

SPRINGFIELD TOWNSHIP
ZONING BOARD OF APPEALS
REGULAR MEETING
September 19, 2018

Call to Order: Chairperson Wendt called the September 19, 2018 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: Bill Whitley
Dean Baker
Ginny Fischbach
Skip Wendt
Matt Underwood

Absent: Denny Vallad

AGENDA:

Board member Whitley moved to approve the agenda as amended in the memo from the Supervisor's office dated September 12, 2018 moving Burt Case to #1, New Business; moving Wigton Case to #2, New Business, moving Deeby, P.I.#07-24-101-011 to #3, New Business and moving Old Business after New Business. Supported by Board member Fischbach. Vote yes: Baker, Fischbach, Underwood, Wendt, Whitley. Vote no: None. Absent: Vallad. Motion approved.

PUBLIC COMMENT: None

APPROVAL OF MINUTES:

Board member Whitley moved to approve the minutes of the August 15, 2018 meeting as presented. Supported by Board member Underwood. Vote yes: Baker, Fischbach, Underwood, Wendt, Whitley. Vote no: None. Absent: Vallad. Motion approved.

NEW BUSINESS:

1. Request from Charles Burt, 156 East Meadow Circle, White Lake, MI 48383 for a variance to allow for grading of previously mined areas of new development along with necessary clearing to allow for soil borings as required by Oakland County Health Department for septic systems prior to submission of a site plan as required per Springfield Township Code of Ordinances, Chapter 40, Section 40-136 (b). The property that is the subject of this request is located on Andersonville Road, P.I. #07-26-126-020, zoned R2 One Family Residential in Springfield Township.

Mr. Jim Scharl, Kieft Engineering, introduced himself to the Board. He provided history of the proposed development, Quarry Ridge. The next step is Final Site Plan approval which involves all aspects of development, including construction plan approval, Master Deed and By-Laws, Exhibit B drawings, landscape plans and all approvals from outside agencies including Oakland County Health Division for onsite septic systems. Because of the physical condition of the site, it is impossible to take soil borings required by Oakland County Health Division on certain lots. The Township wants all approvals submitted for Final Site Plan, but they cannot take soil borings in the current state. He discussed this with the Township Supervisor and was advised to apply to the Board of Appeals for a variance. The request is for permission to do some minor grading on the northerly part of the site. The grades that they are proposing are the grades that will be proposed for construction plans.

Chairperson Wendt asked how extensive the grading will be.

Mr. Scharl stated that the borings need to be done at a depth of at least 8 feet and are taken with a backhoe. They need to balance some of the site at this point and it doesn't make any sense to do little pockets. They have to take at least three soil borings on every lot.

Chairperson Wendt asked how wide of a strip.

Mr. Scharl replied it is more than that. This will be a mass clearing and grading operation that will bring this site to grade elevations. The cul-de-sac is probably 1200 feet long and 60 to 200 feet wide.

No one in the audience spoke regarding this request.

Board member Whitley asked if there was any concern that the grading that they do now will have to be regraded such that the soil borings become invalid.

Mr. Scharl replied no; this is the essence of why they want to do this now.

Board member Whitley stated that they have a situation where the information cannot be attained to get site plan review without doing something that is prohibited by another section of the ordinance. This request makes sense.

Board member Whitley moved that the variance request to allow for grading of previously mined areas of new development along with the necessary clearing to allow for soil borings as required by the Oakland County Health Division for septic systems be approved subject to being the minimum required in order to accomplish acceptable soil borings in the northerly areas of the site as determined by the Building Department. Supported by Board member Underwood. Vote yes: Baker, Fischbach, Underwood, Wendt, Whitley. Vote no: None. Absent: Vallad. Motion approved.

2. Request from Matt Wigton, 2306 Elkridge Circle, Highland, MI 48356 to allow the construction of an accessory building on a parcel that does not contain a dwelling which

requires a variance per Springfield Township Code of Ordinances, Chapter 40, Section 40-156 and Section 40-274. The property that is the subject of the request is located at 12506 Woodland Trail and is zoned R-1A One Family Residential. P.I. #07-32-200-005 in Springfield Township.

Mr. Matt Wigton introduced himself to the Board. He stated that he bought this property with the intent to build his retirement home and has met with a builder and DTE. The property has not been maintained and the vines are taking over the property. He wants to maintain and clean up the property and this takes equipment. He wants to do his own clearing of the site and he plans on keeping as many trees as he can. He provided the schedule of construction.

Chairperson Wendt stated that there was no guarantee that he is going to build a house there.

Board member Fischbach suggested that they put a time limit on the variance.

Supervisor Walls stated that in the case of temporary structures, there are provisions for performance guarantees that have been equal to what it would cost the Township to remove it.

Board member Whitley asked if the structure was permanent with footings.

Mr. Wigton replied no, it sits right on the ground.

Board member Whitley replied that this is an oversize temporary shed.

No one in the audience spoke regarding this request.

Board member Whitley moved that the request to build an accessory structure on a parcel that has no permanent residence be approved with the following conditions: a performance guarantee be posted in an amount determined by the Building Department that would cover the cost of removal if the remaining conditions are not met, progress on the permanent residential structure is initiated in calendar year 2019 and substantially completed before the end of calendar year 2020 and a Certificate of Occupancy must be secured by the end of calendar year 2021 and if not then the structure would be removed at the Township's discretion. Supported by Board member Fischbach. Vote yes: Baker, Fischbach, Underwood, Wendt, Whitley. Vote no: None. Absent: Vallad. Motion approved.

3. Request from Al Deeby Chrysler Dodge, 8700 Dixie Highway, Clarkston, MI 48348 for a variance to allow temporary display and storage of vehicles for two (2) years in a C-2 General Business District instead of the M-1 Light Industrial District allowed per Springfield Township Code of Ordinances, Chapter 40, Section 40-681 which is a two year extension of a previous Zoning Board of Appeal approval granted on September 21, 2016. The property that is the subject of the request is located at 8731 Dixie Highway and is zoned C-2 General Business. P.I.#07-24-101-011 in Springfield Township.

Mr. Scharl and Mr. Deeby introduced themselves to the Board. Mr. Scharl referenced the minutes from the September 2016 meeting. Mr. Deeby is requesting to extend a variance recognizing what is happening in the area including the construction of the General RV dealership next to the property. They have submitted plans along with the request and they are proposing improvements to the property to make it beneficial for all. The parking lot pavement now extends to the right-of-way line and they are proposing to remove 20 feet, which is the first row of cars. The sign will be removed and they also submitted a landscape plan for the property which attempts to mirror General RV's landscaping. There is an existing schoolhouse located behind the main building on the property and that will be removed. He stated that the request is to park about 30 cars in the back which will replace the spaces that are removed from the front.

Board member Whitley asked how the front landscaping plan lines up with the landscaping plan for General RV in both alignment and depth.

Mr. Scharl replied that it doesn't meet the depth requirement which is 35 feet. The General RV arrangement is an irregular landscape plan. He stated that they are limited on their site because if they were to abide by the 35 foot width, it would eliminate all the parking in the front.

Board member Whitley asked if it was setback from Dixie Highway by the same distance.

Mr. Scharl replied no. They will have a total depth of 20 feet and General RV's depth goes from 35 to 50 feet. He stated that General RV's plan shows a meandering safety path all along the front and the landscape behind that. He stated that they will begin the plantings at the right of way line.

Board member Baker asked if the plantings were intended to meet the requirements of the C-2 zoning district site plan requirements.

Mr. Scharl reviewed the landscape plan provided to the Board members. The trees match and additionally, there are shrubs and cedar split rail fence.

Board member Baker asked if there were any plantings planned for the area that abuts the residential property.

Mr. Scharl replied that they are not proposing any landscaping at the rear of the property. There are five large pine trees that are existing. The landscape plan is intended to augment the request but is not a site plan.

Board member Baker commented that there is a requirement that anything they are proposing to do considers all the necessary elements that would be associated with the residential properties that abut this property. The Township wants to make sure that they are not inconveniencing the adjacent residents.

Mr. Scharl stated that behind this property is a 65 foot asphalt parking lot with carports.

Board member Whitley asked if the pine trees that are along that rear property line were on Mr. Deeby's property.

Mr. Scharl answered yes.

Chairperson Wendt asked for and received a five minute recess.

Board member Whitley asked if the northerly wall comes all the way down to the ground and further, if it provides any screening of the Al Deeby property from the property next door. Mr. Scharl answered that he didn't know.

Board member Baker stated that the Township attempted to screen the General RV site from this neighboring residential neighborhood, they were placing trees and landscaping elements that would create a screen that was approximately 35 feet high. Commercial property that abuts residential uses have certain screening requirements and the Board does not have any information about the rear landscape screening and the northerly section where it also abuts the residential property.

Mr. Scharl estimated this area to be 80 to 100 feet.

Board member Fischbach asked about the future plan.

Mr. Deeby stated that it depends on what he is able to accomplish with the Bordine family. He doesn't need this subject property if the Bordine property is attainable in a reasonable amount of time. He doesn't know what will happen to this subject property if he is able to purchase property from Bordine. He only held onto it as a safety net in case the Bordine sale didn't happen in a reasonable time. He is confident that the Bordine sale will happen but if not, this property can become an extension of the dealership showroom. He is not proud of this subject property like he is of his dealership property across the street which is kept up. He is trying not to spend a lot of money that would be wasted should the plan change. Since he owns it, he thinks it is reasonable to try to improve it. He has hired a general contractor to see what can be done about making the building more attractive which is currently an eyesore.

Board member Baker asked if the applicant planned any signage for this site.

Mr. Deeby answered no.

Board member Baker asked if the applicant planned to do any sales on this site.

Mr. Deeby answered no.

Board member Baker commented that the request says temporary display and storage but he wondered if prospective buyers go to that site and look at vehicles.

Mr. Deeby replied that this is not his intention and he doesn't know if that has ever happened.

Board member Underwood asked if there was an increase in parking spots with this plan. Mr. Scharl answered that it is the same number of spaces.

Board member Whitley moved that the request for a two (2) year extension of a previous action taken in 2016 to allow parking on the subject lot be approved for an additional two (2) years subject to the landscape plan that was presented to the Board tonight being completed and the landscaping screening that would be equivalent to that which would be necessary had this been subject to site plan review along the lot lines that are to the northwest of the playground area and to the south of the playground area, the area that abuts the residentially zoned parcels. Landscaping to be completed by June 30, 2019. Supported by Board member Fischbach. Vote yes: Baker, Fischbach, Underwood, Wendt, Whitley. Vote no: None. Absent: Vallad: None. Motion approved.

Board members discussed the need for additional landscaping screening in the northwest corner.

OLD BUSINESS:

1. Request from Al Deeby Chrysler Dodge, 8700 Dixie Highway, Clarkston, MI 48348 and Collin Walls, Zoning Official to:

a. Confirm an interpretation by the Township Zoning Official that parcel P.I. # 07-24-126-007 owned by Al Deeby Chrysler Dodge, and portions of parcels P.I. #07-24-126-003 and # 07-13-301-006, owned by Bordine Investment Co. be considered a zoning lot as defined in Springfield Township Code of Ordinances, Chapter 40, Section 40-2, Definitions.

b. For a variance to allow use of property adjacent to the Al Deeby Chrysler Dodge dealership for vehicle display parking. The Township Attorney has indicated that the variance is not required if the interpretation is confirmed.

The properties that are the subject of the request are located at 8700 Dixie Highway, P.I. #07 24-126 007, zoned C2 General Business; part of 8600 Dixie Highway, P.I. #07 13 301 006, zoned C2 General Business/R1 One Family Residential and 8650 Dixie Highway, P.I. #07 24 126-003, zoned C2 General Business in Springfield Township.

Mr. Greg Need, Township Attorney, summarized his response letter dated September 12, 2018 that was in the Board packets.

Board member Fischbach stated that the zoning lot still doesn't seem to be under the same ownership or control because the applicant does not have an agreement that the lots are his 12 months out of the year to use for cars; two or three months a year, Mr. Bordine takes it back and uses it. In her opinion, it is not a single use because Mr. Bordine still has control, and this is not a single ownership or single use.

Board member Whitley stated unless this is part of the lease agreement.

Board member Fischbach replied she doesn't think this fits single use or control when she reads the definition in the zoning ordinance. She struggles with it being called one zoning lot because if it is now Deeby's, does Mr. Bordine need to go get a variance when he wants to use it for his purposes because now it is part of the dealership.

Mr. Need replied that Mr. Bordine owns the property, so he would not need to come and get a variance. The element of control can include a lease agreement which they have and that agreement could be whatever the parties agree to.

Board member Fischbach replied her issue is calling it one zoning lot and two different people have control at different times. This to her is not single use or single ownership. The use is different during those times of the year when Mr. Bordine is using it versus when Mr. Deeby is using it.

Mr. Need responded that there is no definition of control in the ordinance.

Board member Fischbach answered that if they use common definition which Mr. Need asked them to, they all know what that means and to her, that is not single control.

Mr. Need answered if it were a clear issue, it wouldn't be before the Board. It is actually what the majority of the Board members agree to.

Board member Baker stated that Mr. Need answered the question as to if the Board was to uphold the interpretation of the Zoning Official there would be no deadline unless the Township Board should take some action. He asked if they did take action to amend the ordinance, does the site get "grandfathered" and the amended language would only impact future sites?

Mr. Need answered yes.

Board member Baker commented that if they were to affirm the decision tonight, this would stay with this property as long as this relationship continued, so as long as the parties continued the agreement.

Mr. Need concurred.

Board member Baker commented that Ms. Moreau has comments as to C-2 zoning not permitting vehicles storage and asked if this has any impact on the request.

Mr. Need stated that the ordinance amendment to M-1 added vehicle storage refers to the off-site parking sections of the ordinance. With regard to automobile dealerships, it sets forth three classes of parking: customer and employee parking, vehicles displayed for sales, and inventory or vehicles that are being repaired. M-1 only applies to the latter. It doesn't apply to vehicles that are being displayed for sale, it refers to inventory storage which is not a defined term. What is being proposed is not an M-1 use, it is a use that is allowed in C-2.

Board member Fischbach asked if they are displayed for sale or is it inventory.

Mr. Deeby confirmed that they are displayed for sale. He stated that he believes the requirements of the Dixie Overlay look great and he wishes everyone would do it. He has not spent the money to do it because he doesn't think it would look good if one business complied and no one else did. Now, they have General RV who is complying, and he intends to landscape the property at the dealership and the Bordine property to match what is across the street. He is hoping that once his properties are landscaped, Bordine will carry it further and other businesses will follow.

Ms. Laura Moreau, Township Clerk, clarified that her point in raising vehicle display or storage in C-2 district is that it is a change in use. She was surprised that the attorney's response indicates that there is not a change in use and the zoning lot determination would not trigger site plan review. She believes it would be great if more property owners complied with the Dixie Overlay District and Design Guidelines but the way that is done is it is required with every change in use. There is a change in use here. If portions of that Bordine parcel become one with the dealership lot and they are regarded as one zoning lot, then the parking that was permitted on the Bordine parcel to serve a retail landscape nursery business, now becomes part of a vehicle sales and service business. Those portions of the Bordines's property noted on the site plan or otherwise have a change in use. She stated that they heard that there is some willingness on the part of the dealership to meet these Guidelines requirements and hopefully Bordine does that too. She questioned what is meant by the Bordine property: the entire Bordine parking lot, or just the part that cars won't be parked in front of? This needs to be clarified. One of her primary concerns is requiring site plan review since the zoning lot is permanent. Her second point was the zoning lot is not required to be contiguous. She concurs with Board member Fischbach on this point. She asked if anyone on the Board has seen the lease agreement and asked what is the nature of the agreement? She doesn't know another time when the Township would authorize a use with no end based on an agreement that has not been reviewed by the Township. Even if they do go through the process of amending the ordinance, this would be allowed to continue. The determination was based on the "requisite element of control" that admittedly isn't very clear based on an agreement that hasn't been reviewed or understood by the Township and that can change and vary over time. The site plan can't change but she questions the idea that there is singular ownership or control when it is based on a lease agreement with shared ownership and control under terms that the Board is not even aware of.

Chairperson Wendt commented that things are being asked of the Board that don't exist in the Township ordinance. The Board must deal with what currently exists.

Clerk Moreau stated that she understands that. The decision regarding ownership and control was made because a lease agreement exists, but she hasn't seen it. She summarized her comments that were provided in a document sent to Board members. She strongly hopes that the Board will not affirm this zoning lot determination. It has unintended consequences and maybe some indications for the future that they are not going to be very happy with especially when there is very little that defines what this could mean. Any decision that the Board makes tonight that would allow vehicle display parking anywhere outside of the actual dealership parcel should have to go through complete site plan review. It should be subject to all of the conditions and the provisions

of the Overlay District, C-2 zoning and the off-street parking requirements including the special provisions that Mr. Need mentioned for off-street, auto vehicle sales and service facilities. The Township spent a lot of time on in 2015 and 2016 with the Planning Commission and the Township Board addressing this issue. The Township recognized that dealerships face the challenge of having excessive inventory and they addressed it. She asked the Board to give strong consideration to the fact that this is a change in use and with that, comes everything that does away with site plan review. Considering the requirements placed on General RV, the Township should be asking the bare minimum of screening and greenbelt buffering in this case.

Board member Whitley stated that they have two ways to go, either confirm or deny an interpretation, or deal with a variance request. Mr. Need has made it clear that if they affirm the interpretation, no variance is required. He believes that the converse is true, if they deal with this on a variance basis, then there is no need for affirmation of the interpretation. Although the logic of the zoning official is correct, the concern he has is that it is forever. There is nothing that will cause the issue to be revisited unless there is a significant change in use. Proceeding on this question by virtue of a variance provides not an open-ended decision but a time limited decision. The Board can put a time limit on it and cause it to come back in front of a body. He thinks that is the better choice. Mr. Deeby has shown a commitment and an investment in this community, so the Board needs to do what they can within the construct of the ordinance and the flexibility that this body has to make this business successful.

Board member Fischbach asked if a variance is permitted, do they have to say if they affirm or don't affirm the decision.

Mr. Need stated that they would need to take official action on the interpretation as well. The interpretation has been made so they either have to say yes or no.

Board member Fischbach agreed with Board member Whitley.

Board member Baker concurred with Board member Whitley. He agreed that Mr. Deeby is not trying to create something detrimental to the community. If they were to affirm the zoning official's interpretation, the Board has had no portion that has had a public hearing; because of the chance for this to exist forever it is not how they would want to proceed. This Board can create a solution that is positive for the applicant but that also balances the residential interests of the community. He asked if the site plan provided matches what is currently being utilized.

Mr. Scharl and Mr. Deeby replied yes.

Board member Baker pointed to an additional area that has vehicles parked in it, behind the Bordine building. He asked if this was part of the agreed upon variance area.

Mr. Deeby replied that he didn't know this was an issue. The parking in the back is part of the agreement with Mr. Bordine.

Board members discussed this back parking lot area and how it was not included in the outlined zoning lot map.

Mr. Need added that if the Board members choose the second option, there needs to be a specific geographic designation and if it is not this, it needs to be correct.

Board member Whitley stated that if the Board would act tonight on the three parcels, this would not include the vehicles parked behind the building that Board member Baker brought up. He questioned if it would be better to include that motion now or table the item and include it later with more information. The variance should be as all-inclusive as they can be. If they do not have all of information tonight, they should wait until they do.

Board member Baker stated that they dealt with the former Children's Ark parcel but the Old Business item involves the Board's affirmation of the Zoning Official's opinion.

Board member Whitley stated that they either do the affirmation or deal with the issue as a variance.

Board member Baker commented that he would like to give the applicant time to define all the areas correctly.

Board member Whitley agreed; they should include all areas so that it is clear.

Mr. Need asked if the back parking lot was within the tax descriptions shown on the site plan.

Mr. Scharl answered yes.

Clerk Moreau commented that this is actually the line where the parcel is zoned C-2; it is not on the residentially zoned portion.

Board member Whitley clarified that it is within the parcel description and the zoning.

Mr. Need stated that the motion for the variance should be limited to a certain geographic area which should be defined. He agrees with Board member Whitley but ultimately the decision should be specific in terms of geography.

Board members and Mr. Scharl discussed the correct description of the zoning lot included in the request.

Supervisor Walls suggested that Mr. Scharl locate this parking area shown on the Google Map and provide dimensions and legal description because the other areas are definable by measured parking spots. If the Board choose to do so, the aerial can be attached to the motion and this can come back to the Board. The best way is to do it is with physical legal description because there aren't other identifiable markers.

Board members and Mr. Need discussed the need to have a formal meets and bounds description of all requested parking areas.

Board member Whitley moved to table the variance request pending a presentation of surveys for the subject areas that are to be used for vehicle display parking and storage. Supported by Board member Underwood.

Board member Baker suggested that the area depicted by the aerial not be considered sales where they were walking people through an uneven surfaces, it would be considered for inventory.

Board member Whitley agreed; more specifics can be provided with the next month's motion.

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

ADJOURNMENT:

Board member Whitley moved to adjourn the meeting at 9:09 pm. Supported by Board member Fischbach. Vote yes: Baker, Fischbach, Underwood, Wendt, Whitley. Vote no: None. Absent: Vallad. Motion approved.

Erin Mattice, Recording Secretary