

MINUTES OF THE REGULAR MEETING OF THE GEORGETOWN CHARTER TOWNSHIP
ZONING BOARD OF APPEALS HELD May 25, 2022

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

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

#220525-01 – Approval of the Minutes of the October 27, 2021 Zoning Board of Appeals Meeting

The minutes of the regular meeting held on October 27, 2021 were presented.

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

Yeas: Tom Healy, Michael Bosch, Kendall Grable, Trevor Petroelje

Nays: None

MOTION CARRIED UNANIMOUSLY.

#220525-02 – Public Hearing – (VAR2202) Daniel Siminski, 3137 Blairwood Court, is requesting to split an existing parcel that does not abut upon a public or private street nor does it have frontage upon a public street right-of-way or approved private street, a variance from the following sections:

- Sec. 2.55: “All lots shall abut upon and have permanent access to a public or private street”;
- Sec. 3.19: “Any lot of record created after the effective date of this Ordinance shall have frontage as required by this Ordinance upon a public street right-of-way or approved private street”;
- Sec. 3.29(G)(4): “The proposed land division(s) or adjustment(s) comply with all requirements of this Ordinance, the Georgetown Township Zoning Ordinance and the Land Division Act”;
- Sec. 27.5(D): “If two or more contiguous lots are under the same ownership, no waiver of the district requirements shall be granted. Such lots shall be combined to create one or more conforming lots”;

in a Rural Residential (RR) district, on a parcel of land described as P.P. # 70-14-09-100-027, located at 2901 Bauer Rd., Georgetown Township, Ottawa County, Michigan.

The Zoning Administrator presented the [staff report](#) and provided three letters ([letter 1](#), [letter 2](#), [letter 3](#)) from the public to the Zoning Board of Appeals.

Daniel Siminski, 3137 Blairwood Court, represented the property owners Nathan and Cynthia Boynton, and presented the request ([application](#), [letter](#), [neighbor signatures](#), [overview](#), [site plan](#), [survey](#), [survey with aerial](#), [site pictures](#)) with the following comments:

- He’s applying on behalf of his parents-in-law, Nathan and Cynthia Boynton. He’s a civil engineer and designs roads and public utilities for the City of Grand Rapids. They are asking for this variance because of the circumstances the family is going through. Their niece, Sophia, was set to graduate from Grand Valley State University and was going to become an elementary school teacher before her accident. Sophia’s mother worked at a children’s hospital, but retired to take care of her. He understands this is out of the norm, but he’s asking the Zoning Board of Appeals, as neighbors, to rally together for Sophia. He acquired the southern parcels along Bauer Road from the George Boynton Trust and there is an easement across the parcel. The family has owned it since it was deeded by the

government and they would like to keep it. They are asking the landlocked parcel to be divided into two. Ottawa County Road Commission owns the maintenance strip at the end of Baywood Drive and they said they would entertain allowing access if the Township grants this variance. The variance will not be a detriment and a petition was signed by neighbors. One neighbor was opposed to the idea because they like the trees. The only possible harm he sees is taking away possible future road extension, but he doesn't see them selling the property. There's a ravine on the property. The Road Commission told them they would have to construct a larger cul-de-sac and the cost to that is astronomical. The ravine would have to be filled in and there's a pole barn next to the cul-de-sac that would prevent a larger one from being constructed. The deep ravine makes it very difficult to extend the road whether it's now or 50 years from now. A developer would say it's cost prohibitive and nobody is going to make money out of it. The remainder of the parcel that is being split would have frontage when the adjacent parcels are developed. Lumin Mill Drive is just north of Baywood Drive and that is perfect for road extension because the topography there is flat. It would serve the same purpose as Baywood Drive. There's also Gilmore Lane to the south. Fillmore Street and Bauer Road are on both sides and can be used to extend roads through the parcels owned by Tall Oak Properties. The existing cul-de-sac is wider than any cul-de-sac in the City of Grand Rapids. If the split is approved, they would deed the property so both parcels would not be owned by one person. If the Road Commission says they can't have access to Baywood Drive, then they would just use the existing easement down to Bauer Road, but that's not ideal; it's doable, but not preferred. They also want public water and sewer to have a therapy pool. The woods would help with light sensitivity, provide privacy, and having grandparents just 300 feet away and aunts who live nearby in Lowing Woods is important. All of this is important and can be met at this location. A variance like this hasn't been approved before, but that doesn't mean it can never be approved. An assumption is being made of their property. They don't want a road there. They want to help their family. They're not doing it to make money or profits. This was never their plan and it's something they didn't see coming. This is a hardship and they just want to give Sophia a home close to family. The Boynton family has been in Jenison for as long as the Jenison family has and they're a big part of the community.

Tom Healy asked did the two southern parcels split off in January of this year?

Daniel Siminski said they took possession of the two parcels in January from the George Boynton Trust. The Trust turned contentious with cousins, so they decided to end it.

Tom Healy asked prior to obtaining ownership of the parcels, did he consult with the Township or the County on any of that?

Daniel Siminski said no.

Kendall Grable said the back might be most feasible, but has he looked at building the home on the southern parcels along Bauer Road?

Daniel Siminski said to connect to Bauer Road, they would need 110' of frontage and pay the special assessment fees. They want to eventually do something with those parcels. To build a house there, they would need to grade up the property and that's cost prohibitive. Also, if they build a house there now, they won't be able to develop the rest of the parcel. There's also not

enough canopy, enclosure, and darkness for Sophia and there's no community feel. Being at the end of Baywood Drive, she would have neighbors, sidewalk, and be closer to family.

Kendall Grable asked has he talked to Ottawa County Road Commission? It seems the issue is the maintenance strip.

Daniel Siminski said he talked to Ottawa County Road Commission and also went to one of their meetings. He was told to seek approval from the Township first.

Kendall Grable asked has he talked to the County Commissioners?

Daniel Siminski said they told him the County will not touch the maintenance strip until the Township approves a split. They're not willing to consider anything without an approved split. The ravine is there so extending the road is not doable for them.

Kendall Grable said he believes the correct approach is Ottawa County Road Commission first.

Daniel Siminski said the County told him that the Township's approval of a split needs to come first. A conditional approval would be acceptable to him.

The Chairperson opened the public hearing.

No one from the public made public comments at this time.

The Chairperson closed the public hearing.

Tom Healy said a couple of thoughts come to mind. The circumstance is heartbreaking, he's sympathetic and everyone on this Board and in the Township are as well. A couple of considerations have to be looked at. First of all, it's a misconception that the Township wants a road going through their property. What's being provided for is the possibility of a road going through there and for it to connect to another road. When you look at it, the Zoning Administrator noted, no variances have been granted in the past to create a parcel that doesn't meet Township ordinances. There's a reason for that. The Zoning Board of Appeals does not have the legal authority to do that. Their authority comes from the Zoning Enabling Act. As soon as the Zoning Board of Appeals goes against the ordinance and the Act, then they are in violation of the law that created them. Acting in contrary to the law is against the law so the Zoning Board of Appeals has no power to act. There are three particular standards that simply fail: 5, 6, and 7 for the reasons the Zoning Administrator enumerated in the staff report. Those standards are not met, and we can't get them to meet. The Zoning Board of Appeals has a duty to uphold the law. Once the Zoning Board of Appeals gets outside of its role, we start creating problems and this Board starts acting in an arbitrary manner. It's simply not in this Board's authority under the law.

Trevor Petroelje said he doesn't disagree that this is the best use of the property and its cost prohibitive as it sits. However, all of the standards has to be met. As Tom Healy puts, that's just how it is. He wishes the Zoning Board of Appeals could help, but they can't because not all of the standards are met.

Michael Bosch said he's a property rights guy, but as Tom Healy and Trevor Petroelje laid out, if the standards aren't met, there's nothing the Zoning Board of Appeals can do. Considering the topography and the ravine, the Road Commission may say the property might never be developed

and is cost prohibitive for everyone. However, as Tom Healy said, all seven standards need to be met.

Kendall Grable said it's a nonconforming situation that the Zoning Board of Appeals can't make more nonconforming because that's against the Zoning Enabling Act. People may hold the Township accountable, including people who've previously been denied. The Zoning Board of Appeals can't approve something that is an illegal activity. The Township would face significant issues. He believes the County has the answer since they own the maintenance strip so he suggests pursuing this with the Road Commission.

Moved by Tom Healy, seconded by Kendall Grable, to adopt the staff report as finding of fact and move to deny the variance for (VAR2202) Daniel Siminski, 3137 Blairwood Court, to split an existing parcel that does not abut upon a public or private street nor does it have frontage upon a public street right-of-way or approved private street, a variance from the following sections:

- **Sec. 2.55: "All lots shall abut upon and have permanent access to a public or private street";**
- **Sec. 3.19: "Any lot of record created after the effective date of this Ordinance shall have frontage as required by this Ordinance upon a public street right-of-way or approved private street";**
- **Sec. 3.29(G)(4): "The proposed land division(s) or adjustment(s) comply with all requirements of this Ordinance, the Georgetown Township Zoning Ordinance and the Land Division Act";**
- **Sec. 27.5(D): "If two or more contiguous lots are under the same ownership, no waiver of the district requirements shall be granted. Such lots shall be combined to create one or more conforming lots";**

in a Rural Residential (RR) district, on a parcel of land described as P.P. # 70-14-09-100-027, located at 2901 Bauer Rd., Georgetown Township, Ottawa County, Michigan; based on the finding that the request does not meet the seven standards of the ordinance; specifically, standards 5, 6, and 7 have not been met and the reasons are enumerated in the staff report.

Yeas: Tom Healy, Michael Bosch, Kendall Grable, Trevor Petroelje

Nay: None

MOTION CARRIED UNANIMOUSLY.

#220525-03 – Election of Officers

Moved by Tom Healy, seconded by Trevor Petroelje, to elect Kendall Grable as Chairperson.

Yeas: Tom Healy, Michael Bosch, Kendall Grable, Trevor Petroelje

Nays: None

MOTION CARRIED UNANIMOUSLY.

Moved by Michael Bosch, seconded by Kendall Grable, to elect Tom Healy as Vice-Chairperson.

Yeas: Tom Healy, Michael Bosch, Kendall Grable, Trevor Petroelje

Nays: None

MOTION CARRIED UNANIMOUSLY.

Moved by Kendall Grable, seconded by Michael Bosch, to elect Trevor Petroelje as Secretary.

Yeas: Tom Healy, Michael Bosch, Kendall Grable, Trevor Petroelje

Nays: None

MOTION CARRIED UNANIMOUSLY.

#220525-04 – Public Comments

No one from the public made public comments at this time.

#220525-05 – Other Business

There was no other business at this time.

#220525-06 – Adjournment

Moved by Trevor Petroelje, seconded by Tom Healy, to adjourn the meeting at 8:02 p.m.

Yeas: Tom Healy, Michael Bosch, Kendall Grable, Trevor Petroelje

Nays: None

MOTION CARRIED UNANIMOUSLY.