

**CHARTER TOWNSHIP OF FENTON ZONING BOARD OF APPEALS  
MINUTES FOR REGULAR MEETING OF FEBRUARY 27, 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, 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

**MEETING MINUTES:** December 19, 2017

Motion to approve the minutes as submitted

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

**UNFINISHED BUSSINESS:**

**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 parcels for building sites

Secretary Reid reviewed the file. Ghassan Saab, 3407 Torrey, Flint was sworn in. Saab explained the request is to take three existing lots and redistribute them to make 2 building sites on the water frontage. He said that after much research to develop this property. It is his opinion that this would be the highest and best use of the property. He stated two of the existing lots are very small and 1one is larger and the plan is to combine the two small lots with part of the larger piece to create two lots that are similar in size. Chairperson Cady called for public comments. Tom Smith, 2316 Sonora, asked if the applicant has any plans for the other larger parcel or the property on Ford St. Saab stated they do not. Smith stated concerns about the condition of the property after they demolished the old buildings. He said that since the demolition his property has been flooding. He said he has lived there for 13 years and has not previously had water in his garage. He submitted photographs of the recently flooded garage and surrounding property. He also stated concerns that the Sailing Club is pumping water onto his property. He added a concern that once these lake front properties are developed it will make matters worse. Peggy Smith-Wittbrook, 2316 Sonora, said she was denied a variance to tear down a dilapidated garage and rebuild. She said the property is blighted and looks awful. Don Niles, 1429 Edgewater, said he is representing the sailing club and he wanted to go on record stating that the demolition of one of the buildings is causing erosion of the sailing club's retaining wall. Niles also stated concerns about the 90 degree curve in the road leading to the three parcels and its impact on public health, safety and welfare. Cady said in this case the applicant is taking three non-conforming lots and making two lots, one that will be more non-conforming and one that will be less non-conforming. Matta said this will be an improvement to the current situation. Marko said the applicant

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has been through a long process to try to develop this difficult site. This is an opportunity for a reasonable use of valuable lake front property. Reid explained the boards only consideration tonight is whether to grant a variance to the lot size and take three existing lots and make two building sites, not to consider any variances for the buildings. Cady explained Ordinance Enforcement will investigate the water issue.

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

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

Motion carried

**NEW BUSSINESS:**

**ZBA18-001 Matthias & Detrie Smith, 2235 N. Long Lk. Fenton:**

06-14-577-114

13390 Enid

Requesting 2% lot coverage, 11.4 ft. front yard and 4.5 ft. sight line variances to demolish the existing structures and build a new house and attached garage

Secretary Reid reviewed the file. Chris Macklin, Macklin Design, 517 N. Hintz, Owosso, was sworn in. Macklin explained he has been working with the Smith's for over a year. He said in the beginning the plan was to remodel the existing structure. In April of 2017 they had appeared before the ZBA and were granted the necessary variances to move forward. He said that once they began investigating pricing, they decided to demolish the existing structures and rebuild. Macklin said the lot coverage variance is due to the side load garage. Macklin said the side load garage will provide additional off street parking and a safer way for the owners to enter and exit. He added the sight line variance was granted in April but now that section of the structure will be two stories instead of one. He stated the impact to the neighbors' view of the lake is minimal because of existing vegetation. Chairperson Cady called for public comments. There were none. Cady agreed about the minimal impact on the sight line. He stated concerns about the lot coverage variance because it is a new structure, however he felt the side load garage was a better option. Marko concurred with Cady about the side load garage. Spear expressed concern about the lot coverage stating because the building is new she felt it could comply. Cady said the lot coverage is matter of safety verses compliance. Matta stated 2% is minimal and he felt it was worth the benefit of a safer ingress/egress.

Motion to approve 2% lot coverage, 11.4 ft. front yard and 4.5 ft. sight line variances to demolish the existing structures and build a new house and attached garage

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

Motion carried

**ZBA18-002 Patric Parker, 5206 Gateway Centre, Suite 200, Flint:**

Requesting an interpretation of the zoning ordinance, Section 4.28 reference to structure or barrier and section 2.01 definitions of barrier and structure.

Secretary Reid reviewed the file. Patric Parker and Brent Williams, 12340 Windsor Bch. were sworn in. Parker explained the request for an interpretation of the ordinance is a result of a violation letter sent to Williams dated December 20, 2017, which stated to come into compliance the owner must remove

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trees or apply for and be granted a variance to allow the trees to remain in the sight line. Parker said the owner argues that the trees that are the subject of the letter do not fall within the definitions in the Ordinance. Parker said the Ordinance states in part "On a lot or parcel touching a lake, no structure or barrier in excess of 30 inches in height shall be erected beyond the sight line." Parker contended the trees are neither a structure nor a barrier. He said the definition of a barrier includes language that states the term barrier shall mean either a structure or vegetation that serves as an obstacle that hinders physical access. He said the deciduous trees that were planted do not hinder physical access. He went on to contend that the trees subject to the violation letter are not structures as defined as "Anything constructed or erected which requires permanent location on the ground or an attachment to something having such location." He noted the owner contends that from the plain meaning of the Ordinance, trees are not constructed or erected and do not fit the definition of a structure. Parker stated the applicant/owner requests the ZBA review the Sight Line Ordinance and the definitions in the Ordinance and interpret the same in a manner consistent with the plain language contained in the Ordinance. Baran asked why Parker did not consider the trees to be an obstacle. Parker said the trees are deciduous and they are planted at least 10 ft. apart. Baran asked why Parker felt they did not hinder physical access. Parker said the trees are at least 10 ft. apart unlike a hedgerow that could keep someone from walking through it. Lorraine stated the trees will hinder views of the lake. He noted that as a lake front property owner ones view of the lake is most important. He said the intent of the Sight Line Ordinance is to protect lake owners' views of the lake. Williams said he had hired a landscape architect that laid out the plan for his yard. He said he will keep the trees trimmed up from the bottom to have the view of the lake. Baran asked if Williams made this landscape architect aware that his property is subject to the sight line requirements. Williams said he did not. He said this planting was not done intentionally to violate the sight line. He added he had spent a lot of money on the landscape when he recently redid his yard. Matta said that Williams was aware the property was subject to sight line restriction in 2009 when the ZBA ruled on other vegetation Williams installed. Williams said the Ordinance does not address deciduous trees. Baran asked if Williams intended to trim these trees on regular basis. Williams said he did. Chairperson Cady called for public comments. Rose Ann Laretto, 13212 Windsor Bch., said she used her life savings to purchase her home north of Williams in 2000. She said the core issue is the sight line and the violation that has now occurred. She said claiming the applicant did not understand the Ordinance is grasping at straws the 2009 minutes reflect that this was made clear to the applicant. Cady said it is clear in the minutes of the 2009 meeting that the property is subject to sight line requirements. Laretto also stated that it is unfair to the neighbors to have to spend time fighting this. The trees were planted in September and it is now February. It was made clear to Williams in 2009 that he could not have anything over 30" in the sight line without a variance, he planted the trees without seeking a variance and now this is the 2<sup>nd</sup> and 3<sup>rd</sup> time he has come to the board. Williams has plenty of room to plant trees without having to locate them in the sight line. Given the intent and interpretation of the Sight Line Ordinance, which Mr. Parker and Mr. Williams accepted for years, Laretto requested the ZBA declare that the applicant's trees fall within the scope of the plain meaning of the Sight Line Ordinance and trees should not be allowed to remain in the sight line. A variance should not be granted. Jerry Willey Jr. spoke for Gerald and Kay Willey, 12302 Windsor Bch., stating his parents respectfully request the ZBA declare the four tall deciduous trees Williams recently planted a violation as they block their view of the lake. The spirit of the ordinance is to protect neighbors' views. He also stated neither the interpretation request nor the variance meets the criteria for granting a variance. Williams is not asking for the minimum variance necessary, nor is there any type of hardship. Parker stated the neighbors are looking across Williams' property if the trees are blocking views. Parker said it is his understanding that the protected view is limited to out the rear of their homes. Baran and Spear noted that the trees are an obstacle and they would hinder physical access in that if you were walking in a straight line you would have to alter your course when you approached the tree. Baran added the Ordinance has to be broad enough to cover more than one situation but narrow enough to protect the residents. He said the spirit and intent of the Sight Line Ordinance is protection of riparian's views of the lake. Lorraine agreed. Cady stated it was

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made very clear to Parker and Williams in 2009 that the property has a sight line and nothing over 30” would be located in the sight line. Marko stated that is why all of these cases must be heard and ruled upon on an individual basis. He added he did not feel a change to the ordinance is necessary.

Motion to uphold the Zoning Administrators interpretation of the Sight Line Ordinance Section 4.28 and reference to structure or barrier and section 2.01 definitions of barrier and structure.

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

Motion carried

**ZBA18-003 Patric Parker, 5206 Gateway Centre, Suite 200, Flint:**

06-11-400-008 12340 Windsor Bch.

Requesting a 45 ft. sight line variance to allow trees planted in the sight line to remain Secretary Reid reviewed the file. Parker stated Williams’ lot is unusual and a practical difficulty would be imposed upon his client because of the lots large size and its location in a lagoon along with the shape of the shoreline. He argued that in 2009 the discussion was about a hedgerow not four deciduous trees that replaced 10 large deciduous trees that were removed. His client should have the right afforded other properties to enjoy mature trees on his property. Parker stated the practical difficulty for the property is that the sight line renders a disproportionate measure of the land for planting trees. Baran argued that the lot is large in size and there is plenty of land available for tree planting. Parker stated Williams hired a landscape professional that laid out the plan for the plantings. Baran stated the plan is not valid because Williams failed to tell his landscape professional that the property was subject to sight line restrictions. Chairperson Cady called for public comments. Willey stated even if the trees are trimmed up the treetops create a solid barrier similar to a hedgerow. He said Williams still has reasonable use of his property. This is a self-created hardship and the Ordinance is intended to protect neighbors’ views. Laretto asked that the Board deny any variance based on the facts she stated in the previous case. She showed several pictures of the views from the windows in her house, which have been obstructed by vegetation that Williams has planted. Reid read a letter from Charmaine Thorley, 12310 Windsor Bch., which asked that the ZBA deny the variance because the trees block their views of the lake. Marko stated the evidence shows Williams knew his property was subject to the sight line restrictions, he did not inform his landscape professional of those restrictions and had the trees planted. He said the trees should be removed or relocated. Cady agreed as did Matta. Spear stated the application does not meet the standards for approval.

Motion to approve a 45 ft. sight line variance to allow trees planted in the sight line to remain

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

Motion failed

Motion to deny a 45 ft. sight line variance to allow trees planted in the sight line to remain

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

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Motion carried

**ZBA18-004 TIG, B & L, LLC., 3196 Thompson Rd. (Thompson IG), Fenton:**

06-03-200-030

3196 Thompson

Requesting a variance of 105 parking spaces (Section 6.02) and 5 loading spaces (Section 6.03) for an expansion of the current facility

Secretary Reid reviewed the file. John Asselin, Asselin, Mclane Architectural Group, 4488 W. Bristol Rd., Flint was sworn in. Asselin explained that Thompson IG is in the middle of a multi-phase expansion to achieve their goal of becoming a world-class provider of glazing products for the building industry. At this time, phase II of the building expansion is being prepared for submittal to the planning commission for final site plan approval and the building department for permitting. As part of the phase II building expansion, TIG are proposing to complete the entire site development portion of the project so that the extensive infrastructure system can be put into place for this and all future phases, avoiding costly modifications to an installed system. In order to proceed they are required to seek and hopefully receive two variances. First, a variance from section 6.02 with regard to parking. The ordinance requires 232 parking spaces and the applicant is proposing 127 parking spaces, requiring a variance of 105 parking spaces. He stated the square foot approach to calculating parking spaces is not appropriate in this instance because the very large equipment that will be housed in the 54,482 square feet of the building is highly automated and does not require many people to operate. He presented a schematic of the equipment and explained how the equipment handles very large pieces of glass with minimal human intervention. Second, they are requesting a variance of five loading spaces. The ordinance requires eight loading spaces and the applicant is proposing three loading spaces. He said the equipment is of such size and configuration, with directional flow, that the three loading spaces will accommodate current and future shipping needs. Asselin stated the applicant is confident that the reduction in parking and loading will not negatively affect his business or public safety. He noted that the operation has no overlap in shift changes and assured the board that the proposed number of parking and loading spaces will be sufficient. Chairperson Cady called for public comments. There were none. Lorraine stated concerns about the parking variance. He noted that when he visited the site there were numerous pallets and other debris in the parking area. He said that after visiting the site he wants to make sure there is enough parking for this entire expansion. The board discussed not only addressing the needs of this owner but the needs of possible future owners. Marko stated the applicant has done an excellent job of presenting their request. He added the applicant has been before the planning commission a number times preparing for this expansion. He said the company has and is making a significant contribution expanding their existing facility rather than relocating to a larger site. Those that understand and have high stakes in this venture have researched this plan and the Township should not hinder their efforts. Matta agreed stating they would definitely know what they need for parking and loading. Spear stated concerns about the material that was being stored outside. Asselin said that when the new automation is in place that product stored outside will not necessary. Cady stated Lorraine's concern about a future tenant is valid. Baran stated he is sure they know what they need and the hardship is the ordinance is only taking into consideration the size of the floor area not the type of production and the manpower needed to run this equipment.

Motion to approve a variance of 105 parking spaces (Section 6.02) and 5 loading spaces (Section 6.03) for an expansion of the current facility

Motion by: Cady

Seconded by: Baran

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

Nays: None

Absent: None

Motion carried

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**COMMUNICATION:** Discussion regarding postponement procedures to update the ZBA by-laws. Chairperson Cady read the proposed language to be added to the ZBA by-laws. The board agreed that it is necessary to cover this procedure in the by-laws.

Motion to add 3.10 to the Meetings section of the by-laws as follows:

**3.10 Postponement and dismissal.** The Zoning Board of Appeals may, through a motion and a vote, postpone consideration of an application until a later meeting upon request by the applicant, failure of the applicant to attend the meeting, or determination that the application is not sufficiently complete or accurate for action. Failure of the applicant to attend two (2) or more meetings where the application is on the agenda shall constitute grounds for dismissal of the application without further consideration.

Motion by: Cady

Seconded by: Baran

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

Nays: None

Absent: None

Motion carried

**PUBLIC COMMENT – NON-AGENDA ITEMS:** None

**ADJOURN:** 9:05 p.m.

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Chairperson Cady

**Minutes Posted 03/15/18**

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Secretary Reid