

**JAMESTOWN CHARTER TOWNSHIP**

**Zoning Board of Appeals**

Meeting Minutes

January 2, 2024 at 6:00 p.m.

**CALL TO ORDER:** Chairperson Chris VandenHeuvel called the meeting to order at 6:00 p.m.

**BOARD MEMBERS PRESENT:**

Alternate member Melissa Beimers, Scott Brouwer, Dean Smith, Mike VanAanhold, Chris VandenHeuvel. Janae Byker was absent with notice.

**ALSO PRESENT:** Township Zoning Administrator Kirk Scharphorn.

**INVOCATION:** Board member Smith opened with the invocation.

**APPROVAL OF AGENDA:** A motion was made by Smith, supported by Brouwer, to approve the agenda. Motion carried unanimously.

**APPROVAL OF MINUTES:** A motion was made by Smith, supported by VanAanhold, to approve the minutes of the May 3, 2023 Zoning Board of Appeals meeting as written. Motion carried unanimously.

**PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA:** None.

**PUBLIC HEARINGS:**

- **Chairperson VandenHeuvel** read the request from Quincy Street Industrial, LLC, located on the north side of Quincy Street just west of 3413 Quincy Street and east of Royal Court, also known as permanent parcel 70-18-05-400-026, for a dimensional variance to have a driveway entrance/exit that is closer than 275 feet from existing driveways. This variance would provide relief from Section 25.4B2 of the Jamestown Charter Township Zoning Ordinance (JCTZO).

**Todd Stuive**, from Exxel Engineering, was present on behalf of the applicant to answer questions regarding the request. He noted that the property has approximately 690 feet of road frontage along Quincy Street. The applicant has a shared driveway on the west property line with Camp Bow Wow. They approached RT Baldwin to request a shared driveway to the east, but they were denied. They also noted that surrounding land is fully developed and that there are properties that have multiple driveways as well as driveways separated by less than 275 feet. They have received approval from the Ottawa County Road Commission for the location of the east driveway. They are requesting a variance from the 275 feet required separation of 140 feet separation (center to center) to the east driveway and 265 feet separation (center to center) to the south driveway. The Planning Commission has also approved the site plan conditioned upon a variance for the east driveway location.

**A motion was made** by Smith, supported by VanAanhold, to open the Public Hearing at 6:12 p.m. Motion carried unanimously.

There were no comments from members of the public in attendance.

**A motion was made** by VandenHeuvel, supported by Smith, to close the Public Hearing at 6:13 p.m. Motion carried unanimously.

**Board members** deliberated the appeal. It was confirmed with the applicant that there was no possible driveway location that would be able to comply with the JCTZO without a variance. It was noted that this was the last parcel to be developed in that area, and that all other parcel driveways are already in place. The applicant's responses to the standards for the granting of a variance were also discussed.

**A motion was made** by Smith, supported by VandenHeuvel, to grant the request for a dimensional variance to have a driveway entrance/exit that is closer than 275 feet from existing driveways for parcel 70-18-05-400-026, specifically 140 feet separation (center to center) to the east driveway and 265 feet separation (center to center) to the south driveway (see site plan), based on determining that the narrative submitted with the application as written demonstrates that all of the required standards for the granting of a variance have been met:

1. The strict enforcement of the provisions of this Ordinance would cause an unnecessary hardship and deprive the owner of rights enjoyed by all other property owners owning property within the same zoning district.
  - Other surrounding properties have been allowed two driveways, both shared and non-shared.
  - The location of the surrounding developed driveways is creating the hardship for this development.
  - Every effort has been made to comply with the intent of the ordinance.
2. There are conditions and circumstances unique to the property which are not similarly applicable to other properties in the same zoning district.
  - The conditions of the site and surrounding developed driveway locations are unique to this site.
3. The conditions and circumstances unique to the property were not created by the owner or his predecessor.
  - The condition of this site was not created by the owner. The Township and Ottawa County Road Commission approved all existing driveways which created this particular hardship.
4. The requested variance will not grant special privileges that are denied other properties similarly situated and in the same zoning district.
  - Other properties currently enjoy the privilege of two driveways both shared and non-shared. Similar conditions of lesser spacing exists in the immediate area.
5. The requested variance will not be contrary to the spirit and intent of this Zoning Ordinance.
  - The Ottawa County Road Commission is the ultimate authority on the public roadway system and has approved the proposed driveway location. The driveway will not create an unsafe intersection which is the intent of the ordinance.

**Motion carried** unanimously.

- **Chairperson VandenHeuvel** read the request from Mya and Dan Cruzan, located at 4013 8<sup>th</sup> Ave., also known as permanent parcel 70-18-02-400-014, for a dimensional variance to place a detached accessory building within the front yard on a parcel that is less than two (2) acres in land area. This variance would provide relief from Section 3.2F of the JCTZO.

**A motion was made** by VandenHeuvel, supported by Brouwer, to open the Public Hearing at 6:17 p.m. Motion carried unanimously.

**Daniel Cruzan**, the applicant, was present to answer questions regarding the request. The property is located in the Agricultural Rural Residential (AR) Zoning District and is approximately 1.24 acres. The property is also a corner lot having frontage on 8<sup>th</sup> Avenue and Quincy Street.

**Chairperson VandenHeuvel** read through the standards and the narrative the applicant provided in response to each.

**A motion was made** by VandenHeuvel, supported by Smith, to close the Public Hearing at 6:28 p.m.

**Board members** deliberated the appeal and discussed the narrative details provided by the applicant, especially regarding condition #3 which requires that neither the current nor the previous owner of the property are responsible for the conditions of the property. As the house was constructed in 1970 toward the rear of the property, it was determined that standard #3 has been met and not created by the current or immediately preceding owner. Also discussed was the issue of the property as a corner lot having two front yards and potential drainage issues that could impact neighboring properties if the accessory building was constructed behind the existing house. The applicant stated that the septic drain field is also located toward the northwest behind the house, which further reduces the available area for constructing an accessory building. Zoning Administrator Scharphorn informed the Board Members that he doesn't believe the Planning Commission has ever denied an accessory building in the front yard, but they usually set conditions. He also noted that adjacent properties are also of similar size and that the proposed accessory building, which is approximately half the size allowed in the AR Zoning district, would not be closer to the road than the front of nearby houses along Quincy Street, and that property across the street on 8<sup>th</sup> Avenue is master planned for the Industrial Zoning District.

**A motion was made** by Smith, supported by VandenHeuvel, to grant the request for a dimensional variance for the property located at 4013 8<sup>th</sup> Avenue, also known as permanent parcel number 70-18-02-400-014, to place a detached accessory building within the front yard on a parcel that is less than two (2) acres in land area based on determining that the narrative submitted with the application as written demonstrates that all of the required standards for the granting of a variance have been met, with the addition under Standard #1 of noting that an extreme financial hardship would be created if the applicant had to comply with the requirements of Ottawa County Water Resources Commission regarding the mitigation of stormwater runoff and the relocation of the existing septic drain field if the applicant were required to construct the accessory building in a location that complies with the requirements of Section 3.2F of the JCTZO:

1. The strict enforcement of the provisions of this Ordinance would cause an unnecessary hardship and deprive the owner of rights enjoyed by all other property owners owning property within the same zoning district.
  - Putting the building in the allowed location would require many thousands of dollars in demolition, tree removal and excavating costs which are way beyond the scope and allowable budget of the project.
  - It would require an extended walkway with stairs, which could be very dangerous, particularly in the wintertime and especially to seniors. Having the building in the original location mitigates this as it is level and attached to the existing driveway.
  - Proper drainage would be an issue as the allowable area is on a steep hill. Properly excavating this area would be very expensive and could potentially put the house and drain field at risk due to the close proximity.
  - The allowed location does not flow with the existing landscape and would not provide a good look to the property with all the needed changes.
  - Many others on Quincy Street have pole barns much larger than the one they are proposing.
  - Their proposed location of the building does not extend beyond the distance of the neighbor's house to the street and is well within the setback range and does not impair the view of the intersection.
2. There are conditions and circumstances unique to the property which are not similarly applicable to other properties in the same zoning district.
  - The original builder of the house set it far back on the property and curved it toward the southwest. The side yard on the West side of the house is a hill that contains the drain field, an old concrete foundation and 2 maple trees (one of which is very large). Given that this is a corner lot, this means the position/contour of the house, along with the

obstacles, make it a very difficult spot for building. Most of the other houses on the street are straight and positioned much closer to the front yard setback, allowing for much more building space in their back or side yards.

3. The conditions and circumstances unique to the property were not created by the owner or his predecessor.
  - Neither the current owner nor the previous owner were responsible for these conditions. This is simply the way the house was construed in the 70s. Neither the current owner nor the previous owner planted the trees, placed the concrete foundation, placed the drain field, nor landscaped the hill to its current position.
4. The requested variance will not grant special privileges that are denied other properties similarly situated and in the same zoning district.
  - The applicant has been told that layouts similar to their proposed location have been approved in the past.
5. The requested variance will not be contrary to the spirit and intent of this Zoning Ordinance.
  - The spirit and intent of the zoning ordinance is designed to keep people and property as safe as possible along with establishing an appropriate look that flows with the landscape. In regards to the proposed location, with how far back the house is in relation to the property, there is no danger of affecting visibility on the road. It will keep customers safe from tripping hazards and it will flow much more nicely with the existing landscape without significantly altering it.

**Motion carried** unanimously.

**NEW BUSINESS:**

- **2024 Election of Officers**

**A motion was made** by Brouwer, supported by Beimers, to re-elect VandenHeuvel as Chairperson and VanAanhold as Vice-Chairperson. Motion carried unanimously.

**ADJOURN:**

**A motion was made** by VandenHeuvel, supported by VanAanhold, to adjourn the meeting at 7:08 p.m. Motion carried unanimously.

Respectfully submitted by,

Maureen Carmody, Recording Secretary  
Zoning Board of Appeals

Minutes approved on

\_\_\_\_\_ by \_\_\_\_\_  
(chair)