

**CHARTER TOWNSHIP OF GARFIELD  
ZONING BOARD OF APPEALS MEETING**

Wednesday, January 7, 2015 @ 7:00 p.m.  
Garfield Township Hall  
3848 Veterans Drive  
Traverse City, MI 49684

**A G E N D A**

Call meeting to order  
Roll call of Board Members

1. Election of officers (chairman, vice-chairman, secretary)
2. Review and approval of the Agenda and declaration of a Conflict of Interest
3. Minutes – December 17, 2014
4. Decision and Order – Case # 2014-02- Sonny's Body Shop
5. Items for next agenda
6. Public Comment
7. Adjournment

The Garfield Township Board will provide necessary reasonable auxiliary aids and services, such as signers for hearing impaired and audio tapes of printed materials being considered at the meeting to individuals with disabilities upon the provision of reasonable advance notice to the Garfield Township Board. Individuals with Disabilities requiring auxiliary aids or services should contact the Garfield Township Board by writing or calling Kay Schumacher, Clerk, Ph: (231) 941-1620, or TDD #922-4412.

Charter Township of Garfield  
Zoning Board of Appeals Meeting

Wednesday, December 17, 2014 @ 7:00pm  
Garfield Township Hall  
3848 Veterans Drive  
Traverse City, MI 49684

Rick Smith called the meeting to order at 7:00pm.

Board Members Present: Uithol, Featherstone, Yelencich, Smith

Absent and Excused: Rozycki

Staff Present: Sara Kopriva

**1. Review and approval of the agenda and declaration of a Conflict of Interest**

*Yelencich moved and Uithol seconded to approve the agenda.*

*Yeas: Yelencich, Uithol, Featherstone, Smith*

*Nays: None*

**2. Minutes – November 19, 2014**

*Uithol moved and Yelencich seconded to approve the minutes of November 19, 2014 as amended changing the word “supported” in item #2 to “seconded.”*

*Yeas: Uithol, Yelencich, Featherstone, Smith*

*Nays: None*

**3. Decision and Order – Case #2014-01 – Britten**

*Featherstone moved and Yelencich seconded to approve the Decision and Order for Case #2014-01.*

*Yeas: Featherstone, Yelencich, Uithol, Smith*

*Nays: None*

**4. Public Hearing**

**a. Case #2014-02 Sonny’s Body Shop, Front Yard Setback Variance**

The applicant is requesting an after-the-fact variance from the required 40 foot setback for all parking and unnecessary drives to install a drive located in the setback area. The parcel is located on Cass Hartman Ct. off of Cass Road near Hartman Road. It is approximately 2.17 acres and zoned Mixed Use Industrial Business District. This property is relatively flat on the west side and falls off on the east side. In December 2013, a permit was pulled to convert the building to an auto body shop and an

addition for an estimation area. Architect Fred Campbell presented a request for a variance for what is a 365 square feet piece of concrete encroaching in the front setback of Sonny's Auto Body. The original property did have a non-conforming sidewalk at the edge of the building in the front yard setback. When the original plan was approved in 2013, the concrete was not on the plan. Board members discussed the matter and thought that the project could have been done without a variance, that staff could not give approval to violate the Ordinance. Chair Smith opened the Public Hearing at 7:22 PM and seeing no one wishing to speak, closed the public hearing. Kopriva asked to add a memo from Rob Larrea dated December 17, 2014 to the exhibits list as Exhibit N.

Board members went through the draft Findings of Facts for the proposed variance.

- a. After careful consideration of the facts and evidence as presented to the Garfield Township Zoning Board of Appeals, the board concluded that the *Standard Has Not Been Met* due to the fact that there is nothing unique about this property. It is similar to other properties in the same zoning district. The lot has a large level area, is not narrow or shallow, and does not have any water on it. (Exhibits D, F and H)
- b. After careful consideration of the facts and evidence as presented to the Garfield Township Zoning Board of Appeals, the board concluded that the *Standard Has Not Been Met* because the building could have been built without the drive and the variance request is a result of action taken by the property owner. The property owner wanted to do the addition with this drive after recently purchasing the property. (Exhibits F, J, K, and L)
- c. After careful consideration of the facts and evidence as presented to the Garfield Township Zoning Board of Appeals, the board concluded that the *Standard Has Been Met* because the additional concrete does not affect public safety and is small in area. (Exhibit F)
- d. After careful consideration of the facts and evidence as presented to the Garfield Township Zoning Board of Appeals, the board concluded that the *Standard Has Not Been Met* as strict conformance of the restrictions governing setbacks need to be adhered to and also that the property owner could use the property as intended by backing out of the building and not pulling forward. (Exhibit J and L)
- e. After careful consideration of the facts and evidence as presented

to the Garfield Township Zoning Board of Appeals, the board concluded that this *Standard Has Been Met* and gives substantial justice to the applicant because the variance would allow for the property owner to continue to use the unapproved drive as they wish. (Exhibit F)

- f. After careful consideration of the facts and evidence as presented to the Garfield Township Zoning Board of Appeals, the board concluded that *this Standard Has Been Met* because others in the same neighborhood have done the same thing and the property is located near the end of a cul-de-sac so there is limited traffic. (Exhibit F)
- g. After careful consideration of the facts and evidence as presented to the Garfield Township Zoning Board of Appeals, the board concluded that the *Standard Has Not Been Met* due to the fact that this MUIBD zoned property is similar in topography, shape, building location and parking to many other MUIBD zoned property. (exhibits F, D and site visits).
- h. After careful consideration of the facts and evidence as presented to the Garfield Township Zoning Board of Appeals, the board concluded that the *Standard Has Been Met* due to the fact that the parcel is owned by the applicant and was legally platted. (Exhibit C)

*Featherstone moved and Yelencich seconded to DENY the request for variance from Sections 6.9.12(4) and 6.15 to allow for a drive in the front yard setback as requested, based upon the finding that all the standards for approval in Section 5.4 of the Zoning Ordinance have not been met.*

*Yeas: Featherstone, Yelencich, Uithol, Smith*  
*Nays: None*

## 5. Other Business

### a. Meeting Calendar 2015

Kopriva said the meeting schedule for 2015 was in front of Board members for approval and the meetings would still be held on the third Wednesday of each month.

*Yelencich moved and Uithol seconded to approve the Meeting Calendar for the Zoning Board of Appeals for 2015.*

*Yeas: Yelencich, Uithol, Featherstone, Smith*  
*Nays: None*

Kopriva said that there will be a special meeting in January in place of the regular meeting and thanked Featherstone for his service to the ZBA.

**6. Public Comment**

None

**7. Adjournment**

*Featherstone moved to adjourn the meeting at 7:34pm.*

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Kent Rozycki, Secretary  
Zoning Board of Appeals  
3848 Veterans Drive  
Traverse City, MI 49684

GARFIELD TOWNSHIP  
**ZONING BOARD OF APPEALS**  
DECISION AND ORDER

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Meeting Date:	December 17, 2014
<b>Case #: 2014-02</b>	Front Yard Setback variance
Owner:	Cass Avenue Properties-Sonny's Body Shop
Agent:	Fred Campbell- JML Design Group
Property ID #:	062-007-00
Property Location:	1824 Cass Hartman Ct
Zoning District:	MUIBD-L, Mixed Use Industrial Business District-Limited

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**PROPERTY DESCRIPTION**

LOT 7 BOARDMAN VALLEY IND PARK SUBD.

**PROPERTY BACKGROUND**

This parcel is located on Cass Hartman Ct off Cass Rd near Hartman road (Exhibit D). It is approximately 2.17 acres and zoned Mixed Use Industrial Business District (Exhibit C and A). This property is relatively flat on the west side and falls off on the east side. (Exhibit D, H, and Site Visit) In December 2013, a permit was pulled to convert the building to an auto body shop and an addition for an estimation area (Exhibit J).

**APPLICANT REQUEST**

The applicant is requesting an after-the-fact variance from the required 40 ft setback for all parking and unnecessary drives to install a drive located in the setback area (Exhibit F). Additional information on the request can be found in the staff report (Exhibit G).

After careful consideration of the facts and evidence presented to the Garfield Township Zoning Board of Appeals, and following a public hearing, as required by law and held on December 17, 2014 the Board states as follows:

**FINDINGS**

- a. The need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography that differentiate the property from other properties in the zoning district.

The board members found that this standard has not been met due to the fact that there is nothing unique about this property. It is similar to other properties in the same zoning district. The lot has a large level area, is not narrow or shallow, and does not have any water on it. (Exhibits D, F, and H)

- b. The need for the requested variance is not self-created, and is not the result of action taken by the property owners.

The board members found that this standard has not been met because the building could have been built without the drive and the variance request is a result of action taken by the property owner. The property owner wanted to do the addition with this drive after recently purchasing the property that was functioning as a commercial operation. (Exhibits F, J, K, and L)

- c. The variance will not be contrary to the public interest or to the intent and purpose of this Ordinance. Relief can be granted in such a fashion that the spirit of the Ordinance will be observed, and public safety and welfare secured.

The board members found that this standard has been met because the additional concrete does not affect public safety and is small in area. (Exhibit F)

- d. Compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

The board members found that this standard has not been met because the property owner can use the property in the same way as intended. Their customers would have to back out of the building and not pull forward. (Exhibit J and L)

- e. Granting of the variance applied for would do substantial justice to the applicant, as well as to other property owners in the district, or a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

The board members found that this standard has been met and gives substantial justice to the applicant because the variance would allow for the property owner to continue using the unapproved drive as they wish. (Exhibit F)

- f. Issuance of the variance will not cause a substantial adverse effect upon property values in the immediate vicinity or in the zoning district in which the property of the applicant is located.

The board members found that this standard has been met as the drive will not cause substantial adverse effects because others in the same neighborhood have done the same thing and the property is located near the end of a cul-de-sac so there is limited traffic. (Exhibit D and F)

- g. Is not where the specific conditions relating to the property are so general or recurrent in nature, as to make the formulation of a general regulation for such conditions reasonably practical.

The board members found that this standard has not been met due to the fact that this MUIBD zoned property is similar in topography, shape, building location, and parking to many other MUIBD zoned property. (Exhibits F, D, and site visits)

- h. The variance will relate only to the property that is under the control of the applicant, and the lot or parcel of land is a legal lot or parcel of record, or has been legally established.

The board members found that this standard has been met due to the fact that the parcel is owned by the applicant and was legally platted. (Exhibit C)

### **DECISION**

Based on the findings above, upon motion, seconded and passed, the Zoning Board of Appeals finds THAT the request for variance from Section 6.9.12(4) and 6.15 Schedule of Regulations, of the Charter Township of Garfield Zoning Ordinance, shall be denied based on the fact that the general standards for granting such request have not been met.

### **ORDER**

DENY the request for variance from Sections 6.9.12(4) and 6.15 to allow for a drive in the front yard setback as requested, based upon the finding that all the standards for approval in Section 5.4 of the Zoning Ordinance have not been met.

### **DECISION AND ORDER ADOPTED**

**January 7, 2015**

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Rick Smith - Chairman  
Zoning Board of Appeals  
3848 Veterans Drive  
Traverse City, MI



Exhibit List  
FINAL

Case # 2014-02  
Sonny's Body Shop

- A. Garfield Township Zoning Ordinance
- B. Garfield Township Master Plan
- C. Property Record Card
- D. Published notice including map of property and 300 ft mailing list
- E. Application (submitted by Applicant)
- F. Letter with attachments explaining request, dated November 6, 2014 (submitted by Applicant)
- G. Staff Report
- H. 2010 Aerial Photo
- I. 2014 Aerial Photo
- J. Land Use Permit 2013-163 with drawings
- K. Letter of Violation, dated October 22, 2014
- L. Email between Rob Larrea and Fred Campbell regarding project, dated November 20, 2013
- M. Draft Findings of Fact
- N. Memo from Rob Larrea, dated December 17, 2014