

SPRINGFIELD TOWNSHIP
ZONING BOARD OF APPEALS
June 19, 2013

Meeting is called to order at 7:30 pm by Board member Whitley, acting as Chairperson in Skip Wendt's absence.

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

Absent: Skip Wendt, Chairperson

AGENDA:

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

PUBLIC COMMENT: None

CONSENT MOTION: Minutes of the May 15, 2013 meeting.

Board member Baker moved to approve the minutes of May 15, 2013 with the amendment as follows, vote on page five should accurately reflect that all members voted yes for the motion. Supported by Board member Vallad. Voted yes: Baker, Fischbach, Vallad, Whitley. Voted no: None. Absent: Wendt. Motion approved.

OLD BUSINESS:

1. TABLED FROM MAY 15, 2013: Request from Julie Hogan, 500 Iroquois Court, Oxford, MI 48371 for the following variances to construct a home:
 - a. Allow the construction of a home resulting in a forty-five (45) feet front setback from Ellis Road rather than the fifty (50) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-572.
 - b. Allow the construction of a home resulting in a setback from Waumegah Lake of thirty-five (35) feet rather than the fifty (50) 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 8679 Ellis Road in Springfield Township and is zoned R-1 One Family Residential. P.I. #07-12-427-024.

Mr. Andy Donato represented Julie Hogan. Julie Hogan provided plans for a 2800 square foot ranch home. Mr. Donato reviewed the variance request for the Board members. The deck is the item that requires the variance on the lake side of the home.

Board member Fischbach asked if the 2800 square feet was the one floor.

Mr. Donato responded that the 2800 square feet was the one floor and the walk out would be additional. There is a five foot variance requested from the road side and a fifteen foot variance requested from the lake to the deck. He stated that Ms. Heister's home, which is two doors down, got a same variance.

Board member Vallad stated that this was a reasonable approach to reduce the footprint. He reiterated that the fifteen foot coming off the lake side was to a raised deck and this would be reasonable.

Board member Whitley stated that he appreciated the higher level of detail provided. He stated that the two things that Mr. Donato stated are hardships he does not agree are hardships. The first would be that other residents' homes were less than fifty feet; this is a comparison not a hardship. The deck on the front of the house would not be a hardship; it should be considered a practical difficulty. This is a much better plan than they were able to see last month.

Board member Baker concurred. This is a suitable use of a lot that has certain challenges.

Board member Baker moved to approve the request of Julie Hogan for the variances requested at 8679 Ellis Road in Springfield Township allowing the construction of a home resulting in a 45 foot front setback (5 foot variance on the roadside) and a 35 foot setback (15 foot variance on the lakeside) from Waumegah Lake instead of the required 50 foot due to the unique circumstances that the property affords for the use and construction of a residence that the proposed use is in keeping and harmonious with the neighboring properties and it requires the least amount of variances to use the property in a manner that is suitable in regards to neighboring uses. Supported by Board member Vallad. Voted yes: Baker, Fischbach, Vallad, Whitley. Voted no: None. Absent: Wendt. Motion approved.

2. DISCUSSION OF RECONSIDERATION: Requested by a member of the Board and approved at the May meeting The property that is the subject of this request is located at 236 Hickey, Davisburg, zoned R2, one family residential having a P.I. #07-17-201-011 in Springfield Township. Variance was denied on March 20, 2013.

Board member Whitley stated that this item was not published so they could not take action on the actual reconsideration tonight.

Board member Vallad stated that the opinion of the Township attorney received by Board members was that they could reconsider. Reconsideration is allowed both by State Law and Township Ordinance. Board member Vallad requested the Board determine if the original decision was appropriate. He stated that he was not fully prepared for the opposition to the approval of that appeal and could not formulate a position in the belief that it should be approved. Since then, he has had time to gather facts and has a more cohesive approach to it. He also feels the applicants should agree to the reconsideration. He agrees that it needs to be renoticed and republished.

Board member Whitley stated that it was preparedness and understanding of the issue rather than new facts that have come to light since it was presented.

Board member Vallad answered that there are some additional detail on the facts that were presented that can be presented. There has been a second decision by Oakland County Equalization that the two parcels cannot be joined.

Board member Whitley stated that when they considered it before they already had an opinion by Oakland County Equalization that they could not be combined and now there has been a second decision that supported it.

Supervisor Walls concurred.

Board member Whitley asked if the Township or the applicant was expected to present the additional detail.

Board member Vallad answered that he will be responsible for this.

Board member Fischbach stated that she would want to reopen it and make sure that they are doing the right thing.

Board member Whitley stated that in this case it was a denial; how would the Board handle an approval and an approval that comes back in front of the Board and construction may have already started.

Board member Fischbach stated that they have to look at each case and situation is unique and they can reopen it as per the Township Attorney's opinion.

Board member Whitley stated that there are no guidelines regarding the reconsideration.

Supervisor Walls stated that the Township Attorney said that there are no guidelines intended for reconsideration although it was not in his email. Any Board of Appeals member can request revisit any decision for reconsideration.

Board member Vallad agreed that every case is unique and if there was a hypothetical case with approval, part of the decision process of the Board to reconsider would include bringing information forward that was inaccurate before or missing information that

would lead the Board to change their decision. In this case, he was not able to present his position well enough the first time.

Board members reiterated that they had already made a motion to reconsider in May 2013. They agreed that Supervisor Walls would contact the applicant and make sure that they were willing. If so, the Township would follow through with publication and personal noticing as they do in any other case. The Board members agreed that the applicant would not be required to submit another application fee because this action was being brought forward by the Township, not the applicant.

NEW BUSINESS:

1. Request from Harold McGraw, 27836 Lenox Avenue, Madison Heights, 48071 for the following variances to construct a home:
 - c. 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.
 - d. 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.
 - e. 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.

Mike Powell, Powell Engineering, introduced himself to the Board. He stated that the applicant came to him after the perk test for the property had failed. Mr. Powell reviewed the plans for the proposed 1830 square foot home for the property and he reviewed the placement of the home on the property and the placement of the septic field on the property. He stated that the septic could not be located on the roadside of the home because it has to conform to OCHD guidelines requiring 50' from adjacent wells. He stated that a special septic system was designed that included pretreatment that discharges clear water. This special septic system is called a Norweco Engineered Treatment system and this system was granted approval by the Oakland County Appeal Board. This was the only location that the Health Department would approve based on the placement of the 2 neighboring wells and needing to have a 50 foot isolation distance from these wells. They looked at the possibility of moving the existing wells but there was no location to move the wells to that would allow the septic to be further away from the lake. The only other place for the home would be on the other side of the septic system which also would not meet the Township Building Ordinance. The hardship is a non self-imposed hardship of a setback from the road from 50 feet to 12 feet and the side yards from 15 feet to 10 feet and 7 feet. They are also looking for a setback variance for the septic system from 100

feet to 60 feet. The Oakland County required setback is 50 feet from the lake. The variances requested are in keeping with the general conditions of the area and the neighborhood. The home to the north at 8690 Shore Drive has a side setback of 3 feet and a roadside setback of 20 feet. The home to the south at 8660 has a side setback of 14 feet on one side and 8 feet on the other side with a roadside setback of 8 feet. He stated that in most subdivisions, the right of way line is approximately 10-15 feet from the roadway. At this property, the road right of way line comes to a point in front of this piece giving an additional hardship due to the shape and configuration of the road right of way.

Board member Whitley asked if he had any drawings showing this right of way.

Mr. Powell showed the road right of way on the drawing; it is depicted on the drawing as the property line.

Board member Fischbach asked Mr. Powell about the maintenance requirement on the Norweco system.

Mr. Powell stated that the Health Department wants to make sure that it is operated correctly and requested a deed restriction. It needs attention every 6 months to make sure it is functioning properly. The warranty on the device is 10 years and the factory supplier provides the maintenance for the first 2 years. It would be in everyone's best interest if a regular septic tank was maintained like this, but this is a forced and deed restriction.

Board member Fischbach asked who placed the deed restriction.

Mr. Powell answered that the homeowners did, voluntarily as requested by the Health Department.

Board member Fischbach asked about the specific workings of the system.

Mr. Powell stated that the sanitary sewage from the home flows out into the pretreatment system which is divided into 3 chambers. The first chamber acts like a septic tank separating the waste. The water flows into another chamber that acts like a mixer pumping oxygen into the waste water. It utilizes bacteria that thrive on this sewage to clean the affluent. This is the same process that the cities use; using oxygen and agitation. The waste then flows into a clarification chamber and the relatively heavy material falls to the bottom to repeat the process and the relatively clean water flow out to the septic field. There is a pump in the system, just not in the pretreatment process.

Board member Fischbach stated that it seems like the first tank will get filled up eventually.

Mr. Powell replied that there is hole in the top and the bottom of the chambers and there is a continuous flow of materials in small amounts. This system breaks the material down using an aerobic process by oxygen and it doesn't need to be cleaned as often as a regular septic tank.

Board member Fischbach asked if Oakland County would accept a system like this closer than 50 feet.

Mr. Powell answered no; this has the same requirements as any other system.

Board member Whitley asked what the backup system was in case of power outage.

Mr. Powell answered that it is no problem if the pump goes down and is idle for awhile, it is not an issue. If the power goes down, then the water well goes down and they are not generating water that needs to be treated. If they were to use lake water to flush the toilets, the system is capable of absorbing about a day's flow and is capable of holding it there for about a day. The worst case scenario would be if there was a long term power outage and then the system would become a hybrid septic tank except it has a filtering system.

Board member Whitley asked how the system was serviced and could it be serviced with such a narrow side setback. In the case of large service requirements, would there be room to get the equipment back there because it seems like the narrow setback, trees and the terrain would hinder that accessibility considerably on that side of the lot.

Mr. Powell stated that this is all addressed by the Health Department as well. Once the concrete tank is in place, the heaviest thing to carry is ¼ horsepower motor. It comes out and can be put back into the system when it needs to be serviced. There also might be the need to run a hose to the chamber system for maintenance.

Board member Fischbach asked if there was a warning system or alarm in case the pump fails.

Mr. Powell stated that there is an audible and visual alarm. The homeowners would know to call the contractor and the light stays on until the contractor gets there. If they are out of town, this system is set up to call the contractor.

Board member Whitley asked about the affidavit stating that the property "is" served by an alternate system. He questioned why the verb "is" was used because it wasn't there yet.

Mr. Powell answered that the system is not there yet. The Oakland Health Department requires this language because any future tenant would know that they have to maintain it. When the property is sold, this will be reading in the proper tense.

Board member Whitley asked if this affidavit constitutes the deed restriction that Mr. Powell mentioned earlier.

Mr. Powell stated that there is another deed restriction. This document is recorded as well as another affidavit saying that the site be serviced every six months and the Health Department has the ability to enforce the deed restriction.

Board member Whitley asked who had the responsibility for insuring that it is serviced on a six month basis.

Mr. Powell answered the Health Department. They are the ones that are charged with enforcement of the health codes in this County.

Board member Baker asked if the homeowner calls every 6 months for servicing.

Mr. Powell stated that the servicing happens every 6 months whether the homeowners are there or not by contract.

Board member Baker verified that the Health Department would be the authority that governs that the maintenance takes place.

Mr. Powell stated that there is a website set up that every manufacturer and contractor must maintain that shows when every plant was serviced. The Health Department can use this to check up on any system that is pretreated in the County.

Board member Baker asked if the alarm would be heard by the neighbors as well as the homeowners.

Mr. Powell replied that it is an audible alarm until it is turned off by the contractor or the homeowners. There is a button on the side so that the neighbors could turn it off if the homeowners were out of town.

Board member Fischbach asked if the neighbors could hear and see the alarm.

Mr. Powell replied that the neighbors will see and hear the alarm.

Board member Whitley asked what guarantees were in place so that if the contractor goes out of business there would be an assumption of responsibilities.

Mr. Powell stated that this is backed up by the Norweco factory so that if there is a problem with the contractor, they have to provide that service themselves.

Board member Whitley asked what backs up the manufacturer.

Mr. Powell stated that he did not know the answer to that question but you certainly have more safeguards than any other septic field up and down the street.

Board member Whitley replied that the difference is that other septic fields do not have this type of mechanization.

Board member Vallad stated that there are ordinance provisions for Community Septic in the Springfield Ordinance.

Board member Baker asked if the manufacturer goes out of business, does any filing with the Health Department allow them to say who should take over the maintenance.

Mr. Powell answered that the Health Department is charged with the control of the health, safety and welfare of the sanitary code so they would be able to step in just like they would immediately step in if a septic fails and there is sewage discharged on the ground. If the Health Department deems it to be a health, safety or welfare issue they can shut the system down, cite them and require them to shut down the system.

Board member Baker stated that they have the same authority over any system.

Board member Whitley acknowledged letters from two neighbors; Tracy Stolzenfeld expressing concerns about the septic system and another letter from Ann Rathsburg expressing concern about the septic system and its proximity to the lake.

Board member Fischbach stated that she is uncomfortable putting the septic that close to the lake and all that it takes to maintain it worries her. If the home is sold, is the next person going to maintain it like they should and the Oakland County Health Department won't, they have too much on their plate.

Mr. Powell stated that this system meets the State Health Code requirements and the County Health Code requirements. It has gone through rigorous review by the State and the County and they are charged with the health, safety and welfare of the private citizens of the County and the State. The home to the south has the septic on the lake side and if it were to fail, they wouldn't even know it. This new one would be monitored every six months.

Board member Fischbach replied that she understood that, but that doesn't mean they should do more of it.

Board member Whitley concurred. There are other septic systems closer to the water, but his concern is making more of this after the ordinance, process and experience has all shown that when it comes to setbacks for septic systems, more is better.

Mr. Powell stated that there is no alternative at all to the plan that they have presented.

Board member Whitley replied that he agrees that there are difficult challenges present on the property but this does not dictate that because there is a hardship, a variance will be granted.

Mr. Powell stated that if the variances are not granted, this property may not be built on at all.

Board member Whitley agreed. The Health Department approved the system, they are only looking at the system, its workings and its proximity to the lake, the Board has to look at much more than that.

Board member Baker stated that he feels that because the minimum requirements that were set to separate wells from septic, they are forcing any structure to begin its westerly line as far away as possible. The Health Department has issued an approval of this septic. He would prefer to have an additional distance from the septic to the lake, if this layout is not accepted, they are declaring this lot unbuildable. He is hesitant to do that.

Board member Whitley answered that they can say they are not going to accept this plan.

Board member Baker stated that you cannot bring the septic field any closer because of the well's proximity.

Board member Fischbach asked if this was the minimum septic area acceptable to the Health Department.

Mr. Powell answered that this is the minimum accepted for this design. Every site is looked at and evaluated separately.

Board member Whitley stated that the closest radius to the well is the neighbor's well and he wondered why the well could not be moved.

Board member Baker asked if he was suggesting that the applicant assume the cost of relocating the neighbors' wells.

Board member Whitley answered yes. There may be other options and he does not think all options have been exhausted.

Mr. Powell stated that he looked at that.

Board member Vallad stated that the County's design is to 50 feet and it is a highly engineered system. There are some protections that they do not generally have with a septic system. If they deny the request, they are making the property unbuildable.

Board member Fischbach asked how long they have been making this system.

Mr. Powell answered thirty years. It was originally made in Ohio and it was approved in the State of Michigan in 2005 or 2006.

Board member Fischbach asked if they had any information regarding its reliability.

Mr. Powell answered that there are a whole line of Norweco products being used in Ohio. In Ohio, Indiana and Pennsylvania, they allow the discharge from this system to go into

ditches, wet lands and storm sewers. Before they do this, they treat it with chlorine and this is not allowed in Michigan.

Board member Baker stated that part of his struggle is lack of awareness and knowledge about this type of engineered system. He could use websites, engineering reviews, etc. to reach a level of comfort regarding this system. He recognizes that the Health Department has the legal obligation to render opinion and base this on a lot of information and data. One of the demands of the Board's decision is that it much not be detrimental to the public health, safety and welfare and injurious to property. He stated that he feels compelled to gain understanding on his own part and he questioned the other Board members regarding an appropriate course of action.

Mr. Powell stated that he can provide technical information regarding the system. He has a letter approving it by the State of Michigan and the County accepted this as an acceptable technology. He would like to ask the applicant if they would like to postpone building their home for a month.

Board member Whitley stated that he has reservations with this too. The County approved this but they approved it to a different standard. It has been his experience that these kinds of systems and other structures that require ongoing maintenance, it just doesn't happen. In 20, 30 or 40 years from now, who is going to remember that this system is here and who is going to take care of it. The ordinance stipulated 100 feet because we have decades of experience that tells us what happens when septic fields are too close to bodies of water. He could become a lot more educated but a larger piece is what people do with the reliability factor even if the reliability factor is very high. Things just do not get maintained.

Board member Fischbach agreed. She stated that she is concerned with the maintenance.

Mr. Powell stated that if the septic to the south fails; it will have to be a pretreated system next to this. This is state of the art and standard and they are going to be seeing this on every repair on every lake in the Township.

Board member Fischbach asked where; she would like a list of Townships.

Mr. Powell stated that he would provide a list and they are located in all of the Townships, including Springfield Township.

Board member Baker moved to TABLE the request of Harold McGraw, 8700 Shore Drive, Davisburg, Michigan, property ID #07-10-402-027 to provide the applicant an opportunity to present additional information regarding the engineered septic system to this body for review and evaluation to insure that the system is keeping with all of the proper health requirements and is the most effective matter in dealing with the septage that will be created at this property. Supported by Board member Fischbach. Voted yes: Baker, Fischbach, Vallad. Voted no: Whitley. Absent: Wendt. Motion approved.

2. Request from Charlie Janczarek, 8640 Shore Drive, Davisburg, 48350 for a variance to construct an attached deck resulting in a setback from Dixie Lake of six (6) feet rather than the fifty (50) 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 8640 Shore Drive in Springfield Township and is zoned R-3 One Family Residential. P.I. #07-10-402-048.

Mr. Janczarek introduced himself to the Board. He summarized and reviewed materials provided to the Board regarding the request. He proposed included building a deck that will cover existing 6 foot landscape timber walls and stairs presently located 6 feet from the lake. The current timber wall poses a safety risk because there are no railings on either the stairs or the walls. The entire upper level is currently unusable because of slope.

Board member stated that there were letters from both Erin Mattice and Ann Rathsburg supporting the applicant's request.

Board member Baker asked if they were going to remove the timbers.

Mr. Janczarek answered no; they would be covered by deck.

Board member Whitley asked what he would do when the timber retaining walls fail.

Mr. Janczarek stated that the hope is the time of deterioration will be extended by putting the deck over it but they will have to address that when it happens.

Board member Fischbach stated that this is no closer to the water than many other structures on the lake.

Judy Hensler, 10520 King Road, stated that she lives directly across from the applicant. She has no objections to the deck and what exists there now is a safety concern. She feels like it is a well deserved variance and is called for.

Board member Fischbach moved to approve the variance requested to Charlie and Amy Janczarek, 8640 Shore Drive to construct an attached deck that will result in a setback from Dixie Lake of only 6 feet. The reasons are it will not be detrimental to public health; it is an improvement on safety and welfare to others because of the conditions of the current property. Because of the condition of the current property he is unable to tear out the current structure that is there now and applicant will not be encroaching any further than he is currently encroaching on the setback. Supported by Board member Vallad. yes: Baker, Fischbach, Vallad, Whitley. Voted no: None. Absent: Wendt. Motion approved.

ADJOURNMENT:

Board member Vallad moved to ADJOURN the meeting at 9:05 PM. Seconded by Board member Whitley. Voted yes: Baker, Fischbach, Vallad, Whitley. Voted no: None. Absent: Wendt. Motion approved.

Erin Mattice, Recording Secretary