

MEETING MINUTES
GRAND HAVEN CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
AUGUST 25, 2020
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, and Behm
Board of Appeals members absent: Hesselsweet, and Rycenga (alternate)
Also present: Community Development Director Fedewa

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

III. APPROVAL OF MINUTES

Without objection, the minutes of the May 28, 2020 ZBA Meeting were approved.

IV. OLD BUSINESS

1. ZBA Case #20-02 – Dimensional Variance – Hoekenga

Party Requesting Variance:	Tom Hoekenga
Address:	14956 Lakeshore Drive, Grand Haven
Parcel Number:	70-03-32-278-006
Location:	14956 Lakeshore Drive

Hoekenga is seeking a variance to maintain the 98-inch tall fence located on the subject property when only 72-inches is permitted. The fence was installed for privacy due to elevation changes. A permit for the fence was not obtained prior to construction. This request violates Section 10.03.E of the Zoning Ordinance.

Fedewa provided an overview through a memorandum dated August 21st.

Hoekenga was present and provided the following information:

- Built fence for privacy.
- Neighboring property is ≈18-inches higher + his property is ≈18-inches lower which equates to a 36-inch change in elevation.
- To the top of the metal portion of the fence is approximately 6-feet.
- Spoke to neighbors before building and each said design and height was fine.
- Property is at the base of a hill and surrounding properties all slope to his yard.

- People walking along the pathway and an Assistant Chief with the Michigan State Police have stopped by to say it is a “great looking fence.”
- Without the privacy provided by this taller fence, he is prohibited from enjoying the property in the way he wants.
- The view of the neighboring property can be unsightly.

The Board discussed the application and noted the following:

- Board does not fault Hoekenga because he did not know how to navigate the situation. Further, the fence is attractive, and the property and rear yard are all high-quality and aesthetically pleasing.
- Inquired if the Township staff have other fence height issues.
 - Per staff, typically the property owner contacts the Township prior to installation and learns of the height restriction. At times a permitted fence will not be installed to follow the grade, but instead is “stepped” along the grade causing too large of a gap between the ground and bottom of fence. Owner is required to rectify this problem, which is typically done with landscaping or re-installation.
- Noted that owners cannot build landscape berms and install a fence on top of that to circumvent the ordinance. Rather, evergreens and other landscaping must be used to supplement.
- Explained the owner could install railings on the deck and attach a trellis- or pergola-type to top of rail for added privacy.
 - Per Hoekenga, that would solve the deck privacy issue but not privacy concerns around the fire pit.
- Discussed potential alternatives, suggestions, or modified variance:
 - Perhaps the top 2-feet of the segment facing Lakeshore Drive could be lowered to 6-feet.
 - Grant an 18-inch variance to compensate for the grade change, and the segment visible from Lakeshore Drive be lowered to 6-feet.
 - Board noted the awkwardness of the situation because the fence is already constructed and do not enjoy taking an enforcement position.
 - Per staff, suggested a long-term variance option—allow Hoekenga to keep the 98-inch fence for now, direct him to plant fast-growing evergreens so within 2-years the trees can compensate for the privacy. After the 2-years, Hoekenga would be required to lower the fence to 6-feet because the privacy has been re-obtained by way of the evergreens. If this is pursued, an agreement should be drafted by the Township Attorney to be recorded against the property.
 - Board inquired if applicant was amenable to this solution. Hoekenga explained he does not want to plant anything because the trees do not fit into the design of the yard. Does find it

acceptable to lower certain segments of the fence such as the part facing Lakeshore Drive.

- Fence is attractive, is already constructed, and the variance case came about through Township-initiated code enforcement. Not a neighbor-complaint.
 - If a variance was approved under these circumstances, concerned that precedence could be set over the term “attractive” because that is too subjective and could allow people to build almost anything.
 - Would likely require a text amendment instead of a variance, if this option was pursued.
- Agreed that if this property were located in a new subdivision the grade would likely be flat and these elevation changes that are causing privacy concerns would be a moot point.

Standard No. 1 – Exceptional or extraordinary circumstances:

- Elevation changes are not significant enough when compared to other variances that have been granted.
- If a 1’ to 3’ elevation change could warrant a variance, how could that be regulated.
- Lot is undersized, but so are many other lots within the Township.

Ayes: Slater

Nays: Voss, Behm, Loftis

Absent: Hesselsweet, Rycenga

Standard No. 2 – Substantial property right:

- The amount of privacy was visible at the time the property was purchased.

Ayes: None

Nays: Voss, Behm, Loftis, Slater

Absent: Hesselsweet, Rycenga

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

- Received correspondence in support of the fence from a non-abutting neighbor.
- Did not receive correspondence in support of this fence from the abutting neighbor.
- Setting precedence is of great concern with this case.

Ayes: Slater

Nays: Voss, Behm, Loftis

Absent: Hesselsweet, Rycenga

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

- Requests for a taller fence are common.
- Elevation changes within a few feet are exceptionally common in the Township.

Ayes: None

Nays: Voss, Behm, Loftis, Slater

Absent: Hesselsweet, Rycenga

Motion by Voss, supported by Loftis, to **deny** a dimensional variance from Section 10.03.E to keep a 98-inch tall fence in the rear yard. The owner is directed to reduce the height to a maximum of 6-feet by May 1, 2021. Denial of this variance is based upon this Board's findings that all four standards have not been affirmatively met. **Which motion passed unanimously**, as indicated by the following roll call vote:

Ayes: Voss, Behm, Loftis, Slater

Nays: None

Absent: Hesselsweet, Rycenga

V. REPORTS

- Associate Planner Hoisington has assumed the lead planner role with Spring Lake Village pursuant to the contract for services. Therefore, Director Fedewa will resume the lead staff position with the Township's ZBA.

VI. EXTENDED PUBLIC COMMENTS – None

VII. ADJOURNMENT

Without objection, the meeting was adjourned at 7:50pm.

Respectfully submitted,



Stacey Fedewa, AICP
Acting Recording Secretary