

**CHARTER TOWNSHIP OF FENTON ZONING BOARD OF APPEALS
MINUTES FOR REGULAR MEETING OF APRIL 25, 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 7:00 pm.

Present: Baran, Cady, Lorraine, Marko, Matta, 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

APPROVAL OF MINUTES:

Motion to approve the meeting minutes of March 28, 2017

Motion by: Cady
Seconded by: Baran
All in favor

Chairperson Cady explained meeting procedure

HOME OCCUPATIONS:

HO17-013 Scott Heemstra, 13561 Horrell, Fenton:

06-15-552-004

13561 Horrell

Requesting a home occupation permit for home office for gun sales

Secretary Reid reviewed the file, noting it contained a number of letters for public comment. Scott Heemstra was sworn in. He explained that initially he had applied for his Federal Firearms License (FFL) at his business on Thompson Rd. When he approached the Township for their sign off on the application form he was advised that his property on Thompson is not zoned for retail. The property on Thompson is zoned M-2 and he needs a commercial zoning where retail uses are permitted. Heemstra stated that when the ATF called him to discuss this they suggested that if the Township allows for home businesses he should apply to have his gun sale business at his home address. Baran asked if he would have any ammunition or gun powder stored at the house. Heemstra stated he would and it would be stored in a fire proof safe. Baran asked for clarification that Heemstra planned on taking guns on trade for his product of off road vehicles and then sell the guns. Heemstra stated that is what he is proposing to do. Baran asked where the exchange would take place. Heemstra said he plans to make the exchange at his business and he did not think the exchange would take place at his home. He said his plan is to wholesale the guns online and at gun shows. His plan is to have an office in his home for paperwork only and the exchange of the guns would occur at a different location. Matta and Marko stated concerns about retail sales of guns. They noted we have a number of these businesses approved but the homeowners do not conduct the sale transactions at their homes. They do store a number of guns as do many individuals in this Township, but they are strictly storing and doing paperwork from their home and either sell the guns online or at gun shows. Lorraine asked if Heemstra was an expert in guns. Heemstra said he is not an expert but he does have a vast knowledge of guns. Lorraine gave an example of a certain gun type and asked Heemstra if he could tell him the value of this particular gun. Heemstra said he could not. Chairperson Cady called for public comment. Chris Rhind, 13449 Bryson Ct., stated he is a police officer and he spoke with the ATF officer for Genesee County before the meeting and was told found that the exchange of the firearms must take place at the home/licensed address. Rhind stated concerns that the applicant is trying to use a loop hole to zoning requirements as

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well as requirements of the ATF. He said this type of business would encourage theft, creates excessive unwanted traffic and many undesirable negative impacts in a neighborhood setting with many children. He said he is in opposition of the request for a gun store in the middle of a residential neighborhood. The following other residents spoke in opposition of the request; Allen Ryckman, 13458 Bryson Ct., David Thibo, 13532 Horrell, Mary Smith, 13516 Horrell, Tom Goggins, 13584 Horrell, Joan McNish, 13526 Horrell, Alicia Huntly, 13581 Horrell, Julie Hawkin, 13422 Horrell, Greg Gibby, 13533 Horrell, and Randy Ryan, 13542 Horrell. They stated concerns about traffic on this dead end street, the number of children in the neighborhood, theft, crime, safety and decrease in property values. Several of those that spoke noted that they have commercial businesses and they pay to rent store fronts for their business and the applicant should do the same. Secretary Reid noted the file contained 8 letters from the following; Greg and Nichole Gibby, 13533 Horrell, Richard Smith, 13516 Horrell, Jennifer Vilders, 13468 Bryson Ct., Sean and Meaghan George, 13550 Horrell, J. William and Evelyn Jensen, 13576 Horrell, Danielle Hardy-Goodsitt, 13589 Horrell, Keely Mounger and Kathleen McGee, 13472 Horrell, Wil and Kay Christopher, 13599 Horrell, and Randy Ryan, 13542 Horrell. Their concerns echoed those that spoke. Marko asked for confirmation that the ATF requires the transactions take place at the home address. Chris Rhind, 13449 Bryson Ct., said he talked to them just before the meeting and that is what he was told. Cady and Marko explained that the home occupation must be inconspicuous and a yearly review does take place to make sure the applicant is complying with all the requirements of the home occupation ordinance. Cady noted that we have a number of gun sales operations as home occupations that have been in existence for a number of years without any problems or complaints. Spear noted the others have little or no ammunition stored at the home and they do not have customers coming to the home. Reid added she had concerns that this home occupation is being fronted by a commercial business. Lorraine said that he is concerned that the applicant has limited knowledge to be able to buy and sell guns. Matta said he is comfortable with the fact that we have many gun sales operations as home occupations, however he has concerns about the statement both at this hearing and in Heemstra's letter of intent that he does not plan to have customers come to the house "at this time".

Motion to approve a home occupation permit for home office for gun sales

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

Motion failed

Motion to deny a home occupation permit for home office for gun sales

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

Motion carried

NEW BUSINESS:

ZBA17-011 Dean Henry P.O. Box 136, Flushing:

06-22-579-034

14296 Eastview

Requesting 7 ft. front and 2.5 ft. side yard variances to build a garage

Secretary Reid reviewed the file. Dean Henry was sworn in. He explained they had built the house without need for a variance, however, they need a 2.5 ft. side yard variance and a 7 ft. front yard set back variance to build the attached garage. He noted the side yard for which the variance is being requested abuts a 20 ft. wide easement so there will be 22.5 ft. between the proposed garage and the neighboring property line. The front yard request is necessary because they wanted to keep the house

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behind the sight line. Chairperson Cady called for public comments. There were none. Matta stated the amount of variance is minimal and the 20 ft. easement mitigates the side yard requirement. Cady agreed adding the reduced front yard is common in the area with many garages closer to the road than the proposed.

Motion to approve 7 ft. front and 2.5 ft. side yard variances to build a garage

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

Motion

ZBA17-012 Phil Banacki, Hickory Creek Homes Inc. 9001 Miller Ste. 7 Swartz Creek:

06-23-531-009

14177 Swanee Bch.

Requesting 26 ft. sight line, 5 ft. side yard, 5 ft. total two sides and 140 sq. ft. maximum allowable square footage of accessory building variances to build a new house and garage

Secretary Reid reviewed the file. Phil Banacki, Builder, John Costa, Architect and George Damouni, property owner were sworn in. Costa explained the plan to demolish the existing house and rebuild in the approximately the same location. He said they are asking for the side yard set back variance primarily because of the existing grade. The request for additional square footage is to be able to build a 4 car garage. The plan is to pull the house back from the lake, however, because the deck will be over 30 inches in height they need a sight line variance. He added the existing house is partially in front of the sight line. Spear asked how tall the new deck will be. Banacki said he did not know exactly but it will be at a level of the first floor. Marko stated concerns about the side yard set back stating it appears to be very close to the garage to the north. Baran asked why they could not move the garage further away from the property line. Costa said because the lot is narrow and they need to have ample turning radius for a side load garage. Cady stated this lot is not as narrow as many lots in the Township and there appears to be plenty of room to maneuver. Lorraine concurred about the ability to maneuver and asked the purpose of the exterior door on the north east side of the garage. Costa said it is a service door for ingress/egress from the garage to the yard. Chairperson Cady called for public comments. Sandy Easler, 14181 Swanee Bch. stated concerns that there are no elevations showing what the deck is going to look like. She said she has a cherished view of the lake that is more expansive than many other properties and without more detailed plans it is hard to tell if the proposed deck will block her view. She said the lot is plenty deep and the applicant can set the house back further from the water to eliminate the need for the sight line variance or at least ask for less of a variance. She noted even if the deck is no closer to the water than the existing deck it will be higher and, depending on how and what it is constructed with, it could have a negative impact on her view. Darrell Tobias, 14167 Swanee Bch. stated concerns with the side yard set back variance regarding the water run off. He also stated concerns about the 26 ft. sight line variance and loss of his views of the lake. Cady stated the board would like to see plans for the deck and he noted the garage could be moved to adhere to the side yard set back requirements of the ordinance. Marko stated concerns about the need for additional square footage for a 4 car garage he said he is usually not in favor of larger than allowed garages. Lorraine said he would rather see stuff stored in a garage than just sitting around on the property. Spear added because of the size of this property the applicant is already allowed additional garage space noting they are already allowed 1300 sq. ft. and they are asking for an additional 140 sq. ft. Reid asked the size of the deck. Banacki said it is 20 ft. deep. Reid said she is concerned about the fact they do not know what the deck will look like.

Motion to approve 26 ft. sight line, 5 ft. side yard 5 ft. total two sides and 140 sq. ft. maximum allowable square footage of accessory building variances to build a new house and garage

- Motion by: Cady

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

Motion failed

Motion to deny 26 ft. sight line, 5 ft. side yard 5 ft. total two sides and 140 sq. ft. maximum allowable square footage of accessory building variances to build a new house and garage

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

Motion carried

ZBA17-015 Robert McCombs, 7535 Stonevalley Bluff, Clarkston:

06-14-501-033

13151 Lakeshore

Requesting 4 ft. sight line, 9% lot coverage, 13 ft. front, 1 ft. side and 1 ft. total two sides variances to build a new house and garage

Secretary Reid reviewed the file. Robert McCombs was sworn in. He explained they are requesting variances to replace the cottage that was built in the 1930's. He said they designed the house with minimal variances necessary to be able to make this their primary residence. The 1 ft. side yard set back variance is for the fireplace chimney only and the 4 ft. sight line is an open covered gazebo on the ground level deck. He noted they are also asking for a 13 ft. front because the lot is not very deep. He added they took into consideration the location of other garages on similar parcels nearby. Chairperson Cady called for public comments. David Roeser, 13155 Lakeshore, said he wanted to go on record stating he has no objections to the proposed plan or the requested variances. Baran stated concerns about lot coverage and asked if the house size could be scaled down. McCombs said they have scaled down as much as they can and still be practical for their dwelling needs. Cady stated there is a practical difficulty with the lot being so small and fitting a dwelling unit that meets the minimum size required by ordinance.

Motion to approve 4 ft. sight line, 9% lot coverage, 13 ft. front, 1 ft. side and 1 ft. total two sides variances to build a new house and garage

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

Motion carried

ZBA17-016 John Gibbons, 13507 Haddon, Fenton:

06-14-577-109

13507 Haddon

Requesting 6 ft. sight line variance to replace a deck

Secretary Reid reviewed the file. John Gibbons was sworn in. He submitted letters from Russ & Jerrie VanGilder, 13491 Haddon, and John & Linda Chinonis, 13513 Haddon, the neighbors and either side, stating they have no objections to the variance. He explained the need to replace the existing deck. He noted they currently have a permit for the lower deck but the upper portion encroaches into the sight line 6 ft. Chairperson Cady called for public comments. There were none. Cady and Matta agreed this proposal does not interfere with anyone's view of the lake. All of the members concurred.

Motion to approve 6 ft. sight line variance to replace a deck

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

Motion carried

ZBA17-017 Matthias & Detrei Smith, 2235 North Long Lake, Fenton:

06-14-577-114

13390 Enid

Requesting 11.5 ft. front, 4.5 ft. sight line and 1 ft. total sides variances to build an addition and garage. Secretary Reid reviewed the file. Chris Macklin, Christopher Macklin Design, 2946 Independence Ln. Hartland, was sworn in. He explained the Smiths desire to move from a condominium they are living in now and make this their primary residence. The current detached garage is sitting right on the road. The proposal is to demolish this garage and build an attached garage. The home currently lacks general utility space for laundry, mudroom and storage. The proposal includes a new entry at the rear of the garage for a mudroom and laundry. There is also a new porch on the front. This house lacks a connection to the lake side of the property and they are proposing a sun room addition on the lake side which results in the need for a 4.5 ft. sight line variance. The area for the garage/utility addition is limited because of the location of the well, which results in the need for the front yard set back variance. The side yards proposed are 5 ft. and 9.2 ft. resulting in the need for .8 ft. to provide the required 15 ft. The addition on the lakeside of the property is 4.5 ft. into the sight line with minimal impact on neighboring views of the lake. Chairperson Cady called for public comments. Richard Tabor, 13396 Enid, stated he had no opposition to the request adding he is happy to see the improvements. Baran stated he thought the design does a good job of addressing the applicant's needs, getting the garage off the road and providing additional off street parking. Matta agreed mentioning relocating the garage is a matter of public safety.

Motion to approve 11.5 ft. front, 4.5 ft. sight line and 1 ft. total sides variances to build an addition and garage

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

Motion carried

COMMUNICATION: None

PUBLIC COMMENT – NON AGENDA ITEMS: None

ADJOURN: 8:20 p.m.

Chairperson Cady
Minutes Posted 04/28/17

Secretary Reid