

**CHARTER TOWNSHIP OF CANTON
ZONING BOARD OF APPEALS
May 13, 2021**

A meeting of the Zoning Board of Appeals of the Charter Township of Canton was held Thursday, May 13, 2021 via electronic remote access.

Vice-Chairperson, Vicki Welty called the meeting to order at 7:05pm.

ROLL CALL:

Members Present: Vicki Welty - Canton Township, Mi; Greg Greco - Canton Township, Mi; John Badeen - Canton Township, Mi; Craig Engel – Canton Township, MI

Staff Present: Erik Perdonik, Planner I; Patrick Sloan, Community Planner

APPROVAL OF MINUTES FOR THE April 8, 2021 MEETING

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

Ayes: All on roll call vote.

ACCEPTANCE OF AGENDA FOR May 13, 2021

Motion by John Badeen, supported by Craig Engel to accept the agenda as presented.

Ayes: All on roll call vote.

AGENDA ITEMS

1. Applicant, Scott Griffin, representative of Griffin Properties, for property located at 45490 Michigan Avenue, located on the north side of Michigan Avenue between Old Canton Center Road and Canton Center Road, Zoning C-3. Variance request from Article 2, Section 2.14 (A)(1) (Dumpster located in front yard) and Section 4.02(B)(1) – (Loading space located in front yard) of the Zoning Ordinance. Parcel ID 129-99-0002-710 (Planning).

Representative, Dan LeClair, from Greentech Engineering is representing Property Owner, Scott Griffin. Mr. LeClair described how this triangular piece of property sits between Canton Center Road and Old Canton Center Road, therefore, it has frontage on two county roads which makes it a very tough property to develop. They are asking for two variances, the first for a dumpster to be located in a front yard which Mr. LeClair believes a variance has been passed in the past. The second variance is for a loading area to be in the front yard. The car wash fronts Canton Center Road. The best layout that they could come up that maximizes the use of the property places the loading area to the north of the northerly building. Because of the shape of the property, the loading area would have to be either in the front yard of Canton Center or front yard of Old Canton Center Road.

Canton Township Planner I, Erik Perdonik, confirmed that the same variances have been approved by the ZBA in the past. Staff feels that there are practical difficulties which makes it

almost impossible to develop this lot without one of these items being in the front yard area. Staff would recommend approval since several of the findings as noted on the staff report are met.

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

No one from the public wished to speak.

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

Mr. Engel would be in support due to the practical difficulties.

Ms. Welty noted that this topic was brought before the ZBA a couple of times before, and she supported each time, and she would be in support of this variance also.

Motion by Craig Engel to approve the request for the variance of the front yard location of the dumpster, Section 2.14 (A) (1) and the request for the variance of the front yard location of the loading space Section 4.02 (B) (1) at 45490 Michigan Avenue as stated on the application and illustrated on the submitted plans because the variance request meets the standard of Section 27.05 (B) of the Zoning Ordinance.

Supported by John Badeen. Ayes: All on roll call vote.

Variance is granted.

2. Applicant, Ian Lee, for property located at 50201 Cherry Hill Road, located on the south side of Cherry Hill Road between Ridge Road and Denton Road, Zoning Cherry Hill Village Overlay District with an underlying RA zoning. Variance request from Article 6, Section 6.09.C.1 (lot area) of the Zoning Ordinance. Parcel ID 073-99-0005-001

Mr. Ian Lee resides at 50201 Chery Hill Road. His house sits on an oversized double lot and he is looking to get a variance to split his parcel to sell it separately from his house.

Ms. Welty asked what makes this unique or if there are any practical difficulties.

Mr. Lee said he was told that he was not able to split the lot due to the size of the lot. He was told that the lot must be minimum of 120 feet in width and 30,000 sq. ft. in area. The reason that he is against that is because there are properties around him do not fit these guidelines. He noted three surrounding properties with in eyesight of his property that do not meet these guidelines.

Mr. Badeen asked him what the frontage is of the three surrounding properties.

Mr. Lee included the dimensions with his application.

Mr. Badeen noted from the application that there are three neighbors, one at 71 feet, one at 55 feet and one at 74 feet. Mr. Badeen asked if the Township can confirm that those 3 properties are part of the same overlay and zoning.

Canton Township Planner I, Erik Perdonik, confirmed that those properties are subject to the same overlay and zoning. The question with the surrounding properties would be whether they comply with the design standards of the Cherry Hill Village district or not. If they didn't, then they would be non-conforming.

Mr. Badeen asked if they all have houses on those lots.

Mr. Lee stated, "Yes."

Mr. Perdonik stated that a variance isn't really required to meet the standards of the ordinance in this case to split the lot. The applicant, under the alternative, would likely be able to get 3 lots out of this property. The fact is that the existing house is currently not in compliance with the Cherry Hill Village design standards. If that house was brought up to the design standards and met the ordinance as it stands today, he could go narrower in width on those lots. He'd certainly be able to achieve the split that he is seeking tonight. The ordinance is setting up a structure where it's an incentive to bring a house up to the design standards in order to have this benefit of being able to create smaller lots.

Mr. Engel asked Mr. Perdonik what part the current house does not comply with the Cherry Hill overlay district.

Mr. Perdonik does not believe that any aspect of the house currently complies with the standards since it predates the Overlay District completely.

Mr. Badeen asked if the other properties that were discussed are also grandfathered or pre-existing before the overlay district.

Mr. Perdonik stated that yes, they were.

Mr. Engel asked if the existing properties comply with the design standards of today.

Mr. Perdonik stated that that is a question that can't be answered today in regards to the surrounding properties, however, it is known that the house at 50201 Cherry Hill does not comply because it was built before the Overlay District was started. The intent of the ordinance is to make non-conforming homes conforming.

Mr. Engel asked if Mr. Lee's house was conforming he would be able to go through the regular process of land division of separating the lots.

Mr. Perdonik said that is correct and he may be able to get even more lots than he is requesting tonight.

Ms. Welty asked Mr Lee if he was aware of this.

Mr. Lee stated that he did receive an email this morning about this.

Ms. Welty asked what would be involved in bringing his house up to the Overlay standards.

Mr. Perdonik said that it would likely require an entire exterior renovation to meet the architectural standards.

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

Cornelius Van Spronsen, resident at 50166 Harding Street, lives directly behind this property. He stated that Harding street runs parallel to Cherry Hill. There is an alley that runs between these properties which is where his garages open up to. He is questioning if more houses were built along Cherry Hill and required to also use the alley, would these homes also have to pay dues to the Cherry Hill Village Homeowner's Association for upkeep of the alley.

Mr. Engel asked who owns the alley.

Mr. Van Spronsen thinks it is Cherry Hill Village.

Mr. Badeen explained that the Overlay District which is a government regulation which sets the standard for architecture and construction and then the HOA which is more of a private contract that runs with property ownership.

Mr. Lee stated that he was never asked to join the association and he does not use the alley. He has a driveway off of Cherry Hill. He said that he thinks if new house was built on the split lot, they would have to conform to the style of Cherry Hill Village, and have access to the garage from back alley.

The ZBA members aren't sure if Mr. Van Spronsen's questions can be answered today with out being familiar of all the particulars of Cherry Hill Village standards.

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

John Badeen explained that he has trouble saying you can't split just because of where your property lies because it's near some other development. He also isn't sure that this meets the

zoning requirements for hardship and unique circumstances. Mr. Badeen's thoughts would be to table this for a month and allow Mr. Lee time to gather more information.

Mr. Engel asked what year the house at 50201 Cherry Hill was built.

Mr. Lee responded by saying either 1957 or 1958.

Discussion continued in regards to what is needed to make this house conforming and if the alley access be required and allowed by the HOA.

Patrick Sloan, Canton Township Community Planner, noted that what they look at in regards to the Cherry Hill standards is is compliance with the ordinance possible. In this case, yes, the house could be brought up to the Cherry Hill standards in order to get the house split. That is a standard that the current application fails in terms of whether they meet a practical difficulty. What they would have to do at the very least, is move the house closer to the road to meet the build to line, to add features to the front of the house to make it consistent. If the owner does not wish to comply with these standards, the Zoning Ordinance allows them to continue with the non-conforming lot and a non-conforming structure as long as there aren't any changes.

Mr. Badeen and Mr. Engel questioned some items of compliance such as moving the house, and having access to the back alley.

Mr. Sloan stated that they wouldn't have to move the house, he would need to add onto the front of the house to make it a conforming set-back. There is a maximum setback in Cherry Hill Village. The house has to be closer to the street. Even if he did not want to add onto the front of the house, we still don't think that there is a practical difficulty because the Zoning Ordinance allows him to retain his existing lot. The Cherry Hill Village district acknowledges that there will be existing lots in the district that will remain existing lots. The Zoning Ordinance says that the standard minimum frontage and the minimum square footage of the lot area. Mr. Sloan stated that any new home must comply. The lot could not be created unless the resulting house complied, because then it would just be making the house's lot more non-conforming.

Ms. Welty summarized by saying you have a 60 year old house that was there before Cherry Hill Village that has now has to bring itself up to Chery Hill Village's standards before they can sell a lot next to them that will qualify if they are up to Cherry Hill standards but will not qualify if they are not.

Mr. Sloan stated that if the applicant choses not to bring his house up to Cherry Hill Village Standards, the Zoning Ordinance allows that house to continue as a non-conforming structure and can continue to use the lot as it currently is.

Discussion continued about alley access and the Cherry Hill Village standards.

Mr. Badeen stated the lot will become less conforming, but that opens up the possibility of the new lot to be conforming. That new lot split off could be developed to the overlay standards.

Mr. Engel reiterated that unless 50201 Cherry Hill decides to become conforming, nothing can happen on the other lots.

Mr. Badeen stated that he can split the lots if the Zoning Board decides he can. Then he will be able to split the lots and the new lot can be built and comply on according to the Cherry Hill Overlay standards.

Mr. Sloan agreed that the Zoning Board can decide to allow the lot to be split, however, this will make the existing parent parcel even less conforming. If by splitting the lot, you are not creating more conformance with the ordinance, your creating less conformance with the lot that's there. This is bypassing the intent of the ordinance to incentivize existing structures to meet Cherry Hill Village standards.

Mr. Engel asked, "What is the incentive that you are giving him?"

Mr. Sloan said that Mr. Lee would not have to apply for a variance in order to split the lot.

Mr. Engel stated that in bringing the 1950's house to 2020 standards, compliance would be costly but if we do nothing that piece of property just sits there. It would be a non-conforming house on a large piece of property for years to come.

Mr. Sloan noted that there have been homes that have been brought into compliance, some have been demolished and some have been rehabbed.

Ms. Welty asked if we have a practical difficulty having a house that was built before the Overlay.

Mr. Engel noted that is a difficulty. The house was there first.

Mr. Badeen added that he also doesn't have access to the alley as required by the overlay.

Mr. Sloan said that we don't know that access from the alley would be prohibited. Staff does not feel that there is a practical difficulty because there is nothing preventing him from continuing the use of his lot as it has been used for the last several decades.

Ms. Welty laid out some alternatives for Mr. Lee. She noted that there is a Board member missing he would need three votes to pass this variance tonight. She said he could table this discussion for a month in order to get some answers to these pending questions and allow Mr. Lee some time to think about the email he received this morning.

Mr. Lee would be ok with tabling this. He said that making his house up to the standards of Cherry Hill Village he would need access to the back alley. That would not be feasible.

Ms. Welty said that would not be the only expense, he'd also have to bring the house out to meet the maximum front yard set back.

Mr. Lee would be in favor of tabling this until next month so everyone has time to gather more information.

Motion by Craig Engel, supported by John Badeen to table this agenda item to the next meeting. Ayes: All on roll call vote.

3. Applicants Sam Hamade and Amir Berry, representatives of H2Glow Carwash, vacant property located on the west side of N. Canton Center between Cherry Hill Rd. and Baywood Rd., Zoning C-2 (front) and R-3 (rear). Appealing Article 6, Section 6.02(D)(5) (bay doors facing onto adjacent thoroughfare) of the Zoning Ordinance.

Mr. Hamade asked if he could reschedule or withdraw his application at this time due to some unforeseen events.

Mr. Sloan stated that notices were sent out to the public and published in the newspaper, and there are people in the audience that came for this hearing.

Mr. Hamade stated he would be willing to incur the costs of mailing out letters. The reason for needing to postpone is due to some of the issues that were done when they filed. He did not wish to go into details but would like time to speak with the Supervisor and the board separately if possible.

Mr. Sloan stated that The Zoning Board of Appeals can table this with the understanding that there will be a re-hearing and will notice the re-hearing in accordance with the Zoning and Enabling Act. When and if it does come back the Township will reschedule the public hearing at that time.

Motion by Craig Engel, supported by John Badeen to table this agenda item to the next meeting. Ayes: All on roll call vote.

Motion by John Badeen to adjourn meeting. Supported by Craig Engel. Ayes: All on roll call vote.

Meeting adjourned at 7:57 pm

Alison Eisenbeis, Recording Secretary