

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

August 10, 2016

On August 10, 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
Wendy Jones
Brian Carr

Absent: Carl Leonard, Planning Comm. Liaison, *excused*
David Joseph, Twp. Board Liaison

Mr. DeMaster attended the meeting as the representative from the Building Dept.

3. **PLEDGE OF ALLEGIANCE:**

Chairman Stepnak explained the procedures to the audience.

4. **ZBA PETITION #2016-15: Benny Sorrentino, 35570 Forton Ct., Clinton Twp., MI 48035. Requesting relief from Section #76-335, RM3 Multiple Family Residential required rear setbacks for Seaton Place Condos located on the north side of 23 Mile Road, east of Nicolette.**

Motion by Mr. Klonowski to take ZBA Petition #2016-15 off the Table

Supported by Mr. Yaschen

Ayes: All

Nays: None

Motion Granted

Bill Madden, Icon Development, 35570 Forton, Chesterfield, MI addressed the board.

Petitioner apologized for missing the last meeting. He stated that there was some confusion as far as the scheduled date of their petition.

Petitioner stated that basically they are proposing a new project because it has been inactive since 2008. He explained that now they have to submit new drawings for the Planning Commission and revised engineering drawings for AEW. He mentioned that they had a pre engineering meeting already to get some direction in terms of sidewalks and that. It was never their intention not to follow the process. He explained that originally this project was approved by the Planning Commission for 132 stacked units. The new plans are for a more traditional townhouse similar to what is being built at Ravens Hill Country Club and they are down to 104 units. He mentioned along the two areas that abut the residential, the setbacks have actually increased at the north and west because of the depth of the building. He stated that the proposed condos are between 1400 and 1900 square feet with a price range from about \$175,000 to \$240,000. There is a little area at the entrance where they are requesting a 75' setback because they are on the street and there are no homes there; the homes are all across the street. He mentioned one of them has a 62' setback and the other one has 50' and the ordinance requires 75' from the center of the road. He stated so they are requesting a variance in order to build those two units and keep their count at 104.

Chairman Stepnak stated that the petitioner told the board that he had to go to the Planning Commission and visit with AEW. He asked what is the time frame on that?

He replied that they retained an architect and an engineer, but they were kind of waiting to get through this meeting before giving them directions from Mr. Sorrentino on how to proceed.

Chairman Stepnak informed the petitioner that normally they would go to first to the Planning stage and Mr. Meagher reviews the plans. After that it goes to the Planning Commission and then it comes over to ZBA with a recommendation and comments from them. He stated that this seems to be out of character like putting the cart before the horse. He explained that by looking at this they could be approving or denying something that they are not familiar with. He explained that he would rather have it go to Planning and if there are still any issues, the petitioner could still come back to ZBA for a variance.

Petitioner commented that was not a problem, he respects that and has no problem starting with Planning.

Chairman Stepnak reiterated that usually these subdivisions or condos start out with Planning Commission, Mr. Meagher, AEW, the Fire Department, and possibly Macomb County Road Commission. He explained that they go through all the plans to see if it is doable. He mentioned that they may have a Public Hearing on in and they stick to the ordinance. He stated that if there is an issue and the plans would not comply with the Township ordinance, then the matter is referred to the ZBA.

Chairman Stepnak asked what time frame would the petitioner be looking at for Planning?

Petitioner replied that by the time they work through the system everything would be completed by November.

Chairman Stepnak stated that they could probably Table this to the first scheduled meeting in December, which would be December 14th and if things are completed earlier, the petitioner can come back to them sooner.

Petitioner agreed and stated that was fine with them.

Public Comments:

Karen Ventimiglia, 51344 Nicolette, Chesterfield, MI 48047 addressed the board.

Ms. Ventimiglia stated that she did not want people looking into her backyard from second story balconies. She also claimed that she heard these were going to be mostly rental units.

Mr. Gerry Alexie, Member of the Planning Commission, sent a text to the Chairman Stepnak which stated that the petitioner's have not shown a practical difficulty and asked the ZBA to deny the petition.

Motion by Chairman Stepnak to Table Petition #2016-15 to December 14, 2016 until it has been reviewed by the Planning Commission. He mentioned that the petitioner may come back sooner and be responsible for additional mailing costs.

Supported by Mr. Klonowski

Ayes: All

Nays: None

Motion Granted

Motion by Chairman Stepnak to close the Public Hearing but he stated that they can reopen it at the meeting in December.

Supported by Mr. Yaschen

Ayes: All

Nays: None

Motion Granted

5. ZBA PETITION #2016-16: Susan Martin, 28793 Mercury Lane, Chesterfield, MI 48047. Requesting a variance to waive the residential fence ordinance Sec. #76-335, fences shall be a minimum of 5' from the street right of way at the above address.

Susan Martin, 28793 Mercury Lane, Chesterfield, MI 48047 addressed the board.

Petitioner stated that her, her husband and their eight children have lived on Mercury Lane for the past three years. They live on a corner lot which had a chain linked fence and they have a lot of onlookers driving by our corner lot, probably because they have eight children. However, there were many instances when her 16 year old daughter would complain because according to her some creepy guys would drive by real slow and stare at them. She stated that, as a mother, this is very difficult to listen to so she told her husband to put up a privacy fence. She explained that she did not do her due diligence and built the fence without applying for a permit. She stated that they built the fence and it is not 5' from the street as required by the Township ordinance; therefore they are requesting a 4' variance for their fence to be only 1' from the street right-of-way.

Mr. Klonowski asked Mr. DeMaster to comment on this.

Mr. DeMaster stated that Nancy passed by the house and saw that the fence was almost completed and they told them to continue because they had ½ of the fence down. He mentioned that they were very cooperative and when he told them about the clear vision triangle they addressed that problem. He commented that he really does not have a problem with it because there are smaller lots in that area and they put the fence back in the same location that it was originally. He mentioned that there are other fences where there was the same situation and the board approved them.

Mr. Klonowski stated that his only concern was right on the corner for the clear vision.

Mr. DeMaster explained that the petitioners have two driveways, indicating an area on the plans, and the petitioner had fenced this area and put a gate here. He explained that there is no clear vision problem and this is not on the corner; the fence is for the backyard. He mentioned that the most of the homes in this neighborhood have privacy fences.

Mr. Klonowski remarked that he had no problem with the variance.

Ms. Jones stated that she visited the home and her only problem would be what if the petitioner moved and someone would open up that fence.

Petitioner remarked that in the future when they sell their home, they would make sure that it was documented that the fence must stay as is.

Mr. DeMaster stated that the board should make it part of the motion if they approve the fence.

Mr. Carr also went out to visit the property and his only concern was that the petitioner should have known that if they are replacing the fence permits are always required and the homeowners should be responsible for their actions. He understands the problem because he has children, but his concern about the fence is for children. He explained that by the petitioner putting up a 6' wall right on the sidewalk where children are riding their bikes, and they have nowhere to go. He remarked that bushes are more forgiving and like guardrails on the highway, they are designed to give way. He stated that is why there are easements, so there are those buffers. He remarked that in his opinion it would have been better with the easement.

Mr. Yaschen commented that they are stuck between a rock and a hard place. They are dealing with an old subdivision and hopefully if there is new construction, people would have to comply with the ordinance.

Chairman Stepnak asked how old is the Mercury subdivision?

Mr. DeMaster replied that most of these homes were built in the 70's and the lots were a lot smaller.

Chairman Stepnak stated that the reason for most of the ordinances is for the health, safety and welfare of the community and as Mr. Carr mentioned a fence is not as forgiving as a bush or arborvitae would be. It is an older subdivision with a smaller lot and he understands that the petitioner was just replacing the fence and they did not know they needed a permit. He appreciates that they are working with Mr. DeMaster and Code Enforcement.

Public Comments:

Richard Martin, 28793 Mercury Lane, Chesterfield, MI addressed the board.

Mr. Martin was in favor of the board granting the petitioner's variance.

Judy LaPointe, 28779 Mercury Lane, Chesterfield, MI 48047 addressed the board.

Ms. LaPointe was in favor of the board granting the petitioner's variance.

Lisa Barton, 28771 Mercury Lane, Chesterfield, MI 48047 addressed the board.

Ms. Barton was in favor of the board granting the petitioner's variance.

Chris Barton, 28771 Mercury Lane, Chesterfield, MI 48047 addressed the board.

Mr. Martin was in favor of the board granting the petitioner's variance.

Mr. Yaschen read a letter from Bruce & Kathy Amo, 47474 Sunshine Drive, Chesterfield and Maxine Cambran, 47482 Sunshine Drive, Chesterfield that was in favor of the board granting the variance. The letter was retained for the ZBA records.

Motion by Mr. Klonowski to approve Petition # 2016-16 for the 1' inset fence. He stated that there is clear vision for the driveway, the variance would stay with the property and the fence could not be changed or altered with the sale of the property.

Supported by Ms. Jones

Ayes: All

Nays: None

Motion Granted

6. **OLD BUSINESS:**

There was no old business.

7. **NEW BUSINESS:**

Mr. DeMaster stated that regarding these fences, some people come in and they want to change their old rusty or broken fences and when they find out they will have to move them, they change their minds. Many times they decide to just leave them the fix them a board at a time or hold them together with bungie cords and they look terrible. So he spoke to the Planner and the Planning consultant and they decided to run these permits as maintenance instead of a repair or new fence. He is looking for an interpretation from the board that they are okay with that as long as they maintain that clear vision triangle for safety and they would meet the ordinance. He asked how the board felt about that?

Chairman Stepnak asked if it needed to be official and be placed on the agenda?

Mr. DeMaster stated that if the board agreed with this, he would write something up.

Chairman Stepnak stated that he did not know how the other board members would vote, however, he asked Mr. DeMaster come up with something in writing and have the board vote on it.

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

Motion by Mr. Yaschen to approve the minutes from the meetings of 6/22/16 and 7/13/16.

Supported by Mr. Chairman Stepnak

Ayes: All

Nays: None

Motion Granted

9. **COMMENTS FROM THE FLOOR:**

There were no comments from the floor.

10. **ADJOURNMENT:**

Motion by Chairman Stepnak to adjourn at 7:46 PM

Supported by Mr. Klonowski

Ayes: All

Nays: None

Motion Granted

Thomas Yaschen, Secretary

Grace Mastronardi, Recording Secretary