

CHARTER TOWNSHIP OF HIGHLAND
ZONING BOARD OF APPEALS
APPROVED MINUTES
April 16, 2025

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

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

ROLL CALL:

David Gerathy, Chair
Michael Borg, Vice Chair
Anthony Raimondo, Secretary
Michael Zeolla, P.C. Liaison
Peter Eichinger
Robert Hoffman
Gary Childs
Chuck Benke – Alternate - absent
Jacob Probe – Alternate

Kariline P. Littlebear, Zoning Administrator
Lisa G. Burkhart, Zoning Administrator

Visitors: 11

Chair Gerathy welcomed the public to the meeting and reviewed the procedures for addressing the Board, stating that four affirmative votes are required to approve a variance. If a variance is approved, the applicant has one year to act upon the variance.

OLD BUSINESS:

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| 1. CASE NUMBER: | 25-05 |
| ENFORCEMENT: | Tabled from 04/02/25 |
| ZONING: | ARR – Agricultural and Rural Residential (5-acre min) |
| PARCEL #: | 11-06-100-019 |
| PROPERTY ADDRESS: | 6040 N. Tipsico Lake Rd |
| APPLICANT: | Karol Grove |
| OWNER: | Barbara Petersmark |
| VARIANCE REQUESTED: | A 56.12-foot variance from the required 330-foot minimum lot width to 273.88-feet provided for proposed parcel A; and
A 35.57-foot variance from the required 330-foot minimum lot width to 294.43-feet provided for proposed parcel B.
(Sec. 4.15.)
This request is for the completion of a land division request to allow for the two new parcels to have a lesser lot width than required. |

Chair Gerathy stated that Ms. Grove sent an email earlier in the afternoon to say that she was running late and is requesting that the case be heard later in the evening.

Motion:

Mr. Raimondo made a motion in Case #25-05, parcel # 11-06-100-019, commonly known as 6040 N. Tipsico Lake Rd, to move the case to later in the meeting to allow the applicant time to arrive. Mr. Eichinger supported the motion and it was approved with a unanimous voice vote.

NEW BUSINESS:

2. CASE NUMBER: 25-06
ENFORCEMENT:
ZONING: LV – Lake and Village Single Family Residential District
PARCEL #: 11-13-179-005
PROPERTY ADDRESS: 2510, 2512, and 2514 Lakeside Dr
APPLICANT: Giacomo D’Abate
OWNER: Giacomo D’Abate
ADMINISTRATIVE REVIEW: This request is for an administrative review of the Zoning Administrator’s decision regarding a non-conforming use.
(Reference: Article 16, Sec. 16.01. and 16.03.)

Chair Gerathy introduced the case and asked if the applicant was present and, if so, to please step up to the podium. The Zoning Administrator, Mrs. Littlebear, read into record the staff memo and the letter from Zoning Administrator, Lisa Burkhart, dated February 21, 2025.

Discussion from the Applicant:

Giacomo D’Abate, applicant, 533 John R St, Milford, MI, stated that he called Mrs. Burkhart as soon as he received the letter dated February 1, 2025. He stated that he has applied for permits with the township in 2023 and has passed the rough electrical inspection. The plumbing inspection failed and that is when he became aware of the failing septic system. He stated that he immediately applied for a new septic permit. The perk test failed and so he then hired an engineer to begin working on an engineered septic system. He also found out that he will need to apply for a new well permit and relocate the well. He is waiting for word from Oakland County Health Division (OCHD) regarding those permits. He stated that he has not intentionally abandoned this project and so feels that the property should not lose its legal non-conforming status.

Discussion from the Public:

Nicola D’Abate, 1559 Hickory Valley Rd, Milford, MI, brother of applicant, stated that his company performed the perk test. Those results are reviewed by the county and then they received word that it failed and that an engineered system would be required. Shortly after that, his brother hired an engineer to work on the system for OCHD’s approval. It took the engineer several months to begin the project and they just sent the plans into OCHD for review.

Discussion from the Board:

Mr. Gerathy read the Michigan Association of Planning’s educational material which states that regarding administrative appeals “it is the ZBA’s responsibility to determine whether the administrative official or body acted properly within the scope of their authority. If so, the ZBA should uphold the administrative action taken.”

Mr. Borg asked what Giacomo D’Abate does for a living. Mr. D’Abate stated that he is a licensed builder and has been a carpenter for most of his career. He then asked Mrs. Littlebear if Mr. D’Abate had done other work in the township without permits. She replied that this project is the only one that she knows of.

Mr. Hoffman stated that he does not believe that Mr. D’Abate intentionally abandoned the use and investment.

Mr. Zeolla stated that even if the abandonment was not intentional it has gone passed the time allotted and has therefore lost the non-conformity.

Mr. Childs stated that he believes that unforeseen circumstances slowed down the project but that the non-conformity had not been abandoned.

Mr. Raimondo stated that he appreciates the Boards comments. He stated that the Zoning Administrator, Lisa Burkhart, has been with the township for over four decades, her work has always been commendable, and has not made this decision outside of the scope of her responsibilities. He stated that the property looks

abandoned and that the only sign of work is the expired permit from March 2023 taped to the window. Mr. D'Abate stated that he cannot landscape until a new septic system installed and then he can finish the project. Mr. Raimondo stated that if the non-conformity goes away then the property can still be used as a single-family residential property because that is what the property is currently zoned for. Mr. D'Abate stated that he would lose money on the property if he had to make it a single-family property. Mr. Gerathy asked where Section 17.05. comes from. Mrs. Littlebear stated that this section is from the township zoning ordinance. He read into record Section 17.05.E. and finds that Mrs. Burkhart acted in accordance with the zoning ordinance. Mr. Hoffman reiterated his belief that the applicant did not intentionally abandon this project, noting that there are cases where delays can take years to finalize. Mr. Raimondo stated that in a case where there are delays the appropriate action would be to communicate with the township so that there is a record of continued effort to complete the project and extensions, or other appropriate action could take place. Mr. D'Abate stated that he realizes that he should have communicated with the township but did not. He stated that he had not experienced a situation like this before. Mr. Raimondo noted that the Board's responsibility in this case is simple to determine if the Zoning Administrator has made an erroneous decision. He stated that, per the evidence presented, it does not appear that Mrs. Burkhart made her decision in error. Mr. Zeolla stated that he agrees with Mr. Raimondo and Mr. Gerathy that the Zoning Administrator made her decision based on the ordinance requirements. Mrs. Burkhart stated that it sounds like Mr. D'Abate is arguing the interpretation of "intentional" as relates to the non-conformity being intentionally abandoned. She stated that her letter noted why she believed that the abandonment was intentional and that one of the Board's options is to table the case to allow for the applicant to produce documentation or witnesses that can prove that the non-conformity was not intentionally abandoned. Mrs. Littlebear noted that Mrs. Burkhart's decision was based on the lack of evidence provided by the applicant to show that any progress had been made on the project. Mr. Zeolla noted that there was other items that could have been done on the project to make progress. Mr. Childs reiterated his belief that unforeseen circumstances slowed down the project but that the non-conformity had not been abandoned. Mr. Raimondo would like to give the applicant some time to produce evidence of forward progress that had not been previously provided to the Zoning Department.

Motion:

Mr. Raimondo made a motion in Case #25-06, parcel # 11-13-179-005, commonly known as 2510, 2512, and 2514 Lakeside Dr, to table the case to the next ZBA meeting on May 7, 2025. Mr. Borg supported the motion.

Roll Call Vote: Mr. Eichinger-yes, Mr. Hoffman-yes, Mr. Raimondo-yes, Mr. Zeolla-no, Mr. Gerathy-yes, Mr. Borg-yes, Mr. Childs-yes (6 yes votes, 1 no vote). The motion passed and the case was tabled.

OLD BUSINESS:

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| 3. CASE NUMBER: | 25-05 |
| ENFORCEMENT: | Tabled from 04/02/25 |
| ZONING: | ARR – Agricultural and Rural Residential (5-acre min) |
| PARCEL #: | 11-06-100-019 |
| PROPERTY ADDRESS: | 6040 N. Tipsico Lake Rd |
| APPLICANT: | Karol Grove |
| OWNER: | Barbara Petersmark |
| VARIANCE REQUESTED: | A 56.12-foot variance from the required 330-foot minimum lot width to 273.88-feet provided for proposed parcel A; and |

A 35.57-foot variance from the required 330-foot minimum lot width to 294.43-feet provided for proposed parcel B.

(Sec. 4.15.)

This request is for the completion of a land division request to allow for the two new parcels to have a lesser lot width than required.

Chair Gerathy introduced the case and asked if the applicant was present and, if so, to please step up to the podium. The Zoning Administrator stated that the Planning & Zoning Department had not received any additional public comment regarding this case other than the public comment presented at the previous meeting. Mrs. Littlebear noted that permitting paperwork older than 1980 or so tends to be either very scant or non-existent. She stated that due to this circumstance, old permits as well as historic aerial photographs were used to create the timeline listed in the memo provided for this case file.

Discussion from the Applicant:

Karol Grove, applicant, reviewed the case as presented noting that allowing this request would remove the legal non-conformity of two dwelling units on one parcel and bring this property closer to full conformity. Ms. Grove stated that the property owner plans to install a new driveway to proposed parcel B and will need to install a new well.

Discussion from the Public:

None

Discussion from the Board:

Mr. Borg asked if the Petersmarks owned the property when the non-conformities were created. Mrs. Littlebear and Ms. Grove each stated that they don't believe the Petersmarks were the owners at that time. Mrs. Burkhart further noted that the non-conforming dwelling was built before a zoning ordinance even existed in Highland.

Mr. Raimondo asked if both dwellings are vacant or not. Ms. Grove stated that the Petersmarks live in one of the dwellings and rent out the other. Mr. Raimondo asked if the rental unit is enrolled in the Highland township rental program. Mrs. Littlebear stated that she had not checked on that yet but will coordinate with the Fire Marshal who administers that program to get them enrolled. She noted that the rental program is only two years old and so not all of the rentals have been noticed and enrolled yet.

Mr. Raimondo asked what the Petersmarks plans are for the two resulting parcels. Ms. Grove stated that she believes the Petersmarks plan to sell both parcels as they are elderly and Mr. Petersmark is unwell. He believes, based on the worksheet answers, that the difficulty is self-created and the need for a variance was based on a financial decision rather than a practical difficulty.

Mr. Borg stated that the applicant has the right to divide the property to a minimum of 5 acres. Both of these parcels will exceed that minimum. Mr. Borg asked when the Petersmarks bought the property. Ms. Grove said that she believes it was in the mid-1980s. He then asked if both dwelling units were on the property when the Petersmarks bought the property. Ms. Grove and Mrs. Littlebear both stated that it does appear that both dwellings were present when it was purchased by the Petersmarks. He then noted that this means that this non-conformity was not created by the current owner.

Mr. Hoffman stated that this property and the existing structures substantially comply with local and state requirements except for the width.

Mr. Zeolla agreed with Mr. Hoffman and believes that eliminating the non-conformity of two dwellings on one parcel is more important than a small difference in width frontage.

Mr. Borg noted that this property is zoned ARR with a 5 acre minimum, this request will not have an adverse effect on the community, the non-conformity was not created by the current property owners, and the existing structure meet all of the setback requirements.

Mr. Raimondo noted that this request is the minimum necessary. He stated that at the last meeting the property owner to the east, Mr. Umberto, had concerns about the use of his driveway by proposed parcel B.

Ms. Grove stated that the Petersmarks have been using Mr. Umberto's driveway since his property was first created through a land division but that the Petersmarks have agreed to install a new driveway and abandon the use of his driveway.

Motion:

Mr. Hoffman made a motion in Case #25-05, parcel # 11-06-100-019, commonly known as 6040 N. Tipsico Lake Rd, to approve a 56.12-foot variance from the required 330-foot minimum lot width to 273.88-feet provided for proposed parcel A and a 35.57-foot variance from the required 330-foot minimum lot width to 294.43-feet provided for proposed parcel B with the condition that a new driveway be provided for proposed parcel B for the completion of a land division. Mr. Childs supported the motion.

Facts and Findings:

This request is the minimum necessary.

This request will not be detrimental to the community.

The difficulty was not self-created.

The property is substantially compliant.

Roll Call Vote: Mr. Eichinger-yes, Mr. Hoffman-yes, Mr. Raimondo-no, Mr. Zeolla-yes, Mr. Gerathy-yes, Mr. Borg-yes, Mr. Childs-yes (6 yes votes, 1 no vote). The motion passed and the variance was approved.

NEW BUSINESS:

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| 4. CASE NUMBER: | 25-07 |
| ENFORCEMENT: | |
| ZONING: | RPUD – Residential Planned Unit Development |
| PARCEL #: | 11-14-251-021 |
| PROPERTY ADDRESS: | 2670 Vero Dr |
| APPLICANT: | Barkman Landscaping – Ron Fricke |
| OWNER: | Matthew Denotter |
| VARIANCE REQUESTED: | A 48-foot variance from the required 65-foot ordinary high-water mark setback to 17-feet provided; and
A 5-foot variance from the required 15-foot side yard setback to 10-feet provided.
(Sec. 7.02.C.5.)
This request is for a reduction of the ordinary high-water mark setback and the side yard setback for the construction of a residential pool and patio. |

Chair Gerathy introduced the case and asked if the applicant was present and, if so, to please step up to the podium.

Discussion from the Applicant:

Ron Fricke, applicant and representative for the property owner, went over the case as presented. He noted that the HOA has provided an approval letter for this project and it is in the case file. He also noted that there is a permit pending from EGLE for a new seawall.

Discussion from the Public:

Mr. Gerathy read into record an email of support from Jan and Mike Kalil, 2690 Vero Dr, and an email of support from Candice Simon, 2650 Vero Dr.

Discussion from the Board:

Mr. Zeolla stated that the patio can be redesigned to meet the side yard setback and still function as needed.

Mr. Eichinger stated that the proposal is beautiful and will enhance the property and the neighborhood. He agrees with Mr. Zeolla that the patio could be redesigned. He stated that it seems that two separate motions should take place for this request.

Mr. Raimondo noted that there is no fence in the proposal. Mr. Fricke stated that the proposal is for a secured automatic cover, so a fence is not needed.

Mr. Borg asked how deep the pool will be. Mr. Fricke stated that the deep end will be 6 feet. Mr. Borg noted that this request is of a personal nature and the difficulty is self-created.

Mr. Hoffman noted that most requests are of a personal nature and that he is all for property owners enhancing their properties.

Mr. Raimondo asked if the other pools on Vero Dr had variances. Mrs. Littlebear stated that the other pools did not require a variance.

Mrs. Burkhart stated that this parcel is one of the few in the subdivision that has a larger front yard setback and a shallower building envelope.

Motion:

Mr. Raimondo made a motion in Case #25-07, parcel # 11-14-251-021, commonly known as 2670 Vero Dr, to approve a 48-foot variance from the required 65-foot ordinary high-water mark setback to 17-feet provided for the construction of a residential pool and patio. Mr. Hoffman supported the motion.

Facts and Findings:

This request will not be detrimental to the community.

The difficulty is not self-created.

The request will enhance the property and the community.

Roll Call Vote: Mr. Eichinger-yes, Mr. Hoffman-yes, Mr. Raimondo-yes, Mr. Zeolla-yes, Mr. Gerathy-yes, Mr. Borg-no, Mr. Childs-yes (6 yes votes, 1 no vote). The motion passed and the variance was approved.

Motion:

Mr. Raimondo made a motion in Case #25-07, parcel # 11-14-251-021, commonly known as 2670 Vero Dr, to approve a 5-foot variance from the required 15-foot side yard setback to 10-feet provided for the construction of a residential pool and patio. Mr. Hoffman supported the motion.

Facts and Findings:

This request is not the minimum necessary.

This request can be redesigned to eliminate the side yard encroachment.

This difficulty is self-created.

Roll Call Vote: Mr. Eichinger-no, Mr. Hoffman-yes, Mr. Raimondo-no, Mr. Zeolla-no, Mr. Gerathy-yes, Mr. Borg-no, Mr. Childs-yes (3 yes votes, 4 no votes). The motion failed and the variance was denied.

5. CASE NUMBER: 25-08
ENFORCEMENT:
ZONING: ARR – Agricultural & Rural Residential District (5-acre min)
PARCEL #: 11-36-300-009
PROPERTY ADDRESS: 3224 S Duck Lake Rd
APPLICANT: Douglas Walter, Jr.
OWNER: Douglas Walter, Jr.
VARIANCE REQUESTED: A 22-foot variance from the required 40-foot side yard setback to 18-feet provided.
(Sec. 4.15.)
This request is for a reduction of the side yard setback for the construction of a house with attached garage.

Chair Gerathy introduced the case and asked if the applicant was present and, if so, to please step up to the podium. Mr. Borg stated that he needed to recuse himself from the case as he is a regular customer of the applicants' HVAC business. Mr. Childs noted that he had used the applicant's services but didn't feel that it created a conflict of interest and didn't feel that he needed to recuse himself. The rest of the board agreed.

Motion:

Mr. Raimondo moved to recuse Mr. Borg from Case #25-08. Mr. Eichinger supported the motion.

Roll Call Vote: Mr. Eichinger-yes, Mr. Hoffman-no, Mr. Raimondo-yes, Mr. Zeolla-yes, Mr. Gerathy-yes, Mr. Borg-yes, Mr. Childs-yes (6 yes votes, 1 no vote). The motion passed.

Mr. Borg stepped down from the Board Table. Mr. Gerathy asked Mr. Probe, alternate member, to step in for this case. Mr. Gerathy then asked the Zoning Administrator if there was any additional information. Mrs. Littlebear stated that she does not have anything additional to present.

Discussion from the Applicant:

Douglas Walter, applicant, went over the case as presented noting that his parcel is undersized for his zoning district. He stated that the powerlines running across the property also create a difficulty and noted that the proposal will meet all of the other setbacks.

Discussion from the Public:

None

Discussion from the Board:

Mr. Probe stated that he has visited this parcel in the past as he was on the ZBA during the previous variance requests for the accessory structures. He noted that the topography limits placement of structures.

Mr. Raimondo stated that the lot is substandard in size, the topography limits placement, and the request will not be harmful to the community.

Motion:

Mr. Eichinger made a motion in Case #25-08, parcel # 11-36-300-009, commonly known as 3224 S Duck Lake Rd, to approve a 22-foot variance from the required 40-foot side yard setback to 18-feet provided for the construction of a house with attached garage. Mr. Childs supported the motion.

Facts and Findings:

This request is the minimum necessary.

This parcel is substandard in size.

The practical difficulty is not self-created.

The topography and powerline placement create a practical difficulty.

Roll Call Vote: Mr. Eichinger-yes, Mr. Hoffman-yes, Mr. Raimondo-yes, Mr. Zeolla-yes, Mr. Gerathy-yes, Mr. Probe-yes, Mr. Childs-yes (7 yes votes). The motion passed and the variance was approved.

Motion:

Mr. Raimondo made a motion in Case #25-08, parcel # 11-36-300-009, commonly known as 3224 S Duck Lake Rd, to approve a Final Decision. Mr. Zeola supported the motion, and it was approved with a unanimous voice vote.

6. CASE NUMBER: 25-09
ENFORCEMENT:
ZONING: LV – Lake and Village Single Family Residential District

PARCEL #: 11-12-251-011
PROPERTY ADDRESS: 4080 N Duck Lake Rd
APPLICANT: Andrea Schemanske
OWNER: Andrea Schemanske
VARIANCE REQUESTED: A 6.2-foot variance from the required 10-foot minimum side yard setback to 3.8-feet provided; and
A 13-foot variance from the required 25-foot total side yard setback to 12-feet provided.
(Sec. 9.02.b.)
This request is for a reduction of the minimum side yard setback and the total side yard setback for the construction of a residential attached garage addition.

Chair Gerathy introduced the case and asked if the applicant was present and, if so, to please step up to the podium.

Discussion from the Applicant:

Andrea Schemanske, applicant, was present and went over the case as presented. She stated that she purchased the home in June and found that there are some structural issues with the garage that need to be corrected.

Discussion from the Public:

Mr. Gerathy read into record a letter of support from Marcie and Tom Carline, 4028 N Duck Lake Rd.

Discussion from the Board:

Mr. Borg noted that a majority of the property is underwater, the existing attached garage was built before the current regulations and encroaches into the side yard, and he believes that the request will enhance the community.

Mr. Eichinger agreed with Mr. Borg and stated that this request seems like the minimum necessary.

Mr. Raimondo appreciated that the applicant marked out the request on the ground and agreed with Mr. Borg and Mr. Eichinger.

Motion:

Mr. Borg made a motion in Case #25-09, parcel # 11-12-251-011, commonly known as 4080 N Duck Lake Rd, to approve a 6.2-foot variance from the required 10-foot minimum side yard setback to 3.8-feet provided and a 13-foot variance from the required 25-foot total side yard setback to 12-feet provided for the construction of a residential attached garage addition.. Mr. Eichinger supported the motion.

Facts and Findings:

This request is the minimum necessary.

The practical difficulty is not self-created.

The existing structures encroach into the side yard.

This request will not be detrimental to the community.

Roll Call Vote: Mr. Eichinger-yes, Mr. Hoffman-yes, Mr. Raimondo-yes, Mr. Zeolla-yes, Mr. Gerathy-yes, Mr. Borg-yes, Mr. Childs-yes (7 yes votes). The motion passed and the variance was approved.

Motion:

Mr. Raimondo made a motion in Case #25-09, parcel # 11-12-251-011, commonly known as 4080 N Duck Lake Rd, to approve a Final Decision. Mr. Hoffman supported the motion, and it was approved with a unanimous voice vote.

MINUTES:

Mr. Borg made a motion to approve the minutes of April 2, 2025, as corrected. Mr. Eichinger supported the motion, and it was approved with a unanimous voice vote.

DISCUSSION:

None

ADJOURN:

At 9:05 p.m., Mr. Hoffman made a motion to adjourn the meeting. Mr. Zeolla supported the motion, and it carried with a unanimous voice vote.

Respectfully submitted,

Anthony Raimondo
AR/kpl