

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

July 22, 2015

On July 22, 2015, 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:**

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| Present: | Marvin Stepnak, Chairman Thomas Yaschen, Secretary Carl Leonard, Planning Comm. Liaison Wendy Jones Patrick Militello |
| Absent: | James Klonowski, Vice-Chairman, <i>excused</i> David Joseph, Twp. Board Liaison, <i>excused</i> |

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 #2015-05:** Robert Rambo, 50399 Sass Road, Chesterfield, MI 48047. Requesting variance to allow open decorative wrought iron fence to remain in the front yard. Tabled July 8, 2015

Motion by Ms. Jones to take ZBA Petition # 2015-05 off the Table.

Supported by Mr. Yaschen

Ayes: All

Nays: None

Motion Granted

Chairman Stepnak stated that he was acquainted with the petitioner and he wanted to inform the board of that fact.

Robert Rambo, 50399 Sass Road, Chesterfield, MI 48047 addressed the board.

Petitioner stated that he just put a fence up and apparently somebody doesn't like it. He explained that he just replaced his old split rail fence with a nicer wrought iron fence because he has had a few dogs killed on Sass Road.

Mr. Leonard asked how long has the new fence been up?

Petitioner replied about five months.

Mr. Leonard asked if the petitioner installed the wood fence that was up before?

Petitioner replied yes he put that fence up years ago.

Mr. Leonard asked what type of fence wood fence?

Petitioner replied that the original fence was a split rail.

Mr. Leonard asked if it was like the fence across the street a few doors down?

Petitioner replied yes and there are a couple of different fences down the street.

Mr. Leonard mentioned that he was curious as to what the hardship or practical difficulty would be in this case because these types of fences are not allowed under the ordinance.

Petitioner stated that he has seen these fences all around Chesterfield Township. He claimed that he could show him fifty of them.

Mr. Leonard stated that this fence does not meet the ordinance.

Petitioner commented that he did not see the problem.

Ms. Jones stated that the fence looked very nice. Her additional comment was inaudible.

Mr. Militello verified so this is a wrought iron fence that faces the road and the ordinance calls for a split rail fence. He asked if it was also in the front setback?

Mr. DeMaster stated that the fence is in the front yard.

Ms. Jones asked the petitioner if his home faces the road?

Petitioner replied no, his home faces south not east. So the fence is actually at the side of his house not at the front.

Ms. Jones stated so the fence is actually at the petitioner's side yard.

Mr. Yaschen asked Mr. DeMaster if this fence was also encroaching on the setback for the road?

Mr. DeMaster responded that the fence is in the front yard and most likely it is in the County roadway because they have an 86' right-of-way on that road. The petitioner never got a permit and that is the reason why Code Enforcement issued a warning.

Mr. Yaschen asked the petitioner if he applied for a permit?

Petitioner answered that he applied for a permit, but they returned his check back to him. He stated that he went off of the neighbors two cement pillars to make sure that he was in line.

Mr. DeMaster commented that pillars are not in the ordinance but the fence is.

Chairman Stepnak stated that the problem is the fence is sitting in the front yard and they are not allowed in the front yard. He mentioned that this area is unique and different because it is Sass Road, the speed down there and the lack of sidewalks are issues that should also be considered.

Public Comments:

Linda M. Rochwalski, 50450 Sass Road, Chesterfield, MI 48047 addressed the board.

Ms. Rochwalski stated that the fence looked beautiful and she did not have a problem with it.

Mr. Yaschen read a letter from the petitioner's Dr. Carl Pesta and Mrs. Penny Pesta who liked the fence were in favor of the board granting the variance.

Chairman Stepnak asked Mr DeMaster what type of fence is allowed in the front yard?

Mr. DeMaster replied that the only fence allowed in a front yard is split-rail.

Petitioner insisted that there are a lot of fences down Sugarbush with the exact same fence as his. He asked how did those guys get variance's?

Mr. DeMaster stated that those fences had to have been up well before the ordinance was put in place.

Petitioner asked when that ordinance came into effect?

Mr. DeMaster stated that it has been in effect as long as he has been at the Township which means at least 12 years.

Chairman Stepnak stated that the problem is the fence is in the front yard. However, it is a decorative fence and there are no clear vision problems. He asked Mr. DeMaster if there were any clear vision problems with this fence?

Mr. DeMaster replied that there is no clear vision problem; the fence is not allowed by the ordinance. He mentioned if the board allows this fence, they will have to allow everyone on that street to have a fence like this and they can envision a whole street with these types of fences.

Chairman Stepnak stated that they are kind of running into the same situation that they had a few months ago on Donner in the side yard.

Mr. DeMaster replied that was a side yard and this is a front yard.

Ms. Jones stated that he agreed with Mr. DeMaster that if they allow this one, they will have to allow them all, but she also sees Mr. Rambo's point that the fence is in his side yard unlike the rest of the neighbors.

Motion by Mr. Yaschen to deny Petition # 2015-05 for Robert Rambo, 50399 Sass Road, Chesterfield. The petitioner has not proved a practical difficulty in this matter. He mentioned that if the petitioner wanted to take down that fence, replace it with a split-rail fence and adhere to the ordinance, they would not have a problem with that.

Supported by Mr. Militello

Ayes: Yaschen, Militello, Leonard and Jones

Nays: Stepnak

Motion Granted

Chairman Stepnak asked the Recording Secretary to poll the board to verify their votes.

Mr. Yaschen voted aye to deny.

Mr. Militello replied aye.

Ms. Jones responded aye

Mr. Leonard voted aye.

Chairman Stepnak answered nay.

5. **ZBA PETITION #2015-08: Nicholas Sears, 50408 Oakview Drive, Chesterfield, MI 48047. Requesting variance from the R-1-A setbacks for an addition to an existing residence located at 33120 Tall Pine Court on the S.E. corner of Tall Pine Court and D.W. Seaton.**

Nicholas Sears, 50408 Oakview Drive, Chesterfield, MI 48047 addressed the board.

Petitioner stated that he purchased the home on Tall Pine Court back in April and was requesting a variance to put an addition on to the back of his home.

Chairman Stepnak asked Mr. DeMaster for his input on the variance.

Mr. DeMaster explained that they have come to the Building Department several times and they have tried different things, but this is one of the oddest lots in the Township. The petitioners have three front yards and when the house was originally built they would have needed a variance. He mentioned that have a sunroom at the back of the home which they plan to tear down and the new plan would actually encroach less on the setbacks. He stated that this home meets a lot of criteria for a practical difficulty.

Ms. Jones had no questions.

Mr. Leonard agreed with the building inspector that new plan would be encroaching less. It is a very unique piece of property and he could see why they would have many issues to do anything on the lot. He stated that there was an electrical meter at the back he noticed when he attempted to walk off the measurements. He asked if the home would stop short of that electrical meter?

Petitioner stated that he believed the home would just be short of that meter.

Mr. Leonard verified that would be an addition to the home, but it would just not stick out that far.

Mr. Militello stated that he agreed with Mr. Leonard. The encroachment is less than he currently has and adding the living space would greatly enhance the home.

Mr. Yaschen concurred with what had already been stated.

Chairman Stepnak state that this is a textbook example of the reason the ZBA is here to grant variances.

Motion by Mr. Leonard to approve Petition #2015-08 to remove an existing sun room and replace it with a room that would encroach into the rear yard setback five feet less than what is currently there. There is a practical difficulty with the unique shape and all the angles of the property which leave virtually no options to avoid a variance.

Supported by Mr. Militello

Ayes: All

Nays: None

Motion Granted

6. **ZBA PETITION #2015-09: James Weiner, 47039 Woodbend Court, Northville, MI 48067. Requesting a variance from required setbacks in the R-1-A zoning at 49904 Miller Court for a proposed demo & rebuild of residence and move existing garage to different location in the yard.**

Mr. Yaschen stated that the petitioners are his friends and he wanted to inform the board of that fact.

Chairman Stepnak verified that there would be no monetary gain from Mr. Yaschen's decision on this matter.

Mr. Yaschen replied no.

Pat Weiner, 47039 Woodbend Court, Northville, MI 48067 addressed the board.

Petitioner stated that they purchased the property and they would like to build a home and they are looking for a side setback variance. She stated that the lot is 50' wide and they would like to build a 37' wide home which seems somewhat typical of the neighborhood with the 50' lots. She mentioned that when they did the paperwork, they also applied for a setback variance for their garage and she does not think that will be necessary because they will be within the three feet for the garage.

Chairman Stepnak stated so basically they need less of a variance than what was published.

Petitioner replied correct.

Mr. Militello asked if they are using the same footing as the original house?

Petitioner replied that the home is going in the same spot on the right hand side, but it will be closer on the left hand setback so the house will be slightly wider.

Mr. DeMaster stated that the petitioner called the Building Department and asked if they could leave one wall and rebuild the rest of the home. He informed them that if they demolish over 50% of the home they would need to come in and apply for a variance to rebuild the home.

Mr. Militello verified they are only concerned with the side setbacks, not waterfront?

Jim Weiner, 47039 Woodbend Court, Northville, MI 48067 addressed the board.

Mr. Weiner stated that they are not going any closer on the water.

Mr. Militello asked so they would not be obstructing any one's site lines?

Petitioner replied no.

Mr. Yaschen had no questions at that time.

Mr. Leonard stated that he is on the waterfront and had to deal with these issues himself. He mentioned that in a lot of the waterfront areas the setbacks are 3' and 5'. He explained that this property is zoned differently, but they have a 50' lot. There are many 50' lots on his street and he agrees with Mr. Militello. The petitioners are not encroaching on any site lines. He stated that the only thing he did notice is the house on the left side, when looking at the lake, looks like it is lined up on the drawing, but he thought that house was actually a little closer to the waterfront.

Mr. Weiner stated that three of them on the left side are closer.

Mr. Leonard mentioned that they go six houses either way and then there is an average. His point is that he did not think the petitioners were impeding that at all. He asked so they will be 5' off one side and 10' off the other?

Petitioner replied no they would be 5'9" on both sides because of the way the lot is positioned; she stated the actual set back would be 6 ½ feet on both sides. She stated that because of the way they positioned the house the minimum on the front corner on the right and the back corner on the left would be 5'9".

Mr. Leonard asked if this was going to be a one-story home?

Petitioner replied it would be one and a half stories.

Mr. Leonard asked if they had any plans of the home with them?

Mr. Weiner stated that they did not have them completed because they decided to go for the variance before they went any further.

Mr. Leonard asked if they even had a preliminary drawing?

Petitioner replied no.

Mr. Leonard stated that there are a lot of older homes in that area and he assumes that down the road this may come up again. He does not know the widths of all the lots are, but at 50' there is not a lot of room to work with.

Petitioner stated that there are some lots in the area that are even less than this.

Mr. Leonard stated that he did not observe the whole street but if there are any newer homes, they probably had to come in for a variance for the same reason. He commented that it is a huge investment with waterfront property and putting a very skinny home on some of those parcels doesn't make sense. He mentioned that the parcels are nice and long and he really does not have a problem with it.

Public Comments:

Rita Richards, 49932 Miller Ct., Chesterfield, MI 48047 addressed the board.

Ms. Richards asked how much distance should be between homes according to the ordinance?

Mr. DeMaster stated that in R 1 A there should be 10' and 20'.

Ms. Richards asked so will that distance be there when this house is built?

Mr. DeMaster replied no.

Joe Monsur, 49908 Miller Ct., Chesterfield, MI 48047 addressed the board.

Mr. Monsur stated that he had a question about the math with a 37' house on a 50' lot. He calculated that with 5' 8" and 5.8" and with a 37' house; they are losing two feet somewhere. He stated that it does not add up.

Mr. Stepnak stated that the property is zoned as R 1 A and normally that would mean 10' and 20' setback, however, most R 1 A properties are not 50' lots. He mentioned that R 1 A is probably the most stringent zoning that they have residential where you would mostly find larger home with larger lots.

Mr. DeMaster stated that most R 1 A lots are a minimum width of 90'.

Chairman Stepnak explained that back in the day when this area was developed it was a cottage community. Since then we are more mobile and people live here year around and larger homes are coming into place.

Mr. Monsur stated that his question was with a 37' home on a 50' lot. If they are going equal distance from each lot line then they do not need 5.8', they would only need 3.5'.

Mr. Leonard stated that with 37' and 10' would be 47' and with 10" and 10" it would be off by 4". However, he thinks the petitioner mentioned an offset with the property line. In fact when looking at the site plan below the house toward the street it says 48' 8",

so it's 50' and then shrinks down to 48'8". He explained so it is going and then there is a little offset and that is where the 4" is.

Mr. Monsur asked how far would it be from the lot line?

Mr. Leonard answered 5' 10" on both sides. He mentioned that where it offsets is right in the middle of the house.

Chairman Stepnak had the gentleman come in front of the board and explained where the home w be located on the property.

Heidi Tolevich, 49920 Miller, Chesterfield, MI addressed the board.

Ms. Tolevich made comments that were opposed to the granting of the variance.

Cynthia Pariseau, 49900 Miller Ct., Chesterfield, MI addressed the board.

Ms. Pariseau stated that she will be the Weiner's neighbor on the right hand side and she was in favor of the granting of the variance because she also has a small cottage would like to tear down the dwelling in the near future and build a larger house. She has been exhausting looking at many plans and it is very difficult to find a plan that will fit on a 50' lot. She supports their plan and does not have any issues with their variance.

Mr. Leonard explained that when he built the house he is in now he had to deal with numerous variances. He stated that as far as site lines and blocking views; anytime waterfront issues came up it was always about blocking the view. The ordinances state that you cannot push the house closer to the lake and they must average the houses left and right of the house they want to build. He explained that each person's view is straight off the back; it is not 180 degrees, but to keep the peace and make things more harmonious they came up with the average. He commented that people pay a lot of money for a lot with access and rights to the lake. He stated that nobody is going to buy a lot on the lake and put up a 1,000 square foot home.

Mr. DeMaster mentioned that similar variances have been granted in these cases.

Motion by Mr. Yaschen to approve Petition #2015-09 on the grounds that in that zoning district there are other homes that conform to that type property alignment and Bay Shore and many other waterfront properties have the same 3' and 5' variances and they are not asking for anything more than that variance.

Supported by Chairman Stepnak. He stated that they have granted similar variances in the past on these matters and Mr. DeMaster of the Building Department has concurred on that. He believes they are going down the correct path on this because of the way the community is developing.

Ayes: All

Nays: None

Motion Granted

7. OLD BUSINESS:

There was no old business.

8. NEW BUSINESS:

There was no new business.

9. APPROVAL OF MINUTES FROM PRIOR MEETING:

Motion by Mr. Yaschen to approve the minutes from the July 8, 2015 meeting.

Supported by Ms. Jones

Ayes: All

Nays: None

Motion Granted

10. COMMENTS FROM THE FLOOR:

Mr. Yaschen mentioned that they had two variances on the agenda for August 12th.

11. ADJOURNMENT:

Motion by Mr. Yaschen to adjourn at 7:55 PM

Supported by Mr. Militello

Ayes: All

Nays: None

Motion Granted

Thomas Yaschen, Secretary

Grace Mastronardi, Recording Secretary