

**MINUTES OF THE  
CITY OF ST. CLAIR SHORES  
ZONING BOARD OF APPEALS  
OCTOBER 7, 2021**

**Present:**

Tony Bellestri, Chairman  
Steve Scavone, Vice-Chairman  
Thomas Budnick, Secretary  
Lee Bertolo  
Peter Stellas  
Duane Michno  
Bill Lince

**Alternates:**

Thomas McKenney  
Mark Moffitt

**Also, Present:**

Eric Shepherd, City Attorney  
Shantelle Hubbard, Recording Secretary  
Chris Rayes, Community Director

**Call to Order**

Chairman Bellestri called the meeting to order at 7:00 p.m., roll was called and a quorum was present. The Pledge of Allegiance was said by all. Secretary Budnick instructed the petitioner that it is understood by the Zoning Board of Appeals that their presence here tonight constitutes that they are a legal representative of the petitioner and that each statement of intent, promise and/or pledge, made by the petitioner or agent, either orally or in writing, permitted by ordinance shall be binding upon the petitioner and shall be a condition of set variance if approved.

**Case No. 44-2021 – Jon Pastucha on behalf of Kevin & Sherri Esch – 34170 Jefferson**

**Re:** ASSESSOR'S PLAT NO. 38 (L15, P29); LOT 2 & THE SW 1/2 OF LOT 3, DESC AS FOLL: COMM AT NW COR LOT 3; TH S39°40'W 87.00 FT TO POB; TH S46°33'30"E 276.32 FT; TH S39°05'W 94.27 FT; TH N50°20'22"W 276.68 FT; TH N39°40'E 112.50 FT TO POB

**Location:** North of Masonic, East of Jefferson

**REQUEST:** Request for 23' front setback variance to allow a structure (basketball hoop).  
*(Zoning Ordinance 15.481, Schedule of Regulations)*

Jon Pastucha, 16714 Carriage Way, Northville representative for Kevin & Sherri Esch. He stated they put a basketball court on the lot. They went to the city last year. They tore the house and garage down and put the basketball court in. They wanted to put a fence on the side. They went to a meeting last month and was told that they couldn't put a hedge fence up. They were approved to put the fence up on the west side of the court. They told him that they could put the east basketball net up. The north and south pick a ball net. They

need a variance for the west side of the basketball court net. It is a 4' x 4' square concrete on the end of the basketball court.

**Audience Participation:**

Randy Debates, 34124 Jefferson, they are here for the basketball pole. He looked at the pole and it is bolted to the cement with four bolts. It looks like a fixture not a structure. He looked at the code and it states a building set back code. He said that this is not a building it is a basketball pole. He said that this is not any different than a flag pole. There are pole lamps on the sides of the driveways in front of the house. Mailboxes are all up and down Jefferson and they are cemented in. There are decorative walls on Jefferson which could be structures. They didn't have to pull a permit for a basketball pole. They didn't get a violation. No violation from the building official. He doesn't want to go through the same process if he wants to put up pole lamps or flag pole. He thinks that the ZBA meeting is overreaching by having them here. He said that they should refund them their application fee.

**Correspondence: None**

Commissioner Stellas asked Mr. Rayes to explain his thought behind this. Mr. Rayes stated that all of this work was done prior to getting a permit. The garage was torn down without a permit. The basketball court and the pole installation were all put in prior to him waiting for us to review the plans and advise him of what is acceptable in terms of the setback. This is why they are in this situation because they failed to wait for the permit prior to doing the work. A pole is a structure that is held up by the ground. We do tell people that flagpoles have to meet the setback as well as basketball poles. Mailboxes are regulated under the U. S. Postal Service and our own requirement with things in the right of way we don't allow brick mailboxes and break away and other safety devices. That's how CDI interprets these things.

Commissioner Michno stated to the petitioner that this has not been brought up by the Zoning Board of Appeals. They don't determine whose goes in front of us. He was wondering why a stop work order was issued. Mr. Rayes stated he is not sure if a stop work order was posted. He knows that they were advised by the staff that work was being done without a permit and they continued to do the work. The builder should know that they should not do work without a permit. Commissioner Michno asked if this contractor is licensed through the city. Mr. Rayes does not know the answer to that.

Chairman Bellestri said that this would not be encroaching anything in the lot coverage. Mr. Rayes stated "no" and for a patio it wouldn't count either. This is more of a recreational facility sticking out there.

Commissioner Lince asked if this is encroaching in the right of way. It is not in the right of way it is in the setback; it is 95' from the center of the road. Would this require a hold harmless agreement? No, this is not on city property.

Commissioner Scavone asked if the slab would require a concrete permit. Mr. Rayes stated that being defined as a basketball court it may be exempt from the slab itself but the hoops

would have been a problem. If he told us, it is going to be a basketball court would have told him that there's going to be a problem. If there was a patio there it probably wouldn't be a problem.

Commissioner Scavone stated that he saw the construction. He saw the stone put in and they did a beautiful job grading it. He thought that a house was going in and that was just a wash down and why isn't it up to the road. He saw the forms were going in and it was poured and no footings so it is not a building.

Commissioner Scavone asked since the petitioner is the general contractor why was this work started without a permit? The contractor stated that they first went in and got a permit to tear the house down he said that they were taking all of the buildings down. He thought it was all under one permit. They didn't tear the garage down until the following year. The building inspector came by and he told him that he got a demo permit. The inspector said that the garage is not on the permit. He said that they can't use the garage there is a hole in the ground. He said that the city knew it was coming down even when they submitted the drawings to demo the house and what they are doing the basketball court was on there. He said that he went to Nicole in May she said that they would not need a permit there are no footings. She said that they need different drawings because of the amount and they required us to put drains in the property because it was so low. He did not have an issue with any permit that was needed. When they even told them that they were going to pour the concrete for the basketball court three weeks prior. He asked if a permit is needed and she said "no". She said that we just need to see it on the drawings where it was. They brought up that they want to put up arborvitaes and they were told that they cannot do that. Nothing changed on basketball court it has been there since day one. There will not be any lights. They talked to both neighbors if there will be a problem. When they went in front of the committee for the fence the neighbors wanted it up to stop the ball from going on to Jefferson. That will have poles in the ground to hold the fence up and they are 8" concrete tubes going into the fence the basketball court is only 6". This is in the same zone. They were approved for the fence. The neighbors just want them not to obstruct their view. They will be 35 ft from the lake for the arborvitaes the neighbors said that it will obstruct their view. According to the city you cannot have a fence and they consider the arborvitaes a fence. They want to put a garage on the property which he will do next spring. The lots are combined. Commissioner Scavone asked if the fence would create a problem. He said that if they were approved from the fence arbitration then they are good to go. The city will be back out to approve it.

Commissioner Scavone stated to Mr. DeBates that if they put lights poles by the driveway, they have to pull a permit. The contractor stated that the north lot was almost 34" higher. He said that the civil engineer stated to put pumps in there. They put three basins in there with pumps and retention underneath it to keep the water out. The setback requirement is 95'.

**It was moved by Secretary Budnick, supported by Commissioner Michno, to approve the request for 23' front setback variance to allow a structure (basketball hoop) reason being the structure that is in place is removable.**

**A roll call vote was taken.**

**Ayes: All**

**Nays: None**

**Absent: None**

**Motion: Passed**

Commissioner Michno stated that it seems to him that some of this was overlooked by the city. He said that because this is out there it doesn't make it bad different yes because of the size and shape of those lots. They have granted a lot of exceptions.

**Case No. 43-2021 – Betty Schmidt – 22628 Harper Lake (tabled from 9/2/21 ZBA)**

**Re:** JEFFERSON-HARPER SUPERHIGHWAY SUBDIVISION (L9, P13) LOT 165

**Location:** North of Nine Mile Rd., West of Jefferson

**REQUEST:** Request for a 5.2% total lot coverage variance, 275 square foot rear lot coverage variance, and a 6' side yard setback variance for a pool built without a permit. (*Zoning Ordinance 15.481, Schedule of Regulations and 15.499, Accessory Structure*)

Betty Schmidt, 22628 Harper Lake, she stated that she contacted DTE and she has a work order number. They are going to move the line from one side to the other. She has not gotten her contract in. She did receive the work order #62323251.

**Audience Participation:** None

**Correspondence:** None

Commissioner Stellas stated that the biggest concern is the electrical line. Getting it moved in a place that will not impact the swimming pool. It will have to be 22 ft. from the waterline, deck, and any kind of platform. It does allow 10 feet if you are horizontally away but if you have a line that is hanging it would have to be 22 1/2 ft. distance over the water. If they move the electrical line then it comes down to how will she access in the back by the pool if there was an emergency? How does she service that area? There is about 15 feet back there. The petitioner stated that there is nothing back there. The side yard setback there could be a problem if someone wants to access it. What if someone were to take a bad fall there is no access for the emergency people to the area in back of the pool. Without trying to skinny through the garage. He would not want to approve this until he can see the line has been moved.

Commissioner Michno asked Mr. Shepherd since he was not at the last meeting when this case was first heard can he still vote on this case? Mr. Shepherd stated that this case was tabled so as long as he feels well informed then he can.

Vice-Chairman Scavone stated that pools need to be grounded. They are running their pump on an extension cord. Someone can step out of the pool onto the cord. She will have to put in a GFCI plug and it has to be a certain distance and the cord can be only a certain length. The city will let her know about that. Mr. Rayes stated that they could put this in the motion. He also stated that we have not done any inspections on it because we haven't

issued the permit because it is in violation until the board gives her the variance but if the board says “no” the pool has to come down. We wait until the decision is made then she will have to have all the inspections and everything meet code. It’s good that she knows so if she has power to the garage, she can pull power from the garage.

The city will let her know about everything after this is done.

Vice-Chairman Scavone asked about the distance on each side. There is only 2 feet on each side of the pool. If there was a garage fire or EMS or fire need to get through there dragging hoses and carrying tanks it is going to be difficult. There is only two feet on each side between the pool and the fence and between the pool and the garage.

Commissioner Michno stated if a motion is made to approve this, he would like to include a date or time, even though she has a work order, to make sure DTE has completed that work before anything is done. This is the most serious offense that anyone can have. The wire needs to be moved properly. That will all be checked by the city. DTE has to be there prior.

Commissioner Stellas stated this is kind of one of these cases where it is a self-created issue. If she would have applied for the permit, they would have given her more information. He does not like all of the safety items that are involved that are restrictive causing issues.

Vice-Chairman Scavone asked if there is room where this pool can be moved to. She said that half of the pool has access from the front.

**It was moved by Commissioner Stellas, supported by Vice-Chairman Scavone, to deny the request for a 5.2% total lot coverage variance, 275 square foot rear lot coverage variance, and a 6' side yard setback variance for a pool built without a permit due to the fact that this is self-created and this causes safety issues and there are other safety concerns.**

**A roll call vote was taken.**

**Ayes: Stellas, Scavone, Lince, Michno, Bellestri**

**Nays: Bertolo, Budnick**

**Absent: None**

**Motion: Passed**

She will have to get with the city pull a permit and see what you have to do to get the pool out of the way.

**Case No. 45-2021 – Kyle Siecinski – 25304 Winton**

Re: CATALDO SUBDIVISION (L25, P21) LOTS 7 AND 8 EXC THE S 32' OF LOT 7, AND EXC THAT PART LYING SOUTHWESTERLY OF A LINE DESC AS FOLLOWS: BEG AT THE NW CORNER OF LOT 8; THENCE SOUTHEASTERLY TO THE SE CORNER OF SAID LOT 3

Location: North of Ten Mile Rd., East of I-94

REQUEST: Request for 18' front setback variance to allow an unenclosed porch to encroach 5' into the 25' front setback. (*Zoning Ordinance 15.481, Schedule of Regulations*)

Kyle Siecinski, 25304 Winton, he initially talked to his contractor they were going to pour the back porch and re-do the front porch. He submitted for the front porch. The porch has a hole and few years ago he tried to patch it up and it didn't work. Initially he thought the contractor pulled the permits for both sections he did not know he was denied for the front porch. He went to the city they stated that he will need a variance. The city code is a brick front porch. Initially they wanted to extend it so they have more room up there. If not, they will use the existing foot print and bring it up to code. The street runs diagonal so his front yard is like a triangle shape.

**Correspondence:** None

**Audience Participation:** None

Commissioner Scavone asked if he wanted to add another section to it going towards the driveway. Will he relocate the steps? The petitioner stated that there is a small cement walk way going sideways to the porch so he will leave the steps where they are at, he wants to make the porch more central over the window. He does not plan on going out any further. Vice-Chairman Scavone asked Mr. Rayes if this is an existing non-conforming? He stated that this was a rectangular lot before I-94 was built. This is what he thinks created the weird shape cause it use to be a street. The house was built in 1951. The house was built then the expressway was built after. This is non-self-created hardship. Vice-Chairman Scavone stated that he will keep it the same distance out and make it wider and more useable. This is an odd shape lot it is an existing non-conforming he is not going out any further. He does not think that this will impact anything.

Commissioner Lince with the larger porch are these setback numbers correct or is this for the smaller porch. Mr. Rayes stated that the request is for an 18' front setback variance to allow for an unenclosed porch it is two feet at the extended area of the porch from the sidewalk. The numbers are correct for the larger porch.

**It was moved by Commissioner Lince, supported by Commissioner Michno, to approve the request for 18' front setback variance to allow an unenclosed porch to encroach 5' into the 25' front setback due to the fact it is an existing non-conforming.**

**A roll call vote was taken.**

**Ayes: All**

**Nays: None**

**Absent: None**

**Motion: Passed**

**Case No. 46-2021 – Sun Burst Home Improvement on behalf of Sheila Connolly – 33612 Jefferson**

Re: KOPPIN & TSCHAECHER SUBDIVISION (L2, P93) LOT 1

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Location: North of Masonic., East of Jefferson

REQUEST: Request for variance to allow a garage in front yard and a 35' front setback variance. (*Zoning Ordinance 15.481, Schedule of Regulations and 15.499, Accessory Structure*)

Martin Krant, 48045 Fuller Rd., Chesterfield, they were here two months ago. They took Vice-Chairman Scavone suggestion that they move the garage back even with the neighbor to the north garage and they lowered the pitch from a 10/12 to a 7/12 and the 15' height variance. Ms. Connolly is need of more storage she does not have a basement. The current garage is filled with a lot of things. She is looking to sell one of her homes and she has classic cars that she wants to store in the new garage along with the lawn furniture. She stores some of her stuff in Mr. Lentine's garage her neighbor. The neighbor is here to speak on behalf of Sheila. The two neighbors on each side are in favor of the proposed garage. He said at the last meeting he gave a lot of addresses of garages that are within 30' of the curb line on Jefferson that have the same issues.

Sheila Connolly stated that Martin marked out where that if they did a 90' setback it will be in the middle of her garage area right now. She would come out of the garage she would be backing into her other garage in order to turn around so she would be facing out. The markings are there for the setback does not make any sense. She needs a place to put two sailboats, lawn furniture and the additional car. The neighbor has a garage in the similar space as where she would like to put hers. She has a court yard so when you pulled up in the driveway, they can see the court yard if they push the garage back it will block the view and it will take away from the curb appeal and the look of the home.

**Audience:** Raymond DeBates, 34140 Jefferson, he has lived on Jefferson for 17 or 18 years. He knows the petitioner he thinks she has a hardship here because when they look at the houses on Jefferson, they have seen many people build garages in that setback. Denying her that same privilege to build a garage like everyone else that have been allowed to. He believes that this is the hardship.

Joseph Lentine, 33604 Jefferson just south of Sheila. He does not have any issues with that setback. This is no closer than any of the other garages. She does need the storage.

**Audience Participation:** None

Commissioner Michno stated that the discussion went in the direction of having a business in her home. He wants to know what the situation was because there are limitations. You can have a business but no employees. This was the way it was perceived by Commissioner Michno.

Commissioner Stellas stated in regards to the fact that she has other garages in the setback. Most of those garages that are in the setback are the older homes. Newer homes are built in accordance with zoning regulations. Looking at the amount of land in the frontage moving the garage back he is not inclined to think that is a necessity to move garage and creating another existing non-conforming variance situation. The idea of getting a variance is to be able to utilize the property. The garage in the position set back would be

useable. As we look, we see all these garages being moved forward or trying to move forward based on something that occurred years ago. He does not see that this is a valid argument for it. He does agree that she needs a garage in the front and have access to the rear.

**It was moved by Commissioner Stellas, supported by Secretary Budnick, to approve the request for a variance to allow a garage in the front yard.**

**A roll call vote was taken.**

**Ayes: Stellas, Budnick, Scavone, Lince, Michno, Bellestri**

**Nays: Bertolo**

**Absent: None**

**Motion: Passed**

Vice-Chairman Scavone asked will this be right in line with the garage to the north the way it is proposed right now. The contractor said pretty close. It may not be directly in line It will be about 3'. Per the drawings they will be 35' from the curb. Contractor stated "yes".

Mr. Rayes stated that this would be in the setback not the right of way.

Vice-Chairman Scavone stated that there are garages closer but they appeared to be older. He does not mind the way that this is laid out he likes the fact that there is a turn around and backing out of the existing garage and not having the 51' between the existing garage and the new garage. For safety reason they can pull back and go face out onto Jefferson. Backing out on Jefferson is difficult. He asked the contractor if they have considered moving it back further. The contractor stated that they tried but Ms. Connolly really likes it there the more room she has between the two garages the better for her to pull out for safety's sake backing up is dangerous could cause property damage and vehicle damage. The more room to back the better it would be for her.

Commissioner Stellas stated why couldn't they can back right out of the current garage. Why not back it up a little further and make the turnaround behind the new garage. It would be closer to house she would just have to back up a little further for the turnaround.

Ms. Connolly stated that the 90' makes it very close to the existing house and the garage.

Commissioner asked the city attorney if they can make the motion with less feet. Mr. Shepherd stated that they can because it was publicized at 35' if this board was incline to make it less than they can.

**It was moved by Commissioner Lince, supported by Commissioner Budnick, to approve the request for variance of a 25' front setback variance for a garage because it does not exceed the other existing garages that are neighboring and still provides enough safe space to back in and out of each garage.**

**A roll call vote was taken.**

**Ayes: Lince, Budnick, Michno, Scavone, Bellestri**

**Nays: Stellas, Bertolo**  
**Absent: None**  
**Motion: Passed**

### **New Business**

Commissioner Michno asked Mr. Rayes that he would prefer a paper copy.

Vice-Chairman Scavone asked about the update they were asking if they can all have new complete zoning books. Mr. Rayes stated that it is going into the recompiling the zoning ordinance. They will be distributed as soon as we get them.

City council approved the patio ordinance

Commissioner Bertolo stated that we should stick to the what the variance is and not give any legal or building advice or anything. Just stick with what was proposed. And no added opinions.

Eric Shepherd stated that it does keep the record more concise just for any kind of appellate issues. When they are going through the record after things when they are read on paper then when they are being discussed on the board. Sometimes it gets side track the records kind of gets messy.

Commissioner Stellas stated that we need a completely filled out form properly. When they have to start asking questions about distances and things of this nature were starting to get into that discussion stage. He agrees with Commissioner Bertolo that we need to stick with the specifics of the request but if they don't have the information, they shouldn't hear it. We need a copy of the print because it is tiny and you can't see it.

Commissioner Michno stated what he was told that it is not up to us when that individual or the petitioner goes to city hall, they submit what they have it is no one's responsibility at that desk to tell them that paperwork is incomplete or it is non-compliant it is what they give to the people is what the board gets.

Mr. Rayes stated that we cannot tell them what the hardship is if they don't put a hardship down, they come before the board they don't have a hardship. The board can deny when there is no hardship. The plan has enough information from Ms. Koto to calculate the setbacks and the information from the planning and zoning department views. There is nothing up there that is in concise in terms of what the variance was necessary, we cannot do the plan review and give you the data unless it is on there. There is a lot of stuff that they don't want to put in there. If Mr. Rayes or Ms. Pike tells them that they cannot go to the ZBA they will start screaming in city hall. If the board sends a message that they need the form we asked for if we put it on the application. If there is not enough information the board can table them or turn them down. When the word gets out the board says that they are giving them half-baked information they are not even going to listen to you they are going to make you wait 30 days. It is not administration, Mr. Rayes or Community Development or all the people that they can point a finger at they say the board felt that insufficient information to

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make a decision I got turned down because I personally responsible for not filling out the form giving the information that was asked for. And that is their problem not the boards or ours. The application does not say "optional".

Commissioner Michno stated that there are more situations that permits are not pulled before they build. These are people who are builders and they know what the law is so Mr. Rayes opinion is we are going to turn them into LARA and tarnish their license and potentially get their license pulled. This is not a concrete pad these are people building an entire suite without a permit. Sometimes they find them because they are for sale online or the assessor is out doing their required measurements and then she comes back and she said that they built this whole garage without a permit.

Commissioner Michno stated that we are catching more and more people building without a permit.

Commissioner Bellestri stated maybe pay more fines. Mr. Rayes stated that we are not trying to punish the people per say we just want them to follow the rules.

#### **APPROVAL OF THE MINUTES FROM September 2, 2021 ZBA MEETING**

**It was moved by Commissioner Stellas, supported by Secretary Budnick, to approve the September 2, 2021, ZBA meeting minutes.**

**Audience participation: None**

**Adjournment:**

**It was moved by Commissioner Bertolo, supported by Secretary Budnick, to adjourn the meeting at 8:16 p.m.**

**Ayes: All**

**Nays: None**

**Absent: None**

**Motion: Passed**