

Charter Township of Lyon  
Zoning Board of Appeals  
Regular Meeting Minutes  
September 19, 2016

Approved: October 17, 2016

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

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

Guests: 16

Also Present: Leann Kimberlin, Township Attorney  
Chris Doozan, McKenna Associates

**APPROVAL OF MINUTES**

**Motion by Towne, second by Raney  
To approve the minutes from August 15, 2016 as presented.**

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

**MOTION APPROVED**

**PUBLIC HEARINGS**

- 1. Excavation Engineering, Inc. (Stone Depot), 23423 Griswold Road, South Lyon, MI 48178. Sidwell #21-29-226-013. Property located at 23401 Griswold Road. Applicant requests a variance from Section 16.08–D-3 of the Zoning Ordinance, which requires freestanding signs to not be closer than 15’ to the existing right-of-way line. A setback of 10’ is being proposed. Therefore, a variance of 5’ is being requested.**

Dennis Dubuc, Attorney for Stone Depot, explained that the variance is needed because the sign obstructs the view of egress traffic. From the 1960’s there has been a sign there, and it is a distraction to drivers. Lyon Township has issued a permit allowing the sign to be relocated, and the permit requires the sign to be 15 ft. from the road right of way. The applicant is asking for a variance allowing the sign to be relocated 10 feet back from the road right-of-way instead of 15 feet. This would also bring the sign into substantial conformance with Lyon Township Ordinances.

Mr. Dubuc explained that the hardship is that the requirements require the sign to be relocated on top of an existing berm. If the sign was located on the berm, it would exceed height requirements. The berm is required by the Township for the salvage

permit. The berm cannot be moved west due to an existing septic field.

Mr. Erwin asked if they can slope the berm and put the sign where it belongs. Mr. Dubuc stated that the berm would obstruct the sign.

Mr. Towne stated that there is no way they will move the berm. He has driven in and out of that driveway many times, and you can't see any traffic coming from the north. The only common sense thing to do is to move the sign back 5'.

Mr. Barber stated that this is a hardship created by the owner, not the Township. Mr. Dubuc stated this is a great opportunity for the Board to get something more conforming and eliminate a danger. Mr. Zamborowski stated the berm was installed at the request of the Township for their salvage permit. Mr. Raney stated that the actual setbacks have been widened since the first time as well. Mr. Towne explained that the owner just stated that the berm was a requirement by the Township; it was not self-created. The non-conforming sign is a safety hazard to the public, and the wrong needs to be corrected.

Mr. Erwin stated that if the berm was shortened up then the sign could be moved. Mr. Zamborowski confirmed he still has the salvage permit.

Mr. Raney stated that they are willing to make it more conforming, and the setbacks have been widened. He was in support of the request. Mr. Towne also noted that the applicant has followed all the rules of the Township in all this time.

Mr. Hicks stated that the County has changed road widths, and he is in support of the variance.

Mr. Dubuc stated that they were required to sign a letter that if the roadway is ever widened they will have to come up with another way to handle the sign.

Mr. Dubuc stated he would accept a 3.5 foot variance.

**Motion by Towne, second by Raney**

**To approve the 5' variance for Stone Depot 23423 Griswold Road, South Lyon, MI 48178. Sidwell #21-29-226-013. On the grounds that moving the sign back to completely conform with the 15' setback would make the sign end up on the berm that is required for the salvage company and if it was placed on the berm then the sign would not conform with the height restriction. The practical difficulty is that the setbacks have changed since the start of this business.**

**Voice Vote: Ayes: Hicks, Towne, Raney**

**Nays: Erwin, Barber**

**MOTION APPROVED**

2. **Dennis and Theresa Binkley, 59645 Homeport, South Lyon, MI 48178. Sidwell #21-17-201-028 and 21-17-201-029. Properties located at 59825 Homeport and 59645 Homeport. Applicants request the following variances from the Zoning Ordinance.**

- **A variance from Section 18.03-A-2, which requires a minimum 15' side yard setback. After the proposed split/combination, an existing accessory building would have a setback of 0'. Therefore, a variance of 15' is being requested.**
- **A variance from Section 18.01-A, which requires a principal residence before having accessory structures. There are three existing accessory structures that would remain on a parcel without a principal residence after proposed a lot split/combination.**

Mr. Binkley explained they are getting older and they need to build a ranch that is acceptable for them and for his parents that he will be taking care of.

Mr. Erwin stated that the first variance requires a 15 side yard setback. After a proposed split it's already non-conforming, and then they would be creating a non-conformity. Mr. Binkley stated that he had the house sold. They wanted them to move the barn, as the back part of the barn fell on that 2.5 acres. After running into problems, the people backed out. He did not have the property split until he had a buyer for the house. He borrowed the money to make the splits, and now he doesn't have a buyer. As far as the people that may buy it, they can keep the barn or take it down.

Mr. Hicks stated that one of his neighbors brought up the fact that he was cited by the MDEQ, and he didn't know if it has ever been mitigated. Mr. Hicks stated that they should have proof that was done. Mr. Binkley stated he had to open up a berm to let the property drain. Mr. Hicks stated he would only be satisfied if he saw something from the MDEQ. Mr. Towne agreed; they can't move forward with this hanging over their heads. Mr. Binkley stated if it was a serious violation then he would have been charged.

Mr. Binkley explained the reason he needs a ranch is to take care of his parents, and he wants to create a little place in the back. He plans on starting as soon as the lot split is approved. He will only be able to start it since he hasn't sold the house yet. The accessory building is a greenhouse made of plastic and tubing. It allows him to put his equipment in there, and it can be taken down easily.

Mr. Erwin opened the discussion for public comment.

**Lind Laitila, 26825 Martindale** - Ms. Laitila is confused by this. She doesn't understand why Mr. Binkley doesn't just take the buildings down to split the property. She is doing what she can do to split her lots. The barn is on a lot line, and she didn't like that. It is a huge barn.

**Karin Wolski, 26975 Martindale** – Ms. Wolski is the owner of the property on 26975 Martindale and has lived here for 45 years. The plot plan is incomplete, and the track does not go all around the property. There is also a significant regulated wetland that

would take up 1/3 of the new parcel A4, and that was not mentioned at all in his request. She has provided her comments with a letter dated 9/13/2016. The regulated wetlands are not shown on the surveys, and a significant portion of A4 is missing from the detailed plot map. Mr. Kastls has had 3' of water in his basement. She found out that Mr. Binkley had been served by the MDEQ for a violation. In addition to filling the wetlands, the elevation of A4 has been changed, including that large barrier that runs down the south property line, which also blocks drainage. The Township should not grant a dimensional variance to Parcel A4, which would then allow new construction of a home without knowing the impact of such action. As required, a variance application must show a proper plot plan showing the wetlands, location of drainage course, culverts, ponds, septic system and wells, among other specifications. Therefore, the application is incomplete.

In conclusion, she has no objection to the shifting of the property line as long as the Binkleys obtain any required MDEQ engineering and building permits or any other requirements to ensure that there will be no flooding or hardship to nearby property owners.

**Rod Kastl, 60200 Foster Drive** – Mr. Kastl is concerned. Having a letter from the DEQ would be the first place to start.

**Chris Shirey, 27101 Martindale** – Mr. Shirey has been back in the wetlands after it rains, and that water comes up very quickly. He doesn't know if the drainage is blocked, but that swamp fills up in hours. He has seen the water level go up and down; he has been in it. He explained that Mr. Binkley has maintained the gravel road. The gravel road has been there and separates his new construction from the wetlands.

Mr. Binkley stated he tried to save the trees from drowning. It was low land, and he used to mow it. There are drainage tiles that drain into his property. Once the construction started, and he started getting water, he put up a berm. Once he was addressed with the flooding problem, he opened up the berm. He introduced cattails to that area. He didn't know how the DEQ determined that was a regulated wetland; he thought that would have been determined when he moved in. After the DEQ came out and saw cattails growing, then they determined it was a wetland. He explained that it was not a wetland before. It was low land, and he used to mow that area when he first moved in.

Mr. Hicks stated that Mr. Binkley needed to satisfy the MDEQ first. Mr. Erwin confirmed Mr. Binkley could have the property lines moved. Ms. Kimberlin stated that they were to contact the MDEQ and schedule a final inspection. If that was cleared, then Mr. Binkley could provide that information to Mr. Doozan.

Mr. Towne stated he is not in favor of having the lot splits with the 3 buildings on it. There is no hardship at all, and he would be against the variances. Mr. Raney stated that they can't take into account financial aspects.

**Motion by Towne, second by Barber  
To deny the variance from Section 18-01-A 59645 Homeport, South Lyon,  
MI 48178. Sidwell #21-17-201-028 and 21-17-201-029 requiring the**

accessory building not be in the setback. There are 3 existing accessory structures that would remain on a parcel without a principal residence after a proposed lot split/combination. The building is on the lot line and when a lot is split they are not allowed to be a on a parcel before you build a residence.

Voice Vote: Ayes: Unanimous  
Nays: None

**MOTION APPROVED TO DENY**

Motion by Towne, second by Barber

To deny variance from Section 18.03-A-2 59645 Homeport, South Lyon, MI 48178. Sidwell #21-17-201-028 and 21-17-201-029 which requires a minimum 15' side yard setback. It was self-created and the property lines could be setback.

Voice Vote: Ayes: Unanimous  
Nays: None

**MOTION APPROVED TO DENY**

3. Ed Swadish (Huron Valley Guns, LLC), 143 S. Milford Road, Milford, MI 48381. Sidwell #21-03-352-006. Property located south of Grand River Ave., at the end of Helene Drive, and east of the Huron Valley Trail. Property is located in the Edge Subarea of the New Hudson Zoning District. Applicant requests the following variances from the Zoning Ordinance.

- A variance from Section 41.303(A), which calls for a maximum front yard setback of 25 feet. The proposed building would have a 65-ft. front yard setback. Therefore, a variance of 40 ft. is being requested.
- A variance from Section 41.401(C), which indicates that parking is not allowed in the front yard. The site plan proposes parking in the front yard, between the building and the road right-of-way line, so a variance from Section 41.401(C) is required.
- A variance from Section 12.09(B) which requires that the front lot line of all lots abut onto a publicly dedicated road right-of-way or onto a private road approved and in place prior to December 7, 2009. The subject parcel currently does not front have such frontage, so a variance from Section 12.09(B) is required, thereby allowing driveway access.

David LeClair representing Huron Valley Guns, LLC. Mr. LeClair explained they are asking for 2 variances: one for parking in the front setback and one for a dimensional setback. This is a unique property because there is not currently road access. At some point, the district does see a bike loop going around this site. A private road was also approved. He concurs with Mr. Doozan's findings. He provided a brief site overview.

**Tina Archer, DDA Administrator**. Ms. Archer explained that they are giving a great deal of support towards this project. They support this project and support the

variances.

Mr. Doozan explained that the property is called the Edge sub area in the New Hudson Zoning District, which was set up to create a walkable environment along Grand River Avenue. The New Hudson Zoning District works well for about 95% of the district. This particular parcel is remote and off of Grand River and does not have good access, so the standards don't work for this parcel. That's the essence of why the variances are needed in this case.

Mr. Barber asked if there will be a road off the ring road. Mr. LeClair stated yes.

Mr. Towne stated this is a landlocked piece of property, since they don't know if or when the ring road will go in. The owner purchased this property to put in a state of the art facility that is not right on Grand River. It won't affect any of the walkability. It will be accessible from the bike path.

**Motion by Barber, second by Hicks**

**To approve Huron Valley Guns, LLC, 143 S. Milford Road, MI 48381 Sidwell #21-03-352-006 variance from 41.303(A) due to the property being so remote with no access and in the future with the ring road going in. Therefore a variance of 40 ft. is being approved. It doesn't fit in the district and is a landlocked piece of property and is a good use for the property.**

**Voice Vote: Aye: Unanimous  
Nays: None**

**MOTION APPROVED**

**Motion by Barber, second by Raney**

**To approve the variance for Huron Valley Guns, LLC, 143 S. Milford Road, MI 48381 Sidwell #21-03-352-006 because it is an odd piece of property and a good use for the property and it's so far off the road.**

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

**MOTION APPROVED**

**ADJOURNMENT**

**Motion by Towne, second by Raney**

**To adjourn the ZBA meeting at 8:22p.m.**

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

**MOTION APPROVED**

The Zoning Board of Appeals meeting was adjourned at 8:22 p.m. due to no further business.

Respectfully Submitted,

*Kellie Angelosanto*

Kellie Angelosanto  
Recording Secretary