

**CHARTER TOWNSHIP OF LYON  
ZONING BOARD OF APPEALS  
MEETING MINUTES  
February 18, 2003**

Approved as corrected March 17, 2003.

DATE: February 18, 2003  
TIME: 7:30 PM  
PLACE: 58000 Grand River

Call to Order: Michael Hawkins called the meeting to order at 7:34 PM.

Roll Call: Present: Michael Barber  
Michael Hawkins  
Pamela Johnson, Clerk  
Tony Raney

Absent: William Erwin, Chairman

Also Present: Dave Gillam, Township Attorney  
Chris Olson, Township Superintendent  
Larry Phillips, Building Official

Guests: 11

**1. APPROVAL OF MINUTES FOR: January 21, 2003**

Ms. Johnson made a motion to approve the January 21, 2003 minutes as corrected. Mr. Barber supported the motion.

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

Motion approved.

**2. PUBLIC HEARINGS:**

**Gloria Andrews, 61940 Eight Mile Road, South Lyon**

Sidwell Number 21-31-400-067. Applicant is requesting two variances:

- A. To allow property split proposed. Lot will exceed the 4 to 1 ratio.
- B. Proposed split will cause the shed on parcel to the west to encroach on easterly property line. Shed will require a variance of 15 feet.

Section 18.00 and Section 36.00

Gloria Andrews explained that she would like to split her parcel into two parcels. At the current time there are two house on one parcel. She noted that one of the homes was her mother's who passed away in 1998.

Mr. Hawkins reviewed what variances Ms. Andrews is requesting. He questioned if it is Ms. Andrews intention to sell the other property. Ms. Andrews responded that it is not. She noted that her son will be living in the other home.

Mr. Hawkins stated that if he understands this correctly, the width to depth is 4.9. He questioned if this is for the larger parcel. Mr. Phillips responded that this is correct. He stated that the variance for the side yard setback for Ms. Andrews parcel.

Mr. Gillam stated that a variance could be granted but it would have to be contingent upon the lot split actually be approved. He stated that for purposes of any type of motions made, the parcels could be identified as Parcel A and Parcel B.

Mr. Raney noted that this would be reducing an already non-conforming situation.

Ms. Johnson questioned if this has ever come before the ZBA before. Ms. Andrews responded that it has not.

Mr. Hawkins asked if there were any public comments. There were none.

Mr. Raney made a motion that a variance from Section 36.02.c for the width to depth ratio of 4 to 1 be granted to Gloria Andrews, 61940 Eight Mile Road, South Lyon. This will make the width to depth ratio 4.9 to 1. This is for Sidwell 21-31-400-067 and considered Parcel A, which is the larger parcel. Ms. Johnson supported the motion.

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

Motion approved.

Mr. Hawkins questioned if there has been a measurement taken to determine exactly how much of a variance is needed for the garage. Mike Andrews responded that it is 25 feet.

Mr. Raney made a motion to approve a 5' variance from the side yard setback requirement in

Section 36.02 for Parcel B, which is the smaller parcel, for Gloria Andrews, 61940 Eight Mile Road, South Lyon. This is for purposes of reducing the non-conformity. Ms. Johnson supported the motion.

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

Motion approved.

**David Willacker, Woodstream Development Co., 23200 Pontiac Trail, South Lyon**

Sidwell 21-29-301-002. Applicant requests three variances:

- A. Front yard setback variance of 15.44' requested from the minimum front yard setback requirement of 75'.
- B. Rear yard setback variance of 7.66 foot from the minimum setback of 60'.
- C. Side yard variance of 35.2' allowing existing building wall to remain.

All variances from Section 36.00 Schedule of Regulations.

Dave Willacker explained that he is asking for three variances. He is in the process of renovating the building that was the old bowling alley at the corner of Marjorie Ann Street and Pontiac Trail.

He stated that they have submitted a site plan to the Planning Commission for approval. He briefly discussed the review letter that Chris Doozan wrote.

Mr. Willacker stated that there is a 75' setback requirement along Pontiac Trail Road and they are 59.6' from the existing structure to Pontiac Trail Road. He noted that this is a corner lot and that frontages would be considered along both Pontiac Trail and Marjorie Ann. The rear property line on the north and they are 52.3' from this line and the current Ordinance requires 60'. He stated that to the east they are a little less than 5' to the property line. He stated that they do have sort of a unique situation. This property is part of a platted subdivision from the 1940's. There are seven sub-divided lots that make up this property. There is a deeded, recorded alleyway to the east of their property line.

Mr. Gillam stated that there are two ways for the ZBA to approach this which are addressed in the

correspondence that the Board has received from Mr. Willacker and his Attorney. He stated that

the first really is requesting an interpretation from the decision or the conclusion of the Planner

and the Building Official because of what has gone on at the site, that they are not longer conforming. He stated that if the ZBA were to make a conclusion that the building has not lost it's

non-conforming status, then there would not be any need for any variances. The building could

then go ahead and be constructed as proposed subject to site plan approval by the Planning

Commission. He stated that in the alternative, if the ZBA decides that they are not willing to

conclude that they have not given up their non-conforming status, then the situation of the variances need to be addressed individually as requested.

Mr. Gillam stated that there have been issues between Mr. Willacker and the Township as to the process that was followed in terms of getting the building to the condition that it is in now. He noted that they have been in court over this. He stated that approximately three weeks ago they all met, discussed the issues and felt that this should move forward. He stated that from a legal standpoint, his preference would be not to concede the issue of the non-conforming status because this would be setting a precedence that would apply to other cases. He stated that he would prefer that the ZBA look at the variances individually. He stated that he is not speaking for the ZBA, but in light of all the information that they have been provided, that what has been requested is probably not unreasonable and that there is probably a basis for the ZBA to grant all three variances, if they see fit.

Ms. Johnson stated that in order to keep Mr. Willacker from coming back before the ZBA, he will need a variance for the dumpster area also. Mr. Willacker stated that they do have other areas for the dumpster. He noted that if these variances are not granted, the building would have to be demolished. He noted that what has already been taken down of the building is in preparation for future construction. He explained the events that happened in leading up to the current condition of the building, which he noted is an eyesore.

Mr. Gillam stated that in a meeting that they held the only other issue that really needs to be resolved is, if the ZBA agrees with the request for variances tonight, is with the location of the driveway. He noted that there is a recommendation from the Planner that Mr. Willacker has some different ideas on which will have to be dealt with at the Planning Commission level. He stated that this would not involve a variance.

Mr. Barber questioned the procedure. He questioned if this should have gone before the Planning Commission before coming to the ZBA. Mr. Phillips responded that that would be normal procedure. He stated that the review letter was completed and it identified the variances that would be needed. He stated that if this were to go before the Planning Commission first, the Planning Commission would not be able to do anything with it except table it because of the variances needed.

Mr. Olson stated that this will be an office complex as opposed to a new car sales dealership. Mr. Willacker responded that this is correct. Mr. Olson briefly discussed the amount of cars that park at this site. Mr. Willacker stated that this parcel has been a collecting area for a great many years for "For Sale" cars and signs. He noted that there is a pretty steady flow of this, all of with their permission.

Mr. Hawkins stated that Mr. Doozan has quite a few issues in his review comments. He questioned if Mr. Willacker has resolved the issues cited. Mr. Willacker responded that they have not. He stated that there are a couple of issues that they will need to discuss with the Planning Commission. There was brief discussion with regard to these issues.

There was discussion with regard to which is the side and rear of the parcel. Mr. Willacker stated that it would be his contention that the rear would be the side that would be the least non-conforming. Mr. Hawkins stated that he believed that this has been determined by the request this evening.

There was discussion with regard to the alley. Mr. Willacker stated that the Baptist Church does have the right to this alley, as well as they do. He noted that they will be paving the alley up to where their last curb is.

Mr. Hawkins asked if there were any public comments. There were none.

Mr. Hawkins asked Mr. Willacker if he has had discussions about this with the Baptist Church. Mr. Willacker responded that he has kept the Church in the loop. He noted that they have had several discussions with regard to the alley.

Mr. Gillam stated that procedurally the first question that needs to be addressed is the request for interpretation. He stated that the ZBA would have to adopt a resolution indicating ZBA's position that this has, in fact, lost is non-conforming status as a result of the extended repairs. He stated that after that, the issues of the variances could then be addressed.

Mr. Willacker discussed the amount of the building that has been removed. He noted that his calculations of the amount of area that has been removed is less than 50%. He stated that none of the footings have been removed. They are not expanding this building. They will be using the existing footprint. Mr. Willacker stated that it would be his contention that there is less than 50% of the building that has been removed.

Mr. Gillam stated that Section 13.03 Sub-Section C of the Zoning Ordinance deals with non-conformity. Specifically Section C talks about discontinuation of non-conforming uses or structures. Sub-Section 1 of Section C indicates that if the use of the property is discontinued or abandoned for twelve consecutive months, which this has, would be a sound basis for the ZBA to conclude that the building has lost it's non-conforming status.

Mr. Barber made a motion that this parcel has lost it's non-conforming status because the building has been vacant for more than twelve months, as described in Section 13.03.C.1 of the Zoning Ordinance. Ms. Johnson supported the motion.

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

Motion approved.

Ms. Johnson made a motion to grant a 7.66' from the minimum setback of 60' per the Schedule of Regulations Section 36.02, indicated to be the rear yard to the north of the building. This variance is granted due to the unique situation of the property and to allow for substantial justice to the applicant. To not grant a variance would deny the applicant reasonable use of this property. Mr. Raney supported the motion.

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

Motion approved.

Mr. Raney made a motion to grant a 35.2' variance from the side yard setback to allow the existing east wall to remain due to the fact that there is an alley way that is joint shared. Mr. Barber supported the motion.

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

Motion approved.

Mr. Barber made a motion to keep the 75' setback and eliminate some parking spaces or whatever has to be done to maintain this setback from the road. There was no support for this motion. It was noted that the building could not be re-built. Mr. Phillips stated that the parking can be within the front setback, it is the building that is encroaching.

Mr. Barber made a motion grant a 15.44' front yard setback for the proposed building from the right-of-way and the Ordinance requirement of 75'. The reason for this variance is that the building is existing and this parcel has dual frontage. Mr. Raney supported the motion.

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

Motion approved.



**4. ADJOURNMENT**

Mr. Hawkins adjourned the meeting at 8:38 PM.

Respectfully Submitted,

**Deby Cothery**

Deby Cothery  
Recording Secretary