

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

October 8, 2014

On October 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 Hank Anderson, Twp. Board Liaison Thomas Yaschen, Secretary Wendy Jones
Absent:	Carl Leonard, Planning Comm. Liaison, excused Patrick Militello, 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 #2014-22: Wilhelm Birch, Jr., 45995 Crown Court, Chesterfield, MI 48051. Requesting a variance to allow non-obscuring vinyl coated decorative open fence (to match existing) in the front yard due to a corner located at the above address.**

Wilhelm Birch, Jr., 45995 Crown Court, Chesterfield, MI 48051 addressed the board.

Petitioner stated that he was requesting a variance to finish his fence and gate across a secondary drive way. He mentioned that according to his contractor, the way the rules are set, he would have to be almost 21' feet back from the sidewalk in which case he would be losing almost his whole driveway. The fence is fully see-thru and he brought a sample which is leaning up against the wall. It is an aluminum powder coated fence and it is the most visible fence that exists. He explained that he would like to put the gate about 11.5' away from the sidewalk to conform with the side that is already done. He mentioned that when the gates will swing both ways and when open all the way out it would not go over the sidewalk. He just wants to finish off what he started two years ago and due to expenses, he could not do it all at one time.

Ms. Jones stated that she drove by the property and commented that she could clearly see through the fence. She stated that the petitioner mentioned that the fence would swing both ways.

Petitioner stated that the way the hinges are on the gate it can swing either way. He mentioned that the contractor that is doing the work is out of Chesterfield, Township and with the hinges he is installing the gate can swing into the yard or out. He reiterated that even if the gate swings out all the way it would not go over or block the sidewalk.

Mr. Yaschen asked if there were any concerns from the Building Department?

Mr. DeMaster stated that the Building Department did not deny the petitioner a fence at the front of the yard; they denied the fence because it was in the 15' clear vision triangle and it was denied because of safety reasons because it was too close to the sidewalk. He mentioned that children go up and down the street and the fence would be a safety hazard when people back out of their driveways.

Petitioner stated that is why he would like to put the fully see thru fence. He mentioned that on the corner of his street there is a privacy fence up where there is no visibility.

Mr. DeMaster replied that those fences are outdated and are no longer approved.

Petitioner stated that he did not know when the fences were put up...

Chairman Stepnak stated that the board was not going to get into a discussion about other fences. The board members asked Mr. DeMaster for his input on the matter and they received that.

Mr. Anderson stated that his concern was about the existing ordinance.

Mr. DeMaster informed the board that the ordinance requires a 15' clear vision triangle so that when a car is backing out they can see clearly 15' this way and that way. He explained that when a person or child goes by a driver backing out may be able to see the child one way, but not from the other way.

Mr. Klonowski stated that in the petitioner's submission it was mentioned that the fence was originally approved. He asked if the petitioner had gone in front of the ZBA?

Petitioner replied that the other half of the fence that is already up was approved two years ago and he did not have to go in front of the ZBA. The contractor pulled the permit with the Building Department and put up the fence. At this point he is just trying to match up with that fence and at the front it would be about 11.5' from the sidewalk.

Petitioner explained that by the gate the fence would be 13' from the sidewalk because the sidewalk curves over there.

Mr. Klonowski asked if what the petitioner is requesting was approved at that time?

Petitioner replied no. He mentioned that he did not even attempt to put up the fence at that time because of expense he did not finish it off.

Chairman Stepnak asked Mr. DeMaster to explain to the board members about the 15' clear vision triangle.

The board members gathered together as Mr. DeMaster explained the variance.

Mr. DeMaster explained that there is a 15' clear vision triangle from any driveway that abuts a fence and he stated that this one went in before the ordinance changed. He made some additional comments explaining the triangle referring to the paperwork that were inaudible. He explained that fences in that area are hazardous because people are backing out before they can actually see down the sidewalk. He mentioned that 15' is a lighter ordinance and mentioned that Macomb Township is 25'. He explained that the Building Department has the permit ready to be issued if the fence is brought back, but the petitioner wants the fence in an area which is clearly a violation of the ordinance.

Public Comments:

Sam Pallis, 25807 Princess, Chesterfield, MI 48051 addressed the board.

Mr. Pallis stated that he was directly across the street from the petitioner and he would be backing out with cars coming from west to east. He explained that he does not have a problem with it because of the clear visibility of the fence. He mentioned that he has small children and dogs and does not have a problem with it because at any angle that fence would not hinder visibility. He has more concerns for his children with cars going too fast around the corner, than he would have with this fence.

Steven Olsen, 25828 Princess, Chesterfield, MI 48051 addressed the board.

Mr. Olsen mentioned that he lives three doors down from the petitioner on the opposite side of the street. He stated that this would be by a secondary driveway which he rarely even uses. In his opinion, the fence looks good and provides a clear vision.

Nicholas Stock, 25718 Princess, Chesterfield, MI 48051 addressed the board.

Mr. Stock stated that Bill's driveway pretty much lines up even with his house. He stated that the petitioner already has the fence there and he does not have a problem with it at all and this would just be a continuation with the gate. He stated that people could see directly through the fence from all angles and he could see the problem if it was a privacy fence. He does not have a problem with it.

Chairman Stepnak asked Mr. DeMaster if the petitioner would comply with the 15' clear vision triangle would the Building Department issues a permit for the fence?

Mr. DeMaster reiterated that the Building Department has the permit ready to be issued if the fence is brought back. He mentioned that the petitioner's contractor actually came and did the dimensions and the permit is ready to be issue if they maintain the 15' clear vision triangle.

Tom Wilk, 25809 Princess, Chesterfield, MI 48051 addressed the board.

Mr. Wilk stated that the fence provides a clear vision from all angles and he does not have a problem with it.

Chairman Stepnak mentioned that Mr. DeMaster explained the clear vision triangle to the board and evidently the reason the petitioner is at the meeting is because he wants to put the fence as submitted on the paperwork. He stated that the plans were not drawn to scale and the Building Department is willing to give the petitioner a permit if the fence is brought back a few feet.

Petitioner replied that the reason he is fighting this is because that would come out to 21' back, so there would only be 20' there. By putting the fence at that location, he would be losing more than ½ of his driveway. He explained that it would still be back 11.5' on this side and 13' on the other side. He stated that anyone could see through that fence and this would not be on his primary driveway.

Chairman Stepnak stated that the ZBA takes recommendations from the Building Department, Planners, the engineers and the Fire Department and that figures into their decision making process. As a board they are not inhibiting the petitioner to put a fence up, they are just concerned with the placement of the fence on the driveway because of the clear vision. The clear vision ordinance was put in place for safety reasons and was put in place after research done by the Planners, Engineers, etc. He stated that loss of driveway use would not be a practical difficulty.

Petitioner stated that he wanted to know if it was a complete waste of time to come to this meeting. He did not want to be nasty, but he claimed that his contractor had already been told that it was a waste of his time to even come in front of the ZBA and it would be shot down no matter what. He stated so this is telling him that all the neighbors who came in telling the board that they can see the fence and not one person came in to complain and they are not even... He stated that he had done

everything right and has not been cheap on anything and he has done a nice fence. He mentioned that when he did the secondary garage, he made it brick to match the house. He just wants full use of his yard. He claimed that his cars and garage door have already been damaged by the neighbor's kids. He just wants to keep everybody out of his yard.

Chairman Stepnak stated that he understood the petitioner's concerns. He explained that the way the board looks at it is the board gets packets in the mail with the information submitted, they go out to the site and they get input from other departments on the matter. He stated that the recommendations by the Building Department are only one part of what they consider in these matters. He mentioned that the board considers many things and the problem is when going for the variance the petitioner has to prove a practical difficulty. In this case, the petitioner would still be allowed a fence on the property, but it may not be situated where the petitioner thinks is the most just place. He does not know how the vote will go because each one of the board members will vote. He stated as far as stating it was a done deal that is not true, because they are putting their time into this. He went out to the property and it is well kept and they appreciate that. However, the board does have a responsibility and what they do here may dictate what happens with these types of variances in the future.

Motion by Mr. Anderson to approve ZBA Petition # 2014-22 for Wilhelm Birch, Jr., 45995 Crown Court, Chesterfield, MI 48051. Requesting a variance to allow non-obscuring vinyl coated decorative open fence (to match existing) in the front yard due to a corner lot location at the above address.

Supported Ms. Jones

Ayes: Anderson, Jones and Yaschen

Nays: Stepnak and Klonowski

Motion Failed

Motion by Chairman Stepnak to deny Petition # 2014-22. The petitioner did not fully justify the practical difficulty. The petitioner is allowed to have a fence on his property at 45995 Crown Court as long as adheres to the visual set backs that were reviewed at the meeting by the Building Department Inspector. A permit can be issued in that regard.

Supported by Mr. Klonowski

Mr. Anderson asked the Chairman to paraphrase his motion again.

Chairman Stepnak explained that he made a Motion to deny because he was not going to allow the petition the way it has been presented. The petitioner is allowed to have a fence as long as he adheres to the visual setbacks that Mr. DeMaster reviewed with

the board. So by denying it the petitioner would still be able to get a fence, just not where he planned with the submission he presented this evening.

Mr. Klonowski continued support.

Ayes: Stepnak and Klonowski

Nays: Anderson, Jones and Yaschen

Motion Failed

Mr. Anderson asked the Chairman to paraphrase his motion again.

Chairman Stepnak stated that they would have to Table it to the next scheduled meeting unless there is some discussion on it. He asked Mr. DeMaster to review the ordinance with the board.

Mr. DeMaster stated that if the petitioner maintains the clear vision triangle, he can get his permit and put up the fence. He stated that he must follow the ordinance which states that there must be a 15' clear vision triangle that must be maintained.

Mr. DeMaster stated that the petitioner wants to go 6' from the sidewalk which would be a difference of 9'.

Petitioner stated that Mr. DeMaster mentioned the fence would be 6' from the sidewalk while he is proposing to put the fence 9' 8" from the sidewalk and coming around the archway the gate on that side would be 13' from the sidewalk and the existing side would be 11'. He stated that it would not be 6' on that side.

There was a discussion among the board about the dimensions on the paperwork.

Chairman Stepnak stated that he believed that they need to Table it and have the petitioner come back to the board with a drawing that is done to scale and that is the only way to resolve this.

Motion by Chairman Stepnak to Table Petition #2014-22 to the next regularly scheduled meeting which would be October 22, 2014. He stated that he did not believe they would need to send out any additional mailings on the petition and he instructed the petitioner to come back to the board with a to-scale drawing. He added that at that time there will be two additional members at the meeting and they should be able to move forward on it.

Mr. Anderson mentioned that the neighbors did not need to attend the next meeting because they already had their input on the variance for the records.

Supported by Mr. Klonowski

Ayes: All

Nays: None

Motion Granted

5. OLD BUSINESS:

There was no old business.

6. NEW BUSINESS:

Mr. Anderson mentioned that they had not had a ZBA meeting since the Township Board approved the change to the ordinance regarding easements. He asked Mr. DeMaster to explain to the board members about the details.

Mr. DeMaster stated that in the past when Jim Ellis was in office and a lot of people were building in Chesterfield, Jim suggested that they grant easement encroachments. He stated that the easements were 10' and residents were granted variances. He explained that the Township Board was actually not supposed to be giving out easement encroachments. Therefore, they really needed to change the ordinance. He proposed that the Board change the ordinance regarding easement which were 10' from the house to a structure, pool or shed and reduce the easement to 6'. He stated that they would then allow people to build up to the easement, but the Board would no longer allow any easement encroachments. He explained that this would actually give people more room because the easement encroachments were always for 1, 2 or 3 feet. He stated it was a great compromise and a way to move ahead.

Mr. Anderson stated that Mr. DeMaster and Mr. Coddington did a great job with their presentation to the Board.

7. APPROVAL OF MINUTES FROM PRIOR MEETING:

Motion by Mr. Yaschen to approve the minutes from the meeting on September 10, 2014.

Supported Chairman Stepnak

Ayes: All

Nays: None

Motion Granted

10-8-14

8. **COMMENTS FROM THE FLOOR:**

There were no comments from the floor.

9. **ADJOURNMENT:**

Motion by Mr. Yaschen to adjourn at 7:39 PM

Supported by Mr. Anderson

Ayes: All

Nays: None

Motion Granted

Thomas Yaschen, Secretary

Grace Mastronardi, Recording Secretary