A special electronic meeting of the Grand Haven Zoning Board of Appeals was called to order by Chair Jerry Klukos at 7:02 p.m. via Zoom. Chair Klukos stated that the meeting was being held electronically due to the coronavirus pandemic. On roll call, the following members were:

Present: Eric Brenberger, Amy Kozanecki, Field Reichardt, Melanie Riekels, Chair Jerry Klukos.

Absent: Kevin McLaughlin, Mischelle Julien

Each board member stated their location (City and State) for the record. All members in attendance were located in Grand Haven, MI.

Also present was Jennifer Howland, Community Development Manager, Pat McGinnis, City Manager and Ashley Latsch, Assistant to the City Manager.

Call to Audience – First Opportunity
No comments

Approval of Minutes
Motion by Kozanecki, seconded by Reichardt to approve the October 21, 2020 minutes passed unanimously by roll call vote, with Brenberger abstaining because he was not present at the October 21, 2020 meeting.

CASE 20-13: A request by Chris D. & Deedrai M. Slater (19489 North Shore Drive, parcel #70-03-19-226-016), Frank & Janet Freund (19503 North Shore Drive, parcel #70-03-19-226-017), and Mary C. Lee Trust (19517 North Shore Drive, parcel #70-03-19-226-018) for one (1) variance to the Grand Haven Zoning Ordinance related to the proposed installation of geo-tubes in the Beach Overlay District:

1. A variance from Section 40-423.03, shoreline protection measures. The requested variance is to allow for the installation of geo-tubes along the waterfront within the Beach Overlay District, where such arming of the shoreline is prohibited.

Chair Klukos introduced the case. Scott Timmer representing the applicants. He noted that 15 previous properties have received this same variance. Chair Klukos asked if any board members had questions. Reichardt asked if he received an EGLE permit yet. Timmer said that Jordan Dykstra has been working on that. He believes EGLE has been slow in responding, likely due to the high number of requests in the State and COVID delays; they haven’t denied any requests to date. Reichardt asked if any sandbags had been installed without EGLE permits. Timmer said he didn’t know. Howland said that she has not issued any land use permits, and she won’t without proof of EGLE permits.
Riekels asked if we could consider all conditions as one, if we refer to the past minutes. Klukos said that was his preference. Brenberger informed the board members that he has been watching the past meetings and read the minutes, so he is comfortable with this case.

Chair Klukos opened the public hearing for the case.

**Public Comment:**
None.

**Correspondence:**
None.

Motion by Kozanecki, seconded by Riekels, to close the public hearing was carried unanimously by roll call vote.

Motion by Reichardt to approve Case 20-13 because it met all 7 Basic Conditions, and subject to the five (5) conditions listed below:

1. The geotubes must be dismantled immediately when lake levels go down.
2. This is not the first step towards permanent armament of the shoreline.
3. The applicants must comply with the plans as submitted to the Zoning Board of Appeals.
4. The applicants must comply with conditions of USACE and EGLE.
5. The applicants must comply with representations made during the meeting as recorded in the minutes.

Riekels seconded the motion. The motion passed unanimously on roll call vote. The variance was granted.

**CASE 20-14:** A request by Conor and Kelly Dunstan of 533 Butler Street, Grand Haven, MI 49417 for one (1) variance to the Grand Haven Zoning Ordinance related to a pergola constructed in their north side yard at their home at 533 Butler Street (parcel #70-03-29-203-012):

1. A variance from Section 40-404.02.C, Site and building placement standards in the Moderate Density Residential District. The requested variance is to allow for a pergola attached to the house to have a side yard setback of three (3) feet where six (6) feet is required.

Chair Klukos introduced the case.

Conor Dunstan, 533 Butler Street, apologized for not obtaining a permit for the pergola. They have an established paver patio in the backyard. The pergola is 3 feet from the side property line and there is one attachment to the house. He would like to not tear it down because it is an established existing structure. Several neighbors have said they don't mind it.

Kozanecki asked when the fence was installed. Dunstan said it is over 7 years old. He said it was installed 6 inches off of the property line. The pergola is 3 feet plus some inches away from the property line.
Jerry Witherell, 527 Butler Street, has lived there since 2010 and his family lived there for many years prior. He believes it is a very attractive and well-built pergola.

Riekels asked for clarification on the setback. Kelly Dunstan said that the pergola is 3 feet from the property line. The fence is approximately 6 inches from the property line, so the pergola is approximately 3 feet, 6 inches from the property line.

Chair Klukos opened the public hearing for the case.

Public Comment:
None.

Correspondence:
None.

Motion by Reichardt, seconded by Kozanecki, to close the public portion of the case was carried unanimously by roll call vote.

The board considered the seven basic conditions.

A. Reichardt doesn’t see a problem with it; Kozanecki and Riekels agreed. Motion by Reichardt, seconded by Riekels, to approve Basic Condition A passed on the following roll call vote: Ayes: Reichardt, Kozanecki, Riekels, Klukos. Nays: Brenberger.

B. Board members had no issues with this condition, as the single-family use is permitted by right. Motion by Riekels, seconded by Kozanecki to approve Basic Condition B passed unanimously on roll call vote.

C. Reichardt said if it were a building, it would be a problem, but it is just a pergola and it looks nice. Kozanecki said the concrete is there and it just sticks above the fence, so it is fine. Brenberger asked if approving this would create a new setback for the property. Howland said to include the dimensions in the motion to approve to ensure that doesn’t happen. Riekels had no issues with the condition. Klukos said it has no substantial adverse effect on neighboring properties. Motion by Kozanecki, seconded by Reichardt, to approve Basic Condition C failed on the following roll call vote: Ayes: Kozanecki, Reichardt, Klukos. Nays: Brenberger. Riekels didn’t vote because she left the meeting temporarily due to connection issues.

D. All members said that this condition was met. Motion by Riekels, seconded by Kozanecki, to approve Basic Condition D passed unanimously on roll call vote.

E. Reichardt said the property is not self-created, but the pergola is self-created. Kozanecki said she is good with this. Riekels said it is self-created. Brenberger said it is self-created, whether it was built already or not. Klukos said it is self-created. They built it too close. Motion by Reichardt, seconded by Kozanecki, to approve Basic Condition E failed on the following roll call vote: Ayes: Kozanecki, Reichardt, Riekels. Nays: Brenberger, Klukos.

F. Reichardt said there is space to build it in the backyard where the setback wasn’t an issue. Brenberger agrees. Kozanecki said they covered an existing patio. If you move the pergola, you have to move the patio. Riekels said that the patio
could be extended and then the setbacks could have been met with a pergola in a different location. Klukos reviewed staff’s comments in the memo regarding the owner’s intent to cover the existing patio that is accessed from an existing door. Kozanecki would feel differently if they put the patio in at the same time as the pergola. Howland clarified that the at-grade patio conforms because there is no required side yard setback for an at-grade patio. There was discussion about reducing the size of the pergola. Reichardt said that comments persuaded him to change his mind. Motion by Riekel, seconded by Kozanecki, to approve Basic Condition F failed on the following roll call vote: Ayes: Kozanecki, Reichardt. Nays: Brenberger, Riekel, Klukos.

G. Riekel said it is not the minimum variance. Brenberger said the patio is not the issue. The pergola can be changed. Reichardt said it is not a building; it is not something that will affect things. Kozanecki is comfortable with the condition. Klukos said it is not the minimum. They could have avoided this if they had gone through the proper channels and gotten a permit. Motion by Riekel, seconded by Kozanecki, to approve Basic Condition G failed on the following roll call vote: Ayes: Kozanecki, Reichardt. Nays: Riekel, Brenberger, Klukos.

Howland explained that Condition C only had 3 affirmative votes because Riekel dropped off the meeting and therefore didn’t vote. It appeared that based on her earlier comments before she left the meeting that she would have likely voted in favor of Condition C. She rejoined the meeting for the rest of the discussion (conditions D-G).

Motion by Riekel, seconded by Brenberger, to DENY the requested variance because E, F and G failed, failed on the following roll call vote: Ayes: Riekel, Brenberger, Klukos. Nays: Reichardt, Kozanecki. The motion failed.

Reichardt asked to table the vote because two members were missing. It was determined that it was too late to do so.

Motion by Klukos, seconded by Riekel, to APPROVE the requested variance, failed on the following roll call vote: Ayes: Kozanecki, Reichardt. Nays: Brenberger, Riekel, Klukos. The motion failed; therefore, the variance was denied.

**CASE 20-15:** A request by Maverick Grimes of 16401 Comstock Street, Grand Haven, MI 49417 for one (1) variance to the Grand Haven Zoning Ordinance related to his existing home at 16401 Comstock Street (parcel #70-03-34-261-009):

1. A variance from Section 40-606.A.2, Driveways serving a one-family dwelling. The requested variance is to allow for two disconnected curb cuts off of a planned new public street to the west of the subject property in exchange for removal of the existing curb cut and driveway off of Comstock Street.

Chair Klukos introduced the case.

Marilyn Crowley with Michigan Community Capital, 507 S Grand, Lansing MI 48933 is the developer proposing the residential development. MCC has a purchase agreement with the City of Grand Haven to develop the property to the north of Mr. Grimes’ home. A public road will be built next to the subject property. Grimes currently uses the City’s land
to access the carport. The developer wants to be a good neighbor and work with Grimes to alter the driveway configuration. In order to eliminate openings to Comstock Street and avoid conflicts with the new public street, they are proposing to eliminate the existing driveway and provide a driveway to the garage and to the pole barn. This development is spurring the reconfiguration of access to his property, and they feel it will be safer.

Chair Klukos opened the public hearing for the case.

Jeanie Grimes, 16401 Comstock Street has nothing more to add. Bruce Callen, Callen Engineering. The carport is for their specialized van that cannot fit in their garage because it is too tall. To cut off his access to that carport is a true hardship.

**Public Comment:**
Facebook: Jean Constantine, 307 S 4th St, Grand Haven asked if the curb cut to access single-family residences? Is applicant meeting curb cut spacing requirements? Howland said that curb cut spacing on Comstock will be reviewed by City staff and the Planning Commission, but that the narrow frontage of the property limits how much the public street can shift.

**Correspondence:**
None.

Motion by Kozanecki, seconded by Brenberger, to close the public portion of the case was carried unanimously by roll call vote.

The board considered the seven basic conditions.

A. Riekels said the purpose of the ordinance is to not have two curb cuts, but she asked if the van was for a disability. She doesn’t have a problem with this, given the zoning ordinance doesn’t account for handicap access in this way. Kozanecki said the proposed design is safer. Klukos said it is not against the intent and purpose of the ordinance due to the van access. Motion by Brenberger, seconded by Kozanecki, to approve Basic Condition A passed unanimously on roll call vote.

B. Board members had no issues with this condition, as the use is permitted by right. Motion by Riekels, seconded by Brenberger to approve Basic Condition B passed unanimously on roll call vote.

C. All members agreed that this is an improvement. Motion by Reichardt, seconded by Riekels, to approve Basic Condition C passed unanimously on roll call vote.

D. Reichardt said that it is a positive improvement. Brenberger and Kozanecki said the property is very unique. Klukos said it is very unique. They were existing access points, and the proposed road makes it not general or recurrent. It demands something different. Motion by Riekels, seconded by Kozanecki, to approve Basic Condition D passed unanimously on roll call vote.

E. Reichardt said the conditions are being created by the proposed development. It is not self-created. All members agreed. Motion by
Riekels, seconded by Reichardt, to approve Basic Condition E passed unanimously on roll call vote.

F. Brenberger doesn’t believe that the driveways can be placed anywhere else; there are no alternative locations. Riekels said the proposed locations are better than existing. Reichardt said it removes a curb cut from a busy road. Kozanecki said it is a safety improvement. Klukos said the structures are already on the property. Curb cuts placed elsewhere wouldn’t accomplish anything. Motion by Kozanecki, seconded by Riekels, to approve Basic Condition F passed unanimously on roll call vote.

G. Kozanecki said it meets this condition because it gives access to existing structures. All members agreed it was the minimum request. Motion by Kozanecki, seconded by Riekels, to approve Basic Condition G passed unanimously on roll call vote.

Motion by Reichardt, seconded by Riekels, to APPROVE the requested variance because all 7 conditions have been met, passed unanimously on roll call vote. The variance was granted.

Reichardt thanked Ms. Crowley for bringing attainable housing to Grand Haven; it is much needed and she is welcome to the community.

Call to the Audience – Second Opportunity
Jean Constantine, 307 S 4th Street, Grand Haven thanked everyone for the thoughtfulness the ZBA brings to the care of the community. Jeanie Grimes thanked the ZBA on behalf of Mavrick and herself. Reichardt welcomed Eric to the ZBA. Eric previously served for a total of 10 years on the Planning Commission and Zoning Board of Appeals.

Adjournment:
Motion by Riekels, seconded by Kozanecki, to adjourn was unanimously approved by roll call vote. The meeting adjourned at 8:44 p.m.

Jennifer Howland, Community Development Manager