

1 **KALAMAZOO CHARTER TOWNSHIP ZONING BOARD OF APPEALS**

2
3 **MINUTES OF MEETING HELD AUGUST 17, 2016**

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5 A regular meeting of the Kalamazoo Charter Township Zoning Board of Appeals was
6 held on August 17, 2016, at the Kalamazoo Township Hall commencing at 7:00 p.m.

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8 Members Present: Mark Miller
9 Ann Simmons
10 Jim Short
11 Frederick Nagler, alternate serving as regular member

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13 Also present was Patrick Hudson, the Township Planner; Roxanne Seeber and Seth
14 Koches, Township Attorneys; Ron Reid, Kalamazoo Charter Township Supervisor; and
15 four other interested persons.

16
17 **ITEM 1 CALL TO ORDER**

18
19 Chairman Short called the meeting to order at 7:00 p.m.

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21 **ITEM 2 ROLL CALL**

22
23 Chairman Short called the roll.

24
25 **ITEM 3 APPROVAL OF AGENDA FOR AUGUST 17, 2016 MEETING**

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27 Chairman Short indicated that the next item was the approval of the meeting
28 agenda. Motion was made by Mr. Miller, seconded by Ms. Simmons to accept the
29 agenda with the addition of the consideration of the minutes of the July 26, 2016 joint
30 meeting. The motion passed unanimously.

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32 **ITEM 4 APPROVAL OF MEETING MINUTES FOR JULY 20, 2016**

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34 Chairman Short asked for the Board’s review of the minutes of July 20, 2016.
35 Motion was made by Ms. Simmons, seconded by Mr. Nagler to approve the minutes of
36 the July 20, 2016 meeting as presented. The motion passed unanimously.

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38 Chairman Short noted that the minutes from the July 26, 2016 joint meeting with
39 the Township Board and Planning Commission also needed to be approved. Chairman
40 Short asked for the Board’s review of the minutes of July 26, 2016 joint meeting with the
41 Township Board and the Planning Commission. Motion was made by Mr. Miller,
42 seconded by Ms. Simmons to approve the minutes of the July 26, 2016 joint meeting as
43 presented. The motion passed unanimously.

1 **ITEM 5 PUBLIC HEARINGS**

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3 5a. The next item on the agenda was a public hearing on request by James and
4 Breanne Oakes for a variance to allow the installation of an eight (8) foot tall fence (6
5 feet permitted) on their residential property at 3177 Meadowcroft Lane. The property is
6 located in the B Residence Zoning District. The chairman opened a public hearing on
7 the request.
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9 Breanne Oakes addressed the ZBA and said that she and her husband, James
10 Oakes, want to remove the six-foot tall fence on their property and replace it with an
11 eight-foot tall fence to block out headlights from passing cars and to help reduce the
12 amount of noise along Nichols Road. Ms. Oakes said that their lot is sloped and as a
13 result, the existing six-foot tall fence essentially functions as a four-foot tall fence. Ms.
14 Oakes hopes that the extra two feet will reduce some of the noise and lights from the
15 traffic. Ms. Oakes said that their property backs up to a church and traffic from the
16 church results in headlights from cars shining into her master bedroom and nursery.
17

18 Chairman Short asked Ms. Oakes if there are any blinds or drapes in the windows
19 at her house. Ms. Oakes said yes. Chairman Short asked Ms. Oakes if she has black-out
20 blinds in those rooms. Ms. Oakes said she does not have those types of blinds. Chairman
21 Short said that he has a similar situation at his house where a light shines into a
22 bedroom and black-out blinds work well in addressing that issue.
23

24 Mr. Miller said that he stopped by the Applicants' house. He asked which issue
25 was the bigger problem: the church or Nichols Road. Mr. Oakes said that Nichols Road
26 is the bigger problem. Mr. Oakes said that the church is willing to put up an eight-foot
27 tall fence to address the problem of headlights shining into their bedroom. Mr. Oakes
28 said that he wants to address the issues on Nichols Road. Mr. Miller noted that this is
29 the last ZBA meeting where the Township's current Zoning Ordinance will be in effect;
30 the new Zoning Ordinance will be effective on August 31, 2016. Mr. Hudson had
31 indicated that the church can build an eight-foot high fence on its property. Mr. Hudson
32 said that the church is located in the Residential Zoning District.
33

34 Chairman Short asked if an eight-foot tall fence will address the issue of
35 headlights shining into the applicants' bedrooms. Chairman Short asked if lights from
36 other directions will shine into the Applicants' house. Mr. Oakes said that he thinks
37 lights from southbound and eastbound Nichols Road will still shine into their house. Mr.
38 Oakes said that he planted trees and uses blinds, but this still does not adequately
39 address the problem. Mr. Miller noted that several trees were planted. He thought that
40 the height of the trees would do more to shield the Applicants from a car's headlights in
41 comparison to a fence. Mr. Oakes said planting more trees would interfere with a
42 driver's vision of traffic when pulling out onto Nichols Road. Mr. Oakes asked about the
43 difference between a tall tree and an eight-foot fence. Mr. Miller said that one is in
44 compliance with the Township's Zoning Ordinance and the other is not.
45

46 Chairman Short asked if headlights shining into the Applicants' windows have
47 been a problem since 2009. Mr. Oakes said that he bought the property in 2009 and

1 have been dealing with this issue ever since. Ms. Simmons stated that the neighbors
2 have a 6-foot tall fence. Mr. Oakes agreed. Ms. Seeber stated section 20.994 of the
3 Township's Zoning Ordinance does not address an eight-foot tall fence in a Residential
4 Zoning District for the church. She and Mr. Hudson searched the ordinance for the 8-ft.
5 fence height permission.

6
7 Bonnie Johnson was present and said that Kalamazoo Township is a zoned
8 community and granting this variance request opens the door for others to seek a
9 similar variance request. Ms. Johnson asked where the proposed 8-foot tall fence would
10 be installed on the Applicants' property.

11
12 Cameron Wright, a representative from the church located behind the Applicants'
13 property, said that he wants to replace the church's existing fence with an eight-foot tall
14 fence to address the lighting issue and to keep the fence the same height as the
15 Applicants' fence (assuming the eight-foot tall fence variance request is granted). Mr.
16 Wright said that the Applicants are great neighbors. Mr. Wright said that cars that use
17 the church's parking lot do shine their headlights in the Applicants' home. Mr. Wright
18 said that a six-foot tall fence will not address this problem.

19
20 Chairman Short closed the public hearing at approximately 7.41 p.m.

21
22 Ms. Seeber said that Section 20.996B of the Township's Zoning Ordinance allows
23 an eight-foot tall fence in a Commercial or Industrial Zoning District. Ms. Seeber said
24 that the church is located in a Residential Zoning District. Ms. Seeber said there may
25 have been some confusion thinking that the church was located in a Commercial or
26 Industrial Zoning District that would allow for an eight-foot tall fence. Mr. Miller asked
27 Mr. Hudson to go over the report he wrote to the ZBA. Mr. Hudson read his report,
28 dated August 17, 2016 to the ZBA, including the standards for the ZBA to consider when
29 it reviews a request for a variance in its entirety.

30
31 Mr. Miller asked Mr. Hudson if he was aware of any differences in the new
32 Zoning Ordinance that would have a bearing on the Applicants' situation. Mr. Hudson
33 did not think so. Mr. Miller said that screening can be required under the ordinance. Mr.
34 Miller asked Mr. Hudson if there is any limitation on how close to the right-of-way or a
35 height limitation on how tall a tree may be. Mr. Hudson said no. Mr. Miller said that the
36 Applicants could use vegetation to get the screening they want. Mr. Miller said that the
37 ZBA cannot grant variances for conditions that are common in the area and vegetation
38 could solve the problem.

39
40 Mr. Nagler agreed with Mr. Miller. Mr. Nagler did not see anything out of the
41 ordinary that other people are not dealing with. Mr. Nagler did not think that an
42 eight-foot tall fence would solve the light problem. Mr. Nagler suggested that a taller
43 screening would be needed. Ms. Simmons agreed with Mr. Nagler that the Applicants'
44 circumstances are not unique and feels their request did not support granting a
45 variance. Chairman Short said that the problem is the location of the Applicants' house
46 being that it is on a corner. Chairman Short did not feel that the Applicants' situation
47 was unique warranting the grant of a variance.

1 Mr. Oakes stated an intention to plant 30 to 40-ft. arborvitaes instead. Mr. Oakes
2 asked if he can re-grade his property and then construct a six-foot tall fence that would
3 have the effect of an eight foot tall fence. Mr. Hudson said the Zoning Ordinance
4 requires that the measurement be taken from an existing grade. Mr. Nagler said that the
5 new Zoning Ordinance will not allow a fully opaque fence. Ms. Seeber said that Mr.
6 Oakes needs to obtain a special use permit from the Planning Commission if more than
7 fifty cubic feet of fill is brought onto his property. Mr. Hudson told Mr. Oakes there
8 would need to be a public hearing through the Planning Commission if he wanted to
9 bring in more than fifty cubic feet of fill onto his property.

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11 Mr. Miller said the question of fill was not on the agenda. There being no further
12 ZBA discussion, motion was made by Mr. Miller, seconded by Mr. Nagler, to deny the
13 variance request based on the statements in the Township Planner's memorandum
14 because it is not a unique situation and there are alternative screening methods, such as
15 vegetation.

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17 The motion carried unanimously.

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19 **ITEM 6 OLD BUSINESS**

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21 6a. None.

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23 **ITEM 7 NEW BUSINESS**

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25 7a. None.

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27 **ITEM 8 OTHER MATTERS TO BE REVIEWED BY THE ZBA**

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29 8a. Comments from the public on matters not already addressed.

30
31 Ron Reid, the Kalamazoo Township Supervisor, was present and addressed the
32 ZBA. Mr. Reid said that the Township and ZBA is still in a transition process from the
33 old Boards to new Boards. Mr. Reid said that Mr. Cripps has resigned from the ZBA and
34 has asked to be appointed to the Township's Planning Commission. Mr. Reid said that
35 Mr. Nagler also made this request and the Township is expecting to name Mr. Cripps
36 and Mr. Nagler to the Planning Commission at the August 22, 2016 Township Board
37 meeting. Mr. Reid said that the Township will appoint Mr. VanderKlok to the ZBA. Mr.
38 Reid said that he is very pleased to appoint Mr. VanderKlok to the ZBA. Mr. Reid said
39 that someone will be appointed as a liaison to the ZBA for continuity purposes. Mr. Reid
40 asked the ZBA members to review the ZBA bylaws. Mr. Reid said that the ZBA bylaws
41 were last modified in 2008 and it is important for the new ZBA members to be up to
42 date with the bylaws. Mr. Reid said that he looks forward to working with the ZBA.

43
44 Chairman Short said that this is a drastic transition on the ZBA because the ZBA
45 has been stable for a long time. Mr. Reid said that he is looking for a ZBA alternate. Mr.
46 Hudson said that, under the Zoning Ordinance, the new ZBA will no longer review site
47 plans. This will be done by the Planning Commission.

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8b. Correspondence received.

None.

8c. Zoning Board of Appeals member comments.

None.

8d. Report of the Planning Commission member.

None.

ITEM 9 ADJOURNMENT

There being no further business, Mr. Miller made a motion to adjourn, seconded by Mr. Nagler. The motion carried unanimously and the meeting was adjourned at 7:55 p.m.

**KALAMAZOO TOWNSHIP
ZONING BOARD OF APPEALS**

Ann Simmons, Secretary
1720 Riverview Drive
Kalamazoo, MI 49004
(269) 381-8080