

**CHARTER TOWNSHIP OF LYON  
ZONING BOARD OF APPEALS  
MEETING MINUTES  
May 17, 2004**

Approved as submitted June 21, 2004.

DATE: May 17, 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: 7

**1. Approval of the Minutes of April 19, 2004**

Ms. Johnson made a motion to approve the minutes from the April 19, 2004 ZBA meeting as submitted. Mr. Barber supported the motion.

Voice Vote: Ayes: All  
Nays: None

Motion approved.

**2. Approval of the Agenda**

Mr. Barber made a motion to amend the agenda to include the following:  
- Larry Phillips - Clarification of what can be put in an R-1 zoning  
Ms. Johnson supported the motion.

Voice Vote: Ayes: All  
Nays: None

Motion approved.

**3. PUBLIC HEARINGS:**

**Jason Rhines, 60680 Deer Creek Drive, South Lyon, 48178, Sidwell 21-08-301-005.**

Applicant requests a variance from Section 36, Schedule of Regulations, to allow an addition to a

pole barn that is 22 feet from the property line.

Mr. Rhines explained that he would like to put an addition on an existing pole barn on his property. He stated that he check with the Building Department and was told that he is allowed to have 1,200 square feet. The existing barn is 800 square feet and he would like to add a 400 square foot addition onto it. He stated that the existing pole barn is only 22' off the property line. He stated that his neighbor on the side of the pole barn has submitted a letter indicating that he does not have a problem with this addition.

Mr. Hawkins questioned if Mr. Rhines constructed the existing pole barn or was it there when he purchased the property. Mr. Rhines responded that the barn was there when he purchased the property. He stated that Steve Larkins, who constructed the pole barn, somehow got permission to place the pole barn that close to the property line. He stated that the only logical way to put an addition on the pole barn so that it would look decent is to expand the length.

Mr. Phillips stated that because this property is located within a subdivision, the maximum size of a pole barn that is allowed is 900 square feet. Mr. Rhines stated that when he came into to Building Department to check on this, he was told that 1,200 square feet is allowed.

Ms. Johnson stated that the ordinance has changed since Mr. Larkins built the pole barn.

There was brief discussion with regard to the amount of square footage allowed for a pole barn in this area.

Mr. Phillips noted that a permit has not been issued and that the construction has started for the addition to the pole barn. Mr. Rhines explained that the materials have been purchased, the siding on the rear of the pole barn has been removed and that the foundation has been poured. He stated that the addition to the pole barn was not his idea to begin with. He stated that he has a couple commercial vehicles parked on the property and that some of the neighbors complained about them. He stated that he talked with Phil Shultz, Zoning Officer, who indicated that Mr. Rhines had two options that would be satisfactory, to put up a fence or put an addition on the pole barn so that the vehicles could be put inside the pole barn. He stated that he decided to put an addition onto the pole barn.

Mr. Rhines stated that since the decision to put the addition on, he began by pouring the foundation because the warm weather was slipping away. He submitted an application to the Township for a permit and ran into all kinds of roadblocks. He stated that he would like to get this done because he has a mess in his yard right now.

Mr. Olson questioned if the commercial vehicles are operating out of this property. Mr. Rhines responded that they are. Mr. Olson noted that this area is zoned residential. Mr. Rhines stated that these vehicles are not really operating out of the site, they are parked there.

Mr. Hawkins questioned the square footage of Mr. Rhines' home. Ms. Johnson went to get record of this property. She indicated that the home is 2,238 square feet.

Mr. Hawkins stated that it does not seem that the pole barn is moving any closer to the property line than what it is now. There was discussion with regard to the calculations used in determining the size allowed for a pole barn.

Mr. Erwin questioned if the setbacks were closer at one time. Ms. Johnson stated that she believed that Mr. Larkins got a variance some time ago to build the pole barn.

Robert Haas, 60746 Deer Creek, stated that he has no problem with the 22' or with Mr. Rhines

adding to the pole barn. He noted that he submitted a letter indicating this. He stated that he believed that Mr. Larkins got a variance for the height because of his motor home. He stated that his barn is not 20 feet off the lot line. Ms. Johnson noted that at one time the setback was 10 feet.

Ms. Johnson stated that it is her understanding that Mr. Rhines is in litigation right now with the Zoning Officer in court because of the commercial vehicles. Mr. Rhines stated that this is correct. Ms. Johnson stated that because of this, if they were to grant a variance, they would probably be undermining the Zoning Officer's enforcement.

Mr. Olson questioned if Mr. Rhines is operating his business out of his residence. Mr. Rhines responded that he is for the time being. He stated that this was supposed to change about a year ago, but the economy got bad so he has not moved into a commercial building yet. He noted that he is working with a realtor to find a commercial property, but it is just a matter of getting the cash in line to do it. Mr. Olson stated that there are "For Sale" signs all up and down Grand River. Mr. Rhines stated that he knows this and would like to take advantage of this just as soon as he can.

Since the applicant is in the process of looking for another building, Mr. Erwin questioned why he would put an addition onto the existing pole barn. Mr. Rhines responded that he is doing this to please Mr. Shultz, who wanted either a fence or an addition on the barn. He stated that Mr. Shultz did not demand that the vehicles be moved immediately into a commercial building, he requested that either a fence be installed or an addition to the pole barn be constructed.

Mr. Rhines stated that it is his fault for not following the property protocol and going to the Building Department first for a permit.

Mr. Barber stated that there are commercial parking lots that space could be rented out, like the one on Griswold Road. Mr. Rhines stated that he has thought about that, but this would slow them down in the morning. He noted that each truck has \$30,000 worth of equipment in them and he would not want to have any of it stolen. He stated that he has heard of people who have had things stolen when they used a lot like this. He stated that this is why he has not done this, but if he is told that he has to, he will.

Mr. Erwin stated that this is a hardship not created by the Township. He noted that Mr. Rhines has already stated that he is looking for a new site for his vehicles.

Mr. Phillips noted that he has two letters, one dated May 20, 2003 and one dated September 25, 2003, which were written to Mr. Rhines by Mr. Shultz. He stated that both letters indicate that only one commercial vehicle over one ton may be permitted on a residential parcel and the parcel must be five acres minimum and not be part of a platted subdivision as stated in section 14.01 of the Township Ordinances. Mr. Rhines stated that he has no response to this, he is only referring to telephone conversations that he had with Mr. Shultz. He stated that he is not suggesting that the ZBA make their decision upon what was discussed between Mr. Shultz and himself. He noted that he is at fault for not going through the proper channels. He stated that if there is anyway that the ZBA could allow him to finish his barn, even if it is conditioned upon the removal of the trucks, he would like to do so since he has already purchased the materials and poured the foundation.

Mr. Erwin reviewed the criteria that the Board has to use in granting variances. It was noted that in order to grant variances, all the criteria must be met and this case does not meet all the criteria. Mr. Raney noted that there is at least three out of the five criteria that are not met.

Mr. Raney made a motion with regard to the matter of Jason Rhines, 60680 Deer Creek Drive, South Lyon, Sidwell 21-08-301-005, that the application for a variance be denied. Mr. Barber supported

the motion.

Voice Vote:                   Ayes: All  
                                      Nays: None

Motion approved.

Alex Kozarian, 60548 Deer Creek, stated that Mr. Rhines yard looks like a junk yard. He noted that there are more than two trucks on this parcel. Mr. Erwin stated that this is not the Board for this discussion. He noted that the Building Department or Mr. Shultz should be contacted.

**Consumers Energy, 1945 W. Parnall Road, Jackson, 48201, Richard E. Davis, Representative, Sidwell 21-34-100-024 and 21-29-426-018**

- a. Consumers Energy is requesting a variance for the type of fence permitted in the R-1.0 zoning district for the Lyon 34 site. Fencing standards are contained in Section 12.16B.I.b of Township Zoning Ordinance. Permitted fence styles include wire or stock fences with a maximum height of four feet.
- b. Consumers Energy is requesting a variance for the type of driveway surface required by Section 14.01.D.4 of the Township Zoning Ordinance for the Lyon 29 site. This section requires the driveways and maneuvering areas to be hard surfaced with concrete or plant mixed bituminous material.

Richard Davis, representative for Consumers Energy, explained that on this particular project he has submitted application for site plan review to the Planning Commission. He noted that they are on the June 14, 2004 agenda. He stated that the plans have been reviewed by Mr. Doozan, Township Planner, who has sent him a letter indicating that two variances would be required as well as other items that need to be added to the plans.

Mr. Davis stated that the Lyon 34 site was approved by the Planning Commission and built in 1998. He stated that they now need to add additional pipe and equipment at this facility. In order to accommodate this, they need to extend the easterly fence line 20' to the east. He stated that they would like to have the new section of fence be of the same materials as the existing fence. The existing fence is a 6' high chain link fence. He stated that aesthetically, it would look nicer if this was all the same. He stated that this type of fencing would help with security of the site.

Mr. Erwin questioned why this case is before the ZBA before it has been seen by the Planning Commission. Mr. Olson responded that in Mr. Doozan's review it is indicated that the applicant would need two variances. Mr. Davis stated that because of the Planning Commission's schedule, it was suggested that he come to the ZBA first.

There was discussion with regard to some existing spruce trees. Mr. Davies stated that the fencing would go in back of the existing berm.

Elizabeth Chismark, 56885 Nine Mile Road, questioned the exact location of the new fence. She questioned if it is near where the tanks are already or is it near the access easement. Mr. Davies used a drawing to indicate where the new fence would be installed.

Mr. Raney stated that he does not have a problem with this. He felt that the height is needed for security reasons.

Ms. Chismark stated that she would like to see more trees planted to hide the tanks.

Mr. Hawkins made a motion with regard to Consumers Energy, 1945 W. Parnall Road, Jackson, MI, with regard to Lyon 34 storage field construction site, the applicant be granted a variance from Section 12.16B, for residential district of two acres or less to permit a 6' high chain link fence in lieu

of

the required 4' fence in order to maintain existing security, appearance and safety of the existing storage field. The applicant has demonstrated that there is existing berming as well as fencing and landscaping to cover this. This is an extension of an existing facility. This variance is granted subject to site plan approval by the Township Planning Commission. Mr. Raney supported the motion.

Voice Vote:                      Ayes: All  
   Nays: None

Motion approved.

Mr. Davies explained that with regard to the Lyon 29 site there is an existing well pad and access drive from Griswold Road to the well pad. He stated that at the well pad they have three natural gas storage wells. He stated that they will be constructing a pipeline to transport the gas from the storage field to the Lyon 34 site. He stated that the request for the variance has to do with the construction an access driveway from the well pad down southerly down to the pipeline.

Mr. Erwin questioned the length of the proposed road. Mr. Davis responded that it 81' long and 12' wide and will be used to access the pig launcher at the well pad and the access drive to the pipeline. He stated that they would like to have the road be of the same construction as the existing road, which is a crushed concrete base with a MDOT21A gravel. He submitted some pictures of the existing well site for the Board to review.

There was discussion with regard to how the road is being proposed. Mr. Davies stated that this is typical well pad construction. He stated that they do have periodically someone coming in to re-work the wells. The base is crushed concrete with MDOT21A gravel on top of it.

Mr. Erwin stated that the road looks like it is going through a wetland and questioned if they had a permit to do so. Mr. Davies responded that they have applied to the MDEQ for a wetlands permit.

There was discussion with regard to Griswold Road being paved. Mr. Raney noted that there is a paved pad at the intersections and questioned if this is necessary at the entrance to this site. Mr. Hawkins stated that Consumers is not under any obligation to do this because it is an existing site and the entrance has no bearing on the proposed road because it is inside the site.

Mr. Hawkins made a motion with regard to Consumers Power, 1945 W. Parnall Road, Jackson, MI, with regard to Lyon 29 storage field, the applicant has requested a variance from the Township's design standards Section 14.01.D.4, to permit typical Consumers Energy design standards of crushed concrete roadways in lieu of concrete or bituminous material for their roadway. He would ask that the Board grant this variance to allow their typical standard construction designed to meet the standards of the Company as well as the equipment materials that are designed to cross this driveway and that it matches the existing conditions and would be suitable for this application. This variance is granted subject to site plan approval by the Township Planning Commission. Mr. Raney supported the motion.

Voice Vote:                      Ayes: All  
   Nays: None

Motion approved.

4. **Clarification of what can be put in an R-1 zoning – Larry Phillips, Building Official**

Mr. Phillips stated that the ordinance does refer to religious institutions being special land uses in the R-1 zoning districts. He stated that the ordinance does not give a definition of a religious institution. He stated that the reason this has come up is that there is a group of priests/clergy that is looking to have sort of a monastery which will have worship rooms, housing quarters and meeting rooms. This will be located on residential property in R-1 zoning. He stated that they are kind of at a dead end as to whether or not a monastery would be considered a religious institution. He noted that he is going to contact Mr. Quinn with regard to Public Act RLUIPA.

There was brief discussion with regard to this. The Board determined that this monastery would be considered a religious institution. Ms. Johnson stated that they would be subject to the same conditions and restrictions as a church.

Mr. Phillip noted that it has been indicated to him that every once in awhile they will have a retreat which will bring approximately 50 or more cars to this location. He stated that the parcel they are discussing is a 20 acre parcel on Johns Road, which is big enough to handle this use.

- 5.     **GENERAL BOARD DISCUSSION**                             **NONE**
  
- 6.     **ADJOURNMENT**

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

Respectfully Submitted,

*Deby Cothery*

Deby Cothery  
Recording Secretary