

THE CHARTER TOWNSHIP OF HARRISON  
HARRISON TOWNSHIP, MI 48045  
ZONING BOARD OF APPEALS MINUTES  
TUESDAY, AUGUST 14, 2007  
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A regular meeting of the Charter Township Zoning Board of Appeals was held on Tuesday, August 14, 2007 at 7:00 P.M. at Rosso Memorial Hall located at 38255 L'Anse Creuse Road, Harrison Township, Michigan 48045.

**A. CALL MEETING TO ORDER:**

Meeting was called to order at 7:00 p.m.

**ROLL CALL:**

<b>CHAIRMAN</b>	ARCHIE LYTLE	Present
<b>VICE-CHAIRMAN</b>	JAMES SENSTOCK	Present
<b>BOARD REPRESENTATIVE</b>	JAMES ULINSKI	Absent/Present - Late
<b>SECRETARY/P.C. LIAISON</b>	MARIA ZINGAS	Present
<b>MEMBER</b>	LAWRENCE MISLINSKI	Absent - Excused
<b>ALTERNATE MEMBER:</b>	WILLIAM SERVIAL	Present
<b>ALSO PRESENT:</b>	ROSEMARY DAVIS	Township Attorney
	CYNTHIA CHAMBOS	Recording Secretary

**B. HEARINGS and REVIEWS:**

1) **Case #11-07-ZBA:** Cheryl Marhevko-Kozera – Petitioner  
32873 North River Road, Harrison Twp, MI 48045  
Lots 47 & 48, Except 13.25 Feet (Zoned R-1-D)  
Sunny Point Shores Subdivision  
Property #0950-0037-02, Sidwell #12-15-276-029.

**Purpose of Request:** Requesting a front yard variance of twelve (12) feet from the required thirty (30) foot front yard setback.

Cheryl Marhevko-Kozera, petitioner, was available to address her request. Cheryl gave a brief overview of her request from the Zoning Board. Cheryl and her sister, Jeanenne Marhevko, who own adjoining lots, would like to put an above ground swimming pool on the lot line, (in the middle of Lot 48) in between their two homes. This area would benefit all parties involved including her neighbor to the west of her property. It would be quieter, more private and would affect no one else. Cheryl went on to state that she had a letter that was signed by the neighbors showing their support for the placement of this pool.

The Board members then engaged in discussion regarding Mrs. Kozera's request, including a few questions for the petitioner, relative to the pool size, where located at this time, the deck on her home, and so forth.

Member Servial had several questions regarding the setbacks, the length of space between the deck and the pool, the reason why she wants it placed on the lot line, and who told her to request only twelve (12) feet rather than eighteen (18) feet. This was improperly noticed at 12 feet.

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This was followed by another discussion regarding the side yard setbacks and the two (2) options that were presented to the Board, by the applicant, relative to the two (2) areas where the pool could be located. A written agreement would have to be drawn up between both parties as to this arrangement with regards to what would happen if either were to sell their respective properties.

Chairman Lytle asked if there were any public comments on this proposed request and hearing none, he then noted that the Fire Marshal did not have any issues with this case. At that time, he asked the Board if they had any further comments or discussion for this petitioner. Hearing none, he asked for a motion.

**Motion by Member Senstock supported by Member Servial to table Case #11-07-ZBA, Cheryl Marhevko-Kozera – Petitioner, 32873 North River Road, Harrison Twp, MI 48045, Lots 47 & 48, Except 13.25 Feet (Zoned R-1-D), Sunny Point Shores Subdivision, Property #0950-0037-02, Sidwell #12-15-276-029, (date specific to September 11, 2007) subject to the following:**

- 1) **A proper notice for a variance of eighteen (18) feet from the required thirty (30) foot front yard setback is renoticed.**
- 2) **A side yard variance of six (6) feet from the side yard setback is included for both properties.**
- 3) **Jeanenne Marhevko, the applicant's sister, will need to have her property also properly noticed with the same variances as noted above in item #1 and #2 of this motion.**
- 4) **When this case comes back to the Zoning Board, at that time, the two (2) sisters would be able to determine which option they would prefer.**

<b><u>Roll Call Vote:</u></b>	<b>Member Senstock</b>	<b>Yes</b>
	<b>Member Servial</b>	<b>Yes</b>
	<b>Member Zingas</b>	<b>Yes</b>
	<b>Chairman Lytle</b>	<b>Yes</b>

**Motion Carried.**

- 2) **Case #12-07-ZBA:** **Kevin Ryan – Petitioner**  
**37905 Lakeshore Drive, Harrison Twp, MI 48045**  
**Lot #302, St. Clair Haven Subdivision (Zoned R-1-C)**  
**Property #0730-0205-00, Sidwell #12-22-381-014**

**Purpose of Request:** **Requesting a side yard variance of two (2) feet, five (5) inches from the required fourteen (14) foot side yard setback.**

Kevin Ryan, petitioner, was available to present his case. Kevin gave a brief summary relative to his variance request for an addition to his home.

A brief discussion ensued between Board members and the petitioner, Kevin Ryan, relative to the setback request, the construction of the addition, where the in-ground pool is located, clarifying whether a ordinance and several other small issues relating to the project.

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**Motion by Member Zingas supported by Member Senstock to approve Case #12-07-ZBA, Kevin Ryan – Petitioner, 37905 Lakeshore Drive, Harrison Twp, MI 48045, Lot #302, St. Clair Haven Subdivision (Zoned R-1-C), Property #0730-0205-00, Sidwell #12-22-381-014, subject to the following:**

- 1) **Grant the variance of side yard setback of one (1) foot, seven (7) inches, from the required fourteen (14) foot side yard setback.**
- 2) **The new building is in alignment with the existing building.**
- 3) **And, the accessory structure (in ground pool) meets the ordinance.**

<b><u>Roll Call Vote:</u></b>	<b>Member Zingas</b>	<b>Yes</b>
	<b>Member Senstock</b>	<b>Yes</b>
	<b>Member Servial</b>	<b>Yes</b>
	<b>Chairman Lytle</b>	<b>Yes</b>

**Motion Carried.**

- 3) **Case #13-07-ZBA:** **Gabriel Selesan – Petitioner**  
**37824 Mast Street, Harrison Twp, MI 48045**  
**Lot 19 & 20, Mallast Subdivision #1**  
**Property #0530-0001-00, Sidwell #12-28-104-001**

**Purpose of Request:** **Requesting a rear yard variance of seventeen (17) feet, ten (10) inches from the required thirty (30) foot rear yard setback.**

Gabriel Selesan was present to address his case. Mr. Selesan voiced his concerns about how he was called in to the Building Department this morning and had a conversation with Vijay, the Building Official, relative to the fact his variance was noticed improperly – it should have been noticed at twelve (12) feet, two (2) inches. He went on to say that the Building Official had concerns relative to the lot coverage and impervious surface coverage of his proposed project. Mr. Selesan had an updated packet showing the revised sizes after the structure is built. Vijay assured him that he met the thirty (30%) percent lot coverage for the actual buildings and the fifty (50%) percent requirement for the impervious surface coverage. Mr. Selesan went on to give a little history of his lot and the reason why this is a hardship for him and his wife.

Chairman Lytle interrupted and noted that Member Ulinski had arrived for the meeting at 7:50 p.m.

Mr. Selesan went on to finish his history of the property and hardship. He also tried to address the issue that some of his neighbors had regarding the limited sight distance that would cause a blind spot when coming down the canal where it intersects with the other canal. He sits on a corner canal.

A lengthy discussion ensued by the Board members regarding various issues relative to the Two-Thirds (2/3) Rule and the size of his lot and was the garage already demolished.

Chairman Lytle then asked if there was any public comment on this case. Hearing none, he addressed a letter that was received from a Mr. David Oselett and regarding his disapproval of this project. Motion was made to receive and file.

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Chairman Lytle then brought this back to the Board for further discussion. The Board again went into a lengthy discussion regarding Mr. Selesan's case and especially the Two-Thirds (2/3) Rule requirement.

**Motion by Member Servial supported by Member Ulinski to approve Case #13-07-ZBA, Gabriel Selesan – Petitioner, 37824 Mast Street, Harrison Twp, MI 48045, Lot 19 & 20, Mallast Subdivision #1, Property #0530-0001-00, Sidwell #12-28-104-001, subject to the following:**

- 1) **Grant a ten (10) foot rear yard variance from the required thirty (30) foot rear yard setback.**
- 2) **Contingent on the Two-Thirds (2/3) Rule factor or no more than 1,008 square feet for the garage size.**

<b><u>Roll Call Vote:</u></b>	<b>Member Servial</b>	<b>Yes</b>
	<b>Member Ulinski</b>	<b>Yes</b>
	<b>Member Zingas</b>	<b>Yes</b>
	<b>Member Senstock</b>	<b>No</b>
	<b>Chairman Lytle</b>	<b>Yes</b>

**Ayes: 4      Nays: 1      Motion Carried.**

- 4) **Case #14-07-ZBA:**      **St. Hubert Catholic Church – Petitioner  
38775 Prentiss, Harrison Twp, MI 48045  
Part of Lot #3, Lots 6 & 7, G.H. Prentiss Subdivision  
Harrison Twp, MI 48045 (Zoned R-1-C)  
Property #9900-0182-00, Township #0640-0037-00**

**Purpose of Request:**      **Requesting a variance approval for six (6) temporary tents for church festival.**

Robert Buchman – 38400 Mast: Requesting permission to erect six (6) tents for the church festival.

Chairman Lytle briefly stated that this was not something new to the Zoning Board but that it is the first time this has come before the Board and that the Board has since sent the Ordinance back to the Township Board for clarification or to be rewritten.

A short discussion then ensued between Board members relative to comments from the Fire Chief, and just how long the tents would be up and when they would come down, the number of portable toilets, parking spots, traffic control, etc.

Larry Tomenello – Co-chair of St. Hubert Festival – Mr. Tomenello stated that the tents would be erected on September 5, 2007 and taken down approximately September 11<sup>th</sup> or 12<sup>th</sup>, 2007. Same number of tents and spots, fifteen (15) portable toilets – two (2) of which are handicap and also provide sanitary wash areas at each toilet area for hands. He went on to say that there were proximately to four-thousand (4,000) parking spots available, and they use the main parking lot for handicap parking. They use St. Hubert property across Prentiss for general parking and also Reverend Woodard's property for overflow parking. Larry went on to add that there would be approximately three-thousand to four-thousand (3,000-4,000) people attending the festival each day. For security the church uses the Macomb County Sheriff's Department and in addition also

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uses the Sea Cadets from Utica to perform all parking, manage the handicap parking, and they are there prior to and after the festival starts and ends each day, and directs the traffic in the evening.

This festival is the main fundraiser for the church and all benefits do go to the church and for operating expenses of the church.

Larry Tomenello requested that the application fee be refunded back to the church since this is a non-profit organization and all profits do stay with St. Hubert.

Chairman Lytle asked the audience if there were any public comments relative to this case.

Paul – Resident – Attends St. Joan of Arc Church. Paul just wanted to comment that when St. Joan has their festival that the tents go up on Friday and come down on Monday. He is not sure why it would take so long for St. Hubert to get their tents removed.

Chairman Lytle then asked if there were any other public comments and hearing none brought it back to the Board for discussion.

Member Senstock questioned whether the Fire Chiefs comments had been read and addressed and if there were any problems with them.

Larry Tomenello stated that they had read the comments and have been working with the Fire Chief closely to address all the recommendation that he had made. There did not seem to be any problems with the recommendations. All permits and all inspections were in the process of being set up at this time.

**Motion by Member Senstock supported by Member Zingas to approve Case #14-07-ZBA - St. Hubert Catholic Church – Petitioner, 38775 Prentiss, Harrison Twp, MI 48045, Part of Lot #3, Lots 6 & 7, G.H. Prentiss Subdivision, Harrison Twp, MI 48045 (Zoned R-1-C), Property #9900-0182-00, Township #0640-0037-00, subject to the following:**

- 1) **Approve the seven (7) temporary tents.**
- 2) **For period starting September 4, 2007 through September 15, 2007.**
- 3) **The petition will agree to the Fire Department's letter of July 27, 2007.**
- 4) **Also recommend refund of application fee in the amount of six-hundred dollars (\$600.00), because it is going to the church and the church is a charitable organization.**

Chairman Lytle then asked if there were any discussion on the motion.

Member Servial addressed the Recording Secretary, Cynthia, what the publication noticing fees were on this case.

Ms. Chambos responded that it costs almost four-hundred dollars to notice this case.

There was some discussion regarding the costs of noticing in the paper and also it was noted that there were only six (6) tents not seven (7).

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**Motion by Member Senstock and supported by Member Zingas to amended his prior motion to read six (6) temporary tents.**

Chairman Lytle again asked if there was any discussion on this motion or case.

Member Servial was still opposed to waiving the application fee due to the cost of the newspaper publishing fees.

Member Senstock stated that the Board has on many occasions waived fees for public and private entities that were charitable in nature and sometimes the cost of publication is the cost of doing business.

Member Ulinski asked the Board to keep in mind that they were enforcing an ordinance that has been very lax in the past, and this ordinance is being revised at the Board level, and these types of cases will be handled administratively in the future. This will probably be one of the very last cases like this – for this type of a use in front of this Zoning Board.

There was a short discussion on this matter between all the Board members.

Chairman Lytle asked if there was any further discussion on this matter and hearing none asked for a roll call.

<b><u>Roll Call Vote:</u></b>	<b>Member Senstock</b>	<b>Yes</b>
	<b>Member Zingas</b>	<b>Yes</b>
	<b>Member Servial</b>	<b>No</b>
	<b>Member Ulinski</b>	<b>Yes</b>
	<b>Chairman Lytle</b>	<b>No</b>

**Ayes: 3, Nays: 2 Motion Carried.**

5) **Case #17-07-ZBA:** **Paul Berger – Petitioner – For Lucas’ Conger Bay Marina  
23927 Demley, Clinton Twp, MI 48035**

**Property in Question:** **Lucas’ Conger Bay Marina  
41680 Conger Bay, Harrison Twp, MI 48045  
Described Property, Harrison Twp, MI 48045, (Zoned WF)  
Property #0001-0474-00, Sidwell #12-10-300-002**

**Purpose of Request:** **Requesting a variance approval for two (2) temporary tents  
for “The Old Crowd” festival.**

Paul Berger – 23927 Demley, Clinton Twp, MI – Member and Executive of the Board for “The Old Crowd”. This is an organization for men in Macomb County. Mr. Berger gave a brief description of the group and their activities.

A brief discussion was held between Board members and Mr. Berger relative to the number of tents, approximately how many men there would be, parking issues, when the tents would go up and come down, fire safety issues and have always complied with everything the fire chief requires of him, and other small issues.

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Chairman Lytle gave a brief description of fire items that must be followed regarding items from the fire chief and other items.

Member Senstock inquired if the applicant had paid the application fee and Mr. Berger replied that this was a last minute notice that he received just this morning and his treasurer was not available at the time to give him a check for the application amount. He can have the fee paid, if needed, as soon as his treasurer can be reached.

Member Ulinski then asked if this was a non-profit organization and Mr. Berger responded that it was.

Chairman Lytle asked if there were any other questions from the Board members and hearing none asked if there was any public comment on this matter.

Member Servial would like, when a motion is made, to have the stipulation made that no matter what has been put on the paper Mr. Berger has had in the past from the chief, which any and all recommendation made by the Fire Chief must be adhered to.

**Motion by Member Servial supported by Member Zingas to approve Case #17-07-ZBA, Paul Berger – Petitioner – For Lucas’ Conger Bay Marina, 23927 Demley, Clinton Twp, MI 48035, Property in Question: Lucas’ Conger Bay Marina, 41680 Conger Bay, Harrison Twp, MI 48045, Described Property, Harrison Twp, MI 48045, (Zoned WF), Property #0001-0474-00, Sidwell #12-10-300-002, subject to the following:**

- 1) To allow the two (2) tents.
- 2) That the applicant pays the appropriate fees
- 3) Agree to whatever recommendations the Fire Chief stipulates needs to be done.

**Member Servial amended his motion after Member Zingas supported his motion and asked him to add the following dates:**

**The tents shall go up August 15, 2007 and come down August 17, 2007.**

Member Ulinski would like to clarify what the appropriate fees would be as this case was not noticed in the paper.

Member Senstock would like to see all the fees waived – especially since this is a non-profit corporation. And, also for the same reasons that we did on the prior case. It is one of the few that is going to come in from of this Board and it is a non-profit organization and that we have done it in the past. Member Senstock would ask that this be added to the motion as a friendly amendment.

Rosemary Davis stated that since the Township did not expend anything on this matter, the fees could be waived. The \$600.00 was never expended.

**Member Servial, stating under the unusual circumstance, that he would amend his motion relative to the fees:**

- 1) Waive all appropriate fees

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Chairman Lytle stated that Township Council has advised that the fees proposed are not reasonably related to the costs incurred.

A brief discussion ensued relative to the appropriate costs incurred by this case.

Member Zingas withdrew her support for this motion.

A new motion was made by Member Servial supported by Member Ulinski to approve Case #17-07-ZBA, Paul Berger – Petitioner – For Lucas’ Conger Bay Marina, 23927 Demley, Clinton Twp, MI 48035, Property in Question: Lucas’ Conger Bay Marina, 41680 Conger Bay, Harrison Twp, MI 48045, Described Property, Harrison Twp, MI 48045, (Zoned WF), Property #0001-0474-00, Sidwell #12-10-300-002, subject to the following:

- 1) Allow two (2) tents to be erected for “The Old Crowd” festival.
- 2) The tents will be allowed for the period from August 15, 2007 through August 17, 2007.
- 3) Waive all Zoning Board of Appeals fees.
- 4) The applicant is to meet all fire marshal requirements and all local authority having jurisdiction.
- 5) Applicant must pull all necessary permits especially electrical.

Chairman Lytle asked if there was any further discussion on the motion and hearing none asked for a roll call.

<b><u>Roll Call Vote:</u></b>	<b>Member Servial</b>	<b>Yes</b>
	<b>Member Ulinski</b>	<b>Yes</b>
	<b>Member Senstock</b>	<b>Yes</b>
	<b>Member Zingas</b>	<b>No</b>
	<b>Chairman Lytle</b>	<b>Yes</b>

**Ayes: 4      Nays: 1      Motion Carried.**

**C. OLD BUSINESS:** None

**D. ANNOUNCEMENTS:** None

**E. 1) APPROVAL OF MINUTES:** July 10, 2007

Member Senstock made changes to page two (2) of the minutes, regarding Eastside Collision. It should read: **The petitioner will be allowed to receive vehicles in front of the screened area and moved and stored behind the screened area by end of business day.**

**Motion by Member Senstock supported by Member Ulinski to approve the amended minutes of the July 10, 2007 meeting.**

**Ayes: 5      Nays: 0      Motion Carried.**

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2) **APPROVAL OF MINUTES:** July 31, 2007

**Motion by Member Ulinski supported by Member Servial to approve the minutes of the July 31, 2007 meeting.**

**Ayes: 5 Nays: 0 Motion Carried.**

**F. NEW BUSINESS:**

Member Servial referred to a conversation with Member Senstock relative to the tent issue. Member Servial claims he was told it was just for commercial – is this correct?

Member Senstock went on to clarify this for Member Servial and the part of the Ordinance that pertains to it. He also went on to state that any ordinances that are not clear need to be recommended to the Planning Commission for clarity. He stated that this is not for residential.

**G. PUBLIC COMMENT:**

Paul Oxie – 26450 Crocker Blvd., Metro Towers: He is looking for a singles dance or activity for single people. How does he go about doing this?

Member Ulinski offered information on the Beaufait addition or work with the Parks and Rec Department. He suggested Paul check with the Clerks office. He would also like to volunteer to help with the Historical Committee.

Member Senstock made note that additional temporary meetings may come up relative to the temporary tent issue.

Chairman Lytle stated that he would leave it up to the Recording Secretary, Cindy, to let the Board know of additional meetings.

**H. NEXT ZONING BOARD OF APPEALS MEETING: September 11, 2007 at 7:00 p.m.**

**I. ADJOURNMENT**

**Motion by Member Ulinski support by Member Servial to adjourn the meeting at 9:15 PM.**

**Ayes: 5 Nays: 0**

**The motion carried unanimously.**

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Maria Zingas, Secretary  
Harrison Township Zoning Board of Appeals

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Cynthia Chambos, Recording Secretary

Date Approved: \_\_\_\_\_