

**SUPERIOR CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
APPROVED MINUTES
SEPTEMBER 11 2017
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1. CALL TO ORDER

The meeting of the Superior Charter Township Zoning Board of Appeals was called to order by Chairman Rintamaki at 7:00 p.m.

2. ROLL CALL

The Zoning Board of Appeals members present were Dail, Deeds, Guenther, Heningburg, Lewis, Parm and Rintamaki. Rick Mayernik, Building and Zoning Official, was also in attendance. A quorum was present.

3. ADOPTION OF AGENDA

A motion was made by Member Dail and supported by Member Parm to adopt the agenda as presented. The motion carried by voice vote.

4. APPROVAL OF MINUTES

A motion was made by Member Lewis and supported by Member Heningburg to approve the minutes of May 16, 2017 as amended. The motion carried by voice vote.

5. CITIZEN PARTICIPATION

There was no Citizen Participation.

6. COMMUNICATIONS

A. Letter from Geoffrey Perkins, 5584 Plymouth Rd. regarding ZBA#17-04 and ZBA #17-05. A motion was made by Member Parm and supported by Member Lewis to receive the letter. The motion carried by voice vote.

7. PUBLIC HEARINGS AND CONSIDERATION OF APPEALS

- A. ZBA #17-04 Variance from Section 3.101 (Dimensional Standards) that requires the front yard setback in the VC (Village Center) zoning district to be a maximum of 35 feet from the property line. The variance would allow the front yard setback to be 250 feet from the property line to avoid building in a wetland. Variance from Section 13.08(D) (Variances – Expiration) to extend the expiration date of the variances from 180 days. **The property is**

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located at 5656 Plymouth-Ann Arbor Road and is zoned VC (Village Center).

1. Public Hearing

A motion was made by Member Deeds and supported by Member Dail to open the public hearing. The motion carried by voice vote.

Teresa Welsh, representing the applicant, said the purpose of variances ZBA#17-04 and ZBA#17-05 is to allow the construction of two houses. She said the location of the wetland along the frontage of the site would prevent the houses from meeting the required 35-foot maximum setback. She also noted that the wetland was extended when the ground was lowered as a result of the installation of a new Washtenaw County Road Commission guard rail. She said the Superior Township Wetlands Administrator, Don Pennington, has walked the site and delineated the wetland.

Heninburg asked if similar variances were previously approved by the Zoning Board of Appeals for the same site and if so, were they still in effect. Mayernik said variances were approved by the Board in 2013 that extended the front yard setback to 250 feet and extended the approval expiration date from 180 days to 360 days. He said the 360 days has expired and therefore the variances are no longer in effect.

There were no additional comments.

A motion was made by Member Deeds and supported by Member Heningburg to close the public hearing. The motion carried by voice vote.

(The Board agreed to hold the public hearing on ZBA#17-05 and then deliberate both requests together.)

- B. ZBA #17-05 Variance from Section 3.101 (Dimensional Standards) that requires the front yard setback in the VC (Village Center) zoning district to be a maximum of 35 feet from the property line. The variance would allow the front yard setback to be 250 feet from the property line to avoid building in a wetland. Variance from Section 13.08(D) (Variances – Expiration) to extend the expiration date of the variances from 180 days. **The property is located at 5658 Plymouth-Ann Arbor Road** and is zoned VC

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(Village Center).

A motion was made by Member Heningburg and supported by Member Dail to open the Public Hearing for ZBA#17-05. The motion carried by voice vote.

Teresa Welsh continued her description of the request. She said the owner would like to put in a driveway that runs parallel to Plymouth Rd. and can be used by both parcels. She said the owner wishes to sell the property. There were no additional comments.

A motion was made by Member Deeds and supported by Member Heningburg to close the public hearing. The motion carried by voice vote.

2. Deliberation

Member Guenther asked about the variances granted in 2013. He said that while the Board is not bound by the previous findings, he said it would be helpful to know what the findings were.

Chairman Rintamaki asked for copies of the Zoning Board of Appeals meeting minutes at which the previous variances were granted.

The meeting was in recess for 15 minutes to give the staff time to retrieve the 2013 meeting minutes.

Guenther reviewed the October 22, 2013 ZBA minutes. He noted that prior to the revisions made to the Zoning Ordinance in 2008, there was no maximum setback required for the VC district. He also noted that the findings in the current request are similar to the findings in the 2013 request.

The Board considered the request for a variance from Section 3.101(Dimensional Standards):

1. *Special conditions and circumstances exist that are unique to the land, structures, or buildings involved, and are not applicable to other lands, structures, or buildings in the same district, subject to the following:*

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- a. *The existence of nonconforming dwellings, lots of record, structures, uses, or sites on neighboring lands in the same zoning district or other zoning districts shall not be considered grounds for a variance.*
- b. *The special conditions and circumstances on which the variance request is based do not result from the actions of the applicant.*

The Board found that the wetlands on the site create special conditions that prevent the maintenance of a maximum 35 foot-setback. This is not the result of actions of the applicant. Additionally, if the parcels were developed before 2008, a setback variance would not be necessary.

2. *Literal interpretation of this Ordinance would deprive the applicant of rights commonly enjoyed by other property owners in the same district under the terms of this Ordinance.*

The Board found that if the front yard setback was not reduced, the parcels were not buildable.

3. *Granting the variance requested would not confer upon the applicant any special privilege that is denied by the Ordinance to other lands, structures, or buildings in the same district.*

The Board found that the request satisfied this standard.

4. *A variance granted shall be the minimum that will make possible a reasonable use of the land, building, or structure. The Board of Appeals may consider lesser variances than that requested by an applicant.*

The Board found that the request is reasonable.

5. *The variance granted shall be in harmony with the intent of this Ordinance and will not be injurious to the environment, neighborhood, or otherwise detrimental to the public interest.*

The Board found that to preserve the wetland is in the public interest.

A motion was made by Deeds and supported by Dail to approve ZBA#17-04 a variance from Section 3.101 (Dimensional Standards) and extend the maximum front yard setback from 35 feet to 250 feet finding that it meets the

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standards in Section 13.08(B)(1), (2), (3), (4) and (5) in each case; and to extend the expiration date from 180 days to 360 days.

The motion passed with the following vote:

YES: Dail, Deeds, Guenther, Heningburg, Lewis, Parm and Rintamaki
NO: None
ABSENT: None
ABSTAIN: None

A motion was made by Deeds and supported by Dail to Approve ZBA#17-05 a variance from Section 3.101 (Dimensional Standards) and extend the maximum front yard setback from 35 feet to 250 feet finding that it meets the standards in Section 13.08(B)(1),(2),(3),(4,) and (5) in each case; and to extend the expiration date from 180 days to 360 days.

The motion passed with the following vote:

YES: Dail, Deeds, Guenther, Heningburg, Lewis, Parm and Rintamaki
NO: None
ABSENT: None
ABSTAIN: None

C. ZBA #17-06 Interpretation of Article 17.03(234(h), Definition of "Tower."
(A request to determine if an electrical transmission tower that carries communication antenna is considered a wireless communication tower subject to all requirements of Section 14.02 Wireless Communication Facilities.)

1. Public Hearing

A motion was made by Member Parm and supported by Member Deeds to open the public hearing. The motion carried by voice vote.

Jonathan Crane, representing the applicant SBA, explained the request. He said SBA proposes to build a new monopole for joint use by MDOT and others and locate it in the M-14/Ford Rd. right-of-way. He said if the existing nearby electrical transmission tower is determined to be a cell tower, the proposed monopole will have to be located 2 miles away.

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Rintamaki asked what would be located on the tower. Crane said it would include a camera for monitoring M-14 and antenna for Verizon Wireless. He said there is room for 30 other carriers.

Rintamaki said there were two questions: 1. Can the new tower be located in the right-of-way; 2) What is the distance from other towers? He said if the ZBA concludes that the electrical transmission towers are cell towers, SBA will need a variance from the distance requirements as requested in ZBA#17-07.

Dail said the Township needs evidence from a certified engineer about the structural integrity of the tower.

The Board referred to the Township Planner's report suggesting that electrical transmission towers can be considered a structure or an accessory structure. Mayernik said the zoning ordinance language does not support including electrical transmission towers as wireless communication towers.

A motion was made by Member Lewis and supported by Member Guenther to close the public hearing. The motion carried with a voice vote.

The Board discussed whether or not an electrical transmission tower can also be a wireless communication tower and agreed that additional information was needed. Dail said a document should be provided that the proposed location is needed by MDOT and that the camera cannot be installed on other existing towers.

Rintamaki said the Board would take no further action until the applicant provides a description from MDOT for the purpose of the pole and a reason why it must be located at M-14 and Ford Rd; and provide structural information on why existing towers cannot be used.

(The Board agreed to hold the public hearing on the related item ZBA#17-07.)

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- D. ZBA #17-07 Variance from Section 14.02(D)(3)(c) (Setback from Road Right of Way), and 14.02(D)(3)(a)(3) (one mile separation) if necessary, for the construction of a 180 foot monopole tower. This property located at the M-14 off-ramp and Ford Road off-ramp overpass and is zoned RC (Recreation-Conservation District.)

A motion was made by member Heningburg and supported by Member Parm to open the Public Hearing. The motion carried by voice vote.

Jonathon Crane, representing the applicant, said the request is to allow the construction of a camera pole within the right of way of M-14 off ramp and Ford Rd.

There were no additional comments.

A motion was made by Member Guenther and supported by member Deeds to close the public hearing. The motion carried by voice vote.

Rintamaki said action ZBA#17-06 and ZBA#17-07 will be postponed until the next meeting at the call of the chairman.

9. OTHER BUSINESS AS NECESSARY

None.

10. ADJOURNMENT

A motion was made by Member Heningburg and supported by Member Parm to adjourn the meeting at 8:45 p.m.

Respectfully submitted,

John Rintamaki, Chairman Zoning Board of Appeals

Deborah Kuehn, Acting Recording Secretary Superior Charter Township
3040 N. Prospect, Ypsilanti, MI 48198