a conflict of interest and abstain from participating in Zoning Board of Appeals deliberations and voting on a request, when:
 - 1. An immediate family member is involved in any request for which the Zoning Board of Appeals is asked to make a decision. "Immediate family member" is defined as a spouse, mother, father, sister, brother, son, or daughter, including an adopted child, or other individual residing within the same dwelling a single housekeeping unit.
 - 2. The member has a business or direct financial interest in the property involved in the request or has a business or direct financial interest in the applicant's company, agency, or association.
 - 3. The member owns or has a direct financial interest in neighboring property.
 - 4. There is a reasonable appearance of a conflict of interest, as determined by the Zoning Board of Appeals member declaring such conflict.
 - 5. In case of appeals of decisions of the Planning Commission, the member that is also a member of the Planning Commission and voted on the matter under appeal as a member of the Planning Commission. However, such member may consider and vote on other unrelated matters involving the same property.
- C.** The Zoning Board of Appeals member declaring a conflict of interest should state the nature of the actual or potential conflict and whether he or she believes he or she could impartially consider the request before the Zoning Board of Appeals. Such member or the Chairperson shall determine if the member shall abstain from any discussion or votes relative to the matter that is the subject of the conflict. The member with the conflict shall leave the Board table and refrain from all participation in the consideration of the matter before the Board. Such member should not make any presentations to the Zoning Board of Appeals with regard to the matter before the Board.

SECTION 7: AMENDMENTS

These bylaws may be amended at any meeting by a vote of a majority of the membership of the Zoning Board of Appeals.

ADOPTED by the Garfield Township Zoning Board of Appeals at a regularly scheduled meeting held on January _____, 2020.

AYES:

NAYS: