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**Charter Township of Kalamazoo
Minutes of a Zoning Board of Appeals meeting
Held on February 15, 2017**

A meeting of the Kalamazoo Charter Township Zoning Board of Appeals was conducted on February 15, 2017 commencing at 7:00 p.m. at the Kalamazoo Township Hall, 1720 Riverview Drive within the Township.

Present were:

Fred Nagler
Ann Simmons, Secretary
Robert VanderKlok, Vice Chairman
Jim Short, Chairman
Steve Leuty

Also present were Township Attorneys Roxanne Seeber and Frank Machnik, and 2 additional interested persons.

Call to Order

The chairman called the meeting to order and the roll was called.

Approval of meeting agenda

Nagler moved, supported by VanderKlok to approve the agenda as submitted. The motion passed unanimously.

Approval of meeting minutes January 18, 2017

Upon motion of VanderKlok, supported by Nagler, the minutes of the January 18, 2017 ZBA meeting were unanimously approved. The secretary signed the minutes and they were left on the Zoning Administrator's desk.

Public Hearings

3320 Ravine Road

The next item on the agenda was the request of Manjinder S. Benipal, 3320 Ravine Road for a variance/authority to expand a lawful non-conforming gas station and service mart at 3320 Ravine Road by the construction of a 27' x 54' addition to the east side of the existing gas station building. The property is located in the I-1 "light Industrial" district zoning classification.

Nate Whittaker of Deloof Construction spoke on behalf of the applicant. The property, he said, was made non-conforming in August when the new zoning ordinance was implemented. He understood that the township was considering making an amendment to the zoning ordinance

1 to allow a gas station as a permitted or special use in the I-1 district. The applicants had also
2 considered rezoning the properties in the area to a district that permitted the existing uses and
3 possibly joining with the neighbors to request it.

4
5 Whittaker indicated that the fire lanes were maintained and that nothing was changing with
6 respect to the storm water. In response to an inquiry from Short, Whittaker indicated that
7 they were planning on building in the direction of the existing wall. The purpose of the
8 addition, the applicant said, was to allow it to put in new coolers for wine and beer. The laws
9 had changed and the gas station would now be permitted to sell these items. Whittaker
10 indicated that there would be no adverse effect on the traffic pattern. In response to an
11 invitation from VanderKlok, Whittaker approached the table and outlined the parking spaces
12 that would be taken up by the addition. There was plenty of parking on the site, Whittaker
13 stated.

14
15 Leuty indicated that the property was conforming prior to August, 2016. There were six gas
16 stations in the township and all but one of them was made lawfully nonconforming by the new
17 zoning ordinance. The only conforming gas station in the township was at East Main and
18 Nazareth, in the C-2 District Zoning Classification.

19
20 The chairman inquired of VanderKlok as to whether the addition would have been possible
21 prior to the implementation of the new zoning ordinance. VanderKlok confirmed this.
22 VanderKlok stated that his preference would be to rezone the parcel, so as to eliminate
23 potential problems engendered by an expansion of a non-conforming use. He indicated that
24 financing and insurance issues often arise with non-conformities. Whittaker indicated that
25 they had spoken with Patrick Hudson, who had indicated that the fastest route was to request a
26 variance. In response to an inquiry from VanderKlok, Whittaker indicated that they had not
27 spoken with the bank or the insurance company. Harry Benipal indicated that his father is the
28 owner of the business. He is in India at this time.

29
30 VanderKlok indicated that a text amendment was also possible and would not create the issues
31 with non-conformities. Leuty voiced concern about precedent, given the number of non-
32 conforming gas stations in the Township. Nagler was inclined to consider the issue more
33 holistically. He felt that the applicants were caught in a timing issue. VanderKlok was not in
34 favor of creating non-conformity issues that the applicant may not be prepared to deal with.
35 Seeber indicated that the earliest that a text amendment could be accomplished would be the
36 end of April. It was already too late to get a notice in the newspaper for the March Planning
37 Commission meeting.

38
39 Leuty indicated that he had spent a great deal of time with the ordinance trying to make the
40 applicant's request work. The gas station was not a legally-authorized use in the I-1 district
41 zoning classification. He explained that a text amendment allowing the gas station as a special
42 use would make sense for this issue because the planning commission would have to hold a
43 public hearing and could attach conditions. VanderKlok indicated that if the ordinance were
44 amended to allow gas stations as a permitted use, the zoning on Ravine Road would be okay.

1 In response to an inquiry from the applicant, Nagler explained that the Service Master business
2 had gone through a special use process after the Planning Commission determined that the
3 proposed use met one of those listed in the special use section of the ordinance for the I-1
4 District Zoning Classification.

5
6 Referring to Hudson's memorandum, Nagler commented that amending the ordinance or
7 rezoning would take a significant amount of time. He was inclined to grant the variance, given
8 that the township created the nonconformity and the applicant would likely be a permitted use
9 in some fashion in the future. VanderKlok indicated that the entire property is illegal right
10 now. Simmons indicated that the township created the non-conformity, it was not a
11 self-created problem. VanderKlok responded that it did not matter.

12
13 Nagler inquired as to the applicant's time frame. Whittaker indicated that the change in the
14 law was effective in December. There was another party that was within a mile of the property
15 in question that would likely be wishing to take advantage of the ability to sell beer and wine as
16 well. VanderKlok indicated that it would be possible to run the request simultaneously with
17 the zoning change or special use request. He didn't feel that the site plan would be
18 unnecessarily held up. Whittaker indicated that some preliminary work on the site plan was
19 already being done.

20
21 VanderKlok indicated that getting the loan for the building if a variance was granted would be
22 difficult. Nagler felt that the issue was more of timing. The practical issue is that the law
23 changed and the applicant is in need of additional space in which to house a cooler.
24 VanderKlok felt that the Planning Commission should decide whether to make the use a
25 permitted or special one in the I-1 District Zoning Classification. If the use was permitted, then
26 only a site plan would be needed. Seeber indicated that the gas station use is generally
27 considered to be less intensive than that typically found in an industrial district zoning
28 classification. Nagler was inclined to grant the variance. Short indicated that no one really
29 had an issue with the application. The issue was the best way in which to structure the
30 solution.

31
32 Leuty commented that it was more important to do things correctly, rather than as quickly as
33 possible. Whittaker indicated that they understood the situation. They had gone to the
34 planning consultant to inquire as to how to get the application granted quickly. This is what
35 was decided. Benipal indicated that his preference would be to be operating in conformity
36 with the ordinance.

37
38 There being no additional comments, the public hearing was closed. Short commented that if
39 the variance was granted, the situation would likely take care of itself with the amendment to
40 the zoning ordinance or the rezoning. VanderKlok indicated that it can sometimes take a while
41 for the planning commission to work through the issues and determine which method for
42 change would be best. Nagler agreed indicating that the granting of the variance would be to
43 allow the applicant to get started with a site plan request sooner; the issues presented by the
44 non-conformity would be worked out in time. The hardship, he said, was the rezoning.

1 Seeber indicated that the group may wish to table the request, in order to give it a chance to
2 hear Hudson's reasoning. Further, then, the applicant could pursue the issues with the
3 Planning Commission and the situation may then resolve without the need for further
4 consideration of the variance. Whittaker indicated that they had already paid for the meeting.
5 VanderKlok felt that the applicant had chosen the method for application. Upon inquiry of the
6 chairman, the applicant indicated a request to table the matter.

7
8 VanderKlok moved, supported by Leuty to table the matter to the March 15, 2017 Zoning Board
9 of Appeals meeting. There was no discussion on the motion and it passed unanimously.

10
11 **Old Business**

12
13 None.

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15 **New Business**

16
17 None.

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19 **Comments from the Public**

20
21 There was no public comment. There was no correspondence. Seeber introduced Machnik,
22 who was now working in the law office and was there to observe.

23
24 **ZBA Member Comments**

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26 VanderKlok has anticipated asking Hudson about the progress on the property that was at issue
27 last month.

28
29 **PC Member Report**

30
31 Nagler reported on the February 4 Planning Commission meeting at which the Service Master
32 Special Use and site plan approval had been undertaken. The text amendments had been
33 recommended to the township board for approval. A site plan amendment for a change to the
34 Consumer's Concrete business was also approved.

35
36 **Board Member Report**

37
38 Leuty invited the members of the ZBA to attend the May 15 Michigan Association of Planning
39 program at the Oshtemo Township Hall. The Board had also received a notice of intent to plan
40 from Cooper Township.

1 **Adjournment**

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3 Nagler moved, supported by VanderKlok to adjourn the meeting at 8:00 pm. The motion
4 passed unanimously.

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7 Respectfully Submitted,

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12 _____
13 Ann Simmons, Secretary

14
15 **Synopsis of Actions Taken by the Charter Township of Kalamazoo Zoning Board of Appeals on**
16 **February 15, 2017:**

- 17
18 1. Tabled an application for expansion of a lawful nonconforming gas station and service
19 mart building at 3320 Ravine Road.
20 2. Recommended that the township planning commission consider making amendments
21 to the zoning ordinance to allow for gas stations and in the I-1 district as either a special
22 or permitted use.