

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

July 23, 2014

On July 23, 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
Hank Anderson, Township Board Liaison
Patrick Militello
Wendy Jones

Absent: Thomas Yaschen, Secretary, *excused*
Carl Leonard, Planning Comm. Liaison, *excused*

Gary DeMaster attended the meeting as the representative from the Building Department.

3. **PLEDGE OF ALLEGIANCE:**

Chairman Stepnak explained the procedures to the audience.

4. **ZBA PETITION #2014-14:** Justin Butler who resides at 52768 Winsome Lane, Chesterfield, MI 48051 requesting a front yard setback variance on a corner for a proposed swimming pool located at the above address. Awaiting answer for an Easement Encroachment, will be on a later date.

Chairman Stepnak stated that the board would not be entertaining ZBA Petition #2014-14 because the petitioners are awaiting an answer for an easement encroachment.

5. **ZBA PETITION#2014-15:** Don & Karen Pensyl who reside at 51731 Leshan Drive, Chesterfield MI 48047 requesting a 12' front yard setback variance on a corner Lot for a proposed addition to their existing garage. The petitioner had been requested to be placed on the August 13, 2014 Zoning Board of Appeals, everyone has been notified of mailings.

Chairman Stepnak stated that on ZBA #2014-15, the petitioners are out of town and their request has been moved to the meeting on August 13, 2014.

Chairman Stepnak asked if there was anyone from the public with comments concerning either of the previously mentioned petitions.

There were no Public Comments.

6. **ZBA PETITION #2014-16: Glenn Norton who resides at 53471 Jessica Lane, Chesterfield, MI 48051 requesting a 16' front yard setback variance to allow their (8'x10') replacement shed to remain located in the same as previous shed also to be closer that the 10' required from other structures, located on a corner lot at the above address.**

Glenn Norton, 53471 Jessica Lane, Chesterfield, MI 48051 addressed the board.

Petitioner stated that he was requesting to replace his existing shed with a new shed.

Mr. DeMaster stated that there was a Code Enforcement letter to have the shed removed. It was never a permitted or there was no permission to have that shed. He commented that existing or not they do not know how long a shed has been there.

Ms. Jones asked if the shed was already there when the petitioner purchased the property in 2013?

Petitioner replied yes. He was told the shed has been on the property for 13 years.

Ms. Jones asked if the petitioner's home is a site condo?

Petitioner answered no it is residential home on Lot 57 of the Hillcrest Meadow Sub. We are on a corner lot and did not know there were that many rules.

Ms. Jones asked so there is no association?

Petitioner replied no. He mentioned that his gripe is that the shed was already there and he did not know that he needed a permit to replace an existing shed. He apologized and stated that was his mistake, but he needs a place to store his stuff to maintain the property. He explained that there was no other place to put the shed on the property because he has a pool, landscaping and trees at the back.

Mr. Militello verified so the new shed is already there?

Petitioner answered yes. He explained that on the 12th of April there was a storm with hail and high winds that badly damaged the existing shed and his fence. So he fixed the fence and purchased a new shed to replace the existing shed, not knowing about the ordinance. He mentioned that after he got a letter from the Township, he looked it up all the rules and regulations for sheds and discovered his mistake.

Mr. Militello stated that the new shed is bigger than the old shed. He asked if there was a concrete pad out there or is it just sitting on the ground?

Petitioner replied that the shed was just sitting on patio blocks.

Mr. Militello stated that is a no go anyway.

Petitioner explained that what he did was according to the manufacturer's specifications. He stated that it was a \$1300 shed top of the line 8' x 10' shed with a 10 year warranty. He commented that he did everything except for the pad and the rat wall. He leveled the area, had sand and slag put in, excavated, put visqueen down and put it on a 50 year treated lumber wood platform. He reiterated that it was all done according to the manufacturer's specifications. He went to the Building Department and the girl there was rude and told him that the shed could not be put there. He claimed that he did not have any other place to put the shed and he has to have storage to maintain his property.

Mr. Klonowski asked if the petitioner's lot was 57?

Petitioner replied yes.

Mr. Klonowski stated there was something on the property already that is 18' x 33', what is that?

Mr. Militello stated that is the petitioner's pool.

Petitioner agreed that is the pool. He mentioned that he also has a deck and landscaping backyard so there is no other place to put the shed. He stated that if he had to he would remove the shed and put in a rat wall, he would; but he would like a waiver for the concrete pad because there is a 10' variance that has to be between structures. He explained that the shed is 8' from the house.

Mr. Klonowski stated that they want a concrete slab for rodents and that is the reason for the rat wall and slab.

Petitioner mentioned that he read that in the ordinances for anything bigger than 5' x 6'. He stated that the existing shed was 8' x 6', so he went 8' x 10'.

Mr. Anderson stated that he would defer to the Building Inspector.

Mr. DeMaster explained that the petitioner does have code violations because of the location, rat wall and the concrete pad. He stated that if the ZBA allow this variance, they would have to allow everyone a shed in the front yard.

Chairman Stepnak stated that he did not want to disagree with Mr. DeMaster, however, the ZBA could allow the shed to be put in the side yard or the front yard due to the fact that the petitioner does have a practical difficulty. However, he explained that all sheds in the community must have a concrete slab and a rat wall and that is something that this board does not have the authority to overrule because that is local building code. Furthermore, this board does not have the authority to allow a shed that close to another structure; it would have to be 10'. He explained that 10' is the accepted rule in all the other communities for fire safety. The idea is that is the space needed from one dwelling to another structure so a fire does not jump from one place to another. People have been granted a variance for that in the past if the petitioner works with the Building Department in putting fire rated materials or construction on that particular wall of the home. He stated that was something out of the norm for this board. He expressed that the ZBA cannot give the petitioner any okay or passes on anything for construction or building codes. He explained that this board or any other board in the community would allow this to take place because of safety concerns.

Petitioner claimed that there was only 30' from the easement to the sidewalk on that side to put the shed there up to the house. He stated it was 8' from the house and that it is a vinyl shed and if it had a rat wall it would be worse, because he would not be able to move it.

Chairman Stepnak reiterated that all sheds in the community must have a concrete slab and a rat wall and that is something that this board does not have the authority to overrule because that is local building code and everyone has to comply with those rules. ZBA can decide on setbacks from property lines or the street and things like that. The petitioner is asking for a whole different thing. He stated that it would be like the board allowing a person to build a home out of paper. The board could not allow something like that; a structure would have to be built out of wood or masonry. He feels bad that the petitioner invested in this and they understand the petitioner needs a place to store things, but the board's hands are tied when talking about building concerns. He stated that the petitioner has a nice size piece of property with a pool back there. He mentioned that maybe something can be worked out.

There were no Public Comments.

Mr. Anderson asked if the size of the swimming pool at the back of the property was 18' x 33'?

Petitioner replied that he thought it was actually 18' x 34'. That was also unknown when he bought the property because the pool was not up and running. He stated that there were a lot of unknowns when he purchased the place.

Mr. Anderson mentioned that at the regular Township Meeting on Monday it was brought up about these easements. It is a tragedy for the homeowners who buy property in the Township and these new residents are not aware of these existing easements for utilities and the property cannot be developed because of these regulations. He stated when something like this happens, people find out they cannot do certain things.

Petitioner stated that his intent was to improve the property. The existing shed was an eyesore with the doors busted and he needed a place to store his stuff. He brought pictures of the shed for the board members to see. He claimed that he asked some of his neighbors and none of them had rat walls for their sheds.

Chairman Stepnak stated that they should.

Petitioner thought those sheds were grandfathered in.

Chairman Stepnak stated that the ordinance for the rat walls has been in existence for many years and he did not want to bring anything like that up. Rat walls are part of the building codes and the ZBA and even the Township Board do not have the authority to overrule or override the building codes because of safety concerns

Mr. Anderson suggested that the petitioner get into see the Building Inspector. Maybe it would be possible to put the shed somewhere in the back yard near the pool.

Petitioner claimed that there is just no room with the pool and the deck back there. He wanted to put in a new privacy fence and got shot down with that because they wanted him to move the fence 6' from the sidewalk which would make his yard a lot smaller; so he just repaired the existing fence. He then mentioned that he could put in the rat wall if required.

Chairman Stepnak stated that the petitioner would have to put the rat wall and slab in and also make one of the walls fire rated.

Petitioner asked what if he moved it over two feet?

Mr. Klonowski stated that he did not see the practical difficulty as to why the petitioner could not put the shed in the back yard.

Chairman Stepnak stated that the petitioner can contact the Building Department, but the Board cannot redesign the petitioner's home or yard.

Motion by Mr. Klonowski to deny Petition # 2014-16. There was a lack of practical difficulty and the petitioner has no rat wall and concrete slab under the structure.

Supported by Mr. Militello

Ayes: All

Nays: None

Motion Granted

Chairman Stepnak polled the board for additional comments.

Mr. Klonowski had no additional comments.

Mr. Militello had no additional comments.

Ms. Jones stated she voted no and agreed with Mr. Klonowski

Mr. Anderson had no additional comments.

Chairman Stepnak stated he thought the petitioner could locate the shed on another area of his property and still adhere to building codes. He agreed to deny because he did not see the practical difficulty at this stage. He suggested that the petitioner visit the Building Department and informed the petitioner that his only other option was to seek legal counsel.

7. OLD BUSINESS:

Daryl D. Gapshes, 57210 Stonebriar Dr., Washington Township, MI 48094.
Requesting a six month extension on **ZBA # 2014-03**, approved 1/22/2014.

Daryl D. Gapshes, 57210 Stonebriar Dr., Washington Township, MI 48094 addressed the board.

Petitioner handed out plot plans of his lot to the board members.

Petitioner stated that he was requesting a six month extension. He originally came in with a sketch and since then the surveyor has been out and the topo boundary has been done. He is currently working with Mr. Thomas Dadswell from Detroit Edison on the pole relocation as you can see from his email. He stated that the site plan was completed about a month ago and that is what Edison has mostly been working from. Mr. Dadswell has been to the site a few times and he is getting close to finishing their relocation design. He stated that was basically is why he needs six more months to complete this process.

Mr. Militello had no questions.

Mr. Klonowski stated that the six month extension seems reasonable.

Ms. Jones had no comments.

Mr. Anderson had no questions.

Chairman Stepnak brought up the fact that a six month extension would bring the petitioner to Christmas time and if nothing is going on by that time, the whole building season is gone.

Petitioner agreed and stated that he probably would not be able to dig a basement until spring.

Chairman Stepnak stated that the concept of the variance is once the petitioner gets all of his ducks in a row and everything is approved, the petitioner then files for a building permit. At that time, the ZBA is satisfied and another clock starts clicking on the building permit. Therefore, the petitioner just needs to get his permit pulled by the end of the year.

Motion by Mr. Klonowski to approve Petition # 2014-03 for a six month extension

Supported by Mr. Militello

Ayes: All

Nays: None

Motion Granted

Petitioner stated that he had some questions about the side walk going north and south along Baker at 24 Mile where it shows sidewalk connecting the two curb cuts.

Chairman Stepnak stated that the board could not answer any questions about the side walks and curb cuts and petitioner should contact the Building Department or possibly the Macomb County Road Commission on that matter.

8. NEW BUSINESS:

There was no new business.

9. APPROVAL OF MINUTES FROM PRIOR MEETING:

Motion by Mr. Klonowski to approve the minutes from the meeting on July 9, 2014.

Supported by Chairman Stepnak

Ayes: All

Nays: None

Motion Granted

10. COMMENTS FROM THE FLOOR:

Mr. Tim Hill, 29401 Dereck, Chesterfield, MI addressed the board.

Mr. Hill stated that he came to ask some questions about the first petition on the agenda. He did not know it was postponed. He is the next door neighbor and he wondered if someone could explain to him what is going on.

Chairman Stepnak stated the request was for a front yard set back for a proposed swimming pool. He believes the petitioner came in for an easement encroachment.

Mr. DeMaster stated that the petitioner came in to talk to him about the easement encroachment and he told the him that there was no way he was going to put the pool in the proposed area. At this point, he thought the petitioner was just going to put the pool and the deck in the back yard within all the required ordinances.

Mr. Anderson stated that he appreciated the thorough job the Planning Department and the Recording Secretary have done with the minutes and making sure Zoning Board members are well prepared for the meetings.

11. ADJOURNMENT:

Motion by Mr. Klonowski to adjourn at 7:35 PM

Supported by Mr. Anderson

Ayes: All

Nays: None

Motion Granted

Thomas Yaschen, Secretary

Grace Mastronardi, Recording Secretary