

CHARTER TOWNSHIP OF CANTON
THE ZONING BOARD OF APPEALS
May 10, 2018

A meeting of the Zoning Board of Appeals of the Charter Township of Canton was held Thursday, May 10th, 2018 at the Township Administration Building located at 1150 S. Canton Center Road, Canton, Michigan 48188.

James Cisek called the meeting to order at: 7:00 p.m. and led the Pledge of Allegiance to the Flag.

ROLL CALL:

Present: James Cisek, Vicki Welty, Cathryn Colthurst, and Greg Demopoulos.

Absent: Greg Greco and Craig Engel. Staff Present: Jeff Goulet

ACCEPTANCE OF AGENDA

Motion by Greg Demopoulos to accept the agenda for April 12thth, 2018 as presented.
Support by Vicki Welty. Ayes: All

APPROVAL OF APRIL 12th, 2018 MEETING MINUTES

Motion by Greg Demopoulos to approve the Zoning Board of Appeals Meeting Minutes dated April 12th, 2018. Support by Cathryn Colthurst. Ayes: All.

James Cisek explained the procedure of the Zoning Board of Appeals to the audience and moved the Election of Officer's to the end of the meeting.

1. Applicant GVVA Capital, LLC and Project Representative Farhat Raheem for Property located at 42444 Barchester, in the Willow Creek Subdivision, on the North side of Barchester between Lilley and Foxthorne Roads, Zoning R-5 appealing Article 2.09 (a) (3)(a) Yard and Bulk Regulations in Side Yards and Article 26.02 Schedule of Regulations Parcel ID 71-042-01-007-002 (Building)

Douglas Swatosh stated that he is here on behalf of the applicant, his client. My client bought the property as an investment in July 2015. At the time she bought the property, there was an existing deck. Unbeknown to her, whichever previous owner that built the deck appears to have never obtained any permits and the location of the deck does not conform to the township ordinances. The deck is on the side of the house. She ran into an issue when she tried to register the property as a Rental Property. She was told that she cannot register it until the deck is inspected because it is not currently in compliance with the zoning. It sits too close to the side yard lot. The only option at this time, she has to have the deck, would be to tear down the deck and construct a new one. This deck is a problem that she inherited. She is looking for a variance to allow the existing deck to remain. That way she can pull the permits that should have been pulled. The building department can come out and inspect the deck to make sure it is safe and then that would be in compliance and she can register it as a Rental.

Jeff Goulet stated that there were a lot of these original duplexes that were built in this area along Barchester. They were originally built as a duplex which was defined as a two unit building owned by one entity. What happened in the past, back in the 70's a lot of these were divided down the middle of the common wall of the duplexes and then they were sold off separately. Technically under the

zoning code that should not have been done that way. Wayne County probably accepted the deed way back then, so essentially we are considering them non-conforming. The zoning under R-5 requires five feet on the side and 10 feet on another. He is showing you one half that does this but the other side also has a five foot set back so there are two five foot setbacks not the one ten feet and the other five foot which is supposed to be a total of 15. So the variance would be of five feet to allow them to maintain the five foot setback for the deck. The other option would be to bring the stairs off of the door wall to get access to the slab.

Doug Swatosh stated that he doesn't know what the slab is used for but I will tell you that the door, I do not want to say that it is six feet high but it is at least four feet off the ground. We are not talking about three or four steps. It would be seven or eight steps to get down to the backyard without an elevated deck there.

Greg Demopoulos questioned if there have been any calls regarding this issue.

It was answered only two calls were received by the Building Department and when they found out it was regarding a deck the callers were not concerned.

Motion by Vicki Welty, support by Greg Demopoulos to open the Public Hearing. Ayes: All
No one from the audience wished to address the Board on this issue.

Motion by Vicki Welty, support by Greg Demopoulos to close the Public Hearing. Ayes: All

James Cisek questioned Mr. Goulet if there was a way that they could allow it to stay until they go to reconstruct it. It is an existing deck and an existing issue.

Jeff Goulet stated that you could place that provision on the variance that if it is ever reconstructed it would have to be brought into conformity with the current code. You would only end up with a six foot deck there to meet code.

Greg Demopoulos stated that it is small.

Vicki Welty questioned that when a person buys a piece of property, or in this case a half of duplex, aren't there inspections to take place at that time.

Jeff Goulet stated only for Rental. She bought this and when she went to register this as a rental, they went out to inspect it and when they did the history on it they determined the deck did not have a permit. When somebody sells a property, we do not have a resale inspection process. She bought it, went to register it as a rental and we caught it only because it is a rental.

Vicki Welty stated so when someone wants to sell their house in Canton there is no inspection.

Jeff Goulet stated no. We are not a community that requires an inspection at resale.

Cathryn Colthurst questioned if there were other similar decks in the neighborhood.

Doug Swatosh stated yes.

Jeff Goulet stated that the regulations at the time the deck was constructed may have only required a five foot setback. If it was done before 1990, the regulations may have been different. She should have done her due diligence. Very few people call the Building Department for permits on file.

Vicki Welty stated that she thinks the hardship is we do not know the time. We know that it did not have a permit which is not right but we do not know what the restrictions were at that point. I would hate to blame the resident now. We do not know when it was built and what the restrictions were.

Jeff Goulet stated that essentially what you could do is deem it a non-conforming structure and they can maintain it. That would be your other option. If you deemed it as a non-conforming structure, if it had to come down and it had to be rebuilt, they would have to rebuild it as a conforming structure. Then you are not allowing it to go on forever. If you grant a variance, then that variance runs with the property forever. Which means if they rebuild it, they can rebuild it based on the variance you granted.

Greg Demopoulos stated that he agrees with Jeff however it is not very big, it is not excessive and would probably support the variance.

Motion by Vicki Welty to deem the deck as a non-conforming structure and if any changes should be made to the deck, or it taken down or reconstructed then it has to conform to our present rules. Support Greg Demopoulos. Ayes: All

2. Applicant Frank Jarbou for property located at 44005 Michigan Avenue, on the south side of Michigan Avenue between Sheldon and Morton Taylor Roads, Zoning C-3 appealing Section 6.02.Q.7 Site Development Standards for Nonresidential Uses, Open Air Businesses, Building Material Sales Establishments, Relative to the Minimum Frontage on a State Thoroughfare and Frontage on a Paved County Road. Parcel ID 71-133-02-0040 and 71-133-02-0040-008 (Planning)

Frank Jarabou seeking a variance for 44005 Michigan Avenue that would allow from the street frontage access to the primary County road. The section that we went to get this approved for was originally put together for a different type of use. That use was a much bigger use. We are a smaller scale use. That bigger use needed to be setback from the front of the road and also have access to a side road. We do not have any of that. The setbacks that this is requiring would be too deep and we do not have access to a secondary road.

Jeff Goulet stated that Frank was before you last week and we gave them a variance from the screened wall requirements. The provision of the code that they are going under, Section 6.02.Q.7 for building materials sales establishments. When this was written, it was for large scale, like Menards, Home Depot. Large scale indoor – outdoor sales establishments. Tractor Supply is about one fourth the size of that. When we were writing it for the big scale, big box with outdoor lumber yards, we wanted to make sure they had enough frontage on a state road but that they also had access to a side street to get delivery trucks in and out. Circulation for people to get in and out. Tractor Supply is taking over a smaller building; a total of 20,000 square feet instead of 240,000 so the requirements in the code requiring the amount of street frontage and access to a county road due to the scale and scope of the project really do not apply. It is erroneous to require them to have those kinds of requirements when they are dealing with a 20,000 square foot building. When we evaluated

the initial use for any other variance, I didn't catch it until we did a formal review of the application and that is why they are back in front of you again. I apologize. Due to the scale scope we feel that those standards should not apply to this particular site

Motion by Vicki Welty, support by Greg Demopoulos to open the Public Hearing. Ayes: All
No one from the audience wished to address the Board on this issue.

Motion by Vicki Welty, support by Greg Demopoulos to close the Public Hearing. Ayes: All

James Cisek stated that he does not see any issues with that and agrees with Mr. Goulet.
They all stated agree.

Motion by Cathryn Colthurst to approve the requested variance (on parcel numbers on the application) Parcel No. 133-02-0040-001 and 133-02-0040-008 from Section 6.02Q.7 relative to the minimum 500 foot of frontage on a state thoroughfare and required access from a County road for a Building Material Sales Establishment based on the smaller scale and scope of the proposed Tractor Supply business and the retail nature of the store compared to larger lumber and building material sales facilities. Support by Vicki Welty. Ayes: All

Motion by Vicki Welty to adjourn at 7:19 p.m. Support by Greg Demopoulos.
Ayes: All

Renee' DeVos
Recording Secretary