

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

April 27, 2016

On April 27, 2016 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 Thomas Yaschen, Secretary Carl Leonard, Planning Comm. Liaison Wendy Jones Brian Carr
Absent:	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 #2016-05: Derrick Sesi for Culver's, 3715 Hogan Circle, Rochester Hills, MI 48307. Requesting a variance on Section 76-66 that each exterior wall be no less than 90% brick located at 45160 Market Place Blvd.**

Ken Watkins with Architectural Concepts addressed the board.

Petitioner stated that he was requesting a variance on Section 76-66 that each exterior wall be less than 90% brick or similarly durable material. Much of the plan does not utilize brick, but they will be using synthetic stone and a cement board. They believe those materials are similarly durable in quality to the brick. He mentioned that the synthetic stone is certainly a masonry product and the cement board siding is a commercial grade by Hardie which is a big name in the siding industry. This is nothing at all like a vinyl siding and it is a color impregnated product and it does carry a 50 year material warranty on the finish. He stated that both of the materials are of a similar durable nature compared to brick and there are some pictures in the packets where they can see what the building will look like. He explained that the owner, Mr. Sesi, is a franchisee and Culver's corporate requires all of their franchises to use these materials. He stated that the franchisees are given the opportunity to select colors but not the materials themselves.

Derrick Sesi for Culver's, 3715 Hogan Circle, Rochester Hills, MI 48307 addressed the board.

Mr. Sesi stated that corporate is very particular about the look of their restaurants and he really thinks it is a beautiful building.

Mr. Leonard stated that from the pictures it was hard to tell the color of the building. He asked the color of the siding?

Petitioner replied the color of the siding is just as it is shown on the picture.

Mr. Leonard asked if they would be painting the siding?

Petitioner replied no. The siding is a prefinished color impregnated product and would not be painted.

Mr. Leonard stated that he was very familiar with that product and he had heard that the color goes all the way through and are prefinished all the way around the front, the back and on the edges. He stated that he and the Planning Commission thought they would be painting the product and when painting any product, there is a maintenance issue with chipping and peeling. He stated that the reason for the ordinance brick or better is that brick is durable and will not chip or peel and the stone would be the same thing, but when going with cement board that is a concern. However, they have come a long way with the product and if they are just going with the natural product with the prefinished color that is huge. He stated that the Planning Commission is looking at the brick or better ordinance at this time mainly because building products have evolved and are much more durable. He stated that since the petitioners are going with the natural product as shipped, the Planning Commission has no problems with it.

Mr. Yaschen asked if this restaurant will look like the one on 23 and Hayes?

Mr. Sesi stated that facility also belongs to him and this Culvers will look exactly the same at that one.

Mr. Yaschen commented that he just wanted to make sure it is the same set up and the same colors will be used because that one looks very nice.

Mr. Carr had no questions.

Ms. Jones stated that driving by the one on 23 Mile and Hayes, it is a beautiful building.

Mr. Klonowski pointed out a portion of the building on a picture and asked if that was the cement fiber board?

Petitioner replied yes.

Mr. Klonowski asked about the other material on the photo?

Petitioner replied that the other material is synthetic or cultured stone.

Mr. Leonard informed him that the cultured stone is a man-made product and they do not need a footing for it because it just sticks on like tile.

Mr. Klonowski asked if each stone is laid similarly to what they do with brick?

Petitioner answered yes.

Mr. Leonard asked if they would be doing a dry stack with that?

Petitioner replied yes.

Mr. Klonowski asked if the color of the synthetic stone goes all the way through?

Petitioner answered yes.

Mr. Leonard informed him that it is pretty durable stuff.

Petitioner stated on any building with stone that has been built in at least the last 10 years most likely it has been made with synthetic stone because natural stone is at an astronomical price.

Chairman Stepnak stated that this ordinance has been in place for a while and they have required brick or better from a lot of businesses that have been before them, such as: Texas Roadhouse, Wendy's and Tim Hortons, and that has been the status quo by the Planner. He stated that going out to the site he did take a look at buildings that are currently there. He mentioned that the Bob Evans and Menards are brick and across the street there is going to be a Starbucks going up and that is going to also be brick. He stated at this point they are running into different materials and he asked the Building Inspector for his opinion on this matter.

Mr. DeMaster stated that he has seen the product and it is color embedded. He stated that the durability of the material is probably 50 years. He explained as Carl mentioned, materials have changed and the Hardie board is a good product. He stated as Carl related the Planning Commission is looking at the ordinance. He thought the intent of the ordinance was the aesthetics and longevity of the buildings in the community, however, now with the different and improved products they will probably change the ordinance to brick or better or equivalent durability.

Chairman Stepnak stated that he did understand the idea of corporate identity.

Mr. Leonard asked if the awnings are made of fabric?

Petitioner replied yes.

Mr. Leonard stated that 10 years from now the building will still look great, but the awnings will not.

Petitioner stated that he would replace the awnings.

There was a discussion among the board about the changing of the different ordinances from garages sizes to building materials.

Public Comments:

There were no comments from the public.

Motion by Mr. Leonard to approve Petition # 2016-05 to allow the petitioner a variance on the 90% brick or better ordinance. He noted that the Hardie cement siding will not be painted and will be installed in its natural state.

Supported by Mr. Yaschen

Chairman Stepnak commented that due to the evolution of building technology and material, they feel that the material they are using now is comparable to brick.

Mr. Leonard agreed to that addition to his motion

Mr. Yaschen continued support.

Ayes: All

Nays: None

Motion Granted

5. **ZBA PETITION #2016-06: Jonathan A. Wangelin, 28350 Graham Drive Chesterfield, MI 48047. Requesting to be over the allowable square footage and a height variance on a proposed pole barn located at the above address.**

Jonathan A. Wangelin, 28350 Graham Drive, Chesterfield, MI addressed the board.

Petitioner stated that he was asking for a height variance of 3' 5" and additional square footage of 205' for pole barn in my back yard. He explained he needed the additional garage space for storage of his patio furniture and lawn maintenance equipment.

Ms. Jones stated that she went by the property and took a walk on the property and she stated it was beautiful.

Petitioner mentioned that he tries to keep his property looking good and he is putting the structure at the back of his lot where it will not be in anybody's view.

Representative from Orchard Construction, 73261 S. Futon St., Armada, MI addressed the board.

The representative explained that the 3' 5" height variance would only be for the very peak of the building. He stated that the structure have contrasting colors that would match the house and they would be doing a metal roof. He added that the windows they would be using are made of architectural wood rather than just a typical pole barn window. He stated that the two-tone color would also be done on the back side of the structure and so it will look very nice and blend in with the area.

Mr. Carr stated that he was not concerned about the height, but he was curious as to why the petitioner was putting it so close to the property line at 6".

Petitioner stated that they were just trying to line it up with the driveway and that is a vacant lot.

Mr. Carr stated that he was aware that the lot was vacant at the present time. He asked if the petitioner's intention is to put the driveway all the way back there with stone?

Petitioner replied yes.

Mr. Carr asked the petitioners color choices for the structure?

Petitioner replied clay to match the siding on the home and terra-tone on the bottom which is a darker shade of clay and the color of the trim of the house.

Mr. Carr stated that the structure will be kind of big, so if they are using natural earth tones it will be good because of the location it will blend in with the woods.

Mr. Klonowski stated that with 205' over in square footage and 3' 5" over on the height he is starting to think this will compromise the ordinance. He asked Mr. DeMaster for his thoughts?

Mr. DeMaster stated that the ZBA has been granting similar variances almost regularly. He actually does not have a problem with this. He mentioned that Carl may want to bring up this ordinance with the Planning Commission because they are granting variances like this on a regular basis. He reiterated that he really does not have a problem with it.

Mr. Leonard stated that Orchard Construction does a nice job on these types of structures. In fact, Orchard did their building where he works, Quality Lumber and did a great job.

The representative stated that they are using laminated columns for the posts which are six times stronger than the average 6" x 6" that you would normally see and the product has a 60 year warranty. They are 2" x 6" and there are three of them brought together, glued, nailed and finger jointed and they have used this product now for about 15 years on every project.

Mr. Leonard asked the cost difference between the metal roof and shingle roof?

The representative stated that it is virtually the same because the steel cost more, but takes a lot less time to install, therefore, what they pay more for in material, they save on labor costs.

Mr. Leonard stated that as far as the size on this, whenever, they have something oversize he is always concerned until he goes out to look. He commented that the petitioner's lot is so deep and all those lots in that area are huge and he does not have a problem with this. At 30' x 40' it seems as though the petitioner is just trying to get enough room for a few toys and all the lawn equipment in there and even the height is not that much considering the area and the size. He added that the structure will be a football field off of the road so it would barely be seen and the petitioner only has a two car garage.

Mr. Yaschen had no questions.

Chairman Stepnak asked the size of the lot?

Petitioner replied 1.2 acres.

Chairman Stepnak asked the petitioner if he does the maintenance on the property?

Petitioner replied yes.

Ms. Jones stated that the property was very well manicured.

Chairman Stepnak stated so there is a need for a larger garage to store the lawn equipment.

Mr. Carr asked about the zoning on the property and why the petitioner was putting the structure only 6' from the property line?

Mr. DeMaster stated that the ordinance only requires 3' from the property line in residential areas for accessory structures.

Public Comments:

There were no public comments.

Mr. Leonard asked the petitioner if he planned to put electricity or heat in the structure?

Petitioner replied that he would only be putting electricity in the structure, but at this time it would only be for dry storage. He stated that in the future he would probably install electricity.

Chairman Stepnak asked the petitioner if he planned to run a business out of the structure?

Petitioner replied no sir.

Motion by Mr. Leonard to approve Petition #2016-06 to allow the petitioner to be over the allowable square footage by 205' and to be above the height by 3'5" for an accessory structure. He stated that the reason for the approval would be that it is a large piece of property and the building is going to be set back 327' from the road and the petitioner has a lot of equipment for lawn maintenance and needs the additional room for storage. He stated that the petitioner would also be allowed to put electrical in the structure.

Supported by Mr. Yaschen

Ayes: All

Nays: None

Motion Granted

6. **ZBA PETITION #2016-07: Steven Wilks, 29248 Rachid Ct. Chesterfield, MI 48047. Requesting a 10' front yard setback variance for the proposed relocation of existing pool to allow room for new spa at the above address, on a corner lot.**

Steven Wilks, 29248 Rachid Ct. Chesterfield, MI 48047 addressed the board.

Petitioner stated that he was requesting a 10' front yard setback variance for the proposed location of their existing pool to allow room for new spa. He stated that they want to center the pool directly behind their house and the patio pushes the Jacuzzi into the side yard. He mentioned that their home is located on a corner wooded lot on a dead-end street.

Mr. Klonowski verified with Mr. DeMaster if they were asking for a 10' variance in the side yard.

Mr. DeMaster stated that they were asking for a 10' variance on the side yard, but it is considered a front yard because they are located on a corner lot.

Mr. Klonowski stated that there seemed to be enough room to push it back out of that front yard.

Mr. DeMaster stated that the plans the petitioner presented is not a good rendition of what they are doing on the property.

Petitioner claimed that the whole point is to center the pool at the rear of the patio and that would push the hot tub to the side.

Chairman Stepnak asked the petitioner to come up to the board and explain the proposed location of the pool and hot tub. There was a discussion among the petitioner and the board members on this matter.

Petitioner stated that the pool and hot tub are both with an infinity edge and both give the appearance of water spilling over the edge. He reiterated that the pool would be center to the rear of the house and only the hot tub would be pushed a little to the side.

Mr. Klonowski had a little bit of trouble with the practical difficulty in this matter.

Ms. Jones had no questions.

Mr. Leonard asked if it was a gunite pool.

Petitioner stated that it is called a San Juan pool and it is an insert.

Mr. Leonard asked if the pool and hot tub were attached somehow?

Petitioner replied that they were separated.

Mr. Leonard asked the separation between the pool and hot tub?

Petitioner replied probably 4'.

Mr. Leonard stated that this is really hard to make sense of with this drawing. He asked if the petitioner had any pictures of the pool and hot tub?

Petitioner replied no.

Mr. Leonard asked if the raised hot tub on the property now will be gone?

Petitioner replied that hot tub will be removed. He stated that they would like to take out that eyesore and put in a permanent in-ground hot tub.

Mr. Leonard stated so the pool and the hot tub would both be in-ground.

Petitioner answered yes.

Mr. Leonard stated that the petitioner would be required to have a fence all around that area.

Petitioner replied yes.

Mr. Leonard asked what type of fence was the petitioner planning to install?

Petitioner stated that he would be installing a decorative aluminum fence that looks like wrought iron.

Mr. Leonard stated so no one is even going to know the size of the hot tub because it is going to be in-ground. He asked if the petitioner planned to put landscaping around the area?

Petitioner replied no because they would like to have the sun coming through and he wanted it kind of open because he would like to be able to watch his kids.

Mr. Carr stated that he thought the petitioner was kind of hasty and came in front of the board without a graphic depiction of what the pool and hot tub are going to look like. He stated that he went out there and the petitioner is stating now the pool is moving. The paperwork states 17' from the side yard and 22' from the house and 40' from the back and none of those dimensions are accurate.

Petitioner stated that his pool guy drew up those plans to code and he knew he had to get for a variance. His additional comments were inaudible.

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

Mr. DeMaster replied that in his opinion it does not meet a practical hardship for the ZBA, but he thought that the true intent of the ordinance is not to have structures on the side or front yard like a shed.

Chairman Stepnak asked if this would be a structure?

Mr. DeMaster answered that it is a structure, but because it is an in-ground structure. The whole concept is having open spaces on those corner lots and this would not be a berm with trees, the in-ground pool would be less than that. The intent is to keep open areas and essentially this would be an open area.

Chairman Stepnak stated that years ago houses on corner lots had less space for their front and side lots. The Township in later years decided to allow more room between the building envelope and the sidewalk and the concept was so it would not look like a tunnel, because people would put fences right up there. He mentioned that the intent of having this larger greenbelt it to have more open areas. He explained just because there are woods in the back and it is a dead end or stub street, does not mean the street will not continue on with the development of another subdivision. He commented that the reason a petitioner comes to the ZBA is to state a practical difficulty. They have talked about aesthetics and about it looking good, but it is the responsibility of the petitioner to prove a practical difficulty. The petitioner is asking to break the rules to put this pool in.

Public Comments:

There were no public comments.

Mr. Leonard asked if the petitioner had to come in for any variances in the past?

Petitioner replied yes he came in for a higher fence.

Mr. Leonard stated that if this was something above ground where people could see it, they would be obstructing the view, but because this will all be in-ground he is not having a real tough time with this and he feels that once it is all done it will look great.

Chairman Stepnak asked the petitioner if he could line the pool and hot tub behind the house or push it a little bit over the other way?

Petitioner replied that with the grade in that area probably not. The property grades way down to a sewer right there. He explained that there are three steps to this patio and three more steps to the house, so he would have an in-ground pool that is up out of the ground three to three and one-half feet because that is how much the grade goes down on that side.

Ms. Jones verified that she noticed that the grade goes down quite a bit to the back and side of the property.

Mr. Carr stated that the grade pitches both to the rear and to the neighbor on the other side and then there is a catch basin at the back south east corner of the lot to catch all the water in that low spot

Mr. Klonowsk asked it that would be detrimental to the drainage?

Mr. DeMaster stated that if he went that way with the pool, he would need to put in a retaining wall.

Mr. Leonard verified so the pool will be raised out of the ground a little bit?

Petitioner replied just slightly.

Mr. Leonard verified that at the house the pool would be closer to the ground and at the back side it will be elevated with a retaining wall.

Mr. DeMaster asked if they were just going to slope the grade?

Petitioner replied yes they were just going to slope it and maintain the grade for drainage.

Motion by Chairman Stepnak to deny Petition # 2016-07. Petitioner did not show a clear cut practical difficulty. He stated that they did understand there are some grading issues, but they do not believe there is a practical difficulty for granting this variance.

There was no Support for the Motion

Motion Failed

Motion by Mr. Klonowski to approve Petition # 2016-07 due to the fact that the grade would constitute a practical difficulty and would bring the pool above ground.

Supported by Ms. Jones

Ayes: Klonowski, Jones, Leonard, Yaschen, and Carr

Nays: Stepnak

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 March 23, 2016 meeting.

Supported by Mr. Klonowski

Ayes: All

Nays: None

Motion Granted

8. COMMENTS FROM THE FLOOR:

Chairman Stepnak asked Mr. Carr if he was enjoying his time so far on the ZBA?

Mr. Carr replied yes and that is was interesting.

There was a discussion among the board members about the last petition.

10. ADJOURNMENT:

Motion by Mr. Yaschen adjourn at 8:16 PM

Supported by Ms. Jones

Ayes: All

Nays: None

Motion Granted

Thomas Yaschen, Secretary

Grace Mastronardi, Recording Secretary