

**CITY OF SOUTH LYON  
ZONING BOARD OF APPEALS  
November 20, 2008**

Chairman Weipert called the meeting to order at 7:03 p.m.

PRESENT: Chairman Weipert and Commissioners James Herman, Keith Bradley, Tom Goodcase and Bill Rodman. Also present, Director of Building Safety and Engineering, Joe Veltri.

ABSENT: Ron Morelli, Excused

Chairman Weipert – We have one (1) vacancy on the board.

**APPROVAL OF MINUTES:**

**ZBA 11-20-08 APPROVAL OF MINUTES – August 21, 2008**

Motion by Rodman, supported by Bradley

To approve the minutes of August 21, 2008 as recorded.

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

**OLD BUSINESS**

**Tom Backaitis – 858 Westbrook Dr.**

Chairman Weipert – Come up and introduce yourself and state what your request is.

Mr. Backaitis – Introduced self. I live at 858 Westbrook Dr. off of Nine Mile Road in the Oak Creek subdivision. I need a variance to put up a backyard patio and currently there is no patio at the location. I have pictures of the location (handed out to board members). I also have a drawing of the patio and what it would look like (not to scale).

Commissioner Herman – How many square feet are you asking for?

Mr. Backaitis – The width of the house is 25.92' x 17' deep from the back the of the house.

Chairman Weipert – What is unique or different about your lot or site that gives you difficulty.

Mr. Backaitis – The set-back due to it being 10’

Chairman Weipert –When I was out there, it seemed like your house should have been turned the other way.

Mr. Backaitis – Yes, if they angled it a little differently than they did, it might have been possible. I wasn’t the builder or there at the time it was built, so I cannot say.

Chairman Weipert – Joe, is there any history on that sub?

Inspector Veltri – No, it is just the way they positioned the house on the lot so it was in the building envelope. The house really sits diagonally to the lot. It does not sit straight with any of the property lines. If you look, part of his neighbor’s lot is in the front of his house. That is the way they laid it out, the house fit within the building envelope and there was no way I could deny it because it was not straight with the property line. His variance is where he wants to cover part of it. It is a 15’-9” variance for a pergola.

Chairman Weipert - He does have an odd shaped lot and the house was built.....

Mr. Backaitis – In 1996.

Chairman Weipert - It is an odd configured lot and was built sideways on the yard.

Inspector Veltri – Diagonally on the lot.

Mr. Backaitis – I heard it was one of the last homes put into that area. I don’t know how true it is.

Commissioner Goodcase – It is only 17’ from the back of the house.

Chairman Weipert – I did notice that every home in the area had something (deck, patio) except you.

Commissioner Rodman – That is correct.

Inspector Veltri – You can go into the rear yard set-back by 25% with an open unenclosed deck. If there were no roof over it he would be fine.

Commissioner Rodman – It is really just the pergola that is pushing it in that 25%.

Inspector Veltri – No, it puts it into the rear yard set-back since there is a roof structure.

Commissioner Bradley – Where the windows are?

Mr. Backaitis – Correct.

Commissioner Rodman – The pergola is on the left side and it is the widest part of his side yard.

Chairman Weipert - Would the structure fit in if the home had been built differently?

Inspector Veltri – Not really. Even if they would have reversed the house, the garage would have been even with the back of the house and set-back further to make it fit. Even if they flipped it. They could have gotten the house to fit but the garage would not have been flush with the front since the front lot line is on a radius. That would push everything back even if they made things flush with the west property line. The garage would be set-back more than 50% on that one side of the house.

Chairman Weipert – He would have been in here for a variance of some sort.

Commissioner Herman – Who denied this, the homeowner's association?

Inspector Veltri – The City did.

Chairman Weipert – Is there anyone from the audience that would like to speak.

Commissioner Goodcase – Why do you need a roof?

Mr. Backaitis – Just decorative more or less. I don't have to have it. It will be open, not a covered structure.

Chairman Weipert – It is an odd configured lot and the house was built back and the front lot line is on a radius. There is some difficulty with the lot. Without the request of the pergola, it could be built.

**ZBA 11-20-08 – TOM BACKAITIS – 858 WESTBROOK DR.**

Motion by Bradley, supported by Rodman

Motion for a variance of 15'-9" per Chapter 102-456 – R-2 zoning which requires a 40' rear yard set-back according to the ordinance 102-85 a, b for the reason of an oddly configured lot and the home was built diagonally on the lot and the front lot line is on a radius.

**VOTE:**

**4 YEAS, 1 NAY**

**NEW BUSINESS**

**Heather Howell – 960 S. Parkwood Dr.**

Chairman Weipert – State your name and the reason for the request. Is this a use variance?

Inspector Veltri – (Handed a copy of a letter to Ms. Howell from a concerned neighbor). No. She needs two (2) variances then she will have to go to the Planning Commission for a special use.

Chairman Weipert – We normally have seven (7) members on the board and one (1) is a vacancy and one (1) is absent. Do you want to wait for a full board?

Ms. Howell – No.

Chairman Weipert – We did get a letter from a neighbor and do you have a copy of it?

Ms. Howell – Yes I do.

Chairman Weipert – State what your request is and what is the difficulty of the property?

Ms. Howell – I am requesting to open a group daycare in my home. I am already state licensed for a family daycare. The two (2) variances I need approval for is to use more than 25% of my main level. I can currently have up to six (6) kids. With a group daycare, I can have up to twelve (12) and that is what I am trying to do. It is not a different license; the state requires getting pre-approval because each city has different rules for that. Once you get city approval you then send it back up to the state.

Chairman Weipert – What does the approval entail?

Inspector Veltri – The state would come in and ask for zoning approval. There would be a form I would have to sign saying that all ordinances and building codes are met.

Chairman Weipert – As opposed to house vs. a commercial building.

Inspector Veltri – I would still have to sign off.

Commissioner Herman – You currently watch six (6) kids?

Ms. Howell – I have two (2) kids right now and could watch up to six (6). I really want to do this. I had my kids in daycare. Commercial daycares to me were not up to par. They did not supply anything and had outrageous rate upwards of \$200.00 per week. I

did find two (2) in-home daycares in South Lyon. One of the daycares was bad the other was great. I worked at a commercial daycare for three (3) years so I do have experience. I am considering going back to school to get my Child Development Certificate. Right now my mom is a housekeeper and I want to give her the opportunity for a full-time job and a steady paycheck. My rate would be a lot cheaper than commercial daycare. I would charge \$35.00 per day and \$6.00 hourly for part-time. I do plan on getting my yard fenced in. It is in the City code.

Commissioner Herman – Does the total amount of kids include your kids?

Ms. Howell – Yes. If they are under the age of seven (7) they are included in the total amount. I can currently have four (4) more kids for a total of six (6).

Commissioner Goodcase – Have you operated already for six (6) kids for a period of time?

Ms. Howell – No, I have not yet I just got licensed in November 2008.

Commissioner Goodcase – So you have not really operated with the six (6) yet?

Ms. Howell – Right. I worked in a commercial daycare I was the lead teacher of the toddler room 6-1 ratio and the pre-school room 10-1 ratio.

Commissioner Goodcase – Do you have a waiting list of parents that are interested in getting into your daycare?

Ms. Howell – I don't have a wait list but I have one (1) for sure as of December 1, 2008. I meet with another mother this Saturday.

Inspector Goodcase – I was just trying to figure out why you want to go to twelve (12) when you have not even done six (6) yet.

Ms. Howell – There is a whole process you have to go with before you set-up your paperwork. Since my paperwork is so recent, I would not have to go through it and spend extra money if I can just get approved now.

Chairman Weipert – What is your difficulty? When it comes to a business in a residential area the city and state law says six (6) won't interfere too much with your neighbors but twelve (12) there would be more traffic.

Commissioner Rodman – The surrounding neighbors could be concerned about the amount of traffic when picking up in the early a.m. and dropping off in the early evening.

Ms. Howell – I am open 8 a.m. to 6 p.m. and outside time would be about two (2) hours a day. I plan on separating the kids into groups. Once around 10 a.m. and again 3-4 p.m.

Chairman Weipert – The 6 to 1 ratio is the state law in a home. With twelve (12) you need to hire employees whether it is your family or not. It looks like you will be using your whole house.

Ms. Howell – That is what I am already going to do for the family daycare. I will use my whole main level and upstairs for nap time only.

Commissioner Rodman – It would be a full fledged business in a residential neighborhood. It would be no different if you were running a widget sales office out of your home. I have nothing against a small daycare my child attended one. When I would pick her up and there were five (5) or six (6) kids there, she had her hands full. She had a fenced in yard and it was still a hectic area especially when you get there and there are five (5) parents there to pick up their kids.

Chairman Weipert - When you have a commercial daycare, it is usually set-up like a box or a rectangle so they can be watched all at one time. I think that is the reason why you need special rules to operate with twelve (12). That is why the state picks the amount of six (6). Twelve (12) may be too many in a home. It is more of a commercial operation.

Commissioner Rodman – We do have this letter here from a neighbor that they moved into a residential neighborhood and would like to keep it that way. Some of the letter is hear-say so we can't take that into account. The ordinances are written to say six (6) kids are not unreasonable at any time. There could be six (6) kids over in the summertime. But with twelve (12) kids possibly all the time, every day of the week from 8 a.m. to 6 p.m. it could become a burden on your neighbors. That is why we have ordinances not to allow commercial facilities in a residential area.

Chairman Weipert – Is there anyone from the audience that would like to speak?

Ms. Kyanka – I live next door to Heather and this neighborhood is single family homes and I believe six (6) kids would be adequate. I have an issue with twelve (12) kids since there would be a lot of traffic and cars coming in and out of the sub which would be a burden on the neighbors.

Mr. Kapler – I live kitty-corner from the Howell's. I have no problem with them having a daycare the size they are. When I look at the way the information came out on the petition for this, as you have stated, it converts the home to a commercial business. Parking is limited since you can only park on one side of the street the way the streets were laid out in our subdivision. There would be a lot of traffic and people turning around, having to park and it will be a challenge. I think it is excessive.



question mark upon your approval. They would like an 18' wide deck by 16' deep. It is a straight forward deck. There is no cover here, just a cedar deck.

Commissioner Rodman – We can approve the deck only, not the future.

Chairman Weipert – Do you withdraw the “future” request?

Mr. Kheder – I withdraw that request, absolutely.

I have the same argument that we had with the prior case. It was a consent judgment subdivision and the footprints of the home on the side yard set-backs shrunk so you could put a bigger size home on those sites. The density issue was never addressed. My argument again will be that we will be seeing quite a few of these. Generally speaking, the homes that I am building there don't have an issue meeting building requirements. It is a volume issue and wherever I can get a deck on grade, I put it for the clients. We are happy to provide those for clients. In this situation, if I was to do a slab on grade, they have a long set of risers coming off that patio door and a lot of people object to that. They like to be able to come off the nook and go right to their patio. It is the same issue relative to set-backs and what that did to the envelope or the building footprint size and the standard density requirement within the City.

Chairman Weipert – Any questions?

Commissioner Goodcase – Is the request for 18' wide by 14' out from the house?

Mr. Kheder – It is 18' wide and 16' out from the house.

Inspector Veltri – It states 18' x 14'.

Mr. Kheder – It may have been my error let me check my documentation. My mistake on the drawing. For this sale, it is pending approval on a 16' x 18' deck.

Commissioner Rodman – If we approve, what do you want us to approve?

Mr. Kheder – What I have sold to the client was 16' x 18'. That was an oversight on my part.

Commissioner Herman – The square footage is for a 16' x 18' deck.

Commissioner Rodman – The variance is for 112 sq. ft. according to Joe's calculation.

Inspector Veltri – The deck he applied for was 252 sq. ft. and he had a balance of 140' at the 25% that left 112 sq. ft. It would be an additional 36' for a total of 148 sq. ft.



**ZBA 11-20-08 – KHEDER HOMES AT CHARLESTON PARK – 143 SINGH BLVD.**

Motion by Herman, supported by Bradley

I will make a motion to accept the variance per Chapter 102-456 to approve 148 sq. ft. into the 25% coverage that is allowed per Section 102-85 (a) that there are exceptional and extraordinary circumstances and conditions that apply to the property.

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

**Kheder Homes at Charleston Park – 431 Amelia Circle**

Mr. Kheder – I built this home for my in-laws and we moved them into today. Similar to what we did on Lot 55. We did a 14' x 12' screened in room. My in-laws would like the same thing but because of their age this is a ranch home and has a larger footprint. We extended the garage space to give them a little bit more room. They would like a screened in porch there. They are in their mid-seventies and the reason they chose the lot was not for the walk-out feature, it was the view. There is a spectacular view of Mud Lake. There are two (2) swans there and it is a nice site. I wanted to put a raised walk-way with an observation deck out there. My father in-law has a difficult time with steps so in addition to the 12' x 14' we want to put a 12' deep by 10' wide open deck so they have some place to BBQ. That is what we are looking for. This whole structure fits in the building envelope. It is still within the set-back requirements of that lot. It is one of those lots that because there is no one within 100' of them and we get an additional 10' correct Joe.

Inspector Veltri – Yes, your set-back changes by 20'.

Commissioner Rodman – With the raised structure you will still have full access to the walk-out part of the house.

Mr. Kheder – Yes.

Commissioner Rodman – It is high enough where it won't impede on it.

Mr. Kheder – Correct. You will be able to do a patio down below.

Commissioner Rodman – Your variance is basically the same as the first one we heard tonight.

Mr. Kheder – Yes, except for not crossing the envelope.

Chairman Weipert – I have no problem with it.

Commissioner Rodman – I have no problem with it either.

**ZBA 11-20-08 – KHEDER HOMES AT CHARLESTON PARK – 431 Amelia Circle**

Motion by Bradley, supported by Goodcase

I make a motion that we approve the 161 sq. ft. variance per Chapter 102-456 which limits lot coverage to 25%. The hardship being the consent judgment per 102-85 (a).

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

**STAFF REPORTS:**

No meeting is scheduled in December.

**ZBA 11-20-08 – ADJOURNMENT**

Motion by Goodcase, supported by Herman

To adjourn the meeting at 8:02 P.M.

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

Inspector Veltri – The City thanks you for your time.

Respectfully Submitted,

Philip Weipert, Chairman

Marianne Jamison  
Marianne Jamison, Recording Secretary