

CHARTER TOWNSHIP OF YPSILANTI

ZONING BOARD OF APPEALS

7200 S. Huron River Drive, Ypsilanti, MI 48197

REGULAR MEETING AGENDA

WEDNESDAY, OCTOBER 5, 2022 6:30 P.M.

If you need any assistance due to a disability please contact the Planning Department at least 48 hours in advance of the meeting at planning@ytown.org or 734-544-4000.

1. Call Meeting to Order
2. Roll Call – Determination of a quorum
3. Approval of Agenda
4. Approval of the September 7, 2022 regular meeting minutes
5. Public Hearing

ZBA 2022-0008

Applicant: Habitat for Humanity – Huron Valley.
Location: 966 N Prospect Road, Ypsilanti MI 48198
Parcel ID: K-11-03-261-005
Request: Request for variance to the setback requirements of Section 407 of the township zoning ordinance for construction of a new single-family dwelling.

6. Open discussion for issues not on the agenda
 - a. Planning Department report
 - b. Correspondence received
 - c. Zoning Board of Appeals members
 - d. Members of the audience and public
7. Any other business that may come before the Zoning Board of Appeals
8. Adjournment

(THERE IS NO WORK SESSION)

**CHARTER TOWNSHIP OF YPSILANTI
ZONING BOARD OF APPEALS
Wednesday, September 7, 2022
6:30 pm**

COMMISSIONERS PRESENT

Marsha Kraycir – Chair
Jimmie Wilson
Edward Burnett

STAFF AND CONSULTANTS

Jason Iacoangeli, Planning Director
Amy Steffens, Planning and Development Coordinator
Dennis McLain, Township attorney

i. CALL TO ORDER/ESTABLISH QUORUM

MOTION: Ms. Kraycir called the meeting to order at 6:30 pm.

ii. APPROVAL OF AGENDA

MOTION: Mr. Wilson **MOVED** to approve the agenda as presented. The **MOTION** was **SECONDED** by Mr. Burnett and **PASSED** by unanimous consent.

iii. APPROVAL OF JULY 6, 2022 REGULAR MEETING MINUTES

MOTION: Mr. Wilson **MOVED** to approve the previous Board Meeting Minutes as presented. The **MOTION** was **SECONDED** by Mr. Burnett and **PASSED** by unanimous consent.

iv. PUBLIC HEARINGS

a) ZBA 2022-0006

Applicant: LynxDx, Inc. Steven Riggs

Location: 2515 Ellsworth Rd, Ypsilanti MI 48198

Parcel ID: K-11-18-100-013

Request: Request for an extension to a temporary use approved by the Zoning Board of Appeals on March 2, 2022 to allow for a temporary outdoor Covid-19 testing drive-thru clinic per Section 1704.4.B. of the township zoning ordinance

Mr. Iacoangeli, the Township Planning Director, presented the request for an extension of the temporary use permit for the COVID testing facility located at 2515 Ellsworth Road for an additional period to expire on December 16, 2022. The LynxDX COVID testing facility has been at 2515 Ellsworth Road for the last six months.

Mr. Iacoangeli presented the staff report:

- The six months granted previously is the limit for temporary uses and developed portions of the township.
- The extension of the temporary use for an additional 100 days would set a precedent for temporary uses within the township, especially those that are located within commercial districts, such as this location on Ellsworth.
- COVID testing facility should be tied to an appropriate primary use such as a civic building, church or health care facilities.
- These land uses are directly tied to community outreach and play a role as the anchors for communities in times of emergency due to natural disasters and public health emergencies.
- The Planning Department opinion if the COVID facility could relocate to one of the Civic oriented uses that would become an accessory use and stop being a temporary use. It would allow the facility to not be bound by the 6-month time period.
- LynxDx currently has a COVID testing facility operation at 2/42 Church in Scio Township, which has been in operation for over a year.
- The township has provided LynxDx with alternative locations within the township that would be more suitable for this use, including the New Covenant Missionary Baptist Church located at 2345 Tyler Road. This church has been utilized in the past by the Washtenaw County Health Department for COVID-19 and flu vaccination clinics.
- The township is aware that the property owners are actively marketing the property for sale to prospective developers, and that a potential purchase agreement has been put in place for the Walmart building.
- The empty Walmart store front and parking lot add to the distress of the overall Roundtree shopping plaza and the addition of a temporary COVID testing facility in the parking lot adds to the overall perception of this property being underutilized which affects the neighboring businesses and property owners.
- Reviewing the lease or concession agreement for the use of the property if the “area becomes unavailable for use as intended” by LynxDX then they “shall be permitted to terminate this Agreement without penalty or premium upon five days advanced written notice to OSP”. This clause in the agreement would allow LynxDX to move from the site without accruing financial penalties for breaking the terms of the lease.

The Planning Department is recommending that the Zoning Board of Appeals deny the request for LynxDX an additional 100 days of temporary use to expire on December 16 2022. The need to remain in the location for a time period of more than six months per the ordinance requirements is a self-created hardship. Other viable, more suitable areas of the township are available for the testing facility to relocate.

Ms. Kraycir inquired if there were suitable locations available from the current location; Mr. Iacoangeli explained that according to the ordinance the usage is for temporary purposes. But when it is attached to appropriate primary use like a church, civic building, community center or a hospital, it would be considered as an accessory use. The accessory standards in the township zoning ordinance don't require time limits. LynxDX can get zoning approval through the planning department and be permitted to continue as long as they're continuing to be an accessory use to the community.

Ms. Kraycir inquired if moved to a different location, would it be defined as an accessory use; Mr. Iacoangeli clarified that it would.

Ms. Kraycir questioned Mr. McLain (Township attorney) on his concerns about extending the ordinance that was requested; Mr. McLean stated that under the ordinance, permanent, temporary buildings and use for periods not to exceed two years and undeveloped sections of the township and for periods not to exceed six months in developed sections.

Mr. Burnett inquired why LynxDX is not moving to a better location:

Ken Disney (Director of Operations: LynxDX) highlighted the following:

- LynxDX has been operating at 2515 Ellsworth Road for the past six months.
- Provided over 15,000 COVID tests to the community, the majority being from 48197 and 48198 zip codes.
- LynxDX lease at that site is until January 1, 2023. The operation would like to stay at that site based on the lease.
- Moving the operation to a new location would take time, effort and cost.
- LynxDX is providing service to the community and works closely with the health department in following all regulations.
- The funding for the at home test has ended and LynxDX does not charge the community. LynxDX is insurance based or free based testing. LynxDX would like to continue to provide this service for the Ypsilanti township residents.
- A letter was sent to the Board stating LynxDX intention was to get the extension time in order to set up a new location. 2515 Ellsworth Road is a centralized location for residents. It is easily accessible and can process 1000 individuals a day without disrupting any traffic.

Mr. Wilson inquired with Mr. Disney that the present lease does allow LynxDX to terminate without penalty upon five days' notice and whether the township has offered any locations; Mr.

Disney responded that there is a 30-day notice, but even with the 30-day period, it would still take time to find a location (permits, contract, paperwork) and there would be a down period between the closing and opening of the new site, and that can be avoided. The township has offered a location at a church (zip code: 4197), this location was used for past services. Setting up a new location with a drive-through facility would take time.

Ms. Kraycir inquired about the equipment used; Mr. Disney shared about the trailer container and the generator that's been used. Both these require heavy machinery for the move.

Ms. Kraycir pointed out that in the first meeting with the organization LynxDX had stated that they wouldn't require an extension; Mr. Disney stated that he was unaware and there had been a change in leadership.

Ms. Kraycir inquired when LynxDX received information about the church being a potential location for the operation and if there had been any communication with the church; Mr. Disney stated that he received the information about the church a month ago and there has not been any communication with them since that would be dependent on the outcome from the Board. Mr. Disney added on to say that the new proposed site would not be profitable.

Mr. Disney stated that LynxDX provides service to the community. With this move it could possibly put that location into the negative and what the revenue is month to month. The church that was provided was not an agreeable location because it was not centralized to the population but on the outskirts of Ypsilanti. Any downtrend and testing coming through the site would not be viable to stay open.

The clinic is on an appointment basis and walk-in is welcome. The facility handles 120 – 150 patients a day. It takes about 3 to 5 minutes to complete the process for registration.

Ms. Kraycir clarified on the status of the lease, based on five days' notice, LynxDX can remove themselves from the present facility and location without any penalty; Mr. Disney stated that he would need to verify that with the legal team.

Mr. Wilson inquired with Mr. Iacoangeli about the application for accessory use, whether it would come back to the ZBA or it can be done administratively at the planning department; Mr. Iacoangeli reminded the Board that the township found out about LynxDX testing facility through the newspaper, because there was no paperwork filed at the time that it was established. The township granted six months for temporary use, which is the maximum under the ordinance to allow it at the site. The township is in full support of a testing facility, but it needs to be located at a civic location (school, church, hospital). The present location is on a commercial site, and it is valid only for 6 months. The recommendation is to move to a place in the township that is an accessory use since it provides the time as needed because the Planning department can use the zoning ordinance for longer duration.

The planning department stated that the present location wasn't a place that they had any input. Agreeing to this would be going against the zoning ordinance and this would set precedence to future decisions made by the ZBA.

Mr. Iacoangeli informed the ZBA that in order for the accessory use LynxDX has to fill in a one-page zoning verification application to be submitted along with documentation and they don't have to go through another ZBA meeting.

Mr. Iacoangeli informed the ZBA that LynxDX has understood that the township wants an alternative location, LynxDX has requested the ability to stay until December in order to meet the obligations of their lease and be given the facility to find a suitable place to relocate.

Ms. Kraycir opened the public hearing at 7:02 pm.

Ms. Kraycir closed the public hearing at 7:04 pm.

MOTION: Mr. Wilson **MOVED** to deny the temporary use permit application to permit the operation of a COVID-19 Drive-Thru Testing Facility located at 2515 Ellsworth Rd, parcel K-11-18-100-013 for a period of one hundred (100) days due to the reasons stated in the staff report. The **MOTION** was **SECONDED** by Mr. Burnett and **PASSED** by unanimous consent.

b) ZBA 2022-0007

Applicant: Josh Angle

Location: 1435 Blossom

Parcel ID: K-11-01-236-053

Request: Request to permit a six-foot tall privacy fence in the required front yard along Wiard Road (maximum four-foot-tall ornamental fence permitted, Section 1305.2).

Mr. Iacoangeli, the Township Planning Director, presented the request to permit a six-foot-tall privacy fence in a required front yard along Wiard Road, where a maximum of a four-foot-tall ornamental fence would be permitted. The subject parcel is about 0.22 acres, zoned in the R-5 single family residential district. It contains a 1400 square foot home on the property.

The six-foot tall privacy fence, installed without a fence permit, is in the required front yard setback along the Wiard Road right-of-way and is not set back from the right-of-way by the required 20 feet. Only a four-foot-tall ornamental fence would be permitted in this location.

On June 30, 2022 the applicant submitted a permit application for the installation of the fence and reconstruction of a driveway. On July 1, 2022 the staff sent the property owner an email asking that additional information be submitted regarding the location of the fence on the property boundaries but no further contact was had from the applicant.

1435 Blossom is a through lot with right-of-way along two parallel sides: Blossom Avenue to the north and Wiard Road to the south. The front door of the house is at Blossom address and the backyard is on Wiard Road. This lot is treated for having two front yards because it fronts on two public streets.

The applicant is requesting a six-foot privacy fence to have the privacy and enjoyment of a rear yard, whereby treated as a front yard by the ordinance where only a four-foot fence would be permitted. This situation would have been problematic if there was a house on the Wiard Road facing the parcel, but it faces Green Oaks golf course.

Analysis:

- That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties or classes of uses in the same zoning district.
- Single family dwellings typically have a customary and recognizable private rear yard. On a standard interior lot, that is a lot that is neither a through or corner lot, the ordinance would allow for the entire rear yard to be encompassed by a six-foot tall privacy fence.
- In the case of a through lot, however, the entire rear yard is not permitted to be fenced with a privacy fence. Any type of fence other than a four-foot-tall ornamental fence must meet the front yard setback from the secondary right-of-way.
- The subject site is a platted through lot in a high-density residential district. This parcel, like the adjacent parcels to the east and west along Blossom, benefits from an additional 38 feet of rear yard along Wiard Road that was combined with this lot from a metes and parcel.
- Wiard Road has a 90-foot right-of-way, with a single traveled lane in each direction. Staff finds that there's exceptional and extraordinary circumstances applying to this property. The subject site is burdened by two rights of way. But the 90-foot-wide road right of way to the south abuts the golf course that would mitigate any negative impact of a six-foot privacy fence in the required front yard.
- Variance is necessary for the preservation and enjoyment of substantial property.
- While an argument against a six-foot tall privacy fence immediately adjacent to the traveled roadway is strong, staff believes that the subject site under consideration deserves some relief from the ordinance because of the 90-foot right-of-way of Wiard Road that is likely not to be widened and the fact that the property immediately south of the site is being used as a golf course.
- Allowing the full rear yard of the subject site to be encompassed by a six-foot tall fence privacy fence furthers the enjoyment of a substantial property.
- Authorizing such variance will not be a substantial detriment to adjacent property, if approved, the fence in the proposed location is not likely to be a substantial detriment to adjacent properties, be harmful to the essential character of the area, or materially impair the purposes of the ordinance or public interest.

- Additionally, the fence would need to be removed from the intersection of the driveway and Wiard Road right-of-way to comply with Sections 1202, Corner clearance, and 1305(3), Vision clearance, thereby mitigating any visual impediments imposed by the fence.
- The applicant did install the fence without benefit of a permit, the ZBA must determine whether or not a condition of the property itself presents a practical difficulty not created by the applicant. As stated previously, the subject site is a thorough lot in a high-density residential district, adjacent to a wide right-of-way, and adjacent to a golf course.
- The proposed variance will be the minimum necessary and no variance shall be granted where a different solution not requiring a variance would be possible. A compliant, four-foot-tall fence could be erected, in the location where a six-foot tall fence has been installed, by right without the need for variance approval.

Mr. Wilson inquired that if the motion gets approved, the applicant would need to pull the official permit and the process would need to be followed; Mr. Iacoangeli stated yes.

Mr. Burnett inquired whether there is any future development for the golf course; Mr. Iacoangeli stated that it is township owned property.

Mr. Iacoangeli informed the Board that the applicant applied for a permit for the driveway. And the fence was tied to that permit. The planning department sent a reply email asking for additional information with regard to the boundary lines for the fence. The applicant did not response to the mail, and later the fence was erected without finalizing that portion of the permit. Later, the applicant stated there was confusion and they assumed that when the driveway was approved, the fence was approved too. And that's the reason they went ahead and erected it.

Amy Steffens, the Planning and Development Coordinator, informed the Board that the driveway permit and fence permit were not issued. Since there was no response from the July 1, 2022 email. Code Enforcement went out and saw that the fence had been erected and when the code enforcement officer made contact with the homeowner. The homeowner was under the impression that he had applied and was told at the counter that everything looked good. He thought he had his permit, but there was none issued and he did not have a permit in hand. After the discussion, the applicant submitted a ZBA application, after which a permit for the driveway was issued until the resolution of the fence was sorted.

Josh Angle (1435 Blossom), the applicant apologized to the Board that he was under the impression with the driveway permit, it also included the fence. He also stated that he was unaware that the front yard was also the backyard, and he also apologized for missing out on the email.

Josh Angle informed the Board that every house on Blossom faces the same direction and they all back up to the golf course and that should not block anybody's enjoyment of the area. There are about nine houses on Blossom Street that are in the same situation because everything else has a field between it or some barrier.

MOTION: Mr. Wilson **MOVED** the variance request to permit a six-foot tall privacy fence in the required front yard along Wiard Road (maximum four-foot-tall ornamental fence permitted, Section 1305.2) at 1435 Blossom Avenue (Parcel K-11-01-236-053) with the following condition(s):

- The fence shall be brought into compliance with Sections 1202 and 1305.

Mr. Wilson stated that due to the exceptional and extraordinary circumstances laid out in the staff report that the property has, he is moving to approve.

The **MOTION** was **SECONDED** by Mr. Burnett and **PASSED** by unanimous consent.

v. **OPEN DISCUSSION FOR ISSUES NOT ON THE AGENDA**

a. **Planning Department report:** Mr. Iacoangeli informed the Board that they have received an application for October for a variance for a new home construction on a parcel that is zoned multiple family. There is time left for people to submit applications for the October meeting.

b. **Correspondence received:** None

c. **Zoning Board of Appeals members:** None

d. **Members of the audience and public:** None

vi. **OTHER BUSINESS**

None

vii. **ADJOURNMENT**

MOTION: Ms. Kraycir **MOVED** to adjourn at 7:30 pm. The **MOTION** was **SECONDED** by Mr. Wilson and **PASSED** by unanimous consent.

Respectfully Submitted by: Minutes Services

CHARTER TOWNSHIP OF YPSILANTI
ZONING BOARD OF APPEALS
7200 S. Huron River Drive, Ypsilanti, MI 48197

Zoning Board of Appeals
Staff Report

October 5, 2022

RE: ZBA 2022-0008 at 966 N Prospect (K-11-03-261-005)

Applicant:

Habitat for Humanity of Huron Valley
950 Victors Way Suite 50
Ann Arbor MI 48108

Variance Request:

Request for variance to the setback requirements of Section 407 of the township zoning ordinance for construction of a new single-family dwelling.

Location and Summary of Request:

The subject site is a 0.138-acre parcel, platted in 1927 in the Golden Rule Subdivision, and is zoned residential multiple-family low density (RM-LD). The site was previously improved with a single family dwelling that was demolished in 2022 in order to construct a new single family dwelling. Single-family dwellings abut the subject site in all directions; the parcels to the west are zoned R-4, one-family residential, while the parcels to the north, east, and south are zoned RM-LD.

While this site is zoned RM-LD, a detached single-family dwelling is a permitted use in the district. However, the setback requirements for RM-LD do not contemplate single-family construction and the Zoning Ordinance does not allow for reduced setbacks for single-family residential construction without variance approval. The applicant has submitted plans for construction of a single family dwelling that would meet the setback standards for R-5, one-family residential, the zoning district most applicable to the neighborhood.

	Required		Proposed
	RM-LD	R-5	
West front	30 feet	20 feet	22 feet
East rear	30 feet	35 feet	52 feet
North side	30 feet least/60 total	5 feet least/16 total	19 feet
South side	30 feet least/60 total	5 feet least/16 total	8 feet

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Cross References:

Township Zoning Ordinance – Section 407 (Residential multiple family low density)
Township Zoning Ordinance – Article XVII (Board of Zoning Appeals)

Analysis:

The Zoning Board of Appeals may grant a dimensional or non-use variance only upon a finding that compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, density, or other dimensional provisions would create a practical difficulty and unreasonably present the use of the property. A finding of practical difficulty shall require demonstration that all of the following conditions are met:

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- 1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties or classes of uses in the same zoning district.**

The site is zoned for single-family dwelling uses but the setback standards do not contemplate single-family uses on a typically sized platted lot such as this. Application of the RM-LD zoning setback requirements render this site unbuildable for permitted single-family residential uses. Therefore, staff finds that there is an exceptional or extraordinary circumstance applying to this property.

- 2. That a variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity.**

Adjacent parcels in both the RM-LD and R-5 districts are zoned and developed for single-family residential use, with setbacks similar to the building envelope shown on the submitted plans dated August 29, 2022. Constructing a new dwelling with setbacks comparable to adjacent properties will preserve a substantial property right possessed by other properties in the same zoning district because the district does allow for single-family residential uses. This property cannot be used for single-family residential uses without relief from the setback requirements.

- 3. That the authorizing of such variance will not be a substantial detriment to adjacent property, will not be harmful to or alter the essential character of the area, and will not materially impair the purposes of this Ordinance or the public interest.**

As previously stated, this site is zoned to permit single-family residential. Adjacent properties in all directions are developed with single-family dwellings and variance relief for this property to allow a dwelling to be built within the building envelope shown on the submitted plot plan will not be harmful to or alter the essential character of the area.

- 4. The property and resulting need for the variance has not been self-created by any action of the applicant or the applicant's predecessors.**

The need for the variance is not a self-created practical difficulty. The site was platted in the Golden Rule Subdivision in 1924. In 1949, with the adoption of the first zoning map, this subdivision was zoned for two-family residential. From 1949 to present, every adopted zoning map shows this subdivision zoned in a multi-family residential district.

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5. The proposed variance will be the minimum necessary and no variance shall be granted where a different solution not requiring a variance would be possible.

A single-family dwelling could be constructed on this lot that complies with the required 30-foot front and rear yard setbacks. The proposed 22-foot front yard setback is similar to the front yard setback of the three dwellings to the north. However, the lot is only 51 feet wide and the RM-LD side yard setback requirement is a total of 60 feet.

This site is zoned for single-family residential use but cannot be used for such without variance relief.

Suggested motions: The following suggested motions and conditions are provided to assist the Zoning Board of Appeals in making a complete and appropriate motion for this application. The ZBA may utilize, add or reject any portion of the suggested motion or any conditions suggested herein, as deemed appropriate.

Table:

I move to table the variance request at 966 N Prospect to the setback requirements of Section 407 of the township zoning ordinance for construction of a new single-family dwelling.

Approve:

I move to approve the variance request at 966 N Prospect to the setback requirements of Section 407 of the township zoning ordinance for construction of a new single-family dwelling within the building envelope as shown on the plot plan dated August 29, 2022 (*ZBA state reasons for approval*).

Conditions:

1. Applicant shall adhere to the requirements of the R-5 One-Family Residential Zoning District.
2. Applicant shall obtain all Township and outside agency permits prior to construction.

Denial:

I move to deny the variance request at 966 N Prospect to the setback requirements of Section 407 of the township zoning ordinance for construction of a new single-family dwelling within the building envelope as shown on the plot plan dated August 29, 2022 (*ZBA state reasons for denial*).

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Respectfully Submitted,

Amy Steffens, AICP
Ypsilanti Township Planning and Development Coordinator

ZONING BOARD OF APPEALS APPLICATION

I. APPLICATION TYPE

- Variance
 Exceptions and Special Approvals (Includes: Temporary Uses and Structures)
 Administrative Review Appeal

II. PROJECT LOCATION

Address: 966 N Prospect Rd Parcel ID #: K-11-03-261-005 Zoning RM-LD
Lot Number: 5 Subdivision: Golden Rule

III. APPLICANT INFORMATION

Applicant: Habitat for Humanity of Huron Valley Phone: 734-882-2014
Address: 950 Victors Way, Suite 50 City: Ann Arbor State: MI Zip: 48108
Fax: 734-677-1572 Email: LAUREN@H4H.ORG
Property Owner: Habitat for Humanity of Huron Valley Phone: 734-677-1558
Address: 950 Victors Way, Suite 50 City: Ann Arbor State: MI Zip: 48108
Fax: 734-677-1572 Email: LAUREN@H4H.ORG

IV. COST AND FEES

Total: \$ 125.00

Breakdown of fee:	Residential:	\$ 125.00
	Non-residential:	\$ 500.00

V. APPLICANT SIGNATURE

The undersigned Alex Lindsay Applicant represents Habitat for Humanity of Huron Valley Property Owner:

- That Habitat for Humanity of Huron Valley Property Owner is/are the owner(s) of lot(s) 5 Lot located in the Golden Rule Subdivision Subdivision, Ypsilanti Township, Michigan, otherwise known as 966 N Prospect Rd Address and the property is zoned RM-LD Zoning District
- That the petitioner hereby request Variance under Section 407 Article 4 of the Ypsilanti Township Zoning Ordinance.
Variance/Temporary Use /Regular Meeting
- The petitioner further state that AL Applicant Initial have/has read and understands the provisions of said zoning ordinance as it applies to this petition.
- That the following is submitted in support of the petition (attach all pertinent data to support the request).

Alex Lindsay Applicant Signature Alex Lindsay Print Name 09/06/22 Date

