

**CHARTER TOWNSHIP OF FENTON ZONING BOARD OF APPEALS
MINUTES FOR REGULAR MEETING OF DECEMBER 19, 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, Marko, Matta, Reid, Spear
Recording Secretary, McDonald

Absent: Lorraine

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

MEETING MINUTES: November 28, 2017

Motion to approve the minutes as corrected

Motion by: Cady
Seconded by: Baran
All in favor
Motion carried.

UNFINISHED BUSSINESS:

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, Gethsemene Corp., 414 Main St., Rochester Hills was sworn in. He explained the plan for the pool has changed. After hearing the comments from the Board, at the last meeting, the owners have decided to install the in ground pool 1 ft. above grade. They will have a retractable safety cover so there will be no need for a fence. The request now is only for the deck and the stairway rail that will be located in the sight line. The deck is 12 ft. wide and the stairs are another 4 ft. The additional sight line variance is for a portion of the house that is already partially in the sight line. He noted at the last meeting the position of the existing house and the shoreline presented as a hardship in this case. There are 2 vacant lots to the south before there is a structure and the shoreline goes from this address inward so the house to the south sits closer to the road. Chairperson Cady called for public comments. James Toth, speaking for his mother, Mary Toth, at 14067 Swanee Bch. stated his mother is directly north of this property and she is oppose to anything in sight line. Reid stated the house is constructed in an odd way with porches on either side of a room that overlooks the lake with no deck. Baran stated this request for the deck and stairs only is reduced from the last request. Cady stated though no one will be impacted that lives south of the property it would have impact on the property to the north.

Motion to approve a 37.5 ft. sight line variance for a deck, stairs and handrail

Motion by: Cady
Seconded by: Baran

**CHARTER TOWNSHIP OF FENTON ZONING BOARD OF APPEALS
MINUTES FOR REGULAR MEETING OF DECEMBER 19, 2017**

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

Motion carried

NEW BUSINESS:

ZBA17-046 David & Michelle Overway, 12183 Margaret, Fenton:

06-11-501-057

12183 Margaret

Requesting a 5 ft. side yard setback variance for a deck

Secretary Reid reviewed the file. David Overway was sworn in. He explained his request to replace the existing deck built 27 years ago with a slightly larger deck. He said the request is for an additional 4 ft. of width to enable people to get around without the danger of falling from the deck which does not have a railing. He said this will have no effect on the neighbor to the north because the north side of the deck could be expanded because it is more than 5 ft. away from the north property line and it is under 30 in. The property owner to the south has no problem with the requested variance. He noted if approved to be built on the property line there will be 12 ft. of easement between the deck and south parcels property line. Matta asked the current width of the deck. Overway replied the deck is 8 ½ ft. wide. Chairperson Cady called for public comment. Don Kirkwood, 12179 Margaret, stated concerns that the request does not meet the 5 criteria. He said there is no hardship the deck has worked for 27 yrs. Another criteria has to do with fairness to the neighbors. He suggested that Overway is trying to eliminate an easement that is there for the neighbors to enjoy. He submitted letters from neighbors that are opposed to the request. He said the house was built with many variances in first place. He objected to the fact that this is the 3rd time he has had to come to a meeting to protest this self-created situation. He mentioned the spirit of the ordinance being observed stating that allowing someone to encroach on an easement and violate the sight line ordinance is not observing the spirit of an ordinance designed to protect people's views of the lake. Matta explained that Mr. Overway is not asking for a sight line variance, he also noted the deck is not on the easement it is on Overway's property line that runs along the easement. He said an 8 ½ ft. deck is narrow and could pose issues with the ability for people to move around. Baran agreed restating there is no sight line variance being requested and he noted the request is minimal to provide relief to the applicant. Reid concurred adding the spirit of the ordinance is being observed. Cady said the only request is for a small portion of deck that is on the south property line.

Motion to approve a 5 ft. side yard setback variance for a deck

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

Motion carried

ZBA17-047 Patrick Caughlin & Edwin Custer, 5539 & 5545 Dooley, Linden:

06-30-528-011 & 06-30-528-012

5539 & 5545 Dooley

Requesting a 13.5 and 13.7 ft. frontage on the water variances to make a property line adjustment

Secretary Reid reviewed the file. Patrick Caughlin & Edwin Custer were sworn in. They explained their request to straighten out the lot lines and give the parcel with only 60 ft.

**CHARTER TOWNSHIP OF FENTON ZONING BOARD OF APPEALS
MINUTES FOR REGULAR MEETING OF DECEMBER 19, 2017**

of frontage on the water approximately 20 ft. Both lots will have slightly over 86 ft. on the water. They explained that the way the lots are configured and the houses sit on the lots a person looking out the houses is looking across the others property to see the lake. Chairperson Cady called for public comments. There were none. Matta questioned the Boards ability to take a conforming lot and make it non-conforming. He said he did not think the request is a bad idea he just did not know if the Board could do this. Marko stated he had the same concern. Cady stated the Board has approved frontage variances when 2 non-conforming lots are redistributed making one less non-conforming and one more non-conforming however in this case the one lot does conform. He said he did not believe the Board has the authority to grant the variance to make a non-conforming lot.

Motion to approve a 13.5 and 13.7 ft. frontage on the water variances to make a property line adjustment

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

Motion failed

Motion to deny a 13.5 and 13.7 ft. frontage on the water variances to make a property line adjustment

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

Motion carried

ZBA17-048 Edwin Custer, 502 Crapo St. Flint:

06-30-528-011

5545 Dooley

Requesting an 18 ft. sight line variance to build an addition

Secretary Reid reviewed the file. Scott Tarkelson, Fenton Lakes Building and Design, 4306 Baldwin, was sworn in. He explained his request to build an addition to the structure as part of remodel. The existing structure is an old cabin with a lot of character that built strictly as a summer cottage. Custer wants to make it a year round home. He noted that the existing structure is already in the sight line and he is not proposing any additional building closer to the water than the existing, however a portion of the proposed construction is still in the sight line. Chairperson Cady called for public comments. There were none. Matta stated the request is reasonable and he did not see how the proposed would negatively affect the neighbors view of the lake. Cady agreed stating the proposed addition would not impact the sight line any more than the existing structure.

Motion to approve an 18 ft. sight line variance to build an addition

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

**CHARTER TOWNSHIP OF FENTON ZONING BOARD OF APPEALS
MINUTES FOR REGULAR MEETING OF DECEMBER 19, 2017**

Motion carried

ZBA17-049 Ghassan Saab, 3407 Torrey, Flint:

06-11-504-009, 06-11-504-010 and 06-11-100-001

2300 Sonora

Requesting a 9,239.5 sq. ft. of land area variance to redistribute 3 existing properties making 2 larger parcels for building sites

Secretary Reid reviewed the file. She indicated the file contained a letter for public comments. There was no one at the meeting to represent the request. Chairperson Cady called for public comments. Dane Farner, 2326 Sonora, had questions about the applicants intent and spoke in opposition of the way they have left this property. He said it appears to blighted. Cady explained there is no one to address question of Mr. Farner or the Board. Reid read letter from Tom and Peggy Smith, 2316 Sonora stating they are opposed to any variances granted to build on these properties. They also stated they did not see a hardship that would be cause for a variance. The Board discussed the matter of taking a property that conforms to the ordinance now and reducing the size to make it non-conforming. With ZBA17-047 it was the frontage on the water in this case it is the lot size. Marko stated he felt the applicant is trying to make the situation better and create better building sites than exist today but with on one to represent the request that is speculation. Matta agreed adding the property was not clearly staked. Reid said she feels they are moving in the right direction, this is an unusual situation because the road runs through the properties. Spear suggested they leave the conforming lot alone and combine the two smaller lots.

Motion to approve a 9,239.5 sq. ft. of land area variance to redistribute 3 existing properties making 2 larger parcels for building sites

Motion by: Cady

Seconded by: Baran

Ayes: None

Nays: Cady, Baran, Marko, Matta, Reid, Spear

Absent: Lorraine

Motion failed

Motion to deny a 9,239.5 sq. ft. of land area variance to redistribute 3 existing properties making 2 larger parcels for building sites Motion by: Cady

Seconded by: Baran

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

Nays: None

Absent: Lorraine

Motion carried

ZBA17-050 Benjamin Hamlin, 2422 Cranewood, Fenton:

06-14-506-008

2422 Cranewood

Requesting a 30 ft. sight line, 6 ft. side yard and 4 ft. total 2 sides variances to build a deck and stairway

Secretary Reid reviewed the file. Benjamin Hamlin was sworn in. He explained when he and his wife built the house their children were small and they did not want to have a deck for fear of one of them falling. Since then they have found that going up and down stairs to get to or even enjoy being outside looking at the lake has become difficult especially for the older family members. He explained they designed the deck to have the least amount of impact on views of the neighbor. The neighbor most impacted is on the east where the current set of stairs is located. He noted, when he originally applied

**CHARTER TOWNSHIP OF FENTON ZONING BOARD OF APPEALS
MINUTES FOR REGULAR MEETING OF DECEMBER 19, 2017**

for the variance, he measured the sight line from the wrong place on the neighbors foundations. When the actual sight line was determined the need for the variance was reduced from 30 ft. to 19 ft. He showed the redesign of the stairway to come from the deck, along the side of the house toward the street to reduce the impact on the west neighbor. Hamlin said the deck also is wider near the center of the house to lessen any impact. Chairperson Cady called for public comments. Richard Knight, 2414 Cranewood, introduced himself as the neighbor to west. He complimented the design of the deck and said he had no objection to this proposal. Reid said the relocation of the stairway does create a better view for the west neighbor.

Motion to approve a 19 ft. sight line, 6 ft. side yard and 4 ft. total 2 sides variances to build a deck and stairway

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

Motion carried.

PUBLIC COMMENT – NON-AGENDA ITEMS: None

ADJOURN: 8:00 p.m.

Chairperson Cady
Minutes Posted 12/22/17

Secretary Reid