

SPRINGFIELD TOWNSHIP
ZONING BOARD OF APPEALS
September 21, 2011

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

In attendance: Dean Baker, Zoning Board Member
 Jim Carlton, Zoning Board Member
 Bill Whitley, Zoning Board Member
 Skip Wendt, Chairman

Absent: Denny Vallad, Zoning Board Member

AGENDA: Approved as presented.

Board member Whitley moved to approve the agenda as presented. Supported by Board member Carlton. Voted yes: all. Voted no: none. Absent: Vallad. Motion approved.

PUBLIC COMMENT: None.

CONSENT MOTION: Minutes of the August 17, 2011 meeting.

Board member Whitley moved to defer the minutes of August 17, 2011 to the next meeting for approval. Supported by Board member Carlton. Voted yes: all. Voted no: none. Absent: Vallad. Motion approved.

NEW BUSINESS:

1. *Request from James Miller, 9916 King Road, Davisburg, MI, 48350 to construct a deck resulting in a side setback of ten (10) feet rather than the required fifteen (15) feet required per Section 25 of Springfield Township Zoning Ordinance No. 26.*

The property that is the subject of the request is located at 9916 King Road in Springfield Township and is zoned PUD Planned Unit Development. P.I. #07-11-351-017.

James Miller, 9916 King Road, Davisburg, stated that he is the resident and owner of the property. He stated that it is an irregular lot, relating to the way it sits next to the bay. He stated per the letter he obtained from Collin Walls, he does have the required set back from the lake so he needs the variance for the side. He stated that it would obstruct the lake view to construct a stringer of stairs. It makes more sense to create a natural

pad/walk off from the deck to the hillside. He stated that it is a composite deck consistent with the house plan.

Board member Carlton stated that he made a site visit and walked the property. He stated that he does not know if there are any other residential PUD developments.

Board member Baker asked if the applicant had given any thought to maintaining the same setback as the edge of the house and to construct a set of stairs somewhere else.

Mr. Miller stated that if he puts the stairs on the other side, he would not be within the fifty feet of the lake. He stated that he does not want to obstruct the lake view.

Board member Baker asked him about the option of a set of stairs that are recessed into the deck that would not affect the lake set back.

Mr. Miller asked why he would create a stringer of stairs if he could just have one step walk off.

Board member Baker stated that the reason is that he would not need a variance if he did this.

Mr. Miller stated that he wanted that 4 feet and the way he situated it on the plans keeps it consistent with the house. He pointed out on the plan where he is planning on putting the octagonal pad.

Chairperson Wendt stated that the distance between the two homes is close but he does not feel that the granting the variance would diminish the neighborhood.

William Sash, 10086 King Road & 9977 Dixie Highway, Davisburg stated that his property was across the lake from Mr. Miller. He stated that he planned on building a home on his property next year. He stated that he is opposed to the deck as proposed because he is going to have to look at the deck for many years. He showed his property's location to the Board members. He stated that he will come to this same Board for a lake side variance that he will need when he builds his house. He stated that he doesn't have a problem with a lake side variance, but he does have an issue with the building side variance jamming up the property.

Chairperson Wendt asked Collin Walls if his office had received any written or verbal response from Mr. Miller's neighbors in regards to this request. Ms. Mattice responded that she has had no contact from any person regarding this request.

Board member Baker asked if there were any other proposed location for the access or a set of stairs.

Mr. Miller responded no and he prefers what he has proposed to stay with the consistency of his home.

Board member Baker stated that the granting of the variance is the minimum required and the plan as submitted is to continue the deck on a straight line towards the water before the two turns of the design. He stated that he is wondering if there are options of different locations for stairs that would not require the variance.

Mr. Miller stated that the whole reason is to have access that does not obstruct the views of the lake. He stated that the stringer of stairs would obstruct the view from the windows that are in the basement.

Board members consulted the map and plans with Mr. Miller's guidance.

Board member Baker stated that he does not see this as the minimum required. He stated that you cannot extend a stairway from the plan that he has submitted without encroaching on another setback. He stated that no one on the Board is saying that the applicant cannot have a deck.

Board member Whitley asked him about moving the air conditioning unit.

Mr. Miller stated that he would prefer not to.

Chairperson Wendt asked Mr. Miller what other options he had considered.

Mr. Miller stated that he could cut the deck back 4 feet and put a stringer of stairs towards the lake, but he doesn't want to do it this way. He stated that he does not want to obstruct his view of the lake.

Chairperson Wendt stated that the financial aspects are not considered by the Board. He stated that not enough options have been presented to the Board to help them come to a decision on this request.

Board member Baker stated that there is no issue with the applicant having a deck. The access stairs permit access to the deck and waterfront. The location of the deck as presented afford some opportunity to design some type of access that would not need a variance. He stated that the Board is charged with created the minimum that would make possible a reasonable use of the land, building or structure.

Mr. Miller responded to Mr. Sash's earlier comments stating that he is tired of looking at boats that are stored.

Board member Carlton made a motion to table the applicant's request until next month when he could return with options for the relocation of stairs and reduce the variance. No support given. Board member Carlton withdrew the motion.

Board member Baker made a motion to deny the request by James Miller, 9916 King Road, Davisburg, MI 48350 to construct a deck resulting in a side setback of

ten (10) feet rather than the fifteen (15) feet required per Section 25 of Springfield Township Zoning Ordinance No. 26 due to the fact that the variance is not the minimum that would make possible the reasonable use of the land, building or structure. Supported by Board member Whitley. Voted yes: Wendt, Whitley and Baker. Voted no: Carlton. Absent: Vallad. Motion approved.

2. *Request from Nicolette Heister, 1210 Washington Blvd., Birmingham, MI 48009 for the following variances to construct a home:*
 - a. *Allow a porch resulting in a front yard setback of forty-two (42) feet rather than the fifty (50) feet required per Section 25 of Springfield Township Zoning Ordinance No. 26.*
 - b. *Allow a deck resulting in a setback from Waumegah Lake of thirty-eight (38) feet rather than the fifty (50) feet required per Section 18.11.6(d) of Springfield Township Zoning Ordinance No. 26.*

The property that is the subject of the request is located at 8695 Ellis Road in Springfield Township and is zoned R-1 One Family Residential. P.I. #07-12-427-022

Builder Andy Donato will appear on behalf of Ms. Heister. This variance is consistent with a previous variance that was granted in August 2009 and that was extended in August 2010. He stated that Nicolette Heister was married to Joe Heister. Joe Heister got into a sporting accident, got a brain aneurysm and died. They did not get a chance to get the house up when the original variance was granted.

Chairperson Wendt asked if he was asking for an extension of the existing variance.

Mr. Donato stated that he was told that he couldn't since the original variance had expired. He was told he had to start over, make application and pay the fee. He stated that he is going to build the home for Ms. Heister.

Board member Baker stated that if it is in within their power to grant a one-year extension, he is amenable to that.

Board member Whitley stated that he understood that the construction has to commence within the year and they cannot extend something that has already expired. The Board can grant another variance with the same one year limitation for construction to commence. He stated if this same Board concluded that this was an acceptable variance, he would be troubled if the same Board found that it was not acceptable when the only thing that had changed was the calendar.

Board member Carlton concurred and stated that the Board was provided with drawings showing the setbacks. He stated that the request was for a 42 foot setback variance and the drawing shows 45.9 feet. The lake side was noticed at 38 feet, but shows 39.3 feet. He asked for clarification.

Chairperson Wendt stated that the amount of difference is not significant.

Board member Whitley asked if both the front porch setback and the deck setback were addressed in the original variance.

Chairperson Wendt stated that in the memo that they received, it says that the applicant is asking for a variance identical to the one that was originally granted.

Mr. Donato stated that it has always been the front and back decks.

Supervisor Walls stated that in both instances, the published request for variance is for more than the prints actually call for.

Mr. Donato stated that the most recent plans submitted were drawn up by a residential architect and the house was somewhat smaller than the original plans that the commercial architect had drawn up.

Mr. Donato approached the Board and verified that the actual setbacks on the recent prints were correct.

Supervisor Walls stated that this time, the actual house plans were submitted to Kieft Engineering and an engineered drawing was provided to the Board.

Board member Whitley made a motion to approve the request from Nicolette Heister, 1210 Washington Blvd., Birmingham, MI 48009 to allow the following construction at 8695 Ellis Road: a porch resulting in a front yard setback of forty-two (42) feet rather than the fifty (50) feet required per Section 25 of Springfield Township Ordinance No. 26 and a deck resulting in a setback from Waumegah Lake of thirty-eight (38) feet rather than the fifty (50) fee required per Section 18.11.6(d) of Springfield Township Zoning Ordinance No. 26. This is based on conditions being the same as previously presented to the Zoning Board of Appeals which at the time the same variances were granted and the reasons being the same as when the variances were previously granted. This is based upon the practical difficulty of the narrowness of the lot between the road right of way and the water creating the practical difficulty of placing a house within the allowable building envelope and the structure as proposed is reasonably minimal in depth in the North-South dimension. Supported by Board member Carlton. Voted yes: all. Voted no: none. Absent: Vallad. Motion approved.

3. *Request from Paul Raymer, 10829 Bigelow Road, Davisburg, 48350 to allow the construction of a pole barn resulting in a total accessory area of 490 square feet greater than the total allowable amount of 1444 square feet per section 16.14 of the Zoning Ordinance No. 26.*
The property that is the subject of this request is located at 10829 Bigelow Road, Davisburg in Springfield Township and is zoned R2, one family residential.
P.I.#07-10-351-013.

Paul Raymer, 10829 Bigelow Road, appeared on behalf of his case. He stated that he is proposing to build a pole barn.

Chairperson Wendt asked if there was something peculiar about this property that creates a hardship that the applicant needs an additional 490 feet of storage area.

Mr. Raymer stated that he tried to obtain property from Mr. McClorey who appeared before the Board to split up his property. He was not able to do so. He stated that he has 3 easements running the length of his property. He stated that the size of his lot is creating the issue. He stated that he does have pictures of other pole barns in the area that are the same size. He stated that he currently has a two car garage and he is an electrical contractor and his van will not fit in the garage. He has a utility trailer and a boom lift which he needs to store.

Chairperson Wendt reiterated was there something peculiar about the property that creates a hardship that prevents his use of the property which would require the Board to entertain granting another 490 square feet of accessory space.

Mr. Raymer stated that he wanted to build the pole barn to this size to accommodate his occupation and the other items.

Board member Carlton stated that the amount of accessory building allowed related to the property size. He understands the need, but does not think because the property is too small, that is not reason enough for the variance.

Mr. Raymer asked what the original intent of the Ordinance was.

Chairperson Wendt stated that it comes from the Planning Commission, outside Planning consultants and the Township Board. He stated that the Board cannot create nonconforming property by law. He stated that Mr. Raymer is asking them to do it so he can store things.

Board member Baker stated that the concept of the variance is the idea that there is some limitation on the property that is not within the applicant's capability of managing, such as wetlands. For example, the house would have to be constructed to the side to avoid this wetland area. This would create a need for a side yard setback variance. If the construction of the house met all other requirements, the variance would be acceptable, because there are natural features which limit the property. He stated that Mr. Raymer still has 950 square feet of accessory structure that he can use, provided he still takes down the 10' X 10' Shed as shown on the original plan and application. He stated that Mr. Raymer can build a 30' X 30' shed without a variance. These are conditions that the applicant controls, this is not a condition of the property.

Mr. Raymer asked if he still had 950 square feet available.

Board member Whitley stated that this figure would be 958 square feet.

Board members clarified that this would be 950 square feet with removing the 10'X10' shed that is present now. They also verified that this new structure would have to be within the allowable property setbacks.

Board member Carlton made a motion to deny the request from Paul Raymer, 10829 Bigelow Road, Davisburg, 48350 to allow the construction of a pole barn resulting in a total accessory area of 490 square feet greater than the total allowable amount of 1444 square feet per section 16.14 of the Zoning Ordinance No. 26. This is denied on the basis that there is reasonable use of the land and no special conditions exist that are peculiar to the property that would allow this variance. Supported by Board member Whitley. Voted yes: all. Voted no: none. Absent: Vallad. Motion approved.

Board member Carlton stated that he has enjoyed his time on the Board of Appeals, but he wants to step down and he would like the Board to start looking for and considering a replacement. He stated that he is ready to step down, but he is in no hurry.

ADJOURNMENT:

Board member Whitley moved to adjourn the meeting at 8:43 pm, supported by Board member Carlton. Voted yes: all. Voted no: none. Absent: Vallad. Motion approved.

Erin Mattice, Recording Secretary