

**CHARTER TOWNSHIP OF LYON
ZONING BOARD OF APPEALS
MEETING MINUTES
October 18, 2004**

Approved as submitted November 22, 2004.

DATE: October 18, 2004
TIME: 7:30 PM
PLACE: 58000 Grand River

Call to Order: Chairman Erwin called the meeting to order at 7:35 PM.

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

Absent: Pamela Johnson, Clerk

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

Guests: 4

**1. APPROVAL OF MINUTES:
- Regular Meeting of September 20, 2004**

Mr. Barber made a motion to approve the minutes from the regular meeting of September 20, 2004 as submitted. Mr. Hawkins supported the motion.

Voice Vote: Ayes: Barber, Erwin, Hawkins
Nays: None
Absent: Johnson
Abstain: Raney

Motion approved.

2. PUBLIC HEARINGS:

Deborah Windish/Richard Poling, 54288 Royal Troon Drive, South Lyon, MI 48178

Sidwell 21-26-251-001. Applicant requests a variance of 20 feet from the required 35 foot rear yard setback to allow for construction of an addition.

Deborah Windish distributed a packet of information to the Board members. Richard Poling stated that they did meet with the Subdivision Association last week to discuss what they are proposing. He noted that the Association hoped to get a letter to them indicating approval before this meeting, but the letter was not received yet. He stated that their house in the Tanglewood Subdivision and is one of the original models. He stated that as it sits, it is not in compliance with the current zoning, it is only 30' from the rear yard.

Mr. Poling stated that they are asking for a variance to allow them to put in an addition of approximately 160 square feet off the great room of the existing home. He stated that the addition will not jut out as far as the existing deck. He stated that it is their intent to build the addition in conformity with the existing house and will be a four season room. He stated that they will use the same windows as are in the existing home, but of a higher grade glass.

Mr. Poling stated that to the north side of their home is the first tee of west nine holes of the golf course. He noted that there are no homes there. He stated that behind their home is a 100 square foot wetland. He indicated which photograph depicts these areas in the packet of information that was distributed.

Mr. Erwin questioned the comment Mr. Poling made about the house not being in conformity. Mr. Poling responded that this is his understanding. He referred to a copy of the actual mortgage survey in the packet of information.

Mr. Barber questioned how it could be non-conforming. He stated that it should be in accordance with the PD Agreement. Mr. Poling stated that it is his understanding that the northwest corner is 30' from the lot line. Mr. Olson noted that Tanglewood was the first PD for the Township and there have been allowances made over time when documents came in. Mr. Barber questioned when the house was built. Ms. Windish responded that it was built in 1994. There was brief discussion with regard to the Tanglewood Planned Development requirements.

Mr. Erwin noted that he does not see a demonstrated hardship. The applicant is using his property and not being infringed upon.

Mr. Hawkins discussed the deck. Mr. Phillips stated that in accordance with Section 12.9 of the ordinance, a deck is a permitted projection into the rear yard. Mr. Hawkins stated that the rear yard setbacks really do not apply to the deck, but it does apply to the back of the home.

Mr. Erwin asked Mr. Poling to explain the hardship. Mr. Poling responded that the way that the house sits on the lot there is no way they could build an addition anyplace else and still have the addition be a viable part of the home. He stated that they will not be impacting any of the neighbors. He noted that there are Arborvitae planted along the golf course. He stated that they do have a home without the addition, but the addition would enhance their use and comfort. He felt that the addition would add to the value of the neighborhood.

Mr. Poling noted that this lot is one of the smallest lots in the development. All the other lots are substantially larger. He felt that this was unusual.

Mr. Erwin questioned if the applicant had a particular time table for this addition. Mr. Poling responded that they hope to break ground as soon as possible. He stated that if there is something that is requested or required and this had to be tabled for a month, it would not be detrimental.

Mr. Erwin stated that the Zoning Board of Appeals cannot increase a non-conformity.

The Board felt that they needed more information with regard to the PD plan, therefore, it was determined that this issue would be postponed until later in the meeting to allow Mr. Phillips time to get the planned development paperwork from his office.

Mr. Hawkins made a motion to postpone the Deborah Windish/Richard Poling issue until the end of the meeting so that additional information is researched on the Planned Development requirements of the Tanglewood Subdivision. Mr. Raney supported the motion.

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

Motion approved.

Curtis A&M, Woodwind Village, Melvin Menuck, Representative

Sidwell 21-23-326-033. 25395 Villagewood Court, South Lyon, MI 48178. Applicant requests a variance of 3.21 feet from the required 35' rear yard setback to allow for construction of a 3-car garage.

Melvin Menuck, Principle with Curtis A&M Builders, explained that they are the principle builders in the Woodwind Village condominium development. He stated that this petition is before the Board this evening to request a variance from the rear yard setback for Unit 33. He stated that the reason for this request is that the home will not fit on the lot because the unique configuration of this lot. He stated that due to the configuration of the lot a three car garage will not fit. He noted that a three car garage is standard on the homes in this development. He stated that they are not seeking to add anything to the home itself.

Mr. Erwin questioned if the home is built. Mr. Menuck responded that the home is not yet built. Mr. Erwin questioned if the home could be shortened by 3.21 feet. Mr. Menuck responded that if he could shorten the building, he would.

Mr. Hawkins questioned what makes this lot unique. Mr. Menuck responded that the curvature of the front of the lot is very exaggerated. He stated that they have been looking for ways to make this work without a variance, but there is nothing that they can do to get it to fit. He stated that they looked into reversing the plan, but it only exasperates the situation. He stated that the other homes in this development do not have the same configuration. He noted that the other cul-de-sac's have a more moderate radius which allows for some juggling of location and positioning. He stated that in order to meet the front setback, they fall short in the rear.

Mr. Menuck stated that there is an alternative that is negligible which is a variance of 3.17 if the house could be moved forward. He felt that the original request is a better solution rather than moving the house forward.

Mr. Olson stated that it looks like this home has been placed mainly within the building envelopes where designated. He stated that the 3.21 area is a notch out. Mr. Menuck stated that the family room could not be built without the variance. He stated that it could be built, but would be greatly reduced. Mr. Erwin stated that 3.21 would greatly reduce the family room. Mr. Menuck stated that the width of the family room is only 14.8'. He stated that if it is reduced then the family room would end up only 11.5', which is very minimal.

Mr. Olson suggested rearranging the interior walls of the home. Mr. Menuck stated that by doing this it would change the home, and that is not what his customer wants. He stated that this particular customer is seeking this particular home on this lot. He stated that they are trying to acquiesce the customer's wishes.

Mr. Menuck stated that the hardship is really the configuration of the lot. He stated that this is an unusual lot as compared to the other lots within the development.

Mr. Erwin stated that considering that this house is not built, there is something that will fit on this lot. He stated that it may not be necessarily this particular home, but something could be built. Mr. Menuck stated that there is probably something that could be built, but it is not what the customer wants.

Mr. Hawkins questioned if there will be a similar circumstance on Unit 35. Mr. Menuck responded that he does not. He noted that there are only two lots in the whole development, Unit 45 and Unit 33 that have problems. He stated that this is not one of their deeper homes, it is one of the shallower ones.

Mr. Olson questioned which home will fit on this site. Mr. Menuck responded that he is not sure that any home they are offering for this development will fit on this site. He stated that he is sure that there is somewhere some type of home that will fit, but none that he offers.

Mr. Barber questioned how many homes are built in this development already. Mr. Menuck responded that right now there are three models, basements and they have an application for another home.

Mr. Menuck stated that the unique situation is that out of the whole development phase which consist of 85 homes, two of the lots are the most difficult lots. He noted that the rest of the lots are more uniformed in shape. He stated that it is very unique that both these lots would come up this quick.

Mr. Menuck requested that the Board consider the uniqueness of the lot. He stated that the request is not substantial, it is somewhat minimal. He stated that there are no adjoining homeowners in the development yet. He stated that this will not put a hardship on any of the adjoining future homes.

Mr. Hawkins stated that the home could be built 60 square feet smaller. Mr. Menuck stated that anything can be done, but the question is does it make the rooms usable for what their intents are. He noted that the answer to this question is "No".

Mr. Erwin stated that they don't know what the intents are but asking for a variance before the house is even built is a little crazy.

Mr. Hawkins stated that they could build a two car garage for this home. Mr. Menuck stated that it would make it very hard to sell with a two car garage.

There was discussion with regard to the offset in the elevation. Mr. Menuck stated that without the offset the elevation of the home would be one big gable. The offset provides for an extra gable and enhances the appearance of the house. He stated that they are trying to build a nice, upscale product.

Mr. Menuck stated that if the product that he was offering in this development had two car garages, then it would not be a problem, but it is not, the homes have three car garages in this development. He noted that at this price range, nobody wants a two car garage. Some people want a four car garage.

Mr. Erwin stated that there has to be something that the applicant can do to put this house on the lot without a variance. Mr. Menuck stated "not this house".

Mr. Hawkins made a motion in regard to Curtis A & M, Woodwind Village, Sidwell 21-23-326-033, 25395 Villagewood Court, the applicant has requested a 3.21' variance from the rear yard setback.

It is motioned that the applicant has not demonstrated that there is not another home of some sort of design or equivalent square footage, in nature, that would fit on this lot within the parameters of the planned development and the accepted Township regulations. A hardship has not been demonstrated relative to the property and that construction has not yet begun. The applicant has

not demonstrated there is any significance of manner where a different home could be provided. It is, therefore, motioned that the applicant's request be denied. Mr. Raney supported the motion.

Mr. Seymour stated that the motion indicated that there was not a hardship, which he would not argue about since construction has not yet begun. He felt that if this was in the motion, it may encourage people to begin construction and then come before the ZBA for a variance.

Mr. Hawkins amended his motion to indicate the applicant has not demonstrated a hardship in that there could potentially be another home built on this lot within the parameters of the planned development and the accepted Township standards. Mr. Raney supported the amendment to

the

motion.

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

Motion approved.

Deborah Windish/Richard Poling, 54288 Royal Troon Drive, South Lyon, MI 48178

Sidwell 21-26-251-001. Applicant requests a variance of 20 feet from the required 35 foot rear yard setback to allow for construction of an addition.

Mr. Poling stated that Mr. Phillips did get the plan and that it does show a 35' setback and that the envelope was within the setback. He noted that this lot is somewhat smaller in comparison to the other lots in the development.

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

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Mr. Erwin read the portion of the ordinance that indicates the criteria that the ZBA must follow granting variances.

Mr. Poling asked the ZBA to table this issue so that he can go back and get some more specific measurements.

Mr. Hawkins made a motion with regard to Deborah Windish/Richard Poling, 54288 Royal Troon, Sidwell 21-26-251-001, that the variance request be tabled until the November, 2004 meeting. Mr. Barber supported the motion.

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

Motion approved.

- 3. **GENERAL BOARD DISCUSSION** **NONE**
- 4. **ADJOURNMENT**

Mr. Erwin adjourned the meeting at 8:19 PM.

Respectfully Submitted,

Deby Cothery

Deby Cothery
Recording Secretary