

Charter Township of Lyon  
Zoning Board of Appeals  
Regular Meeting Minutes  
September 21, 2015

Approved: October 19, 2015

The meeting was called to order by Mr. Erwin at 7:03 p.m.

Roll Call: Bill Erwin, Chairman  
Tony Raney, Vice-Chairman  
John Hicks, Board Liaison  
Carl Towne, Planning Commission  
Mike Barber, Alternate

Guests: 13

Also Present: Leann Kimberlin, Township Attorney

**APPROVAL OF MINUTES**

Attorney Kimberlin made the following amendments to the Motions presented at the August 17, 2015 ZBA meeting prior to the motion for approval of the minutes.

Regarding BBI Holdings LLC on page 3, line 17 will read as follows: “Also, for safety purposes he would condition that the number of children **on the playground at any one time** does not exceed 100.

Regarding JJS Holdings, page 5, line 29 will read as follows: “There is no site plan for this parcel and the 660’ of landscaping is unreasonable for a court street that is gravel and only serviced by another **non-conforming** lot and to retain the utility on the property.”

Regarding JJS Holdings, page 6, line 62 will read as follows: “**To allow the chain link fence along Griswold Court on the condition that the applicant provide landscaping on the corner of Griswold and Griswold Court which landscaping meets with the satisfaction of the Planning Commission upon its review of a proposed site plan. This required landscaping shall take the place of a full obscuring wall or other screening along Griswold Court. This variance is warranted because it would be otherwise restrictive to the property. And since there is no site plan on record, this would make better use of the property.**”

Regarding JJS Holdings, page 7, line 14 will read as follows: “It’s a non-conforming existing use with no **prior approved** site plan available. **This variance will retain the utility of this property and is conditioned upon the restriction of delivery of outdoor storage material to the hours between 9:00 a.m. – 4:00 p.m. only on days as allowed under applicable ordinance provisions.**”

**Motion by Towne, second by Raney  
To approve the amendments to the minutes from August 17, 2015.**

**Voice Vote: Ayes: Unanimous  
Nays: None**

**MOTION APPROVED**

**Motion by Raney, second by Hicks  
To approve the Minutes from August 17, 2015.**

**Voice Vote: Ayes: Unanimous  
Nays: None**

**PUBLIC HEARINGS**

- 1. Allen Young, 53963 Nine Mile Road, Northville, MI 48167. Sidwell #21-35-200-052. Property located at 22001 Kettle Lake Road. Applicant requests a variance from Section 36.02 of the Zoning Ordinance (Schedule of Regulations), footnote c, which requires lot depths in the R-0.5 District to be no greater than three times the lot width. Applicant is requesting a variance to allow depth to width ratio of 3.1:1, as opposed to the maximum depth allowed of 3:1.**

Mr. Young explained that he has a 16 acre parcel at the end of Kettle Lake. He is looking to divide that into two home sites, 7 and 9 acres. The eastern most portion of the parcel doesn't conform to the 3:1 standards set for a half acre parcel. The variance as it is now isn't satisfied. It is a very slight difference he is looking for.

Mr. Towne advised this property is zoned two houses per acre. Under that zoning there is a 3:1 ratio. As soon as you get up to two acres, it goes up to a 4:1 ratio.

**Motion by Towne, second by Raney  
To approve the applicant's request for a variance of a depth/width ratio of 3.3:1 on Sidwell #21-35-200-052, property located at 22001 Kettle Lake Road. Section 36.02, footnote c, R-0.5 District requires a 3:1 ratio. He would recommend approval as anything over one acre up to 2.5 acres requires a 4:1 ratio and to follow the current variance would be prohibitive.**

**Voice Vote: Ayes: Unanimous  
Nays: None**

**MOTION APPROVED**

- 2. Look Self Storage, 1831 Grondinwood Court, Milford, MI 48380. Sidwell #21-29-426-022. Applicant requests variances from the following sections of the Zoning Ordinance.**
  - Section 36.02, Schedule of Regulations, which requires a front yard setback of 75' in the I-1 District. Applicant requests a front yard setback of 20' along Griswold Road. Therefore, a variance of 55' is being requested.**

- **Section 36.02, Schedule of Regulations, which requires a front yard setback of 75' in the I-1 District. Applicant requests a front yard setback of 20' along Oasis Center Drive. Therefore, a variance of 55' is being requested.**
- **Section 36.02, Schedule of Regulations, which requires a front yard parking setback of 50' in the I-1 District. Applicant requests a front yard parking setback of 25' along Oasis Center Drive. Therefore, a variance of 25' is being requested.**
- **Section 14.01-C-8, Off-Street Parking and Loading Requirements. A total number of 9 parking spaces are required. 5 parking spaces are proposed. Therefore, a variance of 4 parking spaces is being requested.**

**Representing JJS Holdings: Jared Farmer, Farmer Development, Inc.**

Mr. Farmer of Farmer Development is present tonight along with the owner of the property, Thomas Lapham, and Allan Pruss with Monument Engineering.

Mr. Farmer explained there has been a rezoning from I-2 to I-1. We went before the Planning Commission and asked for a Special Land Use. We were sent from there to the ZBA because there is some relief we are asking for tonight. We are proposing a 51,600 SF facility on 6.38 combined acres. Being on a corner lot, the parcel is encumbered by two front yard setbacks. Along Griswold Road it is further encumbered as Oakland County has a master plan right-of-way of 120 ft. Furthermore, Oasis Center Drive is a 70 ft. wide access easement which is entirely on the subject parcel. There are four variances we are seeking.

He gave a PowerPoint presentation before the ZBA Board members. Briefly, the most compelling reasons for requesting the variances are the geometry of the parcel, the fact that the parcel is encumbered by having two front yard setbacks as well as the Oakland County ROW and the Oasis Center Dr. access easement. Regarding the parking requirements, the average is only three to five customers a day and any unused space is wasteful and will create an increase in impervious hard surfaces and decrease green space. Our proposed site plan is to create a fortress style layout which is the highest and best plan desired. We are asking for relief on these items. We believe we have provided compelling responses and demonstrable statements that show the practical difficulties in relation to the Ordinance and how it relates to creating a positive self-storage facility design.

Mr. Raney asked what was the distance between the edge of the building on Griswold Road and the current existing curb and was informed it was approximately 64 ft.

Mr. Hicks noted there are several other buildings on that road which are in compliance with the stated setback. He doesn't feel they've given sufficient justification for the variance. By his calculations, they would only be 40 ft. from the curb.

Mr. Farmer responded that they are being asked to comply with the master plan right-of-way increase and so that is different than the neighboring facilities.

Mr. Towne stated that they are applying for a special land use which requires they meet

all the zoning standards. They are coming to this Board to get variations on a new project. The Planning Commission tabled this project because it didn't meet the requirements for a special land use, most specifically for all the setbacks. In order to have a special land use they must meet the setbacks. There is no hardship, as it is self-created.

Mr. Erwin commented that this is a brand new slate. They bought the property knowing what is there and they should be able to put the Township requirements and variances in the property.

Robert Seccombe, 56888 Nine Mile Road. He is here to address the request for a variance of 55'. This amounts to a 75% reduction in the required front yard setback. This property is directly contingent to residential properties. The minimal setback for residential properties is also 75'. There are four requirements which must be met before approving or denying a variance request. The first is regarding hardship for the requested use. In this case, absolutely not, there are no unusual conditions. The second is would the variance create a negative impact on surrounding properties. In this case the answer is yes. The third, what precedent would approval set for all others. The precedent would be very dramatic and unacceptable for residential and industrial businesses. The fourth, what is fair to existing property owners who have honored and accepted the present requirements. There are several other businesses in the area who have complied. It seems they purchased the wrong property in the wrong location to do what they intend. All of this property can be developed within the existing zoning requirements. We need to protect the distance to the residential properties with the existing setback.

Alexander Szecsku, 330 Rosebud, Walled Lake. He was the developer of a residential development on Griswold Road. At the time of his plan approval he was told there was a certain density allowed per acres. He didn't agree with it but accepted the requirements. He was also told there was a setback of 75' for residential. This project will create an eyesore as well as noise. He agrees and approves of everything said by the previous speaker.

Robert Seccombe, Jr., 58890 Dolly, Lyon Twp. He owns 300' of frontage on Griswold Road. When he bought the house, he knew what was across the street and knew the rules and regulations for what he could and couldn't do with his property. He does not feel this is a unique property. They are not the only people with a corner lot in the township. What they are asking for is unjust. They can simply do what they want on a smaller scale. They are looking at an opportunity for better monetary gain at the expense of the residential homeowners. None of us want to look at buildings, RVs or boats or storage sheds which is the reason for the existing setbacks.

Tom Duncan, 60440 11 Mile Road. He owns adjacent property. He feels there has got to be a greater need for a variance than what was presented here. This is a great big plan trying to be put on a small lot. The zoning laws are published before purchase is made. The only hardship is the site isn't as big as they would like it to be.

Robert Szecsku, 7955 Detroit Blvd., West Bloomfield. He also owns property on Dolly Road. He has never met a person who would like to live next to a fortress. He would

like to sell his property in the near future. Putting their buildings so close and directly across from his property will decrease the value of his property. He is opposed to it.

Wayne Bailey, 23900 Griswold. He doesn't understand why the setback for industrial property would be any less than what is required for residential. When the township put water down Griswold, the waterline is on the east side of the road and they had to buy an additional 20' underground easement to get the water main in. He assumes some day they will want to run the sewer line back to 10 Mile. The Yerkes Drain is on the north side of the property and drainage might need to be addressed if the property is further developed. There could be more done with the property than what is being proposed.

Mr. Farmer appreciates and understands the resident's concerns. They wanted to create a design which Lyon Twp. could be proud of. There are unique features to this property such as the additional master plan ROW which is not similar to their neighbors. This property was zoned heavy industrial which they would like rezone to light. Self storage is not a noisy, high traffic business. He would propose that minimally their required setbacks match their adjacent property owners.

**Motion by Towne, second by Hicks**

**To deny the applicant's request for a 55' variance along Griswold Road on Sidwell #21-29-426-022. Section 36.02, I-1 District requires a 75' front yard setback. They have not met the zoning requirements for special land use, and it is a self-created, non-permitted use.**

**Voice Vote: Ayes: Unanimous  
Nays: None**

**MOTION APPROVED**

**Motion by Towne, second by Barber**

**To deny the applicant's request for a 55' variance along Oasis Center Drive on Sidwell #21-29-426-022. Section 36.02, I-1 District requires a 75' front yard setback. They have not met the zoning requirements for special land use, it is self-created, there is no hardship and it would be a negative impact on the community.**

**Voice Vote: Ayes: Unanimous  
Nays: None**

**MOTION APPROVED**

**Motion by Towne, second by Raney**

**To deny the applicant's request for a 25' variance along Oasis Center Drive on Sidwell #21-29-426-022. Section 36.02, I-1 District requires a 50' front yard parking setback. They have not met the zoning requirements for special land use, there is no hardship, it is a non-permitted use and would be self-created.**

**Voice Vote: Ayes: Unanimous**  
**Nays: None**

**MOTION APPROVED**

**Motion by Towne, second by Barber**

**To deny the applicant's request for a 4 parking space variance on Sidwell #21-29-426-022. Section 14.01-C-8 requires 9 parking spaces. They have not met the zoning requirements for special land use, there is no hardship, it is non-conforming and would be self-created.**

**Voice vote: Ayes: Unanimous**  
**Nays: None**

**MOTION APPROVED**

**OLD BUSINESS**

- 3. JJS Holdings, (Lightning Lawn & Landscape), 410 Pettibone, South Lyon, MI 48178. Sidwell #21-29-226-021. Property located at 23655 Griswold Road. Renew a motion for the following variance request that was considered at the 8-17-15 meeting: Section 36.02, Schedule of Regulations, footnote u, item 2, which prohibits a building within 75' of a residential zone. Requesting a 60' variance to allow for a 15' setback.**

**Representing JJS Holdings: Bob Langan**

Attorney Kimberlin stated there was confusion associated with the prior vote on this particular variance. Two different motions were made and votes taken with no final action taken as they were tied votes. Subsequent to the closing of the meeting, one of the ZBA members expressed some confusion as the motion was not clear to him. The appropriate course of action is for a new motion to be made if a member of the ZBA so desires. After further information is presented on this issue by the applicant, a new motion may be made and all members present here may vote.

Mr. Towne stated for the record, the meeting was adjourned, he was not in attendance, there was no quorum. This matter should not have been discussed without a quorum at a public hearing site. It shouldn't have even been discussed until tonight. The meeting was closed and there was no quorum. This is a public venue and it wasn't aired in the public.

Attorney Kimberlin clarified that the zoning board member's confusion was directed toward her directly. It wasn't possible to reconvene the meeting at that time. This is the appropriate procedure to take.

Mr. Langan thanked the Board for the opportunity to clarify the Board's intention regarding variance number six. For the benefit of those who were not present at the initial hearing, he briefly outlined his request. The existing conditions of this site are

varying degrees of decay and blight. Variance six is our request to place a building along the northern edge of the property 15' from the property line which abuts residential property. The hardship faced is the existence of a narrow site, a septic field, overhead electrical lines, a DTE gas line and now the inability to store materials in front of the existing building. They worked very hard on placing this building anywhere else on the site and were unable to come up with a spot. In order to have equipment and comply with township ordinances, the equipment must be stored indoors thus the need for a building.

Mr. Erwin questioned, as material storage was denied on the south side of the existing building, would that allow them to move the proposed building further into the interior of the lot.

Mr. Langan felt it would make it worse as there is less area on the property to store the landscape materials and there is the complication of the turning radius for the delivery trucks.

Mr. Towne noted that they have worked diligently to maintain the utility of this piece of property. This is a brand new building on which there is plenty of property to build it. He is against this request. They are going against zoning rules placing them too close to the residential neighbors to the north.

Mr. Erwin feels they might need some relief. It is a clean slate. There is plenty of property on which to build and work with and the truck turning radius shouldn't be an issue. The proximity to the property line is a problem.

Mr. Hicks questioned whether the existing building would be used as office space and could possibly be expanded upon.

Mr. Langan informed him it will be office space and couldn't be expanded upon due to the location of the septic field and it would need another variance because of the existing building envelope.

Mr. Barber suggested maybe the shape of the building could be different to help with placement.

Mr. Bailey informed the Board that the public didn't appear to the last meeting because the applicant didn't show up to the first meeting in June, the second one in July was cancelled, and he never received notice of the August meeting. He has no idea of what was or wasn't approved. He specifically asked to be notified.

Mr. Erwin apologized if the public didn't get notice.

Atty. Kimberlin stated that there was published notification on July 30<sup>th</sup> in the newspaper of the date and time for the meeting.

Mr. Seccombe had a procedural question regarding this issue. When was the variance denied? He was informed it was not denied, it was a tie. Also, everything he stated regarding the Look Storage request he would reiterate for this one. They knew of the

challenges regarding this property before it was purchased. How can you even think about approving a 60' setback when a 55' setback was just denied for the other applicant?

Mr. Raney questioned whether there was room to put the building to the west of the utilities as opposed to putting it right next to the residential.

Justin Shigley, 3340 Jennings Road, Whitmore Lake. The difficulty in placing the building there is because of the trucks delivering trees and mulch trying to make the turn.

Mr. Erwin asked whether he would consider putting his building in the back corner and placing his material more towards the center of the property.

Mr. Shigley felt he wouldn't be able to visualize the building if there is product in the way making it easier for theft to occur.

Mr. Barber questioned if the landscaping trees could be placed along the property line if they are only there temporarily.

**Motion by Towne, second by Raney**

**To deny the applicant's request for a 60' variance on Sidwell #21-29-226-021. Section 36.02, footnote u, item 2 prohibits a building within 75' of a residential zone. There is no hardship, the future ramifications are tremendous and it is self-created.**

**Voice Vote: Ayes: 4  
Nays: 1-Erwin**

**MOTION APPROVED**

**ADJOURNMENT**

**Motion by Towne, second by Hicks  
To adjourn the meeting.**

**Voice Vote: Ayes: Unanimous  
Nays: None**

**MOTION APPROVED**

The Zoning Board of Appeals meeting was adjourned at 9:02 p.m. due to no further business.

Respectfully Submitted,

Amy Bertin  
Recording Secretary