

**CHARTER TOWNSHIP OF GARFIELD
ZONING BOARD OF APPEALS
MEETING MINUTES
July 18, 2024**

Call to Order: Chair Smith called the meeting to order at 6:00pm.

Pledge of Allegiance: Recited by everyone in attendance.

Roll Call of Board Members:

Members Present: Robert Fudge, Fern Spence, Steve Duell, and Rick Smith

Also in Attendance: Zoning Administrator Mike Green

1. **Review and Approval of the Agenda – Conflicts of Interest (6:01)**
Duell moved Fudge and seconded to approve the agenda as presented.

*Yeas: Duell, Fudge, Spence, Smith
Nays: None*

2. **Review and Approval of Meeting Minutes – May 16, 2024 (6:02)**
Fudge moved and Smith seconded to approve the minutes of May 16, 2024 as presented.

*Yeas: Fudge, Smith, Spence, Duell
Nays: None*

3. **Public Hearings (6:02)**
 - a. **A request made by Grand Traverse Engineering on behalf of Maury Dennis for a variance from the wetland buffer requirement in Section 534.B of the Garfield Township Zoning Ordinance. The applicant is requesting relief from the twenty-five (25) foot wetland buffer requirement. The property is zoned I-L Limited Industrial and is located on the north side of Miller Creek Drive and with a property number of 05-022-012-50.**

The applicant is seeking a variance from Article 5, Section 534.B of the Garfield Township Zoning Ordinance, which states no structure or parking lot shall be constructed within twenty-five (25) feet of a regulated or unregulated wetland. According to the application, the current and proposed access drive off Miller Creek Drive provides sole access to the property. Section 454.A of the Zoning Ordinance states that “the Zoning Board of Appeals may authorize a non-use variance relating to the construction, structural changes, or alterations of buildings or structures related to dimensional requirements of this ordinance, or to any other non-use related standard of this ordinance, that comply with the requirements of this section.”

The request, as presented above, is identical to a prior request for the same property back in 2018. Although the request for a variance was granted, the approval became null and void due to lack of action within one (1) year of it being granted per Section 454.F of the Zoning Ordinance. The applicant, Jeff Cockfield stated that the required 25 foot buffer overlaps the only access to the site. All other required setbacks would be met. He provided board members with a wetland delineation from a couple years ago as well as a new wetland delineation done by Grand Traverse Engineering. The wetland delineations are almost identical. Cockfield stated that having to have an EGLE wetland delineation would waste more time. Green spoke with Planning Director John Sych and the approval for this application could be conditioned upon an EGLE delineation. Chair Smith opened the public hearing at 6:29pm and seeing no public in attendance, closed the public hearing.

E. Approval Criteria

(1) Practical Difficulty

To qualify for a dimensional variance, the applicant shall be required to show “practical difficulty” by demonstrating compliance with all the following criteria (The ZBA made findings in favor of each standard listed below in 2018):

(a) Special conditions or circumstances exist that are peculiar to the land, buildings, or other structures for which the variance is sought, do not apply generally to lands, buildings, or other structures in the same district, and could not reasonably be addressed through the formation of general regulation for such conditions. Special circumstances or conditions to be considered for variances shall include, but not be limited to, the circumstances as described in § 454.E.(3);

The existence of wetlands that wrap around the property and choke off access could be considered a “special condition or circumstance” and would not establish precedence for similar variance requests.

Board members found that this standard has been **MET**.

(b) The special conditions and circumstances peculiar to the land, buildings or other structures did not result from a self-created condition or action taken by the applicant or an owner of the lands;

The request for a variance is a result of natural features that appear to have existed prior to the request.

Board members found that this standard has been **MET**.

(c) The special conditions and circumstances are such that strict application of the provisions of this ordinance would deprive the applicant of any reasonable use of the land, building, or structure authorized by this Zoning Ordinance;

The property could not be developed as proposed without the variance, due to the fact that the required access road could not be built at least 25 feet from a wetland unless the applicant was able to obtain permits to fill in part of the wetland.

Board members found that this standard has been **MET**.

(d) Literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this ordinance;

The applicant has demonstrated that the property could not be developed as proposed without the variance, due to the fact that the required access road providing sole access to the site could not be built at least 25 feet from a wetland.

Board members found that this standard has been **MET**.

(e) For the purpose of this section, a practical difficulty shall not exist because an applicant would incur additional costs to achieve full compliance or could receive additional income with less than full compliance with the ordinance.

This hasn't been brought up by the applicants as a factor in their decision.

(2) General Criteria

Where the applicant is able to demonstrate "practical difficulty" by satisfying all of the criteria of § 454.E.(1), a dimensional variance may be granted if it meets the following general criteria:

(a) The requested variance shall relate only to property that is under the control of the applicant;

The applicant owns the property, so this would be **MET**.

(b) No nonconforming neighboring lands, buildings, or other structures, legal or illegal, in the same district, and no permitted buildings, or other structures in adjacent districts, shall be considered as grounds for the issuance of a variance;

No reference was made by the applicant to any previously approved variances.

(c) The requested variance shall be in harmony with the general purpose and intent of this ordinance and shall not be detrimental to the public health, safety and welfare;

A wetland setback variance for an access drive would not be detrimental to the public health, safety and welfare provided that measures are put into place that would prevent direct runoff of storm water into the wetlands;

Board members have found that this standard has been **MET**.

- (d) The requested variance shall not alter the essential character of the area or cause a substantial adverse effect upon properties in the immediate vicinity or in the district in which the property of the applicant is located;**

The proposed location of an industrial building would be of similar character with the two other businesses located at the end of Miller Creek Drive.

Board members have found that this standard has been **MET**.

- (e) The requested variance is the minimum variance that will make possible the reasonable use of the land, building, or structure, and there is no reasonable alternative location on the parcel for the proposed improvements for which a variance is sought where such alternative location would eliminate the need for the requested variance or reduce the extent of the condition(s) necessitating the variance.**

There does not appear to be an alternative location for an access drive that would eliminate the need for the requested variance. The MDEQ recommends against filling wetlands as a means to meet the 25 ft. wetland setback.

Board members have found that this standard has been **MET**.

- (3) Special Conditions or Circumstances Special conditions or circumstances to be considered for the purposes of § 454.E. (1) shall include, but not be limited to, the circumstances as described below:**

(a) Physical Conditions The proposed project site contains physical conditions such as narrowness, shallowness, shape, or topography of the property involved that do not generally apply to other property or uses in the same zoning district.

(b) Significant Vegetation or Natural Features The proposed project site contains significant vegetation or other natural features identified as Stream Environment/Wetland by the Garfield Township Master Plan.

(c) Substandard Lot(s) The proposed project involves the utilization of an existing legal nonconforming lot(s).

(d) Historic Resources The proposed project site contains historical significance.

(e) Neighborhood Character The proposed project promotes the established historic or traditional development pattern of a blockface, including setbacks, building height, and other dimensional requirements.

The Board finds that these special conditions have been **MET**.

Board members discussed the culvert in place on the property and decided that the Township Engineer will look at the culvert to ensure adequate water flow.

*Duell moved and Spence seconded to: **GRANT** the request for variance from Section 534.B of the Garfield Township Zoning Ordinance to allow a required access drive to be constructed within the twenty-five (25) feet wetland setback area based on the Practical Difficulty standards and General Criteria for granting such request being met and also basing the decision to grant the variance on the new GTE Report included.*

Approval is contingent on storm water features to prevent the direct discharge of storm water from the proposed access drive into the surrounding wetlands; and

Approval is contingent on Township Engineer and/or County Drain Commissioner review of the current culvert located under the current access drive and any recommended or required improvements or replace and at applicant discretion may include EGLE.

Yeas: Duell, Spence, Fudge, Smith

Nays: None

- 4. **Unfinished Business**
None
- 5. **Other Business (6:44)**
None
- 6. **Items for Next Agenda (6:44)**
None
- 7. **Public Comment (6:44)**
None
- 8. **Adjournment:** *Fudge moved to adjourn the meeting at 6:44pm.*



Lynn Fricke, Secretary