

SPRINGFIELD TOWNSHIP
ZONING BOARD OF APPEALS
REGULAR MEETING
February 15, 2017

Call to Order: Vice Chairperson Whitley will act as Chairperson due to Chairperson Wendt's absence. Vice-Chairperson Whitley called the February 15, 2017 Zoning Board of Appeals Special meeting to order at 7:30 pm at the Springfield Township Civic Center, 12000 Davisburg Road, Davisburg, MI 48350.

In attendance: Ginny Fischbach
 Denny Vallad
 Bill Whitley

Absent: Dean Baker
 Skip Wendt

PUBLIC COMMENT: None

AGENDA:

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

CONSENT:

Minutes of the January 18, 2017 Regular Meeting

Board member Vallad moved approve the minutes of the January 18, 2017 Regular Meeting as presented. Supported by Board member Fischbach. Vote yes: Fischbach, Vallad, Whitley. Vote no: None. Absent: Baker, Wendt. Motion approved.

BOARD COMMENT: None

OLD BUSINESS:

1. *(Tabled on January 18, 2017) 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.

Board member Whitley confirmed that the Board members received a copy of an email received from Marcia Lennox asking the Board to remove this item from the agenda and she may apply at a later time.

Board member Vallad moved to deny the request from Marcia Lennox, 10910 Bigelow Road, Parcel #07-10-100-031 as per the request of the applicant that she will re-apply at a later date when she is ready to pursue this variance. Supported by Board member Fischbach. Vote yes: Fischbach, Vallad, Whitley. Vote no: None. Absent: Baker, Wendt. Motion approved.

NEW BUSINESS:

1. Request from Brandon Scheib, 8659 Kier Road, Clarkston, 48348 to retain an accessory building resulting in a side setback of twenty-one and one half (21.5) feet rather than the twenty-five (25) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-572 and to allow use of an accessory structure for a home occupation not currently allowed per Springfield Township Code of Ordinances, Chapter 40, Section 40-649.

The property that is the subject of the request is located at 8659 Kier Road in Springfield Township and is zoned RIA One-family residential. P.I. #07-01-126-005.

Dale Smith, Attorney, introduced himself to the Board as representing Mr. Scheib. He stated that since his denial in front of this Board, Mr. Scheib is proposing to remove a portion of the accessory building. The home occupation is run out of his home and the whole idea of the accessory building is to put his trucks in the building so there is no visible sign of his business. Mr. Scheib has one employee and he does not have people coming and going on the property and there is no signage or excess lighting. The accessory building sits far away from Kier Road and is not visible from the road. The home occupation is not a burden on the neighbors and is not an unreasonable request. He has reduced the side setback from his original request.

Board member Whitley stated that in reviewing the minutes from the April 2016 meeting in which Mr. Scheib stated that he does not run a business out of the accessory building, it is more for storage and recreation. He went on to say that there are materials in there from time to time but the home business is run out of his home. Now, he is asking to allow the use of an accessory structure for a home occupation and he asked how he could rationalize this.

Mr. Scheib stated that the business, all office work takes place inside the home.

Mr. Smith replied that he uses the accessory building for storage of equipment.

Board member Whitley asked if the business is run from the home or the accessory structure.

Mr. Scheib replied the home.

Board member Whitley stated that in the May 2016 meeting, Mr. Scheib stated that after attending the Planning Commission in May 2016 and listening to the discussion, he believed that he meets the requirements for a home occupation. He asked Mr. Scheib if he still believes that.

Mr. Scheib replied yes.

Board member Whitley referred to the requirements of Section 40-649 of the ordinance. He asked Mr. Scheib to provide a description of what his home occupation is.

Mr. Scheib replied that he does all of his billing and invoicing out of his home.

Mr. Smith confirmed that there is no manufacturing at all.

Board member Whitley asked what activities are conducted in the accessory building.

Mr. Scheib replied that it is used for storage of materials and he parks the vehicles in there.

Board member Whitley asked what employees were involved in the home occupation.

Mr. Scheib replied himself and one employee is not a family member.

Board member Whitley asked if this employee works at the residential site.

Mr. Scheib replied no, he works in the field.

Board member Whitley asked what activities are involved in the home occupation and where those activities take place on the property.

Mr. Scheib replied that in the morning, they are in the accessory building for about ten minutes and then they are gone the rest of the day when they return to the garage and leave for the day.

Board member Whitley reviewed the motion made in May 2016. He asked what steps Mr. Scheib had taken within that 90-day grace period and since that 90-day grace period to address the violations.

Mr. Scheib replied that originally he planned to purchase property from the neighbor that is behind him and to the side. The back neighbor lives in England and is rarely ever home. The side neighbor was willing to do it but he still has a mortgage on his home and the mortgage company said it was an issue selling property that is not completely his. Once this fell through, he came up with the idea of cutting off 7 feet of the building to eliminate the need for an accessory square footage variance and by moving the side garage door to the back, this would bring the side setback requirement to 25 feet. He stated that this would increase the side setback to 21.5 feet which is the variance that he is asking for. He has tried to resolve the issues with this request.

Board member Whitley stated that from the drawing, it appears that in removing approximately 7 feet from the building, this picks up about 4 feet in side yard setback.

Mr. Scheib stated that to gain any more setback distance, he would have to go another 7 feet to meet the 25 feet requirement.

Board member Whitley asked why he couldn't remove another 7 feet and this would eliminate the need for a side variance.

Mr. Scheib replied that by removing another 7 feet, that would go into the second garage door. He is already going to take off one garage door. This would force him to park a lettered vehicle outside of the building. He would not be able to park a vehicle inside.

Board member Whitley asked about the encroachment of the concrete pad on the neighboring lot.

Mr. Scheib replied that he would cut that off completely.

Board member Whitley stated that in August 2016, Mr. Scheib was issued a citation for failure to obtain a proper building permit to construct an addition to the residential structure. He asked what is the status of that citation.

Mr. Scheib replied that the building permit is on hold depending on the outcome of this meeting. He has already obtained a demolition permit and the building permit is ready in the building department and is waiting on approval from the Board.

Board member Whitley asked about the citation issued in August 2016 for using an accessory building on a residential property for business. What is the status of that citation?

Mr. Scheib stated that he went to court on both of them and handled them in court. This was resolved by paying the two charges of \$75 fines and there is another one that the prosecutor has on hold and if he gets his building permit this goes away.

Board member Whitley stated that he is not sure he understands.

Mr. Scheib replied that he had to get a building permit within a certain amount of time and he got a demolition permit.

Board member Whitley stated that in the motion on May 2016 he was given 90 days to resolve the issues and to get a building permit.

Mr. Scheib stated that since he did not get it resolved in the 90 days, he paid that fine.

Board member Whitley stated that the applicant was also issued a citation for the side setback and the overage of accessory square footage and he asked what is the status of this citation.

Mr. Scheib replied that this is the one that he paid because he did not comply with it in the time frame.

Board member Vallad stated that the only thing he sees related to the business is the storage of some materials and parking of vehicles in the barn. He asked how those materials get there, are they delivered or does he pick them up.

Mr. Scheib replied he picks them up. If he purchases the items in bulk, he gets a better price so he tries to purchase it in bulk to keep the costs down. He confirmed that he does not have any deliveries to the site and there is no increase in traffic or noise.

Board member Vallad confirmed that there is no other activity related to the business done in the accessory building other than the storage of materials, vehicles and tools.

Mr. Scheib replied that the work takes place at residential homes or buildings.

Mr. Smith stated that Mr. Scheib has a building and he is storing his vehicles out of the way and out of sight. With the accessory building, he is trying to make it better.

Board member Whitley stated that at the meeting in April 2016, there were several Board members that expressed the opinion that the quantity of supplies in this accessory building make it look like a warehouse operation and not incidental material. It appears to be significantly beyond material typically stored in a residential accessory building.

Mr. Smith examined the pictures of the interior of the accessory building that were in the Board member's packets.

Board member Fischbach concurred with Board member Whitley. She stated that as a businessman, Mr. Scheib knows the rules and the process that got them here is because he ignored the rules. If the applicant had gotten the permit, it would have been built in a different spot because on such a large lot, he would not have needed a variance. The applicant created this setback and by following the process, he could have avoided it.

Board member Vallad stated that it is seen when you walk the property that the second portion of the barn that was added is angled because there is low ground behind it.

Board member Fischbach asked about adding it toward the road. There were options that were not explored; the applicant did what was most convenient.

Mr. Scheib stated that going toward the road did not cross his mind. With the recent heavy rain, there is standing water there for two weeks until it drains. He would have had to bring that up three to four feet to make it level and then all of the drainage would have gone toward the neighbor and caused a problem there.

Board member Fischbach reiterated that the process was not followed correctly.

Mr. Smith stated that the applicant is trying to come back and handle it the right way. They are trying to fix it and the Board needs to look at what is before the Board today.

Board member Whitley stated that it is important to consider how they got here and what took place. At the meeting in April 2016, the applicant admitted that he ignored the

building permitting process when he added the accessory structure and that is why they are addressing a setback issue. The variance request would have been considered before the building was placed if the correct process would have been followed.

Board member Vallad stated that Mr. Scheib has done a respectable job of addressing the overage of the square footage and reduced the setback with the elimination of the seven feet of structure. The moving of the door lowered the requirement of the setback. These items show concern and trying to do the right thing. He thinks that what is proposed now addresses the situation in a respectable manner. With respect to the home occupation, storage of material without using that material to produce goods and no sales within the house and Mr. Scheib has indicated that the billing all happens inside the dwelling. An accessory structure can be used for storage and a resident can stuff an accessory building far beyond what is proposed here. He does not see this as a violation of the home occupation to store material in this building.

Board member Fischbach stated that when you see the pictures there is concern that there is more going on than just storage but the applicant has said on the record that it is only storage, then she agrees with Board member Vallad. She can accept the home occupation.

Mr. Smith stated that Mr. Scheib did wrong and since then is trying to do right. The setback is so small that basically the Board is penalizing him all over again. The applicant is asking for a very minute setback.

Board member Whitley stated that one of the questions asked in the application is for the applicant to demonstrate that the variance is the minimum that will make reasonable use of the building and that other alternatives have been explored. One of the other alternatives is to reduce the size of the building such that a variance is not required so this does not demonstrate that all other alternatives have been explored.

Mr. Smith stated that because of the lay of the land and the wetness in the area, Mr. Scheib has indicated that he is not able to take another seven feet off.

Board member Whitley replied that he does not see how a wet area on another part of the property makes it impossible to remove another seven feet. He stated that there would be plenty of room in that building to rearrange the storage and park a vehicle.

Mr. Scheib answered that you could not get a vehicle in the existing building, it is only eight feet tall.

Board member Whitley stated that the amount of material stored in that building is far beyond incidental storage for a home occupation, it is warehousing.

Board member Vallad moved to grant the request from Brandon Scheib, 8659 Kier Road with respect to the variance request to retain an accessory building resulting in a side setback of 21.5 feet rather than the 25 feet required per the drawing and the testimony during this meeting on the method of reducing the size of the building to make it conform to the square footage requirements and elimination of the concrete pad that exceeds the property line by approximately 3 feet as this request is

reasonable in nature given the fact that the building is there and any alternative proposal would significantly reduce the utility of the structure. Supported by Board member Fischbach. Vote yes: Fischbach, Vallad. Vote no: Whitley. Absent: Baker, Wendt. Motion failed.

Board member Fischbach moved to table the request for the side setback variance request from Brandon Scheib, 8659 Kier Road, discussion and vote until there are a majority of the Board either voting in favor or against. Supported by Board member Vallad. Vote yes: Fischbach, Vallad, Whitley. Vote no: None. Absent: Baker, Wendt. Motion approved.

Board member Vallad moved that the Zoning Board of Appeals find that the extent of the home occupation that is being performed on this property is limited to storage of materials and vehicles not entirely inconsistent with residential use and that the operation as described this meeting be allowed to continue granting a variance from any stipulation in the ordinance otherwise. Supported by Board member Fischbach.

Board member Whitley suggested that they need to determine that the activities are allowed within the ordinance as opposed to allowed to continue.

Board member Vallad amended his motion to add, “the operation is the storage of materials not inconsistent with what a residential use may be for that particular building.”

Board member Whitley asked if the Board’s interpretation of the zoning ordinance determines that those activities are allowable under the ordinance as opposed to just allowing the activity to continue.

Board member Fischbach suggested adding the description of the activities as only warehousing and storage are going on and those activities may continue.

Board member Vallad withdrew the motion.

Board member Vallad moved that the Zoning Board of Appeals finds that the testimony this evening indicates the only portion of any home occupation being performed at this location is the storage of materials and vehicles and that no other portion of the business is conducted within the accessory structure consistent with the balance of the home occupation restrictions in the ordinance and the Zoning Board of Appeals finds these functions to be acceptable in this location. Supported by Board member Fischbach. Vote yes: Fischbach, Vallad. Vote no: Whitley. Absent: Baker, Wendt. Motion failed.

Board member Fischbach moved to table the vote on the Home Occupation until they can achieve a majority vote of the Board of Appeals. Supported by Board member Vallad. Vote yes: Fischbach, Vallad, Whitley. Vote no: None. Absent: Baker, Wendt. Motion approved.

Supervisor Walls confirmed that this case would be on the agenda on April 19, 2017 at the earliest.

ADJOURNMENT:

Board member Vallad moved to adjourn the meeting at 8:15 pm. Supported by Board member Fischbach. Vote yes: Fischbach, Vallad, Whitley. Vote no: None. Absent: Baker, Wendt. Motion approved.

Erin Mattice, Recording Secretary