

**CHARTER TOWNSHIP OF CANTON
ZONING BOARD OF APPEALS
October 14, 2021**

A meeting of the Zoning Board of Appeals of the Charter Township of Canton was held Thursday, October 14, 2021, at the Township Administration Building located at 1150 S. Canton Center Road, Canton Township, Michigan 48188.

Vice- Chairperson Vicki Welty called the meeting to order at 7:00 pm and led the Pledge of Allegiance to the Flag.

ROLL CALL:

Members Present: Vicki Welty, Greg Greco, Craig Engel, John Badeen

Staff Present: Robert Creamer, Building Official; Patrick Sloan, Community Planner

ACCEPTANCE OF AGENDA FOR October 14, 2021

Motion by Craig Engel, supported by Greg Greco to accept the agenda as presented.

Ayes: All

APPROVAL OF MINUTES FOR THE September 9, 2021 MEETING

Motion by Greg Greco, supported by Craig Engel to accept the minutes as presented.

Ayes: All

Vice-Chairperson Welty explained the procedures of the Zoning Board of Appeals to the audience.

1. Applicant Willie & Shannon Johnson, for property address 44422 Forest Trails Drive located on the north side of Forest Trails between Sheldon Road and Leslie Lane, Zoning R-5. Appealing Zoning Ordinance Article V Section 78-129 (h) and 78-131 4 (b) to install a fence within a front yard setback on a corner lot. Parcel ID 71 010 02 0001 000 (Building)

Mr. Willie Johnson stated that they just want to replace the dilapidated 20-year old fence with a new one. They will not be adding to it, just replacing it as is.

Mr. Engel asked what is the size and color of the fence and what is it made out of.

Mr. Williams said that the fence is 6 ft. high. The current fence is wooden and the new fence will be white vinyl.

Mr. Creamer, Canton Township Building Official, stated that the homeowner is requesting a variance to allow for the installation of a fence within the front yard setback in violation of Section 78-128 (h) and 78-131 4 (b). This is a replacement of an existing fence and the fence is located away from both streets. Similar homes in the area have a fence like this as well.

Mr. Badeen asked if there is a pending fence permit.

Mr. Johnson stated that they applied for a fence permit that was denied and were told to go to the Zoning Board for an appeal.

Motion by Craig Engel, supported by John Badeen, to open the Public Hearing. Ayes: All

No public comments were made.

Motion by Craig Engel, supported by John Badeen, to close the Public Hearing. Ayes: All

Mr. Greco has no concerns with this variance.

Mr. Badeen stated that he'd agree to the variance only if the footprint of the proposed fence is the same as the existing fence.

Mr. Creamer stated that their property line is on the other side of the sidewalk, which is unusual. They are looking to just replace it as is.

Motion by Craig Engel to approve the requested variance of Section 78-128 (h) and 78-131 4 (b) for a fence to be installed within a front yard setback located at 44422 Forest Trails Drive due to the fact that is replacing a dilapidated fence and no changes will be made to style, design or size.

Supported by John Badeen. Ayes: All

Variance is APPROVED.

2. Applicants, Leigh and Ryan Young, for property address 6109 Gloucester, located on the north side Westminster Way between Sheldon Rd. and Gloucester Dr., Zoning R-5. Appealing the Zoning Ordinance Section 78-121(h) and Section 78-131(4)(b) fences on corner lots, but in compliance with Section 2.09 A (4) unobstructed site distance. Parcel ID 71-040-01-0782-000 (Building)

Leigh Young, the homeowner at 6109 Gloucester, stated that they are trying to replace a 4 ft. chain link fence with a 6 ft. privacy fence. The plans now show that the site lines are unobstructed at both the driveway (10 ft) and the corner (25 ft).

Ryan Young stated that there is a utility pole and some township planted trees planted passed the fence line that will impede sight on the right side, and there are some trees and a sign on the left

side of the street that will also impede sight. You will have to pull about a car length ahead of the stop sign to safely see passed the obstructions.

Mr. Creamer, Building Official, said that the homeowner is returning to the Board and requesting a variance to install a new 6 ft. privacy fence in lieu of the 4 ft. chain link fence that exists within a front yard setback on a corner lot in violation of Section 78-131(4)(b), fences on corner lots. An existing 4 ft chain link fence exists and was permitted under a previous ordinance. The owners intend to comply with Section 2.09(A)(4) unobstructed site distance. This means the owner would have to remove 25 ft. of the existing wood fence to meet this requirement.

Motion by Craig Engel, supported by John Badeen, to open the Public Hearing. Ayes: All

No public comments were made.

Motion by Craig Engel, supported by John Badeen, to close the Public Hearing. Ayes: All

Mr. Engel likes the new design. It is a good compromise to stay within the intent of the ordinance, but still gives them the privacy that they are wanting.

Mr. Greco agrees.

Mr. Badeen was out of town last month for their first request, but this request looks fine.

Motion by Craig Engel to approve the requested variance to Section 78-131(4)(b) to install a fence within the front yard setback of a corner lot located at 6109 Gloucester Dr. due to the fact that the sight line issue has been resolved, and this will provide privacy, and not impact the traffic in the area.

Supported by Greg Greco. Ayes: All

Variance is Approved.

3. Applicants Jon & Noreen Watson, for property address 3970 Herbey, located on the West side of Herbey between Geddes and Palmer, Zoning R-1. Appealing Article 26.02 Schedule of Regulations Agricultural and Residential Districts of the Zoning Ordinance. Parcel ID 133-02-0066-002 (Building) *tabled at the July 8, 2021 meeting.

Motion by Craig Engel, supported by Greg Greco, to move off the table. Ayes: All

Mr. Jon Watson of 3970 Herbey St. stated that he is looking for a side yard variance to get 5 feet into the required 20 ft. for a second barn that he would like to build. At the last meeting, he discussed alleviating the standing water on the neighbor's property. He was told three things were needed. First, Engineering Dept. approval for moving the water is required. Canton Township engineer, Charles Larocque gave verbal approval and sent an email stating their approval. He would need legal agreement if moving water from one property to the other. He has since decided to keep the water all on the neighbor's property, pumping it from the neighbor's back yard to the neighbor's front drainage ditch. And thirdly, there was a discussion to have the standing water

mitigation completed as a requirement for the variance, which it is mostly completed. Mr. Watson went through the slides provided in his packet. He stated that Mr. Creamer told him that the proper permits will need to be pulled, which has been done. This pump has worked really well and has provided a benefit to all of the surrounding neighbors. Mr. Watson list 7 notable facts related to the requested variance.

- 1) The pump works and has been resolved.
- 2) This is not a typical subdivision. Herbey is a dead-end gravel street with only 11 homes.
- 3) With the 5' side yard setback, the distance from the proposed barn location to the nearest houses will be a very ample 210' and 175'.
- 4) Seven neighbors with a line of sight to the proposed barn location have provided consenting signatures.
- 5) The proposed barn location prevents extending our driveway and removing established landscaping.
- 6) The proposed barn location preserves the view of the pond and meadow for neighbors.
- 7) The proposed barn location is more convenient and secure.

Mr. Creamer, Building Official, does not feel that there is a hardship with this variance. A few questions that he has is where is the water from the roof of the pole barn will go? By code, it will need to stay on his property and not the neighbor's. What happens if there is a new neighbor and he/she doesn't maintain or properly winterize the pump? Mr. Creamer does not feel that this pump on a neighbor's property has any bearing on the requested variance.

Motion by Craig Engel, supported by John Badeen, to open the Public Hearing. Ayes: All

Gene Kaminski of 44694 Geddes Rd. is the neighbor to Mr. Watson with the water pump that is being discussed. Mr. Kaminski does not have a problem with putting up the barn because the water problem has now been fixed.

Noreen Watson stated that any new neighbor would have to maintain the pump just like any sprinkler system. Mr. Watson has worked so hard on the pump. This barn will be so far away from the other houses that these few extra feet should not make that big of a difference.

Motion by Craig Engel, supported by Greg Greco, to close the Public Hearing. Ayes: All

Mr. Engel asked how do you ensure the water coming off the roof will stay in your own property.

Mr. Watson said that there will be gutters on the barn that will be directed to the grass swale that feeds the pond. He has a pump that directs the water to the pond. The water will stay on his own property.

Mr. Badeen said that he can appreciate the work that was done for the neighbors and the neighborhood, but as Mr. Creamer mentioned, what if a new neighbor moves in and does not want to use or maintain the pump. At July's meeting, there were discussions about agreements with neighbors. The discussion about remediating the water is part of the overall framework of getting that close to the property line. The water remediation only works if neighbor #1, whoever that may be, today, tomorrow, or in 10 years, continues to use the pump.

Mr. Engel stated that the water was already on the property before any structure was built. This pump has no impact on the structure. Now with the pumping system, the water is gone. If the rainwater from the roof of this new structure stays on the applicant's property, what happens on neighbor #1's property doesn't come into play.

Mr. Badeen's concern is that if this barn is built that close to the swamp, what if the pump is not plugged in? Mr. Badeen said that if we knew that there was a duty to operate and maintain the pump, he would not have a problem with it. If the structure is built so close to the swamp, there could be a problem if the pump is not plugged.

Mr. Watson stated that he has always been right next to a swamp. There is a garage on neighbor #1's property that would get damaged before the new barn would. He can't imagine that a new owner would not maintain the pump.

Ms. Welty is leaning towards approving the variance not because of the water issue, but because of the distance from the structure to the neighbor's houses.

Mr. Engel would agree.

Mr. Badeen said he is not against the structure but he just wanted to raise some points. He would strongly suggest that there is some type of easement to allow the applicant to maintain the pump.

Mr. Engel thinks it would be neighbor #1's responsibility to maintain the pump.

Mr. Badeen said that you can make a contractual agreement between properties specifically as easements to make sure that continues or gives the Watson's the right to go onto the property to maintain the pump.

Motion by Craig Engel to approve the requested variance to reduce the side yard setback minimum of 20 ft found in schedule 26.02 to 5 ft. for the construction of a 2nd pole barn located at 3970 Herbey because is a typical non-subdivision, there is at least 170 ft. between structures, and we would require that the structure has a drainage system that will keep all water on the applicant's property.

Supported by John Badeen. Ayes: All

Variance is Approved.

4. Applicant, Brandon Shideler, for property address 8277 Sandpiper Dr, located on the west side of Sandpiper Dr. between Forest Trails and Tillotson Roads, Zoning R-5. Appealing Article V Section 78 of the Zoning Ordinance to construct a new fence just inside the property line in lieu of Article V Section 78-129 (g) which requires a fence to be 3 ft. off the property line without a neighbor's written notarized consent. Parcel ID # 010-02-0061-000 (Building)

Mr. Shideler would like to place a fence on the south side of his property less than 3 ft. off of the property line. He has no issues on the north side of the property, as that neighbor approved the fence on the property line. There is a DTE energy box on the south side of the property, which makes it impossible for him to put the fence 3 ft inside the property line. The DTE box has a sticker on it the states a certain

amount of distance that is needed around the box. This would allow him to put the fence about 6" to a foot off of the property line and still meet the minimum clearance of the DTE box. Mr. Shideler stated that he just received notice of a letter that was sent to the township from his neighbor on the west side of the property. He never knew this neighbor existed due to the approximately 50 to 100 feet of wooded area between the properties. Mr. Shideler made clear that he is not adding any fencing to this west side of the property, so this letter is irrelevant.

Ms. Welty acknowledged that a letter was received from a neighbor, Steve Tehaar, who resides at 8288 N. Canton Center Road. Mr. Terhaar has some concerns and asks the Board to decline the variance request.

Mr. Engel said that there is an existing 4 ft. chain link fence along that west side and shrubbery.

Mr. Shideler said that that fence is about 4 to 5 feet into the neighbor's property. The pine trees are planted on the neighbor's property. He does not intend to make any changes to the trees or that property line.

Ms. Welty asked why the neighbor on the south side of the property will not sign the consent letter.

Mr. Shideler said that when he asked for the neighbor's permission, the neighbor said "no" that he could just move the fence three feet in without his permission. The neighbor said that he didn't want a wood fence and that he wanted a vinyl fence, but had no plans of installing one. Mr. Shideler suggested splitting the cost of the vinyl fence, but they could not agree on a price. Mr. Shideler said that the neighbor stated he did not have a problem with the fence if it was on Mr. Shideler's property.

Mr. Creamer, Building Official, stated that the applicant is requesting a variance to install a fence without his neighbor's letter of consent as required in Section 78-129 (g). The neighbors could not agree on the location of the fence even though the applicant is paying for the entire cost of the fence. Installing the fence 3 ft. off of the property line per the ordinance puts the fence in the middle of the existing DTE power box. Mr. Creamer feels that if this is approved it should be allowed six inches inside the property line so the fence is entirely inside the property line.

Motion by Craig Engel, supported by John Badeen, to open the Public Hearing. Ayes: All

No public comments were made.

Motion by Craig Engel, supported by Greg Greco, to close the Public Hearing. Ayes: All

Mr. Greco wants to clarify that the fence would be placed six inches inside the south property line.

Mr. Shideler said that he will make sure it is completely on his property.

Mr. Creamer said that the Board has approved cases like this before.

Motion by Craig Engel to approve the requested variance to Section 78-129 (g) to install a fence just inside the property line as the DTE energy box and easements preclude any other location.

Supported by John Badeen. Ayes: All

Variance is Approved.

Motion by John Badeen to adjourn meeting. Supported by Craig Engel. Ayes: All.

Meeting adjourned at 7:53 pm

Alison Eisenbeis, Recording Secretary