

# CLINTON TOWNSHIP BOARD OF APPEALS

## REPORT OF MEETING

WEDNESDAY, JANUARY 20<sup>TH</sup>, 2021

PRESENT: Michael Deyak, Vice-Chairperson  
Robert M. Campbell, Secretary  
Marc Alexander  
Ronald DiBartolomeo  
David Merrill  
Kenneth Pearl

ABSENT: Francis Marella, Chairperson

STAFF: Bruce Thompson, AICP, Director  
DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

The meeting was called to order at 6:30 p.m. and the Pledge of Allegiance was recited.

Deyak announced that this meeting is being held virtually via GoToMeeting. As a result of the coronavirus/COVID-19 pandemic, Public Act 228 of 2020 MCLA 15. 263, Section 3a provides authority authorizing remote participation in public meetings in order to avoid person-to-person contact. A dedicated email address has been established directing your emails to Zoning Board Members which allows them contact via email to provide input and ask questions regarding agenda items prior to the meeting. He advised the email is [zba@clintontownship-mi.gov](mailto:zba@clintontownship-mi.gov). Throughout the meeting and on agenda items, emails relating to the specific agenda item will be read prior to the Zoning Board voting on each agenda item. Following consideration of all of the agenda items, persons who have connected remotely will be permitted to speak, adhering to existing rules of participation.

Mr. Deyak addressed the procedure related to public comment. The Chairperson will acknowledge all persons wishing to address the Board during the public comment period, and they are to provide their name and address. Comments will be limited to three (3) minutes, and comments must be confined to Zoning Board of Appeals business, being topics over which the Zoning Board of Appeals has authority and which involves Zoning Board of Appeals matters. Should the Board decide that a response to a specific question raised by persons in that Public Comment section is needed, they shall refer the questions to the Planning & Community Development Department Director or his designee for review.

Mr. Deyak explained that the Board of Appeals functions as a quasi-judicial body with specific powers and limitations, as outlined in various sections of the Zoning Ordinance and state statutes. He noted the Zoning Ordinance sets the standards the Board of Appeals must use in reaching any decision, and once the decision of the Board of Appeals becomes final, only the courts can modify or reverse that decision. He stated his board is not empowered to change the terms or intent of an ordinance. Anyone who wants to amend an ordinance must petition the Township Board of Trustees.

Mr. Deyak explained that before a variance can be granted, certain requirements must be satisfied: 1) Practical difficulty must be demonstrated; 2) Whether strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for permitted purpose or would render conformity unnecessary and burdensome; 3) Whether a variance would do substantial justice to the petitioner as well as to other property owners in the district or whether a lesser relaxation would give substantial relief and more consistent with justice to others; and 4) The plight of the owner is due to unique circumstances of the property.

### **APPROVAL OF AGENDA**

Discussion was held regarding postponing Item #4 from the agenda, Election of Officers to the next regular meeting of the Zoning Board of Appeals and whether Item #1 should be removed or voted on for tabling as requested by the petitioner.

Motion by Pearl, seconded by Campbell to approve the agenda with the change of removing Item #4 from the agenda postponing Election of Officers to the next regular meeting.

Roll Call Vote: Ayes – Pearl, Campbell, Alexander, Deyak, DiBartolomeo, Merrill. Nays – None. Absent – Marella. Motion carried. Motion carried.

### **UNION LAKE VILLAS (Vacant land on Union Lake – Parcel #16-11-25-151-226 – File #20-6948) – Postponed from September 16th, 2020 and November 18th, 2020 To discuss petitioner’s request to table his application**

Mr. Campbell summarized the variance being requested. He advised that no notice was sent. Mr. Campbell confirmed that there were no emails or written replies received in response to the mailing.

It was indicated by Thompson that the petitioner indicated his desire to table the application.

Deyak asked if there was anyone that wanted to speak on the item. No one spoke.

Deyak asked if there were any emails regarding this item.

Thompson responded none.

Pearl suggested that it would be best to table the item as it was the petitioner's request

Motion by Pearl, seconded by Merrill to table the item until the petitioner gets with the Planning Department to get it back on the agenda.

Roll Call Vote: Ayes – Pearl, Merrill, Alexander, Campbell, Deyak, DiBartolomeo. Nays – None. Absent – Marella. Motion carried.

**SFR – McKISHNIE, 20134 (20134 McKishnie – Parcel #16-11-33-256-002  
– File #20-6965)**

**To permit the continuance of an existing 920-square-foot addition to an accessory structure for a single-family home in the R-5 One-Family Residential District, exceeding the total combined maximum square footage of 1,770 square feet allowed by a variance granted by the Zoning Board of Appeals on July 25, 2018**

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Mr. Campbell summarized the variance being requested. He advised that notice of this public hearing was issued by regular mail to 39 owners and/or occupants of property located within 300 feet of the land in question, with 3 of those returned as undeliverable. Mr. Campbell confirmed that there were no emails or written replies received in response to the mailing.

Deyak asked the petitioner to state his name and address and state his case.

Thad Drum, 20134 McKishnie, stated that he wasn't trying to get away with something or sneak it by. He built a carport over his driveway and was informed by the Building Inspector after he discovered it driving by that the carport increased the footprint of his garage. He stated he didn't see that coming. He also has dropped a curtain at the front of it to keep rain out and to keep his vehicles out of view of the public eye further stating that he just wanted to make it look nice.

Deyak asked if there was anyone from the public that wanted to speak on this item. There was none.

Deyak opened it to the Board.

Campbell stated he had several concerns. He stated that in looking at the 2018 request for the garage there was no discussion about a second story and it appears by means of a door that there is a second story on the garage, a second story built

without approvals. He next questioned whether a variance could be granted for the carport as Section 1298.01(b) states that in no instance shall the floor area for an accessory structure exceed 2,500 square feet. He stated that the ZBA has never granted a variance for a detached garage over 2,500 square feet and that this variance would result in a garage at 2,690 square feet.

Thad Drum indicated that the second floor was below the height limit for a livable space and was only utilized as loft storage.

Campbell asked the petitioner why he thought he should be allowed to have a structure this large, 350 square feet over the maximum allowed.

Thad Drum stated why shouldn't he and stated its better for the neighborhood than having his cars out in view.

Campbell asked the petitioner how many vehicles he had. He indicated the petitioner stated a total of 5 plus his wife's car in 2018 and now it's 10.

Thad Drum stated his wife has 2 cars and he had 7.

Campbell asked why so many.

Thad Drum indicated that he was a car enthusiast and that they a were all classic cars some in a state of being restored.

Campbell stated that he wasn't sure that this is the right thing to do in a single family neighborhood.

Merrill stated he could not figure out what the practical difficulty was in this request and that he didn't see a hardship except one that was self-created.

Thad Drum stated that his hardship was the amount of money he spent building the carport.

Deyak stated that he did not see any practical difficulty and that economic reasons is not one.

Campbell stated he would lie an opinion from the Township attorney regarding the 2,500 square foot maximum.

Pearl suggested that the Board should wait to ask for an attorney's opinion and vote to determine whether the variance should be granted.

Thompson stated that in general, under zoning legislation, that a property owner has the right to request a variance from any regulation of the Zoning code.

Campbell stated that the variance should not be granted to give the petitioner 350 square foot more than the next largest structure in the Township and that there is no justification for it.

Merrill stated that he agreed with Mr. Pearl's comments and that there is no practical difficulty.

Thad Drum stated he asked for a little more than what he was granted in 2018 but was shot down. The current garage is ok for 4 cars and repeated that when building the carport he was not aware that it was considered a structure.

Merrill stated that the fact the Board approved less than was requested in 2018 shows no additional practical difficulty and stated that a 2,700 square foot garage is larger than most houses in the Township.

Motion by Merrill, seconded by Campbell to deny the request as there isn't a hardship present and that any practical difficulty was self-created.

Deyak asked if there were any emails regarding this item.

Thompson responded none.

Roll Call Vote: Ayes – Merrill, Campbell, Alexander, Deyak, DiBartolomeo, Pearl. Nays – None. Absent – Marella. Motion carried.

**FAITH BAPTIST CHURCH (fka Baker College) (34950 Little Mack Avenue – Parcel #16-11-34-101-044**

**– File #20-6975)**

**To permit the redevelopment of a site for a church and school in the R-5 One-Family Residential District (Faith Baptist Church, fka Baker College), with: 1) Ingress and egress from a street that does not have an 86-foot-wide right-of-way, which is required; and 2) Parking in the east front yard and north and west street side yards, which is not permitted**

Mr. Campbell summarized the variance being requested. He advised that notice of this public hearing was issued by regular mail to 187 owners and/or occupants of property located within 300 feet of the land in question, with 12 of those returned as undeliverable. Mr. Campbell confirmed that there were no emails or written replies received in response to the mailing.

Deyak recognized the petitioner and asked him to state his name and address for the record and state his case

Tim Berlin, 37680 Joann Drive, Clinton Township MI 48036, stated that the practical difficulty in his case is that the front parking is on 15 Mile Rod and they needed to have a soccer field. Putting it up toward 15 Mile Road would not be a good idea. He stated that there was no place for additional parking and that there was more than sufficient parking for the Christian day school the day care they were looking to add and Sunday and Wednesday church services.

Deyak asked if there was anyone in the audience that wished to speak.

Chris Schornak, 21307 Abrams Street, stated that he lived next to the site and owned multiple properties in the area. He is in favor of the proposal and feels it would be a great addition to the neighborhood.

Deyak opened the discussion to the Board.

Campbell stated that he saw the practical difficulty as the fact that they are moving into an existing structure and site and that any major renovations to the site would be practically impossible. He also suggested that the Planning Department look at revising the ordinance as it applies only to churches and not schools that generate even more traffic.

Pearl agreed with Mr. Campbell and the resident that this was a good use of the property and because of existing conditions they have no choice but to request the variances.

Motion by Pearl, seconded by Campbell, to grant the variances requested due to the existing development of property and how parking is designed

Merrill stated that he was pleased with the development and the additional soccer field for kids in the neighborhood. He feels there is a practical difficulty.

DiBartolomeo stated that this site was recently before the Planning Commission and that they were all in favor of the development and the variances being granted.

Roll Call Vote: Ayes – Pearl, Campbell, Alexander, Deyak, DiBartolomeo, Merril. Nays – None. Absent – Marella. Motion carried.

## **PUBLIC COMMENTS**

There were no comments from the audience.

## **REPORT OF MEETING**

**-- APPROVAL OF DECEMBER 16<sup>TH</sup>, 2020 REPORT**

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Mr. Campbell requested the following corrections:

Page 3, second paragraph add “build” after “are trying to” and the word Camaro is spelled incorrectly on page #5.

Motion by Campbell, seconded by Merrill to approve the minutes of the December 16<sup>th</sup>, 2020 Report of Meeting, as amended. Motion carried.

**ADJOURNMENT**

Motion by Mr. Campbell, supported by Mr. DiBartolomeo, to adjourn the meeting. Motion carried. The meeting adjourned at 7:20 p.m.

Respectfully submitted,

*Robert M. Campbell*

Robert M. Campbell, Secretary  
CLINTON TOWNSHIP BOARD OF APPEALS