

Charter Township Of Lyon
Zoning Board Of Appeals
Meeting Minutes
August 21, 2006

Approved as corrected on October 16, 2006

Date: August 17, 2006
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
Hawkins, Michael
Raney, Tony
Schilling, Troy (Brd Liaison)

Also present:

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

Guests: 4

Approval of minutes: Approval of July 17, 2006 meeting minutes.

Mr. Raney moved "to postpone the July 17, 2006 meeting minutes until September." Mr. Hawkins supported the motion.

Voice vote:

Ayes: all
Nays: none
Absent: Mike Barber

Public Hearings:

- 1. Milford Ten LLC/ Todd Wyett, 25900 W. Eleven Mile Road, Ste. 250, Southfield, MI 48034. Sidwell #21-09-100-043. Applicant requests a variance from the wetland/watercourse setback under Section 36.02 (f)(2) Schedule of Regulations to allow for a service driveway to be constructed within a 50' setback area.**

Greg Obloy 4111 Andover Road – Mr. Obloy explained that they are seeking a variance that will extend the site plan for one more year. He explained that the client received a site plan approval a year ago, expecting that sanitary sewer and water would be provided at the site. However, the SAD that was going to establish the sewer and water had unexpected delays, and his client could not build this summer. He further explained that the Planning Commission granted them the extension last month with the condition that they receive the variance from footnote F. They need a variance because last October, the Township adopted new language that expanded the scope of what could not be done in the 50- foot wetland setback. The Planning Commission can only approve a site plan that conforms to the zoning ordinance, and the adoption of the new language puts the site plan out of conformance. He also commented that the hardship that the client suffered was out of his control, and this site plan is identical to what was approved last year.

Mr. Erwin asked if the Zoning Board was going to see them every year for the next 5 or 6 years. Mr. Obloy answered that they are waiting for the sewer and water. Mr. Erwin asked Mr. Olson how much of the problem was

related to sewer and water. Mr. Olson answered that there are some allegations that are subject to litigation on the issue. He said that the Township does contest as far as water and sewer being the only problem that the applicant has had. The Township engineers did have to assist them with well and septic, which was turned down by the County Health Department. There are a number of other uncompleted issues. Mr. Olson said that there is nothing on the site plan that was not previously approved. He also suggested that Mr. Rosenthal describe the design and other options.

Mr. Hawkins said that it is a legitimate request because there were some things that are out of their control. Mr. Olson said that there are some things that are in their control. For example, the provision of their water easement. The applicant has done a considerable amount of site conditions, but some of that work was not done until recently. Mr. Olson also explained that some applicants or submittal have not occurred until recently.

Dana Rosenthal 3210 Coolidge – Mr. Rosenthal said that the only permit that they do not have is the MDEQ construction and drain permit. They should have a response by October 2.

Mr. Obloy said that the Township did not approve the engineering for the SAD until this spring. The client was not able to engineer their site until the SAD was engineered. Mr. Olson said that he did not see how that was relevant.

Mr. Erwin said that they had a year to work this out. Mr. Obloy said that when the prospect of sewer and water is not in front of them, they cannot get a development loan. The county foreclosed on doing well and septic. There was nothing the client could do to move forward. Mr. Obloy said that there were other delays that were beyond the Township's control.

Mr. Hawkins said that their easements were not granted to the property. He asked if there was any reason why that has not happened. Mr. Rosenthal said that everything has been applied for, and things have been given to Oakland County Drain. Mr. Olson pointed out that they did not submit the easement for the water main that would run along Ten Mile on the southern portion of the sight. This was despite numerous reminders from the Township's Attorney's Office. The applicant is the only one that has not granted an easement for construction of the water main in phase I.

Mr. Obloy said that if they had proceeded with the development, they would not be able to put users in the houses because they have no sewer or water. Mr. Obloy argued that was their hardship. Mr. Erwin said that they have done nothing and have not done all of their paper work. Mr. Obloy argued that even if they had, they would still be in the same position.

Mr. Olson said that the real issue is redesign of what is going on at the north side of where the drain is, if they are not going to have adequate parking under the ordinance, or any other issues. Mr. Olson felt those were the issues the applicant should be addressing.

Mr. Obloy commented that the Planning Commission approved the site plan, which shows that they felt the site plan was appropriate.

Mr. Hawkins asked what affect the new ordinance has on the site plan. Mr. Rosenthal said that they would lose a service drive, 1/3 of parking, and the access to the rear of the building. Mr. Hawkins asked if they would fall out of compliance with the parking ordinance. Mr. Rosenthal answered yes, because they currently the exact number of parking spaces needed. The new ordinance would also affect the bike path, lighting, and signage.

Mr. Hawkins said that it was a mixture of issues, some their responsibility, some not.

The Zoning Board discussed the site plan approval from the year before and the more recent approval of the Planning Commission. They also discussed the conditions placed on the site plan. Mr. Seymour explained that last year they came before the ZBA for an interpretation of the ordinance, and the ZBA ruled that parking or asphalt in the second 25 feet was not construction; they did not need a variance. Therefore, their site plan was approved as presented at that point in time. The site plan is good for a year. Now because the ordinance says that you can only approve a site plan if it is in compliance with all ordinances, the Planning Commission could not approve the site plan because the Board ruled that asphalt is construction. If they want to put a driveway in the second 25 feet, that is considered construction. The ordinance says that they can do work in the second 25 feet as long as the second 25 feet is restored to its previous condition.

Mr. Hawkins asked if it was possible within the site to follow the ordinance. Mr. Rosenthal it wasn't if they are going to provide access to the building, and they would lose landscaping area, which was critical to the site plan approval.

Mr. Olson also pointed out that any redesign of the site plan would cause driveways to get closer to the intersection.

Mr. Hawkins suggested that they table and ask that the applicant be able to show to them the impact on the site if they had to follow the 50-foot no construction on the wetlands boundaries. He said that they need something to evaluate. The ZBA has not seen any practical difficulty. Mr. Obloy said that the practical difficulty is needing more time due to the sewer and water. Mr. Hawkins said that is one issue. Mr. Rosenthal said that even if they would have been one hundred percent built at this point, they would not be able to occupy the building until next fall when water and sewer is scheduled to be there. Mr. Hogan said that he thought next fall was a stretch. The easements are almost granted, and water and sewer on phase one is close to getting started. Mr. Rosenthal said that they need the approval so that they can start doing something. Mr. Olson said the Planning Commission has pushed for farther setbacks for wetlands, but they saw this as a decision left up to the ZBA. He also commented that by the Planning Commission deferring the applicant to the ZBA, they gave them more time to turn in and complete applications.

Mr. Hawkins moved "to make a recommendation to the board in regards to the Milford Ten LLC, that we review this again next month provided the applicant gives us some more definition and substantial information to justify the request for the variance on the wetland setback." Mr. Schilling supported the motion.

Voice vote:

Ayes: all

Nays: none

Absent: Mike Barber

2. **926 Associates, LLC, 53400 Grand River Avenue, New Hudson, MI 48165. Sidwell #21-11-226-001. Applicant requests a variance from Section 36.02 Schedule of Regulations to allow for a 20' front yard setback and a 20' rear yard setback. Applicant also requests a variance from the Township Engineering Standards to permit the existing side slopes of 1V: 3H, with the added protection of a 4' high chain link fence that is already in place.**

Kim Gasior 53400 Grand River - Mr. Gasior stated that they are requesting two variances. They are requesting the variances because they are trying to split the property into two parcels. Mr. Gasior explained that all the buildings on this property that need improvements are already in existence. Using a diagram, Mr. Gasior showed the ZBA where they wanted to put in a private road and put in a cul-de-sac. The cul-de-sac is 4,000 square feet of asphalt. No other buildings or roads are changing. They are requesting the variance because what was once a front yard under the current scenario will change if they are allowed to split the property. The house's front yard will change to the private road. They are also requesting a setback on the east site as well. Mr. Gasior explained nothing will change other than the asphalt. He also explained that it is not possible to figure this any other way and accomplish what they are looking for. Mr. Gasior said that they have occupied the building since 1996 and since then, a catalog application was shut down in 2004. It has stayed empty. He also explained that the new ordinance says that the storm water drain has to be a 100-year storm. Due to the properties surrounding the area and the asphalt, they cannot dig a basin to meet the 1 over 5, so they are requesting a variance for 1 over 3.

Mr. Erwin asked if they could use the parking as a turn around.

Dan Heck 312 N. Street, Mason - Mr. Heck explained that right now, all of the drainage goes to the back of the parcel, to the single detention pond. It is the only place a detention pond could be made to fit the 100-year storm. To do anything different would create a substantial amount of underground work.

Mr. Gasior also said that providing an agreement for maintenance of the pond was not necessary. They are looking to provide a more regional pond. Mr. Gasior provided pictures of the pond for the ZBA.

Mr. Seymour said that there might have to be a condition that the variance is subject upon the agreement that the front parcel can use the back parcel as far as drainage.

The Zoning Board discussed the cul-de-sac and the need for the cul-de-sac.

The Zoning Board continued to discuss the variances needed.

Mr. Seymour asked if they were changing their address to the house that is going to have the front yard off the private road. Mr. Gasior said no. The house is going to be pointed toward Grand River. Mr. Hogan said that the second building will be the only one that has the private drive.

Mr. Hawkins moved "in regards to 926 LLC, 53400 Grand River Ave, applicant has requested several variances with regards to a potential lot split for this parcel. For reference purposes the existing building on the southern side of the parcel will be referred to as parcel A and the existing building on the northern part of the parcel will be B. With regards to parcel A, I recommend to the board in support of the lot split to let the owner utilize the property and further utilize the building that a rear yard setback of 20 feet be granted so that the rear yard would be 20 feet." Mr. Raney supported the motion.

Voice vote:

Ayes: all

Nays: none

Absent: Mike Barber

Mr. Hawkins moved "in regards to the north parcel B, I recommend to the board that a rear yard setback of 20 feet be granted for this parcel. This is so the developer and owner can further pursue the option of developing and building on the property." Mr. Schilling supported the motion.

Voice vote:

Ayes: all

Nays: none

Absent: Mike Barber

Mr. Hawkins moved "that in regards to parcel B, I make a motion to the board that we grant a front yard variance of 55 feet from the new proposed private drive to allow developers to further pursue options for an existing development on the site." Mr. Raney supported the motion.

Voice vote:

Ayes: all

Nays: none

Absent: Mike Barber

Mr. Heck explained that they could follow the 100-year storm if they can use the 1 to 3 slopes with fencing.

Mr. Hawkins moved "to recommend to the board with regards to the applicant 926 Associates LLC that they be granted a variance from the current Township standards of 1 in 5 slope and to retain the existing 1 in 3 slope provided and extend the existing 4 foot high chain linked fence around the detention area. The applicant needs to enter into an agreement, should the parcel be split, that they have a shared ownership of the retention area and the retention area meets all of the requirements of the Township engineer." Mr. Schilling supported the motion.

Voice vote:

Ayes: all

Nays: none

Absent: Mike Barber

Adjournment:

Mr. Erwin's adjourned the meeting at 8:35 P.M.

Respectfully Submitted,
Catherine Culver
Catherine Culver
Recording Secretary