

SPRINGFIELD TOWNSHIP
ZONING BOARD OF APPEALS
REGULAR MEETING
April 19, 2017

Call to Order: Chairperson Wendt called the April 19, 2017 Zoning Board of Appeals meeting to order at 6:00 pm at the Springfield Township Civic Center, 12000 Davisburg Road, Davisburg, MI 48350.

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

Absent:

Also Present: Collin Walls, Supervisor
 Greg Need, Township Attorney

PUBLIC COMMENT: None

AGENDA:

Board members proceeded with the agenda as presented.

CONSENT:

Board member Whitley moved to defer the approval of the minutes until after the Presentation portion of the agenda. Supported by Board member Baker. Vote yes: Baker, Fischbach, Vallad, Wendt, Whitley. Vote no: None. Absent: None. Motion approved.

PRESENTATION: *Training Topic – Zoning Board of Appeals Procedures and Motion Language, Mr. Greg Need, Springfield Township Attorney*

Mr. Need provided a PowerPoint presentation regarding Zoning Board of Appeals procedures and motion language. This was followed by a brief question and answer period with Board members.

Chairperson Wendt asked Vice Chairperson Whitley to act as Chairperson for the meeting.

CONSENT: Special Meeting February 8, 2017
 Regular Meeting March 15, 2017

Board member Wendt moved to approve the Special Meeting minutes of February 8, 2017 as amended changing, “my” to “may” on page 7 and changing “19” to “1019” and “16.5” to “1016.5” on page 3. Supported by Board member Fischbach.

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

Board member Baker moved to approve the Regular Meeting minutes of March 15, 2017 as presented. Supported by Board member Wendt. Vote yes: Baker, Wendt, Whitley. Vote no: None. Absent: None. Abstain: Vallad, Fischbach. Motion approved.

OLD 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 R1A One-family residential. P.I. #07-01-126-005.

Mr. Dale Smith, Attorney, introduced himself to the Board members and stated that he is appearing on behalf of the applicant. He apologized on behalf of his client since he did things backwards and there is no excuse for that. Mr. Scheib recognizes that and he has been through the court system regarding these violations and he has a court date scheduled for next week in case this cannot be wrapped up tonight. Mr. Scheib is asking for a small 3.5 feet side variance for the accessory building and to accomplish that, he is removing part of that building and relocated a door. He is also willing to remove the concrete slab. In a sense this was self-created, but when Mr. Scheib bought the property he was not aware of the topography in the back. Since it was wet, he was limited in where this accessory building could be located. There will be no negative impact on neighbors. Mr. Scheib is also asking for a variance on the Home Occupation. If the Board allows him to use the accessory building as requested tonight, this will allow Mr. Scheib to keep his building material and supplies inside and out of the way. The use would be clearly incidental to the residential use because there would be no outward sign of the business. There would be no outside signage, no excess traffic, no lighting that would cause anyone to think there was a business there. The Home Occupation use is incidental and clearly would not be detrimental to the neighbors.

Board member Fischbach stated that this is the first that she heard there was a water issue in the back and the accessory building is located where it was because it is too wet.

Mr. Smith answered that he thought they mentioned that at the meeting in February.

Board member Vallad stated that he also had talked about it at one time.

Board member Fischbach asked if there was no building back there now, would the applicant have space for the accessory building somewhere else without needing a 3.5 feet variance. Or did they get to this point because it was built without permitting.

Mr. Smith stated he understands that but they are only talking about a variance of 3.5 feet. He understands that the applicant did not do things in the right order and the applicant would like to move forward. They are here tonight to try to rectify this and move forward.

Board member Fischbach stated that she would have less concern if it was an average homeowner versus someone who works in the building trades and is aware of the process.

Board member Baker stated that per information received from Greg Need, to approve a motion for dimensional variance they must be satisfied that the applicant has satisfied all the ordinance criteria. One of the criteria is that the problem is not self-created by the applicant or predecessor and they have clearly established that this is a self-created issue. There is space on the property. The applicant could remove the building and build something else on the property to make up the difference that is being lost to accommodate the setback requirement. It is clear to him that all the stipulations that the applicant must meet are not being met here. He is not in favor of granting the dimensional variance. He would be amenable to the use of the accessory building for the Home Occupation because of the nature of the business. The business is not conducted in that building. The materials and vehicle are stored there and the business is not conducted at the site; it is conducted at customers' homes. He would be supportive of the use variance but not the dimensional variance.

Board member Whitley stated that he continues to be disturbed about the process and how it was not followed. There is room on the property to have relocated the building further to the west and it would never have created a setback issue. There are alternatives available in removing the part of the building that is encroaching into the required setback area. He believes that it was clarified earlier tonight that this Board cannot grant a use variance at all and to him, this is clearly a use variance. He stated that it is to allow the use of an out building for a home occupation that belongs inside the primary dwelling.

Board member Baker stated that the word "use" was not intended to define this as a use variance. There are provisions in the ordinance for use of the accessory structures as part of home occupation businesses and it is referenced in the agenda. There are several items that speak toward conditions that could be present to permit an accessory structure that is located on the property of the primary residence to be used and to be within the ordinance language. He examined the ordinance and feels that the criteria stated is being met by the applicant. He is not looking to create a "use variance". He is not sure that a variance is needed at this site. He can understand the potential for the interpretation that was offered by the individual who found it to be a violation of use and for him to have thought that. He does not think that this is an item that should even have been contested.

Board member Vallad stated that when he looked at the situation he asked what constitutes business operation for the Home Occupation. He stated that storage of material falls outside of that definition. As Board member Baker indicated all of the criteria are met. It is for storage of materials that are used off-site.

Board member Whitley stated that the Home Occupation provisions talk about home occupation work that can be conducted inside the primary dwelling and the pictures that they have seen of the material that is stored is not stored in a house because there is too much of it; it is a warehousing operation.

Board member Baker stated that they should consider the definition of work. The materials and vehicle being resident at the site is not a definition of work and it is not taking place inside the primary residence, it is in the accessory structure. It is storage and is a parking area in his consideration and he does not see that as an action; it is a place where materials are retained inside of a structure. The action is not taking place in the accessory structure and the business is not conducted in that structure.

Board member Fischbach stated that if he had eight employees who come and take things out of the storage unit, where do they draw the line?

Board member Baker stated that if there were too many people coming to the site, the number of trips provision will be violated.

Mr. Smith agreed. There needs to be no signage, no excessive traffic, etc. It is not a use variance. The decision before them is to apply the request of his client as solely applied to the Home Occupation ordinance.

Board member Whitley asked if this type of storage was taking place on a piece of property that was not claimed as a Home Occupation, would it be allowable in the context of it being a storage operation? Home Occupation is supposed to be invisible to the surroundings because it is done inside the home.

Board member Baker stated that if the applicant was renting his space to someone else or collecting money to allow them to store items that are not of his personal ownership, this would be a business that falls outside of this situation. This would be a storage business in a residentially zoned area and it would be a separate issue.

Board member Whitley stated that if an individual did not conduct business out of his home but stored materials for his business in a building like this in a residential property, would this be allowable?

Board member Baker answered if it meets the criteria in our existing ordinance, then yes. The stipulations that have been set in the ordinance about using an accessory structure in a Home Occupation scenario are not being violated by the applicant.

Board member Baker moved to DENY the request by Brandon Scheib for a 3.5 foot side setback variance based on the applicant's presentation and the comments that have been heard, the applicant has not met the requirements to receive a dimensional variance on the property located at 8659 Kier Road because the problem is self-created, there are options on the property where the building could have been sited and full use allowed were it to be placed in a different area and there are still options for the applicant to remove a portion of the existing structure and place that equivalent square footage on other parts of the property. Supported

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

Board member Baker moved to APPROVE the request to allow use of the accessory structure as part of a home occupation for the applicant, Brandon Scheib, 8659 Kier Road on the basis that its use is not in violation of existing Springfield Township Code of Ordinances as stated in Section 40-649. Supported by Board member Wendt.

Board member Whitley stated that he thinks this is a use variance that the Board does not have the authority to approve.

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

Board member Fischbach asked Supervisor Walls to take this to Greg Need and talk about whether it is a use variance for the Board for future reference.

Supervisor Walls answered that the decision was already made.

Board member Fischbach stated that she wanted to know for future reference whether this is a use variance.

Supervisor Walls stated that he can ask Greg Need for an opinion on something that is similar. He asked Board member Baker to provide what portion of the ordinance that he was referring to.

Board member Baker replied Section 40-649, item #4, Home Occupations.

ADJOURNMENT:

Board member Fischbach moved to adjourn the meeting at 7:21 pm. Supported by Board member Vallad. Vote yes: Baker, Fischbach, Vallad, Wendt, Whitley. Vote no: None. Absent: None. Motion approved.

Erin Mattice, Recording Secretary