

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

Thursday, June 11, 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. Review and approval of the Agenda and declaration of a Conflict of Interest
2. Minutes – May 20, 2015
3. Decision and Order – Case # 2015-01- O’Grady
4. New Business
  - a. New Zoning Ordinance presentation
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 Lanie McManus, Clerk, Ph: (231) 941-1620, or TDD #922-4412.

Charter Township of Garfield  
Zoning Board of Appeals Meeting

Wednesday, May 20, 2015 @ 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: Rozycki, Duell, Uithol, Yelencich, Smith

Staff Present: Sara Kopriva

1. **Review and approval of the agenda and declaration of a Conflict of Interest**  
*Yelencich moved and Duell seconded to approve the agenda as presented.*

*Yeas: Yelencich, Duell, Uithol, Rozycki, Smith*  
*Nays: None*

2. **Minutes – January 7, 2015**  
*Duell moved and Uithol seconded to approve the minutes of January 7, 2015 as presented.*

*Yeas: Duell, Uithol, Yelencich, Rozycki, Smith*  
*Nays: None*

3. **Public Hearing**

- a. **Case #2015-01 Paul O'Grady 5833 Barney Road, to allow an accessory building without a primary dwelling**

The applicant is requesting an allowance for an accessory building to exist on a parcel without a primary dwelling. The parcel is located off Barney Road near the corner of Barney and Gray Road. It is about 3.31 acres and is zoned Agricultural. The property is relatively flat. In 1998, there was land permit and building permit issued for a pole barn and in 2004, land use permit and building permit for the current single family dwelling. The applicant wishes to split the parcel so that a new family dwelling can be constructed on a new parcel with the existing accessory structure. The applicant would still be required to apply for a land division and comply with the Land Division Ordinance.

Paul O'Grady said he purchased the property in 1997 as vacant land and in 1998 he got a permit to build a storage building and in 2005, he built a

house. Now he wants to separate the property on which the barn sits from the house and build a new house on the property with the existing barn. He said that both pieces will meet zoning requirements.

Uithol added that for a legal land division, there must be surveys completed. O'Grady said he did not yet hire a surveyor and go to all the expense until his variance request was addressed. O'Grady said that setbacks meet all requirements for the lots and that he would like to build the new house by the end of the year and possibly sell off the other home.

Duell suggested that he split the property easement in a North/South direction and then once construction is completed, change the property line back to East/West. Duell said that the setbacks from the proposed easement would be 30' and he would have 4' to spare if an existing lean-to attached to the storage barn could be removed. Duell also mentioned that the easement could not split up the house and barn.

Smith opened at the Public Hearing at 7:19pm.

**Bonnie Chryst** of 5907 Barney Road, addressed the proposal by O'Grady and said that the house has been rented and the pole barn was being used for storage of items that were not his own. She stated that O'Grady was dishonest about his intentions for the property use and that a new building on the lot would violate the ordinance. She stated that there is a lot of transient traffic on the road resulting in more maintenance to the road.

**Marvel Mallory** of Barney Road stated that O'Grady's use is a commercial one in nature. She said that previous zoning personnel told them a main structure had to be built first on a lot before any accessory buildings could be built. Mallory added that the neighboring properties are being devalued by O'Grady's commercial use.

**Eric Chryst** of 5907 Barney Road said that he is doing the maintenance on the road and tries to keep the gravel road up as best as he can. Chryst added that he is skeptical that O'Grady would bring his property back into compliance if a variance is granted. He thought that the request meets very few of the requirements for a variance and thinks that O'Grady's issues are all self-imposed.

**Paul O'Grady** clarified that he improved the road when he built there. He has offered to share in the cost of gravel. O'Grady added that his friends store their boats in the storage shed and share the cost. He maintains that there is no office there and no business on site.

Board members went through the Standards 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 in a 4-1 vote that the **Standard Has Not Been Met** because there is nothing unique about this property. It is similar to other properties in the district.
- b. After careful consideration of the facts and evidence as presented to the Garfield Township Zoning Board of Appeals, the board concluded unanimously that the **Standard Has Not Been Met** because the variance request is a result of action taken by the property owner. The property owner wants to build an additional house on his property which is causing the need for a variance and the situation is self- created.
- c. After careful consideration of the facts and evidence as presented to the Garfield Township Zoning Board of Appeals, the board concluded unanimously that the **Standard Has Not Been Met** because the Ordinance intends for the garages to be accessory to a primary dwelling. The applicant is proposing a variance directly against the regulations in the Ordinance. The current detached accessory building could be demolished or moved to make it so that the property owner could split the property and construct an additional house.
- d. After careful consideration of the facts and evidence as presented to the Garfield Township Zoning Board of Appeals, the board concluded in a 4-1 vote that the **Standard Has Not Been Met** because the owner is currently using the property as intended with a primary structure and an accessory structure. The current detached accessory building could be demolished or moved to make it so that the property owner could split the property and construct an additional house. This would not require a variance to do the land division.
- e. After careful consideration of the facts and evidence as presented to the Garfield Township Zoning Board of Appeals, the board concluded unanimously that this **Standard Has Not Been Met** because the owner is permitted the same justice as other property owners in the district and the current detached accessory building could be demolished or moved to make it so that the property owner could split the property and construct an additional house. This would not require a variance to do the land division.
- 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 is not applicable.**

- g. After careful consideration of the facts and evidence as presented to the Garfield Township Zoning Board of Appeals, the board concluded in a 3-2 vote that the **Standard Has Not Been Met** because this is a variance that any property owner, in any zoning district could ask for. There is nothing specific to this request that another property owner could not use.
- h. After careful consideration of the facts and evidence as presented to the Garfield Township Zoning Board of Appeals, the board concluded unanimously that the **Standard Has Been Met** due to the fact that the parcel is owned by the applicant and was legally platted.

*Rozycki moved and Uithol seconded to DENY the request for variance to allow for an accessory structure to exist on a parcel without a primary dwelling, based upon the finding that all the standards for approval in Section 5.4 of the Zoning Ordinance have not been met.*

*Yeas: Rozycki, Uithol, Yelencich, Duell, Smith*  
*Nays: None*

**4. Items for next agenda**

**5. Public Comment**  
None

**6. Adjournment**  
*Yelencich moved and Duell seconded to adjourn the meeting at 7:53 pm.*

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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:	May 20, 2015
Case #: 2015-01	Allow an accessory building without a primary dwelling
Owner:	Paul O'Grady
Agent:	Owner
Property ID #:	006-011-16
Property Location:	5833 Barney Rd
Zoning District:	A1-Agricultural

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**PROPERTY DESCRIPTION**

NW 1/4 OF FRL SW 1/4 SEC 6 T27N R11W COM N 89 DEG 42' E 828.97' OF W 1/4 COR  
TO POB TH N 89 DEG 42' E 33.01' TH S 1 DEG 36' W 295.3' TH N 89 DEG 42' E 330.12' TH  
S 01 DEG 14' W 342.07' TH S 89 DEG 42' W 363.14' TH N 01 DEG 14' E 637.36' TO POB  
EXC RD R/W

**PROPERTY BACKGROUND**

This parcel is located off of Barney Rd near the corner of Barney and Gray Rd (Exhibit G). It is approximately 3.31 acres and zoned Agricultural (Exhibit C and A). This property is relatively flat (Exhibit C, A, and Site Visit). In 1998 there was a land use permit and building permit issued for a pole barn and in 2004 a land use permit and building permit for the current single family dwelling (Exhibit H and I).

**APPLICANT REQUEST**

The applicant is requesting to allow for an accessory building to exist on a parcel without a primary dwelling after a land division creating a new lot.

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 May 20, 2015 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. (Exhibit C, D, and G)

- 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 variance request is a result of action taken by the property owner. The property owner wants to build an additional house on this property which is causing the need for the variance. It is self-created. (Exhibit E and A)

- 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 not been met because the Ordinance intends for the garages to be accessory to a primary dwelling. The applicant is proposing a variance directly against the regulations in the Ordinance. (Exhibit A, L, and E)

- 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 is currently using the property as intended. The property has a dwelling and accessory structure currently constructed that meet the requirements of the Zoning Ordinance. (Exhibit C, E, 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 not been met because the property owner is permitted the same justice as other property owners in the district. (Exhibit A)

- 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 is not applicable to this request.

- 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 is a variance that any property owner, in any zoning district could ask for. There is nothing specific to this request that another property owner could not use.

- 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 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 for an accessory structure to exist on a parcel without a primary dwelling, based upon the finding that all the standards for approval in Section 5.4 of the Zoning Ordinance have been not been met.

### **DECISION AND ORDER ADOPTED**

**June 11, 2015**

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