

Otsego County Zoning Board of Appeals

Proposed Minutes for August 5, 2019

Call to Order: 6:00 pm by Chairperson Sagasser

Roll Call:

Present: Chairperson Sagasser, Vice-Chairperson Hoffman, Secretary McCarthy, Mr. Brown, Mr. Colosimo, Mr. Miller, Mr. Glasser, Mr. Switalski (*Alternate*)

Absent: None

Staff Present: Mr. Churches, Ms. Boyak-Wohlfeil

Public Present: David Scrimger, Dollar General representative, Keith Huff, Charlton Township Trustee, Jay Welter, Randy Stults

Approval of Minutes from: April 30, 2019

Chairperson Sagasser requested comments and a motion for the previous meeting minutes.

Mr. Glasser stated on page three (3) the word ‘*term*’ was misspelled as ‘*tern*’.

Motion made to approve minutes with corrections by Mr. Glasser; Seconded by Mr. Hoffman.

Motion approved unanimously.

Chairperson Sagasser welcomed Tim Miller, new member to the Zoning Board of Appeals.

Citizen Comment Regarding Items not on the Agenda: None

Public Hearing:

1. *Wesley & Holly Atkinson, property owners, represented by an agent of Dollar General, have requested a parking variance for properties located in Charlton Township:*

021-020-100-020-01

023-170-018-004-00 - part of - (Lots 7-12 only)

023-170-019-003-00

M-32 East

Johannesburg, MI 49751

PZBA19-001- The purpose of the variance is to allow fewer parking spaces than required for the proposed construction of a retail business.

The properties have been rezoned to a B2/General Business Zoning District.

Chairperson Sagasser stated variance case PZBA19-001, opened the public hearing and requested comment from the applicant.

Public hearing opened: 6:03pm

David Scrimger, Dollar General’s representative, stated they were requesting a parking variance to reduce the forty-eight (48) spaces required to thirty (30). The Dollar General stores were basically cookie cutter builds all around the country and they typically had thirty to thirty-five (30-35) parking spaces. The number of spaces utilized at one time was in the single digits; parking has never been an issue for as long as he’s worked for the company.

Keith Huff, Charlton Township Trustee, stated he had visited the Dollar General in Gaylord and there were thirty-five (35) parking spaces at that location.

Otsego County Zoning Board of Appeals

Proposed Minutes for August 5, 2019

Mr. Churches stated Section 21.27 required one parking space for every one hundred fifty (150) sq ft of usable floor area; usable floor area being the area used to serve the public. That calculated out to be forty-eight (48) spaces. He felt the applicant did an adequate job addressing the requirements in Section 26.6. They operate thousands of stores nationwide and it would not be in their best interest to provide insufficient parking to their customers. He felt they met the requirements for the variance and in his opinion, should be granted.

Vice Chairperson Hoffman questioned the basis of the calculations in the Zoning Ordinance.

Mr. Churches stated he did not know and had questioned that as well. He thought maybe it had come from a regional governmental agency such as NEMCOG (Northeast Michigan Council of Government) because surrounding jurisdictions had the same basic requirements.

Mr. Miller stated it may be a standardized calculation because it was very similar to the requirements down state.

Chairperson Sagasser questioned if Mr. Churches was aware of any other parking variance that had been granted.

Mr. Churches stated he did not. There was a provision in the Ordinance allowing the Planning Commission to reduce the number of parking spaces however, the Planning Commission could require them to increase parking up to the required amount at any point in the future. The applicant decided to move forward with the variance request so that number could not be increased.

Chairperson Sagasser stated a variance would remain with the property so any future business would be allowed that same parking reduction which could be an issue.

With no further comment, Chairperson Sagasser closed the public hearing.

Public hearing closed: 6:09pm

Mr. McCarthy stated there were mixed views on the business itself coming into Johannesburg and he thought a compromise of having a smaller footprint would appease some of the people against the idea.

Chairperson Sagasser questioned the property split and the zoning of it.

Mr. Churches stated the lots behind the post office were to be split from one parcel and were not part of the B2 rezone.

Chairperson Sagasser then went through Section 26.6 item by item for discussion and roll call vote for each.

Chairperson Sagasser requested a motion for Section 26.6.1 for discussion.

Motion made by Mr. Brown that the requested variance would not be detrimental to the public welfare or otherwise injurious to other properties in the same zoning district; Seconded by Mr. Hoffman.

Chairperson Sagasser requested further discussion; hearing none requested a roll call vote.

Roll Call:

Mr. Sagasser: yes

Mr. Hoffman: yes

Mr. McCarthy: yes

Mr. Glasser: yes

Mr. Brown: yes

Mr. Colosimo: yes

Mr. Miller: yes

Motion passes: unanimous

Otsego County Zoning Board of Appeals

Proposed Minutes for August 5, 2019

Chairperson Sagasser requested a motion for Section 26.6.2 for discussion.

Motion made by Mr. Brown that the requested variance is necessary for the applicant to receive a right available to other properties in the same zoning district; Seconded by Mr. Glasser.

Chairperson Sagasser opened the discussion. He stated the variance request was based on the width of the property not allowing enough spaces but the purchase of this property was their choice and he was not convinced this right was not available to them.

Mr. Miller stated the way the site was laid out made it impractical to gain parking just by the width of the driveway alone. Reducing the drive and having a standard drive aisle could have created additional parking.

Chairperson Sagasser stated the parcel extended to the south; they could have relocated the retention basin. He requested further discussion; hearing none, called for a vote.

Roll Call:

Mr. Miller: no
Mr. Colosimo: yes
Mr. Brown: yes
Mr. Glasser: yes
Mr. McCarthy: yes
Mr. Hoffman: no
Mr. Sagasser: no

Motion passes: 4-3

Chairperson Sagasser requested a motion for Section 26.6.3 for discussion.

Motion made by Mr. Brown that special physical conditions or unique circumstances exist with this property and do not generally apply to other properties in the same zoning district; Seconded by Mr. Glasser.

Chairperson Sagasser opened the discussion and stated in his opinion there were not any special or unique circumstances.

Mr. Churches stated the layout of the combined lots in comparison to adjoining properties was unique.

Chairperson Sagasser disagreed stating the vacated alleys made the property larger than it would have been originally.

Vice Chairperson Hoffman stated he felt the parcel more or less determined the layout of the site. The parking was in the front and on the side of the store for customer convenience and with the loading and unloading area and setbacks required, the property was somewhat restrictive so there was uniqueness to it.

Chairperson Sagasser disagreed stating more property could have been purchased.

Chairperson Sagasser requested further discussion; hearing none, called for a vote.

Roll Call:

Mr. Hoffman: yes
Mr. McCarthy: yes
Mr. Glasser: yes
Mr. Brown: yes
Mr. Colosimo: yes
Mr. Miller: no
Mr. Sagasser: no

Motion passes: 5-2

Otsego County Zoning Board of Appeals

Proposed Minutes for August 5, 2019

Chairperson Sagasser requested a motion for Section 26.6.4 for discussion.

Motion made by Mr. Brown that special conditions or circumstances are not the result of actions by the applicant or predecessor in title; Seconded by Mr. McCarthy.

Chairperson Sagasser opened the discussion. He stated the sale of the property did not include a portion which would have made it more developable; this was self-created by the predecessor in title.

Mr. Churches stated the lack of lot width was not self-created; it was platted that way. It was the reason for the variance request.

Chairperson Sagasser stated the lack of lot width was only because they split the property. Had they not, they could have put the septic area on that portion and had room for additional parking along the south; in his opinion this was self-created.

Mr. Miller stated a variance was based on a hardship. Whether by site layout or splitting of the property, he also felt this was self-created.

Mr. Churches stated the property was not made narrower by splitting it.

Chairperson Sagasser stated splitting lots 4, 5, and 6 did make the parcel narrower, maybe not along M-32 but those lots could have been utilized for the septic area. Not including those lots in the sale was a result of the predecessor in title, therefore, self-created.

Vice Chairperson Hoffman stated the intent of the predecessor in title was not known.

Chairperson Sagasser requested further discussion; hearing none, called for a vote.

Roll Call:

Mr. Colosimo: yes
Mr. Miller: no
Mr. Sagasser: no
Mr. Hoffman: yes
Mr. McCarthy: yes
Mr. Glasser: yes
Mr. Brown: yes

Motion passes: 5-2

Chairperson Sagasser requested a motion for Section 26.6.5 for discussion.

Motion made by Mr. Brown that the requested variance is the minimum variance necessary that will make possible the reasonable use of the land; Seconded by Mr. McCarthy.

Chairperson Sagasser opened the discussion and stated the minimum variance necessary would have been allowing the Planning Commission to determine the number of spaces; the option to increase that number would have remained.

Mr. Churches stated he had advised them to go that route but could not force them to do that.

Mr. Miller stated if the variance was granted, there would be no future recourse for an increase in parking.

Mr. Churches stated if that became an issue, he felt they would increase it.

Chairperson Sagasser stated they would have to relocate their septic field.

Mr. Churches agreed stating they could possibly purchase more land or do off street parking.

Chairperson Sagasser requested further discussion; hearing none, called for a vote.

Otsego County Zoning Board of Appeals

Proposed Minutes for August 5, 2019

Roll Call:

Mr. McCarthy: yes
Mr. Glasser: yes
Mr. Brown: yes
Mr. Colosimo: yes
Mr. Miller: no
Mr. Sagasser: no
Mr. Hoffman: no

Motion passes: 4-3

Chairperson Sagasser requested a motion for approval of PZBA19-001.

Motion made by Mr. Glasser to grant the requested variance to reduce the number of required parking spaces in Section 21.27 from 48 spaces to 30 spaces for the Dollar General Store located on parcel numbers 021-020-100-020-01, 023-170-019-003-00 and lots 7-12 of parcel number 023-170-018-004-00; Seconded by Mr. McCarthy.

Chairperson Sagasser opened the discussion and stated there were split views on several required items. He felt the variance should be denied because there was a very viable option in the Zoning Ordinance allowing the Planning Commission to make the decision without having a variance follow the property forever.

Mr. Miller agreed stating if Dollar General was adamant that only thirty (30) spaces would be needed then they would have no worries of the Planning Commission increasing that number at a later date.

Mr. Brown stated they had demonstrated that the thirty to thirty-five (30-35) spaces were adequate for business and he did not feel it necessary to lay additional blacktop if it was not needed.

Chairperson Sagasser stated the request side stepped the whole process. There were enough negatives to Section 26.6 and a viable alternative was unilaterally decided against and eliminated any future zoning enforcement. He did not feel that was a basis for a variance.

Vice Chairperson Hoffman stated all items in Section 26.6 must pass for a variance to be granted. They passed but not unanimously. He agreed with Mr. Sagasser that there was another option for this property to be developed as planned without granting a variance; he felt that was the route to take.

Mr. Glasser stated this subdivision was platted probably in the 1930's, houses were different; life was different. There were streets and alleys abandoned all through Johannesburg that create practical difficulties for retail business and just because there is a split vote on items in Section 26.6 does not mean the variance cannot be approved.

Chairperson Sagasser suggested the Planning Commission review some of these requirements for possible amendments.

Mr. Glasser agreed the Section on parking needed to be reviewed stating there were parking lots all across the County that were less than one third full even on busy hot, summer days; a lot of pavement was being created for no reason.

Mr. Churches stated this went against the Master Plan objective for preserving open space as well.

Chairperson Sagasser requested further discussion; hearing none, requested a roll call vote.

Roll Call:

Mr. Sagasser: no
Mr. Hoffman: no
Mr. McCarthy: yes

Otsego County Zoning Board of Appeals

Proposed Minutes for August 5, 2019

Mr. Glasser: yes
Mr. Brown: yes
Mr. Colosimo: yes
Mr. Miller: no

Motion passes: 4-3

PZBA19-001 variance approved

New Business:

1. New Member (*Alternate*) – Recommendation

Mr. Churches stated Mr. Welter had applied to the Zoning Board of Appeals as an alternate member.

Chairperson Sagasser requested Mr. Welter to speak.

Jay Welter introduced himself with a short history and some qualifications and stated he looked forward to being a ZBA member.

Chairperson Sagasser requested a motion for recommendation.

Motion made by Mr. Miller to recommend the appointment of Jay Welter as alternate member of the Zoning Board of Appeals to the Otsego County Board of Commissioners; Seconded by Mr. Sagasser.

Motion approved unanimously.

Old Business: None

Communications: None

ZBA Member Items: None

Motion made by Mr. McCarthy to adjourn the meeting; Seconded by Mr. Glasser.

Motion approve unanimously.

Adjournment: 6:55 pm by Chairperson Sagasser

Mike McCarthy, ZBA Secretary

Christine Boyak-Wohlfeil, Recording Secretary

Otsego County Zoning Board of Appeals

Proposed Minutes for August 5, 2019

ATTACHMENT 1:

OTSEGO COUNTY ZONING BOARD OF APPEALS

PZBA19-001
VARIANCE

021-020-100-020-01, 023-170-018-004-00 – part of, 023-170-019-003-00

Exhibit List

- Exhibit #1:* Application for case PZBA19-001 submitted by Applicant
- Exhibit #2:* Otsego County Zoning Map Effective Date March 20, 2010/Amended June 25, 2019
- Exhibit #3:* Otsego County Zoning Ordinance Effective March 20, 2010/Amended April 23, 2019
- Exhibit #4:* Copy of Otsego County Equalization Department record cards/Warranty Deed 1357/564
- Exhibit #5:* Site Plan
- Exhibit #6:* Survey
- Exhibit #7:* Purchase Contract dated February 11, 2019
- Exhibit #8:* Public Hearing Notice
- Exhibit #9:* Letter to Charlton Township Planning Commission dated July 1, 2019
- Exhibit #10:* Response from Charlton Township Planning Commission dated July 26, 2019
- Exhibit #11:* Map and list of parties notified
- Exhibit #12:* Receipt #01318049
- Exhibit #13:* Finding of Fact/PZBA19-001
- Exhibit #14:* Land Use Site Plan Review Check List / Requirements

Otsego County Zoning Board of Appeals

Proposed Minutes for August 5, 2019

ATTACHMENT 2:

OTSEGO COUNTY ZONING BOARD OF APPEALS

PZBA19-001
VARIANCE

021-020-100-020-01, 023-170-018-004-00 – part of, 023-170-019-003-00

FINDING OF FACT

1. This is a request for a variance of three (3) combined parcels located in Charlton Township along M-32 East Johannesburg, MI 49751. *Exhibit #1, Exhibit #5*
2. The combined properties total 2.43 acres. *Exhibit #4, Exhibit #6*
3. The purpose of the variance is to permit fewer parking spaces than required for a retail business. *Exhibit #1*
4. The Otsego County Zoning Ordinance requires one (1) parking space per each one hundred fifty square feet (150 sq ft) of usable floor area. *Exhibit #3*
5. Proposed total 'usable floor area' requires forty-eight (48) parking spaces; variance request is for a reduction of eighteen (18) spaces for a total of thirty (30). *Exhibit #1, Exhibit #3*
6. Proposed properties were approved for rezone to a B2/General Business Zoning District by the Otsego County Board of Commissioners on June 25, 2019 per the division of lots 4-6 from parcel 023-170-018-004-00. *Exhibit #2, Exhibit #4, Exhibit #5*
7. A retail business is a permitted use in a B2 Zoning District. *Exhibit #2, Exhibit #3*
8. The proposed properties are currently under the ownership of Wesley & Holly Atkinson, applicants. *Exhibit #4*
9. The applicants are being represented by an agent of Dollar General. *Exhibit #7*
10. The Public Hearing Notice was published in the Herald Times on July 16, 2019. *Exhibit #8*
11. The requirements of Article 27 Township Participation in County Zoning of the Otsego County Zoning Ordinance have been met. *Exhibit #9, Exhibit #10*
12. All property owners within three hundred (300') feet were properly notified of the public hearing. *Exhibit #11*
13. The required fees have been collected by Otsego County Land Use Services. *Exhibit #12*
14. Land Use Services has determined all other requirements of Article 23 Site Plan Review have been met. *Exhibit #14*

Otsego County Zoning Board of Appeals

Proposed Minutes for August 5, 2019

FINDINGS UNDER ARTICLE 11/B2 GENERAL BUSINESS DISTRICT

ARTICLE 11 B2 GENERAL BUSINESS DISTRICT

INTENT

The B2 General Business District is designed to provide sites for more diversified business types than the B1 Local Business District and often located so as to serve passer-by-traffic. Tourist services are included as being in character with the District.

SECTION 11.1 PRINCIPAL USES PERMITTED

No building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses:

11.1.1 All principal uses permitted in the [B1 Local Business District](#)

- 11.1.2 Theaters, halls, and similar places of assembly
- 11.1.3 Laundromats and dry cleaners
- 11.1.4 Bowling alleys, pool or billiard parlors or clubs
- 11.1.5 Equipment rental shops with outside storage
- 11.1.6 Indoor archery range
- 11.1.7 Lumber yards and building material suppliers-within enclosed building
- 11.1.8 Tavern/night clubs
- 11.1.9 Restaurants serving alcoholic beverages
- 11.1.10 Public parking garages
- 11.1.11 Bus stations and passenger terminals
- 11.1.12 Businesses and restaurants with drive-through service
- 11.1.13 Wireless Telecommunications Towers and Facilities one hundred ninety (190) feet or less in height without lights [Permit criteria includes [Article 21.46](#)]
- 11.1.14 Transient Merchants-Tent and open air merchants, for periods of up to ninety (90) days per year, housing retail uses otherwise allowed by the Zoning Ordinance in this district. A single thirty (30) day extension may be applied for. Three (3) or more merchants on a parcel simultaneously must be permitted as a "Flea market".
- 11.1.15 WTG Building-Mounted: Permitted as an accessory use to an allowed Principal Use [See [Article 21.46](#)]

FINDINGS UNDER ARTICLE 10/B1 LOCAL BUSINESS DISTRICT

ARTICLE 10 B1 LOCAL BUSINESS DISTRICT

INTENT

The B1 Local Business District establishes a Business District that is more selective than a General Business District. It provides for the establishment of neighborhood shopping areas, personal services, and professional office areas that are compatible with and of service to residential uses, provided the uses are within a completely enclosed building.

SECTION 10.1 PRINCIPAL USES PERMITTED

No building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses:

- 10.1.1 Office buildings for administrative, professional, governmental and sales offices
- 10.1.2 Medical and dental offices, including clinics

Otsego County Zoning Board of Appeals

Proposed Minutes for August 5, 2019

10.1.3 Banks and financial institutions, without drive through

10.1.4 Any generally recognized retail business within an enclosed building less than one hundred thousand (100,000) square feet, excluding bars and restaurants serving alcoholic beverages

10.1.5 Any personal service establishment which performs such services as, but not limited to: barber, beauty salon, shoe repair, tailor shops, interior decorators and photographers

10.1.6 Offices and showrooms of plumbers, electricians, decorators or similar trades, without outdoor storage

10.1.7 Rental shops with no outdoor storage

10.1.8 Printing establishments, newspaper offices, publishers, and copying services

10.1.9 Existing residences

10.1.10 Athletic or sports facilities and health clubs, indoor only

10.1.11 Churches

10.1.12 Convalescent or nursing home care facility

10.1.13 Community service facilities (public library, offices operated through public funds, etc.)

10.1.14 Educational institutions

10.1.15 Commercial Day Care

10.1.16 Funeral home and mortuary

10.1.17 Family Care Facility

10.1.18 WTG Building-Mounted: Permitted as an accessory use to an allowed Principal Use [See [Article 21.46](#)]

*****PERMITTED USE IN A B1/B2 ZONING DISTRICT**

FINDINGS UNDER ARTICLE 2

SECTION 2.2 DEFINITIONS

FLOOR AREA, USABLE (FOR COMPUTING PARKING): That area used for, or intended to be used for, the sale of merchandise or services, or for use to serve patrons, clients, or customers. Floor area used, or intended to be used, for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities, shall be excluded for the computation of "Usable Floor Area" All floor levels shall be counted.

FINDINGS UNDER ARTICLE 21

SECTION 21.27 PARKING

There shall be provided in all districts at the time of erection or enlargement of any main building or structure or use, automobile off-street parking space with adequate access to all spaces.

21.27.1 Off-street parking for other than residential uses shall be either on the same lot or within four hundred (400) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot.

21.27.2 Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities are provided elsewhere.

21.27.3 In the instance of dual function of off-street parking spaces where operating hours of uses do not overlap, the Zoning Board of Appeals may grant an exception by reducing the total number of spaces required.

21.27.4 The storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles is prohibited on required off-street parking lots.

Otsego County Zoning Board of Appeals

Proposed Minutes for August 5, 2019

- 21.27.5 Residential off-street parking spaces shall consist of a driveway, parking strip, parking bay, garage, carport, or combination thereof.
- 21.27.6 The parking or storage of any commercial motor vehicle shall be prohibited in any [R1](#), [R2](#) or [RR](#) District, or in any residential area with lots of twenty thousand (20,000) square feet or less. (See definition of [COMMERCIAL MOTOR VEHICLE](#).)
- 21.27.7 For the purpose of computing the number of parking spaces required, the definition of [FLOOR AREA, USABLE](#) shall govern.
- 21.27.8 For those uses not specifically mentioned in the Off-street Parking Schedule, requirements for off-street parking facilities shall be in accord with a use which the Board of Appeals considers as being similar in type.
- 21.27.9 Entrance drives to the property and off-street parking area shall be no less than twenty-five (25) feet from a street intersection (measured from the road right-of-way) or from the boundary of a different Zoning District. A greater distance may be required by the Planning Commission if the lesser would cause a traffic issue.

21.27.10 Off-street Parking Schedule

The minimum number of off-street parking spaces required by use shall be in accordance with the following schedule:

MINIMUM PARKING SPACES REQUIRED

LAND USE

PER UNIT OF MEASURE

Commercial

Planned Shopping Center	1 per 200 sq. ft. of usable floor area
Auto Wash-Automatic	5 per wash stall plus 1 per employee
Auto Wash-Automatic-Drive-in	1 for each 2 employees
Auto Wash-Self Service	1 per employee
Barber or Beauty Shop	1 per employee plus 1 per service chair
Dance Hall, Rinks or Assembly Building (no fixed seats)	1 per 3 persons at maximum capacity
Drive-in Business	1 per employee plus drive-in stalls and/or lanes to serve patrons
Banks	1 per 200 sq. ft. of usable floor area
Doctor or Dentist Office	1 per 50 sq. ft. of waiting room plus 1 per service chair
Business Office	1 per 200 sq. ft.
Billiard Hall	2 per game table
Bowling Alley	5 per lane
Taverns	1 per 100 sq. ft. of usable floor area
Restaurants	1 per 3 persons at maximum seating capacity
Drive-up or Drive-through Uses-Restaurant, Banks, Drug Pick-up, Laundries, Payment other Drive-up Service Windows	In addition to the required parking for the principal use, the Drive-through facilities requirement in Article 18 shall be followed

Otsego County Zoning Board of Appeals

Proposed Minutes for August 5, 2019

Furniture, Appliances, Plumbers, Electricians Minor Repair Services	1 per 800 sq. ft. of usable floor area
Vehicle Service Station	2 per service stall, plus 1 per employee
Gasoline Convenience Store	1 per 300 sq. ft. of usable floor area
Laundromat	1 per 3 machines for washing
Funeral Home/Mortuary	1 per 200 sq. ft. of usable floor area
Motels, Hotels, Motor Inns, Cabin Courts, Bed & Breakfast Facilities and Tourist Lodging Facilities	1 per 150 sq. ft. of usable floor area, the Planning Commission may reduce up to half if they reserve land for open space
Vehicle Sales	1 per 200 sq. ft. of showroom usable floor area
Retail Groceries	1 per 150 sq. ft. of usable floor area
Other Retail Stores	1 per 150 sq. ft. of usable floor area
Self-Storage Rental Units	1 per 10 units
Personal Service Establishments	1 per 100 sq. ft. usable floor area not otherwise specified
Museums	1 per 150 sq. ft. of usable floor area
Rental Shops	1 per 200 sq. ft. of usable floor area in addition to a loading and unloading area; and a vehicle turnaround drop-off area
Rifle or Pistol Range	2 per range plus 1 per employee

NOTES

- a. Sq. ft. refers to square feet of usable floor area unless otherwise noted.
- b. 1 unit per measure shall be interpreted to mean 1 per each unit, as 1 per "each" three (3) persons.
- c. Space requirements are cumulative; hence, a country club may require parking for the golf use as well as restaurant or bar use.
- d. Employees, refers to all permanent staff and part time equivalents in the largest working shift. Maximum capacity is the maximum occupancy permitted by applicable building, fire, or health codes.

21.27.11 Parking Area Design Standards

The layout of off street parking facilities shall be in accord with the following minimum requirements

<u>Parking Pattern</u>	<u>Maneuvering Lane width</u>	<u>Parking Space width</u>	<u>Parking Space length</u>
Parallel	12ft	8ft	23ft
30-53°	12ft	20ft	
54-74°	15ft	20ft	
75-90°	20ft	20ft	

All spaces shall be provided access by maneuvering lanes. Backing directly onto a street shall be prohibited. Adequate ingress and egress to a parking lot by means of clearly defined drives shall be provided for all vehicles. Ingress and

Otsego County Zoning Board of Appeals

Proposed Minutes for August 5, 2019

egress to a parking lot lying in an area zoned for other than residential use shall not be across land zoned for residential use.

Each entrance and exit to and from any off street parking lot located in an area zoned for other than residential use shall be at least twenty-five (25) feet from adjacent property located in any residential district.

Buffer yards shall be required per standards set by [Section 21.18](#). A buffer yard without buildings shall be required not less than ten (10) feet wide on the perimeter of all parking lots. Said buffer yard shall be used for landscaping, screening and/or drainage as required by this ordinance.

All parking areas containing twenty-seven hundred (2700) square feet or more shall provide snow storage area. Snow storage shall be provided on the ratio of ten (10) square feet per one hundred (100) square feet of parking area.

Parking area is calculated at two hundred seventy (270) square feet per parking space. Snow storage areas shall be located in such a manner that they do not interfere with the clear visibility of traffic on adjacent streets and driveways.

One (1) street tree shall be planted adjacent to the public right-of-way for each twenty-four (24) lineal feet of frontage.

Parking lots with more than two (2) parking aisles shall require landscaped areas of at least ten (10) square feet of interior landscaping for each parking space, interior being defined as the area within the perimeter of the paved surface.

Landscaped areas shall be a minimum of seventy-five (75) square feet with a minimum dimension of ten (10) feet. Interior landscape areas shall be designed so as to cause minimum interference with snow removal. Each interior landscape area shall include one (1) or more canopy trees based on the provision of one (1) tree per each one hundred (100) square feet of interior landscape area.

21.27.12 Federal and State requirements regarding handicapped parking and access shall apply.

21.27.13 Where the property owner can demonstrate that the required amount of parking is excessive, the Planning Commission may approve a smaller parking area, provided that the area of sufficient size to meet parking space requirements of this article is retained as open space and the owner agrees to construct the additional parking at the direction of the Planning Commission.

21.27.14 Parking lot cross-connections shall be used in addition to frontage roads or shared driveways, when in the opinion of the Planning Commission, cross-connections do not hinder traffic.

21.27.15 All parking in the Highway Interchange Commercial District shall be in the rear or side yard.

*****THE ZONING ORDINANCE REQUIRES 1 PARKING SPACE PER 150 SQ FT OF USABLE FLOOR AREA FOR A TOTAL OF 48 PARKING SPACES PER APPLICATION**

FINDINGS UNDER ARTICLE 26

ARTICLE 26 BOARD OF APPEALS

SECTION 26.6 DIMENSIONAL OR NON-USE VARIANCE

Where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would involve "practical difficulties" within the meaning of this Ordinance, the Zoning Board of Appeals shall have power upon appeal in specific cases to authorize such variation or modification as may be in harmony with the spirit of this Ordinance, and so that public safety and welfare be secured and substantial justice done. No such variance or modification of the provisions of this Ordinance shall be granted unless it appears that there is clear and convincing evidence that all the following facts and conditions exist:

*****THE ZONING BOARD OF APPEALS HAS THE AUTHORITY TO GRANT A VARIANCE IF ALL CRITERIA HAS BEEN MET**

26.6.1 That the requested variance will not be detrimental to the public welfare or otherwise injurious to other properties in the same zoning district.

Chairperson Sagasser requested a motion for Section 26.6.1 for discussion.

Motion made by Mr. Brown that the requested variance would not be detrimental to the public welfare or otherwise injurious to other properties in the same zoning district; Seconded by Mr. Hoffman.

Chairperson Sagasser requested further discussion; hearing none requested a roll call vote.

Otsego County Zoning Board of Appeals

Proposed Minutes for August 5, 2019

Roll Call:

Mr. Sagasser: yes
Mr. Hoffman: yes
Mr. McCarthy: yes
Mr. Glasser: yes
Mr. Brown: yes
Mr. Colosimo: yes
Mr. Miller: yes

Motion passes: unanimous

26.6.2 That the requested variance is necessary for the applicant to receive a right available to other properties in the same zoning district.

Chairperson Sagasser requested a motion for Section 26.6.2 for discussion.

Motion made by Mr. Brown that the requested variance is necessary for the applicant to receive a right available to other properties in the same zoning district; Seconded by Mr. Glasser.

Chairperson Sagasser opened the discussion. He stated the variance request was based on the width of the property not allowing enough spaces but the purchase of this property was their choice and he was not convinced this right was not available to them.

Mr. Miller stated the way the site was laid out made it impractical to gain parking just by the width of the driveway alone. Reducing the drive and having a standard drive aisle could have created additional parking.

Chairperson Sagasser stated the parcel extended to the south; they could have relocated the retention basin. He requested further discussion; hearing none, called for a vote.

Roll Call:

Mr. Miller: no
Mr. Colosimo: yes
Mr. Brown: yes
Mr. Glasser: yes
Mr. McCarthy: yes
Mr. Hoffman: no
Mr. Sagasser: no

Motion passes: 4-3

26.6.3 That special physical conditions or unique circumstances exist with this property and do not generally apply to other properties in the same zoning district.

Chairperson Sagasser requested a motion for Section 26.6.3 for discussion.

Motion made by Mr. Brown that special physical conditions or unique circumstances exist with this property and do not generally apply to other properties in the same zoning district; Seconded by Mr. Glasser.

Chairperson Sagasser opened the discussion and stated in his opinion there were not any special or unique circumstances.

Mr. Churches stated the layout of the combined lots in comparison to adjoining properties was unique.

Chairperson Sagasser disagreed stating the vacated alleys made the property larger than it would have been originally.

Vice Chairperson Hoffman stated he felt the parcel more or less determined the layout of the site. The parking was in the front and on the side of the store for customer convenience and with the loading and unloading area and setbacks required, the property was somewhat restrictive so there was uniqueness to it.

Chairperson Sagasser disagreed stating more property could have been purchased.

Chairperson Sagasser requested further discussion; hearing none, called for a vote.

Otsego County Zoning Board of Appeals

Proposed Minutes for August 5, 2019

Roll Call:

Mr. Hoffman: yes
Mr. McCarthy: yes
Mr. Glasser: yes
Mr. Brown: yes
Mr. Colosimo: yes
Mr. Miller: no
Mr. Sagasser: no

Motion passes: 5-2

26.6.4 That the special conditions or circumstances are not the result of actions by the applicant or predecessor in title.

Chairperson Sagasser requested a motion for Section 26.6.4 for discussion.

Motion made by Mr. Brown that special conditions or circumstances are not the result of actions by the applicant or predecessor in title; Seconded by Mr. McCarthy.

Chairperson Sagasser opened the discussion. He stated the sale of the property did not include a portion which would have made it more developable; this was self-created by the predecessor in title.

Mr. Churches stated the lack of lot width was not self-created; it was platted that way. It was the reason for the variance request.

Chairperson Sagasser stated the lack of lot width was only because they split the property. Had they not, they could have put the septic area on that portion and had room for additional parking along the south; in his opinion this was self-created.

Mr. Miller stated a variance was based on a hardship. Whether by site layout or splitting of the property, he also felt this was self-created.

Mr. Churches stated the property was not made narrower by splitting it.

Chairperson Sagasser stated splitting lots 4, 5, and 6 did make the parcel narrower, maybe not along M-32 but those lots could have been utilized for the septic area. Not including those lots in the sale was a result of the predecessor in title, therefore, self-created.

Vice Chairperson Hoffman stated the intent of the predecessor in title was not known.

Chairperson Sagasser requested further discussion; hearing none, called for a vote.

Roll Call:

Mr. Colosimo: yes
Mr. Miller: no
Mr. Sagasser: no
Mr. Hoffman: yes
Mr. McCarthy: yes
Mr. Glasser: yes
Mr. Brown: yes

Motion passes: 5-2

26.6.5 That the requested variance is the minimum variance necessary that will make possible the reasonable use of the land.

Chairperson Sagasser requested a motion for Section 26.6.5 for discussion.

Motion made by Mr. Brown that the requested variance is the minimum variance necessary that will make possible the reasonable use of the land; Seconded by Mr. McCarthy.

Otsego County Zoning Board of Appeals

Proposed Minutes for August 5, 2019

Chairperson Sagasser opened the discussion and stated the minimum variance necessary would have been allowing the Planning Commission to determine the number of spaces; the option to increase that number would have remained.

Mr. Churches stated he had advised them to go that route but could not force them to do that.

Mr. Miller stated if the variance was granted, there would be no future recourse for an increase in parking.

Mr. Churches stated if that became an issue, he felt they would increase it.

Chairperson Sagasser stated they would have to relocate their septic field.

Mr. Churches agreed stating they could possibly purchase more land or do off street parking.

Chairperson Sagasser requested further discussion; hearing none, called for a vote.

Roll Call:

Mr. McCarthy: yes
Mr. Glasser: yes
Mr. Brown: yes
Mr. Colosimo: yes
Mr. Miller: no
Mr. Sagasser: no
Mr. Hoffman: no

Motion passes: 4-3

Chairperson Sagasser requested a motion for approval of PZBA19-001.

***Motion made by Mr. Glasser to grant the requested variance to reduce the number of required parking spaces in Section 21.27 from 48 spaces to 30 spaces for the Dollar General Store located on parcel numbers 021-020-100-020-01, 023-170-019-003-00 and lots 7-12 of parcel number 023-170-018-004-00; Seconded by Mr. McCarthy.

Chairperson Sagasser opened the discussion and stated there were split views on several required items. He felt the variance should be denied because there was a very viable option in the Zoning Ordinance allowing the Planning Commission to make the decision without having a variance follow the property forever.

Mr. Miller agreed stating if Dollar General was adamant that only thirty (30) spaces would be needed then they would have no worries of the Planning Commission increasing that number at a later date.

Mr. Brown stated they had demonstrated that the thirty to thirty-five (30-35) spaces were adequate for business and he did not feel it necessary to lay additional blacktop if it was not needed.

Chairperson Sagasser stated the request side stepped the whole process. There were enough negatives to Section 26.6 and a viable alternative was unilaterally decided against and eliminated any future zoning enforcement. He did not feel that was a basis for a variance.

Vice Chairperson Hoffman stated all items in Section 26.6 must pass for a variance to be granted. They passed but not unanimously. He agreed with Mr. Sagasser that there was another option for this property to be developed as planned without granting a variance; he felt that was the route to take.

Mr. Glasser stated this subdivision was platted probably in the 1930's, houses were different; life was different. There were streets and alleys abandoned all through Johannesburg that create practical difficulties for retail business and just because there is a split vote on items in Section 26.6 does not mean the variance cannot be approved.

Chairperson Sagasser suggested the Planning Commission review some of these requirements for possible amendments.

Mr. Glasser agreed the Section on parking needed to be reviewed stating there were parking lots all across the County that were less than one third full even on busy hot, summer days; a lot of pavement was being created for no reason.

Mr. Churches stated this went against the Master Plan objective for preserving open space as well.

Chairperson Sagasser requested further discussion; hearing none, requested a roll call vote.

Otsego County Zoning Board of Appeals

Proposed Minutes for August 5, 2019

Roll Call:

Mr. Sagasser: no
Mr. Hoffman: no
Mr. McCarthy: yes
Mr. Glasser: yes
Mr. Brown: yes
Mr. Colosimo: yes
Mr. Miller: no

Motion passes: 4-3

***PZBA19-001 variance approved

Proposed