

SPRINGFIELD TOWNSHIP
ZONING BOARD OF APPEALS
May 15, 2013

Meeting is called to order at 7:30 pm by Chairman Wendt.

In attendance: Dean Baker, Zoning Board Member
 Virginia Fischbach, Zoning Board Member
 Denny Vallad, Zoning Board Member
 Bill Whitley, Zoning Board Member
 Skip Wendt, Chairperson

Absent: None

AGENDA:

Board member Vallad stated that he would like the reconsideration of the Garrison appeal added to the agenda.

Board member Whitley moved to approve the agenda with the above addition. Supported by Board member Fischbach. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

PUBLIC COMMENT: None

CONSENT MOTION: Minutes of the March 20, 2013 meeting.

Board member Baker moved to approve the minutes of March 20, 2013 as presented. Supported by Board member Whitley. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

NEW BUSINESS:

1. *Request from Julie Hogan, 500 Iroquois Court, Oxford, MI 48371 for the following variances to construct a home:*
 - a. *Allow the construction of a home resulting in a forty-five (45) feet front setback from Ellis Road rather than the fifty (50) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-572.*
 - b. *Allow the construction of a home resulting in a setback from Waumegah Lake of thirty-five (35) feet rather than the fifty (50) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-639.*

The property that is the subject of the request is located at 8679 Ellis Road in Springfield Township and is zoned R-1 One Family Residential. P.I. #07-12-427-024.

Mr. Anthony Donato and Julie Hogan introduced themselves to the Board.

Mr. Donato stated that the property shown on the diagram having a parcel number of 07-12-427-023 and showing a rear setback of 30 feet is actually 40 feet from the high water mark.

Chairperson Wendt asked if it was possible that another house design could have been developed that could make this need for a variance not applicable.

Mr. Donato responded no. The applicants want to put an offset three car garage on the end of the house and if they can't have this, they don't want the property. The applicants also do not want a narrow house.

Chairperson Wendt stated that he hears the applicant saying that there is a building design alternative.

Mr. Donato responded that for the applicants, there is not.

Chairperson Wendt asked if there could be a building placed on this property that is designed differently that would fall within the ordinance.

Mr. Donato replied that it is possible, but not for this applicant.

Board member Fischbach asked if the proposed home was similar in size to other homes in the area.

Mr. Donato answered yes. It is similar in size to the next door neighbor. The log home on the road is similar in size.

Board member Fischbach asked if it was possible to build a similar size house without the need for the variances.

Mr. Donato answered he did not know; it would be a long and narrow house.

Ms. Hogan replied that it would be a long rectangle without any bump outs and no character. They would like to have a 15 foot projection on the rear for a deck and this is part of the variance that they are asking for. They would like a deck to enjoy the property.

Board member Fischbach reiterated that 15 foot of the encroachment is deck on the lakeside.

Mr. Donato responded that this was the reason for the variance, further down the road, to have a wrap around deck.

Mr. Ron Wurst stated that he is a resident on Ellis Road. He stated that the proposed structure is about 65 feet deep and the house is 31% larger than it should be. This is a self-imposed hardship. Another home which conforms to the surrounding landscape could be built on this lot. There are only a handful of homes that do not conform to the 50 foot setback on Waumegah Lake. One of those depicted on the diagram submitted is a garage. Out of the rest of the nonconforming homes, 3 of the homes are single level and 2 of the homes that are multilevel now were originally built as single level homes. The only homes that are truly nonconforming are the ones that Andy has put up in the last few years. It is easily possible to place a conforming home on the lot in question.

The whole area is governed by a Consent Agreement between Springfield Township and Mr. Albert Fish. The agreement was entered on November 26, 1980. The homes on Ellis Road are nonconforming due to lot sizes, poor road and lot shapes and all of this. The final agreement was done on July 8, 1981 and then modified in 1981 and all of this can be found in Liber 7713 Page 794. In the agreement between the Township and Mr. Fish there are numerous stipulations regarding structures that can be built including a height requirement of 25 feet. For this proposed house, the septic field is in the front and there won't be any trees in the front because you don't want to plant those over the septic field. The septic fields are 8 feet above the road on ground zero. The creation of a beach is also in violation of the preservation rules that the Township was trying to put in. The agreement states that if there is a conflict between the covenants of this agreement and any code, the most restrictive must apply. Mr. Wurst provided a copy of this consent agreement for all Board members.

Board member Fischbach stated that Mr. Wurst said that only the houses built by Andy don't conform, so she asked if he put up all of the houses on the diagram.

Mr. Wurst stated that all properties on Waumegah with the exception of Ellis Road are conforming to the 50 foot setback.

Board member Fischbach reiterated that it wasn't all of the homes that Mr. Donato put up.

Mr. Wurst stated that because it was a wetland and because the lots are so small, they have regular encroachments and some of the older ones conformed to the older 35 feet. The new law became 50 feet.

Board member Fischbach asked about the 25 feet height restriction.

Mr. Wurst stated that the homes that were built when Mr. Fish owned the subdivision conform to the 25 feet limit. The homes that were built afterwards do not conform.

Board member Fischbach asked how tall the proposed home was.

Mr. Donato responded that it will be close to that.

Board member Whitley stated that the house depicted in the packet was not a ranch. Ms. Hogan stated that they do not have the exact blueprint but they know they want to do two levels and she was told that this was okay. She did not know that height was an issue.

Mr. Donato stated that it is a flat lot and they are building a two story home.

Chairperson Wendt stated that what was presented is not representative of what they wanted to build.

Ms. Hogan replied that they did not want to go through all of the expense of hiring an architect if they were not getting the variance. They explained that when they applied; as long as they had a general idea of the footprint, they would be okay.

Chairperson Wendt stated that their job is to reach mutual ground regarding the request that is being asked and the first question that he asked was could a residential building be placed on the lot that would meet Township ordinances. The answer is yes; maybe it would not meet the applicant's design criteria.

Ms. Hogan concurred.

Chairperson Wendt stated that it is a buildable property and it can be built on with a house and a garage.

Mr. Donato added that it would not be consistent.

Mr. Wurst stated that it would not create a hardship for anybody.

Ms. Hogan stated that it would not be consistent with the character of the other homes that were built.

Chairperson Wendt stated that they needed to take this into consideration.

Board member Vallad stated that everyone measures building height differently and they don't know what it is going to be.

Board member Fischbach stated that the variance before them was not for height and they have not had time to understand the height regulation.

Supervisor Walls stated that if they did not ask for a height variance then they will build it to a height in accordance with Township ordinance or they will not get their building permit.

Board member Whitley stated that there was a discrepancy with the building design presented.

Ms. Hogan replied that she was sorry; she thought she was getting approval for the footprint.

Board member Whitley stated that it seems like they are being asked to approve a variance so the design can meet that variance as opposed to being presented with facts that demonstrate a hardship. It appears as if the lot is buildable without variances.

Board member Baker concurred. He stated that they need to look at natural features like whether the slope or grade or wetland does not permit a reasonable use and ability to construct a house. He stated that he does not feel that this is being shown; it is being shown that this lot is not so configured to allow a house of this significant footprint to be built there.

Ms. Hogan stated that she wants the front of her home to be in line with other homes in the neighborhood.

Chairperson Wendt stated that they have the option to allow the applicant to come back at a later date with something more palatable.

Board member Baker stated that they should attempt to put a structure inside the building area. They should demonstrate that they have made all attempts to insure that the placement of a septic system, well and desire to have a deck are within this building area, or if not, why this is not possible. They need to demonstrate that they are attempting to put a structure on the property keeping with the neighborhood and how this lot does not allow them to do it because of its unique parameters.

Board member Whitley stated that they are being presented with the idea that the applicant wants to build a big house as opposed to being presented with facts that demonstrate practical difficulties and hardships.

Board member Baker moved to TABLE the variance request submitted by Julie Hogan for property number 07-12-427-024, 8679 Ellis Road, Clarkston, 48346 to permit the applicant to clarify their attempts to make the variances requested the minimum necessary for appropriate use of the property. Seconded by Board member Fischbach. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

2. Reconsider Garrison appeal – item added with approval of agenda

Board member Fischbach moved reconsider the action taken at the last meeting regarding a request by Valdon Garrison of 230 Broadway, Davisburg, 48350 to allow the construction of a garage on a parcel that does not contain a dwelling. Seconded by Board member Baker.

Board members discussed the legality of reconsideration of a motion that has already been acted on. They decided to obtain legal advice regarding the legality from the Township Attorney, Greg Need to be shared with the Board at the next meeting on June 19, 2013. At that meeting, they would make the decision to place the item back on the agenda for reconsideration after the legality question is decided.

Supervisor Walls agreed that he would contact Greg Need and share the Attorney's opinion with the Board.

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

ADJOURNMENT:

Board member Whitley moved to ADJOURN the meeting at 8:24 PM. Seconded by Board member Fischbach. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

Erin Mattice, Recording Secretary