

**MEETING MINUTES OF THE GAINES CHARTER TOWNSHIP ZONING BOARD OF APPEALS
FOR THE REGULAR MEETING HELD ON
FEBRUARY 15, 2017
AT THE GAINES CHARTER TOWNSHIP OFFICES
8555 KALAMAZOO AVENUE SE • CALEDONIA, MICHIGAN 49316**

I. CALL TO ORDER AND ROLL CALL.

The meeting was called to order at 7:00 p.m. by Vice Chair Ringnalda. A quorum was present.

MEMBERS PRESENT: Michael Alex Brew, Connie Giarmo, Don Hilton, Ruth Ringnalda, Phil Tietz (Alternate)

MEMBERS ABSENT: Tom Werkema (w/ Notice)

OTHERS PRESENT: Mark Sisson, Township Planner / Zoning Administrator, Matt McKernan, Assistant Planner

II. CONSIDERATION OF MEETING AGENDA

None

III. CONSIDERATION OF MEETING MINUTES

January 11, 2017 – Regular Meeting Minutes

MOTION: By Member Hilton supported by Member Giarmo to approve the minutes for the January 11, 2017 Regular Meeting.

Ayes: Brew, Giarmo, Hilton, Ringnalda, Tietz

Nays: None

Abstain: None

Motion: Passed

IV. INQUIRY OF CONFLICT OF INTEREST

None

V. ADVERTISED PUBLIC HEARINGS:

1. Dutton Christian School, 6729 Hanna Lake Avenue (RL-10 District)

Dimensional variance for a 17 foot rear yard setback where a 50 foot rear yard setback is required for a proposed addition to the west side of Dutton Christian School.

Vice Chair Ringnalda introduced the topic.

Brent Folkert, Dan Vos Construction

Dutton Christian is requesting a 17 foot rear setback where a 50 foot setback is required for an addition to the north end of the building. There will be another smaller addition on the south end of the building. Options for expanding the building northward are limited by the county drain. The school cannot extend further south without the need for a variance from the 50 foot side yard setback. Michigan Building codes relative to school buildings make it difficult to reconfigure the existing building to allow expansion without the need for a variance.

Dutton Christian is amenable to planting screening along the rear of the building to minimize the impact of the variance. The addition should not create any issues with drainage as neighboring properties drain toward the school.

The school has inquired with the adjacent property owner to the west about purchasing enough property to negate the need for a variance. The property owner doesn't wish to sell at this time. The owner has given Dutton Christian Schools a first right of refusal on sale of the property and submitted a letter stating they do not object to the variance. Dutton Christian School sees this variance as a temporary solution until this property can be purchased in the future.

Ringnalda opened and closed the public hearing at 7:11 pm.

Member Hilton asked Folkert whether or not the Kent County Drain Commission would allow the school to empty into the drain. Folkert informed the ZBA that the school has had preliminary discussions with the KCDC about this issue and that most likely the school would discharge stormwater directly into the drain, without retention. The proper permits for this would be acquired during the site plan review process.

Several members of the ZBA asked for information pertaining to the future of the school.

Steve Van Laan, Dutton Christian Schools

Van Laan informed the ZBA that Dutton Christian School is hoping for the addition to the north side of the building to be ready for the fall of 2018. They are aiming to complete the smaller addition to the south by the fall of 2021. Current expansion plans are expected to accommodate 10-12 years of growth.

Discussion turned to the proposed layout of the facility and if alternatives had been explored that would remove the need for a variance. Van Laan explained to the ZBA that the two expansions would accommodate different grade levels. Based on the input from teachers, the school decided it would not be advantageous to mix grade levels on the south side of the building, which created the current proposal of separate expansions to the north and south side of the building. There were discussions about altering the layout of the north addition, but the architects were not able to create any options that would meet the needs of the school and conforming to the 50 foot rear setback. Expansion toward Hanna Lake Avenue was ruled out because it would remove need parking spaces and interfere with the circulation of school buses.

MOTION: By Member Brew, Supported by Member Giarmo to enter the Planner's report into the public record.

Ayes: Brew, Giarmo, Hilton, Ringnalda, Tietz

Nays: None

Abstain: None

Motion: Passed

Discussion ensued and Member Hilton expressed that while it was clear that Dutton Christian Schools had seriously considered other alternatives to avoid the necessity of a variance he would have been more comfortable if they were requesting a 25 foot setback, which was the standard for schools in this zoning district until the early 1980s. Hilton conveyed to the other

ZBA members that they would need to find significant physical challenges inherent to the site for a variance to be justified in this case. Vice Chair Ringnalda responded that she felt that the presence of the county drain to the north of the school represented a significant physical challenge inherent to the property that limited the school's expansion options.

Member Tietz expressed his concern that the need for a variance was a self-created hardship on the part of the applicants. Decisions on the configurations for various expansions over the last 30 years have led to a situation where the only logical expansion area exists within the 50 foot rear yard setback.

MOTION: By Member Giarmo, to approve the request for a dimensional variance to allow a 17 foot rear yard setback where a 50 foot rear yard setback is required for a proposed addition to the west side of Dutton Christian School. Giarmo summarized that decision is based on the on the findings that that there is a practical difficulty caused by the unique physical nature of the property; that the current and future expansion needs that drive the request could not have been reasonably anticipated and are therefore, not self-created; that the general public, the neighborhood and adjacent properties will not be substantially harmed; and that a negative precedent which would impair the intent and purpose of the ordinance will not be set because all other options for expanding the school have been explored. The approval is subject to the following conditions:

1. That the final site plan for the additions be submitted to the Planning Commission for approval and that the plans include an ample and suitable landscape buffer as described in Section 16.11 as a type II Buffer.
2. That except for grounds maintenance no outdoor lighting, outdoor activity, mechanical exhaust or other nuisance causing process or activity internal or external to the building, is permitted within 20 feet of the subject addition.
3. That the drainage plan for the addition that is submitted for review and approval does not negatively impact the adjacent property.

The motion was supported by Member Brew.

Ayes: Brew, Giarmo, Hilton, Ringnalda
Nays: Tietz
Abstain: None
Motion: Passed

2. Pool in Front Yard, 6150 Hanna Lake Avenue SE (RL-10 District)
Dimensional variance to allow an in-ground pool in front yard.

Vice Chair Ringnalda invited the applicant to introduce his request.

Eric Wierenga, 6150 Hanna Lake Avenue SE

The home was built in 1991 by applicant’s grandparents. The home was placed at a high point on the property so that water would drain away from the home. The proposed location of the pool was chosen because it is the flattest place behind the house. The pool can’t be placed behind the attached garage because it would interfere with utility connections to the home. The pool will have a 6-foot tall privacy fence facing west to screen view of the pool from adjacent properties. If the request for a variance is not approved the pool could be placed to the southeast of the home. This location would not be ideal because it would make the pool area visible from Hanna Lake Avenue. The staff report mentions that the need for a variance could be removed by splitting a parcel from the property along Hanna Lake Avenue. Wierenga stated that he preferred to not split the property because he has no intent to sell the property in the near future. Wierenga stated that he has discussed his plans with his two neighbors and they were both in favor of the pool.

Vice Chair Ringnalda opened and closed the public hearing at 8:04 pm.

MOTION: By Member Giarmo, Supported by Member Tietz to enter the Planner’s report into the public record.

Ayes: Brew, Giarmo, Hilton, Ringnalda, Tietz

Nays: None

Abstain: None

Motion: Passed

Member Giarmo stated that she had visited the site and could verify that the pool wouldn’t be noticeable from Hanna Lake Avenue. Giarmo expressed to the applicant that the Township is very careful to minimize the amount of activities in the front yard of homes in residential districts and that he must demonstrate a practical difficulty in complying with the ordinance.

Vice Chair Ringnalda asked Planner Sisson to explain the process for splitting a parcel off the property on Hanna Lake and how it would negate the need for a variance. Sisson explained that the applicant would get a survey of his property and create boundaries for the two lots resulting from the property split. The applicant would then file a copy of the surveys with the Township who would forward the application to the county to be mapped and assigned new tax id numbers. The existing driveway would be considered a private street if a parcel was split along Hanna Lake Avenue. The area where the proposed pool is to be located would then be said to exist within the backyard of the home. Sisson concluded by explain that splitting off a parcel would create a small second tax bill for the applicant, but the amount would be minimal.

Member Hilton agreed with Sisson that the additional tax would be minimal, but stated that he felt it was difficult to justify making the applicant go through that process if it only removed the problem on paper and didn’t change the actual physical layout of the site in any meaningful way. The pool is located over 290 feet from Hanna Lake Avenue, which will make the impact of the variance very minimal. There are significant physical issues with the site, which limit where the pool can logically be located.

Tietz agreed with Hilton’s assessment of the situation and asked for direction from Planner Sisson on how to avoid setting a negative precedent that would allow pools to be placed in the front yards of homes under less desirable circumstances. Sisson responded that Hilton’s assessment was valid. The applicant’s request could justifiably be said to meet the intent of the ordinance. The pool is to be setback over 290 feet from Hanna Lake Avenue and will not be visible by neighbors. Only about 10 feet of the pool will extend into the front yard. Granting a variance for this situation wouldn’t likely set a precedent that would allow an entire pool to be located in the front yard under less desirable circumstances if the motion is correctly worded to address the issues inherent to this case.

Member Giarmo asked for clarification about the suggested condition of approval requiring the applicant to construct a six-foot tall privacy fence on the north and west sides of the pool. Assistant Planner McKernan informed Giarmo that he had mistakenly written the condition to include a privacy fence on the north side of the pool. The fence will be required because it faces Hanna Lake Avenue, but the north isn’t necessary because it faces an unoccupied wooded area on the applicant’s property.

MOTION: By Member Hilton, Supported by Member Giarmo to approve the request for a dimensional variance to allow a pool to be placed in the front yard of the home located at 6150 Hanna Lake Avenue. The decision is based on the findings that the pool is 290 feet from Hanna Lake Avenue; that difficult topography exists to the northeast of the home that limits where a pool can be placed; that the pool can’t be placed behind the attached garage because of the location of utility connections; that if a lot was split off along Hanna Lake Avenue the pool would become conforming; and that the variance is minimized by only extending into the front yard by a maximum of 15 feet. The approval is subject to the following conditions:

1. The in-ground pool shall be enclosed with a six-foot privacy fence on the north and east sides.
2. The in-ground pool shall comply with all other requirements of Section 20.5 (A)

Ayes: Brew, Giarmo, Hilton, Ringnalda, Tietz

Nays: None

Abstain: None

Motion: Passed

VI. GENERAL DISCUSSION

1. Zoning Board of Appeals Bylaws

Vice Chair Ringnalda informed the ZBA that approval of new bylaws would not be discussed due to the absence of Chair Werkema. The bylaws will be discussed at the next meeting of the ZBA.

VII. ADJOURNMENT

MOTION: By Member Tietz supported by Member Giarmo to adjourn.

Ayes: Brew, Giarmo, Hilton, Ringnalda, Werkema

Nays: None

Abstain: None

Motion: **Passed**

Meeting Adjourned at 8:25 PM.

CERTIFICATION

I hereby certify that the above is a true copy of the minutes from the February 15, 2017 Regular Meeting of the Gaines Charter Township Zoning Board of Appeals held at the time and place mentioned above pursuant to the required statutory procedures.

Respectfully submitted,

A handwritten signature in cursive script that reads "Michael Alex Brew". The signature is written in black ink and is positioned above a horizontal line.

Michael Alex Brew, Secretary
Gaines Charter Township
Zoning Board of Appeals

Dated: April 12, 2017