

**THE CHARTER TOWNSHIP OF CHESTERFIELD
ZONING BOARD OF APPEALS
July 26, 2017**

On July 26, 2017, 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
Hank Anderson, Twp. Board Liaison
Wendy Jones
Brian Carr

Others: Gary DeMaster, Building Department Administrator
Bob Seibert, Township Attorney

3. **PLEDGE OF ALLEGIANCE:**

Chairman Stepnak explained the procedures to the audience.

He also stated that they had an administrative procedure to amend the agenda.

Motion by Chairman Stepnak to amend the agenda and move ZBA petition #2017-14 to the top of the agenda.

Supported by Mr. Yaschen

Ayes: All

Nays: None

Motion Granted

4. **ZBA PETITION #2017-14: JPB Car Wash, 29939 S. River Road, Harrison Twp., MI 48045. Request is to appeal the decision to deny the PUD #2016-25 application for the Dockside Car Wash located at 47319 Jefferson.**

Gary Gendernalik, 52624 Laurel Oak Lane, Chesterfield Township, MI, 48047 addressed the board.

Petitioner stated that he had spoke with Bob Seibert, the Township attorney and since the two liaisons cannot vote on this petition and the township does not have any alternatives – the Township Board will have to appoint 2 alternatives. Therefore we are asking to be tabled until the August 23, 2017 meeting to give the board sufficient time.

Motion by Mr. Yaschen to table ZBA petition to the August 23, 2017.

Supported by Chairman Stepnak

Ayes: Stepnak, Klonowski, Yaschen, Jones and Carr

Nays: None

Abstained: Anderson, Leonard

Motion Granted

Mr. Seibert, Township Attorney was dismissed

5. **ZBA PETITION #2017-09: Steven Wilks, 29248 Rachid Ct. Chesterfield, MI 48047. Requesting variance for a 10’x14’ shed in lieu of the 10’x12’ ordinance allows and a variance to allow proposed shed to be located in the side yard instead of the rear yard required by ordinance.**

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

The petitioner stated that they were seeking a variance to put a shed on the side of the house and for a larger shed than the ordinance allows.

Chairman Stepnak asked Mr. DeMaster if the Township is currently engaged in altering the ordinance to allow a larger shed than 120 sf ft.

Mr. DeMaster stated that yes it is in the process of being adopted and it will allow for up to 200 sq ft shed.

Chairman Stepnak asked the petitioner if the shed currently had a ratwall.

Petitioner stated that it did not but if approved he would put one in.

Mr. Klonowski stated there is plenty of room in the back yard for the shed.

The petitioner stated that last year they installed an inground pool and spa and the point of the pool is to spill into the backyard which is woods. There is no one behind and no one to the left of us. If we put the shed where the ordinance allows it would be right behind the pool and ruin the purpose of it.

Mr. Klonowski stated that he is having hard time seeing the practical difficult of it because there is a spot in the back for it.

The petitioner stated that there is a grade difference because of the pool and it has a 5 foot slant.

Mrs. Jones asked if they could change the grade.

The petitioner stated that if they altered that grade anymore they were told it would need a wall and it would be very costly. There is also a driveway that goes directly to the current location of the shed.

Mr. Carr stated that he remembers them coming to the board for variances on the pool and believes we granted several variances for the pool and at no time was that shed brought up. If you are going to put a shed up it should have been part of the master plan of what you are doing in your lot and then you would have been able to design for it. We are trying to stay consistent with our ordinances and we don't want sheds in the front yard. I also don't understand the fact that the shed is being used to store pool equipment when the doors face away from the pool.

The petitioner stated that it is being used to store lawn equipment, pool equipment, etc., and it's nice to have it come out to a cement slab.

Mr. Carr stated then it is for a bunch of things that you can't fit in your garage. He also commented that just because this neighbor is okay with it does not mean that the next neighbor will be. He also asked the petitioner why he would install the shed without getting approval since he was familiar with the zoning process since you were here previously.

There was discussion on where the front yard is considered on a corner lot.

Mr. Leonard stated he doesn't see the practical difficulty either and agrees with the other board members.

Mr. Anderson had no comments.

Chairman Stepnak stated that he did not see the practical difficulty either and that there was still some construction issues as well.

Mr. Yaschen read a letter from the Karly Wingart at 29244 Rachid Ct., Chesterfield Twp., MI 48047.

Chairman Stepnak asked if anyone from the public had any comments.

Frank Rossi, 29034 Bay Pointe Dr., Chesterfield Twp., MI 48047 addressed the board stated he is the president of the HOA. He stated that having a shed in the front yard is against the bylaws.

Chairman Stepnak showed Mr. Rossi a picture of the shed and explained to him that it really was in the side of the lot.

Mr. DeMaster stated he has the same issues as the rest of the board member.

No additional comments from the board.

The petitioner stated that he doesn't understand the issue with this shed.

Mr. DeMaster stated that all side yards all equivalent, it doesn't matter if you are at a dead end street.

Motion by Mr. Klonowski to deny petition #2017-09 due to lack of practical difficulty, there is a place in rear yard for the shed.

Supported by Mr. Yaschen

Chairman asked for rollcall vote.

Ayes: Stepnak, Anderson, Klonowski, Carr, Jones, Leonard, Yaschen

Nays: None

Motion Granted

**ZBA PETITION #2017-10: Florence Cement Co., 12858 23 Mile Shelby Twp., MI 48315
Requesting a variance for a temporary batch plant for the paving Lottivue
Riverside III, located on the west side of Jefferson, just south of Hooker.**

Angelo Lanni, President of Florence Cement addressed the board. Mr Angelo introduced himself and stated that if there were any questions to please call him direct and if there were any complaints to contact the project manager, Jordan Sirham.

Mr. Sirham addressed the board and explained that they were looking for a temporary batch plant for the paving of Lottivue Riverside III.

Mr. Carr asked when they would start work.

Mr. Sirham stated that it would start in the 2nd week of August. And it would run for 3-4 days. And we would be following city ordinance 7am – 7 pm.

Mr. Carr asked how much noise it would produce.

Mr. Sirham stated that it would be no more than normal construction equipment.

Mr. Yaschen asked how many days it would be there.

Mr. Sirham replied it would be two days of set up two days of teardown with 3 days of paving and that it would be Monday – Friday.

Mr. Yaschen asked Mr. DeMaster if the building department had any problems with the batch plant.

Mr. DeMaster replied that the building department did not have any issues – just make sure you get your permits, pay your fees and clean up in a timely fashion.

Mr. Lanni stated that the day they pour concrete it will need to be cut that night.

Mr. DeMaster stated that the ordinance reads dusk to dawn.

Mr. Lanni stated that they would make arrangements on the sawing.

Mr. Jones asked where they site was.

Mr. Klonowski stated he had no issues with this.

Chairman Stepnak talked about a batch plant from the past that didn't follow the rules and they were shut down.

Mr. Lanni stated that as long as we know the rules and we will make the arrangements to get this concrete segregated so it does not crack. He also stated this plant was job specific.

Open to the public for comments

Mr. Robert Decaussin, 33863 Au Sable Dr, Chesterfield Twp., MI 48047 addressed the board. He stated that he was representing the Lottivue Riverside Condos regarding the batch plant and the saw cutting. The residents have a number of concerns, we understand that this needs to be done but we need to make sure that there are some assurances for the residents. The first question is how is the dust going to be controlled, will anyone from the township monitor this. The dust can also be hazardous to your health. We cannot make residents with health issues stay inside for a week. Also, what about the Salt River and the subdivisions detention pond, is the EPA involved with this. We are also concerned that it will be a noise problem. We cannot have them sawing at 10:00 at night. We want an assurance from the township that it will be monitored and that they will follow the rules.

Mr. DeMaster stated that there will be a separate meter to use so they can water it down while being cut. It would be considered a wet cut.

There was discussion as to when dusk was.

Mr. DeMaster stated that it will be monitored by the building, water and police departments.

Mr. Decaussin asked who the residents would complain to if there is an issue.

Mr. DeMaster replied that they would contact the Code Enforcement department with complaints during the day and the Police Department for complaints after hours. Chairman Stepnak stated that the township will do their best.

Mr. Youncz wanted to let the board know that there is a 2nd holding pond within 200 feet of the project in the condos across Hooker Rd.

Mr. Kenney asked what would happen to the sludge after the saw cutting is done.

Chairman Stepnak stated that they would most likely use a street sweeper.

Mr. Gendernalik gave brief history on the transformation of batch plants over the last few decades.

Mr. Lanni wanted to let the residents know that they squeegee the remnants to the side of the road and let them go into the earth. It is a wet cutting for the concrete and it also has a dust collector. He went over the timeline again.

Motion by Mr. Yaschen to approve ZBA #2017-10 with the stipulations of a time limit from dawn to dusk with a maximum time frame of 2 weeks and all permits pulled by the building department.

Supported by Jones

Ayes: All

Nayes: None

Motion Carried

7. ZBA PETITION #2017-11: Conscious Senior Living Properties, LLC. 5920 St. Clair Hwy., East China MI 48054 Requesting a variance on Sec 76-509 b. (3) all housing for the elderly must be constructed on parcels of at least 10 acres or more. The proposed senior living facility located on the north side of 23 Mile, east of I-94.

Chairman Stepnak asked if they wanted the board to vote on all three agenda items or do them separately.

Scott Bell addressed the board and stated he would like them to vote on them separately.

Mr. Bell stated that they're proposing assisted-living which is home for the elderly on a 3 1/2 acre site on 23 mile Road. After the planning commission meeting last night we have

received comments from the planning commission and consultants on that and there are some things to be addressed. We had a pretty favorable response from the planning commission. We have three petitions and this one is allowing this to go on a parcel less than 10 acres.

Chairman Stepnak stated that they should stay on the first one for now.

The petitioner handed out a drawing with some changes from the commission. He stated that it would have 58 dwelling units inside the 40,500 square-foot building. He described the site to the board members. He stated that when the ordinance was written many years ago it was designed for more of a nursing home and since then times have changed as to the assisted living homes, the residents don't get out much. The way the parcel is configured it fits nicely into the parcel. It blends in nicely to the community and it's a nice use for that area. We do feel that the 3 1/2 acres is sufficient for this site and there are other assisted-living homes in the township that are on less than 10 acre sites.

Chairman Stepnak said as times are changing we are developing smaller facilities for the elderly.

Mr. Carr asked why the property was so dense, and when I think of assisted-living I feel that there still fully functional but when they need help the help is there. So why are the rooms so small, I only see the two courtyards which seem very confining. I guess I don't understand your client. I would think you would want them to get outside and get around. From an architectural standpoint it's laid out very nicely. I also know that the minimum is 350 ft.² and I see that your rooms are 340 ft.² which is 10 ft.² less than what the ordinance allows.

Mr. Bell stated that the residents that live there typically do not go outside and they also do not need a kitchen because there is a main kitchen that serves dinner for them.

The developer stated that they actually have the largest rooms in the area, he talked about the other facilities in the area and the size of their rooms are smaller than these. Most of our rooms are very large and we have a refrigerator sinks etc. our kitchen is open 24-7 and they can order from a menu. We are trying to create the best facility in the community.

Mr. Leonard asked about the 25 %, there was some conversation about changing the building to accommodate that.

Mr. Bell stated that if need be we could change the building and it would be shortened by 6 inches.

Chairman Stepnak asked Mr. Leonard what the feeling was on the planning commission.

Mr. Leonard stated that the petitioner stated that they would do what we needed to accommodate the ordinances. So it was our understanding that they were very willing to

work with the township.

There was discussion amongst the board members and the petitioner as to the accommodations of the kitchen as well as the amount of parking spaces needed and the amount of employees on location.

Motion by Chairman Stepnak to approve petition #2017-11 in consideration of it sitting on a 10 acre parcel to a 3.5 acre parcel the feeling of the board is that this is more of a condensed version and that when the ordinance was written it was for a different type of time. And that we need these type of facilities that are smaller and easier to maintain in our community.

Support by Mr. Leonard

Ayes: Leonard, Stepnak

Nayes: Anderson, Yaschen, Carr, Jones, Klonowski

Motion has died

Mr. Carr recommended that we go to the next two petitions and then circle back to petition #2017-11.

The petitioner explained that it is an assisted living facility and these folks don't get out and drive but we do hope that they have visitors.

Chairman Stepnak asked how many spaces there were.

The petitioner replied that they had 38 which would meet the 29 that's required under the parking section of the ordinance.

Chairman Stepnak asked the petitioner so we are short one space?

The petitioner replied no, the special use portion requires us to have one parking space per one dwelling unit. We would be required to have 70 parking spaces. Or 60+ - it depends on the staff.

Mrs. Jones stated that she goes to Presbyterian Village and she usually goes at dinner time and the parking lot is usually very full.

There was discussion amongst the board members as to how many guess would come and visit the residence as opposed to holidays and whether they stay or they go out for holidays.

Mr. Carr explained that they should know exactly how many staff they need at this point.

Mr. Fulkerson addressed the board and told them that Scott is just the engineer and does not know the daily day to day staffing schedules. The first shift would require nine employees and the second and third shift would have a few less.

Mr. Leonard stated that he did talk to Mr. Palin and he had stated that this type of facility would require 35 per parking spaces not the 60 that we are talking about here.

There was discussion amongst the board members as to what the difference is between a convalescent in an assisted living home and what the parking requirements would differ, they decided they needed to speak to someone to help them determine the difference in those types of homes

Chairman Stepnak stated that maybe the cart is before the horse here and that maybe we should consider tabling it so that the planning commission, Patrick Meagher and Jonathon Palin can have their comments done. We don't want to have to deny you and have you accrue any additional costs.

The petitioner stated that the ordinance does not address assisted-living.

Mr. DeMaster suggested that maybe we should table so that we can have the interpretation.

Chairman Stepnak states that he really feels the petitioner really needs to sit down with the engineers and the planners and hash this out.

Mr. Klonowski stated that from his experience assisted-living is really a convalescent home, they are dependent and that's why they are there.

Chairman Stepnak asked the petitioner if they would mind being table.

The petitioner stated they did not want to be tabled on a wording issue.

Mr. Leonard stated that this is completely independent from planning and if these items to get shot down then there's nowhere to go, so what the chairman is saying is get planning to work out the details

Chairman Stepnak stated that he was going to give the petitioners a couple minutes to discuss this and then let us know.

A short break was taken at 8:51.

The meeting reconvened at 8:55.

Mr. Gendernalik asked where the site was and he had some questions on the retention pond possibly having to be moved therefore messing with the parking lot.

Mr. DeMaster stated that there were still a lot of issues that needed to be worked out on the site still.

Chairman Stepnak stated that he felt that they needed to have some more additional information before they could act on this.

The petitioner stated that their only concern would be weather and they would hope that they could get them for the August 9 meeting.

Mr. DeMaster stated that in his experience there is still quite some time away from actually starting to build.

The petitioner stated that they would be willing to table

Motion by Chairman Stepnak to table petition #2017–11, 12 and 13 to the August 23, 2017 meeting.

Supported by Mr. Carr

Ayes: All

Nayes: None

Motion Carried

5. **OLD BUSINESS:** There was no old business.

6. **NEW BUSINESS:** There was no new business.

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

None

8. **COMMENTS FROM THE FLOOR:**

None

9. **ADJOURNMENT:**

Motion by Mr. Yaschen to adjourn at 9:02 PM

Supported by Mr. Klonowski

Ayes: All

Nays: None

Motion Granted

Marvin Stepnak, Chairman

Jennifer Burden, Recording Secretary