

**CHARTER TOWNSHIP OF LYON
ZONING BOARD OF APPEALS
MEETING MINUTES
April 19, 2004**

Approved as submitted May 17, 2004. Amended January 23, 2006.

DATE: April 19, 2004
TIME: 7:30 PM
PLACE: 58000 Grand River

Call to Order: Chairman Erwin called the meeting to order at 7:30 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: 20

1. Approval of the Minutes of March 15, 2004

Mr. Hawkins made a motion to approve the minutes from the March 15, 2004 ZBA meeting as submitted. Mr. Barber supported the motion.

Voice Vote: Ayes: All
Nays: None

Motion approved.

2. PUBLIC HEARINGS:

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

Due to location of the septic field, the applicant requests a variance of 39' from minimum 75' front yard setback to build an addition. Chapter 36. This was tabled from March, 2004.

Mr. Seymour stated that at the last meeting there was discussion about clarifying the ZBA's role for granting variances in this matter. He stated that Mr. Quinn has drafted a memo which was forwarded to Larry Phillips, Building Official, today. He stated that the memo indicates that the portion of the Ordinance that states that a non-conforming use cannot be expanded or that they cannot do anything in violation of the Zoning Ordinance, applies to the administration. He stated that once the administration denies a variance request, it can come before the ZBA. The ZBA has the right to grant the variance, this is the power of the ZBA, provided the applicant's request meets the requirements for the granting of a variance that are found in Section 8.02 of the Ordinance, specifically D1, Practical Difficulty. He stated that if the applicant demonstrates

that there is a practical difficulty, then he/she is entitled to a variance.

Ms. Johnson stated that she did research when the homes were built for the first two applicants this evening. She noted that the homes were in compliance when they were built. She stated that the front yard setback in the district was 35'. The current ordinance makes these homes non-conforming.

Mr. Raney made a motion to remove Steven Ugo issue from the tabling. Ms. Johnson supported the motion.

Voice Vote: Ayes: All
 Nays: None

Motion approved.

There was brief discussion of the information that was presented last month as to how the information applies to the criteria for granting variances.

Mr. Raney made a motion in the case of Steven Ugo, 52880 Twelve Mile Road, that the variance request of 39' from the front yard setback be granted due to previously existing conditions, the ordinances have changed since the home was built, the septic field is located behind the home which would prohibit the addition to be built in the rear and that the proposed addition will not be any closer to the road than the existing home is now. The approval of this variance request complies with all the requirements indicated in Section 8.02.D, sub-letter e, the need for a variance has not been created by something the applicant did or the previous owner of the property did. Ms. Johnson supported the motion.

Voice Vote: Ayes: All
 Nays: None

Motion approved.

Michael Kearns, 56601 Briar Meadow South Lyon, Sidwell 21-34-100-032

Applicant requests a variance of 35' from minimum front yard setback of 75' to build an upper addition and expand the garage. Reconsideration of previous denial.

Mr. Erwin noted that this issue was denied at the last meeting. He asked if there were any public comments regarding this issue. There were none.

Mr. Kearns noted that the septic field is behind the house. He indicated that he cannot build on the south side because it is very swampy.

Mr. Hawkins questioned if the variance being requested is for the front yard or the side yard setback. Mr. Kearns responded that it is the front yard.

Mr. Raney made a motion to reconsider the variance request for applicant Michael Kearns, 56601 Briar Meadow. Ms. Johnson supported the motion.

Voice Vote: Ayes: All
 Nays: None

Motion approved.

Mr. Hawkins made a motion with regard to Michael J. Kearns, 56601 Briar Meadow, South Lyon,

that the applicant be granted a 35' front yard setback variance from the required 75'. The applicant has demonstrated and there are records within the Township offices that this property was established and the front yard setback that is there now was established prior to the existing ordinance. The application of the ordinance setback would unreasonably prohibit the applicant from doing the addition. This is not a problem created by the applicant, it is a problem created by the ordinance, which has been changed over the years. Mr. Barber supported the motion.

Voice Vote: Ayes: All
 Nays: None

Motion approved.

Clayton Miller, 3187 Branch Drive, Wixom, 48393. Sidwell 21-09-351-063

Zoned R.05. Applicant requests a variance from Private Road Ordinance to be able to obtain an address and building permit on a parcel that is on an existing private road not maintained to current Township standards.

Mr. Miller explained that his parents used to own the property, which they split in order to sell the house before they moved to Florida. He stated that he went into the Township a couple years ago to request an address so that he could begin the building process. At that time he was told that the private road needed to be updated to comply with the Township standards. He stated that he has met with the residents along the lane to discuss this. There was a lot of objections to making the road wider and to possibly changing everyone's address.

Mr. Miller stated that what he is proposing is that he be allowed to improve the lane along the front of his parcel and put a turn around at the end. He stated that he is also proposing to put a sign up at Travis Road indicating all the addresses that are located on the private road. He stated that as far as redoing the entire existing road, he believes that he does not have that right under the existing maintenance agreement.

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

Gary Piccalo, 58525 Travis, stated that he did not receive a letter telling him what is going on and would like to know what the whole story is here. He indicated that several other neighbors on Travis Road are present tonight.

Mr. Erwin questioned if Mr. Piccalo's property is within 300' of Mr. Miller's property. Mr. Piccalo responded that it is not. Mr. Erwin stated that this is probably the reason that he did not receive a letter.

Mr. Olson briefly explained what is being proposed and what the situation is with the private road for the residents in attendance. He stated that the Township would like to see the neighbors get together to work something out with regard to the upgrading of the private road.

There was brief discussion between Mr. Olson and the residents with regard to the road. Many of the residents were not in favor of improving the road. Some of the residents indicated that they don't have the money to put into upgrading the road. Some of the residents indicated that they did not want to give up any property for this to happen.

Mr. Erwin stated at this point any conversation about the road is moot because they have to look at this particular variance. He stated that in order to get the variance, McKenna Associates, Inc. has recommended that a new private road application be submitted for review and approval by the Township Planning Commission and Township Board. He reviewed some of the comments indicated in the McKenna Associates, Inc. review letter dated May 16, 2002 addressed to

Mr. Miller. He stated that from the conversation here tonight, it doesn't look like this is going to go very far.

Mr. Phillips gave some background information with regard to roads like this one, which there are a lot of in the Township. He noted that the Township feels that these roads are unsafe but has not asked the residents to upgrade them until a situation like this happens. If nobody every wanted to split property or build on property on one of these roads, the Township would not ask for the road to be upgraded.

Mr. Barber stated that if they approved this then they would have to approve something like this for every road in the Township like this, and he indicated that he is not inclined to do this.

After further brief discussion, Mr. Erwin asked for a motion. There was a suggestion of the possibility of a surety bond being collected to ensure that the road would be upgraded. Mr. Seymour stated that he did not believe that the Township would want to get into this type of situation.

Mr. Barber made a motion with regard to the variance application for Clayton Miller, 3187 Branch Drive, Wixom, for the Travis Road vacant property, that the it be denied because it does not meet all the qualifications cited in Section 8.02.d, specifically item 2. Also refer to the McKenna Associates, Inc. letter dated May 16, 2002. Mr. Raney supported the motion.

Voice Vote: Ayes: All
 Nays: None

Motion approved.

Richard McHugh, 53985 Derek Drive, Milford, 48381. Sidwell 21-02-200-042.

Applicant requests a variance to erect a 6' privacy fence. Variance requested is from Chapter 12.16, sub-section b, from Zoning Ordinance.

Mrs. McHugh explained that because of the location of their home, they would like to install a 6' privacy fence between their property and their neighbor's property. She stated that their neighbor built a two story garage/pool house a couple years ago. Because of the way the two homes are situated, the McHugh's are having a problem with noise, excessive lighting and privacy.

The ordinance indicates that they can install a 4' fence, but Mrs. McHugh did not feel that this would provide enough privacy, that is why they are requesting to install a 6' fence.

Mr. Phillips stated that at the last Board meeting he requested that the Board allow him to ask the Planning Commission to revisit the fence ordinance. He noted that it is not uncommon this time of year for him to get at least 30 to 40 phone calls with regard to the fence ordinance.

Mr. Erwin stated that his suggestion would be to plant pine trees instead of installing a fence. He noted that the pine trees will help keep more sound out than a fence will. Ms. Johnson concurred. Mrs. McHugh was concerned with the growth time of the trees, she felt that they would not grow fast enough to help the situation. There was further discussion with regard to other types of plantings that would grow faster.

Mr. Hawkins explained the reasoning for a 4' fence ordinance in lieu of a 6' fence. He noted that it was basically for public safety reasons with regard to fire or some other type of emergency.

After further discussion, it was determined that there are other alternatives available. Mr. Erwin asked the Board for a motion.

Mr. Hawkins made a motion in regard to Richard McHugh, 53985 Derek Drive, Milford, the applicant has demonstrated that they have a unique circumstance with two road frontages and a neighbor that seems to be a nuisance, however, the Board has determined that there are other options with either a 4' fence or plantings of trees or bushes. The applicant has not really demonstrated that they have exhausted all the options. It is recommended that this application for a variance for a 6' fence be denied. Mr. Barber supported the motion.

Voice Vote: Ayes: All
 Nays: None

Motion approved.

William Brewer, 58358 Eleven Mile Road, South Lyon, Sidwell 21-16-300-019.

Applicant requests a variance from Chapter 36, Schedule of Regulations, side yard setback minimum of 30' in R-1 zoning to allow split of property.

Mr. Brewer explained that there are two homes located on this parcel. He is proposing to split the property down the middle to make two lots with a home on each.

Mr. Phillips noted that the variances needed would be for the width of the lot and the side yard setback for both homes.

Mr. Hawkins asked Mr. Brewer if he was going to maintain ownership of both lots. Mr. Brewer responded that he will be selling the property and moving up north. He noted that the realtor told him that it would be difficult to sell with two homes on one property.

Mr. Raney stated that he felt that this would be a reduction of a non-conformity.

Mr. Phillips noted that there would be three variances on one parcel: 1. side yard setback, 2. road frontage and 3. less than one acre. He stated that on the other parcel the variance needed would be for the side yard setback.

Mr. Hawkins made a motion in regards to William Brewer, 58358 Eleven Mile Road, South Lyon, in regard to the property at 58358 Eleven Mile that a 371/2-foot variance to provide an 112-1/2' frontage on an R-1.0 lot with Township sewer accessibility to permit a lot split between 58340 to reduce an existing non-conformity in the Township and to benefit the applicant so that he may comply with the current ordinances. Mr. Raney supported the motion.

Voice Vote: Ayes: All
 Nays: None

Motion approved.

Mr. Hawkins made a motion in regards to William Brewer, 58358 Eleven Mile Road, that the applicant's request for 16-1/2' side yard setback variance, that the variance be granted in order to reduce an existing non-conformity and permit the lot split between 58358 and 58340. By granting this variance it will provide two parcels that are more in line with the Township ordinances. Mr. Raney supported the motion.

Voice Vote: Ayes: All
 Nays: None

Motion approved.

Mr. Hawkins made a motion with regard to 58340 Eleven Mile Road, applicant William Brewer, the applicant is requesting that the side yard setback variance be 13-1/2' from the required 30'. This will allow the applicant to complete a lot split that will decrease a non-conformity and provide the two lots to be more in conformance with the Township ordinances. It is recommended to the Board that this variance be granted. Mr. Raney supported the motion.

Voice Vote: Ayes: All
 Nays: None

Motion approved.

3. **GENERAL BOARD DISCUSSION** **NONE**

4. **ADJOURNMENT**

Mr. Erwin adjourned the meeting at 8:58 PM.

Respectfully Submitted,

Deby Cothery / Catherine Culver

Deby Cothery/Catherine Culver
Recording Secretary