



AGENDA

Zoning Board of Appeals
Tuesday, March 9, 2021 – 7:00 p.m.
Remote Electronic Meeting

According to the Attorney General, interrupting a public meeting in Michigan with hate speech or profanity could result in criminal charges under several State statutes relating to Fraudulent Access to a Computer or Network (MCL 752. 797) and/or Malicious Use of Electronics Communication (MCL 750.540). According to the US Attorney for Eastern Michigan, Federal charges may include disrupting a public meeting, computer intrusion, using a computer to commit a crime, hate crimes, fraud, or transmitting threatening communications. Public meetings are monitored, and violations of statutes will be prosecuted.

Join!

Zoom Meeting: go to www.zoom.us/join | call 1-929-205-6099
Meeting ID: 981 6134 1352 | Passcode: 038028

- I. Call to Order
- II. Roll Call
- III. Statement on Remote Meeting
- IV. Approval of the February 9, 2021 ZBA Meeting Minutes
- V. Old Business
 - A. ZBA Variance Application No. 20-03 – Grand Rapids Filtration Plant – Solar Arrays
- VI. Reports
- VII. Extended Public Comments & Questions (Limited to 4 minutes)

To provide comments, please click “Raise Hand” at the bottom of your screen or by pressing Alt+Y. The Zoom Moderator will unmute you when it is your turn to speak.
- VIII. Adjournment

MEETING MINUTES
GRAND HAVEN CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
FEBRUARY 9, 2021
Remote Electronic Meeting

I. CALL TO ORDER

The regular meeting of the Grand Haven Charter Township Zoning Board of Appeals was called to order at 7:00 p.m. by Chair Voss.

II. ROLL CALL

Board of Appeals members present: Voss, Slater, Loftis, Behm, Hesselsweet, and Egedy-Bader (alternate)
Board of Appeals members absent: None

Also present: Community Development Director Fedewa, Associate Planner Hoisington, and Attorney Bultje

Without objection, Hoisington was instructed to record the minutes for the meeting.

III. STATEMENT ON REMOTE MEETINGS

It was noted the ZBA was meeting remotely on the Zoom platform because of health concerns associated with COVID-19 pandemic. Information on this remote meeting has been posted so the public may participate. All members present noted they are meeting remotely and are located within Grand Haven Charter Township.

IV. APPROVAL OF MINUTES

Without objection, the minutes of the December 15, 2020 ZBA Meeting were approved.

V. NEW BUSINESS

A. ZBA Variance Application No. 21-02 – Coutré – Three-Season Room Addition

Party Requesting Variance:	Steve & Rita Coutré
Address:	15133 Steves Drive
Parcel Number:	70-07-12-151-005
Location:	15133 Steves Drive

Steve and Rita Coutré are requesting an exemption to rear yard setbacks pursuant to Section 19.06 of the Township Zoning Ordinance. The applicants are requesting to construct a 14-foot x 20-foot sunroom that would result in a 36-foot rear yard setback when 50-feet is required. In exchange, the applicants would relinquish the remainder of their accessory building allowance. The property is entitled to 720 square feet, a 144 square foot shed exists, so 576 square feet of additional accessory building floor area would be forfeited through a written agreement recorded with the Ottawa County Register of Deeds.

Fedewa provided an overview through a memorandum dated February 4th.

The Coutrés were present to provide information.

- The lot is on the smaller side and the house is already built to the 50' rear yard setback.
- Renovations to the house for new siding and roofing will occur at the same time so the addition will look cohesive with the existing house.
- No concern about relinquishing the right to an additional accessory building.
- Acknowledged the impact the restriction on accessory buildings may have on the future sale of the house.

The Board discussed the application and noted the following:

- Asked for clarification on the agreement that would restrict any future accessory buildings.
 - Attorney Bultje explained the agreement process.
 - The agreement is recorded with the Register of Deeds so it would come up in any future title research.
 - The existing shed would be allowed to be replaced with a new shed either size for size or smaller.
 - Noted the restriction may affect future sales of the home.
 - Future owner could apply for a variance for relief from the agreement.
- Three letters of support were received from neighbors.

Motion by Behm, supported by Slater, to **conditionally approve** the addition of a 14-foot x 20-foot attached sunroom at 15133 Steves Drive. Pursuant to Section 19.06 of the Zoning Ordinance allowing for Exemptions to Rear Yard Setbacks. This motion shall be subject to the following condition:

1. An agreement shall be drafted by the Township Attorney restricting the property to zero additional accessory structures at a maximum of zero square feet in size. This agreement shall be recorded with the Register of Deeds prior to obtaining a building permit.

Which motion carried unanimously, as indicated by the following roll call vote:

Ayes: Voss, Slater, Loftis, Behm, Hesselsweet
Nays: None

Absent: None

B. ZBA Variance Application No. 21-01 – Droste – Single Family Dwelling

Party Requesting Variance: Anne Droste
Address: 6034 West 76th St, Los Angeles, CA 90045
Parcel Number: 70-03-32-390-048
Location: 17996 Brucker Street

Anne Droste is requesting to build a new single-family dwelling which would result in a non-conforming rear yard setback. The applicant is requesting a rear yard setback of 6-feet 2½-inches when 50-feet is required. The rear yard setback is in violation of Section 2.08 of the Zoning Ordinance.

Hesselsweet recused himself due to a conflict of interest – was previously architect of record for the project.

Fedewa provided an overview through a memorandum dated February 5th.

Ms. Droste was present to provide information:

- Property has been in the family for generations.
- Existing cottage lacked modern utility connections and was recently demolished.

The Board discussed the application and noted the following:

Standard No. 1 – Exceptional or extraordinary circumstances:

- Undersized.
- Extremely shallow lot.
- Encumbered by Critical Dune Area requiring an EGLE permit to construct a dwelling.
 - EGLE permit has been issued and the application is based on the approved location.

Ayes: Voss, Slater, Behm, Loftis, Egedy-Bader

Nays: None

Abstained: Hesselsweet

Standard No. 2 – Substantial property right:

- Applicant is entitled to build a dwelling on the property.

Ayes: Voss, Slater, Behm, Loftis, Egedy-Bader

Nays: None

Abstained: Hesselsweet

Standard No. 3 – Will not be a substantial detriment to adjacent parcels, or material impact on the intent and purpose of the Ordinance:

- No correspondence was received for this application.
- The extreme changes in elevation at the rear of the property diminishes the impact the requested rear setback would have on adjacent properties.

Ayes: Voss, Slater, Behm, Loftis, Egedy-Bader

Nays: None

Abstained: Hesselsweet

Standard No. 4 – Request is not of such a recurrent nature as to make reasonably practical the formulation of a general regulation:

- Properties in the Critical Dune Area have to go through the permitting process by EGLE before a variance can be requested. Each property has unique characteristics that have to be addressed on an individual basis.

Motion by Slater, supported by Behm to **approve** a dimensional variance from Section 2.08 for a dimensional to build a new single-family dwelling at 17996 Brucker Street that will result in a rear yard setback of 6-feet-2½-inches. Approval of this variance is based upon this Board’s findings that all four standards have been affirmatively met.

Which motion carried unanimously, as indicated by the following roll call vote:

Ayes: Voss, Slater, Behm, Loftis, Egedy-Bader

Nays: None

Abstained: Hesselsweet

VI. OLD BUSINESS

A. ZBA Variance Application No. 20-03 – Grand Rapids Filtration Plant – Solar Arrays

Party Requesting Variance:	Wayne Jernberg, City of Grand Rapids
Applicant Representative:	Krishnan Kandasamy, CMS Energy
Address:	One Energy Plaza, Jackson 49201
Parcel Number:	70-07-28-100-011
Location:	11177 Lakeshore Drive

The City of Grand Rapids is requesting to place a 3.5-acre ground-mounted solar array in the front yard. Section 3.03.A.2.a prohibits solar arrays in the front yard.

The applicant indicated other locations for the solar array will not provide equivalent benefits.

Hesselsweet rejoined the meeting.

Motion by Hesselsweet, supported by Behm to remove the City of Grand Rapids application from the table for further consideration. **Which motion carried unanimously.**

Fedewa provided an overview through a memorandum dated February 5th.

Representatives from the City of Grand Rapids, Alison Sutter – Sustainability and Performance Management Officer and Wayne Jernberg – Water System Manager were present as were staff from CMS Energy, Krishnan Kandasamy – Director of Strategic Projects and Julio Morales – Executive Director. A presentation provided the following information:

- Reiterated the benefits of the project as it relates to the City of Grand Rapids and patrons of the water systems.
- Water filtration plant is an essential service.
- Solar power is a goal supported by the Township’s Master Plan.
- The property is unique in that it has three road frontages, has water frontage, is uniquely shaped, and zoned Rural Residential.
- Provided updated information on alternate locations on site that were discussed at the previous meeting.
 - Roof is insufficient to withstand additional weight of solar array.
 - Would also pose a risk to equipment.
 - Only about 0.5-acres is viable for array installation.
 - The area in the SE corner of the property is encumbered by a drain field and power easement.
 - Additionally, would require about 6-acres of mature trees to be removed.
 - About 1-acre of viable land in this location.
 - Other possible locations are smaller and located in the front yard.
 - The best engineering practice is to keep the arrays in one area rather than split them up.
- Explained the proposed landscaping.
 - Combination of plantings and berms will screen most of the array from view.
 - Arborvitaes will be planted on the berm to provide year-round screening.
 - Existing service drive for the sub-station will be maintained, no new drives would be created for access through the landscaping.

- Contract with landscape architect to determine appropriate plant species, renderings are intended to look representative of the final design.
- A contractor will be used to maintain the pollinator field at a guaranteed performance level, this service has been budgeted as part of the project.

The Board discussed the application and noted the following:

- Questions about landscaping.
 - Asked if the renderings are an accurate representation of the intended plantings.
 - Questioned if additional drives will be created that would break up the landscape screening.
 - Confirmed that details of the landscaping would be reviewed by the Planning Commission but can be included as a condition for approval by the ZBA.
 - Sought assurance the pollinator field will not be burned as part of maintenance routine.
- Confirmed the site could place a compliant building in a similar location that may be more unappealing to neighbors than proposed array.
- Discussed the alternate locations on site and viability for the array.
 - Determined other locations were not practical to build an array because it would require them to be non-contiguous, which does not comply with best management practices for solar array installation.
- Questioned if approval would set a precedent for future solar arrays.

Attorney Bultje provided clarification to noted concerns.

- The lot can be considered unique due to the different frontages, overall shape, and use.
- The property has the only water filtration plant in the Township. Therefore, this case would not be considered precedent setting as compared to a similar request on a residential property.
- Recommended the ZBA members review the standards to determine if there is a consensus to make a motion or if staff should be directed to draft a resolution for review and consideration at the next meeting.
- Solar power is a goal supported by the Township's Master Plan.

The Board decided to discuss the variance standards, but no votes were taken.

Standard No. 1 – Exceptional or extraordinary circumstances:

- Property has unique characteristics:
 - Three road frontages
 - Lake frontage
 - Distinctive size and shape
- Only water filtration plant in the Township.

Standard No. 2 – Substantial property right:

- Every property owner is entitled to install solar panels.
- No other location on site is capable of housing the array.
- The federal government has encouraged the use of solar panels through tax credits.
- The Township has encouraged the use of renewable energy in the Master Plan.

Standard No. 3 – Will not be a substantial detriment to adjacent parcels, or material impact on the intent and purpose of the Ordinance:

- The ZBA has received letters of both support and objection.
- Increased screening of the array may resolve some of the concerns of the visual impact.
 - Confirmed the maintenance of the landscaping can be added as a condition of approval.
 - Reaffirmed that another structure could be constructed in a similar location and would create more of a visual impact than the proposed array.
- Questioned if arrays would have impact on neighboring property values.
 - Attorney Bultje advised there are no reports indicating any impact on property values.

Standard No. 4 – Request is not of such a recurrent nature as to make reasonably practical the formulation of a general regulation:

- Only water filtration plant in the Township.
 - Not a residential property.

Following the discussions, the Chair inquired if there was any public comment:

- Marcie Barber – 11840 Lakeshore Drive, Grand Haven, MI 49417
 - Owns property in the area and supports the project.

Following the discussion and public comments the Board directed staff to work with Attorney Bultje to draft a resolution for a motion of approval to be reviewed at the next meeting.

Motion by Hesselsweet, supported by Loftis, to direct staff and Attorney Bultje to draft a formal resolution to grant the City of Grand Rapids solar array variance application, based upon those zoning ordinance variance standards which were discussed and will be reflected in the minutes; this resolution will be reviewed and considered for adoption or rejection or modification at the next meeting.

Which motion carried unanimously, as indicated by the following roll call vote:

Ayes: Voss, Slater, Loftis, Behm, Hesselsweet

Nays: None

Absent: None

B. Discussion – 2021 Meeting Dates

The Board discussed alternate meeting dates to avoid future scheduling conflicts with back-to-back meetings for members.

Motion by Slater, supported by Behm, to **approve** the 2021 Meeting Date Schedule to hold meetings on the 4th Tuesday starting in April.

Which motion carried unanimously, as indicated by the following roll call vote:

Ayes: Voss, Slater, Loftis, Behm, Hesselsweet

Nays: None

Absent: None

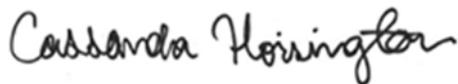
VII. REPORTS – None

VIII. EXTENDED PUBLIC COMMENTS – None

IX. ADJOURNMENT

Without objection, the meeting was adjourned at 8:53pm.

Respectfully submitted,



Cassandra Hoisington

Acting Recording Secretary

Community Development Memo

DATE: March 3, 2021
 TO: Zoning Board of Appeals
 FROM: Stacey Fedewa, AICP – Community Development Director
 RE: 11177 Lakeshore – Dimensional Variance Application No. 20-03

PARCEL INFORMATION

Owner	City of Grand Rapids
Property Address	11177 Lakeshore Drive
Parcel Number	70-07-28-100-011
Lot Size	67 acres
Elevation	n/a
Lot Type	Typical, Municipal
	Water Filtration Plant
Zoning	Rural Residential (RR)
Required Ground-Mounted Solar Array Locations	Shall not be in front yard
Requested Ground-Mounted Solar Array Locations	Front Yard



Motion to remove the City of Grand Rapids application from the table for further consideration.

BACKGROUND

On February 9th the ZBA reviewed new information provided by the applicant. This information was intended to demonstrate—the roof is not suitable for solar panel installation; the southeast corner is encumbered by a drain field with associated piping; there is an overhead transmission line crossing the wooded area in the southeast corner creating another encumbrance; and the remaining areas are also front yards that would require a dimensional variance.

The ZBA reviewed the four standards against this application but did not make any findings. Instead, the application was tabled. The motion to table read:

Motion** by Hesselsweet, supported by Loftis, to direct staff and Attorney Bultje to draft a formal resolution to grant the City of Grand Rapids solar array variance application, based upon those zoning ordinance variance standards which were discussed and will be reflected in the minutes; this resolution will be reviewed and considered for adoption or rejection or modification at the next meeting. **Which motion carried unanimously.

The formal resolution has been drafted and is enclosed for review and consideration. Recall, the **Board is free to approve, reject, or modify the resolution.**

SAMPLE MOTIONS

If the ZBA determines each standard has been affirmative met, the following motion can be offered:

Motion to approve and adopt Resolution 2021-03-01 concerning the City of Grand Rapids dimensional variance application to allow a 3.5-acre ground-mounted solar array in the front yard of 11177 Lakeshore Drive. Approval of this variance is based upon this Board's findings that all four standards have been affirmatively met and are subject to the conditions held within the aforementioned resolution.

However, if the ZBA determines each standard has not been affirmatively met, the following motion can be offered:

Motion to deny the dimensional variance to locate solar panels in the front yard of 11177 Lakeshore Drive, and direct staff to draft a formal resolution for those discussion points which will be reflected in the meeting minutes. This will be reviewed and considered for adoption at the next meeting.

If the ZBA determines that more information is needed to make an affirmative finding, the following motion can be offered:

Motion to table the dimensional variance application for 11177 Lakeshore Drive, and direct the applicant and/or staff to provide the following information, which will be considered at the next regularly scheduled ZBA meeting:

1. *List items here...*

Please contact me with questions or concerns.

EXCERPTS OF MINUTES

At a meeting of the Grand Haven Charter Township Zoning Board of Appeals, Ottawa County, Michigan, held remotely on March 9, 2021, at 7:00 p.m., local time. Pursuant to Public Act 254 of 2020, this meeting was held remotely to mitigate the spread of COVID-19. Members of the public were encouraged to participate remotely in this meeting. Members of the public were not required to register or otherwise provide information to attend the meeting.

PRESENT: _____

ABSENT: _____

After certain other matters of business were concluded, the Chairperson stated the next order of business was the consideration of a proposed resolution containing the Zoning Board of Appeal’s decision concerning an application for a dimension variance. After discussion, the following resolution was offered by _____ and supported by _____.

RESOLUTION 2021-03-01

WHEREAS, the City of Grand Rapids (the “Applicant”) has applied for a dimension variance to locate a ground-mounted solar array in the front yard of Parcel Number 70-07-28-100-011, 11177 Lakeshore Drive, contrary to the location requirements of Section 3.03.A.2.a of the Zoning Ordinance; and

WHEREAS, the Zoning Board of Appeals held a public hearing on December 15, 2020;

The Zoning Board of Appeals resolves as follows.

1. The requested variance is granted.
2. The decision by the Zoning Board of Appeals is based on its findings concerning the factors in Section 19.05 of the Zoning Ordinance.
 - a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning classification.
 - (1) The property has an exceptionally large front yard.
 - (2) The Applicant could expand the building on the property significantly toward the front lot line.
 - (3) The property is very unique with three lot lines abutting a road right-of-way and frontage on Lake Michigan.

(4) The water plant on the property is an essential use, and that precludes the use of the building's roof for the solar array.

(5) The solar array is a preferred, encouraged land use in the Township per the Master Plan and in the country per the Internal Revenue Code.

(6) The electric transmission line crossing the property, the significant tree growth, the existing drain field, and the property's topography all limit the viable areas for the solar array.

b. A variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity.

(1) The property has an exceptionally large front yard.

(2) The Applicant could expand the building on the property significantly toward the front lot line.

(3) The property is very unique with three lot lines abutting road rights-of-way, and with frontage on Lake Michigan.

(4) The water plant on the property is an essential use, and that precludes the use of the building's roof for the solar array.

(5) The solar array is a preferred, encouraged land use in the Township per the Master Plan and in the country per the Internal Revenue Code.

(6) The electric transmission line crossing the property, the significant tree growth, the existing drain field, and the property's topography all limit the viable areas for the solar array.

c. The variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of the Zoning Ordinance or the community's public health, safety, and general welfare.

(1) The solar array allowed by this variance will not generate noise, pollution, vibration, or other harmful effects.

(2) If the conditions placed upon the variance are satisfied, the solar array will be largely hidden from view and the general appearance of the property will be enhanced.

(3) The variance will promote renewable energy, as encouraged by the Master Plan and the Internal Revenue Code.

(4) The variance will allow the preservation of valuable natural resources and the Lake Michigan shoreline.

d. The condition of the property justifying the variance is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for that condition. All of the following factors make this a unique, not a recurrent, situation.

(1) The property has an exceptionally large front yard.

(2) The property is very unique – an irregular shape, multiple road frontages, and Lake Michigan frontage.

(3) The property is used for essential purposes, and that precludes the use of the building's roof for the solar array.

(4) The variance is for a preferred encouraged land use.

(5) The property has a transmission line, significant tree growth, a drain field, and challenging topography.

3. The conditions placed upon the variance as granted are as follows.

a. The Applicant shall comply with all of the information submitted to the Township to support the variance request. Later submitted material shall control over earlier material if inconsistent.

b. Other than the variance, the Applicant shall comply with all applicable federal, state, county, and Township laws and ordinances.

c. A three-foot tall landscape berm, measured from street grade, shall be established around the perimeter of the solar array, as illustrated on the documents from the Applicant. Native species shall be used. The Applicant shall be required to maintain the viability and aesthetic appearance of the berm as long as the solar array is on the property.

d. Trees shall be substantially preserved on the property as much as reasonably possible.

e. The pollination field shall be installed as proposed by the Applicant. The Applicant will budget an annual amount for maintenance to maintain the pollination field at a guaranteed and adequate performance level.

f. The site plan for the project shall be subject to approval by the Township's Planning Commission.

4. All resolutions in conflict in whole or in part are revoked to the extent of such conflict.

YES: _____

NO: _____

The resolution is declared adopted.

Dated: March 9, 2021

Jim Loftis
Grand Haven Charter Township
Zoning Board of Appeals Secretary

CERTIFICATE

I, the undersigned, Secretary for the Zoning Board of Appeals of the Charter Township of Grand Haven, Ottawa County, Michigan, certify that the foregoing is a true and complete copy of a resolution adopted by the Zoning Board of Appeals at a meeting held on the 9th day of March, 2021. I further certify that the public notice of the meeting was given pursuant to and in full compliance with Michigan Act 267 of 1976, as amended, and that the minutes of the meeting were kept and will be or have been made available as required by the Act.

Jim Loftis
Grand Haven Charter Township
Zoning Board of Appeals Secretary