

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF REGULAR MEETING HELD
JULY 8, 2008

LOCATION: MACOMB TOWNSHIP MEETING CHAMBERS
54111 BROUGHTON ROAD, MACOMB, MI 48042

PRESENT: CHAIRMAN, BRIAN FLORENCE
MEMBERS: EDWARD GALLAGHER
NUNZIO PROVENZANO
DAWN SLOSSON
TERRY CAMPION

ABSENT: NONE

ALSO PRESENT: COLLEEN O'CONNOR, TOWNSHIP ATTORNEY
JEROME R. SCHMEISER, PLANNING CONSULTANT
(Additional attendance record on file with Clerk)

Call Meeting to Order.

Chairman FLORENCE called the meeting to order at 7:02 P.M.

1. Roll Call.

Secretary SLOSSON called the Roll Call. All members present.

2. PLEDGE OF ALLEGIANCE.

3. Approval of Agenda Items. *(with any corrections)*
Note: All fees have been received and all property owners were notified by mail.

MOTION by GALLAGHER seconded by CAMPION to approve the agenda as presented.

MOTION carried.

4. Approval of the previous meeting minutes.

MOTION by GALLAGHER seconded by SLOSSON to approve the meeting minutes of May 13, 2008 as presented.

MOTION carried.

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MOTION by SLOSSON seconded by PROVENZANO to approve the meeting minutes of June 16, 2008 as presented.

MOTION carried.

PURPOSE OF HEARING:

To consider the requests for variance(s) of Zoning Ordinance No. 10 for the following:

Agenda Number/Petitioner/ Permanent Parcel No.	Zoning Ordinance Section No.
(5) Chippewa Valley Permanent Parcel No. 08-30-200-015	10.0335 10.0704(D)(2)(b)

5. VARIANCE FROM THE PROVISION OF THE ZONING ORDINANCE;
Section: 10.335 – Permission to vary the street frontage from 70 feet to 60 feet.
Section 10.0704 D-2-b- Permission to vary a side yard setback from 7.5 feet to .7 feet.
Located on the west side of Garfield Road, ½ mile north of 21 Mile Road; Section 30; Chippewa Valley, Petitioner. Permanent Parcel No. 08-30-200-015.

Chairman FLORENCE stated there had been two items previously considered at the May 13, 2008 meeting which had been granted variances and the Clerk’s Office wanted clarification on the granting of Section 10.0704(D)(2)(b). He then referred the item to Jerome R. Schmeiser for further interpretation.

Jerome R. Schmeiser, Planning Consultant, read the findings and recommendations of July 1, 2008. They are as follows:

On May 13, 2008 the Board of Appeals acted to grant the petitioner the above-captioned variances. However it is unclear as to the request or the action taken by the Board on the side yard setback. The neighbor to the west (Lot 469 of the Jefferson Meadows Subdivision 5 had installed a concrete pad and a series of landscape timbers on Lot 469. Both the timbers and the concrete pad extend .7 feet onto the petitioner’s property. It was thought at the time of the Board action that a variance allowing the timbers and concrete pad to encroach into the yard setback would solve the problem. However it has become unclear and further discussion and action is needed by the Board of Appeals.

It is recommended that the Board of Appeals rescind their action of May 13, 2008 which granted the side yard variance. It is suggested that the petitioner take action to have the concrete and wood timbers which encroach onto their property be removed. It is recognized that this suggestion will require that the petitioner request the owner of Lot 469 to remove the concrete and wood timbers from their property.

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Chairman FLORENCE stated in order to proceed forward with the discussion that a motion needed to be made to reconsider the motion of May 13, 2008.

MOTION by GALLAGHER seconded by CAMPION to reconsider the previous motion of May 13, 2008 pertaining to Section 10.0704(D)(2)(b).

MOTION carried.

Craig Duckwitz, petitioner, stated he originally thought the only variance that would be needed would be the street frontage setback, which had been granted. During the request for the parcel split it had been found that the concrete pad encroaches onto the subject parcel which requires the need for the for the side yard setback variance, which had also been previously granted on May 13, 2008. He then indicated that the school has no intention of placing lots along the area of Lot 469 of Jefferson Meadows. Furthermore, there is currently a draft of a conservation easement, but it can't be signed until the school owns the property, which can't be done until the parcel split is granted by the Township.

He stated he had a concern approaching the property owner to remove the concrete slab since the school or the Manthey's had no issues with its location. Chippewa Valley needs to proceed forward with the split since the draft of the Conservation Easement is time sensitive. The development would consist of using three of the seven acres.

Chairman FLORENCE questioned what impact would occur if a variance was not granted.

Jerome R. Schmeiser, Planning Consultant, stated the requested split would not take place if the concrete slab was not addressed and/or removed.

Colleen O'Connor, Township Attorney, questioned what problem there was with the language of the previous motion granting the variance.

Member CAMPION questioned if the owner of lot 469 were allowed to encroach into the sideyard setback, what prevents other neighbors backing to the area from encroaching into the sideyard as well. She also questioned, if the homeowners had been notified of this problem.

Jerome R. Schmeiser, Planning Consultant, stated that all neighbors had been notified by a 300 foot mailing.

Chairman FLORENCE stated if the Board to restate the motion of Section 10.0704(D)(2)(b) request permission to allow a .7' encroachment into the 7.5 foot setback from the adjacent property.

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Colleen O'Connor, Township Attorney, questioned why not contact the owner of Lot 469 of Jefferson Meadows. Furthermore, she has a concern over the granting of a variance when the property owner has never been approached to remove the concrete.

Craig Duckwitz stated the school wants to be a good neighbor. There is 8" of concrete encroaching onto the school properties, we are not encroaching onto the property. He stated he did not feel there was a need for a variance.

MOTION by PROVENANO seconded by SLOSSON to rescind the motion of May 13, 2008 pertaining to Section 10.0704(D)(2)(b)-Permission to vary a side yard setback from 7.5 feet to .7 feet.; Located on the west side of Garfield Road, ½ mile north of 21 Mile Road; Section 30; Chippewa Valley, Petitioner. Permanent Parcel No. 08-30-200-015.

MOTION carried.

MOTION by FLORENCE seconded by GALLAGHER to vary Section 10.0704(D)(2)(b)-Permission to allow .7' encroachment from adjacent property and that no proposed lots will abut to Lot 469 of Jefferson Meadows; Located on the west side of Garfield Road, ½ mile north of 21 Mile Road; Section 30; Chippewa Valley, Petitioner. Permanent Parcel No. 08-30-200-015.

**Opposed-CAMPION
MOTION carried.**

6. OLD BUSINESS

None.

7. NEW BUSINESS

None.

8. PLANNING CONSULTANTS COMMENTS

None.

ADJOURNMENT

MOTION by CAMPION seconded by SLOSSON to adjourn the meeting at 7:36 p.m.

MOTION carried.

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Respectfully submitted,

Brian Florence, Chairman

Dawn Slosson, Secretary

Beckie Kavanagh, Recording Secretary

BK