

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

Approved as corrected September 22, 2003.

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

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

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

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

Guests: 5

**1. Approval of the Minutes of July 21, 2003**

Mr. Barber made a motion to approve the minutes from the July 21, 2003 ZBA meeting as written.

Ms. Johnson supported the motion.

Voice Vote: Ayes: All  
Nays: None

Motion approved.

**2. PUBLIC HEARINGS:**

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

Sidwell No. 21-16-176-018. Interpretation at the request of the Building Official regarding construction equipment being stored on the property. (Tabled for 30 days from the July meeting).

At the last meeting there was discussion about Mr. Fletcher installing a berm with plantings

so that the neighbor would not have to see the equipment stored on his property. Mr. Phillips contacted DEQ and received an e-mail from Todd Losee indicating that the DEQ strongly objects to the installation of a berm. However, the DEQ indicated that they do not object to the planting of shrubs and would prefer that these shrubs be native to Michigan.

Mr. Erwin questioned if they were allowed to specify the type of plantings. Mr. Gillam responded that there is not problem with doing this. He stated that between the Building Department and the Planner, they can take a look at what is being planted to make sure it provides adequate screening and that it is native species, per DEQ's suggestion. Mr. Raney discussed the types of plantings that could be used.

Mr. Phillips stated that he spoke with Ms. Falzon earlier today who indicated that Mrs. Price would be interested in having some input as to what is planted. He noted that Mr. Fletcher is not here this evening, but felt that he would be receptive to this idea. He stated that he would meet with Mr. Fletcher, Mrs. Price and Ms. Falzon to see if they can come up with something that would be agreeable and beneficial to both parties involved.

Mrs. Price stated that this still does not meet her satisfaction with regard to having commercial vehicles in a residential area. Mr. Erwin explained that Mr. Fletcher has been doing this for a very long time, therefore, it is grandfathered in. Mrs. Price stated that there was nothing on the record when she purchased her home. She checked the record to see what was next door and there was nothing there. She stated that whatever occurred happened after she moved in. Mr. Erwin questioned how long Mrs. Price has lived there. Mrs. Price responded that she has been there for twelve years.

Mr. Hawkins questioned when the current Ordinance was adopted. Mr. Gillam responded that it was adopted in November, 1991.

There was further discussion with regard to the equipment being stored on the property as well as

some of the other stuff that is there.

Mr. Gillam asked Mr. Phillips if he had any follow-up with the DEQ as to what their complaints are with Mr. Fletcher. Mr. Phillips responded that he believed that they are going back to court in September. He stated that there are two or three charges against Mr. Fletcher.

Mr. Hawkins stated that as long as Mr. Fletcher is willing to cooperate with the neighbors and the Township with regard to screening and shrubs, he has done due diligence to follow the existing ordinance even though his existing use and application of the property pre-dates the ordinance.

Mr. Barber noted that there were a dozen residents present at the last meeting, all of whom indicated that Mr. Fletcher has been doing this for a long time.

Mr. Erwin questioned if there is some kind of restriction against expanding a non-conforming use.

Mr. Gillam responded that a non-conforming use cannot be expanded and the intensity cannot be increased.

There was brief discussion as to whether or not they could restrict the equipment on the property.

Mr. Gillam stated that at the last meeting he asked Mr. Fletcher what types of equipment is on the property. He stated that Mr. Fletcher responded that there is a backhoe, an excavator, a dozer, a crane and a loader.

Mr. Hawkins made a motion with regard to Darryl Fletcher, 58701 Twelve Mile Road, New Hudson, Sidwell number 21-16-176-018, that in regards to the applicant's request for a clarification of the

Zoning Ordinance, Section 14.01.E, parking of commercial equipment in a residential district area, that Mr. Fletcher's existing use and application of the property pre-dates the ordinance which would prevent him to maintain and use his property for existing use or parking of commercial equipment. Mr. Fletcher has agreed to work with the Township Building Official, Planning Commission and the neighbor in developing screening that would consist of shrubs.

Michigan DEQ has made their advisement that they would consider this applicable to this and would prefer

to see species native to Michigan or that this be worked out between the Building Official, Planning Commission, the owner and the neighbor as to what would be acceptable for screening. A stipulation on this would be that Mr. Fletcher provide the Building Department with a listing of the types of existing equipment that is being stored on the property so that he maintain the existing use of the property for those said pieces of equipment. Mr. Raney supported the motion.

Voice Vote:           Ayes: All  
                              Nays: None

Motion approved.

**William Miller, 57455 Twelve Mile Road, New Hudson**

Sidwell 21-16-251-024. Applicant requests a variance of twenty feet from the side yard setback for the installation of an in ground pool. (Tabled for 30 days from the July meeting.)

Mr. Miller that at the last meeting they determined that there were some inconsistent figures on his mortgage survey. He stated that he has now clarified these figures and have provided a copy to the Board. He stated that his hardship is that he has purchased a 1.3 acre lot with the idea of someday putting a swimming pool in. He stated that he is having a difficult time placing the pool on the lot. He noted that his septic field really should have been held tighter to one side of the lot than what it is. This forces him to come before the Board today and ask for a variance in order to place the pool on his lot.

Mr. Miller briefly discussed the dimensions that were indicated on the survey. He noted that Mr. Phillips can attest to the fact that he does not have the amount of room on the side of his house which is indicated on the survey. He stated that looking where the planned reserve field is located in the back, he feels that he has placed the pool in the appropriate location.

Mr. Phillips discussed his findings when he went out to the site. He noted the discrepancies in the measurements indicated on the mortgage survey. He stated that he verified the location of the drain field. He stated that he would be concerned with a safety issue in placing the pool further to the rear of the lot. He stated that he would be opposed to issuing a building permit to do this. He noted that if the pool was placed back behind the reserve drain field, it would actually be closer to the subdivision behind this property than it would be to Mr. Miller's home.

Mr. Erwin questioned if it would be possible to put the pool near the house but turn it so that it faces east and west. Mr. Miller responded that with the dimensions of the pool it would not fit. Mr. Erwin stated that he is looking for a hardship. Mr. Miller stated that he could decrease the pool by 2' in each direction. He noted that he does want to have diving, and in order to do this there is a safety requirement. He stated that he could shorten the length, but not enough for it to fit sideways. Mr. Phillips noted that the existing barn is not on Mr. Miller's property, therefore a rear yard setback would come into play.

Mr. Hawkins stated that he feels that Mr. Miller has demonstrated that, for all practical purposes, this is the best location for the pool.

There was discussion with regard to the distance from the drain field that the pool could be placed.

Mr. Miller stated that he could probably go with a little less concrete around the pool to make the actual variance difference less. He felt that there is a hardship because he bought a 1.3 acre lot and can't put a swimming pool on the lot. He stated that this was his intention when he moved out to this area. Mr. Erwin stated that no one is saying that this big of a pool has to be put on this lot.

Mr. Hawkins stated that the required side yard setback is 30'. He stated that if the pool is shifted 5' and narrow the pool by 2', then they could get away with a 13' variance.

Mr. Hawkins made a motion with regard to William Miller, 57455 Twelve Mile Road, Sidwell number 21-16-251-024, the applicant is requesting a 20' variance from the side yard setback of the required 30' for installation of a pool. The side yard setback per the Ordinance is 30'. Based on comments and questions from the Board, they would recommend that a 13' variance from the required 30' setback be granted. The uniqueness here is that the owner has demonstrated that the property is L-shaped. The existing conditions relative to the active and reserve drain field as well as safety concerns regarding the application and use of the swimming pool for a residential application. Ms. Johnson supported the motion.

Voice Vote:           Ayes: All  
                              Nays: None

Motion approved.

**Bruce Whitney, 56655 Ten Mile Road, South Lyon**

Sidwell 21-27-100-015. Applicant requests a variance from the minimum 75' front yard setback to construct a garage 25' from the private road easement. Variance requested is 50'. Sect. 18.03

a.

Mr. Whitney displayed a plan which is a duplicate of what he submitted with his application. He explained that his property is approximately 2.9 acres. The westerly portion of the property consists of a 35' road easement. The house was constructed in 1977 and is approximately 65' from the easement and 160' from the road. He stated that a few years ago Lyon Township Fire Station No. 2 was constructed, which is his immediate neighbor. In order for the fire station to be built, a variance of 25' was needed. The variance was granted, therefore, making the foundation of the fire station 25' from the road easement. The parking lot behind the fire station is actually 12' from the easement.

Mr. Whitney stated that what he would like to do is construct a detached garage at the same distance from the private road easement that the fire hall was allowed. He stated that the reason he would like to do this is because of the unusual drainage conditions on his property. He noted that in the Springtime there is a river that flows through his property. He stated that this would not be an imposition to his neighbor because they are the same distance from the private road easement that he is requesting.

Mr. Barber questioned how Mr. Whitney would access this new garage. Mr. Whitney responded that he would have access from the easement.

Mr. Hawkins stated that on the drawing that was provided it notes that the distance from the easement would be 35'. Mr. Whitney stated that when he submitted the drawing it was only estimated. He stated that he has since measured and the accurate dimension is 25'. He stated that he has replaced the drawing with a revised drawing.

Mr. Erwin stated that originally Mr. Whitney was willing to go 35'. Mr. Whitney stated that he never measured it, he just estimated the distance. He stated that his intention all along has been to go with the same distance that the fire hall is from the easement, which is 25'.

Mr. Hawkins asked Mr. Whitney if he would be willing to make the proposed garage 30' off

the

road easement. Mr. Hawkins stated that he does understand that Mr. Whitney wants to have the same distance that the fire hall has, but there is a method to his madness. Mr. Whitney asked

Mr. Hawkins to explain. Mr. Hawkins stated that technically there are two road frontages, the private road as well as Ten Mile Road. He stated that they would consider that since the house faces Ten Mile Road, they would consider this the front and the road easement side as the side yard. He stated that 30' is the side yard setback in this zoning district. By making the garage 30' from the side yard, it would comply with the general intent of the Ordinance for side yard setbacks.

However, in true reality, it is a front yard setback because it has road frontage.

Mr. Whitney stated that he understands what is being stated. He questioned why it was adequate for the fire hall to go 25'. Mr. Erwin responded that there wasn't a whole lot that the fire hall had to work with. He noted that Mr. Whitney has a lot more to work with. Mr. Whitney stated that he would be willing to go 30'.

Ms. Johnson questioned how far back do the drainage problems start. Mr. Whitney responded that it would be immediately. He pointed out where they begin on his displayed plan.

Mr. Hawkins stated that one of the ZBA's task is to treat each applicant individually. The variance that they gave the fire hall was based on some unique circumstances based on comments and needs. This variance is unique based on the discussions held at that time. He stated that this is why they want to treat this request as unique, as well. He stated that they understand that there is a drainage problem and that there are two road frontages.

Mr. Barber questioned if the road easement is expandable. Mr. Whitney responded that it is not. He stated that there are five homes there now. He briefly explained the history of the property and how the road was built.

Mr. Erwin asked if there were any public comments. Les Cash, Fire Chief, stated that he is not going to make any comments but a lot of the stuff he has heard is a bunch of bull.

Mr. Hawkins made a motion with regard to Bruce Whitney, 56655 Ten Mile Road, Sidwell number 21-27-100-015, the applicant's is requesting a variance from a front yard setback off Outback Road relative to the construction of a detached garage facility. Based on discussions from the Board, he recommended that the 75' setback be reduced to 40', therefore, granting a 45'

variance. The

dimension off Outback would be 30' for the construction of a garage. The applicant has demonstrated the unique circumstances relative to two road frontages as well as

drainage

problems due to seasonal water on his property. This would be the best and most suitable application and location for the proposed garage. In light of looking at this application in

R-1.0

zoning, by keeping it 30' off Outback Road, he would be complying with the general

intent of the

Ordinance for a side yard setback. The Board is considering the front yard setback would

be off

Ten Mile Road, which is dedicated by the applicant's address. Mr. Raney supported the

motion.

Mr. Barber questioned how far the garage would be from the house and driveway. Mr.

Whitney

responded that it would be 40'.

Voice Vote:

Ayes: Erwin, Hawkins, Raney

Nays: Johnson, Barber

Motion approved.

**3. GENERAL BOARD DISCUSSION**

**NONE**

**4. ADJOURNMENT**

Mr. Erwin adjourned the meeting at 8:35 PM.

Respectfully Submitted,

**Deby Cothery**

Deby Cothery

Recording Secretary