

**CHARTER TOWNSHIP OF FENTON ZONING BOARD OF APPEALS  
MINUTES FOR REGULAR MEETING OF JANUARY 24, 2017**

FENTON TOWNSHIP CIVIC COMMUNITY CENTER  
12060 MANTAWAUKA DRIVE, FENTON, MICHIGAN  
MEETING HELD AT FENTON TOWNSHIP CIVIC COMMUNITY CENTER

Chairperson Cady called meeting to order at 7:02 pm.

Present: Cady, Baran, Krug, Matta, Marko, Reid, Spear  
Recording Secretary, McDonald

Absent: None

**PLEDGE OF ALLEGIANCE:**

Chairperson Cady led the pledge of allegiance to the flag.

**APPROVAL OF AGENDA:**

Motion to approve the agenda as written

Motion by: Cady  
Seconded by: Baran  
All in favor

Chairperson Cady explained meeting procedure

**MEETING MINUTES:**

Motion to approve the December 24, 2016 minutes as presented

Motion by: Cady  
Seconded by: Baran  
All in favor

December 24, 2016 stand approved as presented

**NEW BUSINESS:**

**ZBA16-049 Danyell DeMonaco, 3524 Loon Lake Ct. Fenton:**

06-15-556-002

3524 Loon Lake Ct.

Requesting a 38 ft. sight line variance to build an accessory building

Secretary Reid reviewed the file indicating there were 2 letters of support. Danyell DeMonaco was sworn in. She stated that she was denied a variance for this accessory building in June of last year. She apologized to the board for not being as prepared as she should have been for that meeting stating she felt she did not present the information needed for the board to make a fully informed decision. She explained she is asking for a sight line variance to build a 10 X 14 X 8 ft. shed at the lake side of her property. She noted the proposed location on the property indicating it would be located 38 ft. beyond the line of sight as defined in the ordinance. She said not having this small storage building in this location would unreasonably prevent her from using her property for its permitted purpose and would be burdensome for her because she suffers from a physical disability of spinal bifida. She noted proof of this disability has been submitted with her application and is part of the file. She explained that she is restricted to not lifting anything over 10 lbs. She said the property is a lake front lot and use of the lake for exercise and recreation are the permitted uses. She explained she has to hire someone to carry items down her steeply sloped yard to the water. The fact that she requires assistance to do this is an unnecessary burden to her that could be alleviated by the granting of the variance. She added the request is for the minimum necessary to provide adequate relief. The shed is unobtrusive and minimal in size. It is similar in size and shape to the other 7 sheds in her neighborhood. She said her property is part of a very small section of Loon Lake where there is a steep slope which creates a unique circumstance. She added this is not a self created hardship because she did not choose her disability, the physical limitations or the steep slope that prevent her from using the property and lake for the intended purposes. She noted the spirit of the ordinance seems to be protection of people's views of the lake and advised that this shed is located in

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a way that does just that. The shed is placed in a location that does not block views of Loon Lake for her neighbors. She asked that that the board approve the request based on the facts presented. Chairperson Cady called for public comments. Secretary Reid read letters from Theresa Ward, 3528 Loon Lk. Ct. and Lisa Chomic, 3522 Loon Lake Ct. both were in support of the request. Spear asked if she had considered other options to place the shed elsewhere on the property. DeMonaco said there was not another placement option that met the ordinance requirements and she stressed the need to place it near the water in order for it to serve the purpose she needed in order to eliminate her having to figure out how to get her lake items down to the lake.

Motion to approve a 38 ft. sight line variance to build an accessory building

Motion by: Cady  
Seconded by: Baran  
Ayes: Baran, Krug, Matta, Marko, Reid  
Nays: Cady, Spear  
Absent: None

Motion carried

**ZBA17-001 John Wentworth III, 2210 Island Shore, Fenton:**

06-23-200-023

2210 Island Shore

Requesting a 25 ft. front yard variance and a variance to the requirement for frontage upon and direct access to a public road (Section 4.31) to divide this parcel.

Secretary Reid reviewed the file indicating it contained 2 letter for public input. George Rizik, Attorney, 9400 S. Saginaw St. Ste. E, Grand Blanc was sworn in to represent the applicant who was also present at the meeting. Rizik explained the property location and the request to divide the parcel into two lots. Both proposed lots will be over 20,000 sq. ft. In order to divide the property, 2 variances are required one for a front yard set back variance and the other for a variance from the requirement for frontage upon and direct access to a public road. He explained the front yard variance is not required for the land division, however, with two front yard setbacks the variance would be necessary in order build on the parcel that will have frontage on Swanee Beach. The proposed structure shown as a concept on the site plan is 800 sq. ft. on the main floor with a total of 1400 sq. ft. of living area. The parcel on Island Shore drive where Wentworth's house is located would not be changed. Rizik stated the only thing that could currently be built on the proposed new lot would be an accessory building. Rizik stated the applicants desire to use the lot as a site for a residential building would be more appropriate for the neighborhood. Matta asked for clarification of the location of the required 100 ft. on the water. Rizik showed the 100 ft. of frontage along the one side of Island Shore Dr. Krug stated the result of this land division would be 2 non-conforming lots. He also pointed out the lot on Swanee Bch. only has 76.63 ft. of frontage on the road and that the ordinance requires the parcel to have 100 ft. of road frontage as well as 100 ft. on the water. Rizik said he had met with Township staff and understood that because this is an existing condition a variance for road frontage is not required. Baran asked about the status of Island Shore Drive. Rizik stated the drive is private located within 3 separate easements on the property. Baran stated a letter from a neighboring resident mentioned issues with the sanitary sewer. He asked if the applicant was aware of any issues with the sewer. Rizik and Wentworth said they were not aware of any sanitary sewer issues. Marko stated concerns about the size of the conceptual structure in relation to other homes along Swanee Beach. Chairperson Cady called for public comments. Bill Clark, 2204 Island Shore, stated concerns about creating another lot on Island Shore because of over use of the private drive and Lake Fenton. He stated the applicant has not been able to demonstrate any type of hardship. He stated concerns about the use of the property shown as the frontage on the lake, noting it is a very narrow strip of land close to the drive. He felt creating this new lot will diminish his property value. Joe Janos, 14225 Swanee Bch., stated concerns about public safety noting that some time ago the Township had issues with emergency crews getting to the homes on Island Shore. He stated that, at that time, the public were told no more lots would be created on this drive. He also stated concerns about the size

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of the conceptual structure. Mike Hayes, 14255 Swanee Bch., stated concerns about the size and location of the conceptual structure. He said the proposed structure has been placed close to Swanee Bch. and within 21 ft. of his mother's home to the north. He also stated concerns that the 100 ft. of frontage on the lake is not in keeping with the intent of the ordinance. Maria Kunze, 14272 Swanee Bch., stated she understands that because she lives across the street from the lake she is not entitled to a view, however, she has enjoyed the view and is opposed to the proposal because it is not consistent with other homes on the lake along Swanee Bch. Secretary Reid read letters from Bernie and Jane Kline, 14256 Swanee Bch., and Jerry Rhoden 14245 Swanee Bch. Both opposed the variance and the Kline's letter mentioned a failing sewer line. Cady stated concerns about the newly created lot being so narrow and noted a road frontage variance would also be required because there is only 76.63 ft. of road frontage when 100 ft. is required. Reid concurred and noted the board does not usually consider variances for hypothetical structures. She indicated she has many concerns about placement of an actual structure on the new lot with only 76.63 ft. of frontage and 30 ft. of it being easements. Spear stated concerns about the unusual shape of the lot. She said there are times when the board has granted variances for 2 non-conforming lots to make one of the lots more conforming, however this request would take one non-conforming lot and create 2 non-conforming lots. Rizik suggested the board only consider the land division and the applicant will amend the request for variances for the proposed structure. Cady noted the applicant will still have to ask for a road frontage variance.

Motion to approve 25 ft. front yard variance and a variance to the requirement for frontage upon and direct access to a public road (Section 4.31) to divide this parcel

Motion by: Cady  
Seconded by: Baran  
Ayes: None  
Nays: Cady, Baran, Krug, Matta, Marko, Reid, Spear  
Absent: None

Motion failed

Motion to deny 25 ft. front yard variance and a variance to the requirement for frontage upon and direct access to a public road (Section 4.31) to divide this parcel based on the concerns of the board as stated in the discussion

Motion by: Cady  
Seconded by: Baran  
Ayes: Cady, Baran, Krug, Matta, Marko, Reid, Spear  
Nays: None  
Absent: None

Motion carried

**ZBA17-002 Randall & Janice Rockman, 2460 Neal Ct. Linden:**

06-15-100-033

Vacant Regis Dr.

Requesting to modify an existing non-conforming private drive (Regis Drive) and a variance from the requirement for frontage upon and direct access to a public road (Section 4.31) to build a new home Secretary Reid reviewed the file. Randall Rockman was sworn in. He explained that he and his wife had purchased this 7 acre parcel to build their single family home. He indicated the request for variance arose because of the need to relocate Regis Dr. in order to place the structure in the most desirable location on the acreage. He noted they chose this location because they have small children and they wanted to have acreage and not be located on a busy street. He said they would like to move Regis Dr. to the north. He said they would hire a company to come in and make a gravel type of drive that will be better than the existing drive. Spear asked for confirmation that the request is for just one home. Rockman said they only plan to build their own home on the property. Marko asked who maintains the current Regis Dr. Victoria Knight, 3375 Regis Dr., said she has been the one maintaining the road. Marko asked if it is Rockmans intent to maintain Regis Dr. Rockman said

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he would improve it and maintain his driveway but did not plan on maintaining the whole road. Chairperson Cady called for public comments. Victoria Knight, 3375 Regis Dr., stated concerns that work already done on the property has made it impossible for her to access her property located at the end of Regis Drive. She said she has been parking in the driveway of the neighbor to the north on Jennings Rd. and walking to her home. She said the proposed new location of Regis Dr. will include a very steep incline that could be considered dangerous and could prevent her deliveries of fuel oil and access to her home by car in inclement weather. She said she did not have a problem with relocating the road as long as she had equal or better access and she could get her needed supplies. Rick Hetherington, 302 East Court, Flint, stated he represents Kathleen Cook, 13115 Jennings, he indicated that Regis Dr. has been in its current location since the 1960's and that moving the drive would be injurious to the neighbors. He stated concerns about safety with the steep slope if the drive was relocated as proposed. Kathleen Cook, 13115 Jennings Rd., stated Regis Dr. is established and should remain as it has been for years. She said the proposed drive would be impassable as the established one is currently because of work done by the property owner. She said the proposed drive would be directly south of her property line and she is opposed to its location as well as being in opposition of a drive with a steep incline. Rockman said no work has been done on the property other than tree removal. Baran asked if the slope of the proposed drive could be reduced. Rockman said it could be reduced. Marko said concerns about the slope are valid. Baran suggested an engineered plan for the new drive be submitted and reviewed before the drive is constructed to ensure the proper grade for the slope. There were numerous questions and discussion about the type of easement that may or may not exist on the property and who has rights to use or alter the easement. Knight said she is not sure if the easement is included in her deed. There was also discussion about Rockman's rights to change an easement that runs across his property. Marko stated he could not make an informed decision without more information. The board agreed. Matta stated he did not have a problem with the request but would need some assurance that the new drive would provide safe and usable access to the 2 existing parcels at the end. Krug asked Mr. Hetherington whether there was pending litigation regarding this parcel. Hetherington said Cook hired him to represent her at this hearing and that nothing has been filed with the courts. A female in the audience stated she is a licensed surveyor that had been retained by Cook to perform survey work regarding land Cook allegedly owns adversely. Hetherington said nothing has been filed with the court. The board suggested this matter be postponed for further information until the next regular meeting. Rockman requested to postpone.

Motion to postpone the request until February 28, 2017

Motion by: Cady  
Seconded by: Baran  
Ayes: Cady, Baran, Matta, Marko, Reid, Spear  
Nays: Krug  
Absent: None

Motion carried postponed until February 28<sup>th</sup> meeting

**ZBA17-003 Weir Building Co. 104 S Adelaide, Fenton:**

06-11-530-024

12082 Mantawauka

Requesting a 12 ft. sight line variance to build a new home at 12082 Mantawauka

Reid disclosed to the board and the public that she has spoken with Weir Building Co. to potentially provide house construction services. She stated she did not have a conflict of interest because of this but wanted to make public her relationship. The board unanimously decided that Reid does not have a conflict of interest and should participate in the discussion and vote on this request.

Secretary Reid reviewed the file. Chris Weir, Weir Building Co. was sworn in to represent Mathew and Ann Walker, 12082 Mantawauka who were also present at the meeting. Weir explained the Walker's purchased the property and have used the house as a cottage. They have decided that they want to make this their permanent retirement home. They have designed a moderate home to be

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functional and that will fit within the parameters of the Township ordinance with the exception of their proposed deck. They are seeking a sight line variance to be able to place their deck in line with the decks on adjacent properties. Weir explained they have located the entire house behind the sight line but if the structure is moved back so that the deck is not in the sight line their view of the lake will be greatly diminished because the lot is so narrow. Weir stated the proposed deck is 12 ft. wide, just enough to be useable. Spear asked how tall the deck will be. Weir stated approximately 10 to 12 ft. high. Chairperson Cady called for public comments. There were none. Matta stated he was in favor of the request as it is the minimum possible to construct on this narrow parcel. He added this will be an improvement to the neighborhood. Cady stated the request is consistent with the decks on both sides of this parcel. Spear said the property is definitely unique.

Motion to approve a 12 ft. sight line variance to build a new home at 12082 Mantawauka

Motion by: Cady  
Seconded by: Baran  
Ayes: Cady, Baran, Krug, Matta, Marko, Reid, Spear  
Nays: None  
Absent: None

Motion carried

**ZBA17-004 Backyard Creations by Mike Assemany, 10636 Bouldercrest, South Lyon:**

06-11-551-010

12491 Margaret

Requesting 102 ft. sight line variance to erect a fence at 12491 Margaret

Secretary Reid reviewed the file. Mike Assemany, Backyard Creations, was sworn in to represent John and Sharon McAndrew. John McAndrew was present at the meeting. Assemany explained the original request was to run the fence all the way to the waters edge, but after much discussion, a revised plan was developed so that the fence encloses the pool area only. He noted they are requesting a 64 ft. sight line variance instead of 102 ft. Spear asked how far beyond the pool the fence will be located. Assemany said it is 12 ft. to enclose the concrete around the pool and the walkway. Marko asked about the height of the fence. Assemany said it is 48 inches tall. Chairperson Cady called for audience comments. Les Scott, 12499 Margaret, stated he has no objections the neighbor's proposed fence. Marko noted that the property slopes down to the water so the McAndrews and their neighbors will be looking over the fence from their homes and this request is for the minimum necessary to comply with the building code for a pool enclosure.

Motion to a 64 ft. sight line variance to erect a fence at 12491 Margaret as amended

Motion by: Cady  
Seconded by: Baran  
Ayes: Cady, Baran, Krug, Matta, Marko, Reid, Spear  
Nays: None  
Absent: None

Motion carried

**PUBLIC COMMENT – NON AGENDA ITEMS: 5 minute time limit**

There were none

**ADJOURN: 8:56 p.m.**

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Chairperson Cady

**Minutes Posted 01/30/17**

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Secretary Reid