

MINUTES OF THE REGULAR MEETING OF THE GEORGETOWN CHARTER TOWNSHIP
ZONING BOARD OF APPEALS HELD April 28, 2021

The meeting was called to order at 7:00 p.m. by Chairperson Kendall Grable.

Members Present: Tom Healy, Michael Bosch, Kendall Grable, Brock Nanninga, Kelly Kuiper
Members Absent: Trevor Petroelje, alternate
Others Present: Victor Vuong, Secretary and Zoning Administrator

#210428-01 – Approval of the Minutes of the February 24, 2021 Zoning Board of Appeals Meeting

The minutes of the regular meeting held on February 24, 2021 were presented.

Moved by Tom Healy, seconded by Michael Bosch, to approve the minutes as presented.

Yeas: Michael Bosch, Kendall Grable, Tom Healy, Brock Nanninga, Kelly Kuiper

Nays: None

MOTION CARRIED UNANIMOUSLY.

#210428-02 – Approval of the Minutes of the March 24, 2021 Joint Planning Commission/Mining Board/ZBA Meeting

The minutes of the joint Planning Commission/Mining Board/ZBA meeting held on March 24, 2021 were presented.

Moved by Kelly Kuiper, seconded by Tom Healy, to approve the minutes as presented.

Yeas: Michael Bosch, Kendall Grable, Tom Healy, Brock Nanninga, Kelly Kuiper

Nays: None

MOTION CARRIED UNANIMOUSLY.

#210428-03 – Unfinished Business – (VAR2101) Valley City Sign (for Spectrum Health), 5009 West River Dr., Comstock Park, MI 49321, is requesting to have a 19.14 sf directional sign, a variance of 15.14 sf from the maximum of four (4) sf in area for directional signs on private property allowed in Sec. 25.4(F); and is requesting for the sign to have the Spectrum Health logo and list available services, a variance from Sec. 25.2(E) which states that a directional sign sets forth no advertising, business logo or insignia, or similar promotions or advertising and Sec. 25.3(M) which states that business logos or other advertisements are prohibited on directional signs; in an Office Service (OS) Commercial district, on a parcel of land described as P.P. # 70-14-21-300-099, located at 3152 Port Sheldon St., Georgetown Township, Ottawa County, Michigan. ([Application](#), [Plan](#))

Moved by Tom Healy, seconded by Michael Bosch, to remove the item (motion #210224-03) from the table. Kelly Kuiper was not present at the February 24, 2021 Zoning Board of Appeals meeting when the item was tabled.

Yeas: Michael Bosch, Kendall Grable, Tom Healy, Brock Nanninga

Nays: None

Abstained: Kelly Kuiper

MOTION CARRIED.

The Zoning Administrator presented the [staff report](#).

Stephen Kerr, Valley City Sign, presented the request for Spectrum Health, including the following comments:

- The need for the sign is because Spectrum Health patients are erroneously turning left into the physical therapy building.

The Chairperson opened the public hearing.

No one from the public made public comments.

The Chairperson closed the public hearing.

Tom Healy doesn't like the comparison of the Boulder Bluff signs with the proposed Spectrum Health directional sign. He said the signs at Boulder Bluff can only be seen when you're in the parking lot, and freestanding signs and directional signs are substantially different. The difficulty with this request is the content that can be put on the signs. Tom said he doesn't believe standard 3 is met for the square footage, but thinks it's met for the logo variance. In terms of standard 4, the square footage request is turning the directional sign into a freestanding sign. By ordinance, a business center is only allowed one freestanding sign. They are entitled a freestanding sign on the side street. There is no provision in the ordinance that allows transferring square footage from one sign to another. This request will turn a directional sign into a freestanding sign, so it will turn it into a disadvantage to all the other businesses in the immediate area. Then other businesses will come to the Zoning Board of Appeals and ask for what Spectrum Health has. So he believes it will be a detriment to the other businesses. He said this sign is pertinent to the building because of the hill, so the goal can be achieved by a directional sign with a logo variance, but it doesn't require 20 square feet. Tom said he does not believe standard 4 is met for the square footage, but believes it is met for the logo. Tom doesn't believe standard 5 is met because nobody has this right; if we allow this variance then we will give this property a right that no one else has. It will also give them a right that no one else has to transfer square footage from one sign to another. He believes a 4 square foot sign can achieve their goal if a variance for the logo is granted.

Kendall Grable asked Tom Healy, so does he think the logo variance is okay if it's contained on a smaller square foot sign?

Tom Healy said he believes it's okay if it's contained to the 4 square foot sign that is allowed for a directional sign. He doesn't believe they need to increase the square footage of the sign.

Kendall Grable said the unique challenge here is the topography. He doesn't think the Boulder Bluff comparison is relevant. In this circumstance, there are 3 buildings on one campus and you cannot see the bottom building when you're sitting at the top of the hill. He said he does understand that if this is granted, other businesses might come in and ask for the same thing.

Tom Healy said he doesn't argue with that, but a variance for a freestanding sign would be different. He believes it becomes a large hazard for visibility. He said the directional sign has nothing to do with the other two businesses. The freestanding sign is required to include all of the businesses and a directional sign is different because it doesn't allow advertisement.

Kendall Grable said they do have the ability to grant up to what the variance request is.

Moved by Tom Healy, seconded by Brock Nanninga, to adopt the staff report as finding of fact and to approve (VAR2101) Valley City Sign (for Spectrum Health), 5009 West River Dr., Comstock Park, MI 49321, to have the Spectrum Health logo and name on a directional sign, a variance from Sec. 25.2(E) which states that a directional sign sets forth no advertising, business logo or insignia, or similar promotions or advertising and Sec. 25.3(M) which states that business logos or other advertisements are prohibited on directional signs; in an Office Service (OS) Commercial district, on a parcel of land described as P.P. # 70-14-21-300-099, located at 3152 Port Sheldon St., Georgetown Township, Ottawa County, Michigan, based on the findings that the request meets the seven standards of the ordinance.

Yeas: Tom Healy, Michael Bosch, Brock Nanninga, Kendall Grable

Nay: None

Abstained: Kelly Kuiper

MOTION CARRIED.

Brock Nanninga said to add the logo and name to the directional sign, he calculates the sign out to be 7 square feet. He thinks this accomplishes what they are seeking. He said the ZBA agrees that there's a problem, and he believes this is how they can fix it.

Kendall Grable does agree that the point of contention is how to get to Suite C. He believes the logo solves the issue with the topography on the site.

Tom Healy would like to add that there's no requirement to remove the address. He said what the ZBA is allowing them to do is to put their name on the sign and any additional information they would like to fit on the sign. He doesn't believe a list of specialties is required to show the public where they are going.

Brock Nanninga believes a little larger space with the Spectrum logo will achieve what they are looking at doing.

Tom Healy said his biggest concern is moving away from the ordinance requirement and every other business will want to request a directional sign of this size as well.

Kendall Grable asked Tom Healy so does he feel a logo and arrow will accomplish what they are looking at doing?

Tom Healy said he's open to Kendall Grable making a motion.

Kendall Grable said we've seen Townships with lax sign ordinances and it becomes an eyesore.

Brock Nanninga said he's not a sign expert so he's not sure what they are able to do if they made a motion other than what is requested.

Tom Healy said it's reasonable enough to propose a different square footage.

Kendall Grable said they can go between 4 square feet and 19.14 square feet.

Moved by Brock Nanninga, seconded by Michael Bosch, to adopt the staff report as finding of fact and to approve (VAR2101) Valley City Sign (for Spectrum Health), 5009 West River Dr., Comstock Park, MI 49321, to have a 7 sf directional sign, a variance of 3 sf from the maximum of four (4) sf in area for directional signs on private property allowed in Sec. 25.4(F); in an Office Service (OS) Commercial district, on a parcel of land described as P.P. # 70-14-21-300-099, located at 3152 Port Sheldon St., Georgetown Township, Ottawa County, Michigan, based on the findings that the request meets the seven standards of the ordinance.

Yeas: Michael Bosch, Brock Nanninga, Kendall Grable

Nays: Tom Healy

Abstained: Kelly Kuiper

MOTION CARRIED.

#210428-04 – (VAR2103) Robert Hyma, 7400 48th Ave., is requesting to have a ten-foot (10') side yard setback from the west lot line of the greenhouse property, a variance of 10 feet from the 20 feet required in Chapter 24 in a Rural Residential (RR) district and a variance of 40 feet from the 50 feet required in Sec. 7.3(C)(2) which states that no farm buildings shall be located closer than fifty (50) feet to any lot line, on a parcel of land described as P.P. # 70-14-18-300-018, located at 7400 48th Ave., Georgetown Township, Ottawa County, Michigan. ([Application](#), [Attachment](#), [Plan](#), [Detailed Plan](#))

The Zoning Administrator presented a [staff report](#).

Robert Hyma, 7400 48th Ave., presented the request, including the following comments:

- Since 1979, his property has received a number of variances and this request is no different. He hopes the property continues to evolve as he retires. He hopes to have a smooth transition for his sons to take over the greenhouse operation. The operation will stay the same and there will be no new impact on the neighbors.

The Chairperson opened the public hearing.

Tony Witte, 7580 Fox Meadow Dr., said the property is next door to other residential lots. He has concerns with the variance that if it's approved that it's unlikely a house will be built on the property. The vacant lot was platted to have a home on it. Without having a home on it, it will impact the value of all the homes in the neighborhood and impact resale values. He said residents of Fox Meadow Drive and Fox View Drive believes the variance will negatively impact the neighborhood and that there's no other similar situation anywhere else in Georgetown.

Robert Hyma said at this time he has no plans to build a house. He would just clear the site and level it out and quite possibly put up a privacy fence against the campground. He said will there

ever be a house built there? Quite possibly, but if a house is built there then they will be stuck with the same situation he's in now.

The Chairperson closed the public hearing.

Kendall Grable asked about deed or plat restrictions for the plat.

Kelly Kuiper said restrictions are not the responsibility of the Township's Zoning Department.

Kendall Grable said when we look at the 7 standards, he believes everyone should have a right to split a property so he doesn't believe Mr. Hyma would be getting a right that nobody else has. The point of discussion is splitting the property where the setbacks will not be met. He said not everybody else has a business on their lot like Mr. Hyma does. If anyone were to buy a house, they would obviously know a greenhouse is right behind it.

Tom Healy said the question about the restrictions on the deeds causes him to have a legal question that he doesn't think he has the answer to. In this scenario, you have son 1 and son 2, you split the property and one son buys the house and they jointly operate the greenhouse as a corporation. He said from his understanding, the corporation and property owner can simply dissolve the agreement and easement because it is simply between the involved parties.

Robert Hyma asked Tom to clarify is he talking about the easement or deed restriction?

Tom Healy said the easement to 48th Ave.

Robert Hyma said the easement will be in place when his son buys the home and it will be permanent. As far as he knows, the easement is recorded at the County and cannot be dissolved. He knows the deed restriction on the lot will be permanent and the easement will be part of the deal of the buy and sell of the house when it does happen.

Kelly Kuiper said in her opinion, they've gotten into the weeds of discussion points that the ZBA shouldn't be reviewing. Ultimately, this body does not care who owns it, none of those things have any effect on the ordinances. She agrees that all property should be able to be split. She believes that there are ways to split this property to meet ordinance requirements. Nothing is preventing Mr. Hyma from removing the pool or the greenhouses. If the property needs to be split, there are ways to do it without bending or breaking the rules. She doesn't believe this variance is in the public interest. The variance puts in jeopardy other properties, because if we start granting variances because of something like a pool, then other properties will seek a variance too. She said standard 1 is not met, standard 3 is only extraordinary because of who owns the property. She said if someone else owned it, these circumstances might not exist. She said anyone can dissolve the easement. She's not sure standard 1 is met, 4, 5, and 7 are not met.

Brock Nanninga said it comes down to standard 7. He said the actions of the owner is dictating the request. He said maybe it leaves room for the Planning Commission to review the ordinance, but this is out of the realm of authority of the Zoning Board of Appeals.

Michael Bosch said the answer is number 7.

Robert Hyma said he complies with the spirit of the condition. He said every one of his variances were because of changes he wanted to make or improvements he wanted to make and he believes

this is no different. He said he's asking for a variance to improve his property and split it, regardless of the outcome, that's what he's asking for. He doesn't believe this request is necessitated by him. He thinks by splitting the property, it makes both properties more buyable. He hasn't necessitated this variance for his son to buy the home, but he has necessitated it to split the property. He said he can take some of the pool deck down to give more room. He said the greenhouses are not barns, they are for growing flowers. He doesn't believe there will be complaints in the future because his sons will own the properties. He said some day the campground will be gone, the greenhouses will be gone, and the entire area will be developed. He thinks he complies with the spirit of standard 7 as well.

Tom Healy said he appreciates the transparency of Mr. Hyma in his application and to the Zoning Administrator and to the ZBA in this process. He believes it's a very artfully crafted rezoning request and in that light, he doesn't believe it satisfies standard 4, so standard 7 is not the only one.

Kendall Grable said he's not sure how every time they approve a pole barn is in the public interest. He struggles to say no to that. He believes it's the public interest that they live in an area where they can split property.

Moved by Tom Healy, seconded by Kelly Kuiper, to adopt the staff report as finding of fact and move to deny the variance for (VAR2104) Robert Hyma, 7400 48th Ave., to have a ten-foot (10') side yard setback from the west lot line of the greenhouse property, a variance of 10 feet from the 20 feet required in Chapter 24 in a Rural Residential (RR) district and a variance of 40 feet from the 50 feet required in Sec. 7.3(C)(2) which states that no farm buildings shall be located closer than fifty (50) feet to any lot line, on a parcel of land described as P.P. # 70-14-18-300-018, located at 7400 48th Ave., Georgetown Township, Ottawa County, Michigan; based on the finding that the request does not meet the seven standards of the ordinance. Specifically, standards 2 and 6 are met, but standards 1, 3, 4, 5 and 7 are not met for the reasons stated in the staff report and discussed during the meeting.

Yeas: Tom Healy, Kelly Kuiper, Brock Nanninga, Michael Bosch

Nays: Kendall Grable

MOTION CARRIED.

#210428-05 – (VAR2103) Rebekah Milito, 7351 12th Ave., is appealing the Zoning Administrator's determination that the operation being conducted at 7351 12th Ave. is determined to be a commercial school including art, business, music, dance, professional, and trade per Sec. 13.2(F), is NOT considered to be a home occupation per Sec. 3.24, and is considered to be a use allowed in an Office Service (OS) Commercial district (and higher commercial districts), not a residential district; in a Low Density Residential (LDR) district, on a parcel of land described as P.P. # 70-14-14-300-056, located at 7351 12th Ave., Georgetown Township, Ottawa County, Michigan. ([Application](#))

The Zoning Administrator presented a [staff report](#).

Attorney James Bruinsma from McShane & Nowie, PLC presented the request for Rebekah Milito, including the following comments:

- They are here in a different capacity than someone seeking a variance. People seeking a variance ask to do something the ordinance doesn't allow. That's not what they are here for. He said it's impossible for the Zoning Ordinance to define everything in advance. He said you can give piano lessons in your home, but how many lessons can you give until you turn

into a music school? You can be a math tutor in your home, but how many kids do you tutor until you turn into a math school? He said Ms. Milito isn't trying to defy the ordinance, she's looking to comply. The ISR swimming lessons is her passion, not her livelihood. This is a second gig, she has a full-time position with the Post Office. She will teach in blocks of time, not continuously. The role of this body should provide interpretation and guidance within the parameters of the Zoning Ordinance. She wants to understand the limits and make them work. The nature of these lessons aren't group swimming lessons, these are 1-on-1 lessons with infants. The lesson has to happen where the instructor can stand and constantly be with the child. She's not using the whole pool and she can't use the whole pool. She can only use a sliver of the pool where the lesson is possible. When you give piano lessons, how do you know how much of the room is used? That is what they are trying to define. Private citizens don't know what the ordinance requires. The ordinance allows a home occupation, so you don't need a permit for it. So how they got here is not an attempt to violate the ordinance. It's someone following her passion and offering lessons until she was told to stop. The home occupation says no more than 1 resident and 1 employee; there's no issue there. They are asking for 1 instructor at a time and never more than 1. Standard 2, only a little piece of the pool will be used. Standard 3, no change of the outside appearance of the home can be done, no change was done. Standard 4, using equipment that creates noise, glare, odor; it's a residential neighborhood, kids cry all the time, there's no prohibition on the use of a pool. Standard 5, this use is nothing like the uses listed such as clinics, hospitals, or kennels. Licensed professionals can do home occupations all the time, he's been practicing law in his house for years. They are requesting guidance from the ZBA as to what is permitted as a home occupation under the Zoning Ordinance. They are not asking to do swimming lessons 12 hours a day for 7 days a week or 5 days a week, they are in blocks of time. They want to live within what the ordinance says, they're not asking to do something that the ordinance doesn't allow.

Tom Healy asked is exhibit number 4, an accurate depiction of the area of the pool that will be used and cordoned off for the lessons, the 22' x 33' portion of the pool.

James Bruinsma said yes, only that area and the surrounding deck.

Kendall Grable asked were the complaints before or after the enclosure.

Rebekah Milito said after enclosure, it was built as an indoor pool.

Kendall Grable asked has the County commented on the second drive.

Rebekah Milito said they have not.

Moved by Tom Healy, seconded by Michael Bosch, to extend the public comment time as necessary to accommodate all those who wanted to speak.

MOTION CARRIED UNANIMOUSLY.

The Chairperson opened the public hearing.

Nancy Blakeley, 7373 12th Ave., said if it's just a 1-on-1 instruction then why is there so much noise, it's deafening. They live on a busy street. Parking was in the driveway, in the yard, in the distance between the sidewalk and road. There was trouble for cars going south. Neighbors put out

orange stakes so the parking would not happen on their property. There were cars everywhere. Little kids running, almost getting hit. There was no rhyme or reason. She's all for the swimming lessons to prevent drowning, but what about kids getting hit by a car? The park down the street was always filled with cars going up to her business. They're worried about their property values, will those be affected? If it's just 1-on-1, why so much noise? She doesn't believe they are using sections in the pool. James Bruinsma suggested piano lessons, kids don't scream during piano lessons. A tutoring lesson is quiet. She commends Rebekah for wanting to teach kids how to swim, but there's no parking and the noise, and what's going to happen to the property values in the neighborhood. She said they are good neighbors, but wish the neighbors had a say on what she was going to do.

Deb Hoekwater, 7284 12th Ave., said all the neighbors in the neighborhood are very close, they have bible study together and everything. She bought her property because of the large and quiet backyard. She said James Bruinsma working out of his home doesn't have people coming every 10 minutes. These are 10 minute lessons so people are coming and going constantly. This is not a fun activity, it is infants that are terrified so they scream. It's not the typical swim lesson she had when she was little. The parking lot was put in at 11 at night. It then looked like a completely new street. She thinks it's a very dangerous situation and her kids live next door.

Rebekah Milito said when she came to the Township, she talked to Ted Woodcock and she didn't know she had to write it down. She's just passionate about kids not drowning. She said Ted told her what she needed to do. Her intent was never to upset the neighbors. She thinks the noise isn't that loud. She's willing to put up a fence or shrubs or put something in so the echo isn't bad. She doesn't think property values will be effected. She wants to work inside the ordinance to make this possible. She wouldn't have built this pool if she thought it was a commercial use. She said the Township didn't tell her it would be a commercial use. She's willing to put up a fence, have parking in the front, space the lessons, she's willing to do that. She's willing to make it comfortable for the neighbors. She doesn't want to go outside of the ordinance.

The Chairperson closed the public hearing.

Tom Healy said he acknowledges the ISR swim lessons are very important and probably everybody on the ZBA will say that and the entire Township staff would say that. It's not an assessment of the swimming lessons, it's an assessment of the ordinance. The ZBA received a lot of emails complimenting the swim lessons, but none of the emails commented on the requirements of the ordinance. They provided no argument in compliance with the ordinance. On the other hand, every complaint the Township received detailed the requirements of the ordinance.

Kendall Grable said he doesn't have any objection to 3.24 of a home occupation. He doesn't think their personal belief of supporting or not supporting swimming lessons should be part of the discussion.

Tom Healy said the complaints included photograph documentation and links to the program. He said the complaints said there was excess traffic on 12th Ave., parking, and people coming to the lessons from somebody else's property other than Ms. Milito's. Also, the Code Enforcement Officer witnessed it firsthand. He commended James Bruinsma for trying to bring this to compliance with the ordinance, but no documentation was provided that piano lessons are similar in intensity. No noise assessment was provided. No evidence that the County allowed a curb cut. It's difficult to refute the Zoning Administrator's determination without substantive evidence that this is a common occurrence in some other type of home occupation. He also has trouble with the pool area that was outlined. The restroom is not in the cordoned off area, it is separate, and

somebody is going to use the restroom. For him, it says it's compliant as long as it's convenient to comply.

Kelly Kuiper said she doesn't think it's appropriate to get into the specifics about all that. She wants to point out that it's important that the facts at hand are truthful. While the unauthorized curb cut is a legitimate problem, there's no ordinance that prohibits creating a parking lot. There's no ordinance that prohibits paving your entire property or having parking on your front lawn. That's not against the ordinance so the part of the home occupation for that, you can't say is not met. She said 12th Ave. is different and the traffic count is important. She said the traffic count as a whole, if you have 100 people served a day, and the road has 1,000 cars, then 100 is negligible. She does think the remaining sections of the home occupation presents challenges. How do you mandate what area is being utilized? She said her entire finished basement is a gigantic area and what if she had a home occupation, then the entire floor area is within the home occupation. As a Township, how do you review that every home occupation is in compliance with the ordinance. The same goes for the 12 times per year. How do we make sure that everyone is in compliance with this? How do we make sure it is equal to all home occupations? She raises the question of how the home occupation ordinance relates to the definition of commercial. She said it's not what they're looking at tonight. She said it's about looking at the Zoning Administrator's determination.

Brock Nanninga said how is anyone going to comply with the 12 days in a 12 month period? That means anyone over the 12 days is then not a home occupation. He said the Township doesn't have the capacity to handle something like this. He said the comparison of piano lessons and swimming lessons are different. He agrees that 12th Ave. is a busy street, but considers traffic to and from the backyard is not normal in a residential area. He said there's a lot that the staff report points out that he doesn't know if the Zoning Board of Appeals can mitigate enough to fall within the home occupation ordinance.

Michael Bosch said it's apples and oranges when you compare what's in the OS district and residential. He has no problem with the 1 employee and the 25%. He said he used to have a photo studio in his home. He doesn't think just because a space is available, it should be counted. He said the curb cut is not the Township's job to monitor. There are other homes on 12th Ave. with more than one curb cut. He said they made a good faith effort to put the traffic in the back. He said cars can technically be parked everywhere. He said they can pave up to their line lot if they wanted to. He said A is met, B is met, C is met. He said what happened in May is different. There are hundreds of pages of ordinances and the expectation that everyone should know it is unrealistic. D is met. E is questionable because 12th Ave. is different from a cul-de-sac; there is a reasonable expectation of quietness in a cul-de-sac. So he thinks E is met. As far as noise levels, that is a subjective thing. He asked what was the Code Enforcement Officer's decibel reading? That is subjective. We also follow noise ordinances, as long as it's not in violation of a noise ordinance then there's not a problem. G is met. He said he doesn't see anything specific that violates Section 3.24.

Kendall Grable said it seems like the staff report was written based on what occurred in May.

The Zoning Administrator said it was written based on the new proposal.

Tom Healy said it's about a request for review based on the Zoning Administrator's determination.

Kelly Kuiper said her fear is the challenge of the definition of commercial and how it relates to the definition of home occupation. She said she works out of her home, but she doesn't have people coming and going. It's not about them agreeing on how the ordinance is written, it's making sure

the ordinance is followed. Kelly asked has there been legal counsel regarding the definition of commercial and it's relation to the home occupation?

The Zoning Administrator said no.

Tom Healy said the point of debate is the intensity of the use exceeds a home occupation, so it is some other type of use.

Michael Bosch said she sleeps there, eats there, and all that. So how is it not a home occupation?

Tom Healy said to Kelly's point, maybe the Township attorney should look at this. He'd like this to be taken to the Planning Commission. He said because of COVID, they never got to ordinance revisions so he'd like this to be added to the list. Tom said he will bring it up to the Planning Commission.

Michael Bosch said there are years of ordinance revisions to be done. He said he doesn't see a problem with Section 3.24.

Kendall Grable said if they looked at it from a different lens of last summer then it's a violation of Section 3.24. He said the Township cannot go above and beyond.

Tom Healy said the proposal was determined to be non-compliant, and the proposal was from February of this year. He believes the conclusion that the Zoning Administrator drew was that it still exceeds the intensity level.

Kelly Kuiper said even if the ZBA agrees with the Zoning Administrator, the applicant can still move forward and operate within the parameters of Section 3.24.

Tom Healy explained what is being appealed is the new proposal.

James Bruinsma said the question in front of you is, is the staff incorrect in the new proposal?

Kelly Kuiper said she wants more time to review the new proposal.

Tom Healy suggested to remand the matter back to the Zoning Administrator.

Kendall Grable said the reason we're here is because that didn't happen.

Tom Healy said even if they affirm the Zoning Administrator's decision, the applicant can still operate within Section 3.24.

Kelly Kuiper said then they won't know exactly how much they can do under Section 3.24. Kelly does believe a lot of pieces in the proposal does meet Section 3.24.

Michael Bosch said a lot of this is very subjective. He disagrees with the Zoning Administrator across the board.

Kendall Grable said it's the Township's responsibility for somebody to get in compliance. He said what we have here is that the Township told them they are not in compliance, rather than how to help them get into compliance.

Kelly Kuiper said there are some questions in regards to the traffic. If we were to not agree with the Zoning Administrator, what if the Township still gets the same number of calls and complaints. How do we make a decision to allow someone to operate or say the neighbor is correct that it's not within Section 3.24? It's fair to say both sides have very real claims about what is going on in their neighborhood. She has a right to operate her business, but the neighbors also have a right to live in a residential neighborhood without the impact that her business creates.

Tom Healy said the Township grants the authority to the Zoning Administrator to make decisions and it's the ZBA's job to determine if it was right or wrong. He said maybe we should get the Zoning Administrator that made the original determination in to weigh in on this. He suggested tabling the issue.

Kelly Kuiper said it's very gray. Particularly the traffic, that is very gray. She said we received a lot of communication, including a lot of legitimate complaints. She thinks it's important to look at the neighbors who complained consistently. She said that is very important to note.

Michael Bosch said the neighbors' complaints are very subjective.

Kelly Kuiper said clearly there are people upset with this.

Michael Bosch said he agrees that the neighbors' concerns are important. When it is next to you, then it does become an issue.

Brock Nanninga said this appears to be a determination based on the past usage.

Tom Healy said if the decision is based on the past use, then it appears that the new proposal did not change much.

Moved by Kendall Grable, seconded by Michael Bosch, to adopt the staff report as finding of fact and to not concur and reverse the Zoning Administrator's determination and to determine that the proposed use described in the Zoning Administrator's determination is a home occupation and the applicant may continue to offer swimming lessons within the parameters of Section 3.24 of the Georgetown Township Zoning Ordinance.

Kelly Kuiper said she's not comfortable making a vote now and would like to table the item.

Moved by Kelly Kuiper, seconded by Tom Healy, to amend the motion and to table the item.

Yeas: Tom Healy, Kelly Kuiper

Nays: Kendall Grable, Brock Nanninga, Michael Bosch

MOTION DEFEATED.

Kendall Grable said the motion is to disagree with the Zoning Administrator's determination and to expect the applicant to operate within Section 3.24.

Yeas: Michael Bosch, Brock Nanninga, Kendall Grable

Nays: Kelly Kuiper, Tom Healy

MOTION CARRIED.

#210428-06 – Other Business

There was no other business at this time.

#210428-07 – Public Comments

Deb Hoekwater, 7284 12th Ave., said what's the guarantee that this issue won't happen again? She said there aren't cars coming and going all the time in a home photography studio. She said she wants to come in agreement with the applicant and to live harmoniously. She said 12th Ave. is not the same traffic as Baldwin or Cottonwood. There's a lot of foot traffic, bikes, and walkers on 12th Ave. She said the lessons are 10 minutes, so that's a ton of cars coming in and out of the driveway. She said this is not a common residential complaint, it's a noise issue and a quality of life issue. She said it seems like because they live on 12th Ave., they're not being given the same consideration as a cul-de-sac. She doesn't think the ZBA's comparisons of other home occupations are accurate.

Tom Healy explained to Deb Hoekwater that Rebekah Milito can operate her business within the parameters of the home occupation ordinance. He said if it gets out of bounds again, then she can make a complaint.

#210428-08 – Adjournment

Moved by Tom Healy, seconded by Kelly Kuiper, to adjourn the meeting at 10:36 p.m.

Yeas: Kelly Kuiper, Brock Nanninga, Tom Healy, Kendall Grable, Michael Bosch

Nays: None

MOTION CARRIED UNANIMOUSLY.