GAINES CHARTER TOWNSHIP
KENT COUNTY, MICHIGAN
(ORDINANCE NO. 2020-06)

At a regular meeting meeting of the Township Board for Gaines Charter Township held at the Township offices on September 14, 2020, beginning at 7:00 p.m., the following Ordinance was offered for adoption by Township Board Member Haagsma, and was seconded by Township Board Member VanderStel:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF GAINES CHARTER TOWNSHIP TO REGULATE PRIVATE STREETS, SHARED DRIVEWAYS, AND PRIVATE DRIVEWAYS.

THE CHARTER TOWNSHIP OF GAINES (the "Township") ORDAINS:

Section 1. Chapter 4. Chapter 4 of the Gaines Charter Township Zoning Ordinance is amended to include a revised Section 4.2 F, and it shall read in its entirety as follows:

F. All parcels or lots must have a minimum frontage of twenty-five (25) feet on an existing public road, private street, or shared driveway, or on an approved private street or shared driveway easement that meets the requirements of Chapter 22.

Section 2. Chapter 4. Chapter 4 of the Gaines Charter Township Zoning Ordinance is amended to strike Section 4.7 in its entirety.

Section 3. Chapter 22. Chapter 22 of the Gaines Charter Township Zoning Ordinance is amended and retitled as "Private Streets and Driveways" and shall read in its entirety as follows:

Chapter 22

Private Streets and Driveways

Section 22.1. Intent and Applicability

A. Intent. This Chapter intends to ensure that newly-created parcels, lots, and condominium units have safe and efficient year-round permanent vehicle access and utilities to protect the health, safety, and welfare of the public. Safe conditions are preserved by ensuring that private streets and driveways are constructed and maintained to support year-round traffic and also emergency vehicles, including but not limited to fire, police, ambulance, delivery, and utility service vehicles. The procedures, standards, and specifications established in this Chapter are provided to ensure fair and consistent application to meet this intent.

B. General Requirements.

1. No private street or shared driveway shall be constructed, extended, used, or upgraded unless approved in accordance with this Chapter.
2. Land Divisions to be Served by Private Streets and Shared Driveways.
    a. Compliance with the easement requirements of this Chapter will allow applicants to satisfy the accessibility requirements of the Michigan Land Division Act (Act 288 of 1967, as amended) and the frontage requirements of Section 4.2 F of this Ordinance for land divisions.
    b. A land division involving a private street or shared driveway to satisfy frontage and access requirements shall not be approved without prior Township approval of an easement and a private street or shared driveway in accordance with this Chapter.
    c. Building permits may be issued for structures on parcels accessed by private streets or shared driveways resulting from land division approvals; however, a private street or shared driveway shall be constructed and closed-out in accordance with Section 22.8 D prior to the issuance of a certificate of occupancy for any building or structure on the parcel accessed by a private street or shared driveway.
3. Platted Subdivisions and Condominiums to be Served by Private Streets and Shared Driveways.
    a. Compliance with this Chapter will allow applicants to satisfy the frontage requirements of Section 4.2 F of this Ordinance for platted subdivisions and condominium developments.
    b. A final plat, final site condominium plan, or final condominium project plan involving a private street or shared driveway for access shall not be approved without Township approval, construction, and close-out of a private street or shared driveway in accordance with Section 22.8 D.
4. A private driveway must also be approved and installed in accordance with this Chapter prior to the issuance of a certificate of occupancy for a new dwelling by the Building Official.

Section 22.2. Nonconforming Private Streets and Shared Driveways

A. Continuation of Use. All lawfully existing parcels, lots, and units that are accessed by existing lawful nonconforming private streets and shared driveways may continue to be accessed by the nonconforming private street or shared driveway.

B. Normal Maintenance. The requirements of this Chapter do not prohibit the normal maintenance of nonconforming private streets and shared driveways.

C. Serving Undeveloped Property. Construction of a building on an existing lawful parcel, lot, or condominium unit which fronts on an existing lawful nonconforming private street or shared driveway is permitted, so long as the surface condition of the street or driveway is determined by the Zoning Administrator to be freely passable for normal traffic and emergency service vehicles year-round.

D. Extension. A lawful nonconforming private street or shared driveway may only be extended in length or have one or more new lots, parcels or units added to it under any one of the following two situations:

1. The entire length of the private street or shared driveway is upgraded to comply with all of the current requirements of this Chapter; or
2. The extension is part of a phased PUD project which received preliminary Township approvals (including for the private road or shared driveway modification), and future phases shall reflect approved preliminary designs.

E. Serving Additional Properties without an Extension. An existing lawful nonconforming private street or shared driveway may serve two (2) additional parcels, lots, or units without the need to upgrade the entire length and surface area of the private road or shared driveway to comply with the requirements of this Chapter, as long as:

1. It is not extended in length;
2. The traveled surface and condition of the street or driveway are determined to be freely passable year-round for general traffic and emergency vehicles and is approved by the Zoning Administrator, after consultation with the Township Engineer, Building Official, and Fire Official; and
3. An easement maintenance agreement is approved by the Township and is recorded or amended in full compliance with Section 22.9 of this Chapter.

The Zoning Administrator may attach reasonable conditions to the approval.

Section 22.3 Permits and Approvals

A. Application and Fee. Unless reviewed in conjunction with a platted subdivision, site condominium plan, or condominium project plan, a request for approval of a private street or shared driveway shall be submitted by an applicant to the Township, along with all required materials and a fee or fees as set by the Township Board. A private driveway is reviewed in conjunction with a building permit application for the building for which the driveway is proposed to serve.

B. Private Driveway Approval.

1. Private driveways serve a single parcel, lot, or condominium unit (and are located entirely within the lot, parcel or unit served) and cannot be used to meet street frontage requirements.
2. Private driveways are approved by the Building Official as part of the building permit process.

C. Shared Driveway Approval.

1. Shared driveways may serve up to four (4) parcels, lots, or condominium units and can be used to meet street frontage requirements.
2. Shared driveways are approved by the Zoning Administrator if serving a non-PUD land division reviewed under the Gaines Charter Township Land Division Ordinance and the Michigan Land Division Act.

3. Shared driveways are approved by the Township Board if serving a platted subdivision, site condominium plan, condominium project plan, or PUD. The Zoning Administrator and Planning Commission shall provide a recommendation to the Township Board based on a technical review pursuant to the requirements of this Chapter.

D. Private Street Approval.

1. Private streets serve five (5) or more parcels, lots, or condominium units and can be used to meet street frontage requirements.
2. Private streets are approved as a special land use by the Planning Commission if serving a non-PUD land division reviewed under the Gaines Charter Township Land Division Ordinance and the Michigan Land Division Act or a commercial development concurrently during the site plan review process. The Zoning Administrator shall provide a recommendation to the Planning Commission based on a technical review pursuant to the requirements of this Chapter.
3. Private streets are approved by the Township Board if serving a platted subdivision, site condominium plan, condominium project plan, or PUD. The Zoning Administrator and Planning Commission shall provide a recommendation to the Township Board based on a technical review pursuant to the requirements of this Chapter.

E. Completeness Review. If an application is determined to be incomplete by the Zoning Administrator, the applicant will be informed in writing, and the review process will cease until the application is determined to be complete.

F. Interdepartmental Review. As a part of the review process, the Zoning Administrator, Planning Commission, and Township Board, as applicable, shall consult with the Township Engineer, Fire Official, Township Attorney, and Building Official as deemed necessary.

G. Modifications and Waivers. The Township Board shall review and act upon all requests for modifications and waivers to the requirements of this Chapter. The Zoning Administrator and Planning Commission shall provide a recommendation to the Township Board based on a technical review in accordance with the standards of Section 22.10. The Township Board shall not waive or lessened any of the requirements under this Chapter for a private street or shared driveway unless the standards in subsection 22.10 D hereof are met.

H. Conditions of Approval. The Township Board or Planning Commission may require reasonable conditions of approval pertaining to the ultimate design, layout, composition, and function of a private street.

I. Conflict with Planned Public Road Extensions. Approval from both the Township Board and the Kent County Road Commission is required prior to the approval and construction of any private street or shared driveway that could affect or preclude the extension of any existing public road or utility or any planned public road or utility as represented on any transportation or utility plan officially adopted or approved by the Township.

Section 22.4 General Requirements

A. Fire Department Inspections. All private streets, shared driveways, and private driveways approved in accordance with this Chapter are subject to periodic inspection by the Fire Department having jurisdiction to ensure that surfaces and conditions are fully maintained in conformance with this Chapter.

B. Gates. All gates blocking access to buildings or a private street or shared driveway must have an access code given by the Fire Department and be equipped with a keyed switch that will keep the gate open. The keyed switch must use a Knox Box Key, with the Fire Department having all applicable current keys.

C. Street Name Signage; Stop Signs. Signage naming the private street or shared driveway meeting Kent County Road Commission standards shall be installed and maintained at all times where a private street or shared driveway intersects with any public road. Also, a stop sign shall be installed and maintained at all times where a private street or shared driveway meets a public road.

D. Addressing and Signage.

1. Address numbering shall be based on the private street or shared driveway and not the public road. Addressing shall be approved by the Kent County Road Commission.

2. Principal buildings shall display an address number in a manner so that the number is readily visible from the private street or shared driveway. Principal buildings served by a private driveway extending from a public road shall display an address number in a manner so that the number is readily visible from the public road. In all cases, address numbers shall be a minimum of three (3) inches in height.

E. Entrance Location and Design. The spacing, geometric design, and surface requirements for all private street, shared driveway, and private driveway entrances within the public right-of-way are subject to the current "Rules to Regulate Work Driveways, Banners and Parades Upon and Over Public Highways," as amended, as adopted by the Kent County Road Commission (KCRC).

Section 22.5 Private Driveways for One Parcel, Lot, or Condominium Unit

A. Submittal Requirements. A driveway sketch prepared to scale shall be provided to the Township to demonstrate compliance with the requirements of this Chapter, in addition to a driveway permit containing an approved street address issued by the Kent County Road Commission, as applicable.

B. Construction Requirements.

1. Surface Material. The driveway must support sustained vehicle use and allow for easy all-weather emergency vehicle access.

2. Minimum Surface Width. 12 feet if exceeding 250 feet of length, and 10 feet if less, excluding shoulders.

3. Turn-Outs. If the surface width of the driveway is less than 20 feet, tapered turn-outs at a ratio of one (1) per 300 feet shall be provided. Turn-outs (travel plus bypass lanes) shall be no less than 20 feet wide by 40 feet long (excluding tapers). Driveway throats and intersections may satisfy turn-out requirements if properly spaced and sized.

4. Turn-Arounds. An improved area having dimensions adequate for maneuvering and also the turn-around of firefighting apparatus shall be available in a location acceptable to the Fire Official.
5. Maximum Grades.
    a. Six (6) percent, provided that for short lengths and limited frequency, grades of up to 10 percent may be approved by the Building and Fire officials in consultation with the Township Engineer.
    b. Four (4) percent within 30 feet of the intersection of the driveway with a street right-of-way or easement.
6. Minimum Clearance.
    a. 14 feet of vertical clearance.
    b. 15 feet of horizontal clearance, except where turn-outs require a greater width.
7. Cross-Section. The private driveway shall be crowned and/or sloped to facilitate drainage.
8. Drainage and Soil Erosion. Roadside swales or ditches shall be designed to comply with the requirements of Chapter 40, Art. III of the Gaines Charter Township Code of Ordinances and State of Michigan environmental regulations, as applicable. Excavation, grading, and restoration must all comply with Kent County soil erosion permitting requirements.
9. Minimum Curve and Turn Radius. Curves on driveways must be traversable by fire equipment to a point within 150 feet of a structure.

Section 22.6 Shared Driveways

A. General Requirements.
    1. A shared driveway must have direct access to a public road.
    2. On a corner lot at the intersection of a public road and a shared driveway, a private driveway shall connect to the shared driveway, and the lot shall not have direct access onto the public road.
    3. Shared driveways shall not serve commercial properties.
B. Construction Requirements.
    1. Minimum Easement Width. 50 feet. All easements shall expressly provide for utilities and use by delivery and emergency public vehicles.
    2. Surface Material. Shared driveways shall be paved with at least two and a half (2.5) inches thick of hot mix asphalt (HMA) placed in two lifts. Concrete surface materials, a minimum of four (4) inches of thickness, may be used in the place of HMA.
    3. Sub-Surface Materials. Shared driveway HMA pavement shall be placed on a prepared sub-base consisting of a minimum of six (6) inches of gravel, compacted in place (CIP). Where poorly drained soils or unsuitable soils are encountered, additional sub-surface improvements shall be included in the shared driveway

design and construction and shall include a minimum of eight (8) inches of MDOT Class II sand, CIP. Unsuitable soils shall be removed beforehand in their entirety from beneath the influence of the paved surface. Shared driveway concrete pavement shall be placed on a prepared sub-base consisting of a minimum of four (4) inches of MDOT Class II sand, CIP.

4. Minimum Surface Width. Shared driveways shall have a hard-paved surface with a minimum width of at least 16 feet, and in addition, two (2) foot wide gravel shoulders shall be installed and maintained on both sides.

5. Cul-de-Sacs. Shared Driveways in excess of 500 feet in length shall provide a cul-de-sac at the end of the shared driveway with a paved surface and a minimum radius of 41.5 feet to allow emergency and other vehicles adequate room to turn around without backing up. Alternative designs may be approved by the Zoning Administrator in consultation with the Fire Department and the Township Engineer.

6. Maximum Grades. The maximum grade shall be six (6) percent. Up to 10 percent may be approved for short lengths if no feasible alternative design can be implemented. The Zoning Administrator may approve maximum grades in excess of six (6) percent in consultation with the Fire Department and the Township Engineer.

7. Minimum Clearance. A minimum of 15 feet horizontal distance shall be kept clear at all times of brush and trees measured from both edges of the hard-paved surface. A minimum of 14 feet of vertical clearance shall be maintained for the entire length of the shared driveway at all times.

8. Cross-Section. The shared driveway shall be crowned and/or sloped a minimum of two (2) percent to facilitate drainage. Inverted crowns will not be approved.

9. Drainage and Soil Erosion.

    a. Shared driveway drainage design shall comply with the Township's Stormwater Ordinance. Increases in stormwater run-off shall be mitigated when the total area of the impervious surface of the shared driveway exceeds one (1) acre. Existing drainage patterns shall not be altered or changed. Cross culverts shall be provided where necessary to maintain the existing drainage patterns and shall be a minimum of 12 inches in diameter. All culverts and storm sewer systems shall be designed by a licensed engineer to pass a 10-year design storm without surcharging. All culverts and storm sewers must be constructed with premium joints and with the structural strength to support a fire truck and shall be maintained in a good working and clear condition at all times.

    b. Excavation, grading, and restoration work must comply with Kent County soil erosion permitting requirements. All disturbed areas must be restored with a thick stand of grass.

10. Minimum Curve and Turn Radius. Horizontal curves shall have a minimum 150-foot centerline radius.

11. All shared driveways shall be maintained in good condition and repair at all times and shall be regularly cleared of snow.

Section 22.7 Private Streets

A. General Requirements.

1. A private street must have direct access to a public road or be an approved extension of an existing private street. All primary access points must meet the minimum construction standards of this Section and Chapter. The design shall consider traffic safety and accessibility in emergencies and evenly distribute traffic within developments and onto public roads. The following thresholds shall apply to ensure adequate emergency access and efficient traffic circulation:

   a. Where more than 30 parcels, lots, condominium units, or dwellings are to be located on a private street or private street system, two or more full and primary access points to the public road system shall be required. These may be in addition to a requirement for separate emergency access.

   b. Single access road intersections where motor vehicle trips are expected to exceed 600 per day will be discouraged.

   c. No private road shall extend more than 2,000 feet without an intervening direct access point onto a public road.

   d. In any case, the Fire Department may require a separate emergency vehicle access road.

2. On a corner lot at the intersection of a public and private street, a private driveway shall connect to the private street, and the lot shall not have direct access onto the public road.

B. Construction Requirements.

1. Minimum Easement Width and Utilities:

   a. 66 feet for a residential private street.

   b. 86 feet for a commercial private street.

   c. All easements shall expressly provide for utilities and use by delivery and emergency public vehicles.

2. Surface Material. Residential and commercial private streets shall be designed and constructed in conformance with the current edition of the Kent County Road Commission *Requirements and Specifications for Plat Development; as amended*, for public roads as applicable.

3. Minimum Surface Width.

   a. Residential private street. The paved surface of a residential private street shall be a minimum of 26 feet in width.

   b. Commercial private street. The paved surface of a commercial private street shall be a minimum of 30 feet in width.

4. Cul-De-Sacs.

    a. Residential private street. All residential private streets shall terminate at an intersection, or they shall terminate at a cul-de-sac with a paved surface and a minimum radius of at least 41.5 feet to allow emergency and other vehicles room to turn around without backing up. The design for all residential private street cul-de-sacs shall conform with the requirements of the current edition of the Kent County Road Commission *Requirements and Specifications for Plat Development, as amended*, for public roads.

    b. Commercial private street. All commercial private streets shall terminate at an intersection, or they shall terminate at a cul-de-sac with a paved surface and a minimum radius of 51 feet to allow emergency and other vehicles room to turn around without backing up. The design for all commercial private street cul-de-sacs shall conform with the requirements of the current edition of the Kent County Road Commission *Requirements and Specifications for Plat Development, as amended*, for public roads.

5. Maximum Grades. For residential and commercial private streets, the maximum grade shall be six (6) percent. Up to 10 percent may be approved for short lengths if no feasible alternative design can be implemented. The Township Board may approve maximum grades in excess of six (6) percent in consultation with the Fire Department and the Township Engineer.

6. Minimum Clearance.

    a. Residential private street. A minimum of 15 feet of horizontal distance shall be kept clear at all times of brush and trees from both edges of the hard-paved surface. A minimum of 14 feet of vertical clearance shall be maintained at all times for the entire length of the private residential street at all times.

    b. Commercial private street. A minimum of 20 feet of horizontal distance shall be kept clear at all times of brush and trees from both edges of the hard-paved surface. A minimum of 14 feet of vertical clearance shall be maintained at all times for the entire length of the private residential street at all times.

7. Cross-Section. Residential and commercial private streets shall be crowned and/or sloped a minimum of two (2) percent to facilitate drainage. Inverted crowns will not be approved.

8. Drainage and Soil Erosion.

    a. Residential and commercial private street drainage design shall comply with the Township's Stormwater Ordinance. Existing drainage patterns shall not be altered or changed. Cross culverts shall be provided where necessary to maintain the existing drainage patterns and shall be a minimum of 12 inches in diameter. All culverts and storm sewer systems shall be designed by a licensed engineer to pass a 10-year design storm without surcharging. All culverts and storm sewers must be constructed with premium joints and with the structural strength to support a fire truck, and shall be maintained in good working condition at all times.

b. Excavation, grading, and restoration must comply with Kent County soil erosion permitting requirements. All disturbed areas must be promptly restored with a thick stand of grass.

9. Minimum Curve and Turn Radius. For residential and commercial private streets, horizontal curves shall have a minimum 225-foot centerline radius for private street design speed of 25 mph. If a private street is designed with a speed in excess of 25 mph, the horizontal curve will be reviewed based on the design speed to maintain minimum safe sight and stopping distances based on current AASHTO standards. Vertical curves shall be designed to provide the minimum stopping sight distance as per current AASHTO standards.
10. Intersections. Residential and commercial private street intersections shall be designed and constructed in conformance with the requirements of the current edition of the Kent County Road Commission *Requirements and Specifications for Plat Development, as amended*, for public roads.
11. Private Streets shall be kept in reasonable repair and maintained at all times, and shall be regularly snowplowed during snow conditions.

Section 22.8 Procedures for Review and Approval

A. Shared Driveway and Private Street Submittal Requirements. An applicant shall submit all of the following information to the Township:

1. The name(s) of the owners and any others having a legal interest in the property involved.
2. The permanent parcel number and legal description of the property over which the private street or shared driveway is to be constructed and the legal description and drawing of the proposed easement/right-of-way within which the private street or shared driveway will be constructed.
3. A small-scale site location map showing the location of the parcel as well as all properties and roadways within one-half mile.
4. A scaled drawing showing the route; topographic elevations; dimensions, specifications, and design of the private street or shared driveway; the location and distance to any public road which the private street or shared driveway is to intersect; and buildings within 100 feet of the proposed private street or shared driveway.
5. A scaled drawing of not more than 60 feet to the inch illustrating all proposed parcels, lots, and condominium units to be served by or lying within 100 feet of the proposed private street or shared driveway.
6. A maintenance agreement, access easement agreement, and deed restrictions as described in Section 22.9.
7. Kent County Road Commission preliminary review comments or approval notice.
8. A statement from the Kent County Road Commission indicating there is no known duplication of the name of the proposed private street or shared driveway.

B. Plan Review and Construction Permitting.

1. Once approved by the Zoning Administrator, Planning Commission, or Township Board, and once the Township Engineer's comments and any other conditions of approval are satisfied, a construction permit may be issued by the Zoning Administrator. Two copies of plans shall be signed as approved by the Township official-one copy shall be kept by the applicant and one by the Township.
2. In the event that a private street or shared driveway is reviewed in conjunction with a platted subdivision, site condominium plan, or condominium project plan, a construction permit shall not be issued until such plans are approved by the Township Board.
3. Once issued, the construction permit is valid for a period of one (1) year. If substantial construction has not commenced within one (1) year of the date of issuance and an extension has not been granted by the Township for good cause prior to the expiration of one (1) year, a new permit shall be required.

C. Construction and Inspections.

1. The applicant shall give notice to the Township and the Township Engineer designating the start date of construction and the proposed schedule of construction.
2. The registered professional engineer that designed the private street or their qualified designee shall periodically inspect the construction progress. The minimum inspections shall include density testing, grade checks, and general observance of the placement of the private street materials and the final pavement materials, base materials, sub-base materials, sub-grade, and drainage improvements included in the design of the private street. The number and frequency of inspections shall comply with the standards established by the Kent County Road Commission for plat streets. A written record of all inspections shall be kept for the project.
3. The Township and/or the Township Engineer may periodically inspect the progress of construction of the private street.

D. Close-Out.

1. Upon completion of construction, the applicant shall provide to the Zoning Administrator a written statement from a registered professional engineer that the private street or shared driveway was built in full compliance with the approved construction plans. The registered professional engineer shall provide to the Township a copy of all inspection reports, all density testing reports, all grade check reports, and all material sources and certifications.
2. Documentation that the private street or shared driveway maintenance agreement, access easement, and any applicable deed restrictions as approved by the Township have been recorded with the Kent County Register of Deeds office shall be provided to the Township.

3. Upon final field inspection and receipt of all items required for final compliance, the Zoning Administrator shall issue a certification of project close-out for the private street or shared driveway involved.

Section 22.9 Maintenance Agreements

A. Maintenance Agreement. A recorded easement maintenance agreement or master deed is required to guarantee the perpetual private maintenance, upkeep, and snowplowing of a private street or shared driveway. These documents shall be approved by the Township and be recorded prior to the issuance of building permits for any parcel, lot, or condominium unit served by the private street or shared driveway, and shall contain all of the following provisions:

1. A method of initiating and financing the maintenance and snowplowing of the private street or shared driveway and other improvements within the easement so that they are kept in a passable and safe condition year-round.
2. Provisions apportioning the costs of maintenance and improvements as follows:
   a. Original Users. The method by which the original users will apportion the costs of construction, maintenance and improvements.
   b. Subsequent Users. The method for apportioning to subsequent users a proportionate share of the maintenance costs and costs of improvements, whether the subsequent users are a result of: (1) extension of the private street or shared driveway beyond its initial length, or (2) connection to another private street or shared driveway, or (3) division of property that is to be served by the private street or shared driveway.
3. A notice that if repairs and maintenance are not made, the Township Board may upgrade the private street or shared driveway to the design standards specified in this Chapter and assess all owners of property served by the private street or shared driveway for the improvements, plus an administrative fee in the amount of five (5) percent of the total cost of the improvements.
4. A notice that no public funds of the Township are to be used to build, repair, snowplow, or maintain the private street, shared driveway, or associated improvements.
5. A provision stating that the Township will be held harmless by the lot owners for any personal or property damage claims or liabilities arising from accidents occurring on or in connection with the private street or shared driveway.
6. Easements to the public for purposes of utilities, emergency, and other public vehicles for whatever public services are necessary.
7. A provision indicating that the owners of any and all of the property using the private street or shared driveway shall refrain from prohibiting, restricting, limiting, or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, utility personnel, delivery vehicles, invitees, tradesmen, and others bound to or returning from any of the properties having a right to use the private street or shared driveway.

8. Any other provision required by the Township Attorney.

B. Extension of Existing Shared Driveways and Private Streets. Prior to the extension of a private street or shared driveway which does not have a recorded legally enforceable or complete easement, master deed, and/or easement maintenance agreement conforming to this Section, the owners of all lots shall submit an easement and easement maintenance agreement or master deed (or amendments thereto) for review and approval by the Township.

C. Addition of Lot(s) to Existing Shared Driveways and Private Streets. The owner of any parcel, lot, or condominium unit added to a private street or shared driveway shall be responsible for its proportionate share of maintenance as required by an approved easement maintenance agreement or amendment thereto. If there is no approved easement or easement maintenance agreement, or if the addition of new parcels, lots, and condominium units is not addressed by an existing agreement, the new parcel, lot, or condominium unit shall not be created until and unless a new Township approved easement maintenance agreement is created, or the easement maintenance agreement is changed to acknowledge the addition of new parcels, lots, or condominium units.

D. Approval. Every new and amended easement maintenance agreement or master deed must be approved by the Township Attorney before execution and recording.

Section 22.10 Modifications and Waivers

A. Intent. It is the intent of this Section to allow for the consideration of modification and waivers in cases of exceptional site conditions or special conditions that make compliance with the Chapter extraordinarily difficult, as long as the flexibility is reasonable and the proposal complies with the intent of this Chapter.

B. Authority. The Township Board shall have the discretion to approve modifications and waivers to the requirements of this Chapter for a particular property.

C. Request. A written request for a modification or waiver shall be submitted to the Township with an application for a private street or shared driveway approval.

D. Standards of Approval. The following criteria shall be applied by the Township Board regarding a modification waiver:

1. Strict compliance with the requirement(s) would be unreasonable and unnecessarily burdensome because of prior construction; previously established easement arrangements; unique physical surroundings, shape, or topographical conditions of the property as distinguished from a mere inconvenience; or property dispute or economic hardship.

2. The modification or waiver may be granted without detriment to the public safety, health, or general welfare, or damage to any other property by way of the utilization of alternative design features.

3. The conditions upon which the request for a waiver or modification is based are unique to the property involved and not applicable generally to other properties or other private streets or shared driveways.

4. Approval of a waiver or variance will not otherwise result in a violation of any other Township ordinance, including the Zoning Ordinance, or of any other requirement of law.

Section 4. Chapter 28. Chapter 28 of the Gaines Charter Township Zoning Ordinance is amended to include the following definitions in alphabetical order:

Principal Building: A building which is the primary building on a lot, parcel, or condominium unit, or the building that constitutes, by reason of its use, the primary purpose for which the lot is used.

Private Driveway: An improved travel surface extending from a public road, private street, or shared driveway which provides vehicular ingress and egress to only one (1) improved parcel, lot, condominium unit, or principal building and which lies entirely (without restriction or other interest) within the property which is accessed. A private driveway does not involve an easement.

Private Street: A privately-owned and maintained street having more than one ownership or interest which provides the primary means of vehicular ingress and egress from a public road to five (5) or more parcels, lots, condominium units, or principal buildings. A private street utilizes a private access easement.

Shared Driveway: An improved travel surface extending from a public road or private street, which provides vehicular ingress and egress to no more than four (4) parcels, lots, condominium units, or principal buildings. A shared driveway utilizes a private access easement.

Surface, Private Street or Shared Driveway. The portion of a roadway designed, installed, and intended to sustain free-flowing vehicular traffic and excluding shoulders. For the purpose of determining roadway placement within a roadway easement (internal setback), the roadway surface includes shoulders and turn-outs.

Width, Private Street or Shared Driveway. The maintained width of the constructed surface (excluding shoulders).

Section 5. Effective Date. This Ordinance shall become effective seven (7) days after is publication (or a summary hereof) in a newspaper of general circulation within the Township.

The vote in favor of this Ordinance was as follows:

YEAS: Haagsma, Lemke, Osterink, Brew, DeWard

NAYS: Fryling

ABSENT/ABSTAIN: None

ORDINANCE DECLARED ADOPTED

CERTIFICATION

I hereby certify that the above is a true copy of an emergency Ordinance adopted by the Township Board for Gaines Charter Township at the time, date, and place specified above pursuant to the required statutory procedures.

Respectfully submitted,

By Michael Alex Brew
Michael Brew
Gaines Charter Township Clerk