

**THE CHARTER TOWNSHIP OF CHESTERFIELD
ZONING BOARD OF APPEALS**

May 22, 2013

On May 22, 2013, a regular meeting of the Chesterfield Township Zoning Board of Appeals was held at the Township Hall located at 47275 Sugarbush, Chesterfield, MI 48047.

1. **CALL TO ORDER:** Chairman Stepnak called the meeting to order at 7:03 P.M.

2. **ROLL CALL:** Present: Marvin Stepnak, Chairman
Thomas Yaschen, Secretary
Hank Anderson, Township Board liaison
Carl Leonard, Planning Commission liaison
Wendy Jones
Patrick Militello

Absent: James Klonowski, Vice-Chairman, *excused*

Mr. Shortt attended the meeting as the representative of the Building Department.

3. **PLEDGE OF ALLEGIANCE:**

Chairman Stepnak explained the procedures to the audience.

4. **OLD BUSINESS: ZBA PETITION #2012-38:** Pietro Melia, 34131 Jerome, Chesterfield, MI 48047. Requesting a variance to be closer than required 10' from house for a pool and shed at the above stated address. Tabled on April 24, 2013.

Motion by Mr. Militello to remove Petition #2012-38 off the table.

Supported by Mr. Leonard

Ayes: All

Nays: None

Motion Granted

Pietro Melia, 34131 Jerome, Chesterfield, MI 48047 addressed the board.

Petitioner explained that he had met with Mr. Shortt and basically they applied for the encroachment for the ribbon of concrete that was going on the easement. At that time he was not sure if he was going to go with a gunite or fiberglass pool. He decided to sign a contract with a fiberglass pool contractor. He stated that basically the final drawing is the one he would be presenting for approval that evening.

Chairman Stepnak asked Mr. Shortt for his input on the matter since he had met with the petitioner.

Mr. Shortt asked the petitioner the size of the approved easement encroachment?

Petitioner answered that the plan was approved for three feet of concrete. He mentioned that the last time he requested to be on the easement and it would now be one foot from the easement on the one side. He stated that now the only easement encroachment would be a three foot ribbon across the back side.

Chairman Stepnak asked Mr. Shortt what type of documentation he would need to go out and make sure when the Building Department goes out to inspect that everything is clear?

Mr. Shortt stated that he had a copy of the petitioner's plan and pointed out an area and explained that was what the petitioner had decided to go with. He asked if the board had a copy of the latest plan?

Chairman Stepnak answered no and he asked Mr. Shortt to pass the plan among the board members for them to see.

Mr. Shortt explained that one line on the plans goes straight across and does not jog and he marked a dotted line on the paperwork in that area.

Petitioner stated that he already submitted these plans to Mr. Shortt and the DPW and they came out and decided he should maintain that three feet all the way across the back.

Mr. Shortt stated that he went with the DPW Superintendent and they gave the petitioner an easement for three feet of concrete. He then mentioned that the drainage should still work out all right with the swales behind it.

Petitioner stated that he was putting in a raised hot tub so there would be eight feet they are maintaining from the corner of the house to the hot tub. There would be no footing or digging involved for the hot tub because it is not an in-ground structure. He mentioned that there would be eight feet maintained from the porch to the pool and the depth there would be three feet. He explained that the footing around that patio is just a trench footing and it was not an over dig for a basement.

Mr. Shortt mentioned that there is no basement there either.

Chairman Stepnak stated that if the petitioner signs off on the document that was just passed to the board and Mr. Shortt signs off on it, would that be enough for the Building Department to work with?

Mr. Shortt answered yes and he has no problem with

Ms. Jones had no questions.

Mr. Anderson had no questions.

Mr. Leonard stated that it probably did not matter, but he asked if the arch of the pool would be done with fiberglass?

Petitioner answered yes that shape was right from the manufacturer. He stated that he thought the name of the model was Triton by Viking.

Mr. Leonard verified that the hot tub kind of encroaches into the pool.

Petitioner stated that that is built right into the pool.

Mr. Leonard asked if it was a custom made pool?

Petitioner answered no. The pool is designed to either have a raised spill-out or the cut-out hot tub. He stated that it is a combo pool and hot tub model.

Mr. Militello had no questions.

Mr. Yaschen had no comments.

Chairman Stepnak had no questions.

There were no public comments.

Chairman Stepnak instructed the board members and Mr. Shortt to initial or sign the updated plans. He verified with Mr. Shortt that if the board initials the document, would that be sufficient and that plan would be used for the project.

Mr. Shortt answered yes Mr. Chairman.

Leonard mentioned that the plan was not dated and suggested that be done.

Chairman Stepnak dated the plan for 5-22-13, signed his name and asked the petitioner to come up and sign the plans as well.

Motion by Mr. Yaschen to approve Petition #2012-38 for a rear yard setback for an in-ground pool. The requested variance would not confer any special privileges not denied to other property owners in a similar situation in the same zoning district. He stated that approving the variance would not be contrary to the spirit or intent of the ordinance.

Supported by Mr. Leonard. He asked that Mr. Yaschen add to the motion that the petitioner must comply with the drawing that was signed by the board that evening.

Mr. Yaschen agreed with the addition to the motion.

Mr. Leonard continued support

Ayes: All

Nays: None

Motion Granted

5. **ZBA PETITION #2013-05**: Wes Gillette, 392 Oliver Drive, Troy, MI 48084. Requesting a variance to allow an in-ground pool in front yard with a 4' high aluminum fence at address: 48492 Harbor Drive, Chesterfield, MI 48047.

Wes Gillette, 392 Oliver Drive, Troy, MI 48084 addressed the board.

Petitioner stated that he was the contractor for the pool and he was seeking approval to put a pool in what the homeowner assumed was her back yard, but would be considered her front yard.

Ms. Jones had no questions.

Mr. Militello stated that understanding that this was lake-front property and if the property owner would like to have a pool there would not be any other place to put it other than technically in the front yard. So as far as the location of the pool, he has no issue with that.

Mr. Yaschen asked Mr. Shortt if he had any problems with the location of the pool?

Mr. Shortt mentioned that the tie-backs for the sea wall were there and asked why the petitioner planned to put the pool so close to the lake when there was 31' between the house and the proposed pool.

Colleen Shefferly, 48492 Harbor Drive, Chesterfield, MI 48047 addressed the board.

Ms. Shefferly stated that she was the homeowner and that she eventually planning to add on to the back of the house and just wanted to keep some comfortable space between the pool and the home. She stated that the original plans for the home had an additional room at the back and the home was moved up so she had the option of adding on.

Chairman Stepnak asked if the tie backs would be a problem with the pool?

Mr. Shortt stated that the contractor may have to sleeve them or something like that. He does not know how far the tie-backs go. He stated that they might be digging up a tie-back in the middle of the pool.

Petitioner stated in that case, he would suggest that the homeowner push the pool forward a couple of toward the house.

Mr. Leonard stated that if they are setback 15' and one would get cut; he did not know if the others would stabilize it. He stated that was his question, but he would wait for his turn.

Mr. Yaschen stated that his only concern would be the tie-backs. He stated that would affect the stability of the whole thing. He added that he did not want the petitioner at some point to lose the pool and the sea wall.

Ms. Shefferly asked if the placement of the tie-back were listed any where?

Petitioner stated that they could be located with a metal detector.

Mr. Shortt stated that there used to be a rule that the pool had to be above the base flood zone, but they took that out; they were worried about the hydrostatic pressure in the pool and having it pop out of the ground. He mentioned another thing was that the petitioner planned to run a fence along the lake. He recommended that so the neighbors would not complain about their view being obstructed, he did not think it would be necessary for a fence on that side.

Ms. Shefferly stated that she would prefer not to have a fence on that side; she just thought it was required for code.

Mr. Shortt stated that if the fence was brought right up to the seawall so a little kid could not get around that would be fine, just to give the neighbors a break for the view.

Petitioner agreed that the fence would not be necessary on the lake side.

Mr. Leonard stated as far as locating the seawall tie-backs, if they look at the outside of the seawall, near the cap or on the cap, they would see bolts and they will come back and a metal detector can determine where the sheets are that they are tied into. He stated that the worst case scenario would be that the homeowner would start losing a wall. He had a neighbor who poured a concrete wall in place of where the steel is tied into and it is not going anywhere.

Petitioner agreed.

Mr. Leonard stated that he had a question about a measurement on the plans which stated 7' and it looks like it is 7' from the fence and the seawall actually extends out further.

Petitioner stated that he was confused about that because on the site plan he assumed the bold drawing was her lot line and he was not sure if the extra space was an easement or something. He stated technically he thought the pool would be 22' from the seawall.

Mr. Leonard stated that it certainly looked like that on the plans and they do not know the accuracy of the drawing. He stated that if the drawing is accurate as far as the tie-backs there would be way more than 7' and there would not even be an issue.

Chairman Stepnak stated that after rereading the request, he was not sure that the tie-backs would even be an issue for the ZBA because their concern was the variance to put the pool in the front yard. He stated if the petitioner has to put the pool closer to the house because of the tie-backs, he does not see that as a concern for their board.

Mr. Leonard stated so the only thing the ZBA had to do with that evening would be if there was a setback from the side and if that is sufficient.

Chairman Stepnak stated that the ZBA's concern would be the petitioner putting a pool in the front yard of the property because it is waterfront where the back yard would be considered the front yard.

Mr. Leonard verified so the setbacks would be determined by the Building Department anyway.

Chairman Stepnak agreed. He told the home owner it would be up to her where the pool would go in the front yard. He stated with tie-backs situation, he did not know how much money it will cost her. They had no way of knowing how the tie-backs were put in and the petitioner does not want to put the pool too far back because there could be a problem then with the pool and the seawall.

Ms. Shefferly then verified the Mr. Shortt preferred for her to put in a fence to the water's edge of the lake as opposed to putting the fence on the lake side.

Mr. Shortt stated that the petitioner just had to make sure that a child could not weasel his way around the fence to get to the pool.

There were no public comments.

Chairman Stepnak stated that the question about the fencing is strictly a safety concern and that would be a judgment call for the Building Department, so he does not have a problem with it.

Mr. Shortt reminded the petitioner that all the dirt excavated for the pool has to be removed from the site. He stated that it looked like the swale was right in the center of the pool. He mentioned that it almost looks as though the neighbor's property already drains onto the petitioner's property. He stated that they cannot create a hardship for the neighbor and if the petitioner took the neighbor's water before they must continue to take it and reroute the water to the lake or to a catch basin because they do not want any grade complaints from the neighbors.

Chairman Stepnak explained that the ZBA can allow the pool, but the petitioner is subject to any engineering concerns.

Motion by Mr. Leonard to approve Petition # 2013-05 to allow a pool in the front yard on a lake lot. The pool must meet all the Building Department's requirements.

Supported by Mr. Yaschen

Ayes: All

Nays: None

Motion Granted

6. **ZBA PETITION #2013-06:** Michael Jones, 51394 Scarlet Court, Chesterfield, MI 48047. Requesting a variance for a rear yard setback to allow a 12' wide x 16' deep attached gable end roof over deck.

Michael Jones, 51394 Scarlet Court, Chesterfield, MI 48047 addressed the board.

Petitioner stated that he was requesting to put a covered porch over his patio.

Mr. Militello had no questions at that time.

Ms. Jones had no questions.

Mr. Anderson had no comments.

Mr. Leonard asked if the petitioner ever had any intention to close in the patio? Will it always stay wide open?

Petitioner replied that he never planned to enclose the patio and it would always stay wide open.

Mr. Leonard asked the petitioner if he brought in the photograph of the other house?

Petitioner answered yes he had a picture of a home at 34305 West Hill in Chesterfield.

Mr. Leonard asked the petitioner to show the board the picture and stated that the petitioner's home would be very similar to that where the roof line would continue right out.

Mr. Yaschen had no questions.

Mr. Shortt stated that he went out to the job site and told the petitioner that he would need gutters and the drainage does not seem to be a problem. He explained that the unfortunately when you put a wood framed structure over a deck the ordinance requires that it be on a full 12" by 42" footing; therefore if the petitioner ever did want to close in the area for a sun room or whatever, he would be all set. He stated that the Building Department has no problem with it.

Chairman Stepnak commented that he did not really have a concern even if it would be closed in.

There were no public comments.

Mr. Leonard asked as far as the setback is the rear yard 30'? He stated that the petitioner has 41' and minus that he would only have 25'. He stated that was why he brought up enclosing the area because they would be encroaching with an enclosed structure on the setback.

Mr. Shortt stated that was why the petitioner was in front of the board for the rear yard setback.

Chairman Stepnak explained that the petition request does not give the dimensions or square footage, but it does mention the rear yard setback. So the intention is there to allow a variance for the rear yard setback.

Mr. Leonard asked if the board should put a number in place?

Chairman Stepnak replied that they could just go by the drawing and dimensions of 12' x 16'.

Motion by Mr. Yaschen to approve Petition #2013-06 for a rear yard setback to allow a 12' wide x 16' deep attached gable end roof over the deck subject to approval by the Building Department.

Supported by Mr. Militello

Ayes: All

Nays: None

Motion Granted

7. **ZBA PETITION # 2013-07:** Charles and Joann Yankitis, 49736 Nautical Drive, Chesterfield, MI 48047. Requesting a variance for side yard setbacks on the north and south sides of an R-1-A residential parcel, to demolish existing home and to rebuild a new home at address: 49832 Miller Court, Chesterfield, MI 48047.

Charles Yankitis, 49736 Nautical Drive, Chesterfield, MI 48047 addressed the board.

Petitioner stated that he planned to demolish and existing home and rebuild a new home on the site and they were requesting a variance on the side yard setback. He stated that when they submitted the plot plan with the application, they did not have the elevations yet. He explained that they did have the elevations at this time and that they changed the dimension on the south side from 4.5' to 5' and they did that because the lot is irregular, not parallel. He decided that 5' would be a better so they moved the house over a little bit and changed the width slightly, so now their smallest dimension is 5'. He stated that they had copies of the plans with the elevations available for the board.

Chairman Stepnak instructed the petitioner to bring the copies up to the board. He asked Mr. Shortt if he had any comments or concerns on the variance.

Mr. Shortt stated that this would be a good thing. He explained that right now the house in on the property line and encroaching on the neighbor's property. Therefore, by the petitioner tearing down the wreck that is there and building a new home it is great. He stated that he has been working with the engineer on this and it is all worked out as far as the grading, flood plain issues and the swales. He mentioned that the engineer has been working on this project for a couple of months and the Building Department has no problem with it whatsoever.

Petitioner stated that the house is right on the lot line on the north side and the chimney is actually over the lot line and on the neighbor's property by a foot.

Mr. Yaschen stated that he went out to the property and everything seems to be in order. He commented that if Mr. Shortt is happy he has no further questions.

Mr. Militello stated that he went out to the property to see what is there now. He stated that the new home would be a much better fit for the neighborhood than the current structure.

Ms. Jones had no comments.

Mr. Anderson commented that if it was endorsed by Mr. Shortt he had no problems with it.

Mr. Leonard verified that standing on the road it would be the right front corner of the house the dimensions that were changed from 4.5' to 5'. He asked if he was correct?

Petitioner answered yes.

Mr. Leonard stated that it looked great and it would fix a lot a problems out there.

Chairman Stepnak stated that they know Mr. Shortt deals with these things everyday, and the board does consider at his recommendations. However, the variance does need the full support of the Zoning Board before the petitioner can move on. He commented that the board does not just rubber stamp everything that Mr. Shortt does out there because the community has a system of checks and balances and that is the reason for the ZBA. He mentioned that he appreciated that the engineer has been working on the project and the copies of the project that the petitioner has provided for the board; all of that helps us use our time wisely.

Public Comments:

Joe McMillan, 40806 Miller Court, Chesterfield, MI 48047 addressed the board.

Mr. McMillan was in favor of the board granting the variance for the petitioner. He stated that the new home would greatly improve the neighborhood.

Petitioner thanked Mr. McMillan for attending the meeting and supporting him.

Motion by Mr. Leonard to approve Petition # 2013-07 to allow the removal of an old house and construction of a new residence and allowing the variance for the setbacks as depicted on the new drawing.

Supported by Mr. Anderson

Ayes: All

Nays: None

Motion Granted

Chairman Stepnak commented that if it was appropriate, welcome to the community.

Petitioner stated that he has lived in Chesterfield for 20 years and thanked the board.

8. APPROVAL OF MINUTES FROM PRIOR MEETING:

Motion by Mr. Yaschen to approve the minutes from the April 24, 2013 ZBA meeting.

Supported by Mr. Anderson

Ayes: All

Nays: None

Motion Granted

9. COMMENTS FROM THE FLOOR:

There were no comments from the floor.

10. ADJOURNMENT:

Motion by Chairman Stepnak to adjourn at 7:47 PM.

Supported by Mr. Militello

Ayes: All

Nays: None

Motion Granted

Thomas Yaschen, Secretary

Grace Mastronardi, Recording Secretary