

**CHARTER TOWNSHIP OF LYON
ZONING BOARD OF APPEALS
MEETING MINUTES
May 16, 2005**

Approved as submitted June 20, 2005.

DATE: May 16, 2005
TIME: 7:30 PM
PLACE: 58000 Grand River

Call to Order: Mr. Erwin called the meeting to order at 7:32 PM.

Roll Call: Present: William Erwin, Chairman
Michael Barber
Michael Hawkins
Troy Schilling, Trustee

Absent: Tony Raney

Also Present: Philip Seymour, Township Attorney
Chris Olson, Township Superintendent
Alexis Marcarello, Township Planner

Guests: 18

**1. APPROVAL OF MINUTES:
- Regular Meeting of April 18, 2005**

Mr. Barber made a motion to approve the minutes from the regular meeting of April 18, 2005 as written. Mr. Hawkins supported the motion.

Voice Vote: Ayes: All
Nays: None
Absent: Raney

Motion approved.

2. PUBLIC HEARINGS:

Christopher Rose, 26844 Dixboro Road

Sidwell 21-18-300-028. Applicant requests a variance of 8 feet in order to expand home.

Mr. Rose explained that he applied for a variance in order to expand his home since his family is expanding. He stated that he would like to construct an addition consisting of two bedrooms. He noted that the current home has only two bedrooms with three people living in the home. He stated that the expansion can only go to the north because the septic is on one side and the front setback is already at 37'. He stated that a private road has been constructed along the side property line, which now gives his property two front yards.

Mr. Erwin questioned if the private road is on this property. Mr. Rose responded that it is on his

Father's property, which is to the north of his house. There was discussion with regard to whether or not there is an easement for the private road and if Mr. Rose owns that easement. Mr. Olson noted that if there is an easement, then a variance may not be necessary. Mr. Hawkins noted that Mr. Rose's property goes to the center of the road, therefore, he does not have a setback problem.

Mr. Hawkins questioned if they need to address this issue because if the property and the road should change hands in the future.

Mr. Schilling questioned if there is more land in back that can be developed. Mr. Rose responded that there is not.

Mr. Erwin stated that this is not a self-created hardship, the hardship is because of the road location. Mr. Hawkins concurred.

Mr. Erwin asked if there were any public comments regarding this variance. There were none.

In looking at the information submitted, Mr. Hawkins questioned the amount of variance that the applicant is looking for, 8' or 10'. Mr. Rose responded that he would actually like 12', but 8' will be fine, it will still give him a 20' addition. Mr. Hawkins explained that the ZBA generally looks to give the least amount of variance possible.

Mr. Hawkins made a motion with regard to Christopher Rose, 26844 Dixboro Road, the applicant has applied for an 8' variance from a front yard setback of 40' required by the ordinance in the R-0.5 district. The applicant has requested the variance due to the fact that a private road along the north of his property has created a dual front yard road frontage. The applicant's address is on Dixboro Road, which will be considered the applicant's front yard. Therefore, the applicant would be justified in requesting a variance from the front yard setback, which is essentially the side yard setback. Without the variance the applicant would not be able to suitably use his property and greatly impose the 20' addition to the north. It is recommended to the Board that they grant the 8' variance that is being requested. Mr. Schilling supported the motion.

Voice Vote: Ayes: All
 Nays: None
 Absent: Raney

Motion approved.

Vistal Land & Home Development, Aldo Stenta, applicant for 52451 Caddy

Sidwell 21-13-300-021. Applicant is requesting variance to construct home outside of approved building envelopes and relief from wetland/watercourse setback under Article 36.02(f)(2).

Mr. Stenta explained that this particular piece of property was, at one time, two building lots. He stated that at the present time, two homes can be built on this property, but they have decided to only build one home. He stated that the way that most of the lots were designed, all the homeowners had to get a variance for one reason or another. He stated that the home that they are proposing is approximately 5,000 square feet. The expansions on the home are the garages. He stated that they did go before the Homeowner's Association with the proposal and that they did receive approval from them.

Mr. Stenta indicated that they have situated the garage outside the building envelope. He noted that if it has to be redesigned, it will change the whole look of the house. He stated that what they are proposing will not affect any of the other lots in the development.

Mr. Stenta showed the Board the plans of the house that they are proposing to build. He briefly discussed the elevations of the home.

Mr. Stenta noted that if they were to put two homes on these lots, there would be more square footage than what they are proposing.

Mr. Hawkins questioned how the allowable buildable footprint came about. Mr. Olson responded that he looked into the history of this area. He stated that it had been set up long before his time with the Township. He noted that the Board also needs to consider the wetland/watercourse setbacks on this property. Mr. Seymour stated that since the footprint is within the parameters of the new wetland/watercourse ordinance, the Board does have the right to apply the new ordinance to this. He stated that if the Board chooses, they would have to give a variance to allow them to build outside the footprint and a there would also have to be a variance from the wetland/watercourse ordinance requirements.

Mr. Stenta briefly explained the lots that are still remaining in this development that will probably require variances in order to build homes on them.

Mr. Olson felt that there are alternatives given the amount of space within the building envelope. Mr. Hawkins concurred. He felt that there is a way to move this around so that it will fit within the building envelope. Mr. Olson noted that the terrace and chimney are also outside the building envelope. Mr. Hawkins stated that the house looks nice and looks great, but felt that it should be reduced to fit within the building envelope.

Mr. Stenta indicated that they could probably shift the house over 10' so that it is further from the water.

Mr. Erwin suggested that the developer ask to have this issue tabled to allow him to go back to the drawing board and try to work something out so that the house is within the building envelope.

Mr. Hawkins made a motion with regard to Vistal Land & Home Development, request for a variance for building outside the envelope, it is recommended to the Board that this application be tabled until the June meeting to allow the applicant to review the plan in order to develop the property to maintain the 50' setback requirement from a wetland/watercourse. Mr. Barber supported the motion.

Voice Vote: Ayes: All
 Nays: None
 Absent: Raney

Motion approved.

Barb and Tyler Mieske, 30010 Homedale

Sidwell 21-04-428-018. Applicant requests a variance to allow a six foot privacy fence to be installed on the back of the lot only. Section 12.16 specifies that privacy fences in residential districts are limited to 4' height.

Ms. Mieske explained that they have a 5 year old daughter and that they just got an 11 week old puppy. The neighbors behind them have two Akitas and one Rot/Chow mix. She stated that there is a 4' fence that is not level. She stated that it does not give her reassurance that those dogs are not going to come over the fence into her yard. She stated that there is a picnic table in the corner of the neighbor's yard that the dogs stand on and could jump the fence. She stated that they would like to install a 6' privacy fence along the back of the lot for personal safety for their daughter and puppy.

Mr. Erwin questioned if the applicant has talked with the Sheriff's department about these dogs, if she is afraid of them. Ms. Mieske responded that she has not because she did not want to stir up trouble with the neighbors. Mr. Erwin felt that if a 6' fence was installed it may stir up trouble with the neighbors. Ms. Mieske stated that the neighbor has a hot tub back there also and felt it would be better for the neighbors.

Mr. Erwin explained that a couple months ago there was an applicant that came in requesting that they be allowed to put in a 6' privacy fence because their neighbor had a pool and had parties all the time. He noted that the Board denied the request because there are other options of screening, i.e., arborvitae plantings. He stated that if the applicant is afraid of these animals, then they should contact the Sheriff's department.

Mr. Hawkins briefly discussed the accessibility of the property should an emergency occur. He stated that it is more difficult to access the property with a higher fence. Mr. Mieske stated that the 6' fence would be on the east side of the lot with the other sides still being a 4' chain link fence.

Ms. Mieske stated that she has information from the Akita Association indicating that these dogs should never be allowed unsupervised with small children.

Mr. Erwin stated that even with a 6' fence, if the dogs wanted to get in to the yard, they are going to get into the yard. He felt that plantings could screen the yard. Ms. Mieske stated that they need the protection now and that they can't wait for the plantings to grow. Mr. Erwin noted that arborvitae's can be purchased in taller heights.

Mr. Mieske noted that the neighbors to the south of them have a 6' fence on their lot. He stated that he does not know when it was installed.

After further discussion with regard to other options, Mr. Erwin called for a motion.

Mr. Hawkins made a motion in regard to Barb and Tyler Mieske, request for a variance to allow a 6' fence along the back of their lot, the applicant has not demonstrated that there is a significant hardship by the ordinance on them for the use of their property. It is recommended to the Board that the applicant's request be denied. Mr. Barber supported the motion.

Voice Vote: Ayes: All
 Nays: None
 Absent: Raney

Motion approved.

Milford-Ten LLC/Todd Wyett, 25900 W. Eleven Mile Road, Ste 250, Southfield, 48034

Sidwell #21-09-100-043. Vacant land on northwest corner of Milford and Ten Mile Roads.

Applicant requests variance from wetland/watercourse setback under Article 36.02(f)(2) to allow for service driveway to be constructed within a 50' setback area and relief from Ordinance No. 1012A-05 for impervious surface coverage in a B-2 zoning district.

Representing Milford-Ten, LLC tonight:

- Robert Carson, Attorney
- Todd Wyett
- Dana Rosenthal, Architect

Robert Carson, Attorney, explained that Milford-Ten, LLC is requesting an interpretation of the

ordinance for property that they are trying to develop. He stated that the applicant has worked very hard to coordinate the design of this property with the Township's Consultants and to do it in such a way that it has a campus layout as opposed to a more traditional "L" shape center.

Mr. Carson noted that they have been working on this project since 2003 and that there are a couple new ordinance that will impact this development. He stated that one variance has to do with the impervious surface and the other variance or interpretation has to do with the 25' setback from the watercourse. He stated that the watercourse in the back is a manmade farmer's drain and is the watercourse that is being discussed here tonight.

Mr. Carson discussed the contents of the ordinance regarding the setback from wetlands and watercourses. He also explained how they interpret the ordinance. He stated that the request for a variance regarding impervious surface is for 3%. He stated that this plan was in for site plan approval prior to the Impervious Surface Ordinance being adopted and felt that it would not be applicable to this plan.

Mr. Carson stated that there are no buildings that are within 50' of the wetland/watercourse. The only thing that is the issue is the pavement that is proposed within that setback. He stated that he would not like to see a development which has been improved by working with the Township be penalized for the delay in trying to create a better project. He felt that these new ordinances are not applicable to this development.

Mr. Erwin questioned when this campus proposal was brought in. Mr. Carson responded that he believed that the original proposal was first submitted in November, 2003.

Todd Wyett, 25900 W. Eleven Mile Road, Southfield, MI, stated that the campus plan has been in the works since the very beginning.

Mr. Carson stated that he believes that this plan was brought in prior to the enactment of the new ordinances. Mr. Olson noted that versions of this plan have been, and that this is the finalized plan. Ms. Marcarello discussed the dates that are indicated on the Planner's review check list with

regard

to this plan. Mr. Erwin questioned when the wetland/watercourse setback ordinance was adopted. Mr. Olson responded that it was in January, 2003. He noted that the impervious surface ordinance was adopted in 2005.

Ms. Marcarello briefly reviewed some of the comments indicated in a letter from McKenna Associates, Inc. dated May 16, 2005 regarding this issue. Mr. Carson noted that they have not yet seen this letter. Mr. Olson noted that it was distributed tonight.

There was further extensive discussion with regard to how the applicant interprets the ordinance. The Board discussed the definitions in the ordinance and how they interpret them.

Mr. Hawkins made a motion in regard to Milford-Ten, LLC's application to the ZBA for interpretation of Article 36.02, Schedule of Regulations Item f, Watercourse setbacks, an interpretation by the ZBA was made regarding item f 2, 50' building setback, that this be considered to include vertical buildings but not pavement, grading activity or horizontal construction. Mr. Schilling supported the motion.

Voice Vote: Ayes: All
 Nays: None
 Absent: Raney

Motion approved.

Mr. Carson stated that an ordinance regarding the impervious surface coverage allowed was adopted a short time ago, after this plan was well underway. He stated that the result of which there is a 3% excess of impervious surface, which was not a problem with this plan prior to the adoption of this ordinance. There was discussion as to when the ordinance was adopted as it relates to the timeline of this plan.

Mr. Hawkins made a motion with regard to Milford-Ten, LLC, the applicant has requested a variance from Ordinance 101A-05 for impervious surface coverage limiting it to 60% of the property. It is recommended to the Board that they consider a 3.1% variance that would allow 63.1% impervious surface coverage for this plan. The applicant has documented it's submittal process and application to the Planning Commission for site plan approval on various dates and noted that their application succeeded the adoption of the ordinance. Mr. Schilling supported the motion.

Voice Vote: Ayes: All
 Nays: None
 Absent: Raney

Motion approved.

3. **GENERAL BOARD DISCUSSION NONE**

4. **ADJOURNMENT**

Mr. Erwin adjourned the meeting at 9:36 PM.

Respectfully Submitted,

Deby Cothery

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Recording Secretary