

**CHARTER TOWNSHIP OF LYON
ZONING BOARD OF APPEALS
MEETING MINUTES
March 21, 2005**

Approved as corrected April 18, 2005.

DATE: March 21, 2005
TIME: 7:30 PM
PLACE: 58000 Grand River

Call to Order: Mr. Erwin called the meeting to order at 7:34 PM.

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

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

Guests: 14

**1. APPROVAL OF MINUTES:
- Regular Meeting of February 22, 2005**

Mr. Barber made a motion to approve the minutes from the regular meeting of February 22, 2005 as submitted. Mr. Hawkins supported the motion.

Voice Vote: Ayes: All
Nays: None
Abstain: Erwin

Motion approved.

2. PUBLIC HEARINGS:

Chris Shirey, 27101 Martindale, South Lyon

ID 21-17-201-032. Applicant requests a variance of 200 square feet to allow an already constructed accessory building to remain. Variance requested is from Chapter 18.00.

Mr. Shirey explained that he ordered the building before he moved onto the property because of the steadily climbing steel prices. He stated that when he ordered the material he was not aware that there would be a problem with the size of the building.

Mr. Erwin stated that the Building Department issued a permit for the construction of a 40' x 55' building. He asked Mr. Shirey if he knew that the building would be larger than this. Mr. Shirey

responded that he did not know that he would only be allowed to build a 40' x 55' building.

Mr. Schilling questioned how the building went from 40' x 55' to 40' x 60' if the material had already been ordered for a 40' x 56' building. Mr. Shirey responded that he ordered the material before he knew what size building he would be allowed to have.

Mr. Phillips stated that Mr. Shirey was told that a 40' x 55' building would be the largest structure that he could build on this parcel. The permit was issued for a 40' x 55' building. He stated that Mr. Shirey then built a 40' x 60' building.

Mr. Erwin asked Mr. Shirey if he called for any inspections on the building as it was being constructed. Mr. Shirey responded that when he came in for the permit he was told to let them know when he needs a final inspection. He stated that he did ask two people if a final was all that he needed. He noted that he was told that it was.

Mr. Phillips noted that Al Hogan, Lyon Township Building Inspector, is present if the Board has any questions.

Mr. Erwin stated that it is puzzling to him how the building got to 40' x 60' when it was permitted for 40' x 55'. He stated that the building should have been made smaller.

Mr. Shirey stated that the building comes pre-engineered. He stated that he was told that if any changes were made to the building, then his warranty would be voided. Mr. Erwin stated that if the ZBA does not approve this variance, then there will have to be a lot of changes made to the building.

Mr. Hawkins questioned when the building was actually constructed. Mr. Shirey responded that he began last summer. Mr. Hawkins noted that the Building Department sent the drawing back to Mr. Shirey with a notation on it that the building was too large and needed to be made smaller.

Mr. Barber stated that he has been a contractor for more than 40 years and he has never done a job without the proper permits and inspections. He stated that if everybody in the Township were to do the same thing as this, then the Township has lost control.

Mr. Hawkins asked Mr. Shirey if a builder or an erector put the building together or did he put it together himself. Mr. Shirey responded that he had an erector put the building together. Mr. Erwin noted that the erector should have known better, if he saw what the Building Department noted on the plans.

There was brief discussion with regard to the fact that this building could have been made smaller. Mr. Shirey noted that he would have to pay a couple thousand dollars to have the building re-engineered.

Mr. Erwin stated that the Building Department is only a phone call away. He stated that if there was any doubt in Mr. Shirey's mind about what size the building could be, he should have called.

Mr. Phillips stated that the building was ordered a year ago and was ordered as a 40' x 60' building. He stated that the first time that Mr. Shirey came to the Building Department about this building he indicated that the building was 40' x 56'. He stated that the original application has 40' x 56' indicated on it. He stated that the constructed building is 4' longer than what was indicated on the application.

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

Mr. Hawkins made a motion in regard to applicant Chris Shirey, 27101 Martindale, in regard to his request for additional square footage in a detached accessory building per Section 18.03. The applicant has not demonstrated that he has complied with the Building Ordinances or direction from the Building Department and has not demonstrated anything other than his own intentions. The applicant has not provided any information or justification for granting a variance, therefore, it is requested that the Board deny the variance request. Mr. Barber supported the motion.

Voice Vote: Ayes: All
 Nays: None

Motion approved.

Michael Roberts, 60661 Lamplighter, New Hudson

ID 21-05-326-015. Applicant requests a 465 square foot variance to allow construction of a detached accessory building. Variance request is from Chapter 18.03.

Mr. Roberts explained that he would like to construct a detached accessory building so that he can have some extra storage area. He noted that he has been looking to purchase a boat and would store the boat in this building also. He noted that the square footage of the lots in the subdivision vary. He stated that there are several people in the subdivision that do have attached garages as well as detached garages.

Mr. Phillips questioned the square footage of Mr. Roberts' lot. Mr. Roberts responded that it is 18,000 square feet. Mr. Phillips noted that if the lot size was 20,000 square feet or larger, the square footage of the accessory building would increase from 120 square feet to 450 square feet.

Mr. Erwin questioned what Mr. Roberts' hardship is. Mr. Roberts responded that the hardship is building a detached garage at the size that he wants. Mr. Erwin stated that there are several criteria that the Board has to look at in determining whether a variance should be granted, one of which is hardship. He stated that the hardship that he can see is that Mr. Roberts wants a bigger building.

Mr. Roberts stated that his property backs up to a detached garage. He stated that he has to look at a garage at the back of his lot. Mr. Erwin questioned that size of the detached garage behind Mr. Roberts' property. Mr. Roberts responded that it is a two car garage. He noted that he has been told that there have been variances granted in this subdivision. He also noted that there are a couple lots that are smaller than his that have attached and detached garages.

Mr. Olson questioned if there are any covenants within the subdivision that would not permit this. Mr. Roberts responded that he does not believe so, but could check into this. Mr. Phillips asked if there is a Subdivision Association. Mr. Roberts responded that there is not.

Mr. Hawkins questioned what the minimum size of an accessory building that the applicant would need to accomplish what is being asked for. Mr. Roberts responded that maybe 20' x 22' would work. There was further brief discussion with regard to size of the proposed structure.

Mr. Schilling questioned how deep the existing garage is. Mr. Roberts responded that it is almost 22.2'. Mr. Schilling noted that the boat could be parked in the existing garage. Mr. Roberts noted that he would like to park his cars in the garage, something that he is not able to do now.

Mr. Erwin stated that he personally does not see a hardship here. Mr. Roberts noted that he could reduce the size to 20' x 20'. Mr. Erwin noted that the ZBA has to have a reason to grant a variance.

Mr. Olson noted that the garage could possibly be extended off the back of the house with a side-entry. There was discussion with regard to the location of the well and septic on the property.

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

Mr. Phillips stated that with the discussion of possibly attaching the new structure to the back of the existing structure, he requested that the Board table this issue so that he can go out and look at the site to see if this is possible.

Mr. Hawkins made a motion in regard to Michael Roberts, 60661 Lamplighter, the applicant has requested that this issue be tabled until the April ZBA meeting. Mr. Schilling supported the motion.

Voice Vote: Ayes: All
 Nays: None

Motion approved.

Christopher Jung, 25840 Johns Road, South Lyon

ID 21-24-201-001. Applicant requests a 40 foot front yard setback variance to allow construction of a new home.

Mr. Jung explained that he purchased the corner lot at Eleven Mile and Johns Roads five years ago with the intention of building a home on this lot. He stated that he went to the Building Department with a plan, that he had drawn up and found out that this home will not fit on the lot because of the required setbacks. Because this is a corner lot, he has two 75' front yard setbacks. He noted that, unfortunately, he did not do his homework with regard to the setbacks.

Mr. Erwin questioned if there is anything on the lot now. Mr. Jung responded that there is not.

Mr. Schilling questioned if there was a driveway put in on this lot recently. Mr. Jung responded that it was put in a couple years ago. Mr. Schilling noted that the driveway comes in off Eleven Mile

and

asked if this is where Mr. Jung is planning on keeping it. Mr. Jung responded that this the intention is to have the driveway off Eleven Mile Road, but he would actually like to have two driveways, one off Johns Road also. Mr. Olson noted that because of the proximity to the corner, two driveways would probably not be allowed. Mr. Phillips noted that the Road Commission for Oakland County has the jurisdiction with regard to the driveways.

Mr. Erwin questioned the type of house that is proposed. Mr. Jung responded that it will be a two story home. Mr. Olson noted that these particular lots don't fit in the zoning, they are 1/2 acre lots in 1 acre zoning.

Mr. Jung stated that he screwed up and had a set of plans drawn without really realizing the setback situation on the property. He stated that he could really do something else, but would prefer not to. Mr. Erwin stated that he would like to see Mr. Jung go back and draw up a set of plans that would fit better on the parcel.

Mr. Erwin asked if there were any public comments. Theresa Burke, 5270 Eleven Mile Road, stated that her house is on the northeast corner of Eleven Mile and Johns Roads. She noted that the drainage is really bad here because the graders keep filling in the ditches. She questioned if there is going to be more than one home on the property. Mr. Erwin responded that at this point, it looks like there is only going to be one building on the property.

Ms. Burke questioned if the property perks. She noted that she heard that it does not perk. Mr. Jung responded that he does not believe it is going to perk, but there are things that can be done so that he can build on the parcel.

Ms. Burke noted that her biggest concern would be with the drainage. She stated that she does not want to see it get any worse than what it already is. Mr. Jung stated that he intends on having a basement, so something is going to have to be done. He stated that whether he has to do it or the County has to do it, something is going to have to be done with regard to the drainage.

There was discussion with regard to Mr. Jung's other parcel, Lot 2 on Johns Road. It was determined

that he intends on selling this lot. There was discussion with regard to the size of the lots and when the splits were platted.

Mr. Schilling questioned the possibility of expanding Mr. Jung's current home. Mr. Jung responded that he was really looking to build a new home and sell the old home. He noted that there are Edison lines at the back of his current property that would probably prohibit him from expanding to the rear.

Mr. Erwin asked if there were any other public comments. Ms. Burke stated that she would rather see a home built here rather than something else. She noted that this is just an empty lot with some trees on it now.

Mr. Erwin noted that this house is still on paper only and he would recommend going back and trying to tighten up the design a little bit to lower the variance request.

Mr. Hawkins noted that the ordinances are trying to apply one acre zoning to this parcel, which is only a 1/2 acre. It was noted that this is a hardship on the property owner.

Mr. Phillips asked for a short break in order to discuss something with Mr. Seymour. Mr. Seymour stated that his advice would be that rather than let the applicant have a blanket 1/2 acre would be to have the applicant possibly re-draw the house and bring it back for the ZBA to look at. He stated that the idea of variances is that the ZBA is supposed to give the lowest or least amount of variance. He stated that he feels that the way that the property is right now, the applicant cannot use it.

Mr. Phillips stated that if the ZBA is inclined to grant the variances, it would be better for them to grant four dimensional variances, one for each of the setbacks rather than giving a blanket variance.

After further discussion, it was determined that the applicant would prefer to have this issue tabled to give him a chance to re-look at the plan and possibly tweak it a bit.

Mr. Hawkins made a motion in regards to Christopher Jung, 25840 Johns Road, request for a variance for front yard setback because of dual road frontage and other conditions, that the applicant go back and review the size of the proposed house, conditions and evaluate the potential need for sanitary conditions due to County health requirements relative to the size of the lot, that this issue be tabled until the April, 2005 meeting. Mr. Raney supported the motion.

Voice Vote: Ayes: All
 Nays: None

Motion approved.

Riffles Restaurant, Applicants Joan & Greg Gurke, 22870 Pontiac Trail

Sidwell 21-29-303-026. Applicant requests a side yard setback variance of 3.5 feet to allow construction of an addition. Variance requested is from Chapter 36.00.

Mr. Gurke stated that the addition in the front would be to make the smoking area inside the restaurant larger. He noted that this area currently only has a counter and three small tables. He stated that when sitting at the counter, patrons are looking directly into the kitchen. He stated that they would like to put up a wall and close off the kitchen area.

Mr. Gurke stated that smokers are not coming into the restaurant and business is down. He stated that they need to enlarge the smoking area in order to bring smoking patrons back in. He stated that they would like to compete with the other businesses in the area with regard to smoking patrons.

Mr. Gurke stated that they did check with the Health Department with regard to the well out front, and were told that they could expand the building 4-1/2 feet. He also discussed the rear corner of the building, noting that they would like to use this area for storage.

Mr. Barber noted that it looks like the applicant is just trying to square off the building. Mr. Gurke responded that this is correct. He noted that the overhang in the front of the building protrudes out about 6' so the actual roof of the building won't change, they are just actually moving the wall out. He noted that there will probably be 1' of overhang once the addition is done.

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

Mr. Hawkins noted that this would seem reasonable for the use of the property. He stated that it is consistent with what they have done in the past.

Mr. Hawkins made a motion in regards to Riffles Restaurant, 22870 Pontiac Trail, variance request to construct an extension on the existing restaurant facility, which would be consistent with the application and use and would allow the applicant to utilize the property. The variance of 3.5' is granted from the side yard setback requirements and that the existing facility is essentially non-conforming with the ordinance, however, the facility was constructed and established prior to the application of the ordinance, in particular Section 36.02. Mr. Barber supported the motion.

Voice Vote: Ayes: All
 Nays: None

Motion approved.

Lyon Mechanical, Applicant Dan Cheresko, 30100 South Hill Road

Sidwell 21-02-376-023. Applicant requests a 33 foot front yard setback variance to allow construction of an addition. Variance requested is from Chapter 36.00

Robert Diepert, Architect, explained that Mr. Cheresko purchased a pre-engineered building on this property with the assumption that he had room to make an office space within the building. He stated that this office space has become inadequate for the business and Mr. Cheresko would like to construct an addition.

Mr. Diepert stated that as the original plot plan was drawn, the setback was taken from the center line of the road and not from the right-of-way. He stated that when Mr. Cheresko came to him and they took a look at this, they discovered the setback issue. He stated that if the setback was taken from the right-of-way, the setback line comes right to the existing building and would not allow for expansion. Because of this he stated that Mr. Cheresko is requesting a variance so that

