

MINUTES

CHARTER TOWNSHIP OF BRIGHTON
ZONING BOARD OF APPEALS
4363 BUNO ROAD
BRIGHTON, MI 48114

AUGUST 23, 2017
REGULAR MEETING
7:00 P.M.
(810) 229.0562

Chairperson F. Grapentien called the meeting to order at 7:00 P.M. The Pledge of Allegiance was said.
Present: J. Gibbons, J. Cogley, J. Dorset, J. Stinedurf, J. McKeon, F. Grapentien, S. Theis

CALL TO THE PUBLIC
None.

AGENDA
J. Stinedurf moved and J. Dorset seconded to approve the agenda as presented.
Motion carried.

MINUTES
J. Dorset moved and J. Stinedurf seconded to approve the June 28, 2017 regular meeting minutes as presented.
Motion carried.
Abstain: F. Grapentien

ZBA APPLICATION # 17/06; LOCATION: 9060 HUNTER BAY; TAX ID # 12-20-100-033; OWNER: AND APPLICANT: ROBERT FARRIS; ZONING: R-2 (RESIDENTIAL SINGLE FAMILY)

- a. *Non-Conforming Use, Building and Lot*, variances from *Article 21, Sec.'s 21-03, -21-04, and 21-05* of the Zoning Ordinance
- b. Lot coverage for a principal structure, a variance from *Article 3, Sec. 3-03, District Regulations*, of the Zoning Ordinance

Applicant Robert Farris explained his desire to add two (2) 160 sq. ft. decks which increases his lot coverage from fifteen (15%) percent allowable to seventeen (17%) percent. He discussed the fact that many homes around the lake have R-5 zoning which allow twenty-five (25%) percent lot coverage.

PUBLIC HEARING

The public hearing opened at 7:25 p.m.

Don Mancini, 3441 Hilton Bay Court - Stated that he's in favor of the variance request; the proposal for the decks blends into what he's already done and is an improvement

Jim Sarna, 8266 Woodland Shore Drive - Agrees with the variance request and the improvements.

The public hearing closed at 7:25 p.m.

J. Cogley moved and J. Stinedurf seconded to approve the variance requests, *Non-Conforming Use, Building and Lot*, variances from *Article 21, Sec.'s 21-03, -21-04, and 21-05* of the Zoning Ordinance, and *Lot Coverage* for a principal structure, a variance from *Article 3, Sec. 3-03, District Regulations*, of the Zoning Ordinance for ZBA Application # 17/06; Location: 9060 Hunter Bay; Tax ID # 12-20-100-033; Owner and Applicant: Robert Farris; Zoning: R-2 (Residential Single Family) for the following reasons. Compliance with the strict letter of the restrictions governing lot coverage for the home would unreasonably prevent the use of the property; granting of the requested variance would do substantial justice to the applicant as well as to other property owners in the district and is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and vicinity of the subject parcel; the requested variance does not substantially interfere with the public safety and welfare, increase the hazard of fire, impair the adequate supply of light and air, or create nuisances; the variance will not substantially interfere with or discourage the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood; there are exceptional circumstances or conditions applicable to the property and the intended use that do not generally apply to other properties or

uses; and the lot area is 0.513 acres and the R-2 district lot area is 0.91 acres.

Motion carried.

ZBA APPLICATION # 17/07; LOCATION: 8811 LAKE BLUFF DRIVE; TAX ID #12-19-203-019; OWNER AND APPLICANT: TK MANAGEMENT LLC; ZONING: PUD (PLANNED UNIT DEVELOPMENT)

a. Lot coverage for a principal structure, a variance from *Article 3, Sec. 3-03, District Regulations*, of the Zoning Ordinance

Applicant Ken Gowell, TK Management, explained his request to construct a home including a three (3) car garage which is similar to all other homes in the subdivision but this lot is particularly small and is the last to be built on. The request is to allow lot coverage of sixteen (16%) percent v. the fifteen (15%) percent allowable under the PUD requirements.

PUBLIC HEARING

The public hearing opened at 7:40 p.m.

No responses or written comments were received.

The public hearing closed at 7:40 p.m.

J. Dorset moved and J. Gibbons seconded to approve the variance request, *Lot Coverage*, for a principal structure, a variance from *Article 3, Sec. 3-03, District Regulations*, of the Zoning Ordinance for ZBA Application # 17/07; Location: 8811 Lake Bluff Drive; Tax ID #12-19-203-019; Owner and Applicant: TK Management LLC; Zoning: PUD (planned unit development) for the following reasons. Compliance with the strict letter of the restrictions governing lot coverage for the home would unreasonably prevent the use of the property; granting of the requested variance would do substantial justice to the applicant as well as to other property owners in the district and is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and vicinity of the subject parcel; the requested variance does not substantially interfere with the public safety and welfare, increase the hazard of fire, impair the adequate supply of light and air, or create nuisances; the variance will not substantially interfere with or discourage the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood; there are exceptional circumstances or conditions applicable to the property and the intended use that do not generally apply to other properties or uses; the lot area is 0.43 acres and if this were an R-2 district, the lot area required would be 0.91 acres.

Motion carried.

ZBA APPLICATION # 17/08; LOCATION: 5875 KINYON; TAX ID # 12-32-402-027; OWNER: GEORGE BACHELOR; APPLICANT: PHILIP CARUSO; ZONING: R-5 (WATERFRONT RESIDENTIAL)

- a. *Non-Conforming Use, Building and Lot*, variances from *Article 21, Sec. 's 21-03, 21-04, and 21-05* of the Zoning Ordinance
- b. Front yard setback for an accessory building, a variance from *Article 3, Sec. 3-03, District Regulations*, of the Zoning Ordinance
- c. Side yard setback for an accessory building, a variance from *Article 3, Sec. 3-03, District Regulations*, of the Zoning Ordinance
- d. Lot coverage for a principal structure a variance from *Article 3, Sec. 3-03, District Regulations*, of the Zoning Ordinance

Applicant Phil Caruso explained that he recently purchased this home on Kinyon and they need a garage to put their items in and he is proposing a two (2) car garage. The home is located twelve (12) ft. lower than the road so he has to attach the garage to the house and needs several variances including a lot coverage variance in order to build the home.

PUBLIC HEARING

The public hearing opened at 7:50 pm.

No responses or written comments were received.

The public hearing closed at 7:50 p.m.

S. Theis moved and J. Stinedurf seconded to approve the variance requests, *Non-Conforming Use, Building and Lot*, variances from *Article 21, Sec.'s 21-03, 21-04, and 21-05* of the Zoning Ordinance; *Front Yard Setback* for an accessory building, a variance from *Article 3, Sec. 3-03, District Regulations*, of the Zoning Ordinance; *Side Yard Setback* for an accessory building, a variance from *Article 3, Sec. 3-03, District Regulations*, of the Zoning Ordinance; and *Lot Coverage* for a principal structure, a variance from *Article 3, Sec. 3-03, District Regulations*, of the Zoning Ordinance for ZBA Application # 17/08; Location: 5875 Kinyon; Tax ID# 12-32-402-027; Owner: George Bachelor; Applicant: Philip Caruso; Zoning: R-5 (Waterfront Residential) for the following reasons. Compliance with the strict letter of the restrictions governing front and side yard setbacks and lot coverage for the home would unreasonably prevent the use of the property. Additionally, without the variances to allow a non-conforming home to be increased, the garage could not be added to the home; granting of the requested variances would do substantial justice to the applicant as well as to other property owners in the district and is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and vicinity of the subject parcel; the requested variances do not substantially interfere with the public safety and welfare, increase the hazard of fire, impair the adequate supply of light and air, or create nuisances; the variances will not substantially interfere with or discourage the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood; there are exceptional circumstances or conditions applicable to the property and the intended use that do not generally apply to other properties or uses; the lot area is 0.16 acres and if this were a new lot in the R-5 district, the lot area would be 0.27 acres; the construction of the home probably predated the Zoning Ordinances.

Motion carried.

ZBA APPLICATION # 17/05; LOCATION: 8320 HILTON ROAD; TAX ID # 12-19- 300-025; OWNER: MADELINE D. TAYLOR TRUST; APPLICANT: VERIZON WIRELESS C/O/ JONATHAN CRANE; ZONING: I-1 (INDUSTRIAL)

a. Setbacks from westerly and northerly property lines in order to construct a cell tower, variances from *Article 13, Sec. 13-16(d)(10)b., Setback from Property Line*, of the Zoning Ordinance

Verizon's applicant representative Robert LaBelle went through a lengthy presentation regarding the need for Verizon to be at this location including coverage maps and attempts to find locations in the area. He also explained the Telecommunications Act and went through *Article 13* of the Zoning Ordinance and the arguments that are required for the variances from the ordinance. He explained that they listened to the ZBA at the last meeting and moved the site from the Southeast corner of the site near the wetlands and potential new residential development to the Northwest corner of the site behind Duncan Chiropractic. He explained that if the variances were approved that the site would be reviewed as a special land use permit and site plan by the Planning Commission.

PUBLIC HEARING

The public hearing opened at 9:00 p.m.

The following e-mails were read into the record.

Andrea Stempien, 8193 Grand River - 8/23/17 e-mail - against

Tammy Cooper, 8/23/17 e-mail - against

Gary Kulhanek, 8/18/17 e-mail - support

Marilyn Robinson, 3431 Oak Knoll - 8/19/17 e-mail - against

Cheryl Guard, 8334 Woodland Shore Drive - e-mail - against

Sam Raguso, 8425 Hilton - People and neighborhood; setting precedent; have 7 towers in area; very unattractive; should be in a rural area; devalue property values; health issues.

Paula Lawrence, 3373 Oak Knoll - She has a medical condition; this tower will make it worse.

Barb Potocki, 8420 Woodland Shore Drive - Yellow shows medium strength - not poor - do not need better coverage; benefits other areas like the City more; generator noise.

Jim Sarna, 8266 Woodland Shore Drive - Traverse City and wind farm - adverse effect; this could be the same.

Mark Kassab, 31550 Northwestern Hwy., Farmington Hills - Described his plans for the adjacent property to the east; there was no practical difficulty shown; they can remove buildings to put up the tower. This is an ancillary structure to the permitted use on the site; cell service is fine in the area; if this does get approved, make the tower more aesthetically pleasing.

Eric Duncan, Previous owner of Duncan Chiropractic- explained how close it is to his former building and the employees that work there.

Doug Taylor, 3319 Oak Knoll - Stated that the 1996 Telecommunications Act is old and is not appropriate at this point in time; they need to go to the City of Brighton and make it work; there are public safety concerns; perception of value is just as important as real property value decreases; health issues; enforce the ordinance.

Melissa Barton, 9767 Birch Run - against this; health concerns.

Steve Rushak, 8321 Hilton Road - Property values will decrease; this is not industrial across the street; the coverage is okay.

Marcia Gierlack, 8397 Hilton - Aesthetics; health issues.

The public hearing closed at 9:45 p.m.

There was a lengthy discussion with the ZBA and the applicant including the residents' concerns, legal concerns and discussion that federal law trumps the local ordinances. It was stated that the UM Health Center and Fire Station have their own communications and don't need increased Verizon service.

F. Grapentien moved and J. Stinedurf seconded **to deny the variance request, Setbacks from westerly and northerly property lines in order to construct a cell tower, variances from Article 13, Sec. 13-16(d)(10)b., Setback from Property Line, of the Zoning Ordinance for ZBA Application # 17/05; Location: 8320 Hilton Road; Tax ID # 12-19-300-025; Owner: Madeline D. Taylor Trust; Applicant: Verizon Wireless c/o/ Jonathan Crane; Zoning: I-1 (industrial) for the following reasons. It is an already developed site so there is no practical difficulty; they can remove buildings and meet setbacks; there are public safety concerns that the tower could fall/collapse; there is residential and persons working in the business nearby the tower; the cell tower has moved closer to the adjacent neighborhood; there are no extraordinary issues to allow the tower.**

Ayes: J. Stinedurf, F. Grapentien

Nays: J. Dorset, J. Cogley, J. McKeon, J. Gibbons, S. Theis

Motion failed.

S. Theis moved and J. Cogley seconded **to approve the variance request, Setbacks from westerly and northerly property lines in order to construct a cell tower, variances from Article 13, Sec. 13-16(d)(10)b., Setback from Property Line, of the Zoning Ordinance for ZBA Application # 17/05; Location: 8320 Hilton Road; Tax ID # 12-19-300-025; Owner: Madeline D. Taylor Trust; Applicant: Verizon Wireless c/o/ Jonathan Crane; Zoning: I-1 (industrial) for the following reasons. Verizon has established that they have a need in this area; this is the only area zoned I-1 in the area; property has already been built on and there is no substantial evidence that it will affect the neighborhood; there are extraordinary circumstances in that it is the only industrial parcel in the area which is already built on; they are not setting precedents; many towers in the area already have variances to setbacks.**

Ayes: J. Dorset, J. Cogley, J. McKeon, J. Gibbons, S. Theis

Nays: J. Stinedurf, F. Grapentien

Motion carried.

REPORTS AND CORRESPONDENCE

J. Stinedurf - PC update

S. Theis - TB update

CALL TO THE PUBLIC

Sam Raguso, 8425 Hilton Rd. - Violated property rights of MDOT and Duncan Chiropractic; federal law shouldn't trump local ordinances.

Barb Potocki, 8420 Woodland Shore Drive - Is offended by comments regarding the neighbors; no need shown for Verizon to locate in this area.

Doug Taylor, 3319 Oak Knoll - No need shown; enhanced service - not poor service; no need was shown; it will decrease the appearance of this area of the Township.

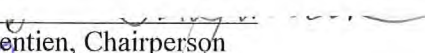
Robert LaBell, Attorney representing Verizon - Referenced additional information from the American Cancer website

Melissa Barton, 9767 Birch Run - American Cancer site - Attorney for Verizon is disingenuous


J. Stinedurf moved and S. Theis seconded **to adjourn.**
Motion carried.

The meeting adjourned at 10:40 p.m.


Respectfully submitted,



Frank Grapentien, Chairperson



John Gibbons, Secretary



Kelly Mathews, Recording Secretary

Ann M. Bollin, CMC, CMMC, Clerk