

SPRINGFIELD TOWNSHIP
ZONING BOARD OF APPEALS
July 17, 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 June 19, 2013 meeting.

Board member Wendt moved to approve the minutes of June 19, 2013 as presented. Supported by Board member Fischbach. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

OLD BUSINESS:

1. Request from Harold McGraw, 27836 Lenox Avenue, Madison Heights, 48071 for the following variances to construct a home:
 - a. Resulting in a distance from the septic system to the ordinary high-water mark of Dixie Lake of sixty (60) feet rather than the one hundred (100) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-639.
 - b. Resulting in a front yard setback of twelve (12) feet rather than the fifty (50) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-572.
 - c. Resulting in a side yard setback of ten (10) feet and seven (7) 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 at 8700 Shore Drive in Springfield Township and is zoned R-3 One Family Residential. P.I. #07-10-402-047.

Michael Powell provided a summary of his experience with engineered septic systems and his work with the Oakland County Health Department and Oakland County Commissioners. He represented Harold and Dee McGraw. He summarized Article II which was adopted by the County Commissioners. He provided a letter from the Oakland County Health Department dated February 15, 2007 which approved the Norweco treatment process. He also provided a letter from MDEQ dated April 2007 which approved the use of the Norweco process at single family home sites. He suggested that these systems clean the effluent very clearly. He summarized background information and documents that were provided to the Board members regarding the Norweco system. The applicants received a permit from the OCHD for this system at this site 60 feet from the water. The reason they located the system where it is was based on the soil information at the site location. He summarized the Oakland County site criteria for the plan. The septic field must be 10 feet from all property lines and foundations. It must be at least 50 feet from any lake or body of water, 50 feet from any well or proposed well. The septic field was approved for the center part of the property. The applicants demolished a small home on the property a few years ago and the old cement foundation is still there. They do not want to design a septic field on top of where the existing structure was because the soils were compromised. The septic field is over 2000 square feet. They would like to put the home in line with the other homes in the area. When they tried to move the septic field closer to the roadway, the house moved which would block the other two homes' view of the lake and would be less desirable. The proposed septic field location was needed to maintain the proper distance from existing wells and was the preferred location of the Health Department. One of the items brought up at the last meeting was what happens if the advanced treatment fails. The OCHD maintains that it is still substantially better than a regular septic tank because of the 3 tank system. The advanced treatment chambers must be monitored 24 hours a day and would be linked directly to a contractor licensed to service it. If the homeowners don't maintain it, the OCHD has the ability to go online and monitor the advanced treatment systems in the County. The homeowners must maintain the system until sewers are available. It is now standard operating procedure that all septic systems within 50 feet of a lake have advanced treatment. He stated that he has designed 20 of these systems in the last few years according to the County.

Board member Fischbach stated that she spoke to someone from American Concrete. She was informed that typically if these systems fail, they back up into the house; therefore there is some self assurance that the homeowner will fix it. She stated that the effluent was described as also being much cleaner.

Board member Baker asked Mr. Powell if there is any value in changing the square footage of the structure to increase the separation from the water distance.

Mr. Powell conferred with the homeowners. The only way that it would be substantial is if they remove the garage.

Mr. McGraw answered that they were willing to do whatever is necessary to get the house built.

Board member Baker suggested a different footprint to get the field further from the water.

Mr. McGraw suggested moving or eliminating the garage.

Mr. Powell stated that the garage was only 24 feet deep. The septic field is set exactly 50 feet from the neighbor's well and if they move it closer to the road, it will no longer be in compliance with that minimum distance from the well. He pointed out the slab of the old house and explained that the OCHD did not want the field over the old slab.

Board member Vallad stated that the field requirement is 2376 square feet and asked if this was the 3 bedroom demand.

Mr. Powell agreed.

Board member Vallad asked if there were two bedrooms, would it have to be 2/3's of the area.

Mr. Powell answered close to that, a little bit more than 2/3s.

Board member Vallad wondered if they could change the structure to a two bedroom and move the field back. He verified that the square footage was 1800 with a walkout. He wondered if they would contemplate changing it to a two bedroom and this would change the size of the field and bring it further from the lake.

Mr. Powell stated that reducing it to 2 bedrooms would decrease the distance needed from the lake but another factor is maintaining distance from the neighbor's well.

Board member Vallad stated that he does not have a problem with the location of the home; he is trying to come up with a compromise.

Mr. and Mrs. McGraw answered that they are amenable to changing the number of bedrooms if that what it takes.

Chairperson Wendt asked the Board members about the Township requirement of 100 feet.

Supervisor Walls answered that the 100 feet was a recommendation of Oakland County Health Department staff, but they were not able to get the County distance changed.

Chairperson Wendt asked if they were being arbitrary seeing as how the letters provided by the Oakland County Health Department and MDEQ seem to be in support of these advanced systems and are technically savvy when it comes to these system needs of wastewater.

Board member Whitley stated that the 100 feet requirement is derived from old system technology and they are seeing new technology being applied to septic systems. It might be appropriate to consider if the old rule should still apply to new systems and new system technology. This is an issue as technology progresses. Even if they reduce the bedroom number to 2, they are still considering a variance because it is still not going to be 100 feet. The question is, if they can go less than 100 feet, than they are considering that the technology can protect at less than 100 feet. Then, the question becomes are they going to consider 60 or 62 feet or 68 feet. The question is can they be at 100 feet, or can they be less than 100 feet and still be protected.

Chairperson Wendt concurred.

Board member Whitley stated that if reducing to 2 bedrooms would take it to 100 feet, he would consider it, but this is not what they are considering.

Mr. Powell agreed with Mr. Whitley.

Board member Whitley moved to approve the request for a 60 foot setback instead of a 100 foot setback for a septic system with the installation of the Norweco system as proposed by Powell Engineering and conditioned on the other requirements of continual monitoring, etc. as prescribed by Oakland County Health Department. Supported by Board member Baker. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

Mr. Powell verified that the deed restrictions are conditions of the permit approval as set forward by Oakland County Health Department.

Board members considered the front and side yard setback variance requests.

Mr. Powell stated that there are restrictions on the property based on its pie shape. He explained the lot lines and lot shape as shown on the diagram. They provided a little more access room on the one side so that the neighbors can service their well. This lot is unique in the platting especially at the roadside which typically follows the curve of the road, but in this case, it does not. If it followed the curve of the road, the setback from the road would be about 25 feet, not the 12 feet that they are asking for. He pointed out all of the variances that are present at neighboring properties on Shore Drive and this home will fit harmoniously in the neighborhood as it matches other homes. It would not be damaging to the condition of the neighborhood.

Board Whitley moved that the request for a front yard setback of 12 feet rather than the 50 feet required and the side yard setback of 10 feet and 7 feet rather than the 15 feet be approved given the unique configuration of the lot, unique configuration of the right of way with respect to the front yard setback and the fact that it is consistent with other homes in the area with respect to the side yard setback and in fact exceeds the side yard setback of many of the homes in the area.

Supported by Board member Vallad. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

NEW BUSINESS:

1. Request from Roger Laviolette, 9269 Debby Jo, Clarkston, MI 48346 for the following variance to construct an addition to a garage resulting in a ten (10) 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 9269 Debby Jo in Springfield Township and is zoned R-3 One Family Residential. P.I. #07-26-277-049.

Mr. Laviolette introduced himself to the Board. He stated that he just moved into the neighborhood and he does not have the extra space that he needs.

Board member Whitley verified that he was adding on to the current garage.

Mr. Laviolette responded yes; this is an addition. He will be building it with the same depth and roof pitch.

Board member Fischbach verified that if she sees the addition after it is done, it will simply look like a 3 car garage instead of a 2 car garage.

Mr. Laviolette replied yes. The roof line will be straight across with one extra door.

Board member Baker noted that the applicant's rear property line has a steep grade.

Mr. Laviolette answered that he cannot build in the back because of the grade.

Board member Baker stated that the proposed accessory structure does not exceed total accessory structure square footage requirements in this zoning area.

Board member Baker moved to approve the request of Roger Laviolette, 9269 Debby Jo, Clarkston, Michigan 48346 with property ID #07-26-277-049 for a variance to the side yard setback to permit a setback of 10 feet rather than the required 15 feet for the purpose of constructing an addition to an existing garage due to the fact that the property behind the house is low in nature, collects water and does not permit suitable site for constructing an additional accessory structure and that the accessory structure proposed does not exceed the limits permitted within that district. Supported by Board member Fischbach. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

2. Request from Board of Appeals to reconsider March 20, 2013 decision regarding Garrison appeal to allow the construction of a garage (accessory structure) on a parcel that does not contain a dwelling which requires a variance per Springfield Township Code of Ordinances, Chapter 40, Section 40-156.

The property that is the subject of this request is located at 236 Hickey in Springfield Township and is zoned R2 One Family Residential. P.I. #07-17-201-011.

Board member Vallad stated that the information that he provided to the Zoning Board members was gathered at previous meetings. He asked if the Garrison's wanted to go forward.

Supervisor Walls answered that they were contacted and agreed with the reconsideration.

Board member Vallad stated that he provided information regarding an appeal that was heard in November 2007 with a similar type of request. It was a matter with 2 parcels separated by a county road right of way. The end result is that the two non-contiguous parcels were considered one zoning lot with two tax parcel IDs. This is what they have here. The Garrison's have owned the two parcels and have resided at 230 Broadway for many years. The two parcels are separated by Hickey Avenue and date back to plats established in 1900 and the County took over the roads in 1936 and established right of way. As long as those two lots are used as a single zoning unit with one residential structure, it is appropriate for allowing an accessory structure to be built on the second lot.

Board member Fischbach stated that if they would rule to consider the two parcels as one zoning unit and then there is not a need for a variance because the accessory structure would not be on its own lot.

Board member Vallad answered that it would be used as one zoning unit, single family residential.

Board member Baker stated that Oakland County would still consider them as two separate taxable lots.

Board member Fischbach stated that if they ruled it as one zoning unit, they would not need a variance.

Board member Vallad stated that this is not defined by zoning unit; this is the issue. Springfield Township Ordinance does not allow an accessory structure on the separate tax parcel without a residential unit.

Board member Whitley stated that the previous request was to allow two parcels to be considered as one zoning lot, not to put up an accessory structure. So, there probably would not be the need for a variance.

Board member Vallad stated that in the previous case, if anyone decided that they wanted to sell that separate parcel, this would require a Zoning Board of Appeals ruling.

Board member Whitley asked if they could take this action without publishing the request to be considered as one zoning lot because the published request was to put an accessory on a lot without a residence.

Board member Fischbach asked if he was contemplating asking the applicants to re-ask the question.

Board member Whitley answered when this came up last month, they made the decision not to charge the applicant because the reconsideration was generated from the Board. However, can they make a decision to consider them as one zoning lot without this being the advertised action being taken at their meeting because it is different from the original request.

Chairperson Wendt read the request from the 2007 case. He read the motion made on November 2007. He stated that he cannot see any difference with this case and this one that they are considering tonight.

Board member Whitley answered that if they wanted to take similar action as to what was done in 2007, can they take that action given that this request was published for a different variance.

Chairperson Wendt stated that he thinks it should be republished similar to the Daros application.

Supervisor Walls stated that if they are reconsidering the previous request and they act on that request by interpreting that it is a single zoning lot, and then the request can be granted subject to the recording of the restriction. It may be different, but the end result is the same.

Board member Baker suggested that Greg Need's letter stated that they have the right to reconsider, to grant the variance and to condition it upon certain things. The presentation that has been made as far as the noticing, they have the ability to grant the variance conditioned upon all of the information that has been cited and appropriate legal language consistent with the decision made in 2007.

Board member Whitley stated that the end point will be the same and he is posing the question.

Ruth Ann Hines, 268 Broadway, stated that if they determine that based on an interpretation, this is one zoning unit, they can grant the variance without having to republish. The reason that they are granting the variance is because they interpreted that it is one zoning unit. She stated that as a member of the neighborhood, she hopes that they grant the request.

Board member Vallad stated that they can grant the variance based on a finding and the finding is that this is being used currently as a single zoning unit. He asked if the ordinance language for the accessory structure says a “zoning unit” or “lot of record.”

Supervisor Walls answered that the ordinance uses the term “lot of record.”

Board member Vallad stated that the variance would still be required then. The issues to be discussed previously involving making it look like other accessory structures having asphalt shingles, etc. need to be in the motion.

Board member Vallad moved to grant the variance request called the Garrison appeal with conditions for Valdson Garrison, 230 Broadway, Davisburg, MI 48350 to construct an accessory structure meeting size and setback requirements in the current ordinance on tax id #07-17-201-011 for the Zoning Board of Appeals finds that:

- 1. The Garrisons have resided at 230 Broadway on parcel #07-17-202-003 for a number of years as well as owning parcel #07-17-201-011**
- 2. These parcels are on the north and south side of Hickey Avenue and are not contiguous**
- 3. The two parcels are part of two different plats established prior to 1900**
- 4. The parcels are separated by a road right of way believed to be owned by the Road Commission who assumed jurisdiction over the roads in 1936**
- 5. The Oakland County Equalization has denied on multiple occasions requests to combine the parcels in a single tax description, or lot of record because they are not contiguous thus requiring this request**
- 6. The two lots of record have been historically owned and used as a single zoning unit by the Garrisons**
- 7. The construction of an accessory structure on parcel #07-17-202-003 would be difficult due to the size of the lot, the location of the residence and the elevation on the southern portion of the parcel near Davisburg Road**
- 8. The Zoning Board of Appeals has the authority to grant a request for relief from the Springfield Township Code of Ordinances Zoning regulation**

Section 40-156, Part one, as an accessory structure is not permitted on a parcel on single family residential zoning without a single family residence.

Conditions for granting the variance include:

- 1. The accessory structure constructed shall be similar in appearance and size to the structure presented at the March ZBA meeting and shall have overhangs and be constructed with asphalt shingle roofing materials.**
- 2. The structure shall be used in conformance with the zoning regulation for residentially zoned parcels, which is no commercial enterprise.**
- 3. The restrictive covenants be placed on the parcels, similar in nature and prepared by the Township attorney for recording regarding change of ownership and that any change in ownership must come back to the Zoning Board of Appeals for proper disposition of the separated accessory structure from the residential uses. Supported by Board member Baker.**

Supervisor Walls clarified if he meant change of ownership that would separate the two parcels into individual zoning lots. Board member Vallad answered yes. Board member Vallad stated that his intent is that if there is a change in ownership, the property be restored under the ordinance either with the removal of the accessory structure or the building of a residence to go with the accessory structure. Supervisor Walls clarified that the change of ownership is clarified to be that change that creates two new owners.

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

ADJOURNMENT:

Board member Whitley moved to ADJOURN the meeting at 8:51 PM. Seconded by Board member Baker. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

Erin Mattice, Recording Secretary