

**CHARTER TOWNSHIP OF CANTON
ZONING BOARD OF APPEALS
September 14, 2023**

A meeting of the Zoning Board of Appeals of the Charter Township of Canton was held Thursday, September 14, 2023 at the Township Administration Building located at 1150 S. Canton Center Road, Canton Township, Michigan 48188.

Meeting began at 7:00 p.m.

Mark Quimby led the Pledge of Allegiance to the Flag.

ROLL CALL:

Members Present: Greg Greene, Clarence Lee, Alan Okon, Mark Quimby, Aaron Tassell

Staff Present: Patrick Sloan - Community Planner

ACCEPTANCE OF AGENDA FOR SEPTEMBER 14, 2023

Motion by Greg Greene to approve the agenda. Supported by Aaron Tassell.

Ayes: All (5-0)

Nays: None

APPROVAL OF MINUTES FOR THE AUGUST 10, 2023 MEETING

Motion by Alan Okon to approve the minutes. Supported by Aaron Tassell.

Ayes: All (5-0)

Nays: None

GENERAL CALENDAR

Patrick Sloan, Community Planner, first noted that the original agenda for tonight's meeting had a case on North Pointe Drive. That was removed from the agenda because there was a discrepancy in the public notice on the section of the Zoning Ordinance versus the section that applied. North Pointe is in a cluster development and there are different regulations for that. The North Pointe case will now be heard in October.

1. Application 036-ZBA-7912. Applicant, Timothy Liegey, for property located on the east side of Gorman Rd., south of Ford Rd. (Parcel ID 036-01-0008-000; no address). Zoning is R-3, Single Family Residential. Requesting a variance from Section 2.24(A) of the Zoning Ordinance for grading and a retaining wall in an upland area that is within the required 25-foot setback from a wetland.

Patrick Sloan, Community Planner, showed the aerial view of the parcel which is east of Gorman Rd. and south of Ford Rd. The applicant is asking for a variance from a section of the Zoning Ordinance which is the setback from wetlands. The applicant got a wetland survey of the property, and it shows that there are some uplands on the property. Mr. Sloan showed a wetland map and discussed the upland area where something could be built without having to get a State EGLE permit. However, in order to get to the upland property from Gorman Rd. to the west, it would require filling in some wetlands in order to put in a driveway. The variance from Section 2.24(A) is to allow for grading and a retaining wall in an upland area within the required 25-foot setback from a wetland. The applicant would like to put in a retaining wall that in many cases would be less than the 25 ft. buffer. The

purpose of the retaining wall is to be able to increase the grade of the upland on the site to allow the house to be built at a higher elevation. Mr. Sloan added that one of the questions he noted in his staff report dated for this September 14, 2023 meeting was the height of the retaining wall. The conclusion in the staff report is recommending tabling the case to a future date pending receipt of revised plans that address the questions in the staff report. They would like to see a survey of the wetland area with a more precise footprint of the house and the dimensions of the yard and the setback of the wall to the wetland area.

Greg Greene asked if there has been a full engineering of the area.

Patrick Sloan said that such information has not been submitted with the materials.

Mark Quimby stated that he reviewed the Zoning Ordinance, and it states that you can't have anything within a 25-foot setback and he reviewed part 303 for the State wetlands act and he did not see any mention of the required setback. He asked for clarification on what the purpose of the Zoning Ordinance is so the ZBA can evaluate whether a variance should be granted.

Patrick Sloan responded by saying that the State regulates wetlands. The Township does not have control over what an applicant gets a permit from EGLE for. If the applicant comes in and they say that they want to fill wetlands, they will have to get an EGLE permit to fill them. There is no Township jurisdiction for wetlands covered by EGLE. If a developer fills in a wetland in accordance with a permit from EGLE then the setback for the 25 feet is now required from that new wetland boundary. Our Zoning Ordinance works in conjunction with EGLE and with the State wetland act but in any cases where it could conflict with the Act then the EGLE standards would supersede the zoning regarding the wetlands.

Mark Quimby asked what the legislative intent of the 25-foot setback is.

Patrick Sloan said that by having that buffer it is less likely to have sedimentation, runoff, and other impacts. This buffer protects the wetland itself.

Mark Quimby said that he is aware of everything they need to show for qualifying for a variance. He would like to know if the Township just wants more detailed plans and if those specifics were given, would the Township be in support of it.

Patrick Sloan said that specific dimensions are needed of the house and yard to put everything to scale. It is possible that the angle of the wall could be adjusted to minimize some wetland buffer impacts. Before making affirmative findings on the practical difficulties and the reasonableness of the request, we would need to have that information.

Mark Quimby asked if this will go before the Planning Commission.

Patrick Sloan said that since it is residential, if approved by the Zoning Board of Appeals, the plans will go to Building Division and Engineering Division for further review and there would be no Planning Commission review. He stated that the applicants can always meet with staff and look at the plans and get recommendations.

Greg Greene asked if the entire upland area is surrounded by wetlands, and if building over the wetlands, who grants the permit.

Patrick Sloan stated that the driveway would require an EGLE permit to be built on the wetland area. He noted that they will need to know if the portion of the driveway that extends east of the wetland area is 25 feet from the boundary of the wetland area, as well as the distance the house will sit from the wetland area. EGLE would have to grant the permit for any work in the wetland area. Since Gorman Rd. is a County road, there would also be a County permit required for the access.

Applicant, Timothy Liegey currently resides at 1695 Woodstock, Canton MI. He said that he brought copies of the drawings with more details as well as copies of the proposed floor plan of the house. He feels that the house will fit on the upland area and the retaining wall will help to raise the grade as well as protect from flooding. He said that the size of the yard is no larger or smaller than the house to the north or south.

Greg Greene asked if the applicant has investigated the engineering of the retaining wall itself. He thinks the wall will have to withstand quite a bit of earth pressure since you'll be adding more grading.

Timothy Liegey said that the wall will have a 42-inch-deep concrete footing. The height will be at a maximum of two feet. It will be made of concrete block, rather than a landscaping block.

Trichelle Touma of 1632 Peninsula Ct., Canton, MI stated that Timothy has been in the building business for a long time. He has built homes and has a lot of experience.

Alan Okon stated that he does not have enough information to vote on this at tonight's meeting. He noted that it looks like the footprint of the house is 3,500 sq. ft. He would like to know what the hardship is. That is what the Board will need to determine. Is there really a hardship with a 3,500 sq. ft. house that does not fit in the areas that are not wetlands.

Timothy Liegey said that the house he is planning to build is only around 2,700 sq ft. not the 3,700 drawn on the submitted documents.

Alan Okon stated that's part of the information that they do not have. He must know what the hardship is based on the proposal. He would recommend tabling this item.

Timothy Liegey stated that the hardship is the width of the property. It is only about 135 feet. If you take 50 feet off of that you end up with only 88 feet.

Alan Okon said that he understands that, but the property is large enough to build a home, but maybe the garage would have to be in the front or a different location. He would be looking for a hardship other than a general statement that a particular type of home can't fit in the space shown.

Timothy Liegey said if this lot was easy to build on, there would probably already be a house there. He thought that protecting the wetland with a solid border would be a compromise.

Alan Okon said that he just needs more accurate information. Are they asking for a 1-foot variance or a greater variance?

Mark Quimby said that he agrees with a lot that Alan said. He noted the ZBA can grant variances, but there are criteria that must be met. He would need to see a survey. A hand drawn sketch is not enough to base a decision on.

Alan Okon suggested to come back with a plan showing the hardship.

Clarence Lee stated that he calculated 3,700 sq. ft. on the first floor and wanted to know if that is accurate. He also asked why the plan for the wall is broken in the back.

Timothy Liegey said that 3,700 sq. ft. is not the correct number. There was going to be either stairs or a slope to access the rest of the yard in the area of the missing wall.

Mark Quimby asked if the applicant has contacted EGLE yet for the driveway.

Timothy Liegey said that he needs to get the survey done before he can submit for that.

Greg Greene asked if there is going to be a slab or basement.

Timothy Liegey said he plans for a basement and that is why he would like the retaining wall so he can keep the basement up higher.

Clarence Lee asked what is being developed across the street from the property.

Timothy Liegey said that it is a proposed assisted living development. Monark Grove was discussed.

Motion by Greg Greene, supported by Alan Okon, to open the Public Hearing at 7:42 pm.

Ayes: All (5-0)

Nays: None

No one in the audience wished to speak.

Motion by Alan Okon, supported by Aaron Tassell to close the public hearing at 7:43 pm.

Ayes: All (5-0)

Nays: None

Motion by Greg Greene to table the variance from Section 2.24(A) of the Zoning Ordinance based on discussion and the staff report.

Supported by Alan Okon.

Ayes: All, (5-0)

Nays: None

Variance has been tabled.

MISCELLANEOUS

Sloan stated that the ZBA packets are now digital and emailed to ZBA Members, and there are some slight changes to the agenda format. He also stated that there may be some upcoming changes to the section of Zoning Ordinance that has standards for variances and appeals. They are hoping to narrow down the 18 variance review criteria to make the review process simpler.

Greg Greene asked if Mr. Sloan can divulge things that are happening around that project like the new development across the street on the west side of Gorman Rd. Patrick Sloan said that Monark Grove has been approved but development has not yet started. Sloan does not know what the current status of that project is.

Greg Greene noted that because of the approval process with EGLE and Wayne County it may be a very long time until the applicants start construction.

Motion by Alan Okon to adjourn meeting. Supported by Clarence Lee.

Ayes: All, (5-0)

Nays: None

Meeting adjourned at 7:51 pm.

Alison Eisenbeis, Recording Secretary