

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

January 8, 2014

On January 8, 2014, 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 7:00 P.M.

2. **ROLL CALL:**

Present: Marvin Stepnak, Chairman
James Klonowski, Vice-Chairman
Carl Leonard, Planning Comm. Liaison
Patrick Militello
Wendy Jones

Absent: Thomas Yaschen, *excused*
Hank Anderson, *excused*

Dave Czuprenski attended the meeting as the representative from the Building Department.

3. **PLEDGE OF ALLEGIANCE:**

Chairman Stepnak explained the procedures to the audience.

4. **ZBA #2014-01:** Steven & Dawn Wilks, 28248 Rachid Court, Chesterfield, MI 48047. Requesting a variance to allow a trellis with decorative plantings to serve as a privacy wall between neighbors. The proposed height will exceed the allowable 6', which is the maximum height for privacy fences. Location is stated above.

Chairman Stepnak stressed that he was informed that there were some questions about some improprieties and complaints have been filed and he does not want to get into any name calling or accusations or anything like that that evening.

Steven Wilks, 28248 Rachid Court, Chesterfield, MI 48047 addressed the board.

Petitioner stated that he was requesting a variance for the trellis he installed for privacy.

Ms. Jones asked how tall is the fence?

Petitioner replied that it is 12' high because it is higher than the neighbor's 6' privacy fence with a gazebo that is higher than the privacy fence.

Ms. Jones asked if the picture was taken before the petitioner's privacy fence was put up?

Petitioner replied that the trellis is there and it does not fence off anything.

Ms. Jones verified that the petitioner has a fence and also a trellis.

Petitioner remarked that he had explained that to Shawn from the Building Department that the trellis would be above the neighbor's privacy fence and gazebo which they got a variance for is much higher than the privacy fence. He stated that the trellis serves to screen them from the view of the gazebo.

Mr. Militello stated that he was just looking at the paperwork and asked if the petitioner went 8' into his yard to put up the trellis?

Petitioner replied yes. He mentioned when he spoke to Shawn he told him that the trellis was on his property and purely serves to block the view from his neighbors, so they can sit out side to eat and not be distracted by name-calling, people doing drugs and looking at the marijuana plants growing in the neighbor' yard.

Chairman Stepnak reminded the petitioner of his initial warning about comments concerning the neighbors and accusations.

Mr. Militello asked Mr. Czuprenski how deep the posts would have to go into the ground, would it be 36".

Mr. Czuprenski replied that they would have to be 48" deep.

Petitioner stated that the posts for the trellis are down 5'.

Mr. Leonard asked how tall is the existing wood fence?

Petitioner replied that the neighbor's fence is 6' tall.

Mr. Leonard asked if the trellis goes 6' higher than the fence?

Petitioner answered yes.

Dawn Wilks, 28248 Rachid Court, Chesterfield, MI 48047 addressed the board.

Ms. Wilks stated that the trellis is higher to block out the gazebo and the gazebo floor is one foot higher than their privacy fence.

Mr. Leonard stated that from the angle of the picture, the trellis looks to be even higher than 6' above the fence.

Petitioner asked which picture?

Chairman Stepnak mentioned that the picture Mr. Leonard was referring to was taken by the petitioner's neighbor.

Mr. Leonard asked that from the top of the existing fence the petitioner's trellis goes up another six feet?

Petitioner replied correct. He explained that the top of the neighbor's gazebo is still taller than the trellis; the gazebo is at least 18' tall. He would just like to block out the view so they can enjoy their back yard and their privacy.

Mr. Leonard stated that he was used to seeing arborvitaes or some other screening for privacy and this kind of jumps out at him.

Petitioner mentioned that he planted 6' junipers along his property that go to his mailbox but it will take 20 years for those trees to grow. He stated that they wanted to put in a pool next year and they want some privacy to enjoy their back yard.

Mr. Klonowski asked Mr. Czuprenski how this all started?

Mr. Czuprenski answered that he believed that Zoning Enforcement saw something sticking up in the air and they discovered it was erected without a permit and at that time the petitioner was contacted.

Petitioner claimed that he had contacted Shawn from the Building Department before he built the trellis and was told he did not need a permit. The petitioner mentioned that he would not have built it, if he had not first talked to Mr. Shortt. He claimed that Mr. Shortt came out to the property and the petitioner was told that Shawn did not have a problem with it as long as none of the neighbor's complained about it. He stated that obviously the neighbor next door complained about it. The petitioner mentioned that he was on a corner lot and his lot backed up to the woods, therefore this was his only neighbor and they wanted to block their view for some privacy.

Mr. Czuprenski mentioned that Mr. Shortt told him that he was concerned about the fabric material on there. When Mr. Shortt looked at the structure the fabric was not there and he was told the petitioner planned to put vines in the structure.

Petitioner stated that he still planned to put vines in there.

Mr. Czuprenski mentioned that with the fabric, the Building Department was concerned that the fence would serve as a sail and structurally they do not know how sound it would be.

Petitioner explained that it was built from 4' x 4' treated wood and is set 5' into the ground. He stated that it would be more structurally sound than the gazebo next door.

Mr. Czuprenski replied not really because the gazebo is open. His concern was the fabric on there would be a sail that could catch wind and topple on to the petitioner's family while they are out in their yard.

Petitioner stated that the fabric is UV protected and it allows air and water to flow through it. The structure is only there to block the view. He then mentioned that the material is very light weight and should last 10 to 12 years.

Mr. Klonowski stated that he had a little bit of a safety issue with it.

Ms. Jones mentioned that she does not understand the fabric part of it.

Petitioner stated that as he explained to Shawn it is made of 4' x 4's with flow-thru material is just to block the view and he stated that the structure is stable. He made some additional comments that were inaudible.

Chairman Stepnak stated that they are getting into code and safety issues. He asked if the petitioner brought in any engineering specs before beginning the project?

Petitioner replied no.

Chairman Stepnak asked if the petitioner had the material been reviewed because in order for something to be constructed the Building Department has to know what the material is made of.

Petitioner stated that the trellis was visually inspected.

Chairman Stepnak stated that there is nothing like this made out of this fabric in the community and he does not know if they should be two feet on center or three feet on center or should there be support beams put in place. He explained that if the petitioner wanted to put a structure like this up, he would need some type of engineering done on this before it would even be considered in this community. They have BOCA which is a book of building codes that explains what types of materials should be used for homes, decks, fencing, etc. He explained that the board members are not professionals in engineering and he does not know what the petitioner does for a living, but to approve something like this they would need engineering specs.

Chairman Stepnak stated that he went out to the property that day and that it was huge at least from the street view. He elaborated further about the safety of the boat sail material, how long it would last and when it would need to be replaced.

Petitioner stated that when he went to Shawn, Mr. Shortt stated that the trellis was okay as long as it did not exceed the 16' height.

Chairman Stepnak asked Mr. Czuprenski the height restrictions for fences?

Mr. Czuprenski replied that the height restriction for fences is 6'.

Petitioner mentioned that Mr. Shortt was referring to it as a pergola and the height restriction on that he was told is 16' then later he referred to it as a trellis. The petitioner insisted that it was not a fence and was just put up for privacy.

Chairman Stepnak stated as far as the board was concerned it was still a fence, whether it is a fence that would go around the whole yard or just for screening. He mentioned that he understood the petitioner's concern about the privacy issue. He asked if the gazebo was causing the major problem?

Petitioner replied yes and since they were neighbors the people next door came to us to sign for a variance to put up the gazebo and he did sign it to help them out. Then through the years they have found out what kind of people they are and...

Chairman Stepnak stated that he did not want to hear anything about the neighbors. He commented that the neighbor constructed the gazebo in 2006 because the board has a copy of the minutes from when it was approved. He thought the gazebo was lower than the neighbor's kitchen and house level and that would be within code. He asked Mr. Czuprenski if that was correct?

Mr. Czuprenski replied yes.

Petitioner claimed that the floor of the gazebo is at least 8' in the air.

There were no public comments.

Petitioner added that he would not have built the trellis and spent all the money if Mr. Shortt had not approved it.

Mr. Militello stated that it would be hard to say into what category would fit this type of structure.

Mr. Klonowski stated that it would be considered screening but in essence it would be a fence.

Chairman Stepnak stated that the total purpose of the trellis is to provide privacy from the petitioner's neighbor. He asked if he was correct?

Petitioner stated that, as he explained to Shawn, the pergola was put up not to close off his yard, but to provide some privacy so his family can enjoy their property.

Mr. Leonard showed a drawing of the structure with greenery on it and he asked if that was the side that would be facing the petitioner?

Petitioner replied yes it would eventually be like a green wall with vines.

Mr. Leonard stated that looks okay. However, he is looking at the picture that the neighbor took of the other side and that looks terrible and when it weathers and the wood turns gray, it will look even worse. He stated that he is really having a struggle with this.

Petitioner asked the board if they knew what he has to look at every summer with people outside doing drugs?

Mr. Leonard replied that is why there is a police department.

Petitioner stated that he already made a police report.

Mr. Czuprenski verified that the petitioner mentioned that the panels are 8' sections and there are 8 of them, so that is 64' long. He asked if that was correct.

Petitioner replied yes.

Mr. Czuprenski explained that mathematically if he figured 64' from where the petitioner shows it at 10' from the house; that would put the structure in the 30' easement. He stated that would put it 3' into the 30' easement. He explained that the property goes back 81' and 64' of fence with a 30' easement that would be 51'.

Petitioner stated that it is set back from the house.

Mr. Czuprenski stated that he realized that and was subtracting 10' to allow for that.

Chairman Stepnak stated that he was not going to get into engineering and he called for a motion on the petition.

Mr. Klonowski read a letter from Lynn Volaric and Jolanta & Chris Cretu that were not in favor of the board granting the variance. The letters were retained for the ZBA records.

Petitioner commented that he had signatures from neighbors that were in favor of the board granting the variance.

Chairman Stepnak stated that they were aware of that fact and that they were submitted with the paperwork and retained for the ZBA records.

Motion by Mr. Klonowski to deny ZBA # 2014-01 because there was not enough evidence of a practical difficulty. The structure could cause a safety issue because of its material and construction.

Supported by Chairman Stepnak and he added that as a board they are concerned about the petitioner's privacy but they cannot entertain the screening that was put in a residential zone for the sole purpose of screening two neighbors from view. He explained that was not the intent or purpose of the Township's ordinances. The petitioner did not propose a proper engineering specs and the board is unsure of the materials that were utilized for this project as far as safety and longevity. He stated that the Township inspector has some questions regarding the construction, sturdiness and even the classification of the structure.

Mr. Klonowski agreed with the addition to the motion

Chairman Stepnak continued support.

Ayes: All

Nays: None

Motion Granted

Chairman Stepnak polled the board for their vote and any additional comments or concerns.

Mr. Klonowski voted to deny and had no additional comments

Chairman Stepnak stated that he voted to deny and had no comments.

Mr. Leonard stated that he voted to deny and had no comments.

Mr. Militello voted to deny and had no comments.

Ms. Jones stated that she voted to deny and had no comments..

5. **ZBA #2014-02:** Darrin Hicks, 45824 Jefferson, Chesterfield, MI 48047. Requesting a variance to allow a temporary shed to remain in its present location for personal items to be stored until petitioner's lease expires March 2014. Location is stated above.

Darrin Hicks, 45824 Jefferson, Chesterfield, MI 48047 addressed the board.

Petitioner stated that he was requesting a variance for a temporary shed.

Mr. Militello asked if the petitioner was renting or leasing the property?

Petitioner replied correct. He stated that he has rented the property for three years and plans to sign a lease for another two years.

Mr. Militello asked if he planned to take it down in March?

Petitioner stated that originally he planned to take it down in March, but he now plans to stay on the property and that is why he is requesting the variance.

Mr. Militello asked the petitioner so now he would like to keep the shed until the end of the lease?

Petitioner replied yes.

Mr. Militello asked so the shed would be up until March Of 2015?

Petitioner's reply was inaudible.

Mr. Militello asked what the petitioner is storing in the garage?

Petitioner replied that the main reason for the shed is that he currently only has a two car garage and the house is on a Michigan basement and the area that used to be an attic was converted into living space, therefore, he has no room for storage. He owns 4 cars and two of them are in the garage. He explained that in the shed he has his two lawn tractors, lawn mower, snow blower, some of his children's toys and patio furniture.

Ms. Jones had no questions at that time.

Mr. Klonowski asked why it is under the temporary structure ordinance. He asked the petitioner how long he planned to leave the structure in place. Is it two years?

Petitioner replied that he planned to keep the shed up for one more year. He made some additional comments that were inaudible.

Mr. Klonowski stated that part of the problem here would be that he thought the petitioner would have to post a bond with the Township for a temporary shed according to the temporary structure code.

Chairman Stepnak asked Mr. Czuprenski about this matter?

Mr. Czuprenski stated that if it is the structure he looked at, it was a beige tent. He explained that would not necessarily be considered a structure it would be more of a canvas enclosure. He mentioned that on the paperwork it also shows a 13' x 12' shed on the property.

Petitioner explained that there were two cement pads on the property and he thought at some point there must have been sheds on the property. However, he stated that there are no other sheds on the property at this time.

Mr. Czuprenski stated that would make sense.

Mr. Leonard asked so this 8' x 15' structure is like a tent; is it one of those fabric enclosures with the four sides.

Petitioner explained that it actually one side with a top flap and it has a zip opening in the front.

Mr. Leonard verified that the 13' x 12' shed no longer exists on the property?

Petitioner replied that was correct.

Mr. Leonard stated that he has noticed these popping up here and there around the Township and he thought they were actually writing them up for not being allowed by Zoning Enforcement.

Mr. Czuprenski stated that he did not know what was being done by Zoning Enforcement as far as these structures goes. He mentioned that a lot of them do get taken down for the summer, so they do not see them.

Me. Leonard verified so there is no permit process as far as these structures if someone wants to pop one up. He has seen them around holidays when people are having parties. He asked so when they do pop up there is no process at the Township?

Mr. Czuprenski replied not that he was aware of because there are similar tents that people can rent for graduation parties and no one gets a permit for them to be set up. He thought it would be based on usage. If there was an open tent set up for a graduation party it would be similar to a gazebo that a person could put up on a deck. However, if there is an enclosed structure such as a tent with four walls then it would fall into a temporary structure.

Mr. Leonard stated so there is no inspection, no way to secure them to the ground, no footing and no guidelines for anything then. People just plop them on the ground and they may blow away.

Chairman Stepnak asked the petitioner why he needed the temporary shed?

Petitioner reiterated that he needed the to store his lawn tractors, lawn mower, snow blower, some of his children's toys and patio furniture because he has no other place to put these things.

Chairman Stepnak asked the petitioner's overall plan and if he is planning to build a shed next year?

Petitioner stated that if it wasn't a rental property he would probably build a shed, but because it is not his property he does not think he could physically build one.

Chairman Stepnak stated that he could see where the petitioner is going, but the problem would be for the board to grant something like this for a temporary basis, there would need to be something long term that would correct the problem. He stated that the petitioner could rent the property for the next twenty years and the petitioner then would have to come back every year to get a variance and that is not the intent of a temporary structure. He explained that the reason for a temporary structure is to help someone for a short period of time, for instance is someone's house burns down or someone is building a new home; it would be a place for them to store their things until the project is complete and that is taken down upon completion of the project. He added in this case, there does not seem to be a plan.

Petitioner stated that the reason he was only requesting a one year variance was that he spoke to the landlord and possible the next year they would build a garage or shed.

Mr. Klonowski commented that the issue he has with this is that it really does not fall within the guidelines of the temporary ordinance. He would be concerned about going in this direction.

Chairman Stepnak asked Mr. Czuprenski how the Township would police this time of thing? He stated that the board has entertained temporary structures and the people post a bond so the Township can to make sure the area is cleaned up. He mentioned that if a person is building a home, they would not get the CFO for the home until the structure is removed, but how would they make sure this structure is gone by next March.

Petitioner stated that it already cost him \$250 just to bring this to the meeting.

Chairman Stepnak replied that he knew that fact.

Mr. Leonard thought a bond would make sense, because if it was substantial enough the petitioner would make sure the structure was removed by next March. He commented that when he built his home, he did everything necessary to get his bond back when the house was completed. He did not know if there was a bond that could help the petitioner out under the circumstances. He stated that these things are popping up here and there and he thought they could become a problem, but in this case if there was something that could be done with a bond.

Petitioner explained that the meeting cost him more than the shed and he already decided that if this was going to cost him any more money; he would just build a shed. He commented that with his understanding, if he built a small shed on the current pad, he would not even be required to get a permit.

Chairman Stepnak stated that they are not Zoning Enforcement and they are not the Building Department and they are only concerned with issues other than what is presented to them. He asked the petitioner what would be a sufficient cash bond that could be posted?

Petitioner stated that if it cost any more money than he has already spent, then he would just build a shed.

Mr. Leonard explained that the bond would be refundable, so the petitioner would get that back.

Petitioner replied that he understood that, but if he is going to put money out, he would rather have a shed because he does not really want to have the tent

Chairman Stepnak asked so the petitioner would not like to consider any type of bond.

Petitioner replied no because at some time he would like to put up a shed and he would rather spend the money on that.

Mr. Leonard explained that with a shed, the petitioner cannot just pick it up if he plans to move. He stated with a bond, when the time period is over, the petitioner can just get the bond back.

Mr. Czuprenski stated that the petitioner mentioned if he built the shed at a certain size, he would not need a permit. He explained that is not a true statement. He stated that anything under 24 square feet the petitioner would not need a permit. He commented that he did not think the petitioner would build anything 4' x 6'.

Petitioner stated that he was just looking for enough room to put two tractors inside.

Mr. Czuprenski stated that the petitioner would be allowed to build up to 10' x 12' without another variance, but that does require a permit. It would not require a footing, but it would require a rat wall and a permit. He commented that he just wanted to clarify that when the petitioner stated it did not require a permit.

Motion by Mr. Klonowski to deny ZBA # 2014-02. The request does not conform to the intent of the ordinance

Supported by Mr. Militello

Ayes: All

Nays: None

Motion Granted

Chairman Stepnak called for the board to be polled and any additional comments.

Mr. Klonowski stated that he made the motion to deny because it does not fit the temporary structure ordinance.

Mr. Militello voted to deny and had no additional comments.

Mr. Leonard voted to deny and had no comments.

Chairman Stepnak voted to deny and stated that he agreed with James that the request does not fit the intent or reasoning of the temporary structure ordinance. He mentioned if the petitioner had entertained a bond, it could have been a possibility, but he did not seem to want to go in that direction.

Ms. Jones voted to deny and had no additional comments.

Petitioner asked if he could get a refund or discount for the meeting?

Chairman Stepnak replied no that there was nothing they could do in that respect. He mentioned that he was sorry and wished things could have gone differently, but the petitioner really needed some type of long range plan.

6. OLD BUSINESS:

There was no old business.

7. NEW BUSINESS:

There was no new business.

8. **APPROVAL OF MINUTES FROM PRIOR MEETING:**

Motion by Mr. Klonowski to approve the minutes from the December 10, 2013 meeting.

Supported by Mr. Militello

Ayes: All

Nays: None

Motion Granted

9. **COMMENTS FROM THE FLOOR:**

There were no comments from the floor.

10. **ADJOURNMENT:**

Motion by Mr. Militello to adjourn at 8:02 PM

Supported by Chairman Stepnak

Ayes: All

Nays: None

Motion Granted

Thomas Yaschen, Secretary

Grace Mastronardi, Recording Secretary