

**CITY OF SOUTH LYON  
ZONING BOARD OF APPEALS  
August 18, 2016**

Chairman Weipert called the meeting to order at 7:00 p.m.

**ROLL CALL:**

**PRESENT:** Chairman Phil Weipert and Commissioners Brian Dunn, Ron Morelli, Steve Mosier and Frank Fogarty. Also present Kelly McIntyre (Planning Commission) and Tim Wilhelm (City Attorney).

**ABSENT:** Michael Joseph and Joe Rzyzi - Excused.

**ZBA 08-18-16 MEMBER ABSENCE**

Motion by Dunn, supported by Morelli

To excuse Commissioner's Joseph and Rzyzi's absence from the meeting.

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

Chairman Weipert led the committee into the Pledge of Allegiance.

**APPROVAL OF AGENDA**

**ZBA 08-18-16 APPROVAL OF AGENDA**

Motion by Dunn, supported by Fogarty

To amend the agenda to add ZBA Case #2016:004 – Chuck Moore's Commercial Sign Variance.

**APPROVAL OF MINUTES:**

**ZBA 08-18-16 APPROVAL OF MINUTES**

Motion by Dunn, supported by Fogarty

To approve the minutes of the July 21, 2016 meeting as amended.

Commissioner Dunn referred to the multiple references to womanized lumber changed to wolminized lumber in the document.

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Commissioner Fogarty noted the spelling of Chairman Weipert's name on Page 5 – 10<sup>th</sup> paragraph (from Weipet to **Weipert**).

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

**OLD BUSINESS**

**ZBA Case 2016:004 – Chuck Moore's Commercial Sign Service – 600 N. Lafayette**

*Request: Chapter 70 "Signs" Section 70-6(c)(1) "All temporary signs must comply with the sign and height standards as specified in the Sign Dimensional Standards and Regulations Table." A Sign Variance from Section 70-6(c)(1) Sign Dimensional Standards and Regulation Table requiring that the maximum size per sign not exceed: 24 square feet face area.*

*The applicant is proposing 48 square feet of sign face area.*

*A Sign variance from Section 70-5(f)2 General Standards for Permitted Signs: Sign Area Requiring when a sign has two (2) or more faces, the area of all faces shall be included in calculating the area of the sign except where two (2) such faces are placed back to back, only larger face shall be considered, provided that both faces are part of the same structure, contain the same message and are separated by no more than two (2) feet.*

*The applicant is proposing a sign with two (2) faces that are separated by five (5) feet 10 inches, measured from each sign's back outermost edge.*

**ZBA CASE 2016:004 – CHUCK MOORE'S COMMERCIAL SIGN SERVICE – 600 N. LAFAYETTE**

Chairman Weipert recalled case 2016:004 which was postponed at our last meeting for the reason that we were not sure the applicant had been notified of the meeting date and it appears that may be the case again.

**ZBA 08/18/16 – MOTION TO TABLE**

Motion by Morelli, supported by Mosier

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To Table ZBA Case 2016:004 – 600 N. Lafayette again to make sure that the applicant is notified properly.

**VOTE**

**MOTION CARRIED UNANIMOUSLY**

**NEW BUSINESS**

**ZBA Case 2016:006 – Pat and Kim Lindstrom – 1158 Chestnut Lane**

*Request: The applicant is requesting a variance to allow the construction of a pool and associated concrete patio with a resulting lot coverage of 35%. Section 102-456, Schedule limiting height, bulk, density, and area by zoning districts, allows a maximum lot coverage of 25%, so a variance of 10% is requested.*

Chairman Weipert called the applicants to come up and to state their name and address for the record and to tell the board members what the practical difficulty is.

He also noted that prior to hearing the case that we have two board members who are absent tonight so the applicant will need four out of seven votes to overturn the decision of the building inspector. The applicant has the opportunity to table the case if they prefer to wait for a full board.

Commissioner Dunn noted that there was a potential conflict of interest since I serve on the Trotter's Pointe Homeowner's Association Board as for the architectural approval of the plan only. In this capacity I am reviewing practical difficulty on a zoning variance. I have offered to excuse myself should that be desirable so there is no conflict of interest. Whatever the board decides.

Chairman Weipert noted that if Dunn is out then the applicant would need all members approval.

Attorney Wilhelm stated that he spoke with Commissioner Dunn in advance of today's meeting and he advised me of his involvement in the Trotter's Pointe Homeowner's Association review. Looking at both the ZBA By-laws, the Zoning Enabling Act as well as the City's ethics ordinance which contains a conflict of interest provision. I do not believe there is a true, legal conflict of interest. There is no financial interest and no familie connection and those are the primary triggers for conflict of interest under the by-laws and ordinances for the City. There are no legal

reason he needs to excuse himself on this issue. In addition, there is a relevant provision of the Zoning Enabling Act that does provide some guidance. This is FCL-125.3601 Sub XIII – a member of the Zoning Board of Appeals who is also a member of the Zoning Commission which is most likely after the amendment to the Zoning Enabling Act would be your Planning Commission. The Planning Commission or the Legislative Body shall not participate in a public hearing on or vote on the same matter that the member voting on as a member of the Zoning Commission, Planning Commission or the Legislative Body. However, the member may consider a vote on other unrelated matters involving the same property. So we have a slightly different situation. The members of Council or Planning Commission that also sits on the ZBA. You don't vote twice on the same issue but you can vote on other unrelated issues related to the same property. There is an argument to be made that that is what is happening here. Commissioner Dunn is a member of a homeowner's association looking at different issues. This is a different matter requesting a variance regarding the same property. Different factors, different law, different things altogether. To me it provides a little bit of guidance. He is not voting on the same issue twice. He is wearing different hats so to speak.

Chairman Welpert asked the applicant if he wanted to excuse Dunn to tell us.

The board and applicants agreed there was no conflict.

Pat Lindstrom introduced his wife and himself and informed the board he would like to proceed. We moved to South Lyon for a lot of reason and one was the schools. I counted swing sets when I went through Trotter's Pointe Sub and it is a good community. I also looked at swimming pools since down the road I would want a swimming pool considering we have an 8 year old and 6 year old. We feel we have a hardship in the way that the subdivision is laid out. Especially our lot compared to those around us in size. Our backyard compared to my next door neighbor's backyard we would not be here nor with the neighbor behind me. I feel we have a hardship with the way our house is laid out. I also brought 7 letters from my neighbors; beside me, behind me who would be affected by our pool and directly across from us and they all 100% in agreement with us. The ordinance was probably put there for a good reason. I am looking at the review comments from Mr. Avantini starting with letter a) which states: That the need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography. Yes, our lot is hindered by that. Our pool that we put in is only 12' from the back of our house and in order to have any seating around the pool, that is why we are asking for the variance. It is actually 9%, not 10%. Applicant showed photo of area and noted our house is the yellow one and you can tell the difference in the lot sizes.

Chairman Weipert noted that the next door neighbor's lot looks twice as much as yours.

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Mr. Lindstrom agreed. The yards directly around us are substantially larger than ours. The builder probably squeezed in as many homes as he could. I don't think our patio is any bigger than other in the area. I have quite a few pictures of aerial views of homes in my subdivision and I would like the board to review them (the red dots represent pools). If it is good for my neighbor around the corner..... we are hoping you agree with us.

Commissioner Morelli asked how many of the pictures he had were of pavers. Pavers don't count. You could put your whole yard in pavers they don't count in the equation of lot coverage.

Mr. Lindstrom replied that 90% of those photos are of pavers per Jim whom did the research for me. He is the contractor I hired when I decided to put our pool in.

Commissioner Morelli noted that the applicant's lot is the average size lot in that sub. I was on the Planning Commission when that sub came through and your lot is actually bigger than a lot of lots in there. You have letters from all your neighbors and that is all well and good and no one will care until we have rain like we have had and all of a sudden all that rains flows off your patio and it can't soak in to anything then you have landscaping up there and it all goes into your neighbor's yard and then they are all upset since they have standing water in their yard. That is part of the reason for this ordinance. Some pools have a reservoir drain, no moving parts, you've seen them at public facilities and the water drains so you eliminate that issue.

Mr. Lindstrom added that his concrete person is putting one of those drainage strips between my house and the pool. The back corner of my lot is where the drain is at. Everyone's yard is taller than mine like by 2.5'. That is what the easement is for. The guy who is doing the work will be putting drain tile down so it goes back to that area.

Chairman Weipert noted that there is a drain already back there.

Commissioner Morelli stated so the drains are going to catch the water that ends up on the patio and that is going to go in the drain. I don't have an issue with that.

Mr. Lindstrom stated he respects his neighbors and would not want anything like that to occur.

Jim Patella from 3R Pool - 10122 Colonial Industrial Drive, South Lyon. In the northeast corner (not noted on plot plan) the Lindstrom's have a wide easement. The 6' easement has enough room to take it. They have a whole easement that is their property so that drain is roughly in the center of the swell there so any surface water running off is going to run off into that swale.

Commissioner Morelli questioned how much water will be running off that patio?

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Mr. Patella agreed that the Lindstrom's don't want water coming into their house. The concrete that butts up to the house that is going to slope away from the house. Eventually that water has to get somewhere. The green space is a swale on both sides of his house. It is going to run into the storm sewer on the other side it is a swale it will run down to. All the water will be maintained on his property. The Issue in between his house that could be piped in and run to the storm drain. We are not allowed as contractors to tap into storm sewer.

Commissioner Morelli asked where the drain is being put in between the house and the pool.

Mr. Patella noted half the water would go up this side and most of it will end up in the swale. The concrete person can make the concrete slopes so 90% of it goes into that corner. They are putting in a regular drain tile just like they would put in around the basement of your house. It will also be discharged toward the culvert.

Commissioner Morelli stated where the water is going to go is a huge issue around because it is all clay.

Chairman Weipert stated he assumed half of the easement was his and the other half in the neighbor's yard. Also that the sewer was already back there and the neighbor's backyards were all higher than the applicants.

Also noted for the record are the seven (7) letters from his neighbors in support of his project. 1152 Chestnut, 1158 Chestnut, 1170 Chestnut, 1131 Chestnut, 1041 Arabian, 1170 Arabian and 1119 Chestnut.

Mr. Lindstrom noted that a nice professional done pool with increase the value of the homes in the neighborhood. I spoke with the landscapers about the drainage and they assured me they are going to run drain tiles down the middle of the concrete so it all runs back to that corner.

Chairman Weipert noted we can impose conditions. We find he does have a different sized lot, and he does have unique circumstances with the property. Jim can you tell us if that subdivision has 25% on pools per your findings?

Mr. Patella replied that he built six (6) he can remember and had permits through the City for them. Previously there was a building department in-house and then it went to the City of Novi so once we figured out what they wanted the 25% okay, no problem.

Chairman Weipert asked if there are some pools/patios in that sub that are taking up 25%.

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Mr. Patella replied I think only two (2) of them in the sub (with the house and everything) did not exceed 25% of the lot size.

Chairman Weipert noted that previously we granted a variance for a pool at the corner of Polo and Shetland. We are not setting a precedent here which helps with the homeowner's association.

Commissioner Fogarty noticed that the fence goes right along the lines of the house.

Mr. Lindstrom replied that he actually moved it in about 18" on both ends of my house I did not think it looked right. That would add a little over 2' in the width. The issue is just the pad of concrete around the pool and the pool meets all the criteria.

Chairman Weipert asked if the fence in the drawing will be in 2'.

Mr. Lindstrom replied yes, a 1' on each side of the house.

Chairman Weipert stated that we can make that part of the motion to. The drain tile needs to run to the sewer, a French drain tile. Are you willing to do that?

Mr. Patella stated that he cannot tie into that drain so I can get a quote to have that done.

Mr. Lindstrom added that so the board knows why we want to put this up in the next month is since there are kids all around us so I want to put up a 5' safety fence as soon as I can so I can sleep without worrying about the kids in the neighborhood getting past the fence that is up. That is why I did not want to postpone it.

Commissioner Dunn questioned if the total calculation includes the easement?

Planner McIntyre replied the easement is not included since the actual patio does not go into it.

**ZBA CASE 2016:006 – PAT AND KIM LINDSTROM – 1158 CHESTNUT LANE**

Motion by Morelli, supported by Fogarty

Motion to approve the variance for the Lindstrom's property at 1158 Chestnut Lane. Based on Section 102-85(2)(b) which states that authorization of such a variance will not be a substantial detriment to the adjacent property owners and will not materially impair the intent an purpose  
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of this chapter or to the public health, safety and general welfare of the community with the drainage tile done appropriately to go to the back drainage area.

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

**STAFF REPORTS**

Attorney Wilhelm noted he would handle notifying the tabled applicant for the next meeting.

**ZBA 08/18/16 – ADJOURNMENT**

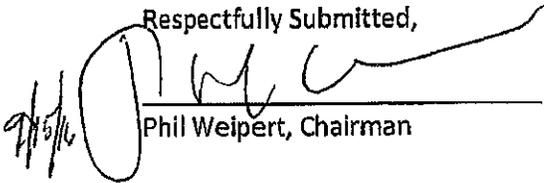
Motion by Fogarty, supported by Dunn

Motion to adjourn the meeting at 7:37 p.m.

**VOTE**

**MOTION CARRIED UNANIMOUSLY**

Respectfully Submitted,

  
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Phil Weipert, Chairman

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Marianne Jamison, Recording Secretary