

**COPLEY TOWNSHIP BOARD OF ZONING APPEALS
JULY 25, 2007**

Acting Chairman Dave Robinson convened the Board of Zoning Appeals meeting at 6:00 p.m. Present were Bob Juve, Russ Hose, Bill Daniel and Lee Kleinbeck. Kim Ferencz, Zoning Inspector, was present.

OLD BUSINESS:

PUBLIC HEARING – 6:00 PM

APPLICANT: **DOUGLAS JACKSON**

LANDOWNER: **WINDSONG AT CHAMBREL LLC**

LOCATION: **120 BROOKMONT ROAD**

ZONING DISTRICT: **C-3 COMMERCIAL**

CONDITIONAL: **ART. IV, SEC. 422-3 F. LIFE CARE FACILITY**

Mr. Robinson opened the public hearing.

Mr. Robinson swore in Ms. Kim Ferencz and Mr. Mike Rankin.

Ms. Ferencz stated that the applicant/landowner was requesting to update an existing Conditional Use Certificate to build an 800 sq. ft. addition. The overall intent of the project is to expand the dining room, activity room, and provide a new restroom and separate entrance for physical therapy for those that do not live within the facility. The addition will encompass approximately 800 sq. ft. to the existing building. Ms. Ferencz then produced the site plan sheet for the project.

Mr. Mike Rankin from Design Construction stated this addition would be located within the indentation of the building.

Mr. Robinson asked about the parking. If additional patients would be coming in, where would they park? Ms. Ferencz stated that the Zoning Office had the same question, in that if this addition was going to be opened up to non-residents, would there be adequate parking available for these patients as well as those who already reside at Windsong.

Ms. Debra Schaffer, Director of Nursing at Windsong was sworn in. She stated that the patients that would be coming in would be physical therapy patients. They would have somebody transporting them so they would probably not have additional parking. Also, those living at Windsong do not have driving privileges.

Mr. Robinson stated even if that is the case, won't those dropping off patients need a place to park. Ms. Schaffer stated yes. Mr. Robinson stated that currently the parking lot was very crowded and if this additional service was offered, questioned if there would be enough parking available.

Ms. Shaffer stated there are 8-10 parking spaces open right now and there were no extra parking spaces proposed. Mr. Robinson stated that concerned him as he drove past the site, as it was very crowded.

Mr. Hose asked if they had looked at trying to expand the parking. Ms. Schaffer stated they had 8 parking spaces behind the building for the staff. Mr. Hose asked if there was any land at this facility that could be utilized for additional parking. Ms. Schaffer stated yes, in the rear.

Mr. Robinson asked if any of the staff park in the front. Ms. Schaffer responded yes but they could require the staff to park in the back. Mr. Robinson asked how many new patients would they expect in a day to utilize the facility. Ms. Schaffer stated an average of 4-5 a day with a staggered schedule for therapy.

Mr. Hose asked with this addition, how many new patients would be utilizing the facility. Ms. Schaffer stated not many, because part of this addition would be for the expansion of the dining area for the existing residences. Ms. Schaffer reiterated at the most they would have 4-5 patients a day using the physical therapy portion of the addition. Most of the therapy room will be used for the existing patients at Windsong. They were not looking at a large number of out patient therapy.

Mr. Hose then asked what reassurance does the Township have that the number of outpatients that will use the facility will not go up. He added that right now based on the numbers given, the parking situation could be handled but if the number rises, what then?

Ms. Schaffer stated due to the very fact of the size of the addition, she did not feel it would become a large, attractive moneymaker for the facility as a whole.

Mr. Daniel asked if this service would be marketed. Ms. Schaffer stated it would be marketed but not emphasized. The physical therapy addition would just an added benefit for those residences that need acute care, go home but still need additional therapy.

Mr. Hose asked what percentage of the addition is going to be used to expand the dining area and what percentage was going to be used for physical therapy. Mr. Rankin stated an 800 sq. ft. addition was small and this area would be used for offices, expansion of the dining room and the physical therapy and activity room. Approximately 30% of the addition will be used for physical therapy/activity room.

Mr. Robinson asked if this addition is marketed and a lot of individuals take advantage of it what is to stop the number of patients from rising. Mr. Rankin stated he did not think that was Windsong's program. Ms. Schaffer interjected that it was not their number one priority it was more for the existing patients at the facility.

Mr. Robinson stated the proposal was too vague and he would like more details in regards to the parking, as it was crowded at the facility currently in terms of parking spaces. Mr. Rankin stated the physical therapy portion of the addition looked to be approximately 20'x20'.

Ms. Schaffer stated there was land in the rear of the facility that could be used for additional parking.

Ms. Ferencz stated that she had a question regarding safety, and asked how non-residents would access the therapy room. Ms. Schaffer stated she believed there would be a separate entrance. It was then determined that those who wanted to use the facility would have to enter the main entry door, and walk down the hall to the physical therapy area. Mr. Robinson stated if that was the case, parking would have to be provided in front as those who would be dropping a patient off would need to park. Ms. Schaffer responded that they would then require the staff to park in the back in the spaces that what were available. Mr. Robinson asked how many employees there were. Ms.

Schaffer stated 22.

Mr. Daniel asked if they would be hiring additional employees based on this addition. Ms. Schaffer stated no, they were not looking at additional staffing. Mr. Daniel stated the fire department was also concerned about the current parking capacity and the result of additional patients wanting to utilize the facility in terms of parking and potentially blocking fire lanes.

Mr. Hose asked how long physical therapy sessions last. Ms. Schaffer stated there are two types of therapy, one lasting 1 hour-outpatient therapy and the other lasting 2 hours. Therapy would occur 3-4 days a week. Therapy is offered 7 days a week.

Mr. Hose asked if the facility has considered expanding the parking. Ms. Schaffer stated yes that has been discussed.

The Board agreed that more details were needed especially in terms of the parking area that is currently existing and what would need to be provided based on the addition and the services offered. If the information requested of the applicant could not be provided in order to meet the deadline for the August hearing date, then this item would be placed on the next meeting agenda accordingly.

Mr. Hose made a motion to table the extension of the conditional use granted to Windsong for the proposed 800 sq. ft. addition until the Board's next regularly scheduled hearing date on August 22, 2007. It was seconded by Mr. Juve.

ROLL CALL-Hose-aye, Juve-aye, Kleinbeck-aye, Daniel-aye, Robinson-aye.

NEW BUSINESS:

PUBLIC HEARING – 6:05 PM

APPLICANT: **WILLY ZANDER**

LANDOWNER: **WILLY ZANDER**

LOCATION: **4285 & 4293 MINOR ROAD**

ZONING DISTRICT: **R-1 RESIDENTIAL**

VARIANCE: **ART. IV, SEC. 410-B. MINIMUM LOT WIDTH AT MINIMUM SETBACK LINE**

Mr. Robinson opened the public hearing.

Ms. Ferencz stated that the landowner was requesting a reduction in the minimum lot width at the minimum setback line. A minimum of 150 feet is required and the landowner is proposing 135 feet. There are currently two existing homes on this parcel. It makes sense to approve this lot split because we only permit one dwelling unit per lot. The lot that is being created with no existing dwelling on it meets zoning. The proposed lot that does not meet zoning currently has a dwelling on it.

Question #12 from the Variance application: Please explain the practical difficulties or unnecessary hardship, which justify this application for a Variance: "Need to split 20 acre parcel in order to sell."

STANDARDS FOR CONSIDERATION OF PRACTICAL DIFFICULTY FOR AN AREA VARIANCE:

- 1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- 2) Whether the variance is substantial;
- 3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- 4) Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage);
- 5) Whether the applicant purchased the property with knowledge of the zoning restriction;
- 6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
- 7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Mr. Chuck Caston and Mr. Willy Zander were sworn in.

Mr. Chuck Caston stated the lot shown as "proposed lot #2" (2485 Minor Rd.) is the lot that will require a variance as it only has a lot width of 135 ft. instead of the required 150 ft. There is an existing house on the lot. The lot shown as proposed lot #3 is where Mr. Zander currently resides and it will have 161.62 feet of frontage. Proposed lot #1 (4303 Minor Rd.) which is vacant land will meet the 150 ft. width requirement.

Mr. Juve asked if there was a reason why 11.62 feet of width from proposed lot #3 could not be added to proposed lot #2 so it could be closer in compliance with the zoning requirement. Mr. Zander stated proposed lot #3 had 16.5 acres and due to that fact, he wanted it to have the largest frontage of the three splits. He added that there is a natural tree line and telephone pole closer to the road and that is why the frontage is proposed to be 135 ft.

Mr. Daniel asked how long the two existing homes have been on the lots. Mr. Zander stated the house on proposed lot #3 has been there since 1980. The house on proposed lot #2 has been there since approximately the 1940's.

Mr. Hose stated he agreed with Mr. Juve's comments and asked why 11.62 ft. of frontage shown on proposed lot #3 could not be added to proposed lot #2 to bring it closer in conformance with the code. Mr. Zander again stated there is a natural tree line and telephone pole as well as proposed lot #3 having 16.5 acres he preferred it to have a larger frontage to make it more saleable.

Mr. Hose asked the dimensions of the east side of the house on lot #3 to the property line of proposed lot #1. Mr. Zander stated there was no dimension but believed it was approximately 35-40 ft.

Mr. Bill Daniel asked if each house had or will have its own well and septic. Mr. Zander stated yes. Mr. Daniel asked how this land was allowed to have two dwelling units on it. Mr. Zander stated at the time he was getting ready to build his house he came to the Zoning Office and asked if he needed to do a split and was told no, you are the owner and its one piece of land, go build your home. Mr. Zander stated he even came in with a check and it was not accepted.

Mr. Kleinbeck asked what the circles with the S's on the drawing meant. Mr. Zander stated that was the septic systems.

Mr. Juve asked what was on the east side of proposed lot #2. Mr. Zander stated the neighbor has approximately 110 ft. between where his property ends and the neighbor's driveway starts.

Mr. Daniel made a motion to close the public portion of the hearing. It was second by Mr. Juve.

ROLL CALL-Daniel-aye, Juve-aye, Hose-aye, Kleinbeck-aye, Robinson-aye.

The Board entered into discussion amongst themselves.

Mr. Robinson stated that even if the 11 ft. were added from proposed lot #3, Proposed lot number 2 would still be short the required 150 ft., so there is a practical difficulty it just depended on how much the board wanted to require.

Mr. Daniel stated that two of the homes on the property have been in existence for quite a while and it was not practical for them to be moved. Also, proposed lot #1 does meet the 150 ft. requirement.

Mr. Robinson stated it would be nice to have two residences on two separate lots. There is no possibility to get each lot to conform to the 150 ft. requirement so that is another difficulty.

Mr. Hose added that there was probably the issue of the location of the septic systems that would add to the practical difficulty of the size of the lots.

Mr. Hose made a motion to grant a variance for a reduction in the minimum lot width at the minimum setback line for the property referenced as 4285 Minor Rd. as presented. Mr. Juve second.

ROLL CALL-Hose-aye, Juve-aye, Kleinbeck-aye, Daniel-aye, Robinson-aye.

PUBLIC HEARING – 6:10 PM

APPLICANT: **EDWARD PARKER**

LANDOWNER: **EDWARD PARKER**

LOCATION: **4549 PINEVIEW DRIVE**

ZONING DISTRICT: **R-2 RESIDENTIAL**

VARIANCE: **ART. III, SEC. 302 CC. PRIVATE GARAGE**

Mr. Robinson opened the public hearing.

Mr. Robinson swore in all persons who wished to speak.

Ms. Ferencz stated that the landowner currently has a 728 square feet attached garage and would like to build an addition to the garage consisting of 336 square feet. The maximum size is 900 square feet. The landowner is requesting a variance of 164 square feet larger than permitted.

The second variance request is for a reduction in the minimum side yard setback from 15 feet to 5 ½ feet.

Question #12 from the Variance application: Please explain the practical

difficulties or unnecessary hardship which justify this application for a variance: "I believe a detached garage would decrease property value and be unsightly to my neighbors whose backyards abut up to the side of my property."

STANDARDS FOR CONSIDERATION OF PRACTICAL DIFFICULTY FOR AN AREA VARIANCE:

- 1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- 2) Whether the Variance is substantial;
- 3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- 4) Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage);
- 5) Whether the applicant purchased the property with knowledge of the zoning restriction;
- 6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
- 7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Mr. Ed Parker addressed the Board.

Mr. Juve asked how Mr. Parker would use this garage given the fact the drive does not extend over there. Mr. Parker stated there was a cement pad there currently that he uses for parking

Mr. Daniel asked if the garage would be used to store a vehicle? Mr. Parker stated yes. It would be one story in height and the siding would match the house.

Mr. Juve asked if Mr. Parker needed the full 14 ft. width (proposed garage size is 14'x24') and would the garage be used to house just one car. Mr. Parker stated that was correct, it would be used to house one car. Mr. Juve continued that there would be more separation from the side lot line if the garage could be made longer and narrower. Mr. Hose interjected that most garages were 8-10 ft. wide and you need some return on the sides. Mr. Parker stated he needed a minimum of 12 ft. and wanted to match the concrete pad that was existing.

Mr. Kleinbeck stated there was a letter from a neighbor and asked if that neighbor was the one that the side of the garage would be located on? Mr. Parker stated there were actually three property owners that were to the west of his property.

Mr. Daniel asked if the side property line to which the proposed garage would be located was it open i.e. no fence, no tree line? Mr. Parker stated the one neighbor has a picket fence right on the property line.

Mr. Robinson asked if there were any additional outbuildings on the property besides what is shown on the drawing. Mr. Parker stated no, but added that he had an accessory building that was added onto the rear of the existing garage.

Mr. Parker stated he could possibly go down to 12 ft. in width for the garage. Mr. Juve stated that would be a positive move as then there would be 2 ft. more from the side lot line. Then instead of being 5 ft.

from the side lot line the garage would be 7-½ ft.

Ms. Ferencz entered into the record a letter from a property owner at 133 Scenic View Dr. that stated they had no objection to Mr. Parker's proposal.

Mr. Hose asked if the width of the garage would be reduced would the length be increased by the 2 ft. Mr. Parker stated no. He would be putting in two garage doors, one in the front and one in the rear so he could drive through the garage.

Mr. Daniel made a motion to close the public portion of the hearing. Mr. Hose second.

ROLL CALL-Daniel-aye, Hose-aye, Kleinbeck-aye, Juve-aye, Robinson-aye.

The Board entered into discussion amongst themselves.

Mr. Daniel stated the Board also had to consider the increase in size of the garage. Mr. Hose stated if the garage width is reduced to 12 ft. then the variance would only be for 116 sq. ft, instead of 164 sq. ft. Mr. Daniel stated that two months ago the Board voted down a similar variance request in terms of the size of the proposed garage and the side yard setback. He did not want the Board to be inconsistent in what it has granted in the past. Mr. Robinson asked if the facts were exactly the same. It was discussed that the size of that request was greater and after some reconfiguration did not require the side yard setback variance. In the end, the individual ended up constructing an additional attached building that conformed to the code.

Mr. Hose made a motion to grant a 116 sq. ft. variance for the size of the addition to the existing attached garage to be 228 sq. ft. (12'x 24') with the total size of the garage to be 1,016 sq. ft. in size; as well as a 7.5 ft. minimum side yard setback variance for the addition to the garage to be 7.5 feet from the side property line. Mr. Juve second.

ROLL CALL-Hose-aye, Juve-aye, Daniel-nay, Kleinbeck-aye, Robinson-aye.

Review of Minutes:

Mr. Hose made a motion to approve the minutes from the June 27, 2007 hearing as written. Mr. Juve second.

ROLL CALL-Hose-aye, Juve-aye, Kleinbeck-aye, Daniel-aye, Robinson-aye.

FUTURE MEETING DATES: August 22, 2007 at 6:00 p.m.

With no further business to come before the Board, the meeting was adjourned at 7:05 p.m.

Dave Robinson, Vice, Chairman

Sue Schultz, Secretary