

**MEETING MINUTES OF THE GAINES CHARTER TOWNSHIP ZONING BOARD OF APPEALS
FOR THE REGULAR MEETING HELD ON
March 11, 2020
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 7:02 p.m. by Member Werkema. A quorum was present.

MEMBERS PRESENT: Brew, Giarmo, Hilton, Ringnalda, Werkema, Tietz (Alternate)

MEMBERS ABSENT: None

OTHERS PRESENT: David Jirousek, Planning Consultant

II. CONSIDERATION OF MEETING AGENDA

None

III. CONSIDERATION OF MEETING MINUTES

January 15, 2020 – Regular Meeting Minutes

Corrections:

1. Finish sentence in Paragraph #2 under Eric Vanderkam to read: *“regulates curb cuts and usually requires larger entrances for drives serving two or more homes.”*
2. Finish sentence in Paragraph #4 under Eric Vanderkam to read: *“built before current zoning standards and would be considered legal nonconforming.”*
3. In the **CERTIFICATION** section, change date to January 15, 2020.

MOTION: By Member Giarmo supported by Member Ringnalda to approve the minutes for the January 15, 2020 Regular Meeting with noted corrections.

Ayes: Brew, Giarmo, Hilton, Ringnalda, Werkema

Nays: None

Abstain: None

Motion: Passed

IV. INQUIRY OF CONFLICT OF INTEREST

Member Tietz stated he is the President of the Leisure Creek Condominium Owners Association and that the Association leases meeting space from time-to-time from Dutton Christian. As a quorum is present, Tietz will not be voting.

V. ADVERTISED PUBLIC HEARINGS:

6729 Hanna Lake Avenue (RL-10)

Dimensional variances to allow for an addition to the Dutton Christian School: request for a

reduction of the 50 foot rear setback to 17 feet (Section 6.2 of the Gaines Charter Township Zoning Ordinance).

Chair Werkema introduced the topic before the Zoning Board of Appeals. Member Brew made the following motion:

MOTION: By Member Brew supported by Member Giarmo to include information from a 2017 meeting relating to a similar variance granted on the west side of the building.

Ayes: Brew, Giarmo, Hilton, Ringnalda, Werkema

Nays: None

Abstain: None

Motion: Passed

Chair Werkema invited the applicant, Brent Folkert, from Dutton Christian Schools to present their request.

Mr. Folkert stated Dutton Christian Schools is seeking a dimensional variance at 6729 Hanna Lake Avenue to reduce the required 50-foot rear setback to 17 feet. The school is Zoned RL-10 as is adjacent property. Dutton Christian Schools owns 9 acres of land of which half is located north of the Dutton County Drain.

An approved variance request will allow construction of four classrooms, a multi-purpose room, three learning hubs, restrooms and common areas. The school has increased enrollment necessitating expansion.

This request is similar to the expansion approved by the ZBA in 2017 to add to the north side of the building. Construction took place in 2018. The 2017 variance was reduced from a requested 17' to 15' setback. This expansion request will be in alignment with the north side. Mr. Folkert stated the location of the existing drain prohibits expansion on the north side of the property. The parking lot and detention area limits expansion to the east side of facility. There are further constraints due to requirements of the "School Code Rules" which requires natural light and views to the outside. The only option for expansion is to the south and west.

Dutton Christian Schools would like to stress they are viewing this as a temporary solution as the school intends to eventually expand to the west. They have first right of refusal on property currently owned to the west by the Walbridge family. A letter from the Walbridge family, stating their intent to sell, signed by all parties, was submitted to the ZBA. They have no objection to the expansion.

Mr. Folkert stated the variance does not affect the neighbors to the north – the closest home is 275' away from the proposed construction. The variance request does not alter character, the anticipated increase in traffic is negligible, additional parking will not be required, and it does not create an additional fire hazard.

Chair Werkema requested Board input at 7:17 PM.

Fire Department Access

Brew: has the Fire Department verified access?

Folkert: Have not approached the Fire Department but there is room for a truck to navigate. South side is a hard service, west side is grassy.

Tietz: Asked Consultant Jirousek if approval from the ZBA would trigger Engineering and Fire Department review prior to or as part of the Planning Commission process. Jirousek said it would require a review but stated it may be able to be done administratively.

Walbridge Property

Hilton: Stated that the First Right of Refusal does not constitute a Buy / Sell Agreement.

Dan Netz, Head Administrator at the time of the 2017 variance request, stated it is a Gentlemen's Agreement at this point. The Walbridge Family has acknowledged their desire for Dutton Christian take ownership of the property. Purchase price is undetermined.

Chair Werkema opened the Public Hearing at 7:22 PM. Second request for comments at 7:23 PM.

Mr. Netz read comments from Brian Tingley stating the school, in reference to the Gaines Charter Township Master Plan, was a vibrant, important member of the community.

Chair Werkema made a third request at 7:24 PM

Chair Werkema closed the Public Hearing at 7:24 PM

Discussion on Applicable Review Standards:

Item #1 – The variance request, if granted, will be the minimum variance (ie., the least variation or change from the particular requirement of the Ordinance involved) that will make possible the reasonable use of the land, structure, or building involved.

Member Giarmo: Asked if classrooms have to have outdoor lighting and access? Applicant Folkert stated that natural lighting has been in the State School Rules as long as he can remember. Giarmo asked if this is the minimum variance allowable and noted the Dutton County Drain is an issue with this request.

Chair Werkema read last sentence in staff's response to this standard and takes issue with the last sentence *"The fact that the applicant's development plans are inconsistent with current setback requirement does not result in the satisfaction of this standard."* Werkema stated this is a large property and a reasonable use of the land. Feels this would exclude every request made by an applicant. Minutes from a previous meeting, where Secretary Hilton commented 17' was allowed where they had asked for 25', and it passed. How does that affect precedent? Werkema stated he feels previous staff was more forgiving than current. Applicant addresses the drain and how it is limiting their choices.

Consultant Jirousek asked if it is a reasonable use of land as the applicant has not exhausted options. The desire to deviate is not enough to meet this standard. There are other ways to expand. Already a reasonable use of land.

Member Hilton expressed concern about discouraging applicants from presenting requests. The building group stated they would be back to discuss. In reference to Brew's assessment for Fire equipment access, Hilton is not comfortable being built up on the west. 17' was supported. Believes the Fire Chief

will feel it is a tight squeeze especially when it is not a hard surface. Hilton also commented the Fire Department issue would be addressed in a Planning Commission meeting, Mr. Hilton still wished to make his statement; the intent is to keep kids safe.

Member Ringnalda - Setback has been requested to the south. No further growth to the south if this is approved. Dutton County Drain on the north preventing growth. With necessary requirement for parking space, expanding to the east is not an option. The situation is unique and makes the option to expand to the south the only one viable.

Member Brew restated the Dutton County Drain would stop fire equipment from going around the building. Werkema said a wide turn by fire equipment may necessitate use of neighboring property. Hilton said this request is not based on neighbor's property.

Tietz: Planning Commission will take fire truck access into consideration. If the property to the west were to remain undeveloped, less concerned about granting a variance. Respect relationship with land owners, documented to the extent it is. In viewing standards - there is no guarantee that it will become part of Dutton Christian property. If residential, it would be unlikely to allow a 17' variance. What would be the circumstance if the property does not end up being purchased by the school. What would the ZBA's response be if residential homes were already located.

Ringnalda. Access for the fire department is a Planning Commission issue, not ZBA. Not their role to determine. The Township is growing, residential development is growing which is why the school needs to expand. We want to support the schools. We desire growth and schools are a vital part of the community. Ringnalda stated the Township should support the growth. The previous request was granted three years ago and this request is not asking for anything new.

Consultant Jirousek: Reasonable use of property to extend the building in the manner consistent with previous expansion in 2017. The west side will be on a horizontal plane with that addition. Must be approved by the Fire Department.

Item #2 – The granting of the variance will not be injurious or detrimental to neighboring properties or residents.

Accept staff recommendation.

Item #3 – The variance will not be detrimental to the public welfare or change the essential character of the neighborhood.

Accept staff recommendation.

Item #4 - Whether the variance will impair the intent or purpose of this Ordinance:

Member Ringnalda does not feel the benefit is singular as many people will benefit. Private money will pay for the expansion. Also commented that view to property located at 3107 68th Street would be blocked from the students which lends to their safety and health.

Consultant Jirousek: the intent is to protect health, safety and welfare. Tie those findings closer to the actual standard.

Item #5 – The problem or condition for which the variance is requested is not a self-created problem by the applicant or property owner (or their predecessors in title) as to the property involved.

Member Giarmo: The problem is not self-created as the Dutton County Drain is limiting expansion. Walbridge property is an option but not currently available.

Steve VanLaan, 4708 8th Street and school board member, agreed the drain is the problem not allowing full development of the 9 acre parcel.

Member Brew asked if property to the east was a possibility. Applicant Folkert stated parking would then be the problem – grassy and detention area extends to the property line, which is why future development is off to the west.

Member Werkema also stated not self-created.

Member Hilton asked if they could go to the west, what does it mean? Mr Hilton stated “*we must abide by the standards and ordinances or there is no purpose, existing County drains and constraints are not considered to be self-created*”.

Item #6 – The condition or situation involved is not of so general or recurrent a nature that it would be more reasonable or practical for the Township to amend the provision of the Ordinance involved rather than to grant a variance for the condition or situation.

Member Brew stated the ordinance does not need to be changed, the variance approach is the solution. All members agree.

Item #7 – There are exceptional, unique, or extraordinary physical conditions or circumstances which directly relate to the property itself (including the land or a structure or building thereon) rather than the individual situation or desire of the applicant or property owner. In other words, the problem or exception or extraordinary circumstances or conditions must be inherent in the land, structure, or building involved.

Location of the Dutton County Drain is clearly the problem in this case.

Item #8 – The variance must be necessary for the preservation and enjoyment of a substantial property right which is similar to that possessed by other properties in the same zoning district and vicinity. (NOTE – a possible increased financial return shall not, of itself, be deemed sufficient to warrant a variance.)

Member Werkema stated there is creditability to staff's comments but does not believe the reference is to a school and it is not fair to compare. The request for the variance stands on its own merits. Werkema stated that a private school would not have the same opportunity to purchase the Walbridge property. Government entities have deeper pockets and can use eminent domain.

Item #9 – As specified above, the ZBA must also find that the applicant has practical difficulty complying with the Ordinance provision or provisions at issue.

Member Werkema stated practicality of the request will be challenged by the Planning Commission.

MOTION: By Member Giarmo supported by Member Ringnalda to approve the request for a variance per discussion of ZBA members and findings to be prepared and included in minute of this meeting by Consultant Jirousek.

Chair Werkema requested 2nd request for further discussion, a third request and with no response from members, call for a vote.

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

VI. GENERAL DISCUSSION

Member Werkema asked Consultant Jirousek if there is other Township business for the ZBA to be made aware of. For a future meeting, there is a single family dwelling attached to a garage, that is non-conforming. 8' side setback would create a non-conforming dwelling. As the garage may be expanded, a meeting may be required.

Jirousek also indicated that a new Township Planner, Dan Wells, had been hired but was unable to attend tonight's meeting.

VII. OTHER REPORTS
None

VIII. ADJOURNMENT

MOTION: By Member Giarmo supported by Member Brew to adjourn the meeting.

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

Meeting Adjourned at 8:12 pm.

CERTIFICATION

I hereby certify that the above is a true copy of the minutes from the March 11, 2020 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,

Don Hilton, Secretary
Gaines Charter Township
Zoning Board of Appeals

Dated: _____

I, Tom Werkema, as the duly elected Chairperson of the Gaines Charter Township Zoning Board of Appeals, hereby certify that on March 11, 2020, the Gaines Charter Township Zoning Board of Appeals APPROVED the request for a dimensional variance to reduce the required rear setback from 50 feet to 17 feet for a property located at 6729 Hanna Lake Ave. SE, to allow for an addition to the Dutton Christian Middle School, as shown on a plan dated February 10, 2020, submitted by Dan Vos Construction Company on behalf of the landowner.

The reasons given are as follows:

1. The variance request, if granted, will be the minimum variance (i.e., the least variation or change from the particular requirement of the Ordinance involved) that will make possible the reasonable use of the land, structure, or building involved.

Meets standard. It is a reasonable use of the property to extend the building in a manner that is consistent with the previous 2017 variance along the same horizontal plane, so long as the addition is approved by the Fire Inspector, and so long as the site plan is approved by the Planning Commission.

2. The granting of the variance will not be injurious or detrimental to neighboring properties or residents.

Meets standard. The building expansion is not anticipated to impact neighboring property. Schools are commonly placed among residential neighborhoods, and a 17-foot setback will ensure that the building is reasonably separated from the western property line.

3. The variance will not be detrimental to the public welfare or change the essential character of the neighborhood.

Meets standard. The school has been in existence for many years, and a rearward/westward expansion is not anticipated to have any detrimental impact on the area. Since the school is an established use in the area, a change to the character of the neighborhood is not anticipated.

4. Whether the variance will impair the intent or purpose of this Ordinance.

Meets standard. The expansion will protect the public health, safety, and welfare of the students enrolled in the school.

5. The problem or condition for which the variance is requested is not a self-created problem by the applicant or property owner (or their predecessors in title) as to the property involved.

Meets standard. The existence of the County drain and the resulting site constraints are not considered to be self-created.

6. The condition or situation involved is not of so general or recurrent a nature that it would be more reasonable or practical for the Township to amend the provision of the Ordinance involved rather than to grant a variance for the condition or situation.

Meets standard. The situation of a school expansion is not a common enough occurrence to warrant a Zoning Ordinance amendment.

7. There are exceptional, unique, or extraordinary physical conditions or circumstances which directly relate to the property itself (including the land or a structure or building thereon) rather than the individual situation or desire of the applicant or property owner. In other words, the problem or exception or extraordinary circumstances or conditions must be inherent in the land, structure, or building involved.

Meets standard. The existence of a County drain is an extraordinary condition of the property.

8. The variance must be necessary for the preservation and enjoyment of a substantial property right which is similar to that possessed by other properties in the same zoning district and vicinity. (NOTE—a possible increased financial return shall not, of itself, be deemed sufficient to warrant a variance.)

Meets standard. The ability of a private school organization to acquire property is not comparable to the authority and ability of a public school system’s ability to acquire land for expansion.

9. As specified above, the ZBA must also find that the applicant has practical difficulty complying with the Ordinance provision or provisions at issue.

Meets standard. Based on the aforementioned standards of review, the applicant has demonstrated a practical difficulty.

Signature _____

Date _____