

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 held
6 on August 17, 2016, at the Kalamazoo Township Hall commencing at 7:00 p.m.

7
8 Members Present: Mark Miller
9 Ann Simmons
10 Jim Short
11 Frederick Nagler, alternate serving as regular member
12

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.

20
21 **ITEM 2 ROLL CALL**

22
23 Chairman Short called the roll.

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

26
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 agenda
29 with the addition of the consideration of the minutes of the July 26, 2016 joint meeting.
30 The motion passed unanimously.

31
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.

37
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**
2

3 5a. The next item on the agenda was a public hearing on request by James and Breanne
4 Oakes for a variance to allow the installation of an eight (8) foot tall fence (6 feet
5 permitted) on their residential property at 3177 Meadowcroft Lane. The property is
6 located in the B Residence Zoning District.
7

8 Breanne Oakes addressed the ZBA and said that she and her husband, James
9 Oakes, want to remove the six-foot tall fence on their property and replace it with an eight-
10 foot tall fence to block out headlights from passing cars and to help reduce the amount of
11 noise along Nichols Road. Ms. Oakes said that their lot is sloped and as a result, the
12 existing six-foot tall fence essentially functions as a four-foot tall fence. Ms. Oakes hopes
13 that the extra two feet will reduce some of the noise and lights from the traffic. Ms. Oakes
14 said that their property backs up to a church and traffic from the church results in
15 headlights from cars shining into her master bedroom and nursery.
16

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

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

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

45 Chairman Short asked if headlights shining into the Applicants' windows have
46 been a problem since 2009. Mr. Oakes said that he bought the property in 2009 and have
47 been dealing with this issue ever since. Ms. Simmons stated that the neighbors have a 6-

1 foot tall fence. Mr. Oakes agreed. Ms. Seeber stated section 20.994 of the Township's
2 Zoning Ordinance does not address an eight-foot tall fence in a Residential Zoning
3 District for the church. She and Mr. Hudson searched the ordinance for the 8-ft. fence
4 height permission.
5

6 Chairman Short opened the public hearing at 7:21 p.m. Bonnie Johnson was
7 present and said that Kalamazoo Township is a zoned community and granting this
8 variance request opens the door for others to seek a similar variance request. Ms. Johnson
9 asked where the proposed 8-foot tall fence would be installed on the Applicants' property.
10

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

19 Chairman Short closed the public hearing at 7:21 p.m.
20

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

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

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

Mr. Oakes stated an intention to plant 30 to 40-ft. arborvitaes instead. Mr. Oakes

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

9
10 Mr. Miller said the question of fill was not on the agenda. There being no further
11 ZBA discussion, motion was made by Mr. Miller, seconded by Mr. Nagler, to deny the
12 variance request based on the statements in the Township Planner's memorandum
13 because it is not a unique situation and there are alternative screening methods, such as
14 vegetation.

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16 The motion carried unanimously.

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18 **ITEM 6 OLD BUSINESS**

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20 6a. None.

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22 **ITEM 7 NEW BUSINESS**

23
24 7a. None.

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

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28 8a. Comments from the public on matters not already addressed.

29
30 Ron Reid, the Kalamazoo Township Supervisor, was present and addressed the
31 ZBA. Mr. Reid said that the Township and ZBA is still in a transition process from the old
32 Boards to new Boards. Mr. Reid said that Mr. Cripps has resigned from the ZBA and has
33 asked to be appointed to the Township's Planning Commission. Mr. Reid said that Mr.
34 Nagler also made this request and the Township is expecting to name Mr. Cripps and Mr.
35 Nagler to the Planning Commission at the August 22, 2016 Township Board meeting. Mr.
36 Reid said that the Township will appoint Mr. VanderKlok to the ZBA. Mr. Reid said that
37 he is very pleased to appoint Mr. VanderKlok to the ZBA. Mr. Reid said that someone will
38 be appointed as a liaison to the ZBA for continuity purposes. Mr. Reid asked the ZBA
39 members to review the ZBA bylaws. Mr. Reid said that the ZBA bylaws were last modified
40 in 2008 and it is important for the new ZBA members to be up to date with the bylaws.
41 Mr. Reid said that he looks forward to working with the ZBA.

42
43 Chairman Short said that this is a drastic transition on the ZBA because the ZBA
44 has been stable for a long time. Mr. Reid said that he is looking for a ZBA alternate. Mr.
45 Hudson said that, under the Zoning Ordinance, the new ZBA will no longer review site
46 plans. This will be done by the Planning Commission.

1 8b. Correspondence received.

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3 None.

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5 8c. Zoning Board of Appeals member comments.

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7 None.

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10 8d. Report of the Planning Commission member.

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12 None.

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15 **ITEM 9 ADJOURNMENT**

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

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21
22
23 **KALAMAZOO TOWNSHIP**
24 **ZONING BOARD OF APPEALS**

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27

28 Ann Simmons, Secretary
29 1720 Riverview Drive
30 Kalamazoo, MI 49004
(269) 381-8080