

**CHARTER TOWNSHIP OF FENTON ZONING BOARD OF APPEALS
MINUTES FOR REGULAR MEETING OF AUGUST 22, 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, Lorraine, Marko, Matta, Reid, Spear
Recording Secretary, McDonald

Absent: Baran

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: Matta
All in favor

APPROVAL OF MINUTES:

Motion to approve the meeting minutes of July 25, 2017

Motion by: Cady
Seconded by: Matta
All in favor

Chairperson Cady explained meeting procedure

NEW BUSINESS:

ZBA17-032 David Overway, 12183 Margaret, Fenton:

06-11-501-057

12183 Margaret

Requesting a 10 ft. sight line variance to build a pergola over a portion of the deck. Secretary Reid reviewed the file stating it contained a letter for public comment. Michelle Overway was sworn in. She explained her request to construct a pergola on south side of the existing deck. She stated it is proposed to be open with post and roof and it will have little if any impact on the neighbors. She said the structure is necessary to provide shade and weather protection. Reid asked if the roof of the structure would be open. Overway stated the roof would not be open. She said it will slant slightly to allow for water run off but will look like it is flat. Lorraine asked about the property to the south. Overway said she and her husband had talked to that neighbor and he was aware of what they are proposing and he does not have any issues with the variance. Lorraine stated concerns elevations of the proposed structure had not been provided with the application. Reid stated concerns that this is a covered porch rather than a pergola. She said the definition of a pergola is an open structure. Marko stated concerns about a section of fence erected on the north side of the deck. Chairperson Cady called for public comments. Don Kirkwood, 12175 Margaret, objected to granting the applicant any further variances. He explained that the current house was built in 1995 and many variances were granted. He said at that time the owner agreed not to violate the sight line provisions. Also at this time, one of the ZBA members had asked that the owner eliminate the additional 2% lot coverage request and the owner agreed to eliminate a 120 sq. ft. protrusion toward the lake that would provide relief for the neighbor on the north side of the property. He said everything was fine until 2012 when the current owners bought the house and asked for 200 sq. ft. of more building and he did not object because there was no sight line infringement. Today there is a small lot

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almost entirely covered by the 3-story building with very little space left to build. He alleged the applicant has already built into a 12 ft. easement on their south side and this proposed construction is an effort to eliminate the easement. He submitted pictures of the views from his south facing window and urged the board to protect what is left of his view of lake. He objected to the variance and stated he did not agree with granting a variance that would benefit his neighbor for a few hours a day at the cost of his view 365 days a year. Overway stated they have not nor do they intend to block the easement. She stated that they had actually repaired a stairway adjacent to the easement because it posed a safety hazard to those that use the easement. Matta stated an elevation of the proposed construction is a requirement of the variance application and he would need to know more about what the structure will look like to make a determination. Reid concurred stating it should be noticed as a covered porch rather than a pergola because it is proposed to have a solid roof. Marko suggested the matter be postponed for further information. Reid and the applicant concurred.

Postponed for setback from south property line and elevation drawing of the proposed structure.

ZBA17-033 Gordon Fendert, 4347 Lahring, Linden:

06-16-100-024

4347 Lahring

Requesting 245 ft. maximum sq. footage variances to build a detached garage. Secretary Reid reviewed the file stating it contained a letter for public comment. Gordon Fendert was sworn in. He explained the request to build a detached accessory building for storage of recreational vehicles and trailers. He noted the current tool shed will be removed and replaced with the proposed structure. He said it will be located in the rear of the property and will not be visible from the road. He added it will be constructed like a garage and will have vinyl siding and shingled roof. Matta asked about access to the building. Fendert said there would not be a driveway, the use of the building for storage is seasonal and it will be accessed from the east side of his lot. Marko stated concerns that the property was not staked when he visited. Fendert apologized and explained he staked it that day. Chairperson Cady called for public comments. Reid read a letter from Kelly and Mckenzie Holmquist, 4343 Lahring, supporting the request, stating they appreciated how well kept their neighbors property is and that they preferred that the neighbors are able to store their things indoors. Matta said this the request is reasonable for this rural area and it is consistent with another accessory building next door. Spear stated concerns that the Township has increased the size of accessory buildings on larger lots like this one and she is not in favor of granting additional square footage than is already allowed. She noted the applicant has an attached 3-car garage already while the property next door only has an attached 2-car garage.

Motion to approve 245 ft. maximum sq. footage variances to build a detached garage.

Motion by: Cady
Seconded by: Matta
Ayes: Lorraine, Matta, Reid
Nays: Cady, Marko, Spear
Absent: Baran

Motion failed

Motion to deny 245 ft. maximum sq. footage variances to build a detached garage.

Motion by: Cady
Seconded by: Spear

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Ayes: Cady, Marko, Spear
Nays: Lorraine, Matta, Reid
Absent: Baran

Motion failed

Postponed because both motions failed

ZBA17-034 Matt & Jen Ream, 13470 Enid, Fenton:

Appeal Genesee County Road Commission right of way
Zoning Administrator denial of request for zoning permit to build a garage on property not under their ownership.

Secretary Reid reviewed the file. Matt & Jen Ream were sworn in. Matt explained that they had applied for a building permit for a detached garage in May of this year. They were notified that the zoning permit was denied so no building permit would be issued. They were told that the proposed location they indicated on their plot plan was Genesee County Road right of way. He explained the road commission stated they have no interest in spending the money to legally vacate and abandon that portion of the road. Ream said the road as platted does not exist. He said several other structures have been built in this right of way over the years. He claimed that the Township has allowed this in the past and therefore set a precedent. He said currently they do not have a garage and this variance is necessary to meet their need for one. Matta asked if they had looked into re-platting. Ream did not answer instead he repeated the Township has allowed others to build there. Reid asked if the Reams owned the garage across the street. They said yes but the use of it is not feasible because it is dilapidated and about ready to fall down. The board questioned any authority of the Township to allow someone to build on property they do not own. Ream said he has seen several surveys that show the platted road as vacated or abandoned. Chairperson Cady called for public comments. Barbara Soyka, 13501 Enid, stated she thought the right of way had been vacated and she felt the Reams should be able to build their garage. Doug Lyons, 12125 Jennings cautioned that in another area residents built structures including homes in a right of way and that county came in and tore the structures down. He said it was a real mess. Shawn Sheridan, 13450 Enid, felt the Township has the power to do something to help. Matthew Norwood, 13154 Merganzer, alleged the government has been negligent, he said he felt the Township has some authority and he mentioned adverse possession because this area has been maintained as part of these people's yards. Reid read from a letter to Ream from the Genesee County Road Commission dated June 30, 2017 that outlined the process for vacating and abandoning platted roads. Matta stated the issue here is an appeal of the Zoning Administrator's decision that the applicants cannot build a garage on property that is a platted road. The ZBA stated they sympathize with the applicants' situation, but they were unsure what, if anything, could be done by the ZBA. Lorraine offered to contact the Township attorney and other board members to see if there was anything the Township could do to assist with getting this issue resolved. Cady stated the matter would be postponed for further information.

Postponed

ZBA17-035 Doug Lyons, 12125 Jennings, Linden:

06-10-100-007

12125 Jennings

Requesting 2 ft. height variance for an 8 ft. privacy fence.

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Secretary Reid reviewed the file. Doug Lyons was sworn in. He explained he has lost several 40 ft. tall trees that were a natural buffer. When the trees had to be removed he tried to create several versions of a natural barrier when each attempt to use the tree stumps to create a barrier failed, he built a fence. He said he did not know that you needed a permit to build a fence until the ordinance enforcement officer came out and told him. When he came to the Township to get the permit he was informed that the maximum fence height was 6 ft. He said by that time he had invested enough money into the fence that he did not want to cut it down. He also noted his neighbor has cameras that are directed downward toward his deck and a 6 ft. fence is not high enough to block the cameras. Matta asked why the fence varies in height between 6 and 8 ft. Lyons stated it is for aesthetics. He indicated he did not really want a fence but he and his wife did want privacy. Chairperson Cady called for public comments. There were none. Cady indicated that the fence was approximately 13 ft. from the property line and this distance does mitigate the perception of its height. The board said the fence as it is built is aesthetically pleasing.

Motion to approve 2 ft. height variance for an 8 ft. privacy fence.

Motion by: Cady

Seconded by: Matta

Ayes: Cady, Lorraine, Marko, Matta, Reid, Spear

Nays: None

Absent: Baran

Motion carried

COMMUNICATION:

PUBLIC COMMENT – NON-AGENDA ITEMS: None

ADJOURN: 7:55 p.m.

Chairperson Cady

Minutes Posted 07/27/17

Secretary Reid