

**CHARTER TOWNSHIP OF FENTON ZONING BOARD OF APPEALS
MINUTES FOR REGULAR MEETING OF NOVEMBER 28, 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: Cady, Baran, 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 October 24, 2017

Motion by: Cady
Seconded by: Baran
All in favor

Chairperson Cady explained meeting procedure

NEW BUSINESS:

ZBA17-043 Patric A. Parker, 5206 Gateway Centre #200, Flint:

06-11-400-008

12340 Windsor Bch.

Appealing the Zoning Administrator's decision that the property at 12340 Windsor Bch. has a sight line and the planting of additional trees over 30" in height is prohibited Secretary Reid reviewed the file, noting it contained 2 letters for public comments. Patric Parker was sworn in. He explained that Mr. Williams is appealing the Zoning Administrator's decision that 4 trees recently planted on the property are a violation of the sight line ordinance. Parker said the previous ruling of the ZBA in February of 2009 was based on a row of arborvitaes that existed on the north property line. He claimed that the ZBA hearing was not about several older deciduous trees that existed on the property at that time, it was only addressing the row of arborvitaes. He stated there is nothing in the written record about other deciduous trees that existed on the property. Parker asked Williams how many other trees were on the property in 2009. Williams said there were 9-10 other trees. Williams recently put in a sea wall and took out a willow tree that was hanging over the sea wall into the lake. He removed other dead and dying trees and replaced them with 3 maples and 1 other tree placed approximately 20 ft. apart. Parker claimed the view of the lake is more open now. Baran asked how tall the new trees are. Parker responded 45 ft. tall. Reid asked when these 4 trees were planted. Williams said in August 2017. Chairperson Cady called for public comments. Rose Ann Laureto, 12312 Windsor Bch., stated she was involved with the ZBA review back in 2009. She said she lives to the north of the subject property where the row of arborvitaes is located. She explained that sometime prior to 2009 a person who is now deceased had told Williams that his property was not subject to the sight line ordinance. She said this was verbal and there was no record of this conversation; however, the Township found enough evidence to have cause to believe that this statement may have

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been made. The Township advised Mr. Williams that he would have to file an application with the Zoning Board of Appeals if he wanted to keep the new arborvitaes that he had planted in 2009. The ZBA, at that time, allowed Mr. Williams to keep 3 of the arborvitaes. At the same meeting, she filed an appeal of the Zoning Administrators decision that the property at 12340 Windsor Bch. did not have a sight line. That case concluded with a motion that stated 12340 Windsor Bch. does have a sight line; however, existing trees may remain due to a variance that was granted on that same night. The motion further stated that any further plantings or construction in the sight line higher than 30" is prohibited. She said the new trees are a violation and they block her view of the lake even from an upper level window. She asked that the ZBA uphold their 2009 decision and deny this appeal. Kay Willey, 12302 Windsor Bch. said she lives 3 doors down and the newly planted trees block her view of the lake. Secretary Reid read a letter from Charmaine & Frank Thorley, 12310 Windsor Bch., that stated concerns that Mr. Williams has diminished their view of the lake by at least 1/2 of what it was by installing a boat house at the end of his dock. Thorley wrote she understands there are things that nothing can be done about now and urged the Township to have Williams remove the 4 new trees. The second letter was from Ms. Laureto, who was present and voiced her concerns. Baran asked if Parker agreed that Williams does have a sight line. Parker said that is ambiguous. Matta stated it is clear to him that the 4 new trees are in the sight line and are over 30" in height. Reid agreed adding anytime there is a non-conforming structure, or in this case trees, once they are gone they are gone and in order to rebuild or replant a variance would have to be granted. Cady agreed with Matta and Reid and he added it is clear in the 2009 minutes that the property is subject to sight line regulations and the newly planted trees are a violation. Baran concurred and stated the 2009 minutes are worded so there would be no misunderstanding.

Motion to approve the appeal that the Zoning Administrator's decision that the property at 12340 Windsor Bch. has a sight line and the planting of additional trees over 30" in height is prohibited.

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

Motion failed

Motion to deny the appeal that the Zoning Administrator's decision that the property at 12340 Windsor Bch. has a sight line and the planting of additional trees over 30" in height is prohibited.

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

Motion carried

ZBA17-044 Gary Somers, 23 Chateaux Du Lac, Fenton:

06-28-676-008

23 Chateaux Du Lac

Requesting a 4.7 % lot coverage variance to build an addition

Secretary Reid reviewed the file. Patrick Dyke, 2553 Meade Ct., Ann Arbor, was sworn in. He explained that during the due diligence and exploration phase of this project they

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found that the current house at 23 Chateaux Du Lac is already over the 30 % allowable lot coverage. He said this addition is a self-created hardship in that it is the applicants desire to have this additional living area, however the fact that this development changed part way through construction from a conventional condominium to a site condominium and lot lines were drawn where buildings had already been built did contribute to their hardship in this case. Dyke stated the most important thing to the Somers was to protect neighbor's views of the water so the addition was designed to provide them with a better view while not affecting the neighbors. Baran asked how much of the existing house is over the lot coverage allowance. Dyke said it is 10 sq. ft. over. Chairperson Cady called for public comments. Reid read a letter that was presented at the meeting from Thomas and Penny Murphy, 24 Chateaux Du Lac, stating complete and unreserved support of the request. Matta stated the request is reasonable and the history of the development of Chateaux Du Lac has created a practical difficulty for the owners. Marko concurred and stated the overage of 4.7% is minimal. Cady stated the problem is it does not meet the criteria by admission of the applicant's representative. The board discussed the amount of green space in the development and the fact that these homes are tightly situated on the lots. Some of the discussion was about allowing this request when the existing structure is already over the allowable coverage and how other requests would be handled. Marko stated each ZBA case is decided on its own merit. There is no precedence set. Baran expressed concerns about every house along this section of the development asking and expecting to get the same treatment.

Motion to approve a 4.7 % lot coverage variance to build an addition

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

Motion failed

Motion to deny a 4.7 % lot coverage variance to build an addition

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

Motion carried

ZBA17-045 Ann & Patrick Lowney, 5476 Boulderwood Ridge, Clarkston:

06-23-530-012

14073 Swanee Bch.

Requesting a 37.5 ft. sight line variance for a pool, deck, stairs and handrail
Secretary Reid reviewed the file. Randy Marcial, Gethsemane Corp., 414 Main St., Rochester Hills, and Patrick Lowney were sworn in. Marcial explained the Lowney's purchased the house 1 year ago. He said the problems with building anything between the house and the lake are because the house was built many years ago and very close to the water. He noted there are 2 vacant lots to the south and then the shoreline recedes quite a bit where the house is that determines the sight line. He noted that the existing house is already 14.4 ft. into the sight line and they are requesting an additional 23 ft. for the pool and a modest deck area with stairs on each side of the pool. Baran asked what type of barrier would be provided around the pool safety. Marcial explained that the infinity edge has been eliminated and that edge of the pool will be a solid wall

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48" above ground and locked gates will be installed at the stairs. He also noted the pool is proposed to be partially above ground because of the shallow water table in this area. Marko stated concerns that the plan has changed and the board does not have the proper documentation to make a fully informed decision. He suggested the applicant talk to the Building Inspector and present an accurate plan of what they intend to build. Chairperson Cady called for public comments. Mary Toth, 14067 Swanee Bch., stated concerns about noise and activity that comes along with a pool. Marko stated he had looked into this and found that the house was built in 1948, before there was a sight line ordinance and remodeled in 1998. After discussion of possible scenarios, the board agreed that more specific information would be needed in order to make a decision. Matta concurred. The applicant asked to postpone in order to provide the requested information.

POSTPONED

ELECTION OF OFFICERS:

Matta nominated Cady for Chairperson

Motion by: Matta

Seconded by: Marko

All in favor

Cady will serve as Chairperson until November 2018

Matta nominated Baran for Vice Chairperson

Motion by: Matta

Seconded by: Marko

All in favor

Baran will serve as Vice Chairperson until November 2018

Matta nominated Reid for Secretary

Motion by: Matta

Seconded by: Cady

All in favor

Reid will serve as Secretary until November 2018

COMMUNICATION: The board discussed adopting a policy to address a situation when there is a need to postpone a request either for more information or in a case when there is no one present to represent a request. It was decided that the board will review and revise the ZBA by laws after the first of the year.

PUBLIC COMMENT – NON-AGENDA ITEMS: None

ADJOURN: 8:25 p.m.

Chairperson Cady
Minutes Posted 12/01/17

Secretary Reid