

KALAMAZOO TOWNSHIP
ZONING BOARD of APPEALS MEETING

AGENDA

WEDNESDAY, June 21, 2017 7:00 PM

The Kalamazoo Township Zoning Board of Appeals will hold a meeting on **WEDNESDAY, JUNE 21, 2017** at the Kalamazoo Township Offices, 1720 Riverview Drive, Kalamazoo, Michigan, commencing at 7:00 P.M.

The agenda for the *meeting* will include the following items:

- #1 Call to order.
- #2 Roll call.
- #3 Approval of agenda for JUNE 21, 2017
- #4 Approval of minutes of meeting held, May 17, 2017
March & April Cancelled

- #5 Public Hearings
 - 5a.
 - 5b.
- #6 Old Business.
 - 6a. 4601 Winding Way – pending receipt of a survey – See 5/17/2017 ZBA Minutes.

- #7 New Business.
 - 7a.
 - 7b.

- #8 Other matters to be reviewed by the ZBA.
 - a. Comments from the public on matters not already addressed.
 - b. Correspondence received.
 - c. Zoning Board of Appeals members comments.
 - d. Report of the Planning Commission member.

- #9 Adjournment

You may attend this public meeting for your information and comments. Please contact the Planning and Zoning Dept., if you have any questions regarding the Public Meeting, 269-381-8080

**Charter Township of Kalamazoo
Minutes of a Zoning Board of Appeals Meeting
Held on May 17, 2017**

A regular meeting of the Kalamazoo Charter Township Zoning Board of Appeals was conducted on May 17, 2017 commencing at 7:00 p.m. at the Township Hall.

Present were:

Chairman James Short
Steve Leuty
Fred Nagler
Bob VanderKlok

Absent were:

Anne Simmons, who had requested to be excused.

Also present were Township Zoning Administrator Patrick Hudson; Township Attorney Roxanne Seeber and 3 additional interested persons.

Call to Order

The chairman called the meeting to order at 7:00 p.m.

Roll call and Recognition of Visitors

The chairman noted that Simmons was absent. VanderKlok moved, supported by Nagler to excuse Simmons. The motion passed unanimously.

Approval of Meeting Agenda

VanderKlok inquired as to 3320 Ravine Road which had been noticed for public hearing but did not appear on the agenda. Hudson indicated that the applicant was satisfied with the zoning ordinance text amendment that was scheduled for adoption on May 22. VanderKlok moved, supported by Leuty to remove the item from the table. The motion passed unanimously. VanderKlok moved, supported by Nagler to recognize the withdrawal of the application by the applicant. The motion passed unanimously.

VanderKlok noted that the accessory building in item 5a was attached, not detached. He also wished to add a requested report on 1108 Dupont to old business. VanderKlok moved, supported by Leuty to adopt the agenda, as amended. The motion passed unanimously.

Approval of the meeting minutes for February 15, 2017

The next item on the agenda was the approval of the minutes of the February 15, 2017 Zoning Board of Appeals meeting. Seeber suggested that VanderKlok be authorized to sign the minutes in Simmons' absence. Nagler moved, supported by Leuty to approve the minutes of the February 15, 2017 Zoning Board of Appeals meeting as submitted, and authorizing VanderKlok to sign in Simmons' absence. The

1 motion passed unanimously. VanderKlok signed the minutes and provided them to Hudson for
2 transmittal to staff.

3
4 **Variance Request - Edward McClean, 4601 Winding Way.**

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6 The next item on the agenda was consideration of the request of Edward McClean, 4601 Winding Way
7 for a 15-foot variance from the required 25 -foot front yard setback in order to allow the applicant to
8 retain an existing, roofed porch that was added to the façade of an existing house. McClean indicated
9 that he had added a patio and made renovations to the existing garage. A room had been placed above
10 the garage. He provided photographs of the property in question. Hudson indicated that the
11 renovations had been made without permits. The issue was that there was a roof that extended over
12 the patio on the right front side of the house facing it from the street. McClean indicated that he had
13 added 6 feet to the existing 3-foot wide slab and placed an overhang over the new front porch. Short
14 inquired as to the changes that had been made to the house and attached garage. The garage and
15 second story, the group realized, were not the issue. Although they had been constructed without
16 permits, there was no encroachment into the setback. The problem, Hudson explained, was the
17 extension and roof addition to the front porch on the right side of the house when facing it from the
18 street.

19
20 In response to an inquiry from Short, McClean confirmed that the short back wall of the porch was the
21 original building. Nagler indicated that the north side of the building was the issue. He recalled that the
22 road is a little curved on this property. In response to Nagler's inquiry, McClean stated the parcel was
23 not unusually shaped. Nagler commented that it is very likely that the road right of way and edge of
24 road would need to be located for measurement purposes. McClean confirmed that he had just gone
25 out and measured it from the side of the road. He provided a map showing his measurements.
26 Hudson calculated that the building should be located at least 55.7 feet from the center of the road.
27 This did not appear to be the case.

28
29 Nagler questioned the depth of the right of way, indicating that the property description reads to the
30 "centerline of the roadway". Hudson had not seen a survey, but looking at the aerial and the road he
31 felt that the road was fairly narrow. He indicated that more than one property in this area has an
32 encroachment into the setback. Short inquired about the age of the house; he surmised that the
33 setback was probably "paced" out rather than measured. Hudson indicated that it appeared that a
34 portion of the house was already six feet into the right of way. McClean did not know when the house
35 was built. Nagler commented that the center of the road was not favorable to the front yard setback
36 on McClean's property. He also assumed that the road was probably gravel when it was developed.
37 VanderKlok commented that a survey is necessary in order to answer these questions. He was under
38 the impression that Prein and Newhof would have some of the original surveys, as they had purchased
39 the business from Wilkins and Wheaton who did the original surveys. He was concerned about
40 financing and a potential selling difficulty if McClean did not have an accurate survey. VanderKlok was
41 not comfortable with just guessing and, based on his review of Hudson's memo; it appeared to him that
42 Hudson was guessing as well. VanderKlok stated that he was not prepared to vote on the variance
43 request until the applicant provided a survey. McClean indicated that there is a house 100 yards from
44 him that was built five years ago. If the road is an issue, he surmised, it would be for those in the
45 neighborhood as well.

46
47 Short indicated that it is possible to get the old survey records from the Township engineers. Seeber
48 provided the contact information to the applicant. The chairman opened a public hearing on the

1 application. Kenny Katz lives across the street from the McClean property. His house was built 109
2 years ago. It has never been surveyed since he purchased it. He came to the hearing out of curiosity.
3 He had no problem with the porch. The chairman closed the public hearing.
4

5 Leuty voiced confusion as to the application. He thought that the real issue was the railings on the front
6 porch/patio which then turned it into a "structure" according to Hudson's memo. He inquired of
7 Hudson as to whether the porch railings were being interpreted as creating a "structure" as well.

8 Nagler reviewed the memo and indicated that there are exceptions in table 2.1. The existence of the
9 railing put it out of the exemption. VanderKlok recalled that the reason for the provision related to the
10 railings was because people were building decks right into neighboring properties. Hudson indicated
11 that his interpretation of the footnotes at 2-34 meant that there can be no closures, such as a railing.
12 Nagler stated that decks can go ten feet further out, with the railing; the deck eliminates the need for
13 the setback. If he has just porch and slab, he gets ten more feet. If it's just a slab, there is an exception,
14 he stated. The group discussed whether the building code required a railing. Leuty felt that some
15 survey information would be beneficial. Hudson indicated that enforcement action is stayed pending
16 the appeal. There is a stop work order placed by the building official as well. The group discussed
17 tabling the application to June 21, 2017 in order to give the applicant time to obtain a survey. McClean
18 inquired as to whether he could remove the roof over the new porch/patio without needing a variance.
19 He felt that he was at least 50 feet off the road, based on his measurements. Leuty felt that a survey
20 could be obtained fairly inexpensively. He commented that it is not only the railing but also the
21 overhang that is an issue.
22

23 Vanderklok stated that it appeared the applicant would have to remove half the porch, from the
24 measurements that were given to him. If he removed the whole porch, then he is okay for sure,
25 VanderKlok commented. Nagler reminded the group that the right of way is on a curve, which may be
26 used as a basis from which to grant a variance. Nagler moved to table the request to June 21 at 7:00
27 p.m. in order to give the applicant an opportunity to contact the township engineers and/or get a survey
28 so as to allow the applicant and the ZBA to determine what course to take. Leuty supported the motion
29 and it passed unanimously.
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31 **Public Hearing – Ordinance Interpretation**

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33 The next item on the agenda was the request of the Zoning Administrator for an interpretation as to
34 whether the keeping of bees constitutes "livestock" pursuant to Article 2.0 Section 2.10 "Keeping of
35 Livestock" of the Township Zoning Ordinance. Nagler reported his original opinion that the matter
36 should be pretty "cut and dried". Bees are not livestock, he said. They are allowed to roam free. Short
37 commented that keeping bees in neighborhoods could be dangerous for people who are allergic to
38 stings. He continued that "livestock" to him meant the production of something, such as silk or honey.
39 He inquired as to whether the application in question had to do with selling honey or just cultivating it
40 for their own personal use. Hudson responded that it was for sale. Seeber had prepared an analysis,
41 which had been provided to the members prior to the meeting. Short indicated that bees are
42 considered "livestock" under the USDA guidelines. However, he said, there are other types of
43 animals/insects that people grow for production, such as worms and crickets. Seeber stated that home
44 occupations and home-based businesses did not permit any outdoor activity. Thus, if earthworms or
45 crickets are kept indoors, there may be a difference.
46

47 Short inquired as to how the question arose. Hudson reported that someone wants to raise bees for
48 honey in a residential area. Leuty wondered aloud whether a clarification was needed in the ordinance.

1 There is a limitation of three cats or dogs. Could there be a minimum number of hives, he asked. If
2 bees were interpreted to be livestock, then they would not be allowed in platted areas in the Township.
3 He felt that controlling the number of hives was appropriate.
4

5 VanderKlok commented that people put up bird houses and bat houses in yards all the time. They give
6 shelter to "something in nature" the same way that a bee hive shelters bees. Seeber commented that
7 the difference was whether you were after a "product" or simply providing "shelter". She was
8 unaware of products that bats or birds produced, even if shelter was provided. VanderKlok inquired as
9 to whether bees could be considered a "nuisance" under the noise/nuisance ordinance. Seeber
10 indicated that it would be difficult, since the goal of the nuisance ordinance was to protect the public
11 health, safety and welfare. It would be too subjective based on whether someone nearby has a bee
12 allergy, she reasoned.
13

14 Nagler made a motion that bees are considered "livestock" under the terms of the Zoning Ordinance
15 because they are classified as "livestock" by the Michigan Department of Agriculture and they are used
16 for the production of "honey" and not as "pets". VanderKlok seconded the motion. Leuty was
17 interested in finding a middle ground, in terms of numbers or potential for a single hive in residential
18 areas. He was concerned about backlash from current hive owners. The group discussed whether
19 existing hives would be considered lawful nonconforming uses if they were presently in a plat or
20 residential area. It also discussed enforcement mechanics. Leuty suggested that the Planning
21 Commission take up the issue of bee hives in residential areas. Seeber indicated that there are setbacks
22 for hives in the GAAMPS. She knew of a farmer that was required to move a hive that was too close to
23 the property line; however, she had not researched the GAAMPS with respect to the issue. Nagler was
24 less interested in the Planning Commission undertaking the issue, particularly when there were no
25 complaints related to current hives. He suggested that the first order of business if the Planning
26 Commission was asked to consider the matter would be to request a staff report and analysis. Nagler
27 stated that, as a practical matter unless a neighbor has a problem with a bee hive, it would not be
28 brought to the attention of the Township. Leuty asked to have the motion amended to request that the
29 Planning Commission undertake examination of the issue. Nagler and VanderKlok declined to amend
30 the motion, but Nagler agreed to take the issue up with the Planning Commission as its liaison.
31 VanderKlok indicated that the matter was addressed as fully as possible by the ZBA with its response to
32 the interpretation request. The motion passed unanimously.
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34 **Township Official Comments**

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36 Ron Reid was present in the audience. He announced his resignation as Township Supervisor effective
37 May 31, 2017. The Township Board had appointed former Trustee Don Martin as Supervisor through
38 November 2018. The Board was now looking to fill the trustee seat made available by Martin's
39 appointment. Interested persons should find the application online. Next, Reid presented the
40 Township of Excellence Award that the Township of Kalamazoo had received from the Michigan
41 Townships Association. He outlined the 18-month long effort to be awarded with the designation. He
42 invited the members to a reception to be held at the Township hall on May 30 at 4:00 prior to a special
43 board meeting to review the applications for trustee.
44

45 **Old Business**

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47 VanderKlok had requested an update on the Dupont property which had been the subject of a
48 November 22, 2017 Zoning Board of Appeals meeting. He brought the minutes of the meeting with

1 him. Hudson said that they hadn't done anything. He had reviewed some elements of their site plan
2 and had referred the owners to the DEQ. The floodplain engineer said that they needed to turn
3 something in to him. The Township had not received anything. VanderKlok inquired as to whether the
4 lights had been adjusted within the thirty-day time frame. VanderKlok had been at a road commission
5 meeting and they knew about the situation, but only in passing. The road commission did not have an
6 application from the owners. It appeared that the owners had not moved forward at all. He had
7 observed someone on the property about two weeks ago. Hudson said that the tenant was planning on
8 moving out in August. VanderKlok indicated that whether there is a tenant or not, the owner of the
9 property has to fix the water problem. All of the impervious surface is creating a 4-inch high swale in
10 front of the neighbor's house. He reminded the group that the property is in violation of the original
11 site plan approval. Nagler recalled that the drainage problem was to have been taken care of in 1988.
12 Hudson indicated that he would have the Ordinance Enforcement Officer issue a citation. Seeber
13 indicated that he should wait until the full six-month period was over before doing so.

14
15 VanderKlok also reported on the front-yard parking at the machine shop on Lake Street. They striped
16 and graveled the parking lot, but they still park in front on the street. Hudson indicated that he would
17 follow up with the Ordinance Enforcement Officer.

18 19 **ID Photographs**

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21 Hudson indicated that his photographs did not take. The members should make an appointment for
22 photographs with police department administrative sergeant Darien Smith to get their photographs
23 taken. If members have an old identification badge, they can still use it. The group discussed the use
24 of the badge when observing properties prior to ZBA hearings.

25 26 **Report of PC Member**

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28 Nagler reported on ordinance amendments that had been approved by the Planning Commission. He
29 spoke about a potential use for the old Georgia Pacific property in which Balkema was considering a
30 freight yard for bringing in aggregate. This necessitated an ordinance amendment so as to allow the
31 aggregate to be stacked up to 50 feet in height. The Planning Commission had granted a time extension
32 to the rugby club on Nichols Roads. Nagler also reported on the realignment of the driveway for Kalsec
33 with Cherokee. Hudson reported that the hotel had backed out of the Boji group property at the
34 former Davenport University site when the new hotel was announced downtown. The property was
35 now up for sale. He reported on a minor site plan amendment made to a doctor's office. VanderKlok
36 inquired about the take-out store on West Main and Nelson, which still did not have a green space in
37 the parking lot. Nagler and Hudson disclaimed any knowledge as to the requirements. VanderKlok
38 indicated that it appeared that the sign was in the right-of-way and had been modified. Hudson said
39 that if it was allowed under the old ordinance and a certain amount of the sign was retained, that it
40 could remain in the right-of-way. Hudson reported that he went to pull the bond for the work at the
41 Hookah Lounge and had hired some contractors. Suddenly the applicant was doing what was required
42 on his own. Seeber asked Hudson to get the address for the quick stop, so that she could try to pull the
43 old documents from their files.
44

1 **Adjournment**

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3 Nagler moved, supported by VanderKlok to adjourn the meeting at 9:00 p.m. The motion passed
4 unanimously.

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9 Anne Simmons, Secretary

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SYNOPSIS OF ACTIONS

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The Kalamazoo Township Zoning Board of Appeals undertook the following actions at
14 the May 17, 2017.

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- Tabled a request for variance in order to permit the applicant to retain a front porch and overhang at 4601 Winding Way pending receipt of a survey.
- Made an interpretation that "bees" constitute "livestock" under Section 2.10 of the Township Zoning Ordinance.