

SPRINGFIELD TOWNSHIP  
ZONING BOARD OF APPEALS  
April 20, 2016

Call to Order: Chairperson Wendt called the April 20, 2016 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:       Denny Vallad  
                             Skip Wendt  
                             Bill Whitley

Absent:                 Dean Baker  
                             Virginia Fischbach

PUBLIC COMMENT:       None

AGENDA:

**Board member Whitley moved to proceed with the agenda as presented. Supported by Board member Vallad. Voted yes: Vallad, Wendt, Whitley. Voted no: None. Absent: Baker, Fischbach. Motion approved.**

CONSENT:               Minutes of the March 16, 2016 meeting

**Board member Whitley moved to APPROVE the minutes of March 16, 2016 meeting as presented. Supported by Board member Vallad. Voted yes: Vallad, Wendt, Whitley. Voted no: None. Absent: Baker, Fischbach. Motion approved.**

OLD BUSINESS:

1.       (Tabled from March 16, 2016) Request from Greg Szemyak, 7225 Ormond, Davisburg 48350 for a variance to construct an accessory structure resulting in a sixty (60) foot front setback rather than the seventy five (75) feet required and a side yard setback of eleven (11) feet rather than the twenty five (25) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-572 and resulting in a total accessory area of 1296 square feet instead of the 1192 square feet allowed per Springfield Township Code of Ordinances, Chapter 40, Section 40-649.

The property that is the subject of the request is located at 7225 Ormond Road at the in Springfield Township and is zoned R-1A One Family Residential. P.I.#07-19-201-003

Mr. Szemyak introduced himself to the Board. He stated that the "City" told him that the side setback is 15 feet. He stated that the allowable accessory square footage for his parcel is 1192. He stated that the two car attached garage would be 576 square feet but the previous owners built a bathroom inside of the garage which takes up 64 square feet. He is really only asking for 40 square feet of overage.

Chairperson Wendt stated that the published overage amount was a little over 100.

Mr. Szemyak stated that the attached garage is not 576 square feet of storage, but it is actually less by 64 square feet which is taken up by the bathroom.

Chairperson Wendt asked Mr. Szemyak if he had a drawing.

Mr. Szemyak answered no.

Commissioner Whitley stated there were questions posed for the applicant at the previous meeting. One of the first questions is the actual size of the existing garage and the petitioner has touched on that; the Township records show 576 square feet and the petitioner is saying that it is 512 square feet. Another Board member asked why the petitioner is not using the asphalted area for the new structure.

Mr. Szemyak responded that this is all parking space. He does not want to build a garage on his driveway.

Commissioner Whitley stated that it is a space that is available to put a building on it and make the proposed structure compliant or more compliant.

Mr. Szemyak stated that once he gets to this flat area, he starts to then encroach on the septic. He has setbacks with that too that he has to abide by. He stated that this is his driveway space and he has a boat and RV there. If he puts a building there, now he has to come up with somewhere to put a driveway.

Commissioner Whitley stated that a driveway could be moved elsewhere which would not end up being non-compliant with setback requirements.

Mr. Szemyak stated that then he takes away his only space to put items which need to be stored on the side or behind the house.

Commissioner Whitley stated that the applicant may need to make a choice. There is space available on that lot to place a new structure which would be compliant or less non-compliant than what the variance is being asked for.

Mr. Szemyak stated that he wants to put the bay doors on the long side of the building so if he was to move it back and it is next to the house, he cannot access that building now. It doesn't improve the side setback, it only helps the front setback. He had originally planned on putting the pole barn in the back corner that would not work.

Chairperson Wendt asked if the applicant did not have boats and RVs, would he still need this space.

Mr. Szemyak answered that he would still keep it. He would not build in this site because it would not make sense.

Chairperson Wendt asked if he were to take the items and store them at a storage facility, it would preclude and not require what the applicant is asking for.

Mr. Szemyak answered that this is why he is trying to build the structure. He just moved here and he has another vehicle and an RV in storage that he wants to put in this building. As he looks around, he sees a lot of other accessory buildings that are a lot closer to the lot line than he is asking.

Chairperson Wendt stated that the applicant could be looking at preexisting nonconforming property and this is not something that the Board can use as a standard to work with him on this case. The ordinances over the last 40 years have changed.

Board member Vallad commented that one of the questions in the application is what alternatives have been considered and locating the proposed building where the asphalt square is could be seen as an alternative.

Mr. Szemyak asked what he should do then because even if he puts it there, he will only meet the 75 foot front setback.

Chairperson Wendt stated anything that the applicant can do to minimize the variance request would be helpful. He stated that by law the Board is charged with not creating non-conforming property but also working with people that have properties that have difficulties brought about by topography or natural features.

Mr. Szemyak stated that his backyard is nothing but a hill.

Chairperson Wendt stated that there is still the possibility of putting it where they discussed which would limit the variance request.

Mr. Szemyak asked what would happen if he shortened his building to help make the setback.

Chairperson Wendt stated that he could table this request and ask the Board to look at new information.

Supervisor Walls stated that if the Board is willing to table the item, the applicant can call his office and make an appointment with him. He will sit down with Mr. Szemyak and review his options.

Mr. Szemyak concurred.

**Board member Whitley moved to table the request from Mr. Szemyak for the presentation of alternative proposals to the next available Zoning Board of Appeals meeting. Supported by Board member Vallad. Voted yes: Vallad, Wendt, Whitley. Voted no: None. Absent: Baker, Fischbach. Motion approved.**

Board member Whitley stated that he will be looking for a building location that does not require variances. There is a place on the property to put a building the size that the applicant wants without variances.

#### NEW BUSINESS:

1. Request from Kenneth Longe, 7785 Somerhill Lane, Clarkston, 48348 for a variance to construct a septic system sixty (60) feet from the ordinary high-water mark of a body of water rather than the one hundred (100) 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 9885 Kings Valley in Springfield Township and is zoned RM Residential Multiple. P.I. #07-14-302-033.

Mr. Longe introduced himself to the Board. He stated that if the request doesn't pass, there is no way to build on the property.

Board member Vallad stated that it would be very difficult to build on this site and meet the ordinance and the condo document restrictions.

Mr. Longe stated that the tank is at 60 foot, 8 inches and the field is at 95 feet. There is no way to get the tank farther away. He has not purchased the property yet but is now doing his due diligence. The engineering was done by Kieft Engineering who has done most of the lots in this neighborhood. He stated that they are going with an Elgen system which is more efficient.

Chairperson Wendt stated that he read the Oakland County Health Department permit language and he has an issue with the word "routine" included in the Deed Restrictions. He asked if routine maintenance means annually. He is looking for an absolute and the word routine does not provide that.

Mr. Longe stated that the system has a pumping station with filters that need to be changed.

Chairperson Wendt stated that the word routine has to be qualified. He asked if the manufacturer of the system says it has a minimum time that it can operate before the maintenance has to be performed. He asked if there should be a calendar time put on it so it has a finite maintenance date.

Mr. Longe stated that there is a control panel that is monitored and tells the property owner when to change the filters. It is a much safer system with a pre-treatment.

Board member Whitley asked what assurances are there so that if the monitor light goes on, the maintenance does get done.

Mr. Longe suggested that the system might shut down but he does not know for sure.

Board member Whitley asked if there was a central monitoring system that maintains this system offsite through a call in system and will alert the central monitoring system if there is a fault and force the provider to come out and service the system.

Mr. Longe stated that this system is serviced by the homeowner.

Chairperson Wendt stated that the responsibility falls on the homeowner.

Board member Whitley stated that when they have heard presentations regarding other higher level septic systems, there are other systems that call home if needed. This is why he was asking if this option was part of this system.

Chairperson Wendt concurred.

Board member Vallad asked how big the proposed home is.

Mr. Longe replied 3000 square feet, not counting the basement, three bedrooms.

Chairperson Wendt read a letter received from Jo Althoff, 9874 Kings Valley opposing the variance request.

Laurie Brooks, 9772 Kings Valley, commented that she is opposed to the variance request because the homes within the neighborhood have had septic issues.

Billy Williams, 9837 Kings Valley, commented that he has concerns about the septic system leaking because it would have an effect on the surrounding wildlife.

Jason Rousell, 9915 Kings Valley, commented that he opposes the variance because it is too close to the pond.

Chairperson Wendt stated that his main concern is who will be called when something goes wrong.

Mr. Longe replied that if it is going to take a monitored system that is what he will do.

Chairperson Wendt stated that there needs to be some language that shows the means to control the engineered system.

Mr. Longe asked if the Board could include the monitoring system requirement in their motion that is what he will comply with. He suggested that he couldn't get the Certificate of Occupancy without a monitored system.

Board member Whitley asked what Mr. Longe knows about the septic systems that are in homes in the adjacent lots.

Mr. Longe stated that he is familiar with them. They are typical because there is room on the property.

Board member Whitley asked why Mr. Longe cannot connect to the community sewer system.

Mr. Longe replied that there are only a couple of properties on this community system and it is east of where he is. He stated that there are problems with it too.

Mr. Rousell offered that the property across the street from this lot is on the community system.

Board member Whitley confirmed that there is a home within 150 feet that is connected to the community system.

Mr. Longe replied that they would not allow him to put it on the system.

Board member Vallad stated that this unit was not part of the original units that were to be connected to the community sewer system.

Board member Whitley stated that there was a document in the Board packets that came directly from the By-Laws which says additional units if needed may be added to the community sewer system. There does appear to be a provision for additional units to be added to the system whether or not they were included at the original time of construction.

Board member Vallad stated that the original plan was approved with certain units being tied into the system. It would have to go back through Township approval to be considered.

Board member Whitley stated that he understands that it was engineered for x number of units and if it needs to be engineered for more, this becomes the responsibility of the association to make that happen if it is a requirement.

Board member Vallad confirmed the elevation of the tank and the water level. He stated that the way that this has been placed is appropriate for the site. The part of the system that is closest to the water is the tank and it is concrete. The biggest portion of this system

is almost 100 feet from the water and 16 feet above it. This lot is going to require a variance somewhere if it is going to be built on.

Chairperson Wendt concurred. This type of system from an efficiency standpoint runs at about a factor of 10:1 versus what they would typically accept from a septic system.

Board member Whitley stated that his concern is that because there is a significant elevation difference between the tank and the field, failure of a lift pump would be a large concern.

Board member Vallad suggested having off site monitoring a condition of approval.

Board member Whitley stated that a failure of a lift pump would be raw sewage as opposed to failure of the field. Also, it is significantly closer to the water.

Chairperson Wendt stated that they are looking for a guarantee on how the septic is going to function and who is going to take care of it.

Board member Whitley stated that it is important to him that all alternatives have been explored and if there is an ability to tie into a community system within 150 feet, it should be explored and explained and it hasn't been. From an environmental safety standpoint, this would be important to him.

Mr. Longe replied that it is a broken system and if he has to pay \$20,000 to tap into a broken system, then he won't buy the property and the unit won't get built on.

Mr. Williams stated that if the Board makes the decision for the petitioner to go ahead with a monitored system, then the Board is saying that all of the residents are liable for something if that monitoring never happens. The residents are going to have to fund the clean-up of the pond. They are pushing the responsibility on the homeowners.

Chairperson Wendt stated that he has no idea how Mr. Williams came to that conclusion through this discussion.

Mr. Williams asked who was going to pay for clean-up of the pond if it fails.

Chairperson Wendt stated that they are going beyond what the Board is charged with tonight.

**Board member Whitley moved that the request for the variance to locate a septic system less than 100 feet from the existing water level be denied because there are other alternatives that have not been explored and presented to the Board. Supported by Board member Vallad. Voted yes: Vallad, Whitley. Voted no: Wendt. Absent: Baker, Fischbach. Motion failed.**

Chairperson Wendt recommended that the item be tabled until they have a full Board to get final resolution.

**Board member Whitley moved that as a result of the previous vote, this issue be tabled until such time as there are more Board members present and the Board can attain a majority of the full Board on this issue. Supported by Board member Vallad. Voted yes: Vallad, Wendt, Whitley. Voted no: None. Absent: Baker, Fischbach. Motion approved.**

Mr. Rousell stated that there seems to be some concern regarding the current property owner and his ability to sell the property. There have been attempts made by interested parties to contact the owner and purchase the property and not build on it.

2. Request from Brandon Scheib, 8659 Kier Road, Clarkston, 48348 for the following variances to allow an accessory structure to remain on a parcel resulting in:
  - a. A total accessory structure square footage of 3,422 square feet instead of the 3,178 square feet allowed per Springfield Township Code of Ordinances, Chapter 40, Section 40-649.
  - b. A side yard setback of seventeen (17) feet rather than the twenty five (25) feet per Springfield Township Code of Ordinances, Chapter 40, Section 40-572.
  - c. An accessory building with a side entrance with a seventeen (17) feet side yard setback instead of the thirty (30) feet as measured from the entrance of said accessory building to the side yard property line as per Springfield Township Code of Ordinances, Chapter 40, Section 40-649.

The property that is the subject of the request is located at 8659 Kier Road in Springfield Township and is zoned R1A One Family Residential. P.I. #U-07-01-126-005.

Mr. Brandon Scheib introduced himself to the Board.

Board member Vallad stated that Mr. Scheib has done a substantial amount of electrical work in his home as a potential conflict of interest. He believes that he can judge this case fairly but it is up to the Board.

Chairperson Wendt and Board member Whitley agreed that there is no conflict and Board member Vallad should participate.

Mr. Scheib stated that his two neighbors wrote letters giving their support to the barn in question. The reason that it is positioned as it is because there is a wetlands area in the rear of the property.

Chairperson Wendt asked the petitioner if he considers running a business out of a residential area normal.



Mr. Scheib responded that they do not really run a business out of the building, it is more for storage and recreation. There are some materials in there from time to time but the business is run out of his home.

Chairperson Wendt stated that in looking at the photographs, this is an ongoing business especially for a service industry.

Board member Whitley concurred.

Mr. Scheib replied that he only has one employee.

Chairperson Wendt stated that the petitioner has a building that is in violation and he is running a business out of a residential area.

Board member Whitley stated that the pictures show warehouse storage, not incidental storage.

Chairperson Wendt stated that he sees no justification when visiting the property that the petitioner could not have had a building that meets the requirements.

Mr. Scheib replied that there was an existing accessory building there. Originally he was going to replace the roof. He had to replace the truss package and it was cheaper if he purchased more trusses so he added to the structure.

Chairperson Wendt asked why he did not get a building permit.

Mr. Scheib replied that he should have, but he got started and it snowballed on him.

Chairperson Wendt stated that the petitioner went ahead and reconstructed something without permit that the Township was notified about and now he is asking the Board to approve something that is flagrant.

Mr. Scheib apologized to the Board. He made a mistake.

Board member Whitley asked if the petitioner was in the building trades and he deals with permits all of the time and he just ignored the building permit process.

Mr. Scheib replied correct.

**Board member Whitley moved that the variance requested for side yard setback and total accessory square footage be denied as a result of the building being constructed without pulling permits, flagrant disregard for Township ordinances and because there appeared to be other alternatives on the property for constructing a building that would have been in compliance. Supported by Board member Wendt. Voted yes: Wendt, Whitley. Voted no: Vallad. Absent: Baker, Fischbach. Motion failed.**

**Board member Whitley moved that the subject request be tabled until the next meeting when there can be opportunity for a majority of the full Board to decide. Supported by Board member Vallad. Voted yes: Vallad, Wendt, Whitley. Voted no: None. Absent: Baker, Fischbach. Motion approved.**

3. Request from Charles Koehler, 10744 King Road, Davisburg, 48350 to allow a lot split to be approved resulting in one parcel being .654 acres instead of the 1.0 acre required per Springfield Township Code of Ordinances, Chapter 40, Section 40-572 and Springfield Township Code of Ordinances, Section 40-156.

The property that is the subject of the request is located at 10744 King Road in Springfield Township and is zoned R2 One Family Residential. P.I. #U-07-10-326-019.

Mr. Charles Koehler introduced himself to the Board. He reviewed the application materials that he provided to the Board and confirmed that the Board members received this information in his packet. He summarized the answers given to the application questions. He stated that he has owned the property for 53 years. He pursued the split because he had inquiries from people about purchasing the corner lot. He hired a surveyor and the survey split the property giving the new parcel the 1 acre with him having the balance of the property that contains his existing home. He stated that the Township denied the lot split request because each parcel was not going to be 1 acre and that is a requirement in this zoning district. He stated that the house sits back 175 feet and there is another 130 feet behind it. When you look at the Supervisor's Plot Plan #10, his parcel A is as large or larger than 90% of those lots in the Supervisor's Plot and his parcel A will have 120 foot of frontage and most of those lots have 100 foot or less. He stated that his children will be selling the parcel when he passes on. The size of parcel A would allow someone to double or triple the size of the house and still conform to all setbacks.

Board members confirmed the measurements and dimensions on the survey provided.

Board member Vallad stated that Mr. Koehler always thought he had 1.9 acres; this still isn't 2 acres and he wondered when it slipped to 1.65 acres because that is actually what it is.

Chairperson Wendt stated that there are dimensional mistakes on Grant Ward's drawing.

Board member Whitley stated that he does not think it is a mistake, it is more of a case of a dimension missing. The width of Parcel A.

Supervisor Walls stated that 44.67 feet runs from point of beginning to the square and the 75.77 which is the cord from the monument to the north point are the combined totals for the frontage.

Mr. Koehler stated that he was not aware that he had to have an acre left over after the split.

Board members confirmed the numbers on the survey.

Board member Vallad stated that there is property that could be purchased on Bigelow Road to create a parcel that is 2 acres and then split into 1 acre each. It appears as if there is 103 feet currently on Bigelow Road. He suggested this as an alternative that would not be nonconforming.

Chairperson Wendt read an email from William Ormsby, neighbor, that voiced opposition to the proposed split because it is in violation of the ordinance.

Mr. Koehler understands the issue he brings up but Mr. Ormsby has less frontage with his property.

Board member Vallad stated that Supervisors Plat #10 precedes all zoning in the Township. The petitioner is asking the Board to create a nonconforming parcel which they cannot do if there is an alternative. Supervisor Plat #10 has nothing to do with this request. They cannot create nonconformities without a very good reason.

Chairperson Wendt stated that the rules have been changed over time. The Board cannot create a nonconforming situation and this is what the petitioner is asking them to do. The petitioner has not shown any hardship; there must be something abnormal about the property.

Board member Whitley stated that the petitioner is comparing parcel A to Supervisors Plat #10 and according to today's standards, Supervisor's Plat #10 would never be created.

Mr. Koehler pointed out the irregular shape of the lot. He understands about getting additional property but the lady behind him has 20 acres and it is doubtful that she wants to part with it.

Board member Vallad stated that they do not have this information.

Mr. Mitch Grusnick, in support of Mr. Koehler, stated that the hardship and unusual condition is its shape. It is a very long property with well beyond the usual frontage. The unusual condition is the lot being so narrow in depth. The end result will create two homes on two lots that will exceed the average two lots in any other part of this community. It is not going to change the character of the subdivision.

Chairperson Wendt stated that the petitioner has no problems now, it meets the ordinance. They are asking the Board to create a nonconforming situation. There is no hardship involved.

Board member Vallad stated that the minimum required is 1 acre per parcel and there isn't enough land to go around to create that second parcel. He stated that it doesn't matter if it is irregularly shaped, there still isn't enough land there to create two parcels. The hardship doesn't exist because it would not exist in any 1.65 acre parcel.

**Board member Whitley moved to deny the request to allow a lot split resulting in a parcel less than one acre be denied for the reason that there is no particular hardship with the current property in question. Seconded by Board member Vallad. Voted yes: Vallad, Wendt, Whitley. Voted no: None. Absent: Baker, Fischbach. Motion approved.**

ADJOURNMENT:

**Board member Whitley moved to ADJOURN the meeting at 9:05 pm. Seconded by Board member Vallad. Voted yes: Vallad, Wendt, Whitley. Voted no: None. Absent: Baker, Fischbach. Motion approved.**

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Erin Mattice, Recording Secretary