

SPRINGFIELD TOWNSHIP
ZONING BOARD OF APPEALS
May 18, 2016

Call to Order: Chairperson Wendt called the May 18, 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: Dean Baker
 Virginia Fischbach
 Denny Vallad
 Skip Wendt
 Bill Whitley

Absent:

PUBLIC COMMENT: None

AGENDA:

Board members agreed to move forward with agenda as presented.

CONSENT: Minutes of the April 20, 2016 meeting

Board member Vallad moved to APPROVE the minutes of April 20, 2016 meeting as presented. Supported by Board member Whitley. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

OLD BUSINESS:

1. (Tabled from April 20, 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 1,296 square feet instead of the 1,192 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 in Springfield Township and is zoned R-1A One Family Residential. P.I.#07-19-201-003

Mr. Szemyak provided a revised drawing to the Board members that reduced his need for a variance to only a 4 foot side yard variance needed; the garage setback will be at 21 feet instead of the 25 feet required. He reduced the square footage of the garage so he is below his maximum allowable and he also moved the garage back so that he no longer needs a front setback variance. With the new plan, he is able to retain the existing asphalt pad.

Board member Vallad stated that this takes care of what he found objectionable at the last meeting. It appears that the petitioner still has 20 feet between the house and the garage.

Mr. Szemyak stated that this area between the house and garage is 19 feet. He stated that he needs this small area so that he can access his driveways adequately.

Board member Whitley concurred with Board member Vallad. He confirmed that the square footage was reduced because there is a bathroom in the existing garage.

Mr. Szemyak concurred.

Board member Whitley moved that the request for a 21 foot side setback instead of the 25 feet required is approved as requested. Supported by Board member Fischbach. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

2. (Tabled from April 20, 2016) 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.

Mr. Brandon Scheib introduced himself to the Board. He provided an aerial photo to the Board members. He stated that he went to the Building Department and they confirmed that the accessory square footage allowable for his property is 3,204 square feet, not the 3,178 square feet that was given. He stated that the square footage of the building is given as 3,422 square feet and is actually 3,386 square feet, a difference of 62 square feet making him 180 square feet over the allowable.

Chairperson Wendt asked if the applicant was still maintaining that the accessory building isn't being used as an ongoing business.

Mr. Scheib stated that he attended the Planning Commission meeting last night and he meets all of the criteria for a home occupation.

Board member Baker stated that Mr. Scheib did attend the Planning Commission meeting on May 17th and the question that was asked was what is the definition of a home occupation. Without the benefit of all of the documents and photos, an answer was offered that talked about the use of an accessory structure relevant to a home occupation and its ability to have a vehicle parked in there and the ability to have a business vehicle that leaves the property. They did not get into a discussion about the specificity of warehousing of materials which is more so of taking place. The use of this facility as depicted in the pictures provided in this case would probably give them cause to review as to whether that situation does in fact comply with the current home occupation ordinance or the revised one. He stated that he would not want the conversation that happened at the Planning Commission to be a definitive approval of that situation.

Board member Vallad stated that it is in the interpretation of the home occupation ordinance defining uses. There is no clear definition of uses in the ordinance. It is his opinion that warehousing of materials that are used away from the home occupation does not constitute a business use that is required to be in the main structure. That is not clear in the ordinance and is subject to interpretation.

Board member Baker added that this interpretation is not part of this variance request. He asked the applicant where he got the updated information regarding the square footage of the structure.

Mr. Scheib replied Kieft Engineering.

Board member Vallad asked about the aerial photo provided tonight. The request is for 17 feet on the side variance instead of 30 feet and when he visited the property, it does not appear to be 17 feet.

Mr. Scheib replied that it is 17 feet from the overhang; it is 19 feet from the building to the property line.

Board member Baker asked Mr. Scheib about acquiring more property and he asked if this was to relieve the side setback issue or the overage in accessory square footage issue.

Mr. Scheib replied both. He outlined the property that he would have to purchase to alleviate the variance requests. He would be purchasing swamp land that is useless to anybody.

Board member Baker confirmed that if the applicant was to acquire the outlined area in the photo, he would meet all setback requirements.

Mr. Scheib agreed.

Board member Fischbach asked if there was a reason that the applicant did not build the structure further into the lot.

Mr. Scheib replied that he had to turn it on an angle because of the wetlands.

Board member Vallad stated that even if the building was the right size, it would still require angling.

Board member Fischbach clarified that she was talking about the usable land between the house and the garage.

Mr. Scheib pointed out the existing barn that he added on to.

Board member Fischbach asked why he didn't angle it towards Kier Road.

Mr. Scheib replied that this was a possibility, it was strictly visual.

Board member Whitley asked where they stand on acquiring more property.

Mr. Scheib replied that he did not want to jump into that. He wanted to know what the Board was going to do about his variance requests. He clarified that by acquiring property, he would eliminate the need for any variances.

Board member Vallad stated that they are talking less than 200 square feet and he does not find this objectionable on a large parcel like this.

Board member Fischbach stated that she does not approve of the position of the barn. If he would have received the proper permits, they could have stopped it and it could have gone towards the road. She has a bigger issue with the side setback than the overage in square footage.

Board member Whitley stated that his issue is with the process by which they got here. It is discomfoting that they have all of these variances; by themselves they seem minor but they are the result of the process that was followed. He stated that not pulling permits and not following the correct process can result in someone getting what they want; this does not seem right.

Chairperson Wendt agreed. He stated that what they are doing is creating nonconforming property in an area that could be conforming and by statute, they cannot do that.

Board member Whitley moved to deny the variance request because there has been no hardship demonstrated and there were alternatives available to the applicant to have avoided the need for the requested variances. In addition, the Building Department should delay enforcement for 90 days to allow the applicant to reach a resolution for both the square footage issue relative to accessory use and the side yard setback issue. Supported by Board member Fischbach. Voted yes: Baker,

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

3. (Tabled from April 20, 2016) 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 also introduced Dave Wardin, Kieft Engineering.

Mr. Wardin stated that he provide a letter and drawing for the Board. He stated that the borings and proposed positioning of the well on that property and on neighboring properties confirm that the proposed location is the only location that is available for a septic system on this lot. They were not allowed to put a traditional system on this lot, they had to go a pretreatment system and they choose the Elgen System because it is the only system that in Oakland County they specify a 38% credit in size. The reason they do it with the Elgen system is because it is a passive system and does not require operational maintenance. It has been used for 30 years in the northeast.

Mr. Wardin stated that Kieft Engineering originally designed this development in 1998. The low area behind this lot was designed as a retention system and was designed to hold two consecutive 100 years storms plus 1 foot of free board. There is 7 foot of available fluctuation. They used the two 100 year storms plus 1 foot of free board and established an easement line. That easement line carries through on all properties in Hills of Kingston that were designed in a similar manner. It was never their intent that there be a high water mark on a retention basin such as this because there is such wild variability in the water elevation and should not be compared to a standard shoreline. It is a designed retention system.

Board member Whitley asked if you don't know what the high water mark is, how do you design or confirm the calculations for the capacity if you don't know where you are starting from?

Mr. Wardin stated that it is based on the existing elevation at the time and that it why it is based on two consecutive 100 year storms plus 1 foot of free board. The existing water elevation at the time this site was developed was 45.6 so they based all of their elevations and design on that.

Board member Whitley stated that they would still have to have some data regarding the impact of those two consecutive 100 years storms plus 1 foot of free board.

Mr. Wardin replied that this was the existing water surface at the time the development was designed.

Board member Whitley stated that his point is that they seem to be determining a high water mark based on the day some person walked down with a GPS and figured out what the water level was. This is why he asked how the data is determined; it is not clear what constitutes a data line for something like this.

Mr. Wardin replied that historically, this is what the MDEQ and Drain Commission have used. This is accepted practice.

Board member Fischbach asked if that is consistent now.

Mr. Wardin replied that it is lower than what is shown on the drawing now based on observation.

Board members confirmed that the high water mark is a moving target.

Mr. Wardin stated that the topography was surveyed in 1998 and the line is based on the existing topography in 1998.

Board member Whitley stated that they are being asked to grant a variance based on something that could be much more significant based on the change in water level.

Board member Vallad asked about the storm in August 2014, was that a 100 year storm.

Mr. Wardin replied he did not know. Theoretically they say it is a 1% chance. He stated that the ordinance says 50 foot from the ordinary high water mark and he is asking the question, with a retention basin design, is there actually a high water mark?

Board members confirmed that there is no absolute.

Mr. Wardin stated that this is why they put the easement line on the drawings. This was a legally approved lot with legally approved setbacks that they are staying within.

Board member Fischbach asked about the availability of the community septic.

Mr. Wardin stated that site #31 is tied into the community septic which is across the road. He provided history regarding this tie in. He stated that there was another lot in the development that did perk that was in the community septic system. He stated that they amended the development documents to allow #31 to tie into the system. This community system is not available to any other lots because there are no other lots that can come off the community septic. There would have to be a tradeoff. This has nothing to do with the Hills of Kingston Community sewer system being in distress.

Billy Williams, 9837 Kings Valley, stated that there are other retention ponds and he doesn't recall other variances that came up when those lots were built upon. He asked why they would allow a variance here. He stated that he is a concerned party. The level of the pond fluctuates based on snow and rain.

Jason Rousell, neighbor, asked if the ordinary high water mark was based on 1998 measurements or current measurements.

Mr. Wardin replied that he does not have an ordinary high water mark. There is a line on the drawing that was designed in 1998 to hold two 100 year storms and an additional 1 foot of free board above the existing water level.

Mr. Rousell asked if he would agree that the water was higher today than it was in 1998.

Mr. Wardin replied at this point in time, yes. It is a retention pond and the water will always fluctuate. He stated that they are basing the variance on acceptable engineering practices by all regulatory agencies in the design of a retention basin.

Board member Fischbach confirmed that there are two lines on the drawing, one for 1998 and one for today. If they were basing this on 1998 levels, they would not even be here.

Ms. Mary Beth Saylo expressed her opposition to the variance request.

Chairperson Wendt stated that the reason that this board exists is to try and solve problems relative to properties that have natural hardships that prevent them from meeting the existing ordinances.

Mr. Wardin stated that the Oakland County Health Department established a 50 foot isolation distance from a septic system to any well and this plan conforms to that. This 50 foot isolation is for standard systems and they are proposing a pretreated system.

Chairperson Wendt stated that Board members had concerns at the last meeting regarding the required maintenance on the system.

Mr. Wardin reiterated that this is a passive system and does not require operation and maintenance other than any other standard system in Oakland County.

Chairperson Wendt asked how do they know if the system fails and who would monitor it.

Mr. Wardin replied that someone would have a problem in the house or out on the ground; it is the same for any other standard septic system in Oakland County. There is nothing unique about this. There is a 500 gallon pump station but there is no operation and maintenance.

Board member Vallad stated that there is an indication in the home.

Mr. Wardin confirmed that there is an alarm system within the home. If the alarm is ignored, there are going to be issues in the house.

Board member Fischbach confirmed that the field is different from a standard.

Mr. Wardin concurred.

Board member Baker confirmed receipt of a letter from the President of the Hills of Kingston.

Board members confirmed and acknowledged that they all received the letter which is the same letter that they received last month in regard to this request.

Ms. Wendy Martin, Caldwell Banker, stated that she is here representing the buyers. She provided information regarding the Elgen septic system. She stated that the applicant has already applied for and received the permit from Oakland County Health Department.

Board member Vallad stated that the document provided by Mr. Wardin clearly shows the amount of work that was put into this plan and without a variance, this is an unbuildable lot.

Board member Fischbach stated that she is worried about how much higher the water may get because that is unknown.

Board member Vallad stated that it is 100 feet to the field and that is where the issues are going to occur.

Board member Vallad moved to approve the request for variances for parcel ID #07-14-302-033, 9885 Kings Valley Drive, Lot #33 as requested as applicant has demonstrated these are minimum variances required to make this a buildable lot and has demonstrated a high quality septic system and design that makes the variance one that should be accepted. Supported by Chairperson Wendt. Voted yes: Baker, Vallad, Wendt. Voted no: Fischbach, Whitley. Absent: None. Motion approved.

Supervisor Walls confirmed that both Old Business and New Business items were being approved.

Board member Vallad confirmed yes.

NEW BUSINESS:

1. Request from Kenneth Longe, 7785 Somerhill Lane, Clarkston, 48348 for a variance to construct a house forty three point six (43.6) feet from the ordinary high-water mark of a body of water 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 9885 Kings Valley in Springfield Township and is zoned RM Residential Multiple. P.I. #07-14-302-033.
(Approved through Old Business #3 motion)

2. Request from Harold McGraw, 27836 Lenox Avenue, Madison Heights, 48071 to approve the following variances to construct a home:
 - a. Resulting in a distance from the septic system to the ordinary high-water mark of Dixie Lake of sixty (60) feet rather than the one hundred (100) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-639.
 - b. Resulting in a front yard setback of seven (7) feet rather than the fifty (50) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-572.
 - c. Resulting in a side yard setback of ten (10) feet and seven (7) feet rather than the fifteen (15) feet each required per Springfield Township Code of Ordinances, Chapter 40, Section 40-572.

The property that is the subject of the request is located at 8700 Shore Drive in Springfield Township and is zoned R-3 One Family Residential. P.I.#07-10-402-047.

Mr. Harold McGraw introduced himself to the Board. He stated that his zoning permit expired so he needs an extension. They decided that they wanted to move the garage away from the house instead of being attached.

Chairperson Wendt asked what the hardship is in building it as it was approved the last time.

Mr. McGraw replied that the garage is going to cover up the upstairs bedroom window. It is the only bedroom window that they have on that side. Also, the only access to the house will be through the garage and the door on the corner of the house. It would be nicer if they had access from either side of the garage to the back instead of going all of the way around the house. Initially when Powell drew this up, he attached it to the house and he filed before Mr. McGraw had a chance to look at it. He would like to move the garage away from the house, that way the upstairs would have a window and the downstairs bathroom would have a window.

Chairperson Wendt asked when they first designed the home, something as obvious as this wasn't addressed? He asked why it has taken so long.

Mr. McGraw replied that they have been talking to their builder and have looked at different options. This seems to be the best way to move the garage away from the house.

Chairperson Wendt stated that they do not have exact drawings of the house.

Mr. McGraw stated that Mr. Powell submitted the drawings because he was trying to get to an early meeting. He put the garage on. Afterwards, they started discussing it and decided to look at the options. It would be better to get away from the house 10 feet.

Board member Whitley stated that he has questions on some of the dimensions. He asked if the house location had changed.

Mr. McGraw answered no.

Board member Whitley stated that the garage is now 10 feet further to the west. It is 2 feet deeper than the old plan, so that would move the west wall of the garage 12 feet to the west. However, the dimension to the lot line only went down by 5 feet. It went from 12 feet to 7 feet. He does not see that it adds up. In comparing the old approved drawing, it appears that the septic field is 8 feet farther away from the water.

Mr. McGraw replied that it didn't change.

Board member Baker stated that the depth of the garage isn't the same.

Mr. McGraw replied that they wanted it larger for storage and for his classic cars.

Mrs. McGraw introduced herself to the Board. She stated that the field is 93 feet from the water. When Mr. Powell originally drew the 85 feet, it wasn't an exact measurement, but since then it has been measured because he knew that Oakland County already accepted 50 feet from the water. It is actually 93 feet from the water.

Board member Whitley stated that he is asking about dimensions that are different from the old drawing to the new drawing. There was over 15 feet of movement and they only see 5 feet of variance. The garage is 10 feet further to the west, it is 2 feet deeper east to west and hasn't moved the appropriate amount on the drawing.

Chairperson Wendt stated that the drawings don't match.

Mr. McGraw stated that they moved the garage and made it the size they wanted.

Chairperson Wendt indicated that there was more than that involved. He stated that the Board doesn't have adequate data to even act on this data.

Mr. McGraw stated that they should leave it attached to the house like they originally asked for and then get the extension they were asking for.

Chairperson Wendt stated that now they have conflict between a drawing that was approved and a drawing that is presented for the variance request. His suggestion is to table this item to allow the applicant to give them real data.

Mrs. McGraw stated that the garage shown on the newest piece of paper has been measured exactly.

Supervisor Walls confirmed that the yellow copies are the expired permit copies.

Board member Fischbach added that the problem is the newest drawing is also a Powell Engineering drawing and it should have been measured and it should have been accurate. If the applicant is now saying the first one wasn't measured and this one is, the two drawings are so different, the Board doesn't know which one is accurate.

Mrs. McGraw approached the Board to view the documents.

Mr. McGraw suggested that they just get the extension and leave the garage attached.

Chairperson Wendt stated that the variance approval was originally approved 2 years ago and now they have just totally confused the situation because the drawings are not even close dimensionally.

Mrs. McGraw stated that only the garage changed.

Chairperson Wendt replied that the drawings do not match.

Board member Baker stated that one drawing says 60 feet to water and the other drawing says 69 feet to water. They are totally lost on where everything is all of a sudden.

Mr. McGraw stated that they have only gone through Powell Engineering.

Board member Vallad stated that they both say Powell Engineering but they are not the same.

Mr. McGraw stated that he understands what happened now. He asked if they could just go ahead and use the first Powell drawing and get the original variance.

Board member Vallad stated that they don't know if that drawing is accurate.

Mr. McGraw stated that nothing is different.

Board member Vallad reiterated that the applicant has given them a drawing that is different than what they approved.

Board member Whitley stated that given the discrepancies, he wonders what they actually approved.

Mr. McGraw stated that the very first drawing when Powell appeared on their behalf.

Board member Whitley stated that he understands what the applicant is asking, but the applicant also is saying nothing is different between the two drawings when in fact there are many differences.

Mr. McGraw stated that they made a mistake and they are doing the best they can.

Board member Fischbach asked if Powell made these changes for the applicant.

Mrs. McGraw answered that she moved the garage and she didn't do anything else.

Board member Vallad stated that now the measurements are all different and the Board does not know what they approved.

Mrs. McGraw indicated that the documents on yellow paper were done by Powell.

Board members agreed that they cannot give an extension on the original variance.

Mrs. McGraw stated that they wanted it re-approved but wanted to ask to move the garage.

Mr. McGraw stated that they thought if they only moved the garage that would not change the other variances. All of the other requests for the house and the septic were approved and if they took the garage off, that would not change that.

Board member Whitley reiterated that the original variance was approved for a year. It no longer exists.

Chairperson Wendt stated that to get a variance, they have to start all over again.

Mrs. McGraw asked if they could just have Powell send the Board a copy directly from him.

Chairperson Wendt stated that would not work for tonight.

Mrs. McGraw asked why.

Chairperson Wendt stated that there is a process and rules to follow. He doesn't know if they have the authority to grant the original variance request.

Supervisor Walls reiterated what was published for tonight's meeting. If the Board chose to grant the 60 feet variance for the septic, it is less than the 65 feet shown on the drawing so they would be okay.

Board member Fischbach asked why they would agree to 60 feet, if 65 feet is adequate.

Supervisor Walls answered he did not know. He stated that he does not see any revision dates on any of the drawings so they cannot tell.

Board member Vallad stated that he is not willing to approve anything because they don't know what is out there.

Supervisor Walls suggested tabling the item.

Chairperson Wendt suggested having a drawing done by a professional engineer that is signed and dated.

Board member Baker suggested that all submitted drawings have professional certification.

Board member Vallad moved to table the request from Harold McGraw to allow the applicant to provide information as to the true condition of the property and proposed locations of structures and sewage systems on the lot preferably with a drawing signed, sealed and dated by the engineer. Supported by Board member Baker. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

ADJOURNMENT:

Chairperson Wendt adjourned the meeting at 9:06 pm.

Erin Mattice, Recording Secretary