

**CHARTER TOWNSHIP OF LYON
ZONING BOARD OF APPEALS
MEETING MINUTES
July 21,2003**

Approved as submitted August 18, 2003.

DATE: July 21,2003
TIME: 7:30 PM
PLACE: 58000 Grand River

Call to Order: William Erwin called the meeting to order at 7:38 PM.

Roll Call: Present: William Erwin, Chairman
Michael Barber
Michael Hawkins
Pamela Johnson, Clerk

Absent: Tony Raney

Also Present: Dave Gillam, Township Attorney
Chris Olson, Township Superintendent
Larry Phillips, Building Official
Les Cash, Fire Chief

Guests: 21

1. APPROVAL OF MINUTES FOR: June 16, 2003 and June 30, 2003

Ms Johnson made a motion to approve the June 16, 2003 minutes as written. Mr. Barber supported the motion.

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

Motion approved.

Mr. Hawkins made a motion to approve the June 30, 2003 minutes as written. Mr. Barber supported the motion.

Voice Vote: Ayes: All

Nays: None
Absent: Raney

Motion approved.

2. PUBLIC HEARINGS:

Victory Lane Plaza

Sidwell Number 21-32-100-100-048. East side of Pontiac Trail, north of Russell Lane. Tabled from the June meeting on 6/16/03. Applicant requests a variance from front yard setback requirement of 75 feet. Variance was granted in May, 2001 and has lapsed due to no action being taken by the applicant.

Representing Victory Lane Plaza is Gary Laundroche, Bloom General Contractors and Derrick Oxender, owner.

Mr. Laundroche explained that they have done some adjustments to the site plan layout since the last meeting. He stated that they are now requesting a 35' variance from Russell Lane. He stated that he feels that 35' is a reasonable variance. He noted that they did reduce the size of the building and increased the greenbelt next to the building on the south side.

Mr. Hawkins noted that at the last meeting the applicant was asking for a 55' variance. Mr. Erwin stated that he still has a hard time seeing where the hardship is, considering the building is not erected yet.

Mr. Laundroche stated that Russell Lane will never be widened. There will be over 100' of buffer zone from the property to the south.

Mr. Erwin questioned where the hardship is that the Township is inflicting on this property. He stated that the building is not built. He again questioned where the hardship is. He noted that the hardship cannot be monetary. Mr. Laundroche stated that what they viewed as a hardship is the fact that they have two front setbacks because this is a corner lot. He stated that the setback on the north side of the property is only 20'.

Mr. Oxender explained some of the problems they had since the original variance was received. Ms. Johnson noted that the problem now is that this is a retail tenant site rather than an owner occupied site.

Mr. Hawkins stated that it does appear that the applicant has made significant effort in screening this from surrounding properties.

There was discussion with regard to the types of tenants that would be allowed in this building. It was noted that a restaurant would not be allowed.

Mr. Oxender noted that Russell Lane will probably not be expanded in the future. Mr. Laundroche noted that they have an additional 70' setback from the Russell Lane side for the right-of-way

easement. By granting a 35' variance, they would be over 100' away from Russell Lane.

Mr. Laundroche stated that they have taken every effort to try and comply with the requirements. He stated that they believe that this will be a beautiful building and a welcome part of this community.

There was brief discussion with regard to Russell Lane. Mr. Phillips noted that he believed that there are still a couple of empty lots on Russell Lane. He noted that the road itself cannot be extended without future easements being established.

Mr. Gillam questioned if there is any significance to the size of the building that is being proposed. Mr. Laundroche responded that they are attempting to get six individual stores into this building. He noted that they have reduced each store by a few feet in order to reduce the building by 20'.

Mr. Barber questioned how wide a tenant store would be. Mr. Laundroche responded that they would be approximately 32' wide by 54' long.

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

After further brief discussion, Mr. Erwin called for a motion.

Mr. Hawkins made a motion in regards to Victory Oil Change, Sidwell No. 21-32-100-048, Pontiac Trail north of Russell Lane, he made a recommendation to the Board that they grant a 35' setback variance from the setback requirements to the south of the said property. The setback requirements per the Ordinance is 75' of which a 35' variance is being requested and will leave 40' from the property line. The variance is recommended to be granted based on several conditions that are unique, one of which is two road frontages. The applicant has requested the minimal amount of variance for this site to allow himself to maximize the utilization of his property. Also, this property is affected by a 70' right-of-way for Russell Lane, which is affecting the property and noting that the right-of-way in the residential area to the east has been abandoned by the Township Board. He would recommend that a 35' variance be granted from the required 75' requirement. Ms. Johnson supported the motion.

Voice Vote:	Ayes:	Erwin, Hawkins, Johnson
	Nays:	Barber
	Absent:	Raney

Motion approved.

Richard Tool & Die, 29700 W.K. Smith Drive, New Hudson, MI

Sidwell 21-02-451-011. RTD requests a variance from the minimum design standards to construct a 100 year storm detention pond.

Richard Heidrich, President and majority owner of Richard Tool & Die, explained that this

situation

goes back to 1998 when the building was constructed. He stated that in 1998 they developed a site plan which included a detention pond on the north side of the building. He noted that at that time the Township Engineers wrote a letter indicating that they did not need to put in the detention pond because there is a regionally sized detention pond. They later discovered that there was not a regionally sized detention pond.

After many meetings and lots of negotiations with the Township Engineers, Attorneys and the neighbors, they have reached a solution. All parties felt that a ten year plan detention pond would be workable.

Mr. Erwin stated that they have received a letter from the Township Engineer, Tim Kniga, dated July 18, 2003 which indicates that the Engineer does not have a problem with a variance being granted for this.

Mr. Gillam stated that the 10 year pond is not only going to accommodate what is already there but any addition that is constructed. Mr. Heidrick responded that this is correct.

Mr. Erwin asked if there were any public comment regarding this issue.

James Hayes, D&D Allor Investments, 29550 W.K. Smith Drive, stated that they have no objection to the variance. He stated that they would like to waive any responsibility if anything resultants from this variance.

Mr. Barber made a motion to grant approval for the minimum design standards for Richard Tool & Die, Sidwell No. 21-02-451-011 to construct a 10 year storm detention pond in lieu of a 100 year storm detention pond. Referencing the July 18, 2003 letter from Tim Kniga of Giffels-Webster Engineers. Mr. Hawkins supported the motion.

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

Motion approved.

Darryl Fletcher, 58701 Twelve Mile Road, New Hudson, MI

Sidwell 21-16-176-018. Interpretation at the request of the Building Official regarding commercial construction equipment being stored on the property.

Mr. Fletcher stated that this is where he has been doing business for years. He stated that since he

moved to this location he has had equipment on his property.

Mr. Phillips gave some background information on this issue. He stated that he cannot prove that the equipment has been there or whether or not the equipment has not been there.

Mr. Barber questioned if this is equipment that is being used to improve the property or is it just being stored on the property. Mr. Fletcher responded that it is both. He stated that he usually leaves the equipment on the job but since work is not too good lately, he has been bringing the equipment home.

Mr. Gillam questioned the type of equipment that is on the property. Mr. Fletcher responded that there is a backhoe, excavator, dozer, crane and loader. He stated that most of the time he keeps the equipment where it cannot be seen. Mr. Barber stated that he drove down the road on Saturday and the only thing he could see was a dozer.

Mr. Barber questioned if this interpretation would apply to everyone else in the Township. Mr. Erwin responded that it has been applied in the past.

Mr. Erwin asked if there were any public comments regarding this issue.

The following residents spoke on behalf of Mr. Fletcher, indicating that they do not have a problem with this equipment being on the property. They also noted that Mr. Fletcher has helped everyone of them in one way or another with this equipment.

Dallas Fletcher, 28890 Fletcher Lane
Bill Miller, 57455 Twelve Mile
Ted Gladfelter, 58750 Twelve Mile

Karen Kernohan, 58600 & 58400 Twelve Mile
Karen Wolsky, 58700 Twelve Mile
Miles Kernohan, 58600 & 58400 Twelve Mile

The following resident stated her objections to the equipment being stored there. She is the next door neighbor: Pamela Falzon, 58501 Twelve Mile. Ms. Falzon submitted pictures of the site to the Board for their review.

There was discussion as to when the Ordinance regarding this issue was adopted. Mr. Gillam stated that the Ordinance as it stands right now, was adopted in 1991.

Mr. Hawkins stated that this situation has been ongoing since at least 1980. He stated that he did not know if it would be fair to apply this Ordinance to this situation. At the same time he felt that they need to do some justice to the neighbor who cited the complaint.

Mr. Fletcher noted that he was working on the property until the same neighbor complained and got the DEQ involved. He stated that he then stopped working on the property.

Mr. Hawkins asked Mr. Fletcher if he has any alternative location to store the equipment. Mr. Fletcher responded that he does not.

Mr. Erwin asked Mr. Fletcher if there is any way that he could screen the equipment from the neighbor's view. Mr. Fletcher responded that he could move the materials and place them back farther on the property. He stated that he could probably plant bushes. Mr. Phillips stated that he would check with the DEQ to see what is happening with this site before Mr. Fletcher plants any bushes.

Mr. Erwin asked Ms. Falzon if she would be satisfied if Mr. Fletcher planted some bushes to block her view of the equipment and materials. Ms. Falzon responded that she doesn't care what he parks there just as long as she does not have to look at it. She stated that some kind of screening or a wall of trees would be fine.

Ms. Johnson made a motion with regard to Daryl Fletcher, 58701 Twelve Mile Road, Sidwell number 21-16-176-018, that this issue be tabled until the next meeting to allow Larry Phillips, Building Official, to check with the DEQ and report back to the Board. Mr. Barber supported the motion.

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

Motion approved.

John Kochanek, 60624 Mary Lane, South Lyon, MI

Sidwell #21-32-126-001. Applicant requests a variance from side yard setbacks for an erected shed on property. Shed has been constructed and currently sits one foot off property line.

Mr. Kochanek explained that he decided to place the shed in this location because he was concerned with what his immediate neighbors would think. The back of the shed doesn't really come up to the back of the property. He submitted some pictures of the site for the Board to review. He noted that the neighbor to the rear has a tree line, which he has no interest in taking down. He stated that there is a drainage swale going through his yard and wasn't sure how close he could place the shed to this.

Mr. Kochanek stated that he did have discussions with the neighbor behind him and noted that this same neighbor let him bring a cement truck through to pour the slab.

Mr. Erwin asked Mr. Kochanek why he chose this particular spot to place the shed. Mr. Kochanek responded that there is a nice hedge there that kind of hides the shed.

Ms. Johnson asked Mr. Kochanek if he checked with the Building Department at all. Mr. Kochanek responded that he did. Ms. Johnson asked if the Building Department indicated to Mr. Kochanek

that he had to be a certain distance from the lot lines. Mr. Kochanek responded that they did. He stated that he did know that he had to be 10' off the property lines. He noted that he did not know this until after the shed was constructed.

Mr. Kochanek stated that if he does have to move the shed, because his property is on an angle, he would be just shy of 5'.

There was brief discussion with regard to possibly moving the shed forward. Mr. Erwin noted that there are other places on the property that this shed could be located. He noted that he does not see what the hardship is.

After further discussion, Mr. Erwin asked if there were any public comments regarding this issue.

Greg Hooker, 60618 Mary Lane, stated that he lives directly east of this site. He stated that the only hardship he sees about moving the shed is that the applicant is going to have a 9' cement pad behind the shed. He was concerned about the types of items that would be stored on this. He also was concerned that if the shed is pulled forward that it might affect the drainage.

Mr. Barber made a motion to deny the variance request for John Kochanek, Sidwell number 21-32-126-001 because the Board cannot see a hardship. Ms. Johnson supported the motion.

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

Motion approved.

Robert Schlick, 21111 Greenbriar Lane, South Lyon, MI

Sidwell #21-32-326-015. Applicant requests a variance from the side yard setback of approximately six feet necessary to build a wooden deck onto the northwest corner of new home. Pie shaped lot and basement is set into a slope.

Mr. Schlick explained that they wish to put a deck on the northwest corner of their home, which was a spec home. He stated that the property is pie shaped and that the house is built toward the rear of the property. He noted that the doorwall for the walk out is on the northeast corner and limits the side of the house that the deck can be located.

Mr. Erwin questioned if the deck needs to be at this particular location. Mr. Schlick noted that there are a lot of obstructions at the other side of the house, i.e., fireplace. He stated that he was trying to avoid covering the doorwall for the walk out and the daylight windows.

Mr. Schlick stated that he does have signatures from the neighbors on each side of him and the neighbors across the street indicating that they don't have a problem with what he is attempting to do.

Mr. Hawkins asked if there is any reason why the deck could not be built off the other side of the house. Mr. Schlick responded that it would be pretty small deck. He stated that he really wanted to go around the side of the house with the deck in order to have access to the front of the home.

Mr. Erwin questioned if a lot of the lots in this subdivision are shaped like this. Mr. Phillips responded that there are not.

After further discussion, Mr. Erwin asked if there were any public comments regarding this issue. There were none.

Mr. Barber made a motion to grant a 6' variance from the side yard setback requirement for Robert Schlick, 21111 Greenbriar Lane, Sidwell number 21-32-326-015 for construction of a deck. By granting this variance it will allow the applicant to construct a deck on the corner of their house because of the pie shape of the lot and the fact that the house was constructed to the rear of the property. Mr. Hawkins supported the motion.

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

Motion approved.

William Miller, 57455 Twelve Mile Road, New Hudson, MI 48165

Sidwell #21-16-251-024. Applicant requests a variance of twenty feet from side yard setback for the installation of an in-ground pool.

Mr. Miller explained that the hardship is that when he purchased the lot the drain field was placed 10' off the property line. He stated that he has a 32' field. He stated that he has owned the property for five years and has decided to install an in-ground pool. He stated that he only has a 55' area in which to place the pool. The required setback is 30' for a one acre or greater.

Mr. Miller stated that he could push the pool right to the edge of the drain field but would prefer not to. He stated that there is an old barn on the one side of his property. He stated that he could put the pool toward the back of the yard, but would prefer not to for safety reasons. He felt that putting the pool 90' from his house would be hard to supervise.

There was discussion with regard to the location of the septic field and the reserve septic field. Mr. Phillips felt that the reserve field would be located facing the opposite way beyond the existing field.

Mr. Hawkins discussed other options in locating the pool in the backyard. Mr. Miller noted that the dimensions are not correct. He stated that he actually has two mortgage surveys, each one says something different. There was discussion as to the dimensions of the property. The Board felt that

they needed better dimensions before they could make a decision.

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

Mr. Barber made a motion to table the variance request for William Miller, 57455 Twelve Mile Road, Sidwell number 21-16-251-024, until the next meeting to allow time to determine the correct dimensions. Mr. Hawkins 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 9:49 PM.

Respectfully Submitted,

Deby Cothery

Deby Cothery
Recording Secretary