

CHARTER TOWNSHIP OF NORTHVILLE
Zoning Board of Appeals
January 20, 2021

DATE: January 20, 2021 **APPROVED: March 17, 2021**
TIME: 7:00 p.m.
PLACE: Meeting held remotely via video/teleconference

Due to the COVID-19 pandemic, as authorized under the Open Meetings Act, MCL 15.261, *ET SEQ.*, AS AMENDED by Senate Bill 1246 (2020), members of the public body and members of the public participating electronically were considered present at the remote meeting and could participate as if physically present, as outlined on the Township website and posted per Open Meeting requirements. Board members identified their location, as required.

CALL TO ORDER: The meeting was called to order by Chair Slatin via video/teleconference at 7:01 p.m.

ROLL CALL:

Present: Brian Doren, Northville Township, Wayne County, MI
Eric Lark, Northville Township, Wayne County, MI
Joseph LoPiccolo, Northville Township, Wayne County, MI
Chris Roosen, Northville Township, Wayne County, MI
Gary Sixt, Northville Township, Wayne County, MI
Paul Slatin, Northville Township, Wayne County, MI
Paul Smith, Northville Township, Wayne County, MI

Excused: None.

Staff: Jennifer Frey, Township Planner
Robert Belair, Director of Public Services

Township Planner Frey confirmed that all property owners within 300 feet of tonight's petition had been notified.

Approval of Minutes:

Zoning Board of Appeals – December 16, 2020

MOTION by Doren, support by Smith, to approve the minutes from the Zoning Board of Appeals meeting of December 16, 2020.

Roll Call Vote: Ayes: Doren, Lark, LoPiccolo, Roosen, Sixt, Slatin, Smith
Nays: None

Motion approved 7-0.

Chair Slatin made standard introductory remarks explaining the role of the ZBA and the formal procedures of the meeting. Chair Slatin noted that four votes would be required to pass any motion. He also noted that all variance requests approved would be valid for one year.

Petitions:

1. PZON20-0016 Little Seeds Northville LLC, property owners
Location: **49875 8 Mile Road**
Request: A variance request to Chapter 170, Article 31.5, Section B, (1), (a, b, e) Fences in Residential Zoning Districts to allow a 6' tall solid fence along the front property line, where the ordinance permits decorative fences up to 36" tall, fence segments not to exceed 20' in length and requires fences to be 50% open (not solid).
Action: Approve, Approve with Conditions, Postpone, Deny

Angie Schopa, 22556 Simcheck, Northville Township, was present on behalf of this application. Ms. Schopa introduced herself as the owner of Little Seeds. She had purchased the property in March 2019 and had spent over \$250,000 repairing and improving the buildings and land for her private childcare center, which currently had 82 children from 70 families, with at least 50% of the families living in Northville Township. Adding the 6-foot tall privacy fence was part of the effort to make the property safer for children. The fence would replace the existing 4-foot fence in the same location.

Ms. Schopa had reviewed the Township Planner's comments. She explained that Little Seeds had replaced the drain/septic field in 2020 per Wayne County requirements. Because of the location of the drain field the fence could not be moved closer to the building.

The property was on 8 Mile Road and was surrounded by Mayberry State Park on 3 sides, with farmland across the street. The fence would not offend any neighbors because there were none. Ms. Schopa was asking for a privacy fence to avoid random strangers along 8 Mile Road from being able to see into the property while children played.

In response to questions from the Board, Ms. Schopa gave the following information:

- The existing 4-foot fence is vinyl.
- When the drain/septic field was replaced, the ground was raised about 1.5 feet above grade, making the 4-foot fence in effect seem like a much shorter fence. Ms. Schopa showed a picture of a 5'10" male easily reaching over the existing fence.
- The drainage field is about 4 feet from the fence and 6 feet from the building. The fence could not be within a foot of the field. The new septic system consisted of two tanks, sump pump, and the drainage field.
- There was not an available sewer line in the area.
- Ms. Schopa had chosen wood over other fence materials because Little Seeds was in the process of building an all-natural playground with many wood components; the wood fence would match the playground's intent and appearance.
- The State did not have requirements or recommendations regarding childcare play

area fencing. The State's main concern was that the playground be safe and the area separated with enough space provided for the number of children served.

- Ms. Schopa's biggest concern was also child safety. While there would be teachers on the playground, all the children were under 5 years old, and she wanted to protect them as much as possible.
- The entire area was enclosed; the new fence would be located just along 8 Mile Road as shown in green on the submitted schematic. The property line to the west was already fenced.
- The fence would be pressure treated wood; they would likely stain it a natural earth tone after a year or so. It would not be painted white or red.

Member Smith clarified that there were three requests for the fence: to allow a fence in the front yard that is 1) 6-feet tall, when 36" is the maximum permitted, 2) over 50 feet long, when 20 feet in length is the maximum permitted, and 3) is solid, when the ordinance requires no more than 50% of the view be obstructed.

Chair Slatin opened the public hearing at 7:21 pm. Seeing that no public indicated they wished to speak on this matter, Chair Slatin closed the public hearing and noted that correspondence had been received regarding the petition:

- Jon Wilkes, 42117 Banbury Drive, Sr. Pastor of First Baptist Church that owned the 55 acres across the street, supported the variance request, writing "I see no problem with the variance – it is for the safety and security of our most precious resource – our children!"

Chair Slatin brought the matter back to the Board for discussion and/or a motion.

In response to a question from Member Smith, Township Planner Frey said that while a solid fence is not permitted by ordinance, a shadow box fence would meet the 50% open requirement, as it allowed air to penetrate through.

Ms. Schopa said her concern regarding a shadowbox fence was that it would be easier for children to climb, or attempt to climb, by putting their feet through the slats onto the middle horizontal rail.

In response to a question from Member Doren, Ms. Schopa said the fence along the west side of the property was a 5-foot high chain link fence that was installed approximately in 1975, and belonged to the State Park.

Member Doren pointed out that the proposed fence would run up to the chain link fence that was not owned by the applicant. Ms. Schopa said she did not own the chain link fence but she did maintain it. She had a permit from the State of Michigan that was included on her insurance policy, stating that she would maintain a gate at the building to the far west of the property in order to prevent the children from going behind the building.

In response to questions from Member Lark, Ms. Schopa said she believed the existing fence had been there approximately 15 years. A childcare center/academy had been located at this location for almost 50 years.

Member Lark asked if there had been any issues in the past two years since Ms. Schopa had owned the childcare center, or previous that she knew about, with strangers interacting with the children. Ms. Schopa said she could not speak regarding previous ownership. In her case, they had doubled the size of enrollment although they were not yet at full capacity of 90 children. She had not experienced any problems with strangers, but they were very close to 8 Mile Road and did not want to take that risk.

Member Smith asked if the existing front yard fence had received a variance. Township Planner Frey did not know if a permit was pulled for that fence, or if a variance was granted.

Member Smith addressed the criterion of *minimum variance necessary*. He understood the need for the location because of the drain field, and the need for greater height because the drain field had raised the height of the yard. However, perhaps a 5-foot tall fence would be adequate. He didn't have a problem with the length. Regarding whether the fence could be a shadowbox style, he did not think a shadowbox type fence would be more climbable than a flat fence.

Member Doren said he could support the fence location and height, but he also had an issue with the stockade type wood fence. The objective of safety could be achieved without creating the solid wall affect.

The Board discussed whether small children could actually climb a shadowbox fence:

- There would be no middle rail to climb on a 5-foot fence; there would probably be a middle rail on a 6-foot fence. In any event, the rails would be covered by the fence.
- The purpose of the request was to provide screening, and a shadowbox fence would effectively block the view from 8 Mile Road.

Member Roosen was concerned that a small child could get hands or feet stuck in the shadowbox fence.

Member Lark noted that a stockade fence would not allow anyone to see in to the childcare center area; the shadowbox style did allow someone to see in. He asked for clarification as to what the concern was.

Member LoPiccolo supported the solid fence; he thought it was important for children to be protected from outside view.

Member Smith noted that the chain link fence on the west side did not have privacy slats. Ms. Schopa pointed out that the chain link fence was not at all visible from the road, was covered by landscape growth, and was joined with other park-owned chained link fencing that extended beyond the immediate area.

Discussion followed:

- The location was remote from the community.
- Safety and security were important, but the fence should not present an eyesore.

Member Smith remained concerned about the aesthetics of a stockade type fence along 8 Mile Road.

Member Roosen asked if there might be snow removal problems along the fence line, since that was also where cars parked. Ms. Schopa pointed out a large open area that held snow piles during severe snow events.

Township Planner Frey noted that a vinyl fence with a wood-type matte finish was available; this might be a compromise option to meet the issue of aesthetics that some board members were struggling with.

Chair Slatin summarized Board comments thus far for the three requests:

- The Board appeared to agree that the length of the proposed fence was justified. The property was unique, resulting in the need for a longer fence.
- There did not appear to be consensus regarding the requested 6-foot height. Some board members appeared to support a 5-foot height; others supported the request for 6 feet.
- There did not appear to be consensus regarding the style of fence, whether it could be a flat stockade type fence or a more open style.

Member Smith said he was okay with a 6-foot height if it was not a stockade fence. The shadowbox style would work; or the vinyl fencing mentioned by Township Planner Frey could be used. He agreed that there were some tasteful vinyl fences that were not glossy and not white. He did not support a long 6-foot tall stockade fence.

Member Roosen asked if there was any reason the tall fence would be a detriment to traffic for cars pulling up to the south area, or exiting the site. Township Planner Frey said there was already a fence there, and even though it was a different type, people were used to entering to park, and then exiting the site with a fence in place.

Member Roosen said he did not know what the traffic pattern was – when people were arriving, leaving, picking up children. Township Planner Frey agreed that the traffic pattern was awkward, however, she was more worried about people backing out onto 8 Mile Road.

Ms. Schopa said cars actually never backed out of the property, and there was always a lane open. The teachers pulled up as far as they could to leave the area behind their cars as open as possible. The Center was open from 6:30 am to 6:30 pm. They intentionally did not require parents to pick up children at specific times. Parents picked up anywhere from 3:30 to 6:30 pm.

Member Roosen remained concerned about the traffic patterns, especially as the Center grew toward full capacity. Township Planner Frey agreed that the parking situation was not typical.

Member Lark asked if Ms. Schopa had looked at the other types of fences discussed this evening: vinyl or shadowbox. Ms. Schopa said her main concern was safety. She preferred the wood stockade fence, but would be okay with the wood-grained styled vinyl.

Examples of wood grain vinyl privacy fencing were presented on the Zoom screen.

Regarding safety, Chair Slatin thought stockade fencing would actually be easier to climb than shadowbox fencing.

The Board felt that a vinyl fence would take abuse from the children, would not result in splinters, and would be easier to maintain. From an aesthetic viewpoint, the wood grained vinyl fence shown in the samples was preferred to the wood stockade fence.

In response to comments from the Board, Township Planner Frey said the type of fencing was not an ordinance requirement, but from a maintenance and longevity standpoint, wrought iron or vinyl was more frequently used.

Member Doren commented that using a wood-grained vinyl fence did not address the issue of a stockade type appearance. Essentially the Board was suggesting changing a wood stockade fence to a vinyl stockade fence.

Member Smith said his preference was to use a wood shadowbox fence, but the vinyl fence would be acceptable. Members Lark and Roosen agreed. They were both opposed to a wood stockade fence.

Member Doren said he was still troubled that the request was for a complete enclosure with a solid fence, which would have the appearance of a wall. He thought the height should come down to 5 feet, or the fence should be a shadowbox style.

Ms. Schopa said she did not believe the 6-foot tall fence would look like a wall, due to the rise in grade of the property as already described.

Member Doren said he understood Ms. Schopa's argument, but remained concerned about properties throughout the Township. He did not want to start allowing 6-foot-high solid wall fences in front of properties. Other residents and businesses were likely to then make the same request. In the past, people were required to remove tall fences that had already been installed, and some fence variance requests were denied.

Member LoPiccolo thought the petitioner's situation was unique, in terms of location and use as a childcare center. Some people could easily see over a 5-foot fence. He had no problem with granting the request for a 6-foot height.

Member Roosen compared the request to a petitioner in the R&D Center who had asked for a privacy fence in order to secure the privacy of future model vehicles.

Township Planner Frey explained that a 6-foot fence was permitted in certain zoning districts already, but not in residential districts. Little Seeds was located in a residential district. Little Seeds' site was unique even from other childcare centers in that it was an older, very shallow site, with building setbacks and parking that did not meet current ordinance standards. The challenge was coming up with a solution that met the needs of the childcare center balanced with other potential requests in the Township.

Chair Slatin brought the discussion back to the three components of the variance request.

The Board talked about height options, including putting an open, decorative trim piece atop a 5-foot high fence.

In response to Board comments, Township Planner Frey said that the proposed fence would be installed on top of the existing grade.

Member LoPiccolo reiterated that he would support the 6-foot fence; he agreed that protecting the children at this location was very important.

Member Lark pointed out that newer childcare centers had play areas in side or rear yards. Because of this site's configuration, the play area was in the front yard. He was not concerned about any decision setting precedent.

Chair Slatin offered the following motion:

Motion by Slatin, support by Sixt, that in the matter of Petition PZON20-0016, for Little Seeds Northville LLC, at 49875 8 Mile Road, a variance request to Chapter 170, Article 31.5, Section B, (1), (a, b, e) Fences in Residential Zoning Districts, the Zoning Board grants the request for a variance from (b), in order to allow a fence longer than 20', where the ordinance requires that fence sections in front yards shall not exceed 20 feet in length. In the matter of (a), a request to allow a 6 foot tall fence along the front property line, where the ordinance permits decorative fences up to 36" tall, and (e), a request to allow a solid fence, where the ordinance requires that vision shall not be obstructed by more than 50% when viewed perpendicular to the plane of the fence, the Board conditions partial approval on the following:

- **The Board grants the request for a height no greater than 6 feet, subject to the fence being constructed of either the shadowbox style wood fencing, or a wood grain natural color matte finish vinyl stockade type fence as discussed this evening, with the final choice of materials subject to administrative review and approval.**

The motion is also conditioned on:

- **A fence permit is required prior to installation.**
- **The fence shall be located outside of the 8 Mile Road R.O.W. This shall be verified with the fence permit application.**

Chair Slatin explained that allowing either a vinyl stockade fence or a wood shadowbox fence offered the applicant some options in terms of cost.

Roll Call Vote: Ayes: Lark, LoPiccolo, Roosen, Sixt, Slatin, Smith
Nays: Doren

Motion approved 6-1.

Other Business: Election of Officers

MOTION by LoPiccolo, support by Smith, to nominate and elect Paul Slatin as Chair for 2021.

Roll Call Vote: Ayes: Doren, Lark, LoPiccolo, Roosen, Sixt, Slatin, Smith
Nays: None

Motion approved 7-0.

MOTION by Sixt, support by Doren, to nominate and elect Joseph LoPiccolo as Vice Chair for 2021.

Roll Call Vote: Ayes: Doren, Lark, LoPiccolo, Roosen, Sixt, Slatin, Smith
Nays: None

Motion approved 7-0.

MOTION by Doren, support by LoPiccolo, to nominate and elect Gary Sixt as Secretary for 2021.

Roll Call Vote: Ayes: Doren, Lark, LoPiccolo, Roosen, Sixt, Slatin, Smith
Nays: None

Motion approved 7-0.

Department Reports

Jennifer Frey, Township Planner

- Chick-Fil-A opening next week
- No ZBA meeting in February
- Welcome Christopher Roosen as Trustee liaison

Christopher Roosen, Board of Trustees

- Board of Trustees meeting tomorrow, January 21, 2021

Eric Lark, Planning Commission

- No meeting since last ZBA meeting

Public Comments and Questions

None

Adjournment:

MOTION by LoPiccolo, support by Sixt, to adjourn the January 21, 2021 Zoning Board of Appeals meeting at 8:22 PM.

Roll Call Vote: Ayes: Doren, Lark, LoPiccolo, Roosen, Sixt, Slatin, Smith
 Nays: None

Motion approved 7-0.