

REQUEST

(VAR1909) Daniel and Jennie Boone, 1146 Glenwood Dr., are requesting to operate a Bed and Breakfast under Sec. 8.3(M) without public sanitary sewer service, a variance from Sec. 20.4(D)(1) which states that the Bed and Breakfast establishment shall be directly serviced by public water and sanitary sewer services; in a (LDR) Low Density Residential district, on a parcel of land described as P.P. # 70-14-23-474-014, located at 1146 Glenwood, Georgetown Township, Ottawa County, Michigan.

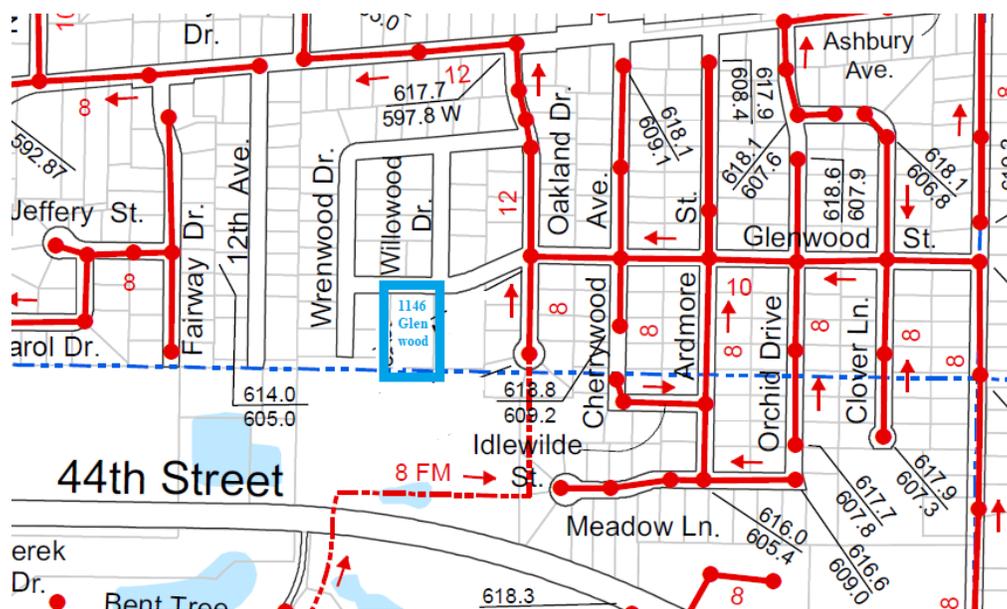
SITUATION

The applicants would like to run a bed and breakfast (the Zoning Ordinance language for Airbnb) at their house located at 1146 Glenwood in the (LDR) Low Density Residential district **without being serviced by sanitary sewer**. The Zoning Ordinance allows the of a bed and breakfast with a special use permit because the use is more intense than a regular single family dwelling (such as a church which is allowed in the LDR district with a special use permit because it is more intense than a single family dwelling).

The ordinance stipulates both general and specific standards that have to be met in order for the special use permit to be granted, like a church (which, for example, is required to be location on a minimum size parcel with at least one property line on a major street). The reason for the general and specific standards is to minimize negative impacts on the surrounding neighbors and on the community. For example, a church is required to have at least one property line on a major street so that the many vehicles coming to the church are driving on the major street rather than on neighborhood streets.

One of the specific standards for a bed and breakfast is that it must be serviced by public water and sanitary sewer. Note (as shown in the 1991 Zoning Ordinance below) the specific standard for a bed and breakfast to be serviced by public water and sanitary sewer has been in effect since at least the 1991 Zoning Ordinance. Research showed that the reason for the specific standard is to safeguard the neighborhood from having a situation where a septic system failed or was overrun based on too much use.

See the sewer map below showing the subject site surrounded by public sewer, but not in the road in front of their house. **It could be brought to the area if 51% of the neighbors sign a petition requesting it.**



RELEVANT ZONING ORDINANCE SECTIONS from 1991 Zoning Ordinance

<p style="text-align: center;">ZONING ORDINANCE</p> <p style="text-align: center;">Charter Township of GEORGETOWN, MICHIGAN</p> <p style="text-align: center;">Published by Order of the Township Board</p> <p style="text-align: center;"> MUNICIPAL CODE CORPORATION Tallahassee, Florida 1991</p>	<p>nt Establishments. Any building or part thereof used solely for the operation of amusement devices.</p> <p>nt Devices. Any device, table, or structure which may be operated for a fee for the amusement, contest or amusement and which is not limited to pin-ball machines.</p> <p>ist and Photography Studio. Any building, structure, premises or part thereof primarily as a place which offers the opportunity the providing of models to display in "artistic areas" as defined herein for photographers for a fee or charge.</p> <p>regulated uses listed in Subsection (A) is located within a zone district which requires a special use permit.</p> <p>is located outside a 500 foot radius of the zone district unless a petition for this requirement is received and approved by the Township Board or Township Clerk signed by 51 percent of the persons residing within or owning property within a 500 foot radius of the zone district in which case the Township Board may waive this requirement.</p> <p>is not located within a 1,000 foot radius of such uses except that such restrictions shall be made by the Township Board, if the following conditions are made:</p> <p>hat the proposed use will not be injurious to the public interest or injurious to the health, safety, and that the spirit and intent of Subsection (AB) will be observed.</p> <p>hat the proposed use will not encourage the development of a blighted or deteriorating area in its immediate surroundings.</p> <p>That the establishment of a regulated use, in addition to regulated use, shall not be contrary to any program of urban renewal, nor will it impede any program of urban renewal.</p> <p>That all applicable state laws and ordinances will be observed.</p>	<ol style="list-style-type: none">4. Prior to the granting of any waiver as herein provided, the Township Board may impose any such conditions or limitations upon the establishment, location, construction, maintenance, or operation of the regulated use as may in its judgement be necessary for the protection of the public interest. Any evidence and any guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.5. No application for a regulated use which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of said order of denial, except on the grounds of new evidence not previously available or proof of changed conditions.6. Establishments where uses subject to the control of this subsection (AB) are located shall not be expanded in any manner without first applying for and receiving the approval of the Township Board as provided herein. Further, if a use subject to the control of this subsection (AB) is discontinued, the use may not be reestablished without applying for and receiving the approval of the Township Board as required herein.7. Nothing in this subsection (AB) shall prevent the reconstruction, repairing, or rebuilding and continued use of any building or structure the uses of which make it subject to the controls of this subsection (AB) which is damaged by fire, collapse, explosion or act of God. <p>(AC) Bed and breakfast establishment.</p> <ol style="list-style-type: none">1. The establishment shall be directly serviced by public water and sanitary sewer services.2. The establishment shall be located on property with direct access to a paved public road.3. No such use shall be permitted on any property where there exists more than one (1) other bed-and-breakfast establishment within seven hundred fifty (750) feet, measured between the closest property lines.4. Such uses shall only be established in a detached single family dwelling.5. Parking shall be located to minimize negative impacts on adjacent properties.6. The lot on which the establishment is located shall meet the minimum lot size requirements of the zone district. <p style="text-align: right;">(Rev. 2/91)</p>
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RELEVANT ZONING ORDINANCE SECTIONS from current Zoning Ordinance

Sec. 8.3 **USES REQUIRING SPECIAL LAND USE APPROVAL** in the LDR district.

The following uses may be permitted by obtaining Special Land Use Approval when all applicable standards as cited in Chapter XX are met.

(M) Bed and breakfast establishments.

Sec. 20.4 **SITE DESIGN STANDARDS.** (revised 6/27/2013)

Those uses specified in Section 20.1 as permitted by "right" or as special land uses shall be subject to the requirements of the District in which the use is located in addition to all applicable conditions, standards and regulations regarding site design and development and other standards and conditions as are cited in the following:

(D) Bed and breakfast establishments.

- (1) The establishment shall be directly serviced by public water and sanitary sewer services.
- (2) The establishment shall be located on property with direct access to a paved public road.
- (3) No such use shall be permitted on any property where there exists more than one (1) other bed-and-breakfast establishment within seven hundred fifty (750) feet, measured between the closest property lines.
- (4) Such uses shall only be established in a detached single family dwelling.
- (5) Parking shall be located to minimize negative impacts on adjacent properties.

- (6) The lot on which the establishment is located shall meet the minimum lot size requirements of the zone district.
- (7) The number of guest rooms in the establishment shall not exceed three (3), plus one (1) additional guest room for each ten thousand (10,000) square feet or fraction thereof by which the lot area of the use exceeds one (1) acre, not to exceed seven (7) guest rooms in any case.
- (8) Exterior refuse storage facilities beyond what might normally be expected for a detached single family dwelling shall be prohibited.
- (9) Only one sign shall be allowed for identification purposes. Such sign shall be non-illuminated and un-animated, be mounted flat against the wall of the principal building and not exceed four (4) square feet in area.
- (10) The establishment shall contain the principal residence of the operator.
- (11) Accessory retail or service uses to a bed-and-breakfast establishment shall be prohibited, including but not limited to gift shops, antique shops, restaurants, bakeries, and so forth.
- (12) Breakfast may be served only to the operator's family, employees, and overnight guests.

TOWNSHIP BOARD GOAL - houses within the Township to be hooked up to sewer (if available)

Although sewer is not directly in front of the subject site, the Township's intention is that ultimately in the future all street would have sewer and all building were connected to sewer based on the following Board decisions:

1. No streets will be paved or improved without sewer.
2. At the March 27, 2017 meeting, the Township Board **unanimously** approved a resolution to requirement a mandatory sewer hookup for any house where it is available. See the excerpt of the meeting minutes below.

#170508-06 – Resolution to Require Connection to Sanitary Sewer

Moved by Jason Minier, seconded by Becky Steele, to approve a [resolution](#) requiring a connection to sanitary sewer where it is available, for anyone not already connected, with a deadline of March 31, 2019, as recommended by the Utilities Committee.

Yeas: Jim Wierenga, Richard VanderKlok, Carol Scholma, Michael Bosch, Jason Minier, Becky Steele, John Schwalm

Nays: None

MOTION CARRIED UNANIMOUSLY.

OTTAWA COUNTY HEALTH DEPARTMENT

The Ottawa County Health Department is the agency that has jurisdiction over septic systems within Georgetown Township. The Health Department provided a record on the septic system installed at 1146 Glenwood.

Ryan McCarthy, Ottawa County Health Department, provided the following information:

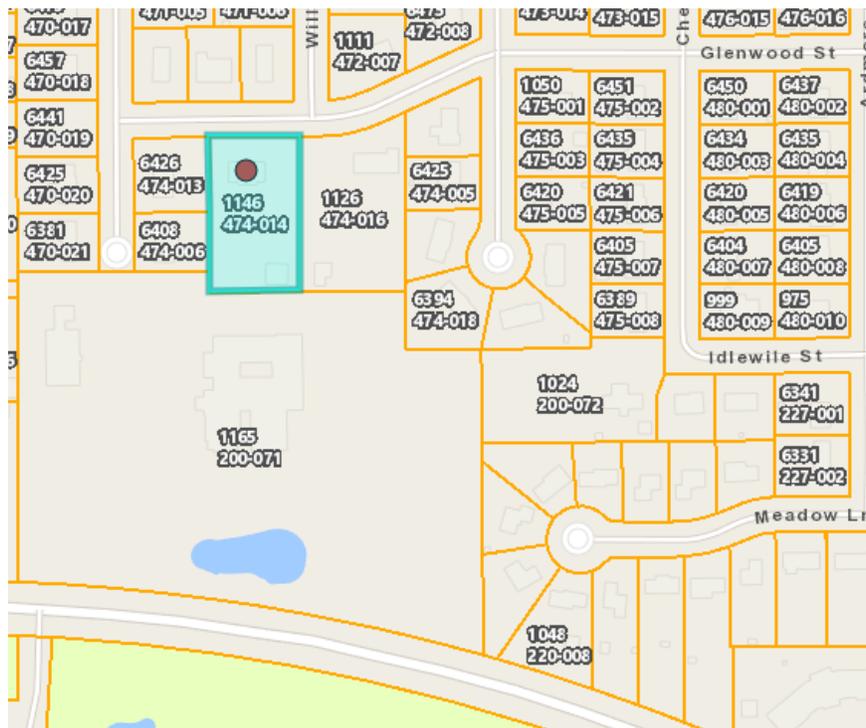
- The septic system at 1146 Glenwood was last inspected on October 19, 1989 (thirty years ago). It was also inspected on August 20, 1987.
- The septic system was installed in 1967 (over 50 years ago) based on three bedrooms and two bathrooms, and based on no automatic dishwasher, no automatic laundry and no garbage grinder.
- The septic system does not meet current standards and the drainfield is undersized based on today's standards. The tanks are also undersized base on today's standards.
- If usages change (i.e. for a bed and breakfast) the septic system should be updated.

DISCUSSION

The following are points to be considered:

1. The Zoning Ordinance standards are reviewed by the Planning Commission and acted upon by the Township Board.
2. The applicant would like to operate a bed and breakfast at 1146 Glenwood.
3. The use requires a special use permit.
4. One of the specific standards for a bed and breakfast special use permit is that the site shall be serviced by public water and sanitary sewer.
5. The reason for the standard is for the health, safety and welfare of the occupants and neighborhood, who would be affected if the septic system failed.
6. The septic system at 1146 Glenwood was installed in 1967 and was last inspected in 1989, as per Ottawa County Health Department.
7. As per the County Health Department, the septic system that exists does not meet current standards

MAP



REVIEW –

The standards that have objectively been met are noted with an “X” in the “yes” column and the standards that have objectively not been met are noted with an “X” in the “no” column. Any standards left blank could not be objectively met or not met and therefore must be determined by the ZBA.

Variance ID	VAR1909		
Applicant	Daniel and Jennie Boone		
Address	1146 Glenwood		
Request	Bed and breakfast no sewer		
Date	For September 25, 2019 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			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.

FINDINGS

The ZBA should determine if standard 2 is met and if they concur with the review presented.

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

Not met. The spirit of the ordinance is to provide for compliance with sanitation regulations for the health, safety and welfare of the residents of the Township. It is in the public interest to have safe sanitary conditions for homes and neighborhoods. The intention of both the Zoning Ordinance and General Ordinances to regulate ways that waste matter is disposed in a sanitary way.

The septic system at the subject site was installed in 1967 (over 50 years ago) and was last inspected in 1989 (30 years ago). As per the Ottawa County Health Department, the existing septic system is not constructed according to current standards and both the drainfield and tanks are undersized compared to today's standards. Approving a variance that would allow the more intense use of a bed and breakfast with more people using the septic systems for showers and restroom facilities would not be in the public interest. The Ottawa County Health Department also requires that a septic system be inspected prior to a use changing, particularly to a more intense use.

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.

The ZBA will have to determine if this standards is met. A point to consider is that the use of a bed and breakfast is ONLY allowed when the site is serviced by public sanitary sewer. So technically, the use is not currently allowed since it does not meet the specific standard. Granting the variance would allow a use that is currently not allowed.

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.

Not met.

The ZBA is charged with the responsibility of determining if and when the regulations in the Zoning Ordinance do not apply based on unique circumstances. In this case, the specific standard of requiring public sanitary sewer service is in place to protect the public health, safety and welfare of the residents and neighborhood. There are no practical difficulties related to the property that do not apply to their neighbors (who also have no sewer). The applicants have the right to continue to reside at this site as it currently exists. Not every parcel in the Township has the right to have a more intense use (such as a bed and breakfast, unless it meets the standards of the ordinance. An opportunity exists for the applicant to obtain a petition with 51% of the neighbors in this area to obtain sewer service. In the 1970s and 1980s, sewer was brought to a majority of the existing houses in subdivisions at a partial cost based on the Township paying a majority of the service. Some neighborhoods opted out and this was one of them.

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.

Not met. The Health Department has stated that the existing septic system was installed in 1967 (over 50 years ago) does not meet current standards. Further, no inspection has been conducted since 1989 (30 years ago). Allowing the more intense use risks problems with overloading the system. Even the Health Department requires an inspection when the use changes.

As noted on the records from the Health Department, the septic system was installed based on three bedrooms, two bathrooms, no dishwasher and no washing machine. Granting the variance to allow the use of a bed and breakfast would intensify the current residential family use.

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.

Not met. No one else in the neighborhood has the right to have a bed and breakfast without being service by sanitary sewer. In fact, if the variance was granted, this property owner would have a right that no neighbors have.

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.

Met. There does not appear to be other nonconforming situations.

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

Not met. The applicant has the right to continue to reside in the house as it currently exists. The applicant is pursuing a more intense use that is subject to additional standards, particularly the requirement of being serviced by public sanitary sewer.

SUMMARY AND DISCUSSION

In summary, this is not a typical dimensional-type variance request, but rather is a request to waive a special use standard in place to protect the public health, safety and welfare based on sanitary sewage disposal. Granting the variance would allow a use not currently allowed. Further, the septic system in use on the site was installed in 1967 (which is over 50 years ago) and was last inspected in 1989 (which is 30 years ago). The septic system does not comply with current Health Department standards, with an undersized drainfield and undersized tanks. Even at the time, the system was installed for a less intense residential use with three bedrooms and two bathrooms, and with no dishwasher or laundry washing machine.

OPTION FOR MOTION

The ZBA should determine if the seven standards of the ordinance have been met in order to grant a variance. If even one standard is not met, as per Sec. 28.11(C), the ZBA does not have the authority to grant the variance.

Motion: To adopt the staff report as finding of fact and to _____ (approve or deny) variance (VAR1909) Daniel and Jennie Boone, 1146 Glenwood Dr., to operate a Bed and Breakfast under Sec. 8.3(M) without public sanitary sewer service, a variance from Sec. 20.4(D)(1) which states that the Bed and Breakfast establishment shall be directly serviced by public water and sanitary sewer services; in a (LDR) Low Density Residential district, on a parcel of land described as P.P. # 70-14-23-474-014, located at 1146 Glenwood, Georgetown Township, Ottawa County, Michigan; based on the finding that the request _____ (meets or does not meet) the seven standards of the ordinance. (If applicable) Specifically, standards (_____) have been _____ (met or not met) and the reasons are _____.

Failure to comply with the variance as stipulated results in a violation of the Zoning Ordinance section that is the subject of the request, which is Sec. 3.11.