

**CHARTER TOWNSHIP OF CANTON
ZONING BOARD OF APPEALS
January 11, 2024**

A meeting of the Zoning Board of Appeals of the Charter Township of Canton was held Thursday, January 11, 2024 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, Mark Quimby, Tareq Rahman

Members Absent: Aaron Tassell

Staff Present: Patrick Sloan - Community Planner

Congratulations were given to Tareq Rahman on becoming a full-time Zoning Board of Appeals Member, and congratulations to Clarence Lee for also being appointed to the Planning Commission and being the Planning Commission's representative on the Zoning Board of Appeals.

ACCEPTANCE OF AGENDA FOR JANUARY 11, 2024

Motion by Clarence Lee to approve the agenda. Supported by Greg Greene.

Ayes: All (4-0)

Nays: None

APPROVAL OF MINUTES FOR THE DECEMBER 14, 2023 MEETING

Motion by Greg Greene to approve the minutes. Supported by Clarence Lee.

Ayes: All (4-0)

Nays: None

PUBLIC HEARINGS AND NEW BUSINESS

1. Application 057-ZBA-8041. Applicant, Kyle Selter, for property located at 1952 Elmhurst St., Canton, MI 48187, which is located at the east side of Elmhurst St. between Ford Rd. and Saltz Rd. (Parcel ID 057-01-0274-000), Zoning is R-5, Single-Family Residential. Applicant requests variances from the following sections of the Zoning Ordinance: Article 26, Section 2 and Section 2.03(D)(3) for a 5-ft minimum side yard setback and combined total side yard of 15 ft.

Patrick Sloan, Community Planner, summarized his staff analysis dated for the January 11, 2024 ZBA meeting. He stated the application is for the replacement of a detached accessory building at 1952 Elmhurst Avenue. The building is a garage that was recently damaged when an adjacent property owner was removing trees. The adjacent property owner's tree had damaged the building and it was determined that the building would have to be replaced. It was determined that this was a nonconforming building, meaning that it was legal at the time it was built, but because of a change to an ordinance it become nonconforming. If any nonconforming structure is repaired more than 50% of its value, then it can't be rebuilt as it currently was. Therefore, it will have to comply with the current Zoning Ordinance. The Zoning Ordinance requires the minimum side yard setback is 5 feet and the total side yard setback is 15 feet. Mr. Sloan stated that currently the garage is about 2.9 feet from the

side lot line. If the applicant were to reconstruct the building in accordance with the Zoning Ordinance, the new garage would have to shift two feet northward. If it must be moved the two feet, it would then be off the existing pad and it creates some alignment issues with the driveway. A tree may also be impacted if the driveway must be widened or if the building needs to be shifted. The proposed garage measures 21 ft. x 21 ft. with 1-foot overhangs. The applicant proposes to use the existing slab. The southern façade is proposed to maintain the current setback of 2.9 ft. The proposed overhang would be roughly 6 inches closer to the lot line. Looking at the criteria in Section 27.05(D) of the Zoning Ordinance, the Planning Division finds that the application meets the criteria for a variance since there is a practical difficulty and that there were circumstances that were beyond the applicant's control that caused the damage to the building. There is also a practical difficulty for constructing in accordance with the Zoning Ordinance due to vehicle circulation, an existing tree on the site, and usability of the property. There are a few concerns with some of the changes to the building and some of the potential impacts on storm water management. Planning Division staff recommends that the southern facade be no closer to the southern lot line than the current facade. The second condition is that the overhang be no closer to the southern lot line than the current overhang. The third condition is that the southern wall be fire rated if any portion of it is within 3 feet of the southern lot line. For the third condition, part of that is due to the proximity to the lot line if the neighboring property. For example, if the neighbor to the south chooses to eventually install a fence, then there is less than foot separation which could cause emergency response issues. Staff recommends that the southern wall be fire rated. The fourth condition is that gutters be installed on the southern façade to collect storm water and direct it away from adjacent property.

Applicant had no comments to add.

Motion by Greg Greene, supported by Clarence Lee, to open the Public Hearing at 7:11 pm.

Ayes: All (4-0)

Nays: None

No one in the audience wished to speak.

Motion by Greg Greene, supported by Clarence Lee to close the public hearing at 7:11 pm.

Ayes: All (4-0)

Nays: None

Rahman asked if this new structure is to be placed on the existing pad.

Sloan said that is correct.

Greene asked since the slab is still there, doesn't that constitute a basis for a "grandfathered" situation?

Sloan said that for Zoning Ordinance compliance, it does not. Sometimes Building Code will allow for reconstruction. However, with a nonconforming structure, the Zoning Ordinances does not allow reconstruction if it is more than 50% damaged. Therefore, the applicant must comply with both the Building Code and the Zoning Ordinance.

Motion by Greg Greene to adopt the model motion with the four conditions, as prepared by staff in its January 11, 2024 report. This motion states approval of the request for the variance from Section 26.02 of the Zoning Ordinance to allow construction of a detached accessory building with in the minimum side yard setback on the subject property (2.9 feet from the southern lot line) on parcel 057-01-0274-000 at 1952 Elmhurst Ave., as illustrated on the plans and described in the Staff

Analysis, based on the application meeting standards of Section 27.05(D) of the Zoning Ordinance, as noted in the Staff Analysis, subject to the following conditions.

- 1. Southern façade to be no closer to the southern side lot line than the current façade;**
- 2. Overhang to be no closer to the southern lot line than the current overhang;**
- 3. Southern wall to be fire-rated if any portion of it is within 3 feet of the southern lot line; and**
- 4. Gutters to be installed and maintained on the southern façade to collect stormwater and direct it away from the adjacent property.**

Supported by Tareq Rahman.

Ayes: All, (4-0)

Nays: None

Variance is approved with conditions.

MISCELLANEOUS

1. Discussion – Proposed Zoning Ordinance Amendment – Zoning Board of Appeals

Sloan stated that on the Planning Commission held a public hearing on January 8, 2024. There were no public comments received. The Planning Commission recommended approval unanimously. Now the Ordinance amendment will proceed to the Township Board of Trustees for two readings, and if it is approved, it will probably go into effect probably late February or March.

Quimby asked if this approval is just for cleaning up of the Ordinances or for changes in the Fence ordinance as well.

Sloan said that the Fence ordinance will be separate. It will be a few more months until the Fence ordinance is adopted. There may be a public hearing with the Planning Commission as early as March, with readings with the Township Board of Trustees in March and possibly adoption in April.

Quimby asked if the notarized letter is going to be part of that.

Sloan said that the draft Fence ordinance does not required a notarized approval letter unless the fence is directly on the lot line.

Motion by Clarence Lee to adjourn meeting. Supported by Tareq Rahman.

Ayes: All, (4-0)

Nays: None

Meeting adjourned at 7:20pm.

Alison Eisenbeis, Recording Secretary