

**Springfield Township
Zoning Board of Appeals Meeting
Minutes of March 17, 2005**

Call to Order: Chairperson Wendt called the March 17, 2005 Regular Meeting of the Springfield Township Zoning Board of Appeals to order at 8:00 p.m. at the Springfield Township Civic Center, 12000 Davisburg Rd., Davisburg, MI 48350.

Attendance:

Board Members Present

Skip Wendt
Jim Carlton
Dean Baker

Board Members Absent

Collin Walls
Frank Aiello

Staff Present

Leon Genre

Approval of Agenda:

- **Board Member Baker moved to approve the agenda as published. Board Member Carlton supported the motion. Vote on the motion. Yes: Wendt, Carlton and Baker; No: none; Absent: Walls and Aiello. The motion carried by a 3 to 0 vote.**

Approval of Minutes: February 17, 2005

- **Board Member Carlton moved to approve the Minutes of February 17, 2005 as presented. Board Member Baker supported the motion. Vote on the motion. Yes: Wendt, Carlton and Baker; No: none; Absent: Walls and Aiello. The motion carried by a 3 to 0 vote.**
- **Board Member Carlton moved to amend the ZBA Minutes of January 20, 2005 – Sidwell for Frederick Vigelius on minutes as 07-26-228-011 should be 07-26-251-045. Public Notice was correct – error on agenda. Board Member Baker supported the motion. Vote on the motion. Yes: Wendt, Carlton and Baker; No: none; Absent: Walls and Aiello. The motion carried by a 3 to 0 vote.**

Old Business: None

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New Business:

1. Daniel B. Meyers, 11270 Bigelow, Davisburg, MI. Parcel I.D. 07-09-226-011. Property located at same.

The applicant is requesting an access strip of nine hundred fifteen (915) feet to five (5) plus acre parcels per Section 16.20 of Ordinance 26.

Mr. Meyers is present in regard to this request.

Mr. Meyers said, by the lay of the land on this property, they have no alternative but to seek a variance to split the property, which boils down to a 255 foot variance over the 660 feet that the Township allows to get to the back piece of property.

Chairperson Wendt said, according to Section 16.20, technically the applicant does not meet the requirements. There is a reasonable solution to this, and it revolves around not allowing that access strip to go beyond 660 feet and then running off at an angle that creates a width of 120 feet and then balancing the property from there to make sure the acreage meets Section 16.20 of the Township Ordinance.

Mr. Marc Diegel, 11113 Rattalee Lake Rd., said his property joins the applicants property through an easement. He said the way the easement is on the road, he has a serious drainage issue and the water coming off the golf course cannot make it over to the easement because it was built up. Mr. Diegel said there would have to be some drainage work done if there is a road there that will not be even 90 feet from his home and a major buffer of trees would have to be placed there. Chairperson Wendt explained that we are only talking about a single-family unit parcel on five acres. Mrs. Diegel said she was under the impression 28 homes would be going in. Chairperson Wendt said that would be impossible.

- **Board Member Carlton moved to deny the request at Parcel 07-09-226-011 because Section 16.20 has not been met because there are no wetlands or topography that would prevent a normal division and also, alternatives exist that would require no variance. Board Member Baker supported the motion. Vote on the motion. Yes: Carlton and Baker; No: Wendt; Absent: Walls and Aiello. The motion failed.**

Chairperson Wendt explained that if Board Member Carlton had intention of altering the request to minimize the variance, per our discussion, that motion could be made in lieu of what was published because it would minimize the request and be more in conformance with the ordinance. He asked Board Member Carlton if that is what he was seeking? He further explained that the 915 feet is not acceptable under Section 16.20 but the 660 feet is and the angle to create the width to depth ratio is feasible. Mr. Genre explained that, whether or not the applicant can make the 660 or less, it would still be here for appeal because the only way that the

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applicant could get this property, even with any access strip, is through the Zoning Board of Appeals.

Board Member Carlton withdrew his previous motion.

- **Board Member Carlton moved to approve the request at 07-09-226-011, Daniel Meyers, to allow an access strip of 660 feet maximum on five acres because the applicant meets the requirements of Section 16.20, in particular, it is a five acre lot, there are more than two similar configured lots within 2000 feet, the access strip is 20 feet wide and the applicant must meet the minimum width to depth ratio, and that we have land balancing so that the give and take winds up with parcels that meet Township ordinance in regard to acreage. Board Member Baker supported the motion. Vote on the motion. Yes: Wendt, Carlton and Baker; No: none; Absent: Walls and Aiello. The motion carried by a 3 to 0 vote.**

2. Matthew J. Krupa, 9190 Andersonville Rd., Clarkston, MI. Parcel I.D. 07-35-276-008. Property located at same.

The applicant is requesting an access strip of five hundred sixty-three (563) feet to a five (5) acre parcel per Section 16.20 of Ordinance 26 next to the above property.

Mr. Krupa is present in regard to this request.

Chairperson Wendt said, based on everything he has researched and viewed, the applicant does not meet the requirements for Section 16.20. Mr. Krupa said, due to the large pond, he believed he does meet the requirements. The pond would leave the property inaccessible by any other means. Chairperson Wendt said, he does not see that.

Board Member Carlton said the applicant cannot put a road on the east side and the applicant already has an existing house so there are not many alternatives. Chairperson Wendt asked what is the reason for creating the access strip? Mr. Krupa said he is interested in creating the second parcel for a building site. He has researched the soil and is aware that an engineered septic would be required. Mr. Genre asked when the pond was dug? Mr. Krupa said he does not know. Mr. Genre said he did not find any other flag lots in the vicinity within 2000 feet except for perhaps two, but there are some on the next street.

Mr. William Kidwell, 9200 Andersonville Rd., commented that he is concerned that all the driveways will be bunched together. There would be snow problems and he is mainly concerned with the wetlands and the water table is extremely shallow. He is also concerned with the septic system and feels the removal of the trees and the natural buffer is not in anyone's best interest. Chairperson Wendt said, in regard to the septic for the proposed parcel, that would be under the jurisdiction of the Oakland County Health Department, and if it does not meet the criteria, it would not happen.

- **Board Member Carlton moved to approve the parcel at 07-35-276-008 to allow an access strip of 563 feet because it meets the provisions of Section 16.20 including**

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the five acre minimum lot, wetlands prevent the normal split and there are more than two lots of similar configuration within the 2000 feet road frontage. Board Member Baker supported the motion. Vote on the motion. Yes: Wendt, Carlton and Baker; No: none; Absent: Walls and Aiello. The motion carried by a 3 to 0 vote.

3. Patrick Kelly, 5918 Long Point, Davisburg, MI. Property located at 6014 Long Point, Davisburg, MI. Parcel I.D. 07-28-251-019

The applicant is requesting a setback of thirty-six (36) feet rather than the required fifty (50) feet from the ordinary high water mark per Section 16.17 of Ordinance 26 in order to build a deck at the above location.

Mr. Kelly is present in regard to this request.

Chairperson Wendt explained that he has done a lot of research on this and he knows what the condition of the existing property was prior to the applicant filing for a building permit. He does know, to a certain extent, what the difficulties are and were in regards to topography and what could be built on this property. Chairperson Wendt said it is unfortunate that, at this stage, we have a home that is built and a rear setback is a point of contention because it does not meet the setback from the ordinary high water mark of 50 feet. He does not think there needs to be blame placed on any one individual. However, if you look at the drawings that were submitted to the Township Building Department, along with the drawings that were received by the Zoning Board of Appeals, it is a logical sequence by reviewing these drawings that says that you have two doorwalls that open up to open air unless there is something to support it.

Chairperson Wendt explained that the adjacent property to the north has a front line setback from the lake that is less than the existing property. The home that Mr. Kelly has constructed is within the 50 feet. The home next to it is 10 feet short of that and has a deck that extends out into that 50 foot boundary and he does not believe there is anything on record that shows there was a building permit pulled to construct that deck. Chairperson Wendt said that home has been redone and the deck placed on that home within the 30-year period that he has lived on the lake. He has been a member of the ZBA since 1978. While he has been a member of this Board, it never came before the Board to allow a variance. The applicant, Mr. Kelly, is in a “catch-22” situation. He has applied for a building permit that was allowed based on his drawing that shows the 50-foot setback from the lake and in the process, the building permit was issued and it did not respond to the fact that this is a two-story structure that has two sliding doorwalls in the upper level that go nowhere unless there is some type of structure in front of them.

Chairperson Wendt said Mr. Genre should have the building department review any future drawings for building permits to ensure that, if there is a second floor to a building that falls within that 50 foot limit from a lakefront, the building department tells the applicant they cannot have a second floor access that will exceed the 50 foot limit and that the front wall meets the

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statute. Chairperson Wendt said, we need to recognize what is before us and be fair to the applicant because of unintentional situation that has been created that he does not believe was intentional on the applicants' part nor does he believe it was intentional on the Building Department's part. We must reach a mutual ground that would allow access from the second floor that is good for the safety of the homeowner and is in harmony with the neighborhood and is aesthetically conducive to the structure.

Chairperson Wendt said the drawing submitted to the ZBA by Mr. Kelly shows a deck and does not give any strict configuration. He cannot look at this and say that the black outline that runs from the front wall of the building to the lakefront means anything other than the maximum distance from the house is 14 feet and anything in between is nebulous. Mr. Kelly said he did not put a true design in for the deck. Chairperson Wendt said he knows the area and the situation the applicant is in but asked the applicant if he could live with 12 feet instead of 14 feet? Mr. Kelly said, "yes he could." He pointed out that the cantilevers for the doorwalls come out two feet and that is why he asked for 14 feet because he will lose two feet.

Chairperson Wendt noted that he is a neighbor but he does not have a conflict of interest in this property. He does not think it was the intent of the builder to deceive Springfield Township in order to contrive to get a deck on the back side of the property.

Board Member Baker said he agrees with that statement. He believes this property was developed in conjunction with all of the processes placed by the Township and all permits were pulled and all inspections were allowed. Board Member Baker said the house cannot be left to exist like this and he prefers to do something even though we are cutting into the 50 foot requirement.

Chairperson Wendt said he has an aversion to creating non-conforming properties and thinks this property gives some latitude to take care of the responsibilities.

- **Trustee Baker moved to approve a 36 foot rear yard setback from the ordinary high water mark at parcel I.D. 07-28-251-019 for the construction of a deck not to exceed a 14 foot distance from the main structure of the home. Board Member Carlton supported the motion.**

Mr. Genre noted that the cantilever is allowed into the rear yard setback by 3 feet and asked if the Board is saying that the 14 feet is the total width of the walking surface of the deck or is it to the foundation of the deck? Chairperson Wendt, said it is the total walking area. Mr. Genre said on the north side, the home fairly close to the property line and asked how close to the corner of the building or can he go to the corner of the building with this deck because right now the Board is giving him a 36 foot rear yard setback and the deck could end up being at the one end about 19 feet because the setback line is off. Board Member Baker said the intent is a limitation of 14 feet on the walking surface.

Chairperson Wendt said we don't have the engineered drawings that accompany the building permit but he would suggest that the deck does not have anymore than two feet in length to the north of the opening of the north sliding doorwall and that it does not exceed two foot to the

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south of the south doorwall. Mr. Kelly said on the south, if the stairs go down on that point, they will be intersecting a window from the lower level walkout. Chairperson Wendt told the applicant he did not give anything definitive from a dimensional standpoint so if there are no constraints placed on it, he thinks the best way to amend the motion or add to it is that the southern boundary of the deck does not exceed the minimum to allow the stairway to access grade and that the Building Department be the determining factor. Mr. Kelly said he would submit a detailed plan to show that. Chairperson Wendt asked that full engineered drawings be submitted to the Building Department that will meet Township Ordinance as far as height of railings or anything else that regulates the construction of a deck or accessory structure attached to a building that makes it safe and in harmony with the Township ordinance. Mr. Kelly said there is a bay there and windows on each side of the bay and a doorwall in the middle. He would like to start where the angle of the bay goes out at the intersection. Chairperson Wendt said, that is fine but it must be congruent with the point of that angle from that bay.

Trustee Baker amended his motion to include that the north boundary and southern boundary of the deck does not exceed the minimum to allow the stairway to access grade and that the Building Department be the determining factor. Mr. Kelly said he would submit a detailed plan to show that. Chairperson Wendt asked that full engineered drawings be submitted to the Building Department that will meet Township Ordinance as far as height of railings or anything else that regulates the construction of a deck or accessory structure attached to a building that makes it safe and in harmony with the Township ordinance. Board Member Carlton supported the amended motion. Vote on the amended motion. Yes: Wendt, Carlton and Baker; No: none; Absent: Walls and Aiello. The motion carried by a 3 to 0 vote.

Adjournment:

Hearing no other Business, Chairperson Wendt adjourned the meeting at 8:51 p.m.

Susan Weaver, Recording Secretary