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ZONING BOARD OF APPEALS

Regular Meeting

May 26, 2026

The meeting was called to order by Chairman Russ Boersma at 5:30 p.m.

Present: Chairman Russ Boersma, Members Jack Vander Meulen, Elliott Church, Ross DeVries and Robert De Vries. Also present were Community Development Director Corey Broersma, Assistant Planner/Zoning Administrator Kate White and Recording Secretary Laurie Kissau.

Absent: None

There were no public comments.

** It was moved by Robert De Vries and supported by Ross De Vries to approve the minutes of April 28, 2026, as presented. Motion carried unanimously with a roll call vote.

Chairman Boersma explained the Public Hearing process to the audience.

Hearing declared open to consider a petition for a Nonuse Variance submitted by Fab Leasing, LLC for 645 Douglas Avenue and 19 N Division Avenue, known specifically as Parcel Numbers 70-16-19-300-105 and -102, respectively. Petitioner is requesting a variance from Section 8.10 C of the Township Zoning Ordinance, permitting a lot of record under 10 acres in area to be more than four times deeper than its width. The variance is being sought for the creation of a new lot. The subject properties are zoned C-1 Neighborhood Commercial.

Present for this request was Ron Vander Veen of Cunningham Dalman, P.C. representing the applicant. Also present was Matt Demaj, Representative for the owner.

Mr. Vander Veen explained to the Board that the applicant wishes to create a separate parcel for the house that is behind the hardware store. This house needs to be on its own parcel in order to be able to sell it. Currently access to the property is achieved by driving over 19 N Division Avenue or by an access strip behind the store. They would like to split the southern part of 19 N Division to strip deed it to the house behind the store for access.

Mr. Vander Veen noted the difficulty is with meeting the depth to width ratio. The property is 440 feet deep by 90 feet wide. That is a 5:1 ratio.

Mr. Vander Veen went over the standards, stating how they meet them.

Mr. Vander Veen stated the uniqueness of the property is that there is a hardware store, and a house on the same parcel. This is not like other parcels. Separating the house from the store makes it more like the other houses in the area in terms of being on its own lot. Houses to the north are residential properties. To the east are multi-family residential properties. To the south is commercial. This separation would be consistent with the houses to the north.

Mr. Vander Veen further indicated there would be no detriment to the neighboring properties because the use will continue just like it is now with the benefit of the barn being taken down. Then the driveway from

N Division will be dedicated to that house and the house separated from the store property. Currently, this is not a great situation.

Mr. Vander Veen said the situation is not self-created. It was created many years ago by a prior owner when the house was built. There have been ordinance changes since then. It would not be contrary to public interest to grant this request. It would bring the property closer to compliance. It will still be a nonconforming use – residential use on a commercially zoned parcel.

Mr. Vander Veen stated that if approved, the barn would be removed, and the driveway constructed to serve only the single-family home.

Mr. Vander Meulen asked if there was going to be a barrier between the parcel with the house and the hardware store. What if customers use the driveway to exit the back parking lot. Is that a possibility? Mr. Vander Veen stated that he does not believe that there will be a barrier. The entrance to the store is in the front. It does not attract people to park in the back. Employees might park in the back.

Mr. Demaj replied that the only thing he has observed going to the back of the store is a truck that delivers the inventory. They left just enough parking lot for the truck to fully turn around back there and not have to cross any of the residential driveways to get in and out.

Mr. Church asked if the zoning on the property that the house is on would be changed to Residential zoning once it is split off. Mr. Vander Veen responded that there are no plans to rezone the property. Mr. Broersma interjected that there is no application to rezone that property and nor would that follow the Master Plan.

Mr. Demaj further explained the two structures of different characters on one property make for an administrative burden for him when the assessment arrives. The River Ace tenant does not agree with the assessment because of the residential structure on the commercial property. Mr. Demaj stated he reached out to the assessor's office and they gave him a formula they have used in prior years to determine a fair assessment. We are trying to make things more administratively easy for us and the Township.

Mr. Church asked if there are buffering requirements in effect for these two properties of different uses. Mr. Broersma responded that buffering is not in effect for this existing situation. It is a stipulation the Township could apply as part of the variance approval.

Chairman Boersma opened the floor for public comment. There was no one present in the audience to speak to this request.

** It was moved by Vander Meulen and supported by Ross De Vries to close the hearing. Motion carried with a unanimous voice vote.

The Board went over the standards to review when considering the nonuse variance request.

- 1. That compliance with the Zoning Ordinance would result in practical difficulties due to exceptional, extraordinary, or unique characteristics or conditions of the land or lot of record, including but not limited to:***
 - a. Exceptional narrowness of the width or depth of a lot of record, or irregular shape.***
 - b. Exceptional natural or topographic features located on the lot of record, such as steep slopes, water, existing significant trees, or other unique or extreme physical conditions of the land.***
 - c. Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.***

d. Other exceptional or extraordinary dimensional conditions or characteristics of land or lot of record.

The Board found there are unique circumstances, given the lots—involved contains a legal nonconforming single-family dwellings. Additionally, it is a very unique situation in the Township to have a lot of record containing both a commercial building and detached single-family dwelling.

2. That the unusual circumstances do not apply to most other lots of record in the same manner to the same extent to other lots of record in the same zoning district.

The Board found that the unusual circumstances do not apply to most other lots of record. The residential use on a parcel zoned and used as commercial. This happened 80 years ago before zoning.

3. That the variance is necessary for the preservation and enjoyment of a substantial property right. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

The Board found that the assessment is not accurate for the River Ace Hardware tenant. Getting an accurate property assessment is a necessary property right. Granting this request would clear that up.

4. That the granting of the variance will not be of substantial detriment to adjacent and nearby land uses and properties.

The Board found that granting this request would not be of substantial detriment to adjacent and nearby land uses and properties. It has been this way for a very long time. Granting this request does not change the neighborhood at all.

5. That the applicant shall not have created the problem for which the variance is being sought.

The Board found that the applicant did not create the problem. He purchased it in this state. It has been this way for 80 years. Granting this request will clean up the situation.

6. That the granting of the variance will not be contrary to the public interest and that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done for both the applicant and other property owners in the district.

The Board found that granting this variance would not be contrary to public interest and the spirit of the ordinance would be observed. The applicant thought about the use of the back of the store looking at this application from all angles. Thinking about it thoroughly. Getting the residential use off the commercially zoned and used property would be in the spirit of the ordinance.

****** It was moved by Robert De Vries and supported by Church to approve the variance permitting a lot of record under 10 acres in area to be more than four times deeper than its width, as presented with the following stipulations:

1. The barn, located on 19 N Division Avenue, shall be removed.
2. The existing gravel drive to serve the single-family dwelling on 645 Douglas Avenue shall be reconfigured to serve as the only access for the single-family dwelling.

Motion carried unanimously with a roll call vote.

Hearing declared open to consider a petition for Nonuse Variance submitted by Kevin Nash of FPH, LLC for 10671 Chicago Drive, known specifically as Parcel Number 70-16-23-226-010. Petitioner is requesting variances consisting of: (1) 44 feet from the required 66-foot-wide private street easement, resulting in a 22-foot-wide access and utility easement; (2) 42 feet from the minimum required 64 feet of frontage, resulting in new lot with 22 feet of lot frontage; (3) 8 feet from the required 22-foot-wide street surface, resulting in a 14-foot-wide pavement surface; (4) relief from the paving specifications for a private street, resulting in a concrete driveway; (5) 29.8 feet from the required minimum 35-foot setback from the private street easement, resulting in a 5.2 foot front yard setback for the existing house; and (6) 14.1 feet from the required minimum 35-foot setback from the private street easement, resulting in a 20.9 front-yard setback for each of the two existing accessory buildings. The variances are being sought in order to create a new lot of record on the rear portion of the existing property. The subject property is R-2 Moderate Density Residential.

Present for this request was Kevin Nash, property owner, and Brian Skaggs, his business partner.

Mr. Nash explained to the Board that the requests are derived from one thing which is the parcel itself does not have road frontage access. It is a very unique parcel in that the first 66' are owned by Consumers Energy. When Mr. Nash purchased the property, the intent was to fix it up and improve the property and clean it up. Along the way he discovered it was a fairly large parcel, so they decided to look into what it would take to split the parcel and build a house on the back acre.

Mr. Nash noted that one of the main constraints was the lack of frontage. They have been working with Consumers Energy to explore the idea of a second driveway. Then they found out there was not an approved easement for the original driveway dating back to the early 1950's. They worked with Consumers to get a second driveway, but they would not do two driveways on one parcel. However, they did do one establishing a new easement and widening the driveway to 22'. They then worked with Township Staff to establish what it would look like if they were to split the parcel and how one would access that once they cross over the easement. It is a 1.6-acre parcel with nonconforming lot dimensions. Once you place the driveway on the first parcel, it creates more setback issues and that is why there are so many variance requests for the private driveway to access the proposed new lot of record for a single-family residence.

Chairman Boersma asked Mr. Nash for comment on each request after he was done reading it so that the Board could fully understand why the applicant needed that variance.

#1 A 44' variance from the 66' variance creating a 22' wide access drive for both the house on the front portion of the lot and to access the proposed one-acre parcel in the back.

Mr. Nash responded that this variance is for where they have it narrowed down to one driveway for both lots. Consumers Energy agreed to what originally had been proposed as a 20' easement will now be a 22' easement that will access both parcels. The main driveway comes onto the 10671 property now. It will take a hard right turn to access the back parcel. The Township is gaining compliance through the 22' easement.

Chairman Boersma asked Mr. Nash how wide the driveway was going to be from Chicago Drive and all the way back to the split property. Mr. Nash stated that they had proposed a 14' driveway on the new section. The current driveway is less than that.

#2 A 42-foot variance from the required 64 feet of frontage resulting in lot frontage of 22'.

Mr. Nash – same thing, it is driven by the fact there is no road frontage.

#3 An 8-foot variance on the width of the pavement on the access drive.

Mr. Nash noted that by ordinance, they are to have it 22 feet wide, and they are asking for a 14-foot-wide access drive. Mr. Nash stated he was not aware of the new ordinance; his personal driveway is 12' wide. Was not aware of the new requirement of 22' of pavement, so they have proposed 14'.

#4 Relief from the paving specifications for a private street resulting in a concrete driveway.

The Board had questions about this. Community Development Director, Corey Broersma, explained that a public road that supports heavier traffic is going to have a certain amount of MDOT aggregate base and thickness of asphalt or concrete. This is essentially to be used as a residential drive and is not meant to be at county road specifications. They are asking for relief from a road cross section.

#5 A variance of 29.8 feet from the required 35 feet setback from a private street easement resulting in a 5.2-foot front yard setback for an existing house.

Mr. Nash responded that when you take the right turn at the entrance, the existing property is a bit close to that initial driveway area when you are trying to separate the two driveways. It is a bit close as it relates to a full 22', but still manageable as it relates to when you create the actual 14' driveway.

#6 A 14.1 feet from the required minimum 35-foot setback from the private street easement, resulting in a 20.9 front-yard setback for each of the two existing accessory buildings.

The existing house and accessory buildings at the east end of the drive are setback 20' instead of the 35' setback that is required by ordinance.

The Board had further questions of Mr. Nash.

Mr. Nash indicated the house is currently vacant. Mr. Nash bought it to fix it up and sell it. The barn on the aerial image shown in the presentation was removed and the rubbish in the back was cleaned up.

Mr. Boersma stated that review is needed by the Fire Chief. Mr. Boersma believes that the Fire Chief will recommend a 70-foot leg for access to the home, back up and do a three-point turn to get out. This would be the specifications of the International Fire Code. There was also concern about how far from the nearest hydrant they were.

Mr. Nash responded that they would comply obviously. He further stated he had spoken with Aaron Nyboer at the HCT Water and Sewer Department about the availability of water and sewer to the back lot. He was told both were available at the road. They could go through the existing driveway to get back there.

There was further discussion about the closeness of the concrete drive to the existing house.

When asked if he has gotten permission for the easement on the Consumer's access and utilities easement, Mr. Nash stated he has the form filled out, he has not sent it in as of yet. The existing house's driveway will continue as is. All the variances are for the easement for access for the back lot.

There was discussion about the building envelope for the new house. Mr. Broersma commented that the proposed new parcel will function much like a corner lot with two front yard setbacks

Mr. Church questioned Staff about options to achieve what the applicant is trying to do without needing variances. What if they demolish the old house and build it new, would they still need variances? Mr. Broersma stated even if it is a clean lot, they would still need variances. You would still need a variance for the 22' easement and frontage for the back lot.

There was further discussion about the location of the driveway. Would Consumers allow the owner to move the driveway to a different location? Staff noted if the driveway was straight, the Fire Chief would have less concerns with making the radius to get back there. Mr. Nash stated that he could go back and ask.

The Board had questions about the maintenance of the driveway. Who's to mow and snow removal? Mr. Broersma stated that the Township would need to see a maintenance agreement. That is part of this process.

Chairman Boersma opened the floor for public comment.

Present to speak to this was Mr. Jerry Van Den Berg of 10681 Chicago Drive. Mr. Van Den Berg had submitted a letter to Staff in opposition of the request. He asked if he could read it at this time (See packet for letter). He opposed it because it would be inconsistent with the established character of the neighborhood. There are no other split lots in the Riemersma Subdivision. He also felt the closeness to the railroad right-of-way would be an issue. Besides the zoning issues, the area serves as an important wildlife habitat. There are Great Horned Owls nesting in those woods for many years, along with numerous other species. He requested that the ecological value be taken into account too.

Also present was Katrina Perez of 10655 Chicago Drive, which is to the north of Mr. Nash's property. She shared Mr. Van Den Berg's concerns about the woods and the wildlife that lives there. Also, the business of Chicago Drive. The driveway is very close to her property.

Ms. Perez's daughter asked if she could speak too. Cecilia Garza's window is across from the existing house. She can hear everything. Cars coming and going. People talking and everything they are doing. It is loud when she is trying to study with her window open. The sound of the train is loud, and it shakes her room. Chopping down all those trees would cause a disturbance. Also, taking the trees out and developing will cause problems for the animals and us. Trees have a large impact on humans by giving us oxygen, food and resources. It makes a problem for the wildlife by taking their homes away and making them relocate. Bees, for example pollinate those trees and the flowers in it and all around. 41 million trees get cut down globally and making it add up is not doing the planet any good.

** It was moved by Robert De Vries and supported by Church to close the hearing. Motion carried with a unanimous voice vote.

Mr. Vander Meulen asked Mr. Nash how many trees they planned to take down. Mr. Nash replied that they would need to take down enough trees for the building envelope and a yard. On his own property where he created a second lot in the back, he planted trees on the property line. He has not planned that far for this property.

Mr. Skaggs commented that he did observe the owls and it would disrupt them.

Mr. Van Den Berg further commented that saving one tree does not make for an environment for the owls.

Mr. Nash further commented that there would be several trees that would need to be taken down for the drive too.

The Board went over the standards to review when considering the nonuse variance request.

- 1. *That compliance with the Zoning Ordinance would result in practical difficulties due to exceptional, extraordinary, or unique characteristics or conditions of the land or lot of record, including but not limited to:***
 - a. *Exceptional narrowness of the width or depth of a lot of record, or irregular shape.***
 - b. *Exceptional natural or topographic features located on the lot of record, such as steep slopes, water, existing significant trees, or other unique or extreme physical conditions of the land.***
 - c. *Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.***
 - d. *Other exceptional or extraordinary dimensional conditions or characteristics of land or lot of record.***

The Board found that compliance with the zoning ordinance would be difficult due to how long and narrow the lot is. The exceptional narrowness to length is the issue with getting frontage and a driveway to the back lot.

Mr. Church commented if you leave the property as is, it complies. There are no practical difficulties. These properties were designed this way for a particular reason, to keep homes away from the railroad tracks. A new development is being proposed.

The Board found that this applies to all six variance requests.

- 2. *That the unusual circumstances do not apply to most other lots of record in the same manner to the same extent to other lots of record in the same zoning district.***

The Board found that the lots all look the same. This lot is one of the widest lots in the neighborhood. Even with it being the one of the widest, the variances being asked for are upwards of 50% or more. It is nowhere near enough to accommodate what is being asked for without forgiveness of almost 50% of some of these variances they are asking for.

The Board found that this applies to all six variance requests.

- 3. *That the variance is necessary for the preservation and enjoyment of a substantial property right. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.***

The Board found that the applicant could continue on with what they have. Financial return is the driver of the request to build a second residence on the parcel.

The Board found that this applies to all six variance requests.

- 4. *That the granting of the variance will not be of substantial detriment to adjacent and nearby land uses and properties.***

The Board found that the variance would be of substantial detriment to adjacent and nearby land uses and properties. We have heard from parties on both sides that object to the requests. How close it is to the neighbor's window or how close to the side of the house. The concern for that is understandable.

Mr. Church commented that the purpose of the Zoning Board of Appeals is to protect the spirit of the ordinance by creating compatible uses and to protect adjacent property owners. There are zoning requirements for a lot to protect the adjacent property owners. That is exactly their purpose. It is rare to have neighbors at the meeting objecting to the variance requests, but when they do they expect the applicant to comply with the ordinance.

The Board found that this applies to all six variance requests.

5. That the applicant shall not have created the problem for which the variance is being sought.

The Board found that it is hard to say the applicant did not create the problem. They came in asking for the variances. They could continue to use the property as is and continue to use the front house.

The Board found that this applies to all six variance requests.

6. That the granting of the variance will not be contrary to the public interest and that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done for both the applicant and other property owners in the district.

The Board found that granting this variance would be contrary to the interest and that the spirit of this ordinance would not be observed for both the applicant and other property owners in the district. Mr. Church stated the purpose of the Board. We know that it is going to directly affect the residences on both sides of the property in a negative way.

The Board found that this applies to all six variance requests.

****** It was moved by Mr. Robert De Vries and supported by Church to **deny** the variance of 44 feet from the required 66-foot-wide private street easement, resulting in a 22-foot-wide access and utility easement. Motion carried with a roll call vote of 4 Yes and 1 No.

****** It was moved by Church and supported by Robert De Vries to **deny** the variance of 42 feet from the minimum required 64 feet of frontage, resulting in new lot with 22 feet of lot frontage. Motion carried with a unanimous roll call vote.

****** It was moved by Robert De Vries and supported by Vander Meulen to **approve** the variance of 8 feet from the required 22-foot-wide street surface, resulting in a 14-foot-wide pavement surface. Motion carried with a roll call vote of 4 Yes and 1 No.

****** It was moved by Robert De Vries and supported by Ross De Vries to **approve** the variance asking for relief from the paving specifications for a private street, resulting in a concrete driveway. Motion carried with a roll call vote of 4 Yes and 1 No.

****** It was moved by Robert De Vries and supported by Vander Meulen to **deny** a variance of 29.8 feet from the required minimum 35-foot setback from the private street easement, resulting in a 5.2-foot front yard setback for the existing house. Motion carried with a unanimous roll call vote.

** It was moved by Church and supported by Robert De Vries to **deny** the variance of 14.1 feet from the required minimum 35-foot setback from the private street easement, resulting in a 20.9 front-yard setback for each of the two existing accessory buildings. Motion carried with a roll call vote of 3 Yes and 2 No.

Meeting adjourned at 6:58 pm.

Respectfully submitted,

Laurie Kissau
Recording Secretary