

CLINTON TOWNSHIP BOARD OF APPEALS

REPORT OF MEETING

WEDNESDAY, JUNE 20TH, 2018

PRESENT: Francis Marella, Chairperson
James D'Angelo, Vice-Chairperson
Robert M. Campbell, Secretary
Michael Deyak
Kenneth Pearl
Denise C. Trombley

ABSENT: Ernest Hornung (Excused)

STAFF: Carlo Santia, Director
DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

The meeting was called to order at 6:30 p.m.

APPROVAL OF AGENDA

Motion by Mr. Campbell, supported by Mr. D'Angelo, to approve the agenda as submitted. Motion carried.

Mr. Marella explained the parameters under which this Board can act and how the public hearing will be conducted. He further explained that, as stipulated in the Township Ordinances, all variances granted by the Board of Appeals are subject to several standard conditions as follows: 1) The petitioner must comply with all applicable requirements of Township ordinances; 2) The project work requiring the variance must be completed within two years of the date that the variance was granted; 3) The project work must be completed substantially in accordance with the plans submitted to the Board of Appeals; and 4) The variance is valid only for the useful life of any structure(s) on the property for which variance is granted.

**LOT 55 & OUTLOT D, HARPER METROPOLITAN PARKWAY SUBDIVISION,
LOCATED N/MARSTON, E/TESENS, ADDRESSED AS 23921 DONALDSON**

- APPEAL: SFR – MARSTON, 23921

FILE #18-6826: PETITIONED BY MS. NICOLE SATTERFIELD

Mr. Campbell summarized the variance being requested and read the Planner Review letter dated June 4th, 2018 into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 100 owners and/or occupants of property located within 300 feet of the land in question, with none of those returned as undeliverable. He added that there was one written response received from an anonymous neighbor in objection to the variance request.

Ms. Nicole Satterfield, 23921 Marston Street, Clinton Township, Michigan 48035, stated she objects to the letter read into the record from an anonymous neighbor. She claimed she has letters of support from all her neighbors, so she does not know who sent the letter that was read. She stated her chicken coop is cleaned every day, noting she cleans out the chicken “droppings” every day and uses them as fertilizer in her garden. She thanked the Board for providing her an opportunity to come before them this evening, and she claimed that, according to Township Ordinance 610.02, it states “fowls are allowed on property but not allowed to run on other people’s property without their permission”. She submitted a copy of that ordinance. She cited Webster’s dictionary as defining a “fowl” as a cock, a hen, a chicken, domesticated. She insisted she is not running a “farm” and she is not raising poultry for slaughter, but these are her three pet hens. She noted she has an autistic child who plays with them and loves them, and they greatly help when he has his outbursts.

Mr. Santia clarified that the ordinance cited by Ms. Satterfield is not part of the Planning and Zoning Code, but it is part of the Township’s Codified Ordinances. He replied to inquiry that it does not take precedence over the Zoning Ordinance.

Ms. Satterfield claimed it does not state in the ordinance that she cannot have chickens as pets. She further claimed they are domesticated, do not bother anyone, there is no smell on her property, and they eat the ticks, worms and other bugs, so her children are being protected. She stated they have had their hens for about three years, and they are named Eliza, Henrietta and Lindsay Lohan. She added they can tell them all apart because they are unique and personalized. She claimed that chickens are being brought into nursing homes now to help patients who suffer from Alzheimer’s. She assured they are not wild or vicious, and they do not make noise. She offered to share pictures with the Board of Appeals members but informed them that the judge would like them back. Ms. Satterfield stated she has no neighbors to the east because she owns that adjacent parcel. There is an apartment complex to the north, so her yard abuts the parking lot. She has a neighbor to the west who she claimed has no objections. She explained her neighbor across the street is here tonight in support of her, plus they submitted a letter of support. She pointed out her backyard is fenced, and she had submitted a drawing of their yard and the chicken coop. She reiterated

they are not raising chickens for slaughter, and their wings have been clipped so they cannot fly. There are three roosting beds in the coop, and she reiterated her yard is fenced in. She claimed her neighbors five lots away has chickens and a duck, and they went before a judge, who approved their request.

Mr. Pearl inquired as to which judge heard that case.

Ms. Satterfield replied she does not know the specific judge, but it is the Snyder family who reside on Tessens, and it occurred about two years ago.

Mr. Pearl explained this Board is quasi-judicial, and if the Board denies this request, the petitioner has the right to take this to Circuit Court because the judge can override the decision of this Board.

Mr. Santia noted that if they were issued a violation, that would go to District Court, but that does not change the fact that the ordinance does not allow chickens.

Ms. Satterfield stated the judge advised them to seek a variance from the Board of Appeals before they go back to court.

Mr. Pearl admitted the judge may have directed them to go in front of the Board of Appeals, but a District Court judge does not have the authority to override this Board.

Ms. Satterfield commented that they have had their hens for almost three years and have had no issues to this point. She reiterated she is not running a farm, and added the chickens love to be petted, noting the neighborhood children come over all the time and love them.

Ms. Rebecca Mione, 23936 Marston Street, Clinton Township, Michigan 48035, stated she had no idea her neighbors had chickens until they told her. She assured they are well-maintained in their coop in their yard, and there is no odor. She added her children love to go over and play with the chickens, and she enjoys the eggs. She commented they are very friendly animals, and she has not observed any evidence of rodents or experienced any other issues. She stated she likes all three of the little hens.

Mr. Scott Manuel, 23921 Marston Street, Clinton Township, Michigan 48035, who lives with Ms. Satterfield, stated the neighbors five houses away have chickens and a duck. They went to court and won the case. He claimed the neighbors were told by the judge that if the Township's Ordinance Enforcement Officers try to enter their property for any reason, the judge will come down on them. He stated he has stacks of paperwork from their attorney and has copies of everything from that entire court case, noting they have done major research on this issue and have discovered that state laws trump city and township ordinances. He stated they contacted their neighbor's attorney, who had won the case, but she was not able to take this case, so she referred them to Mr.

Kennedy, who is currently representing them in this case. Mr. Manuel stated they have had the three hens for three years and got them as chicks for about \$3 each. He stressed they currently have over \$4,000 invested in these chickens. He explained there is a wall behind them that separates their property from the Newberry Apartments, and he claimed it is basically field on the other side of that wall. There is a dumpster at that location, which is where he claimed their rat issue is coming from. He claimed the apartment complex has taken no initiative to curb the rat issue, and all they have is a bait box covered in cobwebs. He stated he has taken it upon himself to buy bait and fill their bait box to try to keep the rodent problem down in the area, noting that their chickens have killed two rats. Mr. Manuel emphasized they have no odors and use lavender plants to curb the flies and the problems. He stated they subscribe to a chicken magazine and read it every day. He claimed all their neighbors love them and they take them for walks on leashes, adding that they are wonderful hens. Mr. Manuel suspected the identity of the objecting neighbor, and stated she is a shut-in and does not come out of the house more than once or twice a week. He stressed he loves his chickens, and added that they are very clean people, doing everything in their power to keep their chickens and coop clean. He claimed there is no way anyone would know there was a chicken at their house, even with surveillance, because they cannot be seen from the road.

Mr. Manuel claimed the Ordinance Enforcement officer has entered his property illegally, and he has it on his surveillance camera on three different occasions, which he does not condone or allow. He stated the original complaint was anonymous and he believed the only reason they are here today is because he did not know at the time to clip the chickens' wings. They had a deck in their rear yard, the chicken had hopped up onto something on the deck and then hopped over the fence, so Mr. Manuel claimed the chickens got loose one time for about five minutes, adding they have never gotten out since. He stated they are now looking into new fencing and they have clipped the chickens' wings to keep them from getting out. He showed pictures of the chickens and their coops.

Mr. Campbell clarified that when an applicant signs a Board of Appeals application to seek a variance, they need to realize they are giving the Board of Appeals members permission to come on to their property.

Mr. Manuel stated he has no problem with that and welcomes all the Board of Appeals members.

Mr. Campbell stated this Board has never dealt with the issue of chickens before, so the court case involving the neighbor comes as a surprise to him. He felt if those neighbors were appealing a violation issued by the Township, the appeal would have come before this Board, so having a judge resolve it without that step is very unusual. He felt it would be appropriate to postpone this and give the Planning Department an opportunity to research the history of the other case from the Building Department, find

out what happened, and relay that information back to this Board so they can address it. He explained his wife took an interest in this case and did a lot of online research, finding out that this is a current trend across the country. He felt it is appropriate that the Township Board take under advisement some update to the ordinance dealing with animals other than cats and dogs. He noted they found online that a lot of communities are writing ordinances that deal with how the chicken coops must be built, their size, how many chickens allowed, setback distances from adjacent properties and the house, and rules regarding the cleaning of the coops, etc. He pointed out if they are taking care of them, a lot of it would be common sense, but there are people who do not take proper care of them, so an ordinance would protect the chickens, the homeowners and the adjacent homeowners.

Mr. Marella recalled this Board dealt with a similar request last year.

Mr. Campbell noted that the owner of those chickens had emphasized that, while the chickens made good pets, they never let their children handle the chickens unless they washed their hands thoroughly afterward because of the diseases that chickens carry.

Mr. Marella recalled there were several health issues involved.

Mr. Campbell stated it appears there is a debate as to how much of a health issue is involved. He felt it needs to be looked at, and in this case, to grant a variance that would exist forever would be a big mistake because it takes the power away from the Township to regulate something in the future; however, to deny them would force them to get rid of the chickens. He did not feel that would be appropriate if the Township would be considering something that would allow them. He felt in this case, possibly this Board could address it like what they have done for some of the signs, which is to grant a variance for a limited period, until the time expires or until the Township updates an ordinance more precisely regulating poultry in residential areas.

Motion by Mr. Campbell, supported by Mr. Marella, with reference to File #18-6826 and application from Ms. Nicole Satterfield, 23921 Marston Street, Clinton Township, Michigan 48035, for variance to the Clinton Township Planning and Zoning Code, Chapter 1250-07-(46), General Provisions and Definitions, Definitions, "Farm", concerning Lot 55 and Outlot D, Harper Metropolitan Parkway Subdivision, generally located fronting the north side of Marston, east of Tessens, addressed as 23921 Marston Street (Section 26), that further consideration of request for variance to permit the continuation of chickens to be kept on the petitioner's single-family residential property in the R-3 One-Family Residential District, which is not allowed on residentially-zoned property, be postponed for sixty (60) days to allow the Planning Department time to research into the background of other cases that have been issued violation and have gone to court. Discussion ensued.

Mr. D'Angelo suggested an option for the petitioners is to investigate having the chickens become service animals.

Mr. Manuel replied they investigated that option, but they figured with the precedent of their neighbors on Schindler having their chickens, they would get the approval for the variance, so they did not pursue it as compassion chickens and service animals.

Mr. Campbell suggested that Mr. Manuel call the Planning Department with the name and address of their neighbors who were granted a similar variance.

Discussion took place regarding whether to postpone for thirty days or sixty days.

The stenographer inquired as to whether this will require a renotification to those within 300 feet if they are not postponing it to a specific date.

Mr. Campbell noted there are no neighbors present other than the neighbors directly across the street, so they should be renotified.

Roll Call Vote: Ayes – Campbell, Marella, D’Angelo, Deyak, Trombley. Nays – None. Absent – Pearl, Hornung. Motion carried.

LOT 18, HARPER BEACH SUBDIVISION, GENERALLY LOCATED NE/DALE ALLEN, N/LINNE, ADDRESSED AS 23241 DALE ALLEN (FILE #18-6829)

- APPEAL: SFR – DALE ALLEN, 23241

FILE #18-6829: PETITIONED BY MR. LARRY ROBINSON

Mr. Campbell summarized the variance being requested and read the Planner Review letter dated June 4th, 2018 into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 59 owners and/or occupants of property located within 300 feet of the land in question, with none of those returned as undeliverable. There was one written response to the mailing, and he read the letter of objection, signed from “anonymous”.

Mr. Larry Robinson, 23241 Dale Allen, Clinton Township, Michigan 48035, explained he went to the Building Department when he originally poured his driveway, and he claimed he was told he could pour his driveway any way he wanted it from the sidewalk to his house. He indicated he squared it off, because when he bought his house, it was a single-car approach, gradually widening to a two-car driveway. He had a 100-foot-tall maple tree cut down, which was previously located on the side of the garage, and he poured concrete there because he has snowmobile and boat trailers. He felt that would be a way for him to get it on his driveway and off the road. He explained that, with his driveway being so wide, people pulling in would drive on the grass, so he filled it with limestone for better curb appeal. He stated his neighbor across the street praised him for improving the appearance of his house, until she saw 15 rocks on her property, which he went over and picked up for her. He did not know why she did not express that she felt the driveway looked “hideous”, and he thought she was just upset about the rocks. When he found out what the Building Department will allow for his driveway, he felt it will look bad because he will have to taper it, leaving two triangles of grass

which he felt will turn to mud when he will soon have three more drivers in his family who will have cars. He stated he would like this variance to make the remainder of his driveway look nice. He replied to inquiry that his driveway is currently 39 feet in width, from the existing approach all the way to the far end that he poured.

Mr. Campbell understood the request as being that the petitioner wants to convert the area where the rocks are to concrete.

Mr. Robinson assumed that is what his neighbor wanted, so he was going to repour the sidewalk and the entire approach all the way across. He explained he is going to remove the existing sidewalk, which is 39 feet, and the existing approach, and will pour all new cement. He clarified when it is complete, it will be 39 feet in width.

Mr. Campbell clarified it would be 39 feet from the street all the way back to the garage.

Mr. Robinson noted that 14 feet of it goes past his garage and up to his patio.

Mr. Campbell stated what he observed as the difficulty in the situation is that, based on the setback of his home, the maneuvering room on this property to bring a large vehicle in is not very large. He felt it needs the width all the way to the street to be able to utilize the driveway on the property.

Mr. Marella inquired as to what company Mr. Robinson has.

Mr. Robinson replied that he does commercial heating and cooling, and he has a transit van. He added he also has a Silverado, and his son will have a Ranger when he obtains his license. Within another two to three years, his other two teens will have cars, making a total of five cars, in addition to a snowmobile trailer and a boat trailer, which he can fit in the rear yard.

Mr. Campbell inquired as to whether the garage was added on after the house was built.

Mr. Robinson replied the garage was built after the house was completed, and there is a breezeway that was added as well.

Mr. Campbell observed that from the original driveway from the sidewalk to the street, it seems to be offset from the garage door.

Mr. Robinson agreed, noting it is because it is on the curve along Dale Allen, so it was squared up to the house.

Mr. Campbell credited Mr. Robinson for seeking permission first rather than going ahead and pouring it.

Mr. Robinson stated he put the stone in to make it nicer in appearance.

Mr. Campbell felt this is a big improvement.

Mr. Pearl recalled the ordinance regulating driveway width was recently changed, and he inquired as to what is now permitted.

Mr. Santia replied the ordinance permits a width of 28 feet at the property line for a one-car garage or detached garage, and 30 feet at the property line for a two- or three-car garage or larger. The width at the street is permitted to be 35 feet. He explained that is what the Planning Department and Building Department felt would be a reasonable width.

Mr. Pearl thought that revision to the ordinance would eliminate the need for variances.

Mr. Santia agreed, noting that all the width variances they have granted for driveways up to this point would no longer be necessary under this new ordinance amendment.

Mr. Campbell felt if the driveway was of a sufficient length, they would have more maneuvering room.

Mr. Pearl inquired as to whether any of the other neighbors object to the requested variance.

Mr. Robinson replied the neighbor on his side of the street does not object.

Motion by Mr. Campbell, supported by Mr. Pearl, with reference to File #6829 and application from Mr. Larry Robinson, 23241 Dale Allen, Clinton Township, Michigan 48035, for variance to Clinton Township Planning and Zoning Code, Chapter 1226.02-(h), Design Layout Standards, Streets, Driveways, concerning Lot 18, Harper Beach Subdivision (Section 26), generally located fronting the northeast side of Dale Allen, north of Linne, addressed as 23241 Dale Allen, that variance be granted to permit the expansion of an existing driveway for a single-family residence in the R-3 One-Family Residential District measuring: 1) 39 feet in width at the sidewalk, which is 9 feet in excess of the maximum permitted width of 30 feet; and 2) 39 feet in width at the street, which is 4 feet in excess of the maximum permitted width of 35 feet; further, this grant of variance is based on claimed practical difficulty that the short length of the driveway makes it difficult to maneuver a vehicle if the driveway were any narrower; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Discussion ensued.

Mr. D'Angelo pointed out that this property is pie-shaped, so he felt it would be impossible for the petitioner to comply with current ordinance requirements.

Roll Call Vote: Aye – Campbell, Pearl, Trombley, D'Angelo, Deyak, Marella. Nays – None. Absent – Hornung. Motion carried.

1.255 ACRES OF LAND FRONTING THE SOUTH LINE OF HALL ROAD, WEST OF GROESBECK HIGHWAY, ADDRESSED AS 22950 HALL ROAD (SECTION 2)

**- APPEAL: JAX CAR WASH (FKA AMERICA'S FINEST CAR WASH)
FILE #18-6834: PETITIONED BY HAITHAM SITTO, SITTO INDUSTRIES INC.**

Mr. Campbell summarized the variance being requested and read the Planner Review letter dated June 4th, 2018 into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 172 owners and/or occupants of property located within 300 feet of the land in question, with none of those returned as undeliverable. There were no written replies received in response to the mailing.

Mr. Haitham Sitto, of Sitto Industries, Inc., 44731 Woodward Avenue, Pontiac, Michigan 48341, thanked the Board for allowing him to present his request. He explained they are asking for a request for the LED sign. He explained there is an existing double-sided pole sign and the proposal is to redo the entire look of the sign without changing the main structure. The upper part of the sign will involve the removal of the faces, and a plastic insert to be added. The current lower section, amounting to about 43.3 square feet of signage, is being proposed to be removed and replaced with an electronic reader sign that is smaller. He assured there will be no flashing or scrolling, and the timing of the messages on the sign will comply with Township ordinance requirements. He explained that motorists on M-59 travel at a high rate of speed, so they would like a slightly larger electronic message center. He did not feel it will be a deterrent to anyone.

Mr. Campbell stated he has no problem with this variance request for the additional eight inches in height, and he could see no problem with granting something greater than 20 square feet for the changeable copy sign, which is what the ordinance allows. He looked back through the records of what this Board has granted since this ordinance went into effect in 2000, and this Board has granted 13 variances in that time for larger square footage of the changeable copy sign. He noted that five of those were on Hall Road, and only one was granted for larger than 36 square feet, and that was for McLaren Macomb Hospital at 50 square feet. Of the others, the largest was for 36 square feet. He cited the variances on Hall Road: Nino Salvaggio's at 29 square feet; Temo Sunroom at 25 square feet; Chippewa Retail Center at 28 square feet; C.J. Barrymore's at 36 square feet; and Morley Candy Makers at 36 square feet. Mr. Campbell felt a sign between 30 to 36 square feet would be in line with everything else along Hall Road. He addressed the petitioner's comment about traffic along M-59 travelling at a high rate of speed, noting that the heavy traffic results in much slower traffic along that stretch.

Mr. Sitto explained they are manufacturers of these displays all over the country and in Canada, based out of Pontiac. He explained the modules are 12.6 inches in height, so the range of 30 to 36 square feet would work. He stated the next size lower than what is proposed would be 30.2 square feet, although anything less than that would reduce the size to about 23 square feet, which he felt would be too small for Hall Road.

Mr. Campbell commented that would explain why a great number of the other 13 variances granted were at 30 square feet.

Mr. Sitto explained they cannot be cut in half the size because it is the nature of the way the systems are built.

Mr. Campbell inquired as to whether a 30.2 square foot limit would be acceptable.

Mr. Sitto estimated it would be 30.2 square feet and after calculating it, determined it would be 31 square feet.

Mr. Campbell stated he would be willing to grant a variance to allow 31 square feet.

Motion by Mr. Campbell, supported by Mr. Deyak, with reference to File #18-6834 and application from Mr. Haitham Sitto, Sitto Industries, Inc., 44731 Woodward Avenue, Pontiac, Michigan 48341, for variance to Clinton Township Building and Housing Code, Chapter 1488.02-(s), Signs, Definitions and Restrictions, "Changeable copy", concerning 1.255 acres of land fronting the south line of Hall Road (M-59), west of Groesbeck Highway, addressed as 22950 Hall Road, that variance be granted to permit a replacement of the lower section of an existing pylon sign for a business in the B-3 General Business District (Jax Car Wash, fka America's Finest Car Wash), with a "changeable copy" LED panel measuring up to 31 square feet, with the LED panel being up to 11 square feet in excess of the maximum permitted 20 square feet based on the undue hardship of the traffic on Hall Road, and to provide safety and security for the drivers; and further, to grant a variance to allow the height of the overall sign to remain at 18 feet 8 inches, being 8 inches in excess of the maximum permitted 18 feet, based on the undue hardship that the panels are being removed but the existing structure is being reused; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Roll Call Vote: Ayes – Campbell, Deyak, D'Angelo, Pearl, Trombley, Marella. Nays – None. Absent – Hornung. Motion carried.

REPORT OF MEETING

-- APPROVAL OF MAY 23RD, 2018 REPORT

Motion by Mr. Campbell, supported by Mr. D'Angelo, to approve the minutes of the May 23rd, 2018 Meeting as written. Motion carried.

BOARD OF APPEALS MEETING SCHEDULE

-- **CONFIRMATION OF NEXT MEETING'S AGENDA AND ATTENDANCE:**
WEDNESDAY, MAY 16TH, 2018 AT 6:30 P.M.

Mr. Santia confirmed the next Board of Appeals meeting will be held tomorrow night, and he is unable to attend due to his granddaughter's recital. He provided some brief updates on the petitions for tomorrow evening's meeting.

ADJOURNMENT

Motion by Mr. Campbell, supported by Mr. D'Angelo, to adjourn the meeting. Motion carried. The meeting adjourned at 7:34 p.m.

Respectfully submitted,

Robert M. Campbell

Robert M. Campbell, Secretary
CLINTON TOWNSHIP BOARD OF APPEALS

ces:07/11/18

ces:07/11/18

Approved 07/25/18