

SPRINGFIELD TOWNSHIP
ZONING BOARD OF APPEALS
REGULAR MEETING
June 21, 2017

Call to Order: Chairperson Wendt called the June 21, 2017 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
Ginny Fischbach
Denny Vallad
Skip Wendt
Bill Whitley

Absent: None

Also Present: Collin Walls, Supervisor

PUBLIC COMMENT: None

AGENDA:

Board member Whitley moved to proceed with agenda as amended, adding “Communication from Greg Need, Township Attorney” to the agenda under New Business after the existing items for discussion. Supported by Board member Vallad. Vote yes: Baker, Fischbach, Vallad, Wendt, Whitley. Vote no: None. Absent: None. Motion approved.

CONSENT:

Board member Whitley moved to approve the minutes of the May 17, 2017 meeting as presented. Supported by Board member Fischbach. Vote yes: Baker, Fischbach, Vallad, Wendt, Whitley. Vote no: None. Absent: None. Motion approved.

NEW BUSINESS:

1. Request from Grant Hartig, 9286 Eagle Hill Drive, Clarkston, 48346 to build an accessory building resulting in a rear setback of twenty (20) feet rather than 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 9286 Eagle Hill Drive in Springfield Township and is zoned R3 One-family residential. P.I. #07-26-227-017.

Mr. Grant Hartig introduced himself to the Board. He presented a copy of a septic inspection to the Board members with a date of evaluation of September 2016. He presented it to confirm the location of the septic as shown in his submitted drawing.

Chairperson Wendt passed the document to all Board members for their review.

Board member Fischbach asked if Mr. Hartig knew what his future plans were at the time of the septic inspection.

Mr. Hartig replied that he knew he wanted to build something but not the exact size.

Board member Vallad stated that the pole barn is large compared to the lot size. Even though it is allowed, he asked the applicant why he needs such a large building.

Mr. Hartig stated that he likes to do wood working and instead of just building a garage, he decided to build a wood shop and garage all in one.

Board member Vallad asked the applicant if he had elevation drawings of the proposed building. He pointed out a large accessory building that is located in the same neighborhood.

Mr. Hartig answered that he did not know the size of the building that Board member Vallad is talking about but he would question its location. He stated that he would build the accessory building within the constraints of the Township ordinance. He is proposing a regular pole barn.

Chairperson Wendt asked about the structure of the proposed building.

Mr. Hartig replied that it would have a regular pole barn pitch roof but it would be within the height requirements. He is not a builder and doesn't know the exact construction measurements. He stated that the builder told him that 12 foot would be adequate and no bonus room trusses. He doesn't know the specifics of the pitch.

Board member Vallad replied that he is glad it will be limited to 12 foot. He commented that if the building were not 32 feet deep, the variance request would be less. If the building were moved a little bit forward the same would be true. He understands that the size is permitted as far as square footage is concerned, he wonders about creating a variance that is less than the request that would be more appropriate.

Mr. Hartig stated that the reason he is asking for a building this size is that this is it, he knows that he is using all of his square footage for accessory structure. He will not ask to build a garage. He stated that all of his property can be locked up.

Chairperson Wendt stated that if he receives the variance tonight, that does not preclude his ability to come in later and ask for something else. He does not have any problem with what the applicant has requested.

Board member Whitley stated that there are five points in the ordinance that must be proven before a variance can be granted. He summarized those points and explained why the request does not meet the first criteria point.

Board member Whitley moved that the request be denied because Item a. of Section 40-63 "Special conditions and circumstances exist which are peculiar to the land or

building that are not applicable to other land or buildings in this zoning district” is not met with this request. Supported by Board member Vallad.

Board member Whitley offered that Item a. of Section 40-63 deserves further discussion by this Board. He stated going strictly by the five points is new to the Board and that is why he believes that it deserves further discussion. The question is what is the range to be considered in the phrase “peculiar to the land and building not applicable to other lands in the zoning district”. He asked if it was next door or the street or the whole Township. If this request was in a brand new subdivision constructed to R-3 zoning regulations, we wouldn’t have this condition but this subdivision predated the zoning ordinance. He stated that for consistency, they should have a common measurement so that they are all measuring by the same criteria. His opinion is that the variance should be granted.

Chairperson Wendt stated that the amount of square footage that is applicable within the zoning district has been met but the position of the barn is less than what is permitted. In addition, the property is consistent with what is in harmony with the neighborhood.

Board member Whitley asked what is the range of applicable to other lands and buildings in the zoning district.

Chairperson Wendt stated that there is an amount of accessory square footage that is allowed in the zoning district.

Board member Whitley asked what makes this peculiar.

Board member Fischbach asked if they could apply peculiar to preexisting house and septic or does peculiar have to be to the land itself. She says it may be peculiar because with the preexisting house and septic, he does not have room to put a garage that everyone else has.

Chairperson Wendt asked if the building was down sized, it would be a very peculiar and difficult building.

Board member Whitley stated that what is being proposed is reasonable. He is asking what is peculiar to this piece of property as compared to what other pieces of property that would be included in that comparison.

Board member Vallad stated that if it is R-3 zoning, then this is considerably smaller than an R-3 zoned property now which is .5 acres and this would drive the necessity of this size building and everything else. It is peculiar in that it is smaller than what the ordinance is written to. The formulas are based on minimum zoning that is larger than the piece of property that they are considering here.

Board member Baker agreed with the outlining of the peculiarity as Board member Vallad described it. This R-3 lot does not afford the same flexibility as would an R-3 lot that is surveyed and laid out today. The house was also placed in the exact center of the lot and encumbered the back yard with a septic. That is why it looks like such a large building because it is such a small R-3 lot.

Board member Whitley revised his motion to say that in terms of Item a. of Section 40-63 the Board finds that there are special conditions that are peculiar to the land in that the lot is significantly smaller than that allowed by the R-3 zoning district and find that it meets this criteria.

Revised Motion:

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

2. Request from Clay Rowland, 7735 Lavon Drive, Clarkston, 48348 to build an accessory building resulting in a side setback of seven (7) feet 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 7735 Lavon Drive in Springfield Township and is zoned R2 One-family residential. P.I. #07-24-201-010.

Mr. Clay Rowland introduced himself to the Board.

Board member Vallad stated that the proposed building is over an existing slab. There was obviously a building there before Clay purchased the home and this is why he wants to put the building in the proposed location.

Mr. Rowland confirmed that the slab is 24' X 24' and was there when he bought the property.

Chairperson Wendt asked if there was anything beyond the obvious that was a preexisting condition relative to the applicant's request.

Board member Baker asked if a building had been placed there due to a variance request, would the Board members be advised of that in the paperwork. If a variance had already been granted, they would want to know that.

Board member Vallad stated that if it was a garage that was burned over 50%, it would have to meet ordinance when it is rebuilt.

Supervisor Walls commented that he does not know the history of the property.

Mr. Rowland stated that he asked Erin Mattice when applying and she confirmed that there was no variance on record.

Board member Vallad asked when the home was built.

Mr. Rowland answered 1970.

Chairperson Wendt stated that a visit to the site confirms that there was something there before that is what the applicant is trying to replicate.

Board member Baker stated that there is ample room in the rear of the lot to place a garage of this size at various other places. He understands the desire to take advantage of the slab that is there. The problem with placing a new garage on the existing slab is that it requires a variance when there is lots of opportunity for a garage to be sited and still maintain adequate distance from the well and allow vehicle to drive into the backyard. There is no record that there was ever a structure there or that it had been placed there appropriately; to place a structure there now even though there is ample space on the lot, is not something he supports. He would not be in favor of putting a structure on this slab due to its close proximity to the property line.

Mr. Rowland stated that even if the slab wasn't there, this is where he would want to put it anyway. The only other space to put the garage is right in the middle of the yard so his entire backyard would be taken up by a garage. He stated that every neighbor on the street has a garage and the majority of them are within 15 feet of their property line; he pointed out two neighbors across the street as examples.

Chairperson Wendt stated that it is more logical to locate the garage over the existing slab than to move it several feet to make it more in conformance with Township ordinance and place the well in jeopardy. The driveway that exists takes a straight line right to the garage that is proposed to be built without putting anything in jeopardy.

Mr. Rowland agreed.

Board member Baker suggested that the garage be slid to the right eight feet and then also slid back ten feet. Then, he would have enough distance to clear the well and still enter the front entry garage.

Mr. Rowland stated that he picked the location so it would eliminate the garage being put in the middle of the back yard. He reiterated that it is only a 4/12 pitch garage with eight foot ceilings.

Board member Vallad confirmed that two doors down, they have a garage that aligns almost exactly with the proposed and the setback is almost the same, maybe even a little less. He stated that if you look at all of the homes using the aerial photograph, everyone is up against the lot line. He stated that this lot is .31 acres in an R-2 zoning district.

Board member Whitley stated that being a .31 acre lot in an R-2 zoning district, this lot clearly meets the peculiarity factor of Item a. of the variance criteria. He stated that it does not meet the criteria item c. of Section 40-63 which is that the special conditions and circumstances did not result from the actions of the applicant because it is not necessarily this applicant, but any previous owner of the land. He stated that it also does not meet criteria item d. of Section 40-63 which is the request is the minimum variance possible to make use of the land. There are other alternatives in locating the proposed structure that would reduce the variance.

Board Whitley moved that the applicant's request be denied because it does not meet Item c. and Item d. of Section 40-63 – Zoning Board of Appeals – Powers and Duties. Supported by Board member Baker. Vote yes: Baker, Vallad, Whitley. Vote no: Fischbach, Wendt. Absent: None. Motion approved.

3. Discussion – Letter from Greg Need regarding 8659 Kier Road dated 6/14/17

Board members discussed a letter dated 6/14/17 received from Greg Need, Township Attorney, giving his opinion on a recent decision made by the Zoning Board of Appeals on April 19, 2017 regarding 8659 Kier Road.

Board member Whitley suggested placing this item on the agenda for discussion at a future meeting seeing as how it is the attorney's opinion that an error was made by the Board concluding that the storage of material in an accessory building does not meet the requirement for a Home Occupation.

Board members and Township Supervisor discussed the use of an accessory building for a Home Occupation.

Board member Whitley moved that the subject of Home Occupation relative to the April 19, 2017 appeal for 8659 Kier Road at the next regular scheduled meeting for further discussion relative to the use of an accessory building for a Home Occupation. Supported by Board member Fischbach.

Board members and Supervisor Walls continued to discuss the decision made on April 19, 2017 regarding 8659 Kier Road and the use of an accessory structure for a Home Occupation.

Board member Whitley withdrew the motion regarding putting the above topic on the next agenda.

Board member Whitley moved to request the Township Attorney to provide clarity to the Zoning Board of Appeals regarding what acts and activities is included in a Home Occupation. Supported by Board member Fischbach. Vote yes: Baker, Fischbach, Vallad, Wendt, Whitley. Vote no: None. Absent: None. Motion approved.

ADJOURNMENT:

Board member Whitley moved to adjourn the meeting at 9:13 pm. Supported by Chairperson Wendt. Vote yes: Baker, Fischbach, Vallad, Wendt, Whitley. Vote no: None. Absent: None. Motion approved.