

SPRINGFIELD TOWNSHIP
ZONING BOARD OF APPEALS
October 19, 2016

Call to Order: Chairperson Wendt called the October 19, 2016 Zoning Board of Appeals meeting to order at 7:30 pm at the Springfield Township Civic Center, 12000 Davisburg Road, Davisburg, MI 48350.

In attendance: Dean Baker
Virginia Fischbach
Denny Vallad
Skip Wendt
Bill Whitley

Absent: None

AGENDA:

Board member Whitley moved to accept the agenda as published. Supported by Board member Vallad. Vote yes: Baker, Fischbach, Vallad, Wendt, Whitley. Vote no: None. Absent: None. Motion approved.

PUBLIC COMMENT: None

CONSENT: Minutes of the September 21, 2016 meeting

Board member Whitley moved to APPROVE the minutes September 21, 2016 meeting as amended reflected to show Dean Baker's absence at Roll Call and in each motion vote and on page 9, third paragraph, "it appears that they are choosing one or the other" should be changed to "it appears like they need to choose one or the other". Supported by Board member Fischbach. Vote yes: Baker, Fischbach, Vallad, Wendt, Whitley. Vote no: None. Absent: None. Motion approved.

OLD BUSINESS:

1. *(Tabled on July 20, 2016) Request from Marcia Lennox, 10910 Bigelow Road for a variance to create two parcels resulting in one with a nine hundred and twenty-eight (928) foot access strip rather than the maximum length of six hundred and sixty (660) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-642.*

The property that is the subject of the request is located at 10910 Bigelow Road in Springfield Township and is zoned R-2 One Family Residential. P.I. #07-10-100-031.

Ms. Marcia Lennox introduced herself to the Board. The parcel is 10.25 acres and her house is currently toward the front of the property. She introduced her brother, Mark Lennox, to the Board members. She would like to split the property, build a smaller house in the back and sell the property in the front.

Mark Lennox stated that the information that they presented was similar to other property in the area with long driveways and flag lots. He stated that they spoke to someone in the Building Department approximately eight years ago.

Chairperson Wendt stated that the Board members received a letter dated July 16, 2016 from Craig Mungons, 10990 Bigelow Road, opposing the variance request.

Board member Whitley stated that the requirement for access strips is that they not share driveways. He asked what was the plan for the driveways for both properties.

Ms. Lennox stated that they were told that they could widen the existing driveway until the point when it becomes access for the back parcel.

Mr. Lennox stated that the access property is 75 feet wide and he believes that they will split that so that there are two separate driveways.

Chairperson Wendt asked if the two driveways were going to be contiguous.

Ms. Lennox replied yes, that is the plan.

Mr. Lennox replied no, they do not have to be because there is enough frontage.

Ms. Lennox asked what was Mr. Mungons objection to the split.

Chairperson Wendt answered traffic on Bigelow Road.

Board member Vallad stated that there is another drive not far from her current lot. He stated that if they are going to put in a new full driveway, they would have three curb cuts within 60-70 feet. It presents a traffic hazard or concern for him. If this is allowed, he would prefer a single outlet at Bigelow Road.

Board member Whitley stated that this should be documented with an easement.

Chairperson Wendt concurred. He stated that he does not know if they have any conflict with zoning ordinance to do this.

Mr. Lennox stated that he was told by Kieft Engineering that if there were like situations within a certain area close to this property than this would be seen as appropriate and could be approved.

Board member Whitley stated that it would take another variance to get a single outlet onto Bigelow Road which is not on this request but the ordinance is clear that they cannot be shared.

Chairperson Wendt stated that the Board could table the request to allow the applicant time to amend their variance request. He asked Supervisor Walls if he could counsel the applicant regarding this request.

Supervisor Walls answered yes.

Board member Fischbach stated that it looks like if it were a separate driveway, there would be three driveways in 100 feet. She asked if there was a rule to determine when it becomes a traffic hazard.

Board member Vallad answered that they have never approved three as being appropriate. He added that for fire access, they should have some type of turn around within the drive.

Board member Whitley moved that the request be tabled until the next meeting to allow the applicant to confer and offer consideration on the subject of individual versus combined driveway and turn around access for fire equipment at a minimum. Supported by Board member Vallad. Vote yes: Baker, Fischbach, Vallad, Wendt, Whitley. Vote no: None. Absent: None. Motion approved.

2. *(Tabled on September 21, 2016) Request from Kelly Katnik, 6032 Long Point Drive, Davisburg 48350 to construct an accessory building resulting in the following variances:*

- a. *Distance from a septic system to the high water mark of Big Lake of twenty-five (25) feet rather than the one hundred (100) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-639*
- b. *Side setback of four (4) feet rather than the fifteen (15) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-572*
- c. *Front setback of six (6) feet rather than the fifty (50) 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 6032 Long Point Drive in Springfield Township and is zoned R2 One family residential. P.I. #07-28-251-017.

Ms. Kelly Katnik introduced herself to the Board members.

Chairperson Wendt stated that Ms. Katnik purchased a home that was originally constructed as seasonal property. Now she is asking the Board to take a very small parcel on the lake and create a year-round residence. He cannot find anything in the materials presented that would convince him to place a septic in the area between the lake and the house. He understands that the applicant moved the garage in line with adjacent

properties. However, the property carries a hardship that the applicant did not create but this property was not meant to be a year-round facility. The distance of the proposed septic system also brings up concerns from the Oakland County Health Department because Springfield does not allow it. The MDEQ does not recommend it either. There is not enough property to support a year-round residence without some type of tank and holding system.

Ms. Katnik introduced Mike Powell of Powell Engineering. She commented that she decreased the requested variance request for the garage creating more parking and moving it in line with adjacent homes. It is a small piece of property and she understands that but she is trying to create storage by building the garage. With regard to the septic, she has tried to do everything possible as far as meeting with Oakland County Health Department and Water Resource Commission.

Chairperson Wendt stated that he appreciates everything the applicant has done.

Mr. Powell introduced himself to the Board. He provided a history of septic systems and summarized his expertise in this area. He commented that the sanitary code was created to be able to grant variances due to hardships present. He described the Eljen system that is proposed on this location and commented that the Township ordinance does not recognize pretreatment. He explained that with the Eljen system the affluent is certified by the National Sanitation Foundation. Also the State of Michigan and Oakland County recognize it as a viable option.

Chairperson Wendt stated that in reading the MDEQ data, this is not true.

Mr. Powell stated that Oakland County is not allowed to approve anything that the State of Michigan does not approve.

Chairperson Wendt stated that the Board is not obligated to follow what Oakland County says.

Mr. Powell agreed; Springfield Township has an ordinance that they have to follow. He stated that the experts in sanitary sewers in the State of Michigan and in Oakland County have more qualifications than he has.

Chairperson Wendt asked why in Crystal Lake, Benzie County, Michigan these septic systems are not allowed close to the lake and the residents are required to put in several holding tanks in order to contain sewage.

Mr. Powell replied that he is not an expert on the shoreline of the Great Lakes. Oakland County has its own ordinance provisions that they have to follow and the County does not approve holding tanks for the containment of sanitary sewage unless it is a very temporary condition.

Chairperson Wendt asked if Mr. Powell knew that Big Lake is the headwaters of the Huron River.

Mr. Powell replied yes, he knew that.

Chairperson Wendt asked if he would jeopardize that important feature of the Huron River and that entire water shed.

Mr. Powell replied if there was evidence that the septic system that is proposed is going to contaminate Big Lake and all lakes in the system, then he would agree, but he totally disagrees. This system that is being proposed is substantially better than 99.9% of the homes around this lake already.

Chairperson Wendt questioned the validity of that figure.

Mr. Powell apologized and said he threw out a hypothetical number.

Mr. Powell explained that he offered a hypothetical number but stated that this septic system is one of the best septic systems that could be approved around Big Lake. This is his opinion as well as the State of Michigan's and Oakland County's. He is presenting the facts so that they have everything they need to make a decision. It has been approved by Oakland County and he has a copy of the permit and the County is charged by the State of Michigan to approve septic systems.

Chairperson Wendt pointed out the caveat on the permit which says that Springfield Township has different standards.

Mr. Powell concurred. That is why they are here and why they system has not been installed yet. He explained that in designing a system, there are a lot of criteria that they have to adhere to. They have to make sure that it functions, it functions properly and it cannot damage the environment. They are here before the Board to demonstrate that this system has been approved by Oakland County and it is substantially better than any other septic system on the lake. He has designed a dozen on this lake and he has received approvals from this Board for systems that do not meet the setback distance of 100 feet. This site is a non-self-imposed hardship case. The Health Department is much more concerned with the distance from wells. The system is proposed for the only possible site to make the property usable. Oakland County does not recognize summer cottages and does not approve pump and haul systems or temporary septic systems. If this system is not operable, this home would be unlivable. The existing septic system is adjacent to the well currently and the system proposed is substantially better than using this existing system. He stated that the septic system has to have separation from wells.

Board member Vallad stated that the Oakland County permit says that the permit is issued with no assurances for a normal use period. He asked what a normal use period is for a system like this.

Mr. Powell stated that the guideline for a standard septic tank and septic field is 13 to 15 years. He stated that these pretreatment systems have been in operation in this State for 30 years and he has been designing pretreatment systems for over ten years and has not had one failure yet.

Board member Vallad asked if there is a maintenance protocol that requires that effluent is measured on a regular basis. The Oakland County permit speaks to the maintenance program that would be in place.

Mr. Powell stated that this was normally not a requirement of an Eljen system. Other pretreatment systems have mechanical parts that have to be maintained but the Eljen system does not, it is passive and treatment is done chemically. Therefore, there is no mandate to do every six month checkups. However, a new homeowner has the same responsibility to make sure that the tank is checked and the observation ports are examined on an annual basis. By looking down in the ports you can tell if the septic system has failed or is in trouble and you can also use these ports to take samples.

Board member Baker asked if the wording on the Oakland County permit requires this annual sampling.

Mr. Powell answered yes. It is also in the deed restriction.

Board member Baker asked if the homeowner arranges for this service.

Mr. Powell answered that Norweco is the only pretreatment that provides this service for two years as the manufacturer. All of the other pretreatment systems are maintained by the supplier and the owner has to sign a contract with the supplier in order to maintain maintenance service.

Board member Baker asked if the sampling does not take place in a timely manner, does Oakland County Health Department issue some type of notice.

Mr. Powell answered that he does not know. The contractor has to report to the County through a website but he doesn't know how that is tracked.

Board member Baker asked if changing the garage location changed the location of the septic field. He asked if the septic requires electricity.

Mr. Powell answered no; there are no electrical requirements for this septic system.

Board member Whitley asked if the system requires that chemical treatment gets introduced into the system.

Mr. Powell answered no; it is done with active bacteria.

Board member Fischbach stated that in the information that the Board received, it stated that this system is used to reduce the size of the septic field, not to reduce the distance from either ground water or wells. She asked where does this stop; they have never seen anything less than the County requirement of 50 feet and now this request is for 25 feet.

Mr. Powell stated that 25 feet, when pretreatment is involved, has been Oakland County's line. The other systems that he explained are mechanically treating the sewage and there can be human error. The proposed system for this property has no mechanical parts and the Health Department will allow a reduction in area of field. This is a reason that he used it here because there is a finite area and the system can fit within it.

Board member Fischbach stated that he is asking the Board to reduce the distance from the water as well as the size of the field.

Mr. Powell stated that it treats the effluent so clean that the water discharging will be accepted much better than a typical septic system. That is why the area is reduced.

Board member Baker asked if the system that exists on the property is still active.

Ms. Katnik answered that the Health Department came out and they could not find anything.

Chairperson Wendt read an excerpt from the MDEQ document.

Board member Whitley stated that the ordinance is 100 feet of horizontal distance, Oakland County is 50 feet, MDEQ is 100 feet and Michigan State Extension is 50 feet. He has not seen any data on the vertical distance yet. The concern that he has is if they allow it and data later shows that it is an issue, there is no way to go back or undo the decision. The Board is better served to proceed with caution. He does not see that this is in the Township's best interest.

Mr. Powell stated that the proposed system would be four feet above the water table. He explained that the system is being raised.

After examining the plan, Mr. Powell clarified that the septic system is being put right at existing grade, not above. They are adding fill above the cover.

Board member Whitley asked how far it was from the bottom of the trenches to the water table.

Mr. Powell stated that there were no trenches; there will be a bed. He added from the bottom of the treatment area of this field, there is four feet to the water table.

Board member Vallad stated that the Township ordinance does not address pretreatment.

Board member Whitley stated that when they have dealt with requests to go less than the ordinance standard, they have had some type of pretreatment system.

Board member Baker stated that the Township Board recently approved retaining an expert relevant to septic design. He asked if there was any place in the process where we could create some type of consultation with the expert relative to this case.

Supervisor Walls stated that it was approved but the consultant has not been retained yet. Other than timing, the answer is yes, consultation with an expert can be arranged.

Board member Baker stated that no matter how much literature is supplied to him, he is not going to be an expert. He cannot speak from a level of expertise and history of these systems so he is very cautious. The Board does not have the expertise to permit a setback that is incredibly close as compared to any prior action. He is looking for the opinion of a consultant that is independent of this case tonight.

Chairperson Wendt asked Ms. Katnik if she understood all of the conditions involved before she purchased this property.

Ms. Katnik replied she understood to an extent. She stated that she is naïve and thought it would work. If this option does not work, she asked what she could do to make this home livable.

Board member Fischbach asked Supervisor Walls if he had an idea of timing on retaining the septic consultant.

Supervisor Walls answered no. The Township will move as possible to find an expert who will not be put into a conflict situation.

Board member Fischbach stated that the 25 feet bothers her without having the background knowledge. She would like to have an expert available.

Supervisor Walls stated that there could be an independent third party that the Board could involve for expert opinion.

Mr. Powell stated that if the motion is to deny this request, the Board is dictating that this home is uninhabitable and the only option for the client is to tear it down. It might make sense to table this request to let the administration have someone come in and consult on this particular site.

Board member Baker stated that he would appreciate that option but doesn't know how long it will take.

Mr. Powell stated that there are experts with the MDEQ and the County and he is sure that the Township can find someone to evaluate this and provide expert opinion. He

would be glad to work with Supervisor Walls to provide some possible names of consultants.

Chairperson Wendt stated that Dr. Doug Pullman is retained on an annual basis in order to maintain Big Lake. He regards his opinions highly. Ms. Katnik is part of the Association by being a property owner and she may contact John Moore, President, and ask him to contact Dr. Pullman to have him give his opinion.

Supervisor Walls suggested that they table for 60 days which should be sufficient time to consult with a septic expert.

Board members agreed that Supervisor Walls would also contact Dr. Pullman.

Board member Whitley moved to table the request for up to 90 days or the January meeting or the first meeting thereafter to seek out expert opinion to help provide guidance before the decision is made on this request. Supported by Board member Baker. Vote yes: Baker, Fischbach, Vallad, Wendt, Whitley. Vote no: None. Absent: None. Motion approved.

Board member Whitley stated that if it not done in 90 days he would rather see an extension that would better serve both the applicant and the Township. He does not think a clock should close out an option.

Ms. Katnik asked how she would know.

Supervisor Walls stated that she would be added to an agenda which she would receive.

3. *Continuation of September 21, 2016 requests for: a) an appeal of the administrative decision of the Supervisor that the home occupation at the property located at 9782 Clark Road, Parcel #07-23-101-005 is in violation of Springfield Township Code of Ordinances ("Code") Chapter 40, Section 40-649(4)-Home Occupation; and b) a variance requesting that Code Chapter 40, Section 40-649(4), subsections (b), (g) and (i) not be strictly applied.*

The property that is the subject of the request is located at 9782 Clark Road in Springfield Township and is zoned R1A One family residential. P.I. 07-23-101-005.

Supervisor Walls and Tim Crawford were present in regard to this request.

Board member Whitley offered the following observations on the contents of the applicant's Findings of Fact and Conclusions of Law as submitted by the applicant's attorney Mr. Crawford:

- The issue of importance regarding the second driveway at the subject home is not the existence of that second driveway, or the existence of second driveways on

nearby properties, but rather the use of that second driveway in connection with the home occupation in this case.

- The home occupation is not itself the issue of importance here, but rather the volume of traffic generated to and from that home as a result of the home occupation. The determination of normal traffic volume as cited by the Supervisor is indeed supported by factual, deductive reasoning, based upon data from credible and nationally recognized resources, and importantly, by the applicant herself.
- The issue of traffic volume as noted by the Supervisor focuses directly on the impact of the traffic per day of operation of the home occupation, and not diluting that impact over the days the home occupation is not in operation as suggested by Mr. Crawford. The analogy I would offer is how to determine if I-75 is congested during morning rush hour – does one look at traffic on a Sunday morning, or on a Monday morning?
- Mr. Crawford further suggests studying traffic volume on Clark Road in order to determine the impact on the neighborhood. The ordinance points directly to the use of a residential property as regards home occupation, not to the use of public roads.

Board member Whitley moved that the Springfield Township Zoning Board of Appeals adopt the proposed findings and conclusions prepared by the Township's legal counsel, dated and submitted October 12, 2016, and accordingly, for the reasons stated in those findings and conclusions, that the Zoning Board of Appeals affirms the decision and conclusion of the Township Supervisor and denies the request for a variance. Supported by Board member Vallad. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved. Copy of Finding and conclusions attached.

NEW BUSINESS:

1. Request from Ronald Swift, 8900 Eaton Road, Davisburg 48350 for a variance to allow a lot split resulting in a lot depth to width ratio of 5.3:1 rather than the 4:1 allowed per Springfield Township Code of Ordinances, Chapter 40, Section 40-640.

The property that is the subject of the request is located at 8900 Eaton in Springfield Township and is zoned R-1A One Family Residential. P.I.#07-08-176-017.

Applicants were not present.

Supervisor Walls offered that the applicant was his sister and brother-in-law so if the Board had any questions, he could answer questions if needed recognizing that family relationship.

Chairperson Wendt asked Supervisor Walls why the request should be approved.

Supervisor Walls stated that this split is consistent with surrounding property and other splits in the area.

Board member Fischbach asked if the depth to width ratios are similar to other properties in the area.

Supervisor Walls provided examples of other depth to width ratios in the area.

Chairperson Wendt stated that he does not have a problem with this request.

Board member Vallad stated that there are several properties in the area with similar depth to width ratios.

Board member Vallad moved to grant the request from Ronald Smith, 8900 Eaton Road, Davisburg 48350 for a variance to allow a lot split resulting in a lot depth to width ratio of 5.3:1 rather than the 4:1 allowed per Springfield Township Code of Ordinance, Chapter 40, Section 40-640 as there are several property divisions in the area as part of an 80-acre parcel originally that show consistency with the request. Seconded by Board member Baker. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

2. Request from Bryan Zink, 7286 Ormond Road, Davisburg 48350 for a variance to construct an accessory building with a rear setback of twenty-five (25) feet instead of the thirty-five (35) 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 7286 Ormond Road in Springfield Township and is zoned R1 One Family Residential. P.I. #07-19-226-003.

Mr. Bryan Zink introduced himself to the Board. He stated that he rotated the building as much as he can to still be in the backyard. He would use the natural screening to screen the building from the neighbors. He stated that he does not have a lot of options but wanted to keep it away from the septic.

Chairperson Wendt stated that in looking at the property, it appeared as though there were several options for placement that would not require a variance.

Board members Whitley, Vallad and Baker agreed.

Mr. Zink confirmed that he would then not get to use the natural screening and would be confined to the area where the old barn was. It will be sitting right in the middle of the yard.

Board members confirmed that this was not a hardship and there is a reasonable alternative. There is no practical difficulty.

Mr. Tom Duling, 7304 Ormond, expressed his opposition to the applicant's request.

Board member Whitley moved to deny the applicant's request for a variance for placement of an accessory because no practical difficulty has been presented and other options for location that would be consistent with the ordinance are available to the applicant. Seconded by Board member Fischbach. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

ADJOURNMENT:

Board member Whitley moved to adjourn the meeting at 9:21 pm. Supported by Board member Fischbach. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

Erin Mattice, Recording Secretary