

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

September 28, 2016

On September 28, 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
David Joseph, Twp. Board Liaison
Wendy Jones
Brian Carr

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 #2016-20: Stellar Hospitality of Chesterfield, LLC, 32825 Northwestern Hwy., Farmington Hills, MI 48334. Requesting a height variance for a proposed 4 story hotel located on the north side of 23 Mile, east of the I-94 expressway.**

Ryan Kowalski, 1412 E. 11 Mile Road, Royal Oak, MI addressed the board.

Petitioner stated that they were requesting to increase the maximum height from a two-story to a four-story building for Home 2 Suites which is a Hilton Brand. It is an innovative high-end suite hotel with an indoor pool, outdoor patio and a fitness area. He mentioned that Home 2 Suites has been around since 2009 and as he stated before it is an upscale Hilton Brand hotel, which is a very reputable company. He stated that they have about 70 hotels and this Home 2 Suites will be the first in the State of Michigan. He mentioned that they attended the site plan meeting in August and among their comments was that they would need to get a variance for the height. He explained that they have been in contact with Selfridge and spoke to their real estate division and they would not be in their no clear zone so the four-story building would be okay with them. He explained that the Hotel would be all masonry, primarily

brick with some limestone accents and the canopy would be steel, so they would be meeting the ordinances in regard to materials. The Hotel would be located south of 94 so there would not be any residential uses adjacent to their site. He stated that they would have I-94 to the north; there are some basins to the east, an existing car dealership to the southeast and a Lodge Keeper and Speedway Gas Station to the south west. He explained that the way the site is oriented, it is actually lower than I-94 so and there are already some hotels in the area that do exceed that maximum height. He mentioned the Holiday Inn Express on Gratiot that is a three-story hotel and the Hampton Inn and Suites in the same area is a four-story hotel.

Chairman Stepnak asked if the petitioner had already been to Planning?

Petitioner replied that they went to Planning prior to this meeting and got Tabled to a meeting next month.

Mr. Leonard stated that Planning tabled it so the height petition with the ZBA could be resolved and then it will go back to the Planning Commission, CPM and engineering.

Chairman Stepnak asked if Planning had any problems with the height?

Mr. Leonard replied that the only comment he heard was because the hotel would be right by the expressway, there were not any major concerns about the height.

Chairman Stepnak asked if he would be correct to assume that by going to Planning, they would have already been reviewed by the Fire Department?

Mr. Leonard replied that he could not say with any certainty he was not at the meeting, but just caught up a little bit with Mr. Palin.

Mr. Joseph commented that the concern with the Fire Department he believed would be a non-issue because there are already four-story buildings in the Township. It would just be a matter of where they are located as far as the zoning laws. He mentioned that he spoke to Chief Charbonneau and equipment wise regarding the height and there were no issues as far as the four story building. He then mentioned that the position of the property and how the petitioner is taking advantage of this unusual space and he did not know how it could be developed any better than their proposed plan. He explained that it would tuck in nicely between existing businesses and it will have magnificent frontage along I-94. He mentioned that on a personal note, he does not travel a lot, but he recently went to Lexington, Kentucky and stayed at one of these hotels and it was wonderful. He stated that the suite has everything a person would need when they are home. He explained that he was there for a week and there was a small kitchen area with pots and pans and he thought it was a great development for a number of reasons. He has zero issues with this development and he strongly urges his fellow board members to approve it because it would be a great asset to the community.

Mr. Carr stated that he drove out to the site and he agreed with Mr. Joseph that it is an unusual shaped lot and is a great utilization of the space. He mentioned that being an architect, the hotel is shaped nicely and at the location the additional height would not affect anything. He mentioned that he has also stayed at the Home 2 Suites and he agrees they are very nice, so he has no problems with it.

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

Mr. DeMaster replied no.

Chairman Stepnak had no additional questions.

There were no Public Comments.

Mr. Leonard asked once they get the green light when does the petitioner think they will get started on the project and how long does a project like this normally take to complete?

Robert Carmack, 32825 Northwestern Highway, Farmington Hills, MI 48334 addressed the board.

Mr. Carmack stated that they would probably get started in early spring and a project like this usually takes 9 to 12 months to complete.

Motion by Mr. Joseph to approve ZBA Petition #2016-20 regarding Stellar Hospitality of Chesterfield, LLC on the height variance for the proposed four-story hotel located on the north side of 23 Mile, east of the I-94 expressway.

Supported by Mr. Yaschen

Ayes: All

Nays: None

Motion Granted

5. **ZBA PETITION #2016-21: Kenneth Satchfield, 29187 Brittany Ct., Roseville, MI 48066. Requesting 4 separate variances for a residential build located at 47276 Forton Road Chesterfield, MI 48047. 1.) Variance on the total side yard setbacks for R-1-C, Single Family Residential zoning district. 2.) Variance for a second accessory structure, ordinance allows one. 3.) Variance to be 205' over the allowable square footage on accessory structure, petitioner is requesting 1,125 sq. ft., ordinance allows 920', and 4.) A height variance of 1 foot 9 inch height variance for proposed home. The variances above are requested for a proposed new residential build at 47276 Forton Road.**

Kenneth Satchfield, 47276 Forton St., Chesterfield, MI 48047 addressed the board.

Petitioner stated that he was requesting four variances in order to build their new home. He mentioned that the first variance is for a total side setback of 5' on one side and 3' on the other side for a total of 8' versus the 5' and 10' allowed by the ordinance. The reason for the variance is that they acquired the property in the summer of 2014 and prior to purchasing the parcel they did their due diligence and checked with the Township on the setbacks. He stated that at that time they were given a print out of the waterfront communities and they were told they could use the 5' and 3' setbacks. So they went forward and purchased the property and designed plans for their home and once they found out they could not have the 5' and 3' setbacks they did research and found out that most of the waterfront communities allowed these setbacks that are also part of R.I.C. zoning. He explained that their lot is non-conforming being it is only 50' instead of the normal 60' wide property required for a conforming lot. He mentioned that Anchor Bay Gardens, Anchor Bay Shores that are also R.I.C with 50' lots and they are allowed the 5' and 3' setbacks. Furthermore, the existing home on the property right now is 47' wide and which means they now have more of a setback than they are requesting because they are proposing to put a 42' wide home. He mentioned that the packet showed the floor plan of the proposed home and showed the setbacks on each side.

Chairman Stepnak asked Mr. DeMaster if the petitioner has visited the Building Department and spoken to him on this project?

Mr. DeMaster replied yes and they received information on the setbacks and on accessory structures.

Chairman Stepnak asked if he was correct in his assumption that the petitioner has been cooperative and willing to work with the Building Department?

Mr. DeMaster replied yes.

Mr. Leonard stated that he was surprised that it is not a 3' and 5' setback in that area. He asked the petitioner if they had ready made plans from the internet or did they get the plans from an architect?

Petitioner replied that they have worked with two different architects on this and have invested about \$11,500 to get these custom plans before they were informed that the 42' wide home did not work with the existing lot. He mentioned that they went through a number of variations on the plans before they got to this point. They thought they were on a parcel with 5' and 3' setbacks because of the information we were given to them by the lady at the Building Department.

Mr. Leonard stated as far as the square footage of the accessory structure, they kind of limited themselves on storage space with the garage tucked into the house, instead of pulling it out and giving themselves a larger footprint with the garage.

Petitioner stated that he realized they could have the 920' if they pulled the garage out but they were trying to achieve a certain look and they just thought they would just ask for the accessory structure because a lot of other properties in those neighborhoods have an attached garage and a second detached structure. He mentioned if they were granted the second accessory structure it would match the home using the same building materials and they will follow all building requirements.

Mr. Leonard stated that he has some issues with the footprint of the house and the size of the accessory structure. He mentioned that the other variances on the property make sense.

Mr. Yaschen asked if the petitioner planned to demolish everything on the existing property?

Petitioner replied correct.

He verified that the petitioner was requesting to have a 5' and 3' setback for the home?

Petitioner answered yes.

Mr. Klonowski commented that he wondered if they were looking at too much of an overbuild on this property.

Mr. Carr stated that he went out to look at the property and he has a lot of experience with this because he recently built in the Township three years ago and had to work with the Township on zoning requirements. He mentioned that the petitioner submitted a very nice packet, but he does have some concerns. He stated that it sounded like the petitioner did some investigation before he purchased the property, however, the zoning ordinances are in place for a reason because there needs to be consistency in the community. On the variance with the side yard setbacks, he has concerns because when the next person builds next to the petitioner there could be problems. He mentioned that when a person builds a new house on property they have to abide by the current codes within the jurisdiction at that time. He stated that a lot of the houses on that street are old and allowing the 3' and 5' setback is setting a precedent and he has some challenges with that. He thought the home needs to be narrower. He stated that he also had a problem with the second variance with regard to the accessory building because most of the accessory structures the petitioner brought for examples were old and there was no main garage for the home. He does not really have a problem with an accessory building, but he thought the square footage of the structure was excessive and he should stay with the 920'.

Mr. Carr mentioned that he did not really have any issue with the height variance.

Petitioner referred to his presentation at the blue tab where he highlighted Anchor Bay Gardens and Anchor Bay Shores which are all R.1.C. and many of the properties have 50' lots. He mentioned that they did do their due diligence and purchased the property with the assumption that the information they received from the Building Department was correct and the setbacks were 5' and 3'. He stated that they submitted the zoning variance request because there are other owners in their zoning district that are enjoying that right which they are not allowed to have. He mentioned as far as the size of the accessory structure, that was a kind of shoot for the moon thing and if they did not get that it was understandable, but even with that size structure, they would still be under the allowable square footage under R.1.C.

Mr. Joseph remarked that the petitioner did an excellent job laying out all four variance requests. He stated that in his petition he addresses a number of statutory requirements that allows them to grant the variances. He mentioned that with variance request #1 the petitioner shows a visual of the property that is there and what the petitioner would like to do and he does not know the argument on how that does not enhance the community. Additionally, with regard to the 5' and 3' setbacks, the petitioner mentioned that before he invested the \$11,500 or purchased the property, he came to the Township and verified what he was working with and was led to believe the 5' and 3' were the setbacks for that property. He mentioned that he verified that information with Mr. DeMaster. He thought that the petitioner was trying to be as compliant as possible from the beginning. He stated that the demolition of the current structure and the building of the new home actually places the petitioner 4.5' more in conformance than the existing structure. He commented that the petitioner satisfactorily addressed the provisions that afford the board to grant the variance request. He stated that on #2 with reference to the accessory structure, the petitioner lays out 8 bullet points that are pretty on point. It is a non-conforming lot and because it is on a flood plain it requires the petitioner to be on a crawl space which does not afford him any space for storage in the basement. He stated that there is also a practical difficulty because of the private road where the petitioner has to maintain the road and because the petitioner is on the water he needs room the storage of dock and boat lift supplies. He thought the petitioner covered the explanation of why he needs the additional storage and he thought this was an excellent proposal. He commented that it would be a shame not to grant these four variances for the petitioner and he is enthusiastically in support of it.

Ms. Jones stated that the packet was beautiful but she agreed with Mr. Carr.

Chairman Stepnak stated that a few members feel it is an overbuild on the site and he does not know why this is not part of the waterfront area that is allowed the 5' and 3' setbacks. He asked the petitioner if he would move forward on the project if they did not approved all four variances.

Petitioner stated that they have discussed this for months and the house is still standing. He mentioned that they have already invested \$11,500 and he brought up the fact that they went to the Township to find out the setbacks before they even purchased the lot. He also brought up that they are less than 24% with the floor plan and the second accessory building with what the Township requires for R.1.C in terms of coverage of the lot. He stated that they do not know what to do and if they had known all of this before they would probably have not even purchased the property and would have looked in one of the neighborhoods where they do have the 5' and 3' setbacks so they could build the 42' house they wanted to build. He mentioned that the existing house is an eyesore and we probably would not build if they do not get the variances.

Mr. Yaschen read a letter from one of the petitioner's neighbors, Mr. Len Hapesance, which was against the board granting the variance. The letter was retained for ZBA records.

Eric DeFain, 47292 Forton, Chesterfield, MI addressed the board.

Mr. DeFain stated that he was concerned about the side yard setbacks and the precedent being set.

Chairman Stepnak asked Mr. Leonard if he thought they are overbuilding in that area?

Mr. Leonard stated that a lot of things are going on in his head. He asked the petitioner if the lot is 50' or 42' wide?

Petitioner replied that it is actually 50.2'. He stated that the proposed home is 42' wide. He mentioned that the existing home is nearly 47' wide and they are talking about putting up a home that is actually 5' narrower than what currently exists. He stated that what he is requesting is exactly what is allowed in the other waterfront communities with 5' on the right side and 3' setback on the left side.

Mr. Leonard asked Mr. DeMaster why this neighborhood does not have the 3' and 5' setbacks?

Mr. DeMaster stated that he did not understand it.

Mr. Leonard remarked that this neighborhood should have it more than his because in his area there are 50' to 100' wide lots and the setbacks are all 3' and 5'. He stated that in his neighborhood nothing really looks overbuilt on the properties. He mentioned that in this area there are some 30' wide parcels and it does not make sense to have 5' and 10' setbacks on those lots. He explained that he does not have any concerns about any of the variances except maybe the size of the additional storage building. He stated that he would like to get some input on this from the Building Department.

Mr. DeMaster replied on that size property one accessory building would be allowed, but he agrees with the overbuild of the second garage.

Mr. Leonard asked if there would be a problem with the second accessory structure if the petitioner would shrink it down a little bit so it does not exceed 920'?

Mr. DeMaster answered that the square footage is 920' for one structure whether attached or detached and then an additional 120' for a shed is allowed by the ordinance.

Mr. Leonard stated that because there will not be a basement, he would probably be willing to entertain something more than a 10' x 12' shed. He asked how far the accessory building would be from the house?

Petitioner replied it would be approximately 60'.

Mr. Leonard asked how far the house would be from the seawall on the short side?

Petitioner replied that it would be more than 35' from the water.

Mr. Joseph stated that he believed that the petitioner was able to request to go up or down on his proposal and he thought they could be at a compromise situation in regard to the out building.

Mr. DeFain stated that he agreed that the petitioner probably needs more storage but he still did not like the idea of the side yard setbacks.

Mr. Leonard commented that the house lines up with the homes on either side and does not block people's view.

Petitioner mentioned that his house is actually set back behind the neighbor that is to his right so he is staying in a diagonal site line between that neighbor and Eric's house.

Motion by Mr. Joseph to approve ZBA Petition #2016-21 as proposed in the agenda packet for all four variance requests.

Supported by Chairman Stepnak with the caveat that he believed that petitioner has a practical difficulty and that he is not over building on the property because he would still be using the 3' and 5' setbacks and the house would be lined up with other homes on the street. He explained that on the waterfront it is reasonable for storage purposes to allow extra square footage for the accessory building. He added that he also did not have a problem with the height and he reiterated that he believed the petitioner has justified a practical difficulty on this particular parcel.

Ayes: Joseph, Stepnak, Leonard, Klonowski, Yaschen and Jones

Nays: Carr

Motion Granted

6. OLD BUSINESS:

Request from the Building Official for an interpretation regarding existing fences.

Mr. DeMaster stated that he was asking for the board to allow him to interpret these issues with the fence permits that exist that may be one foot off the sidewalk under the old ordinance. He was requesting that the homeowner would just have to apply for a maintenance permit. He explained that many times people come in and want to replace their fence and he has to deny them because the ordinance requires them to move it in five feet. At that point, most people decide not to replace their fence and they put up bungee cords and screws into the fence and they create other problems. He stated that by allowing him to issue these maintenance permits it would free the people to repair their dilapidated fence properly.

Chairman Stepnak stated that in spite of what some people believe, the ZBA is not here to make money and they have looked at some of the older subdivisions and sometimes they have to take things with a grain of salt. He mentioned that even with the last petitioner, with persons on the waterfront, the board strives to change with the times and do what is esthetically pleasing. He does not really have any problems with this and he has great confidence in the Building Department in making proper judgement call on these fences.

Mr. Yaschen had no problem with it.

Mr. Klonowski stated that it was refreshing to hear an idea that does not involve any new ordinance. He thinks this idea of working with the residents on something that is done for the betterment of the people and the community is great and whoever came up with it should be commended because it is an excellent idea.

Ms. Jones agreed that it is a great idea.

Mr. Carr had no comments.

Mr. Leonard stated that Jonathon Palin has come in and really put out some good ideas out there to benefit the Township and the Planning Commission and he thought Mr. Palin was working well with Gary DeMaster. He thought that together they really come with some good ideas that are beneficial to their process, the residents and the Township.

Mr. Joseph stated that he did not know who came up with this, but it is a good idea and he thought in this case the credit goes to Mr. DeMaster because he has done outstanding work and it comes from non-stop complaints from residents who have problems like the storm blew down their fence and because it tore down 75% of the fence and the 50% repair ratio was exceeded they will be held to the new ordinance with setbacks and so forth. He stated that this was a very common sense approach that allows people to upgrade existing structures and it involves an interpretation of the existing ordinances.

Motion by Mr. Joseph to allow the Superintendent of the Building Department to interpret the existing fence ordinance to allow the replacement of a fence through a maintenance permit.

Supported by Mr. Leonard

Ayes: All

Nays: None

Motion Granted

7. **NEW BUSINESS:**

There was no new business.

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

Motion by Mr. Yaschen to approve the minutes from the September 14th meeting.

Supported by Ms. Jones

Ayes: All

Nays: None

Motion Granted

9. **COMMENTS FROM THE FLOOR:**

Mr. Leonard stated that Mr. Palin needed to know if anyone was interested in the Planning Convention because the deadline is coming up quick. He encouraged anyone who has never been to one of these conferences to go because they are very educational.

10. **ADJOURNMENT:**

Motion by Mr. Yaschen to adjourn at 8:16 PM

Supported by Ms. Jones

Ayes: All

Nays: None

Motion Granted

Thomas Yaschen, Secretary

Grace Mastronardi, Recording Secretary