

CHARTER TOWNSHIP OF PENNFIELD  
ZONING BOARD OF APPEALS  
MEETING MINUTES  
JUNE 7, 2007

Chairman Ken Davis called the meeting to order at 6:30 PM.

Members Present: Ken Davis, Lindsay Draime, Julia Newman, Frank Schumacher and Jerry Robinson. A quorum was met.

Others Present: Sandra Cummings, Recording Secretary; Barbara Darlington, Code Enforcement Officer and Deputy Supervisor; John MacFarlane, Township Attorney; Jeff and Tamara Wilde, and several residents.

The meeting opened with the Pledge of Allegiance.

**Public Comment:** There was no public comment at this time.

**Election of Chairman and Secretary of the Zoning Board of Appeals:**

The first order of business was to nominate and elect a chairman and secretary of the board. Julia Newman nominated Ken Davis to serve as Chairman of the Board for the year 2007. Lindsay Draime seconded the motion. Motion passed with all in favor of Ken Davis remaining Chairman. Julia Newman nominated Lindsay Draime to the post of Secretary of the Board. Frank Schumacher seconded the motion. Motion carried with all in favor of Lindsay Draime remaining in the Secretary position for the year 2007.

**Approval of April 4, 2007 ZBA Meeting Minutes:**

Motion was made by Julia Newman, seconded by Lindsay Draime to approve the minutes from the previous Zoning Board of Appeals on April 4, 2007, with a revision to remove the word "unexcused" as it pertains to the absence of Frank Schumacher and Jerry Robinson. Motion carried in favor of approving the April 4, 2007 minutes with this revision.

**Unfinished Business:**

It was noted that Wal-Mart has submitted revised site plans to the planning commission and they have been approved.

**New Business:** Wilde Variance Request

A Public Hearing was held for a variance request from Jeff and Tamara Wilde of 20914 East Avenue North, Battle Creek, Michigan. The zoning issue is being administered

Under Appendix B. Zoning, Chapter 18, Zoning Board of Appeals, Section 18.06:

Variance Procedures, (b) Granting of Non-Use Variances of the Zoning Ordinance and Section 3.14 A. 4 – Accessory buildings and structures, and Section 6 b. – Agricultural District side yard setbacks. The reason the Wilde's are requesting a variance is due to an administrative error by the Township at the time the permit request was submitted to construct a covered porch and a covered walkway leading from the porch to the garage. The relief requested is for side yard setback from 50 feet to 17 feet, and also relief of distance from any structure of 10 feet to 0 feet for the covered colonnade. The property is zoned AG – Agricultural.

Mr. Wilde presented his variance request, stating that at the time his permit and plan drawings were submitted, he was advised that if he constructed the covered walkway by staggering the rooflines one above the other where the covered walkway meets the covered porch steps and not having the two rooflines attached, that he would still meet the zoning requirements and setbacks. Mr. Wilde stated that fire walls have been installed on both the house and the garage. He does not feel that the roof should be considered attached, although he stated that they "come close to being attached". He submitted photos of the covered walkway, and some Board Members had visited the site in person.

Public comment was opened. Todd McDonald of 20850 East Avenue North made comments regarding zoning issues and setbacks, and comments regarding the placement of residential homes in AG zoned areas. He questioned issuing building permits based on hand drawn sketches, and whether fire walls should have been placed under the accessory building. He asked for clarification regarding the administrative error, and it was explained to him by Attorney John MacFarlane that once the covered colonnade was constructed it became part of the main structure and subject to the same setback requirements that applies to the principle structure, and once allowed to be constructed, it was inadvertently permitting encroachment to the setbacks. The building permit should not, therefore, have been issued without first coming to the Zoning Board of Appeals for a variance prior to construction of the covered colonnade.

Attorney MacFarlane pointed out that there was not a lack of good faith on the part of the Wilde's, as it was clear from the original plan drawings that the covered walkway would serve as a structure meant basically to attach the garage to the principle structure. The error was approving the building plans as submitted, instead of recommending that the Wilde's obtain a variance first from the Zoning Board of Appeals. It was pointed out that the distance of a few inches between the two rooflines is not great enough to consider them "unattached".

Further comment from Mr. McDonald was that he felt the township should quit granting variances entirely, and uphold all existing zoning ordinances.

Mr. Dennis Shaffer of 7101 St. Mary's Lake Road commented that if this variance was approved, what will it open up in the future. Chairman Ken Davis stated that each

variance is approached on a case by case basis, and that no variance sets precedence for any future variance requests.

Mrs. Hahn of 7110 St. Mary's Lake Road commented that she was against granting a variance, and that the ordinances should be enforced as written.

Mrs. Sandy Shaffer of 7101 St. Mary's Lake Road commented that ordinances should be followed, and that no variances should be given, all ordinances should be adhered to.

Mrs. Julie McDonald of 20850 East Avenue North commented that when the Wilde's garage was constructed 5 feet from the property line, it was in compliance with the ordinance as long as it remained detached from the main structure, and that to keep it in compliance, it should be kept detached.

Board member Jerry Robinson commented that in order to bring the structure into compliance, the house and garage need to be detached, and that it would be possible to correct the situation now before going any further with the building.

No written comments were received prior to the meeting. One phone call was received prior to the meeting, asking for a definition of "colonnade". Public comment was closed, and the Zoning Board member's questions were addressed.

Lindsay Draime asked what the total distance was between the garage and the closest point of the main structure, and what is the purpose of the covered walkway? Mr. Wilde stated that the distance was 28 feet, and that he wanted a roof over the walkway between the service door of the garage and the back door of the house. His intention is to have an open walkway, and does not intend on enclosing it.

Ken Davis stated that since Mr. Wilde should have come before the Zoning Board prior to starting a construction of this nature, that this appeal should be treated as if he had come to the board first.

Ken Davis reiterated the procedures and rules of granting variances, and stated that all 6 subsections of Section 18.06 Variance Procedures part B. Granting of Non-Use Variances must be met in order to grant a variance request. (See chapter 18 of Pennfield Charter Township Zoning Ordinances – Zoning Board of Appeals).

Lindsay Draime also stated that this project permit was obtained a year ago, and that it is still not complete. He also stated that if this structure were not attached, then it would not be necessary to obtain this variance, therefore it is to be considered attached. Mr. Wilde stated that he feels it is about 80% complete.

Attorney MacFarlane pointed out language of section 3.14. A.4, and noted that the language of the ordinance focuses not on distance, but on whether the span between a

main structure and a garage is covered by a roof which in essence attaches the main structure to the accessory structure.

Lindsay Draime stated that since the project is not complete, that the error is still correctable by removing part of the roof to make it detached. It was stated that a minimum 10 foot gap at some point between the house and garage would render it in compliance with all setback and zoning requirements.

Board discussion was closed. Lindsay Draime made a motion, seconded by Julia Newman, to deny the variance request, based on the fact that Mr. Wilde had actually created two non-conforming issues to the zoning ordinances by virtually attaching the garage and house: a side-yard setback encroachment and an accessory building distance encroachment. The motion carried to deny the Wilde variance request.

### **Public Comment**

Todd McDonald feels that there needs to be zoning changes, and there needs to be more control of all Zoning Ordinances. Mrs. Hahn stated that she had soil erosion concerns due to drainage issues between her property and the Wilde's. Mr. Geno feels that there are zoning issues in general that need to be addressed.

Lindsay Draime addressed an earlier comment made by Todd McDonald concerning the placement of residential homes in AG zoned areas. He stated that AG zoned areas have many permitted uses other than farming, including single family dwellings, residential care facilities, and essential public services. This provides opportunities for people to build homes in a rural setting in AG zoned areas, and not just in Rural Residential zoned areas. Public comment was then closed.

### **Board Members Personal Privilege**

There were no Board Member comments.

Jerry Robinson made a motion, seconded by Lindsay Draime, to adjourn the meeting at 7:42 pm. Motion carried.

Respectfully Submitted,

Sandra Cummings  
Recording Secretary