

**CHARTER TOWNSHIP OF BANGOR
ZONING BOARD OF APPEALS**

MINUTES OF FEBRUARY 15, 2022 MEETING

A regular meeting of the Charter Township of Bangor Zoning Board of Appeals was held on the 15th day of February, 2022 at the Bangor Township Administrative Building, 180 State Park Drive, Bay City, Michigan, pursuant to notice of said meeting.

REGULAR MEMBERS PRESENT: Banaszak, Covaleski, DeShano, LaPlant

ALTERNATE MEMBER: Ruff

MEMBER(S) ABSENT: Clements

Ms. Covaleski called the meeting to order at 6:00 p.m. Roll call was taken. The Pledge of Allegiance was recited.

The first item on the agenda was approval of minutes of the January 18, 2022 regular meeting. Ms. Covaleski had a change in the second full paragraph on page 2, 6th sentence. The words “increased to” should be replaced with “replaced by.” *Mr. Banaszak moved to approve the minutes of the regular meeting with the correction. Ms. DeShano seconded the motion. Five (5) ayes, no (0) nays. The motion passed.*

The next item on the agenda was a petition filed by Jeff Heppner for property at 3217 Old Kawkawlin Road which is on the north side of Old Kawkawlin Road between Two Mile and M-13 for the purpose of a variance to install an inground pool in the waterfront yard. Property is zoned Residential.

Jim Lillo from the Bay County Road Commission wrote they have no comment/objection to the petition. The proposed construction is in the back yard, well away from the road and road right-of-way.

The Bay County DWS had no issues with the proposed improvements.

The Fire Marshal has no issues with agenda items proposed for property at 3217 Old Kawkawlin Road.

Karen Castanier of 3229 Old Kawkawlin telephoned she objected to the request.

Ms. Covaleski read a section of the Zoning Ordinance regarding pools.

Mr. Heppner stated his home sits back away from the river. The adjacent home is closer to the water. The proposed location of the pool will be more than 40’ from the water.

Russ Weston, pool installer, commented no one’s view will be impeded by the pool or fence. Mr. Banaszak questioned the fence. Mr. Weston stated it would be iron or glass and would not block any views. Mr. Weston added there would be approximately 70’ from the cement to the water.

There was no one in the audience for or against the request.

Mr. Ruff inquired if any similar variances have come before the Board. Mr. Banaszak stated the ZBA had approved some but only if the views were not impeded. He added the trees in the area block views.

Mr. LaPlant stated the fence is an issue, but it is required. Mr. Ruff stated the decision may set a precedent. Mr. LaPlant added there was no other location for the pool. Ms. DeShano added the plan meets all the required setbacks.

Ms. DeShano moved to approve the petition filed by Jeff Heppner for property at 3217 Old Kawkawlin Road which is on the north side of Old Kawkawlin Road between Two Mile and M-13 for the purpose of a variance to

install an inground pool in the waterfront yard. The required 4' fence shall be see-through. There is no other location to install a pool on the property. Mr. Banaszak seconded the motion. A roll call vote was taken. Ruff-aye, Covalleski-aye, Banaszak-aye, DeShano-aye, LaPlant-aye. Five (5) ayes, no (0) nays. The motion passed. The applicant has six months to pull a building permit, or the variance is null and void.

The next item on the agenda was a petition filed by ALRIG USA/Bay City Retail Management for property at 3921 Wilder Road which is on the north side of Wilder Road between State Park Drive and State Street Road for the purpose of a 6.1 foot candle (fc) variance regarding maximum light trespass to have 6.6 fc (0.5 fc is allowed); a variance of three (3) stacking spaces to have seven (7) stacking spaces (ten stacking spaces are required); and a 78 parking space variance to have 1,098 parking spaces (currently have 1214 spaces, 1176 spaces required, Walmart will have 1098 spaces after lot split). Property is zoned Commercial.

The Fire Marshal has no issues with agenda item proposed for property at 3921 Wilder Road.

The Bay County DWS had no issues with the proposed improvements.

The Bay County Road Commission has no comment/objection to the variances listed on the petition. Lighting and allowed parking spaces are under the jurisdiction of the township. Of note for the site plan, the BCRC fully supports the commercial access point off the existing service drive and not off Wilder Road.

Douglas Eyre ALRIG USA and Alejandro Fernandez represented the request. Mr. Eyre explained there would be very little light trespass. The light in question is along the access drive off of Wilder Road. The drive-thru is unique because there is no order window. Orders are placed on an app, then picked up at the window when ready. They do not believe 10 stacking spaces are necessary. Mr. Eyre added there are two overflow spaces, so pickups are not slowed down if an order isn't ready.

Mr. Eyre explained the parking space variance is for the remaining Walmart property.

Building Official Tim Mark explained the light where the trespass will take place exists. Once the property is split, the light will trespass onto the other property. No lighting will change, only property lines.

Mr. LaPlant had an issue with the parking space variance. There is no hardship. This is self-created. Mr. Eyre explained the reduction in spaces is less than 7%. The parking requirements were made prior to home delivery and pickup services.

Mr. LaPlant stated Chipotle's parking meets Code, but Walmart's does not. Mr. Banaszak stated not as many people shop at stores anymore. Mr. Ruff commented there is more parking shown on the site than could possibly be used.

Mr. Fernandez stated the Institute of Transportation Engineers (ITE) have done studies for this type of parking. The average parking ratio for this type of situation is approximate one space for every 415 square feet. The Township's requirement is higher.

Mr. LaPlant stated he did not see a hardship. Mr. Ruff stated the lot was an unusual shape. Mr. Fernandez added there were numerous utilities running through the property.

Mr. Mark and Mr. Fernandez recalculated parking requirements taking into account the amount of warehousing in the building. The rough parking calculations they produced were 862 parking spaces. 1,098 spaces are shown. With the new calculations, a parking variance is not required.

There was no one in the audience for or against the request.

Ms. Covalleski moved to approve the petition filed by ALRIG USA/Bay City Retail Management for property at 3921 Wilder Road which is on the north side of Wilder Road between State Park Drive and State Street Road for the purpose of a 6.1 foot candle (fc) variance regarding maximum light trespass to have 6.6 fc (0.5 fc is allowed)

and a variance of three (3) stacking spaces to have seven (7) stacking spaces (ten stacking spaces are required). The light pole creating the trespass is existing. The trespass will occur only because the property is being split. There will be no order window on site. Stacking spaces are reduced because it is only a pickup window. The variance for 78 parking spaces to have 1,098 parking spaces is not needed. Due to new calculations, a variance is not warranted. Ms. DeShano seconded the motion. A roll call vote was taken. DeShano-aye, LaPlant-aye, Ruff-aye, Covalleski-aye, Banaszak-aye. Five (5) ayes, no (0) nays. The motion passed. The applicant has six months to pull a building permit, or the variance is null and void.

The next item on the agenda was a petition filed by Daniel Whaley for property at 3305 E. Beaver Road which is on the north side of Beaver Road between Two Mile and Euclid for the purpose of a height variance of 6' to be 26' (20' is allowed) for horse riding arena. Property is zoned Residential. Mark Norton of Spicer Group represented the request.

The Bay County Road Commission has no comment/objection to the petition. The proposed construction is in the back yard, well away from the road and road right-of-way.

The Fire Marshal wrote the property at 3305 E. Beaver Road raises concerns regarding the ability of the Fire Department to adequately protect the proposed structure as well as the existing structures in the event of a fire. Limited access to the proposed structure and the availability to provide an adequate water supply for suppression efforts should be a consideration of the property owner.

The Bay County DWS had no issues with the proposed improvements.

Mary Schubert of 66 Killarney Beach telephoned and stated she is not opposed to the height request, but she is requesting that the drainage ditch be a permanent structure never to be filled in. Please put on plans or state in motion.

Mr. Norton explained nothing changed on the plan, but the height was overlooked. The riding arena needs to have 14' walls and 26' high is the minimum height needed.

Mr. Norton added the ditch has been installed and is lowering the water level.

Mr. Banaszak stated a height variance for a riding arena was approved in the past. Ms. Covalleski stated the arena is in the rear of the property and Mr. Whaley owns adjacent property.

There was no one in the audience for or against the request.

Mr. LaPlant moved to approve the petition filed by Daniel Whaley for property at 3305 E. Beaver Road which is on the north side of Beaver Road between Two Mile and Euclid for the purpose of a height variance of 6' to be 26' (20' is allowed) for horse riding arena. The horse arena was previously approved. The height variance is needed due to the need for 14' side walls. Normal construction calls for 26' height. Mr. Banaszak seconded the motion. A roll call vote was taken. Ruff-aye, Covalleski-aye, Banaszak-aye, DeShano-aye, LaPlant-aye. Five (5) ayes, no (0) nays. The motion passed. The applicant has six months to pull a building permit, or the variance is null and void.

Having no other business before the Board, Ms. DeShano moved to adjourn the meeting. Ms. Covalleski seconded the motion. Five (5) ayes, no (0) nays. The motion passed and the meeting was adjourned at 6:55 p.m.

Respectfully submitted,



Barbara A. Potts
Zoning Board of Appeals Coordinator