

**SUPERIOR CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS  
APPROVED MINUTES  
NOVEMBER 29, 2018  
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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, Lewis, Parm and Rintamaki. Heningburg was absent. 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 Deeds to adopt the agenda as presented. The motion carried by voice vote.

4. APPROVAL OF MINUTES

A motion was made by Member Dail and supported by Member Parm to approve the minutes of April 19, 2018 as amended. The motion carried by voice vote.

5. CITIZEN PARTICIPATION

There was no Citizen Participation.

6. COMMUNICATIONS

There were no Communications.

7. PUBLIC HEARINGS AND CONSIDERATION OF APPEALS

- A. ZBA #18-01 Variances from Section 3.101 (Dimensional Standards) to increase the maximum ground floor coverage and floor area ratio to allow an addition to the principal structure. The property is located at 8570 Old Oak Drive and is zoned A-2 (Agriculture).

Harv Singh, applicant, stated that he was seeking a variance for a 17'x28' addition onto the existing home for a golf simulator.

Chairman Rintamaki noted that the building permit was applied for and drawings were submitted to the Township. Several days later the building

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permit was revoked by the Township and the applicant then filed for a variance from the Zoning Board of Appeals.

Chairman Rintamaki asked the applicant what contracts, if any, had been drawn up between receiving the building permit and notification that the permit had been revoked.

Mr. Singh replied that two deposits were made - one to the builder and one to the golf simulator company. He added that the golf simulator would not fit into any other part of the home due to the height.

Member Dail asked the applicant if the proposed addition had been discussed with the neighbors.

David Schmitzerle, 8610 Old Oak Drive, stated that he lives directly east of Mr. Singh and is in support of the proposed project.

Mr. Singh also stated that he had spoken to the neighbors to the west and they did not have an issue with the addition.

Rick Mayernik explained that the issue date on permit was October 26, 2018 and the revocation date was November 1, 2018. He also explained that when the house was originally built, the floor area ratio (FAR) exceeded the maximum 5%. However, the home complied with the maximum 5% ground floor coverage (GFC). With the addition, the home would be approximately 300 feet over the allowable limit for the GFC.

Mr. Mayernik added that the property is zoned A-2 (agriculture), but if you were to drive through the subdivision it would appear to be zoned R-1 (residential) because there is no real agricultural component to the sites. Both zoning districts require a minimum lot size of two acres, but the maximum allowed GFC and FAR in the R-1 zoning district is 10%.

Chairman Rintamaki asked what zoning districts surround the subdivision.

Mr. Mayernik replied that the property adjacent is zoned R-1, the property directly west is mostly developed subdivisions, and there is A-1 and A-2 in small pockets along Plymouth Road.

Chairman Rintamaki noted that the ZBA is constrained with what it can do, and the constraints are set forth Section 13.08 of the Zoning Ordinance. All the following standards must be met.

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Chairman Rintamaki reviewed the following standards in Section 13.08. He noted it is a unique situation because the building permit had already been issued.

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:*
  - 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.*
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.*
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.*
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.*
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.*

Member Guenther questioned if the Zoning Board of Appeals was the correct forum for the case, and if granting a variance from the Zoning Ordinance the remedy.

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Rintamaki stated that the applicant may be able to go directly to the Township Board and request the property be rezoned to R-1. If the Zoning Board of Appeals denied this, the circuit court could review it, but they will review it the same.

Member Guenther asked if granting a variance was the correct remedy, or would it be a better argument that the Township admits there was an error in issuing the building permit.

Member Deeds felt that 13.08B(1) and (2) were applicable, but (3) could confer special privilege upon the applicant.

Member Guenther stated that you could make an argument that with 13.08B(3), anyone who gets a building permit could build. However, he did feel that 13.08B(4) did not apply. He added that it seemed that the whole procedure doesn't fit and wondered if the correct procedure was to review the revocation of the permit.

Chairman Rintamaki read Section 13.06(6) of the Zoning Ordinance and felt that it could fit the situation.

6. *The Board of Appeals shall reverse an administrative decision only upon determining that the order, requirement, decision or determination constituted an abuse of discretion; was arbitrary or capricious; or was based upon an erroneous finding of a material fact or an erroneous interpretation of the Zoning Ordinance.*

Mr. Mayernik explained that he revoked the building permit based on the building code, which relates to other jurisdictional bodies. When the permit was issued initially, he believed that all conditions had been met.

Member Deeds stated that he believes the Zoning Board of Appeals has the power to rule based on this administrative appeal.

Chairman Rintamaki replied to Member Deeds that what he is suggesting is that this body has two kinds of authority, Section 13.06, which deals with administrative appeals and Section 13.08 which handles variance requests. In order to grant a variance request under Section 13.08, the special conditions must be met. The standards for an administrative appeal under Section 13.06 are quite different. He stated that one action the Zoning Board of Appeals could take is to order the reissuance of the building permit.

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Members were in agreement.

Chairman Rintamaki stated that the request will be reviewed under Section 13.06 of the Zoning Ordinance – dealing with the building permit issuance and revocation. He went on to state that the Zoning Board of Appeals has determined to revoke the revocation of the building permit and it is reinstated effective immediately.

Motion by Deeds, supported by Dail, based on the powers and duties granted to the ZBA as defined in Section 13.04, to approve ZBA #18-01, as an administrative appeal of the Building and Zoning Official's decision to revoke PB18-0271 based on meeting the Standards for Administrative Appeal in Section 13.06 one through six, effective November 29, 2018.

Roll Call Vote:

Yes:	Dail, Guenther, Heningburg, Lewis, Parm, Rintamaki.
No:	None.
Absent:	Heningburg.
Abstain:	None.

The Motion Carried.

**8. OLD BUSINESS**

None.

**9. OTHER BUSINESS AS NECESSARY**

None.

**10. ADJOURNMENT**

A motion was made by Member Parm and supported by Member Dail to adjourn the meeting at 7:46 p.m.

Respectfully submitted,

John Rintamaki, Chairman Zoning Board of Appeals

Laura Bennett, Recording Secretary Superior Charter Township  
3040 N. Prospect, Ypsilanti, MI 48198