

GAINES CHARTER TOWNSHIP ZONING BOARD OF APPEALS – REGULAR MEETING

Township Board Room - 8555 Kalamazoo Ave. S.E. Caledonia, MI 49316

Tentative Agenda

7:00 p.m. – Wednesday, May 11th, 2022

- I. Call to Order and Roll Call**
- II. Consideration of the Meeting Agenda**
- III. Consideration of Meeting Minutes**
March 9, 2022 – Regular Meeting
- IV. Inquiry of Conflict of Interest**
- V. Advertised Public Hearing**
 - 1. 3596 76th Street SE (Agricultural/Rural-Residential (Ag/R-R))**
Request for a Dimensional Variance for reduced setbacks based on the existing building footprint and parcel configuration for use as a place of religious worship in the Agricultural/Rural-Residential (AG/R-R) zoning district.
- VI. General Discussion Items**
- VII. Other Reports**
- VIII. Adjournment**

*Please note that advertised public hearings will not start before the noted time, but may start later due to the length of other agenda items. All interested persons are invited to attend and participate. Persons with disabilities needing accommodation for effective participation in the meeting should contact the Township Office at 616-698-6640 one week in advance to request mobility, visual, hearing or other assistance.

**DRAFT MINUTES OF THE GAINES CHARTER TOWNSHIP ZONING BOARD OF APPEALS REGULAR
MEETING
HELD ON MARCH 9, 2022
GAINES CHARTER TOWNSHIP
8555 KALAMAZOO AVENUE SE CALEDONIA, MICHIGAN 49316**

I. CALL TO ORDER AND ROLL CALL

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

MEMBERS PRESENT: Wiersema, Hilton, Ringnalda, Tietz (Alternate)

MEMBERS ABSENT: Werkema (with excuse), Kooiman (with excuse)

OTHERS PRESENT: Dan Wells Community Development Director, Natalie Davenport Assistant Planner, Matt Zimmerman (Varnum LLP), Dan Morren (Covenant Church), Michael Brew

II. CONSIDERATION OF MEETING AGENDA

No modifications.

III. CONSIDERATION OF MEETING MINUTES

December 8, 2021 – Regular Meeting Minutes.

Motion: By Member Teitz supported by Member Hilton to approve the minutes for the December 8, 2021, Zoning Board of Appeals regular meeting.

Discussion: Correction needed on the certification date.

Ayes: Wiersema, Hilton, Ringnalda, Tietz (alternate)

Nays: None

Abstain: None

Decision: Passed (4-0).

IV. INQUIRY OF CONFLICT OF INTEREST

None.

V. PUBLIC HEARING

1. 7171 Willard SE (Residential-10) *Dimensional variance to reduce side setback from 50 to 9.1 feet to allow for division of a single parcel currently used as a place of religious worship.*

Vice-Chair Ringnalda invited the applicant to provide an overview of the request. Matt Zimmerman of Varnum LLP gave an overview of the application in lieu of the applicant, John Sturgis, of Varnum LLP.

Applicant Zimmerman explains that Covenant Christian Reformed Church wishes to split their lot and sell the parsonage to be used as a single-family residence. The variance request, if approved, would allow a place of religious worship (Covenant Christian Church) to encroach upon the required 50-foot setback from the side property line. The lot split was requested based on the existing privacy fence line between the two buildings. A petition was created by church staff and circulated throughout the neighborhood which had approximately 35 signatures in support of the lot split.

Community Development Director Wells stated that he received a copy of the petition and that this is in fact a true statement; the petition was temporarily misplaced but clearly indicated the proposed division and contained at least 35 signatures from neighboring property owners and occupants, per Wells.

Dan Morren of Covenant Church provided a copy of the petition showing the ZBA members what information was provided on the petition.

Applicant Zimmerman explained that two members of the church currently reside in the parsonage. If the variance is denied, the parsonage will remain unoccupied because utilizing the building as a parsonage for their pastor is not feasible. Allowing the church to sell the parsonage as a single-family residence will allow the church to have increased revenue to pay their pastor for a housing allowance; Applicant Zimmerman explained that a practical difficulty will be created for the church if the lot cannot be split. Per Applicant Zimmerman, the problem was not self-created because the church was likely constructed before the current zoning regulations were in place. Applicant Zimmerman stated that all of the standards are met as outlined in the ordinance.

Motion: By Member Hilton supported by Wiersema to submit the staff report, application, and petition provided by the applicant into the public hearing and for consideration on the variance request.

Discussion: None

Ayes: Wiersema, Hilton, Ringnalda, Tietz

Nays: None

Abstain: None

Decision: Approved (4-0)

Vice-Chair Ringnalda opened the public hearing at 7:23 p.m. No public comment was made. Vice-Chair Ringnalda closed the public hearing at 7:24 p.m.

Vice-Chair Ringnalda provided an overview of the standards provided by staff. Six out of the nine standards for dimensional variances are not met.

Applicant Zimmerman said the church is willing to amend their application to apply the minimum necessary variance standard, which would be an 18-foot setback from the church to the side property to the west instead of 9.1 feet.

Member Wiersema said that he is concerned about the Township setting precedence if the variance is granted since all of the standards are not met.

Motion: Motion by Tietz, supported by Wiersema, to deny the variance request due to the minimum variance standard not being met, the variance request impairs the intent of the Gaines Charter Township Zoning Ordinance, the problem and condition are self-created, the condition or situation is not unique to this property, the variance is not 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, and the applicant has not demonstrated that there is a practical difficulty or a unique situation that warrants a variance.

Discussion: Hilton asked if the applicant's request can be legally amended to meet the minimum variance standard, to which Community Development Director Wells stated he is unaware of this law. Wells stated there may be conditions set if the boundaries are adjusted to meet the minimum setback for the residential standard on the parsonage, but even if this condition were granted, all of the standards are not met. Member Tietz stated that he is okay with amending the motion to accept the proposed modified request, however, the 50-foot setback is still not met from the church building to the side property line to the west.

Ayes: Weirsema, Tietz, Ringnald
Nays: Hilton
Abstain: None
Decision: Denied (3-1)

VI. GENERAL DISCUSSION

1. Consideration of 2022 Schedule

Motion: By Tietz, supported by Wiersema, to accept the 2022 ZBA Meeting Schedule.

Discussion: None

Ayes: Wiersema, Hilton, Ringnald, Tietz

Nays: None

Abstain: None

Decision: Approved (4-0)

2. 2021 Annual Planning Report

Community Development Director Wells gave an overview of the planning report.

3. Election of Officers

Motion: Motion by Tietz, supported by Wiersema, to elect Werkema as Chair, Ringnald as Vice-Chair, and Hilton as Secretary.

Discussion: None

Ayes: Wiersema, Hilton, Ringnald, Tietz

Nays: None

Abstain: None

Decision: Approved (4-0)

VII. OTHER REPORTS

None

VIII. ADJOURNMENT

Motion by Tietz, supported by Wiersema to adjourn the meeting at 8:17 p.m.

CERTIFICATION

I hereby certify that the above is a true copy of the minutes from March 9, 2021, 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: _____, 2022

Gaines Charter Township

Zoning Board of Appeals Memo

Meeting Date: May 11th, 2022

AGENDA ITEM: V.1

REQUEST: Dimensional Variance

ADDRESS: 3596 76th Street SE

PARCEL NUMBER: 41-22-14-100-002

APPLICANT: Sai Tuja

FILE NUMBER: 220401ST

PROPERTY ZONING DISTRICT:
Agricultural/Rural-Residential (Ag/R-R)

PROPERTY SIZE: 0.75 Acres

REPORT BY: Dan Wells, Community
Development Director



OVERVIEW

The applicant is requesting a dimensional variance for reduced setbacks based on the footprint of the existing building and parcel configuration for use as a place of religious worship in the A-R zoning district. The owner does not plan on expanding the footprint of the building.

The building was originally constructed around 1968 as the Dutton American Legion Post. In 1990 the Planning Commission approved a special land use permit on the property for use as the Faith Reformed Christian School, and in 2001 a dimensional variance was approved to reduce setbacks so that a portable temporary classroom to be placed on the property. In 2004 a Child Care use was approved under another special land use permit. The building has most recently been utilized as a commercial business that provided technical support and testing of irrigation valves with the approval of a use variance by the ZBA in 2011.

The lot and structure are non-conforming with the current land division and setback requirements of the Ag/R-R zoning district. Specifically, the lot is nonconforming because both the minimum lot area (0.75 acres existing vs 1.8 required) and width requirements (135 feet existing vs 200 feet required) for the Ag/Rural-Residential (Ag/R-R) zoning district are not met. Additionally, the existing building located on this parcel is legal non-conforming as it does not meet the rear setback distance requirements to the property line (67 feet existing vs 100 feet required) for the Ag/R-R zoning district.

The applicant requested a special use permit from the Planning Commission at the March 24, 2022, regular meeting to operate a place of religious worship in the Ag/R-R zoning district. The Planning Commission approved the request with the condition of obtaining a variance from the ZBA for the required setbacks. Places of religious worship in the Ag/R-R zoning district may be approved via a special use permit if the requirements outlined in Section 19.9(G) are met. Therefore, this request is for a variance in the regulations outlined in Section 19.9(G) *Churches and Schools*, which requires the lot to be directly abutting or have direct access to a Primary Arterial, have a 60-foot front yard setback, 60-foot side yard setback, 100-foot rear yard setback, a minimum lot width of 330 feet, and a minimum lot area of 5 acres.

The applicant requests that the setbacks be adjusted to 25 feet from the west property line and 60 feet from the south property line. The front setbacks are met, as are the eastern side yard setbacks. Please see the table below for further clarification on the setback requirements and variance request:

Setbacks	19.9 (G) Churches and Schools in Ag/R-R	Variance Request
Front Yard	60 Feet	Meets requirement
Side Yard	60 Feet	25 Feet (West)
Rear Yard	100 Feet	60 Feet (South)

The surrounding zoning is:

	NORTH: Single Family Residential (RL-14)	
WEST: Agricultural/Rural-Residential (A-R)	SUBJECT PARCEL	EAST: Agricultural/Rural-Residential (A-R)
	SOUTH: Agricultural/Rural-Residential (A-R)	

STANDARDS OF REVIEW

The request has been reviewed using the applicable review standards of Chapter 26, Section 26.8 (D) Non-Use (Dimensional) Variances. The Zoning Board of Appeals must find that all standards in this report are satisfied to grant a variance.

1. The predicament is caused by exceptional, unique, or extraordinary physical conditions, dimensions, or circumstances that directly relate to the subject lot or parcel rather than the individual situation or desire of the applicant or property owner (see definition of “unique circumstance”).

Unique Circumstance: An exceptional, unique, or extraordinary physical condition that is one of the following:

- 1. Exceptional narrowness of the width or depth of a lot or parcel, or an irregular shape, as compared to a conforming lot or parcel.*
- 2. Exceptional natural or topographic features located on the lot or parcel, such as steep slopes, surface water features, existing significant trees, or other unique or extreme physical conditions of the land.*
- 3. Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional features of the land.*
- 4. Other natural, topographic, built, or dimensional conditions or characteristics of land, lot, or parcel, which are determined by the Zoning Board of Appeals as exceptional or extraordinary*

Meets standard. Staff concludes that this variance request is due to a unique circumstance based on the built characteristics and configuration of the lot. The placement of the existing building and narrowness of the lot was established in the 1960s, long before the current owner or previous owner’s control. The small size of the lot established prior to the requirements of the current land division ordinance necessitates the multiple requests for dimensional variances through the years, and the building cannot be reasonably used with the current requirements of the current zoning ordinance.

As it stands, the building does not fit any typical uses allowed in the Ag/R-R zoning district, it’s layout and construction are not conducive to any practical residential or agricultural use. In reviewing the history of the building, it has only been used with special land use permits and/or variances.

2. The variance is necessary for the preservation and enjoyment of a substantial property right which is similar to that possessed by other landowners in the same Zoning District and vicinity and does not grant special privileges to the applicant that are not available to the owners of these properties.

Meets standard. Staff found that the variance is necessary for the reasonable use of the structure in a manner compliant with the zoning ordinance. The use as a Place of Religious Worship is permitted by special use approval in the Ag/R-R zoning district and is only limited in this case by the setback requirements established by the current zoning ordinance. The approval of the variance would not grant the applicant special privileges that would otherwise be unavailable to other landowners in the vicinity with the approval of a special use permit.

3. The practical difficulty for which the variance is requested does not result from a self-created problem by the applicant, current landowner, or any previous landowner of the property involved (see definition of “self-created problem”).

Self-Created Problem: A problem that occurs, results, or exists from one or more of the following conditions:

- 1. A problem that occurs when one can reasonably develop a property in a compliant manner, but the landowner or applicant’s personal desires and preferences for property development do not align with zoning requirements.*
- 2. A problem that occurs when a property is currently built-out under current zoning constraints, but the landowner or applicant’s personal desires and preferences for expansion do not align with zoning requirements.*
- 3. A problem that results from the action, preference, or desire of the landowner or applicant that is not a result of a unique characteristic of the property.*
- 4. A problem that exists because the landowner, previous landowner, or applicant took a specific action that created the need for the variance, such as adjusting a lot line, constructing a building, or developing a site in a manner that does not allow future compliant construction, building expansion, or site development.*

Meets standard. The applicant’s request for a variance is based on a practical difficulty that does not result from a self-created problem by the applicant, landowner, or previous landowner. Given the age and history of the existing building, the building location, and lot configuration, its use has always been subject to some form of special consideration on the part of the Planning Commission or ZBA. The property cannot be redeveloped in a reasonable manner, and the applicant’s personal desire and preferences are not the sole reasons behind the variance request, but rather its historic layout under different land division and zoning regulations.

4. The variance will not be detrimental to the public welfare, injurious to neighboring properties, or change the essential character of the neighborhood.

Meets standard. The setbacks and lot width are not expected to cause any detriment to the neighborhood or adjacent properties if used as a Place of Religious Worship.

5. The variance is consistent with the purpose and intent of the Master Plan and the intent and provisions of the Zoning Ordinance and Zoning District designation of the subject property.

Meets standard. The Planning Commission has reviewed and approved the special land use permit for use as a Place of Religious Worship, finding that it met the applicable standards under the zoning ordinance.

STAFF RECOMMENDATION

Based on the application meeting all the standards for a use variance, staff recommends the ZBA approve the request.



FILE NO. 220401ST

Gaines Charter Township
8555 Kalamazoo Avenue SE
Caledonia, MI 49316
Phone (616)6986640 Fax (616)698-2490



Zoning Board of Appeals Application

Project Address	3596 76th St SE Caledonia MI 49316	
Owner Name	Mary Bar, Dan Zaunghuk, Vaughn Zealhum	
Owner Address	862 Summer Creek Ct SE Kentwood MI 49508	
Parcel Number(s):	41-22-14-100-002	41-22-
Description of Proposed Project/Use	Variance Request	

Applicant/Contact	Sai Puja
Phone/Email	616 466 6690 / tutusamuel@gmail.com
"I" hereby certify to the correctness and knowledge of the information submitted and hereby agree to comply with the terms and requirements of all applicable Township ordinances. I also grant Township staff permission to enter onto the subject property in review of this application	
Signature	
For Planning Commission/Zoning Board of Appeals requests, and Land Divisions/Combinations, please complete the appropriate Worksheet as part of your application packet – See staff for more information	

Township Use Only

Current Zoning District:	RL-14	RL-10	R-3	R-4	C-1	C-2	O-S	I-1	I-2	PUD	A-R	A-B
☐ One/Two-Family Construction			☐ Rezoning/PUD Rezoning			☐ Land Division						
☐ Special Use Permit Request			☐ PUD Amendment			☐ Text Amendment						
☐ Zoning Board of Appeals Request			☐ Site Plan Review									
☐ Subdivision/Site Condo Review			Other _____									
DENIED _____			APPROVED _____			APPROVED, WITH CONDITIONS _____			WITHDRAWN _____			
ZONING ADMINISTRATOR SIGNATURE _____						DATE _____						

FILE NO.

Site Plan

Please Show:

The property lines and their dimensions

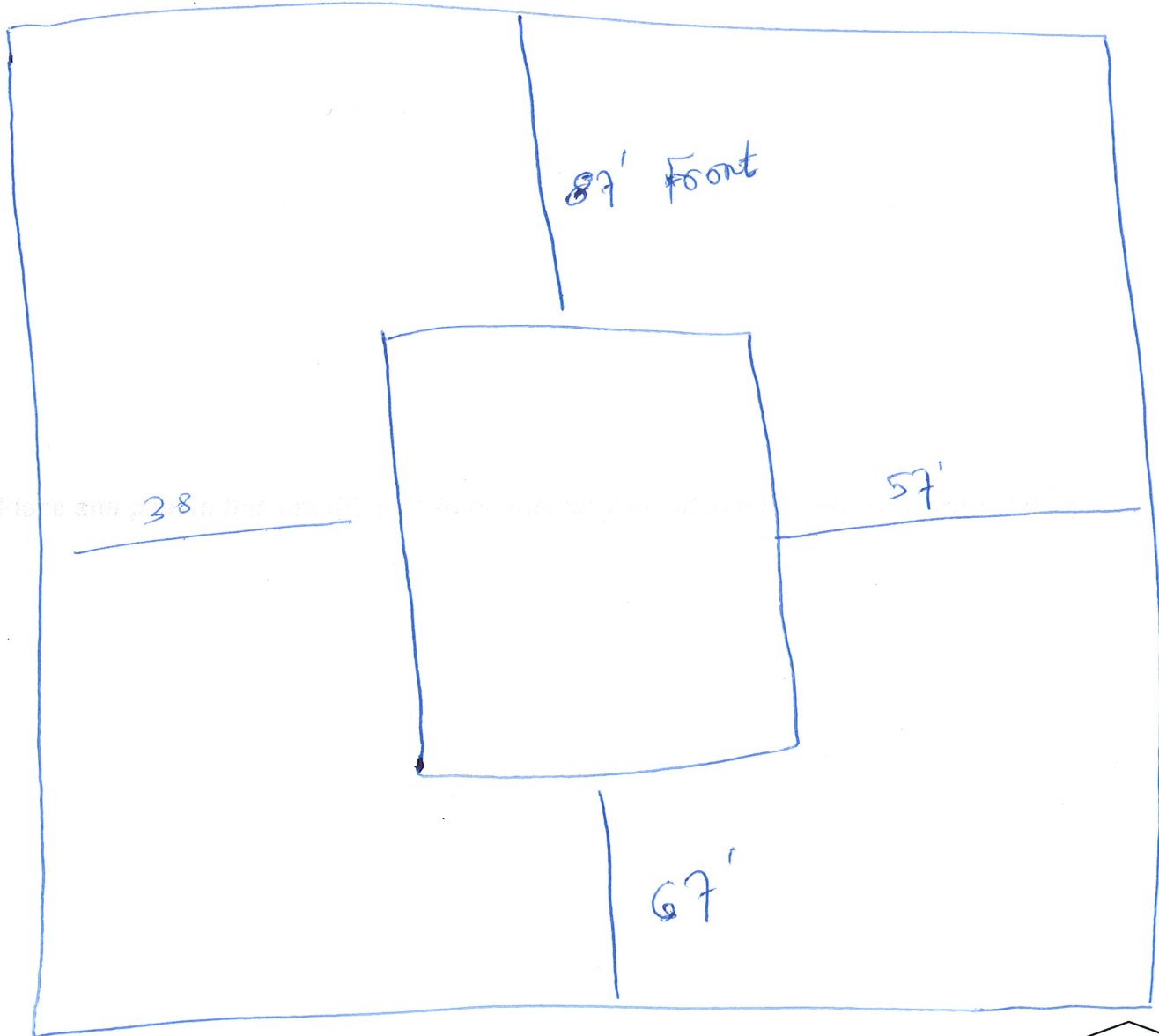
The location, dimensions, setbacks, minimum building openings and distance between all existing and proposed structures

The gross floor area, listed by floor level, including basements.

The location of all roads bordering or private drives/easements on the property

The location of all bodies of water, easements, utility lines, sidewalks, drives, septic systems, drain, and other improvements

Please Note: Setbacks must be measured from the edge of the street right of way (which is not the edge of the pavement) or from the edge of an access easement. Staff reserves the right to determine whether or not an application is complete.



Gross Floor Area Calculations

Main Floor: 3603 sq ft Second Floor: _____ Basement: _____ Total: 3603 sq ft Garage: _____

Please indicate your request type and the applicable Section(s) of the zoning ordinance. Leave blank if uncertain.

☒ Dimensional (Area) Variance

Section(s) _____

☐ Use Variance

Section(s) _____

☐ Interpretation/Appeal of Zoning Administrator*

Section(s) _____

*For this requests, please attach in letter form your comments regarding the interpretation/appeal.

Applicant Response to Standards of Review

1. Does the property have physical characteristics, such as narrowness, shallowness, irregular shape, topography, or natural features that inhibit compliance with the zoning ordinance (attach additional sheets if needed)?

yes, the lot is too small to meet the area and setback requirements for a church, which are 60 feet front and side yard, 100 feet rear yard.

2. If answered yes to #1 above, is (are) the physical characteristics unique and not shared by neighboring properties?

This parcel is smaller than other religious structure parcels throughout the township.

3. Was the alleged practical difficulty (dimensional variance) or hardship (use variance) created by an action of the applicant or previous property owner?

No

4. Can the property be reasonably used for the use permitted in the zoning district without granting the variance?

No, the building is not suited to residential or agricultural use.

5. Is the variance the minimum necessary to permit reasonable use of the land and buildings, or would a lesser variance provide substantial justice to the applicant as well as other property owners in the area?

Yes, the variance will be for 25 foot western side yard, 55 foot eastern side yard, and 55 foot rear yard setbacks. These are the existing setbacks.

6. If granted, explained how the variance would not result in adverse affects on adjacent properties or alter the character of the area?

will do sound proofing, fence if needed.

7. If granted, explain how the variance would not result in hazards such as dangers from fire or flood, or increased traffic congestion. That is, how will the public safety and welfare be observed and secured?

Expand parking space, do carpool when needed/transportation arrangement.

8. If granted, explain how the variance would not be contrary to the spirit and intent of the zoning ordinance.

There is none to be contrary to the spirit and intent of the zoning ordinance.