

**REGULAR MEETING
CHARTER TOWNSHIP OF MILFORD
ZONING BOARD OF APPEALS**

**JUNE 8, 2011
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MEMBERS PRESENT: Richard Chowaniec, Chairman; George Joerin, Vice-Chairman; Keith Cheresko, Secretary; Members Richard Huber, Richard Lemke, Lance Oberg, Dale Wiltse

ALSO PRESENT: Chris Milani, UBCR, Schupan & Sons; Mile Palchesko, DTE Energy; Pete Minna, Wade Chapple, Timothy Brandt, Building Official, Planning and Zoning Administrator; Holly Brandt, Township Clerk

Chairman Chowaniec called the meeting to order at 7:30 p.m.

The Pledge of Allegiance was recited.

PLANNING COMMISSION LIAISON REPORT

Mr. Lemke reported on the meeting of May 26, 2011. He stated the recently revised lighting ordinance was being reviewed by the Commission.

TOWNSHIP BOARD LIAISON REPORT

Mr. Wiltse reported on the meeting of May 18, 2011.

UNFINISHED BUSINESS

V-11-001 SCHUPAN & SONS, INC. 4820 Holtz Drive, 16-36-451-018

Mr. Chris Milani, UBCR, Schupan & Sons, presented his request, as indicated in a letter from Andrew Knowlton dated May 25, 2011 (on file in the Township Office), to withdraw four of their variance requests and present one request for the storage tank setback. He stated they met with Township Officials and have agreed to bring the four open violations into compliance with the Ordinance by July 31, 2011.

Mr. Milani stated the remaining request was for the diesel fuel storage tank, which was installed five years ago 130 feet from the rear property line (to the north) rather than 150 feet as required by Ordinance. He stated there was a railway easement north of the rear property line and they thought they could count the 100' easement as part of their setback requirement.

Mr. Wiltse informed Chairman and members of the Board he had performed contract work at the site for Synergistics, which was affiliated with Schupan & Sons and asked the Board for a conflict determination. Based on the information presented by Mr. Wiltse the Board determined there was not a conflict.

The Board and Mr. Milani discussed the set back requirement and the easement. The Board considered the text of the Ordinance and concluded the easement could be included in evaluating the requested variance because structures would not be

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constructed on the easement. Mr. Brandt stated the Township's interceptor sewer was built within the easement and indicated the Township's Fire Department personnel, who inspect the site annually had not issued any storage tank violations for the site.

Findings of Fact:

1. There is an easement of 100 feet to the north rear property line.
2. Development is not permitted within the easement.
3. The distance of the easement should be taken into consideration, which would provide an additional setback to the next developable property to the north of the diesel fuel storage tank.
4. No inspection issues have been reported by the Township's Fire Department personnel for the diesel fuel storage tank.
5. The facility location, topography, surrounding development areas as discussed in detail during at the May 11, 2011 meeting further support the location of the diesel fuel storage tank.

Mr. Lemke moved, Mr. Oberg seconded, to approve variance request V-11-001, Schupan & Sons, Inc., 4820 Holtz Drive, 16-36-451-018 from Ordinance 32-480 (13) requiring a setback of 150 feet granting a variance of 20 feet to allow the structure location at 130 feet from the property line based on the following findings of fact and to acknowledge applicant has withdrawn the other items of the original request for variance from Ordinance 196, Sections 32-655 (13) landscape islands; 32-587 (g) (7) front yard landscaping; 32-600 (g) (5) site lighting; and 32-480 (7) (i) (i), open storage areas with compliance for the withdrawn items to occur no later than July 31, 2011.

1. There is an easement of 100 feet to the north rear property line.
2. Development is not permitted within the easement.
3. The distance of the easement should be taken into consideration, which would provide an additional setback to the next developable property to the north of the diesel fuel storage tank.
4. No inspection issues have been reported by the Township's Fire Department personnel for the diesel fuel storage tank.
5. The facility location, topography, and surrounding development areas as discussed in detail during at the May 11, 2011 meeting further support the location of the diesel fuel storage tank.

Vote unanimously carried.

PUBLIC HEARING

V-11-002, PETE MINNA REPRESENTING GERALD CHAPPLE, 2675 SHADY LANE, R-1-S ZONING, 16-01-401-021. ORDINANCE 196, SECTION 32-572(3), ACCESSORY BUILDINGS AND STRUCTURES. ORDINANCE REQUIRES ACCESSORY BUILDINGS NOT BE LOCATED IN THE FRONT YARD, APPLICANT PROPOSES A GARAGE BETWEEN HOUSE AND ROAD.

Chairman Chowanec opened the Public Hearing at 7:46 p.m.

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Mr. Pete Minna stated he would be representing the Chapples in their request to place a 16x20 feet single car garage in a required front yard. He explained all four residences on the private drive are located on the north side of the road and the neighbor to the east was granted a variance for a garage in the front yard. Mr. Minna stated the property is unique in that it is lower than the road with wetlands and dense trees throughout much of the property.

Chairman Chowanec asked if there were any comments from the public and there being none closed the public hearing at 7:56 p.m.

NEW BUSINESS

V-11-002, PETE MINNA REPRESENTING GERALD CHAPPLE, 2675 SHADY LANE, R-1-S ZONING, 16-01-401-021. ORDINANCE 196, SECTION 32-572(3), ACCESSORY BUILDINGS AND STRUCTURES. ORDINANCE REQUIRES ACCESSORY

BUILDINGS NOT BE LOCATED IN THE FRONT YARD, APPLICANT PROPOSES A GARAGE BETWEEN HOUSE AND ROAD.

The Board and Mr. Minna discussed the topography and wetlands issues with the property, the house and septic location, and general low elevation of the property. The low-lying area to the east (right) of the house was especially noted. The Board discussed backfilling the area to the east of the house; however, concerns were expressed about the possibility of disturbing the natural drainage of water as well as adversely affecting the neighboring property to the east if the structure were located in that area. The Board discussed the accuracy of the septic field location, assessed the possibility of decreasing the amount of setback variance required and thereby increase the set back distance of the proposed garage from the road. Accuracy of the identified septic location was questioned.

Findings of Fact:

1. The east side of the property has standing water.
2. Development on the below-grade, low lying east side of the property could cause adverse water diversion problems to the neighboring property and/or the private road.
3. Most of the back yard (north) area is wetlands.
4. A similar variance was granted to a neighboring property in the same area as the applicant.
5. The requested location is in keeping with the surrounding area and if granted would not provide a greater right than that already available to the neighboring property.
6. The location of the septic tank to the immediate west of the house negates a possible alternative location for the structure.
7. The topography of the property including the standing water and below road grade of the low lying east side precludes alternative placement of the structure on the property in a location other than the proposed location.

Mr. Oberg moved, Mr. Wiltse seconded to approve variance V-11-002, 2675 Shady Lane, 16-01-401-021 based on the following findings of fact:

1. The east side of the property has standing water.
2. Development on the below-grade, low lying east side of the property could cause adverse water diversion problems to the neighboring property and/or the private road.
3. Most of the back yard (north) area is wetlands.
4. A similar variance was granted to a neighboring property in the same area as the applicant.
5. The requested location is in keeping with the surrounding area and if granted would not provide a greater right than that already available to the neighboring property.
6. The location of the septic tank to the immediate west of the house negates a possible alternative location for the structure.
7. The topography of the property including the standing water and below road grade of the low lying east side precludes alternative placement of the structure on the property in a location other than the proposed location.

Vote unanimously carried.

Chairman Chowaniec introduced Mr. Wade Chapple, the applicants' son, as a member of the U.S. armed forces serving in the military's Special Forces. The Board acknowledged Mr. Chapple and thanked him for his service to his country.

ZONING INTERPRETATION: RAISING OF ANIMALS IN A FRONT YARD, SETBACK DISTANCE FOR FENCING USED FOR THE RAISING OF ANIMALS, SECTION 32-572(11).

Mr. Brandt stated a resident was asserting that a fence is a structure and therefore cannot be located in a front yard according to the Ordinance. To address the resident's concern and knowing the Board is the designated authority for interpreting the Ordinance Mr. Brandt requested the Board's interpretation of the Ordinance.

The Board discussed "structure" as defined in Section 32-572(11) and also examined "fence" as found in Section 32-582 (Fences, Walls and other Protective Barriers). After discussion, the Board determined Section 32-582 was specific regarding fences and was dispositive over the more general ordinance language found in Section 32-572(11).

Mr. Brandt also stated a resident presented concerns that three rail fencing, split rail fencing or wood paddock fencing types were not decorative in nature and didn't meet the Ordinance requirements for decorative fence as indicated in Section 32-582(3). The Board discussed decorative fencing, the Township's rural nature and long standing view on three rail fencing and after discussion determined three rail fencing is considered decorative fencing.

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APPROVAL OF MINUTES, JANUARY 12, 2011

Two typographical corrections were made to the meeting minutes.

Mr. Cheresko moved, Mr. Oberg seconded, to approve the meeting minutes of January 12, 2011 as amended. **Vote unanimously carried.**

REVISED VARIANCE APPLICATION

The Board reviewed the revised variance application form, determined to accept it as revised as approved at their last meeting, and begin implementing it.

CALL TO THE PUBLIC

There was no public present.

BOARD MEMBER'S REMARKS

Mr. Oberg complimented Clerk Brandt on the quality of meeting minutes and was supported in his views by the Board members.

ADJOURNMENT

Mr. Oberg moved, Mr. Huber seconded, to adjourn the meeting at 8:20 p.m. **Vote unanimously carried.**

Charter Township of Milford,

Keith Cheresko
Secretary