

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

**September 13, 2017**

On September 13, 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

3. **PLEDGE OF ALLEGIANCE:**

Chairman Stepnak explained the procedures to the audience. He stated that there was a request to move #2017-15 ahead of #2017-14 since there may be a lengthier discussion on that petition. He asked for a Motion on the change.

**Motion** by Ms. Jones to change the order of the petitions

**Supported** by Mr. Leonard

**Ayes: All**

**Nays: None**

**Motion Granted**

4. **ZBA PETITION #2017-15:** Leigh Savage, Field Street of Dreams, LLC 10 S. Main Street, Suite #401, Mt. Clemens, MI 48043 Request is for Sec. 76-332, Agricultural and one-family residential districts (e), Minimum yard requirements for a proposed new residence located at 28881 Field.

Leigh Savage, 1044 Manse Ct., Grosse Pte. Woods, MI 48236 addressed the board.

Petitioner stated that he has made an offer on the property and he added that the owners of the property are also present. He was requesting a variance on the R-1-C front and rear setback for his proposed new home on 28881 Field St.

Chairman Stepnak asked if the lot is on a canal?

Petitioner replied yes.

Chairman Stepnak stated that he was going to start with their canal expert, Carl.

Mr. Leonard replied that he has been on the water in this community since 1985 and the lots are not all shaped the same size. He drove by the property and stated that this is one of those lots that needs some relief from the ordinance to fit something of a reasonable size on the lot. He believed that the house is about 1900 square feet.

Petitioner replied that it would be 1800 to 1900 square feet in size.

Mr. Leonard stated so the petitioner is not trying to overbuild on the property and he is just trying to build something comparable to other homes in the neighborhood. He does not see any problems with trying to work with the petitioner on this.

Mr. Carr agrees and remarked that it is a difficult site to work with and he has no issue with it.

Chairman Stepnak stated that they did not have their folders in front of them.

Mr. DeMaster went over to the Planning Department to retrieve the ZBA folder.

Chairman Stepnak stated that properties on the water have issues that are unique.

**Public Comments:**

Linda Hartman addressed the board.

Ms. Hartman stated that the agenda stated that the petitioner is Field Street of Dreams LLC. She verified that this was not a business going on this property because this is a residential area.

Petitioner replied that Field Street of Dreams is the current owner of the property and he is going to purchase the property from them to build his new home.

Mr. Yaschen asked if this was going to be the Savage residence?

Petitioner replied yes.

Mr. Leonard asked the petitioner for the exact variances he was requesting?

Petitioner replied that on the front it was 6' 8" and at the rear it is 14' 2" and the rear setback would be from the plotted lot line; the rear of the house will actually be 33' from the water's edge.

Mr. DeMaster stated that this was the perfect example of something that needs a zoning variance.

**Motion** by Mr. Leonard to approve Petition # 2017-15 to allow the petitioner a variance for the front and rear yard setbacks as proposed on the site plan

**Supported** by Mr. Yaschen

**Ayes: All**

**Nays: None**

**Motion Granted**

5. **ZBA PETITION #2017-14: JPB Car Wash, 29939 S. River Road, Harrison Twp., MI 48045. Request is to appeal the decision to deny PUD #2016-25 application for the Dockside Car Wash located at 47319 Jefferson tabled on 8/23/17.**

**Motion** by Mr. Klonowski to take ZBA Petition # 2017-14 off the Table

**Supported** by Mr. Yaschen

**Ayes: All**

**Nays: None**

**Motion Granted**

Chairman Stepnak explained that this is a de novo hearing. The petitioner originally went to the Planning Commission and after their review they recommended denial. He stated then it went to the Township Board and they denied the PUD request. He stated that the other option would be to go to the court system or to the ZBA. He mentioned that the ZBA is not looking at redesigning the project; they are looking to see if there were any faults in their handling of this.

At that point, he dismissed Mr. Leonard and Mr. Anderson from the board due to the fact that the petitioner requested since those two individuals voted on this at prior meetings, they should not be involved in this decision.

Chairman Stepnak stated that they are not looking at an interpretation here, they are looking at if everything done prior on matter was justifiable. He stated if there is a vote

to approve the petition and it fails; the petition is then done and the decision reverts back to the decision already made by the Township Board. He stated this is an appeal process and they are just reviewing the Township's decision. He explained that last time they talked about four positive votes and he has since spoken to the Township Attorney on this matter. He stated that as a board they have given this matter a lot of attention and they tabled it because they were not able to get four positive votes to approve it. He stated that because a decision has already been made they are reviewing the Township's decision and they cannot change any plans that have been put in place thus far.

Mr. Yaschen asked if they cannot change anything what is the purpose of this meeting?

Chairman Stepnak replied the purpose is instead of going right to court after the denial, the petitioner came to them. He stated that we are the ZBA and they are a powerful entity and are able to override the Township Board. He continued that if the decision on the matter is not to the petitioner's liking and he wishes to go on to the court system; then he has that opportunity. He remarked that they must handle this with due diligence and review it; just because the Township Board denied it and the Planning Commission didn't like it should not affect their decision. They have to look at this with a new set of eyes and a new way of approaching it.

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

Petitioner stated that he agreed with part of what the Chairman said, but not all of it. One of his comments was that they would decide if the Planning Commission's and Township Board's decision was justified. He explained that is not really the criteria. As the Chairman stated in the beginning of his comments this is a de novo review of the submission. What the other boards did or did not do is not a question of justification. The ZBA has to make a new decision that is what de novo means; that is what is in the ordinance and what is in the statute. He stated at the two previous ZBA meetings and at the last meeting when he gave the explanation, no one from the public made any comments one way or another. He explained that as the previous meeting there was no action taken to see if the Township Board would appoint alternates. He had a discussion with the Township Supervisor and was advised they were not going to do that. He stated that he is not going to go over all the information he covered the last time because he assumes they have the minutes, read them and it showed what transpired. He explained that in the revised submission they went to the Township Board and the Planning Commission they reduced the height of the building from 31' down to 21' and broke it down from one larger building to two smaller buildings, so it would have less impact on the neighborhood. He explained that they put stone on the side of the existing car wash and put stone on the east toward Jefferson and put stone on the rest of the building. One building was going to have 5 bays and in order to have a buffer on the backside they still retained the 6 canopy

covered parking spaces. He stated that they put in new vegetation and new landscaping so there would be a buffer along the front. As he indicated before this is a PUD, which is a rezoning vehicle to allow his client this particular use in these two buildings. He explained that whether or not it is non-conforming or an expansion of conforming it is only a tangential issue because basically it is a rezoning to this PUD classification for this particular use based on the layout of the building. He stated that was part of the discussion on page 10 of the last meeting's minutes. He stated that there can be a PUD in any zoning district and that is why this is a perfect vehicle to get to this proposed use. He remarked that there was a discussion the last time as to noise and his client already has an existing mechanical car wash and if anything would produce noise it would be that facility. It has been there since 1988 and the new building will not have any mechanical car washes, it would all be for hand detailing of top-end vehicles. So has Mr. Klonowski stated noise would have to be taken into consideration, but there is nothing in the record that shows that some unusual noise or dust or anything else would emanate from these two buildings. He stated that there was also a discussion at the last meeting about increase traffic on Jefferson. Jefferson is already a major road in Chesterfield, people use it coming from New Baltimore, Fair Haven or Anchorville to get to I-94 by 21 Mile Rd. or Hall Road. He stated that there are commercial establishments that cater to people other than those who live in Chesterfield Township. He explained that right down the street there are Marinas and they do not just cater to only local people and that is not a criteria to say this is not something that should be allowed at this particular area. He stated that all his client is trying to do is have an aligned business through the PUD on an existing piece of property which is one parcel that has been a car wash since 1988. The Zoning Ordinance in the State statute shows that you go through the Planning Commission for a PUD or rezoning request and they make a recommendation and the Township Board acts on the recommendation and it states that the petitioner, property owner can come to the ZBA for a de novo review. From here if the petitioner is not satisfied with the decision, they have the right to go to court. He explained that part of the legal process to that they have to exhaust their legal remedies and that is why they came here. A. his client would like approval of this, B. he has the right to go to circuit court. They are trying to avoid that because if this is approved, the Township and the school will have increased revenue and there would only be one driveway. He stated that sometimes Municipalities say go to court. Over the last several years he has been involved in several matters of litigation with Chesterfield in Circuit Court such as Rosie O'Grady's and his client was successful and court ordered the Township to pay his attorney fees. He stated that about 10 years ago he represented Pamar Excavating with reference to their existing concrete operation. The Township stated that he could not operate anymore and the administrative process turned his client down and he went to Circuit Court and the court stated that they could stay open. He commented that a lot of people came in to complain and they had a certificate from the DEQ allowing for that type of operation. He stated so they have had some success. He would not say that he was always successful. For example at 21 and Gratiot the Dupree's sold their property to a developer and he sold off the corner section for the CVS and the strip mall. However, the ten plus acres remained. He filed a submission

to build a four story senior high rise and he was turned down by the Planning Commission and the Township Board and the Circuit Court affirmed the decision. However, now the property sits there growing weeds and the Township is not collecting any revenue from it. If this is approved there will be additional revenue to the Township and the schools and it is an aligned business. As he indicated in his submission before, he gave them a reference to the Court of Appeals decision involving Detroit Bulk Storage and Levy Company out of Marine City. When you have an aligned business and it grows, they can continue to operate. He stated that he noticed that there were people here to make comments and he would like the opportunity to address the board in response to their comments.

Chairman Stepnak replied no problem.

**Public Comments:**

William Robertson, 29209 Rachid, Chesterfield, MI 48047 addressed the board.

Mr. Robertson made comments that were opposed to the granting of the variance. He stated that servicing cars and motor homes is not a local friendly business for the community. He stated that to vote to change the zoning to industrial with residential at the rear of the property is not fair to the homeowners. He mentioned that one of the board members from a different board stated that it was too much of an industrial feel with a 31' high building with the large doors for motor homes, the noises and the fumes. He has nothing against the owner of the car wash but he is a home owner and pays a lot in taxes and he reiterated that he does not want an industrial building next to his property. It does not fit.

Chairman Stepnak stated that the petitioner has altered his structure and there would not be the high garages and would not be servicing motor homes.

Petitioner stated that when they went through the process and went to the Township Board the building was 31'. However, there was a discussion and in the PUD process there is a give and take in the process and they reduced the height of the building from 31' to 21'. He expressed that the car wash was there when the subdivision was built, so everybody that bought along there saw the car wash and if they checked, they would have seen that the rest of the property along there is zoned commercial. He stated in the previous submission he gave them excerpts from the zoning ordinances and there are 19 different things allowed as a permitted use in this C-1 district. The PUD is a rezoning to allow for a specific use, but his client within the scope of the zoning ordinance could bulldoze the car wash and build a strip mall with greater hours of operation, greater hours of delivery times, which would probably be more noise than what he is proposing. The carports are only 13' high and they face away from the houses so if a car goes in for parking purposes, there will not be any noise emanating from that than any other car that would come to that facility or drive down their residential street. He stated that the fact that his client has periodically put his

property for sale is not preclusion to this matter. They would like the board to exercise a de novo determination that the revised PUD plan be approved.

**Motion** by Ms. Jones to approve ZBA Petition 2017-14 and approve the PUD for the Dockside Car Wash located at 47319 Jefferson

**Supported** by Mr. Carr

**Ayes: Jones and Carr**

**Nays: Stepnak, Klonowski and Yaschen**

**Motion Denied**

Chairman Stepnak did a Roll Call Vote on the decision:

Ms. Jones voted aye

Mr. Yaschen voted nay

Mr. Klonowski voted nay

Mr. Carr voted aye

Chairman Stepnak voted nay

Petitioner stated so the Chair's procedural take is that if the motion was not adopted they would consider that a denial.

Chairman Stepnak answered yes sir. He stated that if Mr. Gendernalik wanted to question that, then call Mr. Siebert in the morning.

Petitioner asked based on your preliminary discussions, you must have had some correspondence from Mr. Siebert as to the process?

Chairman Stepnak replied no, they talked about the procedure if they were deadlocked and how we get over a deadlock. He stated then they went over and got into the reason. Different things come before the board and they very rarely have anything like this and they had to be brought up to speed so there were some communications. He was told if a motion was made and there weren't four positive votes, then the original decision made by the Township Board stays in place and it would be up to the petitioner to continue on anyway they see fit.

Petitioner thanked the board for their time.

8. **OLD BUSINESS:**

There was no old business.

9. **NEW BUSINESS:**

There was no new business.

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

**Motion** by Mr. Yaschen to approve the meeting minutes from August 23, 2017.

**Supported** by Chairman Stepnak

**Ayes: All**

**Nays: None**

**Motion Granted**

8. **COMMENTS FROM THE FLOOR:**

There was a discussion among the board on a few new things happening in the Township.

9. **ADJOURNMENT:**

**Motion** by Mr. Yaschen to adjourn at: 7:47 PM

**Supported** by Mr. Anderson

**Ayes: All**

**Nays: None**

**Motion Granted**

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*Marvin Stepnak, Chairman*

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*Grace Mastronardi, Recording Secretary*