

SPRINGFIELD TOWNSHIP
ZONING BOARD OF APPEALS
December 19, 2012

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

In attendance: Dean Baker, Zoning Board Member
 Virginia Fischbach, Zoning Board Member
 Denny Vallad, Zoning Board Member
 Bill Whitley, Zoning Board Member
 Skip Wendt, Chairperson

Absent: None

AGENDA:

Board member Whitley added “ #2 Establish Meeting Dates for 2013” and “#3 Election of Officers” to the agenda.

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

PUBLIC COMMENT: None

CONSENT MOTION: Minutes of the November 21, 2012 meeting.

Board member Whitley moved to approve the minutes of November 21, 2012 as presented. Supported by Board member Baker. Voted yes: Baker, Fischbach, Whitley. Voted no: None. Absent: None. Abstain: Vallad, Wendt. Motion approved.

NEW BUSINESS:

1. *Request from Steven and Polly Felix, 9152 Sherwood Drive, Davisburg, 48350 to allow applicant 3000 square feet of accessory structure which requires a variance in the total accessory area of 1782 square feet greater than the total allowable amount of 1218 square feet per Springfield Township Code of Ordinances, Chapter 40, Section 40-649 for combined parcels 07-10-251-012 and 07-10-251-013 and conditioned upon converting two (2) dwelling units on 9158 Sherwood to accessory structure.*

The properties that are the subject of this request are located at 9152 and 9158 Sherwood Drive, Davisburg in Springfield Township and are zoned R-3, one family residential. P.I. #07-10-251-012 and 07-10-251-013.

Stephen and Polly Felix introduced themselves to the Board.

Mr. Felix provided a document displaying signatures of neighbors surrounding the property which are in support of this variance. This document was copied and added to the record. Mr. Felix stated that this property has been a rental property for some time and since he needs storage for vehicles that he owns, he wants to convert the buildings on the property purchased to accessory to use for storage. They are asking to keep everything as is and combine the properties while retaining all buildings and trading one conformity for another.

Chairperson Wendt stated that the Ordinance does not allow multiple living structures on one piece of property. He stated that he had visited the property today and spoke to the applicant about dismantling the sewage system and capping the well as some assurance that it is not a multiple residential use. He also spoke to the applicant about leaving the preexisting nonconforming property as it is. A result of leaving the two parcels as is puts an additional tax burden on the applicant, but they would still get to use the property as is.

Mr. Felix answered that their primary concern was not the additional taxes; it was to create one unit out of it.

Chairperson Wendt stated that the conditions discussed tonight to allow them to do what they want to do is not in the applicant's best interest, but that is his opinion.

Mr. Felix referred to the Springfield Township Code of Ordinances definition of dwelling unit. He stated that it does not make reference to having a well and septic and he does not understand the reference to those utilities.

Chairperson Wendt stated that there is a degree of vague language in reference to a kitchen. For example, if a room isn't called a kitchen but contains a microwave, cube refrigerator and a hot plate, it could have some of the essential items that would be contained in a kitchen, but you could call it a sitting room. To make that kitchen function, you need running water, septic and electricity. He stated that it is vague.

Board member Vallad stated that he spoke with Supervisor Walls because he wondered how the property got to the point that it has two residences in the first place and he suggested that it has been that way since the sixties with a garage area converted to living space without a permit. He shares a concern not just for now but in the future if they ever decide to sell it and what may happen at that point. He asked if it was the applicant's desire to leave the recreational vehicle parked in the driveway as it is currently stored.

Mr. Felix answered yes; various neighbors have recreational vehicles parked in their driveways.

Board member Vallad stated that he agreed on the well and septic because continuing the septic there would continue the availability of a studio apartments.

Mrs. Felix stated that they are tired of renters and they will not rent it out. They are planning on staying there long term and will never rent it out.

Board member Whitley stated that he is not concerned about removing the well and septic because it is not unreasonable to think that they would want sanitary facilities in the out buildings and party house and the consequences of not having these available could be worse. They should do it appropriately and make it able to be used appropriately in the future. He does not see the gain in disabling the septic system but he is concerned about what could be put in to not allow this building to be used as a second residence, if not now, in the future.

Mrs. Felix stated that when they purchased the property they signed an affidavit with Freddie Mac which said that they would not rent it out.

Board member Whitley stated that they could have an instance where family and/or friends could move into a habitable structure and it could be done in a way that did not involve rent and when the mortgage is paid off, he is not sure that Freddie Mac has any hold any longer.

Board member Baker asked if there was a way to place some kind of covenant on the property. He does not agree with disconnecting the utilities but is concerned about how they register this limitation on this property in perpetuity.

Board member Whitley stated that the ordinance already says that if the properties are combined, they cannot have 2 residences on one piece of property and they are reinforcing what the ordinance already says.

Board member Baker stated that it is just the clarity of their proceedings tonight so that thirty years from now it is not misinterpreted.

Chairperson Wendt stated that if they take the property and combine it with the preexisting, non-conforming piece, they are increasing the nonconformity.

Board member Whitley stated that he does not think they are. There are already two habitable residences on one lot.

Chairperson Wendt stated that they would now have one piece of property with 3 inhabitable residences on it instead of two.

Board member Baker answered that he thought they were accessory structures and he thought that was the genesis of this variance.

Board member Whitley stated that if this is approved, they would be deeming them accessory structures.

Mr. Felix stated that he would be violating the ordinance if he used the two buildings as residences.

Board member Whitley stated that he thinks they are reducing nonconformance.

Chairperson Wendt stated that he is not looking at it that way.

Board member Whitley stated that if the variance was to be granted they would have on record that two of these structures would not be used as residences; only one building out of the three is to be used as a residence structure.

Chairperson Wendt asked who would enforce it.

Board member Whitley answered the same people that are not enforcing it now. He stated that it is no worse and they are not increasing the non-conformity. They have the opportunity to put in the record that multiple structures are there and it is deemed not acceptable to use more than one as a residential structure. He stated that the enforcement issue doesn't change from what it is today.

Board member Fischbach stated that the new nonconformance is much more palatable than the old. It is more palatable to have excess accessory structure than to have two residences on one lot.

Board member Whitley stated that every issue must stand alone. Many cases that are brought in which people are asking for excess accessory structure square footage beyond what the ordinance allows to get stuff out of site. The buildings are already there; they are not allowing more to be built.

Chairperson Wendt stated that his concern is qualifying the property and all of the buildings on it as a single residence property. He does not know how to enforce it; they could make it part of the motion.

Mr. Felix asked if there was something they could sign they would be willing to do that.

Board member Whitley stated that they could place deed restrictions on the property and it is already stipulated in the ordinance.

Chairperson Wendt suggested that they make a motion to allow the applicant's request subject to a recorded deed restriction that only allows one residential use on the property and that the combination could not take place until that restriction is recorded with the County Clerk.

Board members concurred and agreed with that stipulation.

Board member Vallad stated that the other discussion would be what would constitute an accessory structure and if any additional changes are deemed necessary for those two homes to insure that those two structures are indeed accessory structures. This should be part of the motion.

Chairperson Wendt stated that they could use the removal of kitchen facilities.

Board member Vallad stated that something should be in the motion to deem it only accessory structure.

Board member Whitley stated that the ordinance does not prevent someone having an accessory structure next to a pool, for example, with plumbing facilities in it and these owners or subsequent owners are going to be using an accessory building as a party house. The ordinance does not say that you cannot have plumbing in a party or pool house. They need to address if that they cannot use it as a dwelling.

Chairperson Wendt stated that there was no way to enforce this.

Mr. Felix stated that he is okay with taking the kitchen out.

Chairperson Wendt stated that they can put all kinds of stipulations on the buildings but there is no way to enforce it or satisfy the motion. He agreed that there should be some language to satisfy the legalities, but they have to be enforceable.

Board member Baker asked if the role of the Board was to determine how the ordinance impacts property owners in the community and how to effectively balance this language against certain realities that exist. Does it stop there or does it go on and say that they have to facilitate the role of enforcement. If someone was putting in a kitchen in an accessory building today, the Board would have no way of knowing. He thought that for the scope of this event, they need to make a declaration on the applicant's request and whether they will trade one non-conformance for another and it would end there.

Board members concurred that deed restrictions would protect future owners and their usage of the property.

Board member Vallad asked if the variance is granted to increase the accessory square footage allowance, what happens if one or more of these buildings is removed and replaced. He asked if they are allowed the continuing allowance of all of the square footage of accessory structure.

Chairperson Wendt stated that if they have a preexisting nonconforming property and you do not change the footprint you are generally allowed to rebuild.

Board member Whitley asked if someone wanted to put a larger boathouse down by the lake; this would create more nonconformity. He asked what would happen then and these would be issues for the property in the future.

Board member Vallad stated that if there was any modification to the footprint, they would have to come back to the Board of Appeals.

Board members concurred.

Board member Whitley moved that the variance be approved as requested with the stipulation that a deed restriction be placed on the property and recorded through the Oakland County Register of Deeds that limits the use of the combined property to no more than one dwelling unit be used on that property and that the combination will be conditioned upon verification that all property taxes are confirmed to be current prior to the combining of the two parcels into a single parcel. Seconded by

Board member Baker. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

2. *Meeting Dates for 2013*

Board member Whitley moved to schedule the 2013 Zoning Board meeting dates on third Wednesday of each month at 7:30 PM. Seconded by Board member Fischbach. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

3. *Election of Officers*

Board member Whitley moved to appoint Skip Wendt as Chairman of the Zoning Board of Appeals for 2013. Seconded by Board member Vallad. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

Board member Baker moved to appoint Board member Whitley as Vice Chairman of the Zoning Board of Appeals for 2013. Seconded by Board member Fischbach. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

ADJOURNMENT:

Board member Vallad moved to adjourn the meeting at 8:13 pm. Supported by Board member Baker. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

Erin Mattice, Recording Secretary