

**CHARTER TOWNSHIP OF LYON
ZONING BOARD OF APPEALS
MEETING MINUTES
February 22, 2005**

Approved as submitted March 21, 2005.

DATE: February 22, 2005
TIME: 7:30 PM
PLACE: 58000 Grand River

Call to Order: Mr. Hawkins called the meeting to order at 7:30 PM.

Roll Call: Present: Michael Barber
Michael Hawkins
Tony Raney
Troy Schilling, Trustee

Absent: William Erwin, Chairman

Also Present: Philip Seymour, Township Attorney
Larry Phillips, Building Official
Chris Olson, Township Superintendent
Alexis Marcarello, Township Planner
Les Cash, Fire Chief

Guests: 26

**1. APPROVAL OF MINUTES:
- Regular Meeting of January 18, 2005**

Mr. Barber made a motion to approve the minutes from the regular meeting of January 18, 2005 as submitted. Mr. Schilling supported the motion.

Voice Vote: Ayes: All
Nays: None
Absent: Erwin

Motion approved.

Larry Phillips asked if he could add an ordinance interpretation to the agenda. Mr. Hawkins responded that they could discuss this at the end of the agenda.

2. PUBLIC HEARINGS:

BMB Ventures, LLC.

Vacant property on Grand River Ave. New Hudson, MI. Sidwell 21-04-126-009. Applicant requests

a

20 foot side yard setback variance to allow for construction of an office building.

Bob Langan, Jr., principle member of BMB Ventures, LLC., gave a brief presentation of the proposed

plan. He stated that they are requesting a side yard variance so that they may construct an office building on this site. The side yard variance would be for the east side of the property and would be west of the Township Hall. He stated that the reason that they are requesting this variance is because the Lyon Township offices are built on residentially zoned property and is truly being used as office. He stated that they feel that a 20' side yard setback is reasonable because if the Township's property was zoned office, then there would be a zero setback requirement. He stated that he would be happy to answer any questions the Board may have.

Mr. Barber briefly summarized the discussions that were held on this issue at the Planning Commission level. Mr. Langan stated that the plan that the Planning Commission saw required a couple other variances also. He stated that based on some of the comments from the Planning Commission, they have slightly altered the plan for the building. He stated that they did reduce the building slightly which alleviated the other variances. He stated that they will also be able to replace all the trees onto this property, which they will discuss when they go back before the Planning Commission.

Mr. Langan explained that the Township property borders their east and north property line. The west property line is bordered by two residential parcels.

There was brief discussion with regard to the topography of the site. Mr. Langan stated that part of their proposal includes grading some of the Township's property to make a smooth transition to this property. He stated that there is a gas line running along the property line and that the Gas Company has indicated that they do not have a problem with more dirt being put on top of the gas line, but that they did not want the amount of dirt lessened.

Mr. Hawkins asked if there were any public comments. There were none.

Mr. Barber made a motion to approve a 20' side yard setback variance for BMB Ventures, LLC, Sidwell 21-04-126-009 because the adjoining Township property and the existing residential property. Mr. Raney supported the motion.

Voice Vote: Ayes: All
 Nays: None
 Absent: Erwin

Motion approved.

Radian Communications Services Corp., 58800 Grand River, New Hudson

Sidwell 21-04-126-007. Applicant requests a variance from Article 19, Section 19.05, Y.3.a.ix to be allowed a monopole to be galvanized instead of painted white. Also a variance is requested from Article 19 Section 19.05, Y.3.a.xiii to allow arborvitae to be placed 5 feet apart instead of 3.5 feet apart and not be required at all on the south side of the site.

Representing Radian Communications Services Corp.:
- Patricia Coates, Oakland County CLEMIS
- Don Phifer, Radian Communications

Ms. Coates explained their proposal for the public communications tower. She stated that they are here tonight to request two variances. She stated that their request for the variances are based upon two issues. She explained that galvanized towers tend to reflect and retract the lights, clouds and conditions around them tend to blend in a little better than towers that are painted, therefore, they are requested that the ZBA waive the painting requirement. She stated

that the other reason for this request is because this is not a commercial tower. There are two opportunities for ownership of these towers. The County has offered to give the Township ownership of the tower. She noted that Lyon Township has not yet decided if they want to own the tower, but most of the communities where these towers are located have taken the County up on their offer. She briefly discussed the maintenance of the tower. She noted that once a tower is painted, it must be re-painted again which would increase the cost of maintenance.

Ms. Coates stated that the second variance request deals with the Arborvitae plantings. She stated that they would like the Arborvitae bushes to be planted 5' apart in lieu of the Township's requirement of 3-1/2' apart. She stated that they would prefer not to plant the bushes at all on the south side of the site. She stated that these requests are based on input by the Fire Chief and the Oakland County Sheriff because of public safety.

Mr. Schilling stated that it was mentioned that the maintenance costs are not very high. He questioned if the County has a budget for the maintenance costs. She stated that they have provided the different Townships and Cities as to what they think the maintenance costs will be. Mr. Phifer stated that the recommended maintenance costs of a galvanized tower would be somewhere between \$1,000 and \$2,000 annually.

There was brief discussion as to whether allowing these variances would become a precedent in the Township.

Mr. Hawkins asked if there were any public comments. There were none.

Mr. Schilling made a motion in regard to Radian Communication Services Corp., 58800 Grand River, New Hudson, Sidwell 21-04-126-007, that a variance request from Article 19, Section 19.05, Y.3.z.ix to be allowed a galvanized monopole instead of a painted white monopole be approved for the reasons stated, galvanized would be better from a maintenance standpoint and aesthetically it should not be a hindrance. Mr. Barber supported the motion.

Voice Vote: Ayes: All
 Nays: None
 Absent: Erwin

Motion approved.

Mr. Barber made a motion to approve the variance request from Article 19 Section 19.05, Y.3.a.xiii to allow arborvitae to be placed 5' apart instead of 3-1/5' apart on the east, west and north side of the site and not be required at all on the south side of the site. The purpose of this would be for visual supervision of the site by the Fire Department and Sheriff Department. Mr. Raney supported the motion.

Voice Vote: Ayes: All
 Nays: None
 Absent: Erwin

Motion approved.

The Beztak Companies, 61475 Silver Lake Road, South Lyon

Sidwells 21-06-451-004, 21-06-451-003, 21-06-476-001, 21-07-100-006, 21-06-451-008, 21-06-300-016, 21-06-300-015, 21-07-200-032 and 21-07-200-035. Applicant is requesting a variance from the required area and dimensional requirements of the R-1.0 Residential Agricultural District to permit development of the subject site for single family residential use (permitted use in the R-1.0) on smaller lots, consistent with the density permitted in the R-0.3, Single Family Residential District.

Representing Beztak Companies:

- Robert Jacobs, Attorney
- William Anderson, Atwell Hicks
- Kamran Qadeer, Beztak Companies

Mr. Jacobs gave a presentation of what they are proposing. He reviewed the surrounding areas and the condition of the property. He displayed and discussed maps of the site and surrounding areas and a list of standards for review of dimensional variances.

Mr. Jacobs stated that they are proposing a development with 350 units. He noted that in the packet of information provided to the Board there are two alternative plans, one with 344 units and one with 441 units. He noted that the this site is unique in that it is bifurcated by two major roads, Silver Lake Road and Pontiac Trail.

Mr. Anderson displayed and explained the proposed site plan as well as the alternative plans. He discussed the economic viability aspect and the practical difficulty of developing at R-1.0 zoning. He stated that there are unique cost factors. He felt that the dimensional use variance proposal before the ZBA today is proper and reasonable use of the property.

Mr. Hawkins questioned if the developer knew that the arsenic existed on the property when they bought the property. Mr. Jacobs responded that they did. He stated that whether they knew it or not it does not negate the fact that there are practical difficulties with this property.

Mr. Schilling briefly discussed the accuracy of the information that was provided to the Board. He stated that this property is surrounded by R-1.0 zoning on all sides. Mr. Jacobs stated that they have indicated on their map what the surrounding zonings are. Mr. Schilling stated that the map shows R-1.0 zoning on all four sides of this property. Mr. Jacobs stated that he disagrees with this. He pointed out R-0.5 and R-0.3 zoning on the map.

Mr. Schilling stated that during the presentation it led one to believe that there is no R-1.0 zoning next to this property. Mr. Jacobs stated that he never said that. Mr. Schilling stated that his point is, is that there is R-1.0 zoning that surrounds this property. He stated that it may not completely, meaning that it is completely encircled, but on all four sides there is a zoning of R-1.0.

Mr. Olson noted some problems with the graphics displayed. He briefly discussed the lot sizes within other developments in the Township.

Mr. Hawkins questioned the sewer capacity. He questioned if it has bearing on this. Mr. Olson responded by briefly discussing the Township's sewer capacity. He noted that 121 REU's have already been purchased for this property.

Mr. Hawkins asked if there were any public comments. He noted that the Board is aware of all the comments that have been made at past meetings of the Planning Commission and the Township Board.

Mitchell Zalewski, 62041 Tayberry Circle, stated that his lot is two acres and was purchased from Mr. Erwin along with 15 other homeowners. He noted that 1.3 acres is the smallest lot size in his development. He stated that they didn't have any re-remediation problems with these lots. He stated that with regard to the roads, there are no roads going north. He stated that Kent Lake Road ends a one mile north of Silver Lake Road and the other way just past Grand River and I-96. He noted that the only road that goes north is Pontiac Trail.

Mr. Zalewski stated that zoning was mentioned a lot during the presentation. He stated that the mobile home park was also mentioned. He noted that the mobile home park has been there for at least 50 years, which was before zoning.

Mr. Zalewski felt that the developer is creating a lot of their own costs that they are going to have to shell out for the lots to improve them.

Ken Powell, 28828 Vista Way, expressed concern with the elevation of the property. He noted that he has a detention pond right next to his property. He stated that he is also very concerned with the arsenic issue. He discussed the drainage. He stated that he has had his water checked and the arsenic levels are high.

Harvey Miller, 28892 Vista Way, stated that he moved here four years ago when he bought his 1.3 acres of property from the Erwin's and built a home. He stated that he does not have a problem with one acre lots but does have a problem with smaller lots. He stated that he had no idea that there was that much arsenic on the property until tonight. He stated that no one approached him when he bought his property about the arsenic problem.

Hal Schmidt, 61865 Richfield, encouraged the Board to maintain the policy and practices in keeping the denser projects more toward the City. He noted that the subdivision he lives in is zoned R-0.3, but it is developed as R-0.5 and some lots are closer to one acre.

Mr. Hawkins closed the public hearing.

Mr. Barber stated that if they change the Master Plan everytime a developer comes in with a plan, then they are going to have problems defending it. He stated that he does not feel that they are preventing the developer from developing this property.

Kamran Qadeer, Beztak Companies, stated that even though they are asking for R-0.3 zoning, they have +/- 197 acres and are only asking for 350 units. He stated that the reason for the R-0.3 is for the dimensional variance. He stated that with the 350 units, they would be less than two units per acre. He briefly discussed the SAD and the REU's for this property.

Mr. Jacobs stated that with the R-0.3 zoning they could have close to 600 units, which they have never asked for. He stated that they are asking for the minimum necessary so that they can use the property and get a reasonable return.

Mr. Jacobs stated that with respect to utilities for the property, he did not believe that the Erwin's were aware of what they were going to do at the time they purchased the REU's.

Mr. Hawkins stated that this proposed development has been in front of the Planning Commission, which have concerns. He stated that from the presentation given tonight, he is not sure if all the questions, comments or concerns have been addressed or answered. He stated that the Board of Trustees also had and still does have concerns. He felt that there are still some issues that still need to be resolved.

Mr. Hawkins stated that he, personally, would be very hesitant to recommend authorization for a development of R-0.3. He stated that he feels that it would be too much for the community. He stated that as indicated by the Consultants and the Master Plan, there is sufficient R-0.3 in the Township.

Mr. Hawkins stated that with regard to the comment regarding storage of outdoor equipment, there are provisions in the ordinances for accessory buildings, i.e., small pole barns or sheds. Mr. Stewart noted that the deed restrictions and bylaws are being updated and amended. He indicated that sheds and pole barns will not be allowed.

Mr. Hawkins stated that they can't restrict somebody on how they use their garage.

Joel Mallory, 57669 Dakota Drive and Dan Maddox, 57847 Cider Mill Drive expressed concern with with issue also.

After further discussion it was determined that the Orchards of Lyon PD Agreement requires that each home have a space for an attached garage but that space does not necessarily have to be used for storage of vehicles or lawn equipment. If a homeowner wishes, they can convert the garage space to another use, which would be subject to the architectural standards of the PD Agreement.

3. GENERAL BOARD DISCUSSION

Mr. Olson briefly discussed the Erwin application. He stated that there only on signatory and that he is pretty sure that there is more than one property owner. He stated that this would be a flaw in the application. He stated that this is a real critical point and that all owners should have signed the application.

Mr. Seymour stated that if there are different parcel ID numbers with different owners, then each individual should have signed the application.

Mr. Seymour stated that if the ZBA is going to do something about this, then it would have to be noticed. He stated that the notice could indicate that the ZBA is only going to address this particular issue.

4. ADJOURNMENT

Mr. Hawkins adjourned the meeting.
The meeting was adjourned at 10:19 PM.

Respectfully Submitted,

Deby Cothery

Deby Cothery
Recording Secretary