

**CHARTER TOWNSHIP OF LYON
ZONING BOARD OF APPEALS
MEETING MINUTES
October 20, 2008**

Approved: November 17, 2008 as written

DATE: October 20, 2008
TIME: 7:30 p.m.
PLACE: 58000 Grand River Avenue

Call to Order: Mr. Erwin called the meeting to order at 7:30 p.m.

Present: Mike Barber, Planning Commission Liaison
William Erwin
Michael Hawkins
John Hicks, Township Board Liaison
Tony Raney, Arrived at 7:35 p.m.

Absent: Paul Fransway, Alternate

Also Present: Phillip Seymour, Township Attorney
Al Hogan, Building Official

Guests: 6

1. APPROVAL OF THE MINUTES

The Board could not vote on the July 21, 2008 minutes because a quorum needed to be present.

Mr. Barber made a motion to approve the August 18, 2008 minutes as submitted. Mr. Hicks supported the motion.

**Voice Vote: Ayes: All
 Nays: None**

MOTION APPROVED

2. PUBLIC HEARINGS

A. Cambrian of Lyon, 32233 Schoolcraft, Suite 110, Livonia, MI 48150. Property located at 52365 West 10 Mile. Sidwell #21-25-100-015. Applicant requests a variance from Section 12.09D to allow construction of an access drive off of Tamarack Drive for a non-residential use.

Representing Cambrian of Lyon: Nick Mancinelli

Mr. Mancinelli explained that they are asking for the variance to use the road that crosses residentially zoned land. The request was due to the practical difficulties that exist on the 9-acre parcel. The property has an existing building, existing radar tower, and a proposed assisted living facility. The main difficulty is the existing pond that projects into the property from the east property line. With a 25' natural vegetated buffer and the extra 25' non-construction buffer, the parcel that holds the existing building and radar tower have to cross the R-1.0 land to have

access to 10 Mile Road or Tamarack Drive. In addition, this was not typical residential land that was being crossed because there will be no houses built on it. He believed the intent of the ordinance was not to have residential houses be burdened by excess traffic from the commercial facilities. The road goes from commercial land and ends up intersecting a road that parallels another piece of commercial land after crossing the residential land. All of the administration people that have been involved with the project from Lyon Township have expressed strong interest that they intersect Tamarack Drive with the egress and ingress of all three projects. Everyone feels the safety of having only one entrance to 10 Mile Road was far superior to having 2 entrances off of 10 Mile Road. The Township Board has approved the Special Land Use for the assisted living facility, and the Planning Commission has approved the assisted living facility Site Plan. These approvals are subject to having a variance granted.

Mr. Hawkins questioned how they get across Tamarack Drive now. Mr. Mancinelli stated that there is a road that goes through the middle.

Mr. Erwin questioned if the tower could interfere with the residents of the assisted living facility with their pacemakers. Mr. Mancinelli stated that they have done studies, and it should be fine.

Mr. Hawkins asked who would operate the assisted living facility. Mr. Mancinelli stated that one of their partners owns this facility in Tecumseh, and he will run this one also.

There were no comments from the audience.

Mr. Hawkins made a motion in regards to Cambrian of Lyon, the applicant has requested a variance from Section 12.09D to allow construction and access drive of Tamarack Drive for non-residential use. The drives intention was to serve as commercial properties behind the proposed assisted living facility in a zoned R1 property. The applicant has demonstrated that they have suitably reviewed and applied practical principals in the development of the access drive. The commercial development has not expressed any concerns relative to the revision of the drive. He made a recommendation to the Township Board that they approve the variance to allow the construction of the drive for non residential use across a residential zoned property. Mr. Hicks supported the motion.

Voice Vote:	Ayes:	All
	Nays:	None

MOTION APPROVED

B. Robert Krueger, 22000 N. Dixboro Road, South Lyon, MI 48178. Sidwell #21-31-100-004. Applicant requests a variance from Section 12.16 B-1-b to allow for a 6' privacy fence.

Representing Robert Krueger: Catherine Riesterer – Attorney

Ms. Riesterer stated that the Kruegers are seeking a variance from the fence height requirement. It is not technically a traditional fence. There is a plot plan that was provided. The Kruegers put up a couple sections of fence; they did not attempt to screen the whole area. They have lived there for 20 years, and they have a beautiful yard. Right on the boundary line, there is a mixed vegetative hedge that has grown up. The neighbor took it upon himself to cut it all down a few years ago. The neighbor moved in 7 years ago and for a few years, even though they knew he was collecting quite a bit of junk on his property, they couldn't see it. A few years ago, the neighbor cut down the hedge that existed between the two properties. As a result, the Kruegers can now see everything that is in the neighbors yard. The Township has attempted to address the issue, and the Township Zoning Officer has been out and has cited the neighbor, who is on the yearly inspection requirement list. In an effort to avoid litigation, the Kruegers took some fence sections and put them right where they sit on their back deck, which provides some screening from the neighbor's property.

Ms. Riesterer stated that clearly the items in the backyard are in violation of the blight ordinance. They spent \$2,000.00 to replant some shrubbery on their side. They would like to offer that there would be no more sections of fencing that would go up. In addition, they would be willing to agree to a time limit; once those plantings are grown

up, they can remove the fencing. They are seeking a practical resolution.

Mr. Barber questioned why the neighbor cut down the shrubbery. Ms. Riesterer stated that the neighbor had told the Kruegers that they had such a nice back yard, he wanted to be able to look at it. He also didn't like the shrubs.

Mr. Raney asked whose property the hedge was on. Mr. Krueger stated it was 50/50. He had asked that the neighbor not cut down his side, but because Mr. Krueger had gotten the Township Ordinance Officer onto him, he was mad at Mr. Krueger and decided to cut it all down and then said it was because he was nosy, and now they can look at one another's lawn and enjoy it.

Ms. Riesterer stated that there have been hostility issues, and they do not want to provoke the neighbor. They want to seek the most peaceful resolution. There are only a few sections of fence. Mr. Raney questioned how many feet the sections are. Ms. Riesterer stated it is 50 feet on 5 acres; it is a small portion.

Mr. Erwin questioned how they are doing as far as getting that property cleaned up. Mr. Hogan stated this has been the first he has heard of it, as Amanda has been dealing with it. He stated he would be out there tomorrow.

Mr. Hawkins stated that he believed the intention of the ordinance was to allow emergency individuals to access the property during an emergency. He did not see this fence restricting any township services from accessing the property. Mr. Krueger stated that he felt 50' is reasonable.

Mr. Barber questioned if there is a pool in the yard. Mr. Krueger stated no, not anymore.

Mr. Hawkins asked how long ago the shrubs were cut down. Mr. Krueger stated that they were cut down last year in the fall. The Kruegers had asked him repeatedly not to do it, but he would wait until they weren't home and cut down more. Mr. Hawkins questioned the length of the area of hedge. Mr. Krueger stated it was 3 feet deep, 10-12 feet tall and about 100 yards long.

Mr. Raney stated that he would consider the fence a form of artificial screening. He questioned what kind of shrubs that they planted. Mr. Krueger stated it was a kind of arborvitae giant, and they planted 40 of them. Mr. Raney stated it would take about 5-8 years for them to grow to height.

Mr. Erwin stated that they received a letter from Mr. Steve Harris in opposition of the 6' privacy fence.

There were no comments from the audience.

Mr. Hawkins made a motion with regard to applicant Robert Krueger, 22000 N. Dixboro Road, South Lyon, MI 48178, Sidwell #21-31-100-004, applicants request for variance from Section 12.16 B-1-b to allow the construction of a privacy fence or element that has the appearance of a privacy fence not to exceed 6' in height to provide isolation from the adjacent property, applicants have demonstrated due to some unique circumstances that there was justification for a fence due to a long history of issues with the neighbor. The fence would be limited to current condition, location and length and not to extending beyond existing length at all or modified in any way beyond general maintenance. The applicants have demonstrated that there was a need and desire and use for the privacy fence relative to their property. Mr. Raney supported the motion.

**Voice Vote: Ayes: All
 Nays: None**

MOTION APPROVED

Due to a quorum being present at this time, the Board decided to approve the July 21, 2008 meeting minutes.

Mr. Hawkins made a motion to approve the July 21, 2008 meeting minutes as submitted. Mr. Raney supported the motion.

Voice Vote:

Ayes: All
Nays: None

MOTION APPROVED

3. ADJOURNMENT

Mr. Erwin adjourned the meeting at 8:15 p.m.

Respectfully Submitted,

Kellie Angelosanto
Recording Secretary