

SPRINGFIELD TOWNSHIP
ZONING BOARD OF APPEALS
August 3, 2011

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

In attendance: Skip Wendt, Chairman
 Dean Baker, Zoning Board Member
 Jim Carlton, Zoning Board Member
 Denny Vallad, Zoning Board Member

Absent: Bill Whitley, Zoning Board Member

CONSENT MOTION: Agenda.

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

PUBLIC COMMENT: None.

CONSENT MOTION: Minutes of the June 15, 2011 meeting.

Board member Carlton moved to approve the minutes of the June 15, 2011 meeting with the following amendments: Change page 5, paragraph 9 to read “has read” instead of “has not read”, have the minutes show that Board member Whitley chaired the meeting in Chairman Wendt’s absence, show Chairman Wendt as being present at the meeting after he arrived at 7:48 PM. Supported by Board member Baker. Voted yes: all. Voted no: none. Absent: Whitley. Motion approved.

NEW BUSINESS:

1. *Tabled from June 15, 2011 meeting: Request from Steven C. Reschak, 7501 Stonevalley Bluff, Clarkston, MI 48348 to allow the construction of an accessory building resulting in a total accessory floor area greater than the 1200 square feet allowed per section 16.14 of the Zoning Ordinance.*

The property that is the subject of this request is located at 7501 Stonevalley Bluff, Clarkston in Springfield Township and is zoned R1, one family residential. P.I. # 07-13-453-008.

Chairperson Wendt stated that the Board has received information from the Township Planner which indicate the background on Stonevalley Bluff and the Ordinance sections that govern this property. He asked Mr. Reschak if he received a copy of this analysis.

Mr. Reschak stated yes.

Chairperson Wendt stated that the Board also received a letter from attorney Stewart Cooney. He stated that the Carlisle Wortman document is well written and fills the voids that have been discussed during the last couple of months. He stated that Mr. Cooney takes exception to it. He stated that the Board members have had a chance to read about the history of Stonevalley Bluff.

Board member Baker stated that the matter was left at the last meeting with open questions, one of them being defining the accessory structure that currently exists at the site. Also, there was discussion if all of the attached garage structure and workshop were accessory structure. The Planner's opinion based on the Michigan Building Code is due to the fact that the workshop area does not have direct access to the house, it is accessory structure. He stated that it is important to determine how much current accessory structure there is at the site. Carlisle Wortman and the Zoning Board (as indicated in minutes) determined that amount to be 1,592 square feet of accessory structure. He stated that they would then compare it to ordinance section 16.14 to determine how much accessory structure is permitted at the site. He stated that they would first consider parcel size and the existing parcel is 0.8 acres. According to the ordinance, the parcel would be permitted to have 800 square feet plus one square foot for each 100 square feet of lot area. It comes out to 1,150 square feet that Carlisle Wortman proposes in their document. He stated that there is a comment raised about whether or not the parcel should be considered at 1.5 acres because of the original zoning associated with that property. He stated that ordinance 16.14 states, "Accessory building structures and uses, except as otherwise provided for in this ordinance, should be subject to the following." He found no other areas in the ordinance that supersede 16.14 management of the ordinance. The question regarding if the parcel is referencing 1.5 acres of lot size or 0.8 acres of lot size is cleared up in the definitions where it says a Zoning Lot is, "A tract or parcel of land which is designated by its owner or developer as a tract to be used, developed or built as a unit under single ownership or control. A Zoning Lot may or may not coincide with a Lot of Record. A Zoning Lot may include a parcel of land, a lot or outlot in a subdivision, a unit in a condominium development or any other similar method to describe an individual parcel, of real property." He stated that the idea that was brought forth in one of the correspondence that a parcel is not defined he disagrees with. He stated that he thinks it is defined clearly enough that this 0.8 acres of property is a parcel and as such, 16.14 states that the permitted square footage at that location is 1,150, it is currently 1,592. The applicant's request to add square footage at this site does not meet the requirement that says that the property somehow shows special circumstances exist that are peculiar to the land, structure or building involved. He stated that he does not find this to be the case and as a result, he does not support the variance request for any additional accessory square footage. He stated that he has no problem with the applicant building the pool as laid out in the additional design.

Supervisor Walls stated that it was implied in the memo by Carlisle Wortman that there were mistakes made when the original building permits were applied for and approved. He believes that the zoning ordinance has undergone many revisions and amendments and some of these amendments were related to accessory structure. He stated that these amendments were not investigated. It is possible that these original building permits were approved under different accessory structure language. He stated that it is not sufficient to warrant a variance, but we should not just say that the inspector at the time made a mistake.

Chairperson Wendt stated that some of these amendments had to do with second floor accessory structure.

Supervisor Walls stated that at the time, much larger structures were allowed and the second floor was counted as well.

Board member Vallad asked Mr. Reschak if he built the house, or if he purchased it.

Mr. Reschak stated he purchased it after it was built.

Board member Vallad stated that the original building permit listed the accessory structure at 1,165 square feet. He stated what is there today is 1,592 square feet.

Mr. Matisse, Summit Properties, provided a document to the Board which shows he went out and measured the current accessory structure on the property and the total amount he measured was 1,166 square feet.

Board member Vallad reiterated the original amount at 1,165 square feet on the original building permit. He stated that they discussed whether or not the workshop would be defined as accessory structure and the information from Carlisle Wortman as defined by Michigan Building Code indicates it is defined as accessory structure. He stated that the application on the other parcel, 7280 Stonevalley Bluff states that the acreage for this property is 4.5 acres and the total accessory structure was 1,766 square feet. This was on the application dated March 2006. He stated that the 4.5 acres would certainly constitute a larger accessory building.

Supervisor Walls stated that this lot is unique in that it contains land within the Bridge Valley plat and adjacent land. The adjacent land is subject to a conservation easement but both portions make up the “zoning lot.”

Mr. Matisse stated that Mr. Reschak’s property abuts the conservation land too. He asked if this is a point that could be taken into consideration.

Chairperson Wendt stated that the law makes it very clear how the Zoning Board makes their determination. He stated that he doesn’t feel like there is any justification for this additional accessory storage area to go with the pool.

Mr. Reschak presents pictures of the workshop area to the Board as a matter of record.

Chairperson Wendt asked if there is a fire wall separating the studio/workshop from the rest of the residential area. He asked if there is a separate entry way from the residence to the studio.

Mr. Reshak stated that to enter the house from the workshop you have to go through the garage.

Bill Dinnan, Springfield Township Building Inspector, stated that the workshop is classified as accessory structure by Michigan Building Code. The only way to access that main residential structure from the workshop is through the garage; there is not a direct entry and there needs to be to classify it as living space and not accessory structure.

Chairperson Wendt stated that the property has been given more benefit for its size than what it should have if it had been a stand alone piece of property. Even at 1.5 acres, using the current ordinance, the lot is overbuilt regarding accessory structure. However, these are preexisting, nonconforming conditions. He stated that the property stands on its own; it has nothing to do with anything around it.

Board member Carlton stated that just because the property is in a cluster development, this does not make it unique. This has nothing to do with the features of the land.

Board member Vallad stated that cluster development was encouraged in the Township during the time of construction of Bridge Valley and it was used to conserve land and open space. If you took a large development consisting of 100 homes and you pushed these 100 homes into a corner so you could save all of the open space, you would then apply the rules to a parcel size. He stated that you need to go with the lot size, or buildable area, and not use the 1.5 acre amount. If it was 0.25 acres, you would base the accessory structure permitted based on the 0.25 acres, not the 1 acre of the average for the development because now you have more homes even closer together. It would make more sense to restrict accessory structures on the smaller lot. He stated he agrees with Board member Baker.

Mr. Reschak went through the points on Carlisle Wortman analysis to determine if any of these points that the Zoning Board must use to determine if a variance should be granted apply to his case.

Chairperson Wendt asked if Mr. Reschak if he knew all of the conditions that affected that property when he bought it.

Mr. Reschak stated no.

Chairperson Wendt stated that Mr. Reschak bought the piece open-minded and not paying any attention to any of the zoning or any other conditions that affect the property.

Mr. Reschak stated that he did not know he was going to be building a pool and pool house when he purchased the home.

Chairperson Wendt asked Mr. Reschak if he looked at the township ordinances regarding swimming pools or did he just arbitrarily think that he would buy it and then therefore be granted the right to put a pool in.

Mr. Reschak stated that he didn't know he was going want to put the pool in.

Mr. Matisse stated that Mr. Reschak knew that there was a variance process and if the pool did not fit into the allowable setbacks, he would be allowed to apply for a variance. He stated that the pool variance was granted; there was never any mention of the overage of accessory structure in the denial letter received.

Chairperson Wendt stated that it is the purchaser's obligation to find out what the restrictions were on the property before they purchased it.

Board member Vallad stated that they approved the building of the pool. He asked if the applicant was allowed to use a section, or part of the existing accessory square footage that he has now to house facilities to support the pool. For example, the applicant could use a section of the detached accessory building to be devoted to that use and support of the pool.

Board members had a discussion resulting in the decision that as long as the applicant does not increase the square footage of accessory structure that currently exists on the property, the applicant could use any part of current accessory structure to store items, construct facilities and accommodate the pool structure as long as applicable permitting was attained through the building department.

Chairperson Wendt stated that this goes back to the original pool variance. The applicant was given the boundary and setback variances conditioned on the fact that he stays within the applicable accessory area.

Mr. Matisse asked if the patio with the roof is considered accessory structure.

Board member Vallad stated yes.

Board member Baker asked if they have approved the swimming pool.

Board members concurred.

Board member Baker made a motion to deny the request for a variance for accessory square footage beyond that which is currently present at 7501 Stonevalley Bluff, Clarkston, MI based on the fact that the existing property currently exceeds the current ordinance for accessory structure square footage and special conditions

and circumstances do not exist which are peculiar to the land, structure or buildings involved which are not applicable to other land, structures and buildings in the same zoning district. Supported by Board member Vallad. Voted yes: all. Voted no: none. Absent: Whitley. Motion approved.

ADJOURNMENT:

Board member Baker moved to adjourn the meeting at 8:17 pm, supported by Board member Vallad. Voted yes: all. Voted no: none. Absent: Whitley. Motion approved.

Erin Mattice, Recording Secretary