

Springfield Township
Zoning Board of Appeals Meeting
Minutes of November 18, 2004

Call to Order: Chairperson Wendt called the November 18, 2004 Regular Meeting of the Springfield Township Zoning Board of Appeals to order at 8:00 p.m. at the Springfield Township Civic Center, 12000 Davisburg Rd., Davisburg, MI 48350.

Attendance:

Board Members Present

Skip Wendt
Collin Walls
Jim Carlton
Roger Lamont

Board Members Absent

Dennis Strelchuk

Staff Present

Leon Genre

Approval of Agenda:

- **Board Member Carlton moved to approve the agenda as presented. Board Member Lamont supported the motion. Vote on the motion. Yes: Wendt, Walls, Carlton and Lamont; No: none; Absent: Strelchuk. The motion carried by a 4 to 0 vote.**

Approval of Minutes: October 21, 2004

- **Board Member Walls moved to approve the Minutes of October 21, 2004 as presented. Board Member Lamont supported the motion. Vote on the motion. Yes: Wendt, Walls, Carlton and Lamont; No: none; Absent: Strelchuk. The motion carried by a 4 to 0 vote.**

Old Business:

1. **Denise Carmean, 11556 Haylock, Davisburg, MI. Parcel # 07-28-376-019. Property located at same.**

The applicant is requesting a) A ten (10) foot side yard setback on both sides of the home rather than the required fifteen (15) foot side yard setback; and b) A two hundred and ninety-two foot (292) over the allowed square footage for accessory structures, to allow an existing garage to remain on the property.

Mr. and Mrs. Carmean are present in regard to this request.

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Chairperson Wendt asked, regarding the revised site plan drawing, sheet 1 indicates 665 lineal feet of tile for the system but the Health Department indicated that less is required. Mr. Carmean said the Health Department needed the applicant to show that there is room to fit a backup area. They therefore doubled it to prove to the Health Department that the property could fit the requirements.

Board Member Walls thanked the applicant for complying with the requests that the Board made of them at the last meeting. Board Member Lamont commented that the shed encroaching on the property line is still encroaching on the revised drawing. Chairperson Wendt said it is a pre-existing encroachment on the property.

- **Board Member Walls moved that the requested 10-foot side yard setbacks for parcel located at 11556 Haylock, parcel # 07-28-376-019 be granted based on the existing pre-existing, non-conforming nature of the lot, and that we recognize that the front deck and stairs would be 40 foot from the lake side property line but the current deck is 21 foot, the current house is 31 foot, therefore the applicant is improving the non-conformity at the waterside. Board Member Lamont supported the motion.**

Board Member Walls amended his motion to include the plot plan attached to the plans date-stamped November 5, 2004.

- **Vote on the motion. Yes: Wendt, Walls, Carlton and Lamont; No: none; Absent: Strelchuk. The motion carried by a 4 to 0 vote.**

2. Duane Sterling, 31120 Dalhay St., Livonia, MI. Property located at 5810 Morning Drive, Davisburg, Parcel # 07-28-401-007.

The applicant is requesting a five (5) foot side yard setback rather than the required fifteen (15) foot setback and a fifteen (15) foot rear yard setback rather than the required thirty-five (35) foot setback to allow the construction of a detached garage.

Mr. Sterling is present in regard to this request.

Chairperson Wendt said the discussion from the last meeting regarding the size of the garage relative to the other homes is still a concern to him. Board Member Walls asked what is the driving force behind a 24 X 30 garage? Mr. Sterling said he built a 24 X 30 garage at another location but could not use the 30-foot for the garage door, he had to use the 24-foot side for the door and his boat will not fit. This plan will rectify that situation.

Chairperson Wendt asked the applicant if he has exact placement for the septic field and tank? Mr. Sterling said he did find the corners of the tank and it is closer than the original drawing indicated, it is approximately 2 1/2 feet. Chairperson Wendt said, in reviewing this drawing with a 10 / 12 roof pitch, the elevation compared to the homes in the immediate area, will exceed the height of the homes from two to four feet. Mr. Sterling said his house is 17' 10" from the

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ground. The neighbor to the south is the same and the neighbor to the north is a standard pitched roof.

Board Member Carlton asked if there was previously discussion about increasing the rear setback? Mr. Sterling said he would like to transfer what is in the existing garage into the new garage and he went as far to the north as he could.

Chairperson Wendt asked what hardship a shallower pitch roof would create? Mr. Sterling said the company he is dealing with likes to use roof trusses and if he uses anything less than a 10-foot truss he cannot stand up in the middle. He also planned to use the additional pitch for additional storage in the attic area.

Board Member Walls noted that, according to the minutes of last month, the applicant said that the current structure is a summer home and in the future he will possibly be renting it but the garage would not be part of the rental. He asked Mr. Sterling if that is still the case? Mr. Sterling said the garage is being built for his own use and that is still true that he would not include it in the summer rental.

Board Member Lamont asked if the existing garage would be remaining? Mr. Sterling said it would remain during construction but be demolished afterwards.

- **Board Member Carlton moved to approve a five foot side yard setback and a 15-foot rear yard setback rather than the 35 foot to allow the construction of a detached garage at parcel # 07-28-401-007 due to the odd shape of the lot and the existing septic location with the condition that the existing garage be removed after the new garage is constructed and also referring to the plan provided tonight, that the base of the garage is 9-foot elevation and the roof pitch not to exceed 10 / 12. Board Member Lamont supported the motion. Vote on the motion. Yes: Lamont and Carlton; No: Wendt and Walls; Absent: Strelchuk. The motion failed by a 2 to 2 vote.**

Board Member Walls commented that his issue is that the structure is not accessory to the house. Chairperson Wendt said his issue is that this is not in harmony with the structures in the vicinity and it is not a single use that is contiguous to the existing property. The building does not follow the pattern of a home with a garage on the property. His main objection is the size of the building and the fact that, by law, the Board cannot create a greater non-conformity without a significant hardship involved. Board Member Walls said he would be willing to table this until there are five members present.

- **Board Member Walls moved to table this request until the December meeting to allow the applicant to work with the Planning Director and explore alternatives and present an alternative to the Board of Appeals. Board Member Carlton supported the motion. Vote on the motion. Yes: Wendt, Walls, Carlton and Lamont; No: none; Absent: Strelchuk. The motion carried by a 4 to 0 vote.**

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New Business:

- 1. George Mansour, Kingston Development Co., 6751 Dixie Hwy., Suite 112, Clarkston, MI. Property located on the corner of Kingston Court and Kingston Pointe Drive. Parcel # 07-14-302-005.**

The applicant is requesting a) An overall combined front and rear setback of sixty-seven (67) feet rather than the required 75 feet; and b) a twenty-five (25) foot front setback on Kingston Court rather than the required thirty-five (35) foot for a corner lot, unit 5, to allow a home to be built fronting on Kingston Pointe Drive.

Mr. George Mansour is present in regard to this request.

Chairperson Wendt said he has a conflict as far as dimensions on the drawing. Sheet 2 shows an overall length on the backside of the home of 61 feet and he calculates approximately 73 feet. Mr. Mansour said, on the plot plan the engineer took the construction plans and had to comply with the garage pushed back overall about 73 feet so this portion did not change. The construction plans will accommodate the plot plan.

Board Member Walls asked if the applicant wants a 35-foot garage or wants to make the master suite smaller? Mr. Mansour said the garage would be a three-car garage and the plot plan is what he will go by. Mr. Mansour said he would not be shrinking the interior of the house but reducing the garage to accommodate the plot plan.

Chairperson Wendt asked, why not move the home to the back edge of the envelope? Mr. Mansour said then he would be asking for more of a setback. Board Member Walls said it would make it 31.5 less. Chairperson Wendt said there are three different sets of numbers to look at and it is confusing.

Board Member Walls said the house plan shows a walkout basement and asked if that is what is intended? Mr. Mansour said he did not know if the walkout could be accommodated with this house. It may be a daylight basement. Board Member Walls said the plot plan doesn't show a daylight basement, and that is the plan Mr. Mansour says we should refer to. Board Member Walls asked, why not move the house to the edge of the building line easterly so the setback from Kingston Court could be 30 foot instead of 25 foot? Mr. Mansour said he was pushing it away from that area because he intends to try to preserve more trees on that side of the property. However, he has no problem moving it requiring less of a setback variance on the cul-de-sac. Board Member Walls commented that by the time the grading and construction of the boulder wall is completed, there might not be any trees left.

Board Member Walls said if the applicant pushes it back to minimize the setback from Kingston Court, he does not see an advantage to anybody by not building on the southeasterly unit line. It frustrates him to get a plan with three different dimensions but recognizing that it is the plot plan that will control, he does not have a problem with the request. Board Member Lamont said he would concur with Board Member Walls.

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Mrs. Gina Norton, 9775 Kingston Pointe, asked, after two years of the start of this development, how are we in a situation with a lot like this and did something change from what was originally submitted to the Township? Board Member Walls explained what has changed is the recognition that in the highest density zoning districts, the minimum standards of clustering don't allow sufficient flexibility to put comparable homes on. A home could be built on this lot, but it would not be comparable to the existing homes in the development. Board Member Walls further explained that when a development is under review, you are looking at a project with many, many parcels and it is not always possible to see the individual situations, and that is what is being dealt with now. Mrs. Norton said she is opposed to this variance request and presented two signed letters from neighbors, Mr. Charles Morello, 9751 Kingston Pointe and Ms. Shelly Bragg, 9739 Kingston Pointe, opposing the variance. **[Copies of these documents are on file at the Office of the Clerk, Springfield Township].**

Mr. Craig Zinser, 7780 Kingston Court, commented that he is opposed to the requested variance and is concerned with the setbacks. He believes the home will be shoehorned into the lot.

Mr. John Austin, 9760 Kingston Pointe, commented that he is opposed to the requested variance. By approving this setback, it would make the house ten feet closer to his home.

- **Board Member Lamont moved that the request by applicant George Mansour of Kingston Development, 6751 Dixie Highway, Suite 112, Parcel I.D. # 07-14-302-005 to allow an overall combined front and rear setback of 67 feet rather than the 75 feet and to allow a 25 foot setback on Kingston Court rather than the required 35 foot for corner lot unit 5 to allow a home to be built fronting on Kingston Pointe Drive be granted conditioned upon the following: that the 25 foot setback on Kingston Court be moved to 30 foot by moving the house to the east building envelope line, reducing the variance request by five feet, and that the special conditions and circumstances which are peculiar to this parcel, being that it is a corner lot with two front yard setbacks, and that the house proposed for this lot is at the minimum square foot for the development, and that the granting of this variance will be in harmony with the general area and the homes that are being developed in this area, and it is the minimum variance that will make possible and reasonable use of the land. Board Member Carlton supported the motion. Vote on the motion. Yes: Wendt, Walls, Carlton and Lamont; No: none; Absent: Strelchuk. The motion carried by a 4 to 0 vote.**

2. Brenda Krey, 9428 Ute Pointe Drive, Clarkston, MI. Parcel # 07-26-228-011

The applicant is requesting a thirty-four (34) foot front setback from North Bay rather than the required fifty (50) foot to construct an attached garage to a house on a corner lot.

Mrs. Krey is present in regard to this request.

- **Board Member Walls moved that the request to allow a 34 foot front setback from North Bay rather than the required 50 feet be granted because of the pre-existing,**

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non-conforming nature of the lot and because the request is very consistent with the house and garage on the south side of Ute Pointe and off of Eagle Hill immediately adjacent to the north of the applicant's property. Board Member Lamont supported the motion. Vote on the motion. Yes: Wendt, Walls, Carlton and Lamont; No: none; Absent: Strelchuk. The motion carried by a 4 to 0 vote.

- 3. Charles Miller, 4915 Clarkston Rd., Clarkston, MI. Property located at 8767 Bridge Lake Road, Clarkston, MI. Parcel # 07-12-351-008.**

The applicant is requesting a) side yard setback of seventeen (17) feet rather than the twenty-five (25) feet and an overall side yard setback of forty-two (42) feet rather than the required fifty (50) feet to construct a garage and b) a garage that is twelve-hundred (1,200) square feet rather than the eight hundred (800) allowable accessory structure square footage.

Mr. and Mrs. Miller are present in regard to this request.

Leon Genre, Springfield Township Planning Director, noted that the applicant is allowed the 1200 square feet and apologized for his miscalculation.

Board Member Lamont asked, why such a large garage is needed? Mrs. Miller said they need to park three vehicles and a boat.

- **Board Member Carlton moved to approve the 17 foot setback rather than 25 feet and an overall side setback of 42 feet rather than 50 feet at 8767 Bridge Lake Road, Clarkston due to the special conditions and circumstances of a long and narrow lot and it will be in harmony with the adjacent neighborhood. Board Member Lamont supported the motion. Vote on the motion. Yes: Wendt, Walls, Carlton and Lamont; No: none; Absent: Strelchuk. The motion carried by a 4 to 0 vote.**

- 4. Todd Szott, 8800 East Holly Road, Holly, MI. Property located at same. Parcel # 07-05-426-001.**

The applicant is requesting a temporary structure to be used as a sales office for one (1) year measuring 40 feet X 14 feet X 13 feet.

Mr. Todd Szott is present in regard to this request.

Chairperson Wendt asked Mr. Szott how the negotiations are going in trying to obtain the property from the current owner? Mr. Szott said an appraisal has been ordered. Board Member Lamont asked if additional lighting is proposed? Mr. Szott said, no. Chairperson Wendt asked if one year was a realistic date? Mr. Szott said, yes, and plans are in the works to build a permanent structure. Mr. Szott said it is possible that if the purchase does not go through they could add these sales offices as a lease-hold improvement on the property.

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Board Member Walls asked Leon Genre if the applicant had applied for a permanent traditionally built structure of 560 square feet that met setbacks and building codes, could the applicant have done this without site plan approval? Mr. Genre said, that is correct. Mr. Genre noted that the applicant did request a permit for this request of a temporary use and he denied it. Board Member Walls said, when he looks at the literal interpretation of the ordinance, the applicant could build a structure of this size on a footing without any plan approval but they cannot put a temporary structure without planning. Board Member Walls said this is illogical to him.

- **Board Member Walls moved that the Board of Appeals grant a variance from Section 19.01 paragraph 4a to indicate that a variance can be granted if the conditions listed therein, are substantially met and there are special circumstances that generally are not applicable to other lands in that the tenant is negotiating for purchase, he believes the variance is the minimum necessary to make the reasonable use of the property and the structure and granting the variance would be in harmony with the purpose and intent of the ordinance in the Master Plan, also include that the Board of Appeals grant a variance from Section 19.01.5.a and allow the temporary use as a sales trailer during the purchase negotiations and plan preparation stage so long as that period does not exceed one (1) year from this meeting and the applicant places a \$1,000.00 cash bond with the permit to install the temporary structure, the bonds purpose would be to remove the structure if it is not done voluntarily within that one year. Board Member Lamont supported the motion. Vote on the motion. Yes: Wendt, Walls, Carlton and Lamont; No: none; Absent: Strelchuk. The motion carried by a 4 to 0 vote.**

Other Business:

Board Member Lamont commented that this is his last meeting as a ZBA member and it has been a pleasure to serve with the Zoning Board of Appeals for the past year and a half.

Adjournment:

Hearing no other Business, Chairperson Wendt adjourned the meeting at 9:10 p.m.

Susan Weaver, Recording Secretary