

**Charter Township Of Lyon
Zoning Board Of Appeals
Meeting Minutes
November 21, 2005**

Approved as corrected January 23, 2006

Date: November 21, 2005
Time: 7:30 PM
Place: 58000 Grand River

Call to order: Mr. Erwin called the meeting to order at 7:32.
Roll Call:

Erwin, William, Chairman
Barber, Mike (PC Liaison)
Hawkins, Michael
Raney, Tony
Schilling, Troy (Brd Liaison)

Also present:

Philip Seymour, Township Attorney
Al Hogan, Building Official
Chris Olson, Township Superintendent

Guests: 9

1. Approval of October 17, 2005 Minutes
Mr. Barber motioned "to accept the meeting minutes for October 17th as printed" Mr. Schilling supported the motion.
Voice vote: Ayes: all
Nays: none
Motion approved.
2. Dan Pauls 60688 Lillian, South Lyon MI 48178, Parcel ID# 21-29-305-006. Applicant requests a 3'6" front yard setback variance to allow for the removal of an attached carport to be replaced by a garage that is 3' smaller than carport. (Section 36.02)

Dan Pauls 60688 Lillian explained that he has a non-conforming building. The carport is three foot closer to the road than what the garage would be. He would like to replace the carport with the garage.

Mr. Erwin asked if the garage was going on the same spot? Mr. Pauls answered yes. The garage would be about three foot farther away from the road than the carport. He would be making the non-conformity smaller.

Mr. Hawkins asked if the garage would be three foot closer off of Kay Street? Mr. Pauls answered yes. He knew the carport was going to be a problem when he bought the home. He has lived there 16 years. You could not walk on top of it without falling through it now. He also thinks that it is an eyesore.

Mr. Barber asked Mr. Pauls if his driveway was off of Kay Street. He also asked if this would be his second garage. Mr. Pauls answered yes.

Mr. Erwin asked, "With two garages are we exceeding square footage compared to house?"

Mr. Hawkins commented, "We need to be consistent with what we have here. For the front yard for any residence or property we always used address side. So, the front yard set back would be Lillian Street, but in this case he has two front yard set backs, which is a legitimate claim for a variance."

Mr. Schilling asked what the dimensions were for the existing carport. Mr. Pauls answered that the carport was about 24x26.

Mr. Erwin also commented that his only concern was that we would be exceeding the garage area of the square footage of the house. He also asked if the main living area was $22^{1/2} \times 39$.

Mr. Hogan commented that there is the one section that is 39, plus the 11x7 plus the foyer for the garage.

Mr. Raney asked what the new garage dimensions were going to be. Mr. Pauls answered 24x24.

The board discussed the size of the home, the size of the new garage, and how it would fit with the ordinance.

Mr. Erwin explained that the problem that they are having is that “in a residential subdivision the core area of the garage that is attached to the principal residents should not exceed 50 percent of the total core area of the house. If you have one garage already, the next one is going to put you over 50 percent of what the square footage of your house is.”

Mr. Barber explained if you have 1,200 square foot garage, you are going to need 2,400 square foot house. Mr. Pauls said that he does not have that. Mr. Hawkins pointed out that by definition the breezeway is part of the house.

Mr. Pauls commented that he would like to put something up because the carport was part of the house when he bought it.

Mr. Schilling said that the total garage area could be a little over 1,000 square feet to be 50 percent of the houses square footage. Mr. Pauls asked for the exact square footage.

Mr. Erwin commented that he would have to talk to the building department.

The board continued to discuss the square footage of the house and how big the garage could be.

Mr. Hogan said that the garage could be approximately 474 square feet or 24x20.

Mr. Erwin suggested that Mr. Paul should go to the Building Department and get the exact dimensions of his house.

Mr. Hawkins asked if he modifies this do we still need to ok his request for a variance?

Mr. Hogan suggested to assume that he is going to modify it. Then he would meet the request because he was adding on to the non-conformity, because of the setback issue.

Mr. Raney comment that he would still be decreasing the non-conformity.

Mr. Erwin commented that he would just assume that they not do it that way. He said, “I would rather him go through the Building Department so we know exactly what we are talking about. I would rather table it and have Mr. Pauls come back next month with more definitive answers as far as the square footage.”

Mr. Hawkins made a motion “in front of the board in regards to applicant Dan Pauls 606888 Lillian. Applicant has been advised of some additional issues relative to the addition of a second garage or an attached accessory building. The applicant has agreed to go back and verify some dimensions and square footage and present this again to the Zoning Board of Appeals in December at the next Zoning Board of Appeals Meeting. Troy Schilling supported the issue.

Voice Votes: Ayes: all
 Nays: None
 Motion approved

3. Applied Instruments Co., Robert Limbright, 51760 Grand River, Wixom 48393. ID # 21-12-251-004. Zoning is I-1. Applicant is requesting a variance from the slope variances for the retention basin using boulder style wall construction that is fenced in.

Mr. David Maloney representing Bob Limbright from Applied Instruments:

Mr. Maloney gave a brief history on the case. In 1996 Mr. Limbright built a dance studio along Grand River on his property. At the same time he wanted to save space for a future addition on the back. One of the conditions at that time was that he grant about a 25-foot easement along Grand River to the township, which he did. The other was that he shows the phase of the second building as phase two as a future construction and he construct a retention pond that would

accommodate both phases one and two at that time. This was done as well. Consequently because of a sluggish economy, Mr. Limbriht had to wait for a while before he could build a second building on the back of his property. "When we got into the designing phases we discovered that since then the calculation for the retention basin have been changed in Lyon Township." We have tried several different options to facilitate the new calculations, but by doing so we would infringe upon the building space that Mr. Limbriht would need for his building, his business. "After several alternative options, looking at different things, and discussing it with Giffels we thought the only alternative was a bolder retention pond, which is being utilized in other communities such as Waterford Township." It is actually aesthetically more pleasing with the boulders and usually has a rod iron fence around it even though it does create a little deeper slope, by doing this we could achieve the capacity necessary by the township calculations. "Mr. Limbriht feels that this is a hardship that was not self-created and he asks for the boards help to grant him this variance."

Mr. Hawkins asked Mr. Doozan if he has gotten anything from Giffels about the issue. Mr. Doozan commented that he does not have anything specifically at this point from Giffels. He does know that they have been meeting.

Mr. Maloney said that yes they were meeting and they already have a preliminary site plan review and at that time Giffels was supportive and recommended that it be brought before the Zoning Board of Appeals.

Mr. Hawkins asked about the easement along Grand River. Mr. Limbriht said that the county asked him to put up the easement in case they ever wanted to put a secondary road in, a walkway or widen the road.

Mr. Maloney commented that the storm calculations at the last Planning Meeting were achieved. It is just a question of whether or not the variance will be granted for the change in slope for the boulders.

Mr. Erwin asked, "With the retention pond getting deeper, how does that work as far as slope? As far as safety? If someone falls in the thing how will they get back out? How much does that change the slope?" Mr. Erwin asked if the boulders go all the way to the bottom. Mr. Maloney said that they go down to the bottom edge and there is fabric placed on the bottom as well. Mr. Erwin said that he was concerned about someone falling in and not being able to get out, but with boulders it might make it easier to get out.

Mr. Hawkins also commented that a typical retention pond does not require a fence unless it exceeds 5 to 1. He then asked Mr. Doozan, "What are the slope standards?" Mr. Doozan answered that they are in the engineering design standards.

Mr. Hawkins also commented that he thinks that they applied for and meet the engineering designs standards for capacity based on Giffels Webster's review."

Mr. Maloney stated that they did talk to some of the neighbors about the run off going off the property and the neighbors rejected any cooperation.

Mr. Barber stated that he "can appreciate a business staying in Lyon Township and staying in the same location. It is a clean operation."

Mr. Erwin asked if anyone in the public had a comment.

Bob Limbriht 51760 Grand River:

He has been at this property for 13 years and there is an existing retention pond that has been there for years. No one gets into that area because it is back off the road. They have had no problems with it.

Mr. Barber asked if this was a new retention pond.

Mr. Limbriht answered, "No. This is an existing retention pond that we put in when we built the dance studio." It is the same one. The only problem is that the ordinance says that it needs to be bigger now. The way he looks at it is they are going to put boulders around it and at one end they are going to extend it and make it bigger. The boulders will run along the perimeter.

Mr. Barber also commented that the boulders would keep the shoreline from running down into the pond. Mr. Limbriht said that having the boulders should be a plus. Mr. Barber then said that the boards main concern is safety and making sure that it will be safe. Mr. Limbriht commented that no one has been around there that he knows of.

Mr. Hawkins asked him about the second building. Mr. Limbright commented that “This is the second building behind the property we have. We have a 5,000 square foot building. At the time we knew we needed more space, but with the economy it was hard.” Mr. Hawkins asked “With the new addition are you closer to your retention pond with access to your building. People that would be accessing your building, are they any closer to the retention pond? Mr. Limbright answered yes.

Mr. Maloney commented that this is an industrial area and there won't be kids involved. It is all adults. They go into it on the other side. The access to go into the building was on the other side.

Mr. Raney asked, “The whole plan was originally approved as it was and the only thing that is changing is the size of the retention pond because of the change in the ordinance that requires 100 year storms. Do you have approval for the other building?”

Mr. Maloney answered that the site plan was approved to build a second building.

Mr. Olson commented that for on site retention, the standards are, “have to be able to handle a volume of storm water run off from two consecutive one hundred year frequency storms; cannot use volumes below the ground water table, the perimeter water elevation, or the invert of any outlet pipe. They must provide at least one foot of freeboard above the high water elevation. Side slopes for retention basin shall not be steeper from one vertical to 5 horizontal, which is what they are seeking relief from. They want to make it steeper and then use the boulders to increase their capacity because they are limited in land area. The property is the low spot in the area. The first directive under here is to provide the volume of storm water for the two consecutive hundred year storms. The important thing is storing the water. The design of the side slopes is a lesser concern. We would like to eliminate fences and see it 5 to 1. If that cannot be done that is where you have your opportunity for a variance.

Mr. Maloney also commented that he talked with Leslie Zawada and tried different types of options. They could not figure anything else. This is their last option.

Mr. Erwin asked if there were any figures from Griffels Webster?

Mr. Limbright commented that they are a long way from being done.

Mr. Schilling made the motion “For approval of a variance to Applied Instruments Co. 51760 Grand River, Wixom Id number 21-12-251-004 the current engineering standards require a five to one and the applicant is requesting a three to one with the use of boulders and a fence surrounding the property for retention basin. The nature of the hardship is based on the fact that our standards have been upgraded over the time since they originally approved and installed their retention basin for the design up to facilities on the property. Mr. Raney second the motion.

Voice vote:

Ayes: all

Nays: none

Motion approved.

4. Herbert W. Harbin, III, 28566 Haas Road, Wixom, 48393. ID 21-11-426-019. Zoning is R1.0. Applicant requests a variance to allow an addition to a non-conforming structure. Existing home has a 6' side yard setback that requires a 30' setback. (Section 13.05)

Herbert Harbin 28566 Haas Road:

The property has 1.1 acre of property. For some reason in the late 40's and 50's they located everything in the southeast corner of the property. The 6' variance or non-compliance now was built in the 40's and is right against Milarch Nursery. I want to build an addition on the north side of the property to take in my elderly parents. To do so, they informed me that this is a non-compliant building even though the non-compliance is on the other end of the building, so I need a variance. The size of the addition is 22x32^{1/2}.

Mr. Barber asked what does the 6-foot property line share? Milarch Nursery? Mr. Harbin answered yes. It shares the north side. There are mostly flowers there.

Mr. Raney said that he did not see a problem with it because he is adding to the other side.

Mr. Harbin also informed the board that he thinks the property was split after the house was already built and the lot line fell on that 6-foot line. It was just how the property was split.

Mr. Hawkins commented that in normal circumstances you are not allowed to expand in size to a non-conformity; however, the residence was built on the lot before establishment of township ordinances. Mr. Hawkins also asked if Mr. Harbin asked his neighbors if they had any problems with the addition. Mr. Harbin said that he talked to them and that there were no problems. Mr. Hawkins commented that he thought he was trying to utilize his property.

Mr. Hawkins made the motion, "In regards to applicant Herbert W. Harbin 28566 Haas Road, Wixom. Applicant has requested a variance from the building ordinance regarding to existing non-conformities to permit an expansion of his existing residence. Board has reviewed this and has looked at section 13.03 general requirements for non-conforming uses under item 13.03 J, which permits expansion of existing non-conformities, provided he does not extend, enlarge or create any new existing non-conformities. The applicant has demonstrated that his addition will be to his residence and not create any new non-conformity. Note to the board that this residence was established on this lot prior to the establishment of township ordinances. The applicant has demonstrated sufficient hardship and I recommend to the board that we grant him variance to expand the existing non-conformity." Mr. Schilling supported the motion.

Voice vote:

Ayes: All

Nays: None

Motion approved.

Meeting adjourned: 8:18 PM.

Respectfully Submitted,

Catherine Culver

Recording Secretary