

**CHARTER TOWNSHIP OF LYON  
ZONING BOARD OF APPEALS  
MEETING MINUTES  
March 15, 2004**

Approved as submitted April 19, 2004.

DATE: March 15, 2004  
TIME: 7:30 PM  
PLACE: 58000 Grand River

Call to Order: Chairman Erwin called the meeting to order at 7:33 PM.

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

Also Present: Philip Seymour, Township Attorney  
Larry Phillips, Building Official  
Chris Olson, Township Superintendent

Guests: 11

**1. Approval of the Minutes of February 17, 2004**

Mr. Hawkins noted a typographical error for the Recording Secretary to correct.

Ms. Johnson made a motion to approve the minutes from the February 17, 2004 ZBA meeting as corrected. Mr. Raney supported the motion.

Voice Vote: Ayes: All  
Nays: None

Motion approved.

**2. PUBLIC HEARINGS:**

**McNabb Flooring, 31250 S. Milford Road, Sidwell 21-03-126-017.**

Applicant is requesting a variance from the Sign Ordinance Section 16.04, D, 3 Non-conforming Signs, Substitution, to allow for replacement of a non-conforming sign. This was tabled from the February meeting.

Mr. Erwin stated that they received notice this afternoon from McNabb Flooring requesting that this issue be tabled. He asked Mr. Seymour if it is legal to do this, this close to the meeting. Mr. Seymour responded that it is legal to do this. He stated that it is up to the Board to make the decision as to whether or not they want to table the issue. He noted that he has had some conversation with Mr. Quinn who has spoken with Mr. Nicholson. He stated that he also spoke with Mr. Olson who was going to contact Mr. Nicholson to let him know that as far as the

administration is concerned, the meeting should continue today. Mr. Olson stated that this was done. He noted that they received notification at about 2:30 PM this afternoon. He stated that it is his understanding that Matt Quinn, Township Attorney, received a call at 1:30 PM this afternoon.

Mr. Olson stated that the notice was received late. This issue was publicly noticed in February and the public hearing was tabled to continue at tonight's meeting. He stated that there have been more signs installed the day after the ZBA tabled the issue. He stated that the problem that they have today is that McNabb gets the benefit of an additional 30 days worth of signs that should not have been up in the first place.

Mr. Erwin stated that looking at the pictures provided by Mr. Phillips, it indicates that everything that McNabb stated that they wanted to do, they did. He noted that the letter that they received requesting a table, indicates that McNabb's attorney will contact the Township Attorney. Mr. Olson stated that it is his understanding that Mr. Dragolous, McNabb's attorney, has not contacted Mr. Quinn.

Mr. Olson noted that at last month's meeting Mr. Phillips indicated that he would research what the ZBA did with regard to the Richard Tool & Die and Keebler signs. Mr. Phillips stated that he does have the information for the Board. The Board concurred that they would like to hear the information that Mr. Phillips has gathered. Mr. Phillips stated that he did not have quite the opportunity to look entirely though the exact numbers. He suggested that they move this issue down further on the agenda, to give him time to get the exact figures.

Mr. Barber made a motion to move McNabb Flooring to the end of the agenda. Mr. Raney supported the motion.

Voice Vote:                      Ayes: All  
   Nays: None

Motion approved.

**Jeff Appel, Sidwell 21-05-252-011**

Applicant is requesting a variance for proposed Twin Pines Condominium Development on Martindale Road. Section 7.01 states two entrances are required for a development of this nature. Applicant is proposing a boulevard entrance.

Brett LeVan, Boss Engineering, displayed drawings of the proposed development. He briefly explained the site plan, which has been before the Planning Commission. He indicated that the Planning Commission has sent them to the ZBA because of the single entrance that they have into this development. He stated that there are 97 attached condominium units. He noted that they have limited frontage along Martindale Road, west of Grand River Avenue. The property is correctly zoned for the requested use.

Mr. LeVan displayed a sample site plan for the property immediately to the south of this development which indicates the potential road network. He noted that there are no immediate plans to develop this section at this time. He stated that this sample site plan shows that they can have a continuous road network. He stated that there will eventually be two entrances from Martindale Road.

Mr. Barber stated that at the Planning Commission they were not shown the sample site plan for the property to the south. Mr. LeVan stated that this is correct. He stated that they have developed this since the Planning Commission meeting.

Mr. Barber stated that the Planning Commission indicated that there had to be two entrances off

Martindale Road. He noted that when the second development is done, there will be two entrances. Mr. LeVan stated that this is correct. He noted that the sample site plan is not in the development stages. He stated that they are simply showing this for illustration purposes of what will be probable in the future. He stated that currently, they are only advancing on the 97 units and don't have any immediate plans to develop the southern property.

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

There was brief discussion with regard to whether or not the Fire Chief has seen and approved these plans. It was noted that there is 30' between buildings, which is what the Fire Chief likes to see. It was also noted that the Fire Chief is generally more concerned about turning radius in a cul-de-sac.

Mr. Hawkins questioned if the ZBA is permitted to make a variance from the Private Road Ordinance only when it is referenced by the Township Ordinance. Mr. Erwin stated that the ordinance is putting a hardship on the developer of the property, because the road frontage is not wide enough to accommodate two entrances. Mr. Hawkins concurred. He stated that what he is asking is do they make the variance from the Township Ordinance or from the Private Road Ordinance.

Mr. Phillips stated that this would be a variance to the Zoning Ordinance that references the Private Road Ordinance. Mr. Seymour stated that the fact that the Private Road Ordinance is referenced in the Zoning Ordinance, it would give the ZBA the power to make a variance to the Private Road Ordinance through the Zoning Ordinance.

Mr. Hawkins made a motion with regard to applicant Jeff Appel, Park Woods Drive, South Lyon, Twin Pines Condominiums, the applicant has requested a variance from the Township Ordinance 109E in reference to compliance with the Private Road Ordinance requiring two entrances to a private subdivision, condominium complex. Based on the information presented by the Land Surveyor, Landscape Architect, Developer the particular road condition along Martindale Road, the Road Commission standards for distance between entrances off a road to private residences or complexes, they have demonstrated that they have significant complications in meeting this. The proposed ultimate scheme here complies with the Township Ordinances as well as the Road Commission standards with the two entrances at least 600' apart along Martindale Road. He recommended to the Board that they be granted a variance to permit one entrance to their present site as developed and submitted to the Planning Commission with the boulevard entrance, as shown on the plans. Mr. Raney supported the motion.

Voice Vote:                      Ayes: All  
   Nays: None

Motion approved.

**Michael J. Kearns, 56601 Briar Meadow, South Lyon. Sidwell 21-24-100-032.**

Applicant is requesting a variance of 35' due to the location of the septic fields, to build an upper addition and expand garage. Variance requested is from Chapter 36.

Michael Kearns explained that he would like to extend his garage 8' and go up with an addition for storage space. He stated that by extending the garage 8' he can put a wood workshop in there and have room to store his tools.

Mr. Erwin questioned if the septic field is the problem. Mr. Kearns responded that he cannot go out the back or the side because of the placement of the active and reserve septic fields. He noted that he would like to extend the garage 8' to the north in order to store his tractor and other tools.



Motion approved.

**Steven S. Ugo, 52880 W. Twelve Mile Road, Wixom, 48393. Sidwell 21-12-300-015.**

Zoning is R-1.0. Due to the location of the septic field, the Applicant requests a variance of 39' from the minimum 75' front yard setback to build an addition. Variance requested is from Chapter 36.

Mr. Ugo explained that they are proposing to build an addition onto the east side of their home. The addition would be to add a bathroom, bedroom and laundry room onto the home and give them a larger living space. He distributed a site plan to the Board. He discussed the 60' front setback. Mr. Phillips noted that this is not a setback, it is the 120' road right-of-way. Mr. Ugo noted that there is 60' on his side of the road and only 30' on the other side of the road.

Mr. Phillips stated that this is also non-conforming. Mr. Ugo stated that he believed that this would fall under Section 13.03J, which talks about legal family structures. He stated that the way that he reads it is that the existing structure may be enlarged as long as a new or larger non-conformity is not created. Mr. Hawkins stated that the non-conformity would be increased in the east to west dimension, if this addition is constructed.

Mr. Ugo stated that in August, 2003 there was an existing non-conformity that was granted in regards to a side setback. He noted that he has gone through the past minutes and found this.

Mr. Hawkins questioned if there is any reason why this addition could not be constructed to the north or the west of the existing house. Mr. Phillips responded that it is an existing non-conformity. Ms. Johnson questioned why they could not build up instead of off to the side.

Mr. Phillips stated that, in essence, what the Board is saying is that the only buildings that are allowed variances in Lyon Township are buildings that are in 100% compliance with the Township Zoning Ordinances. He stated that any building that is pre-dated to Zoning Ordinances is considered an existing non-conformity and will never be allowed to add onto that structure. He stated that this is the way that he understands this and would like to research and find out more information. Mr. Erwin stated that Mr. Phillips is absolutely correct with how the Ordinance reads.

Mr. Seymour stated that he would like to consider what Mr. Phillips suggested, that they table the issue for a month to allow himself, Mr. Quinn and Mr. Phillips to research this and respond back with an opinion letter.

Mr. Erwin stated that if something can be done, then they should probably bring back Mr. Kearns to the next meeting. Mr. Seymour stated that the Board can make a motion at the next meeting to reconsider Mr. Kearns' case. Mr. Phillips stated that he would notify Mr. Kearns of this development.

Mr. Hawkins made a motion with regard to Steven Ugo, 52880 Twelve Mile Road, Wixom, that this issue be tabled until the next meeting so that further discussion and review by the Building Department, Legal Counsel and Township Planning Consultants with regard to the Ordinance and any clarification to the Zoning Board of Appeals with regard to expansion or enlarging of an existing non-conforming per Article 13. Mr. Raney supported the motion.

Voice Vote:           Ayes: All  
                              Nays: None

Motion approved.

