

SPRINGFIELD TOWNSHIP
ZONING BOARD OF APPEALS
August 21, 2013

Meeting is called to order at 7:30 pm by Chairperson Wendt.

In attendance: Dean Baker, Zoning Board Member
 Virginia Fischbach, Zoning Board Member
 Denny Vallad, Zoning Board Member
 Skip Wendt, Chairperson
 Bill Whitley, Zoning Board Member

AGENDA:

Board member Whitley moved to approve the agenda as presented. Supported by Board member Vallad. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

PUBLIC COMMENT: None

CONSENT MOTION: Minutes of the July 17, 2013 meeting.

Board member Whitley moved to approve the minutes of July 17, 2013 meeting as presented. Supported by Board member Fischbach. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

NEW BUSINESS:

1. Request from William Sash and Mary Lanesky, 10086 King Road, Davisburg, 48350 for the following variance to construct a septic system seventy (70) feet to the ordinary high-water mark of Dixie Lake rather than the one hundred (100) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-639. The property that is the subject of the request is located at 9877 Dixie Highway in Springfield Township and is zoned R-3 One Family Residential. P.I. #07-11-301-027.

Mr. Sash introduced himself to the Board. He stated that he is required to have five conditions that are unique to the property. He stated that this property is unique. Literal interpretation would deprive him of any other use of the lot. The special conditions and circumstances that exist are that he did not create this situation. The variance is minimal and Oakland County Health determined that it is the best spot. It is a nice size lot and will easily sustain a home. He determined that it is solid because Oakland County Health setback is only 50 feet. He presented a permit received from Oakland County Health to the Board members. The placement is as far as he can get to the edge of the lot without interfering with the neighbor's well. If he went any closer, he would have to have

Oakland County tear the guard rail out. He stated that this home required a 1200 square foot septic system.

Chairperson Wendt stated that the document represented the Oakland County Board of Health approval of a standard septic system. He asked Mr. Sash if Oakland County had determined that there needed to be a special engineered system for the property.

Mr. Sash replied no. He stated that the dirt close to the lake wasn't as good because they were looking for sandy soil. He stated that he may have to put a septic tank in that you can drive on because it is going to be tight to get a driveway in. He explained that he tried to get the septic as far away from the lake as possible.

Board member Whitley stated that when he looked at the drawing that was presented in their packet the septic field was outlined in red. He asked why the septic field was not shown located farther to the northwest which would increase the distance from Dixie Lake.

Mr. Sash stated that the guardrail was in the way.

Board member Whitley answered why they didn't move the guard rail.

Mr. Sash answered that he doesn't think Oakland County would let him.

Board member Whitley asked if had asked them.

Mr. Sash replied no.

Board member Whitley indicated that all alternatives have not been explored then. It appears that you could increase a substantial amount of distance if you moved the septic farther to the northwest.

Mr. Sash answered that it would increase about 10 feet at the most.

Board member Whitley explained that you could not tell that from the drawing. If the drawing is scaled which is inadvisable and unreliable; it looks like you could increase it about 30 feet.

Mr. Sash stated that if he moves it closer, he gets too close to the neighbor's well.

Board member Fischbach asked what the size of the septic field is because different numbers have been given at different times.

Mr. Sash showed the Board members another scaled drawing which he indicated had been provided to Oakland County Health. He attempted to show a distance of 62 feet on a drawing provided to the Board members.

Chairperson Wendt stated that he now has several drawing and does not know which to consider.

Board member Whitley stated that none of the drawings agree with one another.

Mr. Sash indicated that they all agree with each other.

Board member Whitley answered no they didn't. One drawing says 70 feet and another says 75 feet. One drawing gave another distance as 35 feet and another drawing says 20 feet. None of the drawing agrees with one another.

Mr. Sash stated that the drawing from Oakland County is what the approval is based on. His is asking for a 70 foot variance. Davisburg has always had a 50 foot ruling for septic fields and since the 100 feet is recent. Many years ago he would not have to even come before the Board about this. He stated that this is a unique situation and he meets all five requirements for a variance.

Board member Fischbach asked if he tried a different layout and tried a long a skinny format instead of the proposed design of the field.

Mr. Sash stated that he will be 70 feet.

Board member Fischbach stated that their job is to do everything possible to get it to 100 feet and she asked specifically what Mr. Sash had considered to try to get the field to 100 feet distance including making a longer and thinner field in order to get it farther from the lake.

Mr. Sash stated that there are not a lot of other options.

Board member Fischbach stated that they have to look at other options.

Mr. Sash stated that they have granted variances on the same lake for 60 feet so he can't understand why.

Board member Fischbach stated that this was for an engineered septic.

Mr. Sash replied that he has approval from Oakland County that says the soil is rated and able to withstand.

Chairperson Wendt stated that the other variance that was granted stands alone and does not set precedence.

Mr. Sash indicated that he understood that.

Chairperson Wendt stated some alternatives would be moving the guardrail or using an engineered system which would negate the need for a variance.

Mr. Sash stated that he talked to engineers constantly about this.

Chairperson Wendt stated that the drawing could be much more accurate and he asked if there was anyone from the public that had comments regarding this request. Chairperson Wendt stated that they received a letter from Paul and Judy Hensler opposing Mr. Sash's request for a septic variance. They were concerned that the hand-drawn drawing does not accurately represent the property and that Mr. Sash needed to provide a certified survey showing the accurate placement of both septic and proposed home.

Board member Whitley moved to DENY request for a variance in the location of the septic field from 100 feet to 70 feet. He denied for the following reasons: 1.) by the applicant's own admission, all alternatives have not been fully explored and 2.) The drawings and data presented to the Board conflict with one another and therefore are not sufficient to base a decision. Supported by Fischbach.

Board member Baker stated that if they do grant a variance, it should be the minimum variance necessary that would make this property usable in a manner similar to other properties in the area. The documents presented do not allow them to do that because the minimum required is not able to be determined.

Board member Whitley asked that the drawing that was provided this evening be made part of the record.

Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

2. Request from Dennis Lee and Marie Lynn Darrow, 10302 King Road, Davisburg, 48350 for a variance to construct a garage resulting in a seven (7) foot side setback rather than the fifteen (15) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-572. The property that is the subject of the request is located at 10302 King Road in Springfield Township and is zoned R-3 One Family Residential. P.I.#07-10-402-055.

Mr. Dennis Darrow introduced himself to the Board. He stated that since the purchase agreement was signed he has made several improvements to the property. All of the neighbors are happy that the property has been improved.

Chairperson Wendt stated that it seems as if the concrete pad was constructed to accommodate building further to the west.

Mr. Darrow explained that the neighbor on the variance side does not have an objection to the garage being moved.

Chairperson Wendt stated that there are no reference points between the properties showing the property line between this property and the adjoining.

Mr. Darrow stated that it is about 7 ½ feet from the pad to the property line. They want to move the garage over the edge of the pad. This would eliminate the ability to park a car on that concrete slab and would enhance the view of the house. They will eventually dig out the old slab on the other side.

Chairperson Wendt stated that the slab looks like it was built with tie straps.

Mr. Darrow stated that it was constructed to accommodate a 3 car garage and Mr. Lemon tried to get a variance and was denied. His neighbor at the time objected to it.

Board member Whitley asked about the location of the septic and if there would be access for maintenance equipment for the well or septic if the garage was moved over.

Mr. Darrow answered that they could get access on the other side where there is an easement between his property and the neighbors on the other side.

Board member Vallad stated that the applicant has a garage that is conforming and the applicant wants to make it non-conforming and that is his issue.

Mr. Darrow stated that the alternative would be to leave the garage where it is but they want to move it and enhance the front of the house with increased landscaping. If the existing slab is still there, it will be utilized and the neighbors to the west would prefer to see garage there instead.

Board member Vallad commended the applicant for improving the property but the Board cannot grant a variance to take a conforming structure to non-conforming.

Board member Baker stated that he has similar concerns but commended the applicant for improving the property. One of the stipulations for granting a variance is that the conditions are unique to the property. This usually means that there is something unique to your site where the amenities that are afforded to you in the ordinance are not available to you. This is not true for this site; this is based on an interest in enhancing the curb appeal of the property.

Mr. Darrow stated that if the existing slab wasn't there, he wouldn't consider it. But since it is, it is simply utilizing what is there.

Board member Baker stated that the set back limitations are relevant to the structure and the slab is not a structure.

Mr. Darrow answered that he understood.

Chairperson Wendt stated that that slab could have been intended to be an accessory patio; the property currently meets conformity and the Board is charged with not creating non-conformity.

Board member Vallad stated that the applicant has a unique circumstance in that his property can meet all setback regulations as many of the smaller lake lots in the area cannot.

Mr. Darrow stated that there are many garages that do not meet the setbacks.

Board member Vallad answered that those are on lots that cannot meet the setbacks because of width.

Board member Baker moved to DENY the request from Dennis Lee and Marie Lynn Darrow, 10302 King Road, Davisburg, 48350 for a variance to construct a garage resulting in a seven (7) foot side setback rather than the fifteen (15) feet required per Springfield Township Code of Ordinances based on the fact that the conditions underlying the variance request are not unique to the property and the applicant is not limited in enjoying the amenities that are commonly enjoyed in that same zoning district. Supported by Board member Vallad. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

3. Request from Brian Miller, 1700 West Davison Lake Road, Oxford, 48371 for the following variances to construct a home: Resulting in a distance from the septic system to the ordinary high-water mark of Dixie Lake of seventy eight (78) feet rather than the one hundred (100) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-639 and side yard setbacks of ten (10) and five (5) feet rather than the fifteen (15) feet each required per Springfield Township Code of Ordinances, Chapter 40, Section 40-572. The property that is the subject of the request is located on Sherwood Drive in Springfield Township and is zoned R-3, One Family Residential. P.I. #07-10-401-042.

Mr. Brian Miller introduced himself to the Board. He stated that he was the builder and the lot owner was present and the purchaser was present. He stated that the Oakland County Health Department and 3 perk holes were done. The County would rather have the septic over bore # 1 or #2 because there is more sand. The lot is narrower towards to road and they are trying to fit the house on the lot. The proposed septic system is an Elgen system which consists of a plastic mat bed instead of stone. This system is a lot cleaner and they just put one on King Road. This allows for inspections pores consisting of 4 inch pipe that are at the surface that can be removed to make sure that it is functioning properly. There is also a port that exits and lets the system breathe. The tank itself has a filtered system and has more maintenance than a regular system. The County thinks that it will be longer lasting and if there is problem, they can remove it and replace it without any damage. The adjoining wells are also a concern to building on this site. They have to maintain the proper distance away and they are proposing is in the front and the septic system is in the back 78 feet off the water. The house is the preliminary design based on what they can fit in this building envelope.

Chairperson Wendt asked if there was any thought to reversing the sanitary system and the house by 180 degrees. In so doing, they would not need a variance.

Board member Whitley concurred.

Board member Fischbach verified that it would be located over bore #3.

Chairperson Wendt suggested that if the house was rotated 180 degrees, they would not need a variance for anything.

Mr. Miller stated that the County was not open to that. They do not want to put the sanitary system in the front because the soils are not as good as in the back.

Chairperson Wendt stated that site #3 looked like it was clay barrier and asked why the County didn't want to use this site.

Mr. Miller stated that the sand was deeper at #3. There is a 100% cut down required for this system.

Board member Fischbach asked what happens if the system is not maintained correctly.

Mr. Miller answered that there is an affidavit recorded at the Oakland County Registrar of Deeds so that if anyone buys this house, they would know what is required. There is no way to make sure that it is maintained.

Board member Fischbach asked what happens if the biomat fails at some point.

Mr. Miller stated that the County feels like this is a much better system so much so that a reserve field is not required. The system is clean.

Mr. Dan Gilford stated his objection to the variance request because the building outline is 30% over intended building envelope and this means that the house is not set correctly to the setback lines. The septic requires a 100 foot and he asked why that was established. The septic tank is 10 feet off the property line and he asked what the septic tank setback was.

Chairperson Wendt verified that the septic tank setback is 10 feet. There are some preexisting nonconforming conditions that exist here. The chance of moving the home as he suggested would eliminate this nonconformity. The suggested placement of the septic system by Oakland County is in conflict with the Township ordinance. He could not give the accurate date on when the Township established the 100 feet setback requirement.

Mr. Gilford stated that it helps the lake front the farther back it is.

Board member Whitley concurred with Chairperson Wendt as to the reversing the placement of the home and the septic field. He has not heard that it is impossible to perk by the road or that it is impossible to put in an engineered field.

Mr. Sash asked if the setback remained at 100 feet regardless of what type of septic system was proposed.

Mr. Miller answered that the difference is the septic field size is smaller with an Elgen system.

Mr. Gilford asked about the 100% cut down.

Mr. Miller explained the 100% cut down at the field site only.

Mrs. Denise Bommarito stated that it would be a financial hardship to put in a full engineered system and this is a good alternative. She further stated that when they visited the property and met the neighbor, Mr. Gilford, he told them that he would fight them as much as he could because his shade trees were located on the property.

Board member Vallad stated that the house is reasonably sized and reasonably placed on the lot. This is an alternative to the 100 foot requirement and still gives them the protection that this system is supposed to give over other systems that would be located closer to the lake. He stated that the builder has done a good job of balancing everything given the narrow lot at the road side and overall lot shape.

Chairperson Wendt stated that he is interested in what the County's reaction would be to flip flop the position of the field and he would like to see the County's refusal in writing so they know it is an absolute.

Mr. Miller answered that this is a Board as well and asked if the Zoning Board would provide a recommendation then he could take it to the County Board.

Chairperson Wendt stated that they could table this matter and give Mr. Miller the time to approach the County with these questions.

Mr. Miller stated that this would require more advance site engineering.

Chairperson Wendt stated that if they flip flop the house they would eliminate the need for a variance.

Mr. Miller stated that they had to figure out the driveway placement.

Board members discussed alternatives for house and septic placement.

Board member Whitley moved to TABLE this request with the suggestion that the applicant come back with alternate designs and further exploration with Oakland County Health Department regarding placing the septic field on the roadside of the house instead of the lakeside of the house. Supported by Board member Fischbach.

Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

4. Request from RLC Properties, 6761 East Knollwood, West Bloomfield, 48332 for variances for proposed new relocated and expanded Kroger fuel station, a separate McDonalds restaurant and a relocated and enlarged Business Center multi-tenant sign.
 - a. Relocated Business Center Sign. Variance to allow sixteen (16) foot, six (6) inch sign height rather than the fifteen (15) foot allowed and one hundred fourteen (114) square foot per sign side rather than the seventy five (75) square foot per sign side allowed.
 - b. Proposed Kroger fuel center – variance to allow two (2) ground signs rather than the one (1) allowed and variance to allow one of the ground signs to be sixteen (16) feet, six (6) inches high rather than ten (10) feet height allowed and one hundred fourteen (114) square feet per side rather than the fifty (50) feet per side allowed to construct a sign for a future Business Center development. Also requesting a variance to allow two hundred twelve (212) square feet of combined wall signage rather than the one hundred (100) square feet allowed.
 - c. Proposed McDonalds – Variance to allow four (4) ground signs rather than the one (1) ground sign allowed and one hundred forty three (143) square feet of ground sign area rather than the fifty (50) square feet of ground sign area allowed. Also requesting a variance to allow a total wall sign area of one hundred twenty five (175) square feet rather than the forty six and one-half (46.5) square feet of wall sign area allowed. All variance requests pertain to provisions of Section 40-751 of Chapter 40, Springfield Township Code of Ordinances. The property that is the subject of the request is located on the west side of Dixie Highway, south of Davisburg Road in Springfield Township and is zoned C-2, General Business. P.I. #07-14-101-024.

Mr. Danny Kurzmann, owner of RCL Properties, introduced himself to the Board. He stated that with the movement of the fuel center, they are attempting to fix traffic issues at the existing shopping center. They are proposing a traffic light at the current entrance and moving the fuel center. They have been working with the Planning Commission and are before the Board to request variances for signage. Each of the businesses has their unique issues regarding signage and the Engineer has addressed the issues in his memo. He introduced J.D. Damrath of Premier Engineering and Mr. Tom Gurgich, Area Real Estate Manager for McDonalds to the Board members. The shopping center issue is that people do not know that the shops are located in the shopping center and they are trying to fix this issue. He does not feel like this is enough signage but they are trying to work within the ordinance. The spaces that have been empty next to Kroger have been empty for years.

Chairperson Wendt stated that they received a letter from the Pebble Creek Homeowner's Association stating their objections to the variance request.

Board member Fischbach asked if the applicant had seen the letter.

Mr. Kurzmann answered no. Supervisor Walls provided him a copy. Chairperson Wendt stated that there were other letters written by residents of Pebble Creek written to the Planning Commission and he does not know the contents of those two letters.

Board member Whitley stated that the request seems to be based on travelers finding the shopping center and he believes that most of the traffic is actually local residents who utilize the center. He understands the need for the McDonalds to have menu signage. However, it is packed with additional signage that exceed the Ordinances by height (10%) and area (52%), (286%), (269%) and quantity (400%). He believes that this goes beyond reason. This issue of necessary signage can be addressed by utilizing the allowed signage of the area on the site. There is a danger on dealing with individual signs; they need to look at it as a whole package.

Board member Vallad stated that there are six store fronts, not five as indicated in Doug's memo. The Verizon store has an issue due to sign design; it is too difficult to read. The issue of the building location away from the road without lot construction and landscaping berm is important. He agrees with reducing the 16 ½ foot signs to 15 foot signs and there are easy ways to do this. They do need two signs because ultimately the empty lots will be developed and filled and the second sign would be warranted. The question becomes how much sign and when do you allow it. It should be restricted to 15 feet and 100 square feet for now; they can come back to the Board if more is needed later. He asked about the signage shown in the island.

Mr. Kurzmann answered that it is existing, but it is coming down when the drive is moved.

Board member Vallad stated that there are a lot of M's on the McDonalds proposed signage. He has a concern about the LED lighting because this is facing Pebble Creek and he does not know how penetrating the signage is.

J.D. Damrath stated that they have worked hard to stay within the ordinance limits and it is essentially zero at the property line.

Board member Vallad stated that they might look at the issue of the signs on the frontage. The ability to see the signs from every side and every location and the question is do they need this many signs. Some additional amount may be appropriate, but multiplicity in sides of sign in various directions. The signage on the fuel station needs to be reconsidered. If you have the business name Kroger on all sides with logos and names, it is not necessary. They are already at the Kroger Fuel Station and this amount of signage is too much.

Chairperson Wendt asked if the McDonalds facility will be the stereotypical McDonalds.

Mr. Gurgich stated that they have a new prototype but he is not sure how to answer the question since he doesn't know how long it has been since Chairperson Wendt has seen one.

Chairperson Wendt stated that the golden arches are very recognizable.

Board member Baker stated that he is hopeful that they can minimize the variance request by eliminating the redundancies on all sides of some of the structures. He concurred with Board member Vallad's proposal to minimize redundancies at the fuel pumps. He stated that he would recommend reducing quantities and size.

Mr. Hamilton, resident of Pebble Creek, stated that he has concerns over the amount of signage proposed. The ordinance is there for a reason and he would like the request scrutinized. He stated that he doesn't think the McDonalds menu boards should even count. He stated that the applicant needs to provide more information on why this needs to be done and 400% more sign requirement is needed.

Mr. Andrew Madison, resident of Pebble Creek, expressed his concern over the volume of signage requested. There is a lot more light that will be given off and this light pollution is unwanted.

Mr. Kurzmann stated that he understands the Board's and the residents' comments. He stated that the opinion of the Board that the businesses are just visited by residents is not the case and by listening to the tenants, he has determined that this is not true. He stated that he is not from here and when he is driving by at 50 mph, the individual signs cannot be identified. There are actually seven storefronts because you should count them all. There could actually be 10 or 11 depending on tenant space. He stated that he hoped they would table this and let them address the comments and opinions made. They could work on eliminating some of the redundancies that were brought up and take a look at the lighting to make sure that they are not creating a problem. They are sensitive to residents' concerns.

Chairperson Wendt stated that he would like them to take a long hard look at the plan and come up with something that was more palatable.

Board member Vallad stated that the plan still has to go to the Planning Commission and he suggested that they make adjustments to the plan.

Chairperson Wendt stated that he sees no reason to go over the 15 feet for the signs. This is the ordinance amount and it seems logical. The number of signs and volumes need to be reduced.

Board member Whitley stated his objection to the process. A lot of this discussion belongs in front of the Planning Commission. He stated that some of the requests are outrageous in terms of how much they exceed the ordinance. The plans need to be developed further.

Mr. Kurzmann stated that they brought this to the Planning Commission and they have been working with them for a long time. They thought they would be further along in this process but there have been some hold ups with the Road Commission and the traffic light, for example. They have been working diligently. They will address the issues that the Board brought up this evening.

Board member Vallad moved to TABLE the discussion related to the Kroger Center to allow the applicant to pursue all alternatives and to continue discussions with the Planning Commission. Seconded by Board member Fischbach. Voted yes: Baker, Fischbach, Vallad, Wendt. Voted no: Whitley. Absent: None. Motion approved.

ADJOURNMENT:

Board member Vallad moved to ADJOURN the meeting at 9:02 PM. Seconded by Board member Fischbach. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

Erin Mattice, Recording Secretary