

CHARTER TOWNSHIP OF HIGHLAND  
ZONING BOARD OF APPEALS  
APPROVED MINUTES  
March 1, 2023

The meeting was held at Highland Township Auditorium, 205 N. John St., Highland, Michigan, 48357.

The meeting was called to order at 7:30 p.m.

**ROLL CALL:**

David Gerathy, Chairman  
Michael Borg, Vice Chairman  
Anthony Raimondo, Secretary  
Peter Eichinger  
Scott Green - absent  
Robert Hoffman  
John Jickling  
(Alternate) Mary Michaels

Lisa G. Burkhart, Zoning Administrator

Visitors: 6

Mr. Gerathy welcomed those in attendance and reviewed the procedures for addressing the Board. He stated that 4 affirmative votes are required to approve a variance. If a variance is approved the applicant has one year to act upon the variance. The alternate will participate in the meeting in place of the absent regular member.

**NEW BUSINESS:**

- |    |                     |  |
|----|---------------------|--|
| 1. | CASE NUMBER:        | 23-02  |
|    | COMPLAINT:          |  |
|    | ZONING:             | LV – Lake and Village Residential District   |
|    | PARCEL #:           | 11-12-404-004  |
|    | PROPERTY ADDRESS:   | 3566 Reserve Ct  |
|    | APPLICANT:          | Marc & Rhonda Linovitz   |
|    | OWNER:              | Marc & Rhonda Linovitz   |
|    | VARIANCE REQUESTED: | A 24-foot 3-inch variance from the calculated 42-foot 9-inch high-water mark setback to 18-feet 6-inches provided.<br>(Sec. 9.02.D.)<br>This request is for a reduction of the calculated high-water mark setback for a second story, 10-foot by 36-foot deck. |

Chairman Gerathy reviewed the application and asked if the applicant had anything to add to his statement.

**Discussion from the Applicant:**

The owners were present. Ms. Linovitz stated that they purchased the home six months ago and realized that the deck was in poor condition and needed to be replaced. She stated that the previous

owner installed a door wall that leads to nothing creating a hazard. Their proposal is to replace the existing deck and add 10 feet across the doorwall so there is something to step out onto.

**Discussion from the Public:**

There was no public comment.

**Discussion from the Board:**

Mr. Eichinger shared that he visited the site and noted that the existing house does not meet the setback. He felt that the deck extension is needed to correct a safety hazard. He further commented that the deck will not interfere with any neighbor's view. Mrs. Michaels noted that the applicant is basically replacing what is there and agreed that the deck is unsafe. Mr. Hoffman did not feel there would be any adverse effects on the neighborhood. Mr. Borg stated that the lot is shallow for the LV district. Mr. Raimondo clarified if the waterfront setback was the only request, and it was verified that it is the only request.

Mr. Raimondo offered the following facts and findings:

- The parcel is in the LV zoning district.
- The request is the minimum necessary for the deck.
- The variance would not alter the essential character of the neighborhood.
- The parcel is exceptionally shallow.

**Motion:**

Mr. Raimondo made a motion in Case 23-02, parcel # 11-12-404-004, 3566 Reserve Ct., to grant a 24-foot 3-inch variance from the calculated 42-foot 9-inch high-water mark setback to 18-foot 6-inches provided per Section 9.02.D for construction of a 10 x 36-foot second story deck. Mr. Hoffman supported the motion. Mrs. Michaels-yes, Mr. Jickling-yes, Mr. Raimondo-yes, Mr. Eichinger-yes, Mr. Borg-yes, Mr. Hoffman-yes, Mr. Gerathy-yes (7 yes votes). The motion carried with 7 yes votes and the variance was approved.

**Motion:**

Mr. Borg made a motion to approve signatures for a final determination for Case 23-02, parcel # 11-12-404-004, applicant and owner Marc & Rhonda Linovitz. Mr. Hoffman supported the motion. The motion was approved with a unanimous voice vote.

2. CASE NUMBER: 23-03  
COMPLAINT:  
ZONING: ARR – Agricultural and Rural Residential District  
PARCEL #: 11-17-100-051  
PROPERTY ADDRESS: 3063 Browns Lane  
APPLICANT: Kenneth Harp  
OWNER: Kenneth Harp  
VARIANCE REQUESTED: A 40-foot variance from the required 100-foot rear yard setback to 60-feet provided.  
(Sec. 4.15.)  
This request is for a reduction of the rear yard setback for a 32-foot by 48-foot addition to an existing accessory structure.

Chairman Gerathy reviewed the application and asked the applicant if he wished to add any new information.

**Discussion from the Applicant:**

Mr. Harp, the applicant, was present. He stated that when he originally built the barn the setback was 50 feet and he set it at 60 feet from the rear lot line. He explained that the addition would be three walls, attached to the existing barn. He stated that there are 3 rows of pine trees that essentially hide the barn from Hickory Shores open space. Mr. Harp stated that he does not see any negative effect on Hickory Shores.

**Discussion from the Public**

Carol Cizek, 3035 Allison Lane, was present, noting that she submitted written comments from herself and Eric Schubert. Mr. Gerathy read the comments into the record. Ms. Cizek pointed out that the open space also includes a community septic system and trails. They had concerns about aesthetics as the open space was one of the key factors considered when purchasing their property. Ms. Cizek and Mr. Schubert had questions about what is and would be stored in the building, the need for it to be doubled in size, and how this variance would impact other properties.

Written comments were received from Anthony G. Clor, III, 3000 Browns Lane, opposing the request as the layout, location, and construction of the building was a direct result of Mr. Harp's own action and doesn't constitute a practical difficulty. He also pointed out that the setback dimension is shared by all landowners in the ARR district and not unique to only this property. Additionally, he felt that the barn would be used for non-residential uses and believes some of those uses are now going on, such as auto repair.

Mr. Harp stated that he will use the addition for cold storage of his trailers and that he only works on his own classic cars and once in a while for friends. He said he does not have a business.

Mr. Gerathy stated that a note was received from Julia Dowson, 3163 Browns Lane, that she did not object to the requested variance.

**Discussion from the Board:**

Mr. Jickling visited the site and did not feel there was a practical difficulty. There is plenty of space on the property to build without a variance. Mr. Jickling stated that, in his opinion, as a retired builder it is a lot easier to build new than to try to tie into an existing building.

Mr. Harp stated that the setback used to be 50 feet and he questioned why it changed. Mr. Jickling stated that the ZBA's job is to uphold the Ordinance and he does not see a practical difficulty.

Mr. Harp did not feel that there was any negative impact to neighbors.

Mr. Raimondo asked when the barn was built. Mr. Harp stated that the barn was built in 2008. Mr. Borg asked about when the Ordinance changed. Mrs. Burkhart indicated that in 2012 a new Zoning Ordinance and Map was adopted eliminating the R-1AA and MA districts and compressing all the uses into the ARR District with the change in setback for accessory structures. Mr. Raimondo expressed concern about noise and lighting and the potential that the next owner could have a different vision for use of the building. He further stated that he finds the zoning reasonable and should be upheld. Mr. Hoffman felt that the Township changed the rules, and he felt the request should be supported. Mrs. Michaels felt that it might be less expensive to add on; however, finances are not a consideration for the ZBA.

Mr. Jickling and Mr. Raimondo offered the following facts and findings.

- The parcel meets the minimum lot size requirements.
- The parcel is large enough that all setbacks can be met.
- No practical difficulty has been shown.
- The proposed variance could alter the essential character of the neighborhood.
- The request is not the minimum necessary.

**Motion:**

Mrs. Michaels made a motion to grant a variance in Case #23-03, Parcel #11-17-100-051, 3063 Browns Lane, applicant and owner Kenneth Harp to grant a 40-foot variance from the required 100 foot rear yard setback required to 60 feet provided, from Section 4.15. for construction of a 32 by 48 foot addition to an accessory structure. Mr. Hoffman supported the motion. Roll call vote: Mr. Hoffman-yes, Mr. Borg-no, Mr. Eichinger-no, Mr. Raimondo-no, Mrs. Michaels-no, Mr. Jickling-no, Mr. Gerathy-no (1 yes vote, 6 no votes). The motion failed and the variance was not approved.

**Motion:**

Mr. Raimondo made a motion in Case #23-03, Parcel #11-17-100-051, 3063 Browns Lane, applicant, and owner Kenneth Harp to deny a 40-foot variance from the required 100-foot rear yard setback required to 60 feet provided, from Section 4.15. for construction of a 32 by 48-foot addition to an accessory structure. Mr. Borg supported the motion. Roll call vote: Mr. Hoffman-no, Mr. Borg-yes, Mr. Eichinger-yes, Mr. Raimondo-yes, Mr. Jickling-yes, Mrs. Michaels-yes, Mr. Gerathy-yes (1 no vote, 6 yes votes) The motion was approved and the variance denied.

**MINUTES:**

Mrs. Michaels made a motion to approve the minutes of February 1, 2023, as presented. Mr. Borg supported the motion and it carried with a unanimous voice vote.

**DISCUSSION:**

Mr. Borg asked about 3677 Woodland Drive where a shed was erected in violation of the setback requirements and was required to relocate more in compliance with the Ordinance. Mrs. Burkhart explained that the property owner has a valid building permit. She noted that the homeowner is under an enforcement requiring compliance by May 2023.

While investigating Case 23-02, Mr. Borg observed 3 sheds on the waterfront at 3171, 3161 and 3145 Beaumont Drive. Mrs. Burkhart stated that staff will investigate.

**ADJOURN:**

At 8:24 p.m., Mrs. Michaels made a motion to adjourn the meeting. Mr. Hoffman supported the motion, and it was approved with a unanimous voice vote.

Respectfully submitted,

Anthony Raimondo  
Secretary  
AR/lgb