

MINUTES OF THE REGULAR MEETING OF THE GEORGETOWN CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS HELD MAY 26, 2010

The meeting was called to order at 7:30 p.m. by Chairperson Joyce Weise.

Members Present: Joyce Weise, Carl DeVree, D. Dale Mohr, John Fanthorpe, Jeannine Bolhouse  
(alternate)  
Members Absent: Greg Honderd  
Others Present: Mannette Minier, Secretary and Zoning Administrator; and the applicants

**#100526-01 - Approval of the minutes**

The minutes of the regular meeting held on April 28, 2010 were presented.

**Moved by D. Dale Mohr, seconded by John Fanthorpe, to approve the minutes as presented.**

**MOTION CARRIED UNANIMOUSLY.**

**#100526-02 – (VAR1003)** Leonard Zweedyk, 4873 4<sup>th</sup> Ave., is requesting to have an accessory building 17 feet in height, a variance of 3 feet from the maximum of 14 feet in height permitted in Sec. 3.4(G), and to have an accessory building with a door opening 14 feet in height, a variance of 2 feet from the maximum of 12 feet in height permitted in Sec. 3.4(G), in a (RR) Rural Residential district, on a parcel of land described as P.P. # 70-14-36-390-004, located at 4873 4<sup>th</sup> Ave., Georgetown Township, Ottawa County, Michigan. ([application](#), [site plan](#), [map](#) showing rural area, [aerial map](#), [map](#) looking to the north, [map](#) looking to the south, [map](#) looking to the east, [map](#) looking to the west, [past minutes](#) of ZBA meetings with similar requests)

The Zoning Administrator presented a review as follows.

**REQUEST**

**(VAR1003)** Leonard Zweedyk, 4873 4<sup>th</sup> Ave., is requesting to have an accessory building 17 feet in height, a variance of 3 feet from the maximum of 14 feet in height permitted in Sec. 3.4(G), and to have an accessory building with a door opening 14 feet in height, a variance of 2 feet from the maximum of 12 feet in height permitted in Sec. 3.4(G), in a (RR) Rural Residential district, on a parcel of land described as P.P. # 70-14-36-390-004, located at 4873 4<sup>th</sup> Ave., Georgetown Township, Ottawa County, Michigan.

The applicant is requesting a variance to have an accessory building with a mean height of 17 feet, a variance of 3 feet from the maximum of 14 feet allowed in the ordinance, and to have a door opening 14 feet in height, a variance of 2 feet from the maximum of 12 feet allowed in the ordinance, in order to store a motor home in the accessory building.

**HISTORY**

Note the [past minutes](#) when similar requests were reviewed and acted upon by the ZBA:

1. VAR9608, motion #960327-02, Georgetown Bible Church, 4114 Baldwin, RR district, ZBA approved a variance for an accessory building with a height of 15 feet, a variance of 1 foot from the maximum height of 14 feet for the storage of a bus.
2. VAR9617, motion #960626-02, Benny Miller, 7747 Steele Ave., LDR district, requested a variance to have an accessory building with a height of 17.5 feet and it was denied.
3. VAR9903, motion #990428-02, Jerry Geerts, 7241 40<sup>th</sup> Ave., LDR district (large lot), ZBA approved a variance for an accessory building 768 square feet in area and denied a 10 foot variance for the accessory building to have a height of 24 feet.
4. VAR0216, motion #020828-03, William and Kathryn Peterson, 7130 40<sup>th</sup> Ave., LDR district, ZBA approved a variance for an accessory building 1400 square feet in area, a variance of 800 from the maximum of 600 square feet allowed, and denied a variance of 2 feet to have an accessory building with a height of 16 feet.
5. VAR0702, motion #070228-02, Jack Holsem, 505 Jackson, RR district, approved a variance for an accessory building to have a height of 20 feet, a variance of 6 feet from the maximum of 14 feet in height.
6. VAR0707, motion #080123-02, Bruce Harder, 7681 Ridgewood St., LDR district, ZBA approved a variance to have two accessory buildings, a variance of 1 from the maximum of 1 allowed because the space was hidden, it was not detrimental to the neighborhood because it was hidden with pine trees, and it was a property right others in the same vicinity had.
7. VAR0909, motion #090722-02, Bruce Talsma, 981 Chippewa, LDR district, ZBA approved a variance to have an accessory building 1008 square feet in area, a variance of 408 from the maximum of 600 square feet allowed because it was an unique situation with neighbors having accessory buildings with bigger sizes than allowed, the lots were larger, it was unlikely that a street would ever be constructed behind the site where a larger accessory building would have an impact, there was not negative impact on the area, in this unique situation the spirit applies to all in the neighborhood because they all have larger accessory buildings and if all the neighbors have larger ones, without the variance, the applicant would have to put in a smaller one.

### **SUMMARY of the review**

A majority of the variance requests in the past fifteen years seem to relate to accessory buildings and signs. While the ZBA normally has not granted variances for applicants to have more or larger accessory buildings (or signs, for that matter), the minutes that were provided demonstrate that occasionally, for very specific reasons as listed in the minutes, variances were granted for larger, more or higher accessory buildings, as long as the requests met the standards of the ordinance. The previous minutes also demonstrate that when the ZBA determined that the standards were NOT met for variance requests for higher accessory buildings, the requests were denied.

Other factors to consider include the fact that the whole area is very rural in nature and likely will remain so since the Master Plan notes that sewer will not be available in this section of the Township in the foreseeable future. Many of the parcels in the area are multiple acres in size with many trees and this is a two-acre site. In addition, as demonstrated by the maps provided and pictures provided by the applicant, some of the neighbors have multiple, larger and higher accessory buildings than the applicant or allowed by the ordinance. No research was conducted to determine the circumstances under which the neighbors came to have these buildings and it is not apparent that farming operations are being conducted in this particular area.

The applicant also has two accessory buildings, which would be considered to be nonconforming since the house on the site has an attached garage. According to accessing records, the house was

constructed in 1981 and one “utility building” was constructed in 1987. No other records were found regarding construction on the site (other than a sunroom). In the past, the Township has consistently allowed nonconforming structures to be increased in height without the determination that the nonconformity was increased as long as the height met the ordinance requirement.

The applicant has also indicated that the accessory building has an existing six inch cement floor that would be very difficult to remove in order to lower the floor to accommodate the motor home.

The ZBA will have to determine if this request, with the specific elements as noted, meets the seven standards of the ordinance.

Review of the request in relation to the standards of the ordinance for variance requests:

Variance standards in Sec. 28.11(C) are required to be met in order for a variance to be granted. The ZBA should determine if they agree with the determination that the following standards are met or not met.

Variance ID	<b>VAR1003</b>		
Applicant	Leonard Zweedyk		
Address	4873 4 <sup>th</sup> Ave.		
Request	Accessory building height and door height		
Date	For May 26, 2010 meeting		
#	YES	NO	CONDITIONS (Chapter 28.11-C)
1	X		Granting the variance(s) will be in the public interest and will ensure that the spirit of the Ordinance shall be observed.
2	X		Granting the variance shall not permit the establishment within a district of any use which is prohibited, nor shall any use variances be granted.
3		X	That there are practical difficulties in complying with the standards of the Zoning Ordinance resulting from exceptional, extraordinary, or unique circumstances or conditions applying to the property in question, that do not generally apply to other property or uses in the vicinity in the same zoning district; and have not resulted from the adoption of this Ordinance.
4	X		That the granting of such variance will not be of substantial detriment to adjacent properties or improvements in the vicinity; or, that the application of conditions of an approved variance will eliminate or sufficiently mitigate potential detrimental impacts.
5	X		That granting such variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district.
6	X		That granting such variance will not cause any existing non-conforming use, structure, or condition to be increased or perpetuated, contrary to the provisions of Chapter 27 of this Ordinance, except in accordance with Section 27.12.
7		X	That the variance is not necessitated as a result of any action or inaction of the applicant.

**Standard #1** - *Granting the variance will be in the public interest and will ensure that the spirit of the Ordinance shall be observed.*

**Appears to be met.** The spirit of the ordinance is to regulate the size, height and location on the lot of buildings in order to provide for the orderly development of land and to set minimum standards to protect property values and prevent unsightly development. This is a very rural area in nature with large lots, many trees and some parcels with multiple, larger and higher accessory buildings than normally permitted. The applicant is not asking to increase the square footage of the building, only to increase the height of the building and to increase the height of the door opening.

*Standard #2 - Granting the variance shall not permit the establishment within a district of any use, which is prohibited, nor shall any use variances be granted.*

**Met.**

*Standard #3 - That there are practical difficulties in complying with the standards of the Zoning Ordinance resulting from exceptional, extraordinary, or unique circumstances or conditions applying to the property in question, that do not generally apply to other property or uses in the vicinity in the same zoning district; and have not resulted from the adoption of this Ordinance.*

**Does not appear to be met.** The applicant has indicated that the existing floor of the accessory building is six inch thick concrete that would not be easily removed; however, there does not appear to be any exception or extraordinary circumstance or conditions that apply to this site and do not apply to other sites in the area.

*Standard #4 - That the granting of such variances will not be of substantial detriment to adjacent properties or improvements in the vicinity; or, that the application of conditions of an approved variance will eliminate or sufficiently mitigate potential detrimental impacts.*

**Met.** The site is located on a two-acre site in a very rural area with many trees both on the site and on the neighboring sites. Further, some of the neighbors appear to have multiple, larger and higher accessory buildings than normally allowed in the ordinance.

*Standard #5 - That granting such variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district.*

**Appears to be met.** As demonstrated by the pictures supplied by the applicant and by the maps provided, some of the neighboring sites appear to have multiple, larger and higher accessory buildings allowed in the ordinance without farming operations being conducted on the sites. Many of these structures probably were constructed many years ago.

*Standard #6 - That granting such variance will not cause any existing non-conforming use, structure, or condition to be increased or perpetuated, contrary to the provisions of Chapter 27 of this Ordinance, except in accordance in Section 27.12.*

**Appears to be met.** Although the applicant has two accessory buildings on the site (which is one more than allowed since there is an attached garage), the buildings appear to have been constructed 20 to 30 years ago. The applicant is not requesting to increase the size or number, but only to increase the height of the building and door. The Township has consistently allowed nonconforming structures to be increased in height (so long as to not exceed ordinance

**standards) without determining that the nonconforming element in regards to area or location has been increased.**

*Standard #7 - That the variance is not necessitated as a result of any action or inaction of the applicant.*

**Does not appear to be met. The action that necessitated the variance request was that the applicant purchased the motor home and wants to store it in the existing accessory building. However, this is an existing accessory building with a six inch concrete floor that could not easily be removed to allow the floor to be lowered to accommodate the motor home.**

Leonard Zweedyk, 4873 4<sup>th</sup> Ave., stated the following. He bought the new motor home knowing that it did not fit into his existing accessory building; however, he did not know that a variance would be necessary to raise the height. The accessory building has a cement floor and he would have to remove 90 square feet of cement to tear up the floor. The accessory building is already there and he is not asking to increase the size by adding more square footage. The building is ten feet from the lot line and 20 yards away from the neighbor's barn that is bigger. The building is also 50 yards from another barn that is bigger yet. The accessory building is surrounded by trees and the sight is blocked by the neighbor's barn. The accessory building was built in 1987 and it is not located in the middle of a lot of houses and can't be seen very well. It will not interfere with the neighborhood. The neighbors would rather see the motor home stored inside the building than to see the motor home parked outside.

D. Dale Mohr asked if the applicant had two accessory buildings.

The applicant stated that one was there when he bought the site in 1983 and Dan VanDyke, former Building Official and Zoning Administrator, approved a building permit in 1987 for the larger second accessory building.

The applicant explained the pictures that had been provided.

The Zoning Administrator stated that as provided in the review, previous ZBA minutes indicate that the applicant's neighbor, Jack Holsem, was granted a similar variance to have an accessory building with a height of 20 feet, a variance of six feet. The Zoning Administrator also explained that she was not able to obtain the reason for the stipulation in the Zoning Ordinance of the maximum height for an accessory building to be 14 feet, other than the Planning Commission and Township Board did not want property values in residential districts to decline because of large and many accessory buildings.

D. Dale Mohr said that some value had to be established and it appeared that 14 feet was picked. He evaluated the seven standards of the ordinance that were necessary to be met in order for a variance to be granted as follows. He agreed with the review that standards 1, 2, 4, 5 and 6 were met and also made a case for determining that standards 3 and 7 were met even though the purchase of the motor home was the catalyst for the variance request. There are unique circumstances because the building is already there, but the applicant cannot utilize it the way he wants. Future develop in the area is a long time away. Although he did not want to depart from the Zoning Ordinance regulations, the ZBA had to weigh the fact that the neighbors would rather see the building be higher than to see the motor home parked outside. There is a lot of openness and this is a very rural area. Similar variances were granted for neighbors in the area.

**Moved by D. Dale Mohr, seconded by John Fanthorpe, to approve variance (VAR1003) Leonard Zweedyk, 4873 4<sup>th</sup> Ave., to have an accessory building 17 feet in height, a variance of 3 feet from the maximum of 14 feet in height permitted in Sec. 3.4(G), and to have an accessory building with a door opening 14 feet in height, a variance of 2 feet from the maximum of 12 feet in height permitted in Sec. 3.4(G), in a (RR) Rural Residential district, on a parcel of land described as P.P. # 70-14-36-390-004, located at 4873 4<sup>th</sup> Ave., Georgetown Township, Ottawa County, Michigan; based on the finding that the request meets the seven standards of the ordinance as previously detailed.**

The chairperson opened the public hearing.

Martin Turnbull, 358 White Stage, stated that he has been a neighbor of the applicant's for over five years and he is a good neighbor who does a nice job maintaining his site. He was in favor of granting the variance.

Lee Paauwe, 4901 4<sup>th</sup> Ave., said that he is the next door neighbor and the higher building would not affect him since he has a bigger barn himself. He said that the applicant keeps his site clean and nice, and he was in favor of granting the variance.

The chairperson closed the public hearing.

D. Dale Mohr said that there were unique circumstances and granting the request meets the spirit of the ordinance.

Joyce Weise said that the job of the ZBA is to uphold the ordinance and not to write or interpret ordinances.

**MOTION CARRIED UNANIMOUSLY.**

**#100526-03 - Adjournment**

**Moved by John Fanthorpe, seconded by Jeannine Bolhouse, to adjourn the meeting at 7:55 p.m.**

**MOTION CARRIED UNANIMOUSLY.**