

SPRINGFIELD TOWNSHIP
ZONING BOARD OF APPEALS
June 20, 2012

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

In attendance: Denny Vallad, Zoning Board Member
 Virginia Fischbach, Zoning Board Member
 Skip Wendt, Chairperson

Absent: Dean Baker, Zoning Board Member
 Bill Whitley, Zoning Board Member

PUBLIC COMMENT: None

AGENDA:

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

CONSENT MOTION: Minutes of the April 18, 2012 meeting.

Board member Vallad moved to approve the minutes of April 18, 2012 as presented. Supported by Board member Fischbach. Voted yes: Fischbach, Vallad. Voted no: none. Abstain: Wendt. Absent: Baker, Whitley. Motion approved.

NEW BUSINESS:

1. *Request from Above Board Construction, 10520 Enterprise Drive, Daviisburg 48350 to allow the property at 9158 Dixie Highway, Clarkston, MI 48346 to be occupied for six (6) months as a single family residence instead of OS-Office Service as it is currently zoned in accordance with Springfield Township Code of Ordinances, Chapter 40, Section 40-931(b) (3).*

The property that is the subject of this request is located at 9158 Dixie Highway, Clarkston in Springfield Township and is zoned OS, Office Service. P.I.#07-14-476-026.

Jim Scharl, Kieft Engineering, introduced himself and Eric Kindsvater, Engineer for Above Board Construction, to the Board members. He stated that the property was purchased by the applicant and had recently been rezoned to OS instead of residential. He stated when he sat down and tried to develop a site plan for Above Board Contruction several issues came up; the first being trying to comply with mandates in the Dixie Highway Overlay District. He stated when you look at the size of the property and what

the applicant would like to do, it because problematic. The applicant would like to build a garage to house equipment that needs to be kept in a climate controlled environment. Other issues are parking and time is needed to develop a site plan; they are aware that they will also have to obtain variances for the site. He stated that the applicant wanted to use the house on the site as a residence while undergoing site plan development for the business, but found that they couldn't do that because it had been vacant for over 6 months and was no longer allowed to be occupied as a residence because it is zoned OS. He stated that their request is to use the home on the site as a residence; they have an employee who is planning on moving in. He stated that he drives a truck with Above Board written on it and perhaps he might want to park a trailer also.

Mr. Kindsvater explained that the most that he would want to park there would be a truck and a trailer.

Mr. Scharl stated that he is not operating a home business; he will be using the home on the property as a home. He stated that the owner of the business has recently undergone heart surgery and needs some time to recuperate. He stated that there are many things that need to be done to this house to convert it to a viable business. The items that are going to be issues in site plan development are property size, setbacks, drainage, and access to Dixie Highway via the Road Commission and the conformance to the Dixie Highway Overlay District that will probably need variances to achieve a new site plan.

Chairperson Wendt clarified that they are not talking about the additional variances currently.

Mr. Scarl stated that they have a piece of property that they would like to be able to use.

Chairperson Wendt asked why the six month time frame was chosen.

Mr. Scharl answered that this was something that Collin and he had come up with.

Chairperson Wendt asked if it was realistic.

Mr. Scharl stated that at the end of six months, after evaluation and consideration of the costs involved, they may request rezoning back to the single family. He stated that this site might work for a one-man CPA office, but this applicant requires the garage built and a parking lot and they need to figure out if it can be done on this site.

Chairperson Wendt asked if the applicant needed to put up a building in addition to the residence.

Mr. Scharl answered that they are not asking to do that right now and he knows that this would require site plan approval.

Board member Vallad asked if the intent was to operate an office of the business out of that property.

Mr. Scharl answered that this was not the intent and then he deferred to Mr. Kindsvater.

Mr. Kindsvater replied that they would like to do this in the short term while they are doing the site plan review.

Board member Vallad asked if ultimately someone was going to man an office for the business during the day or during business hours. He asked if this was approved and Mr. Scharl comes up with an approved plan and they get their variances for the site; what is the intent for the building.

Mr. Kindsvater replied that then they would use the building for an office.

Board member Vallad stated that they are describing more C-1 zoning than OS and if they are not going to maintain an office on the site, there may not be a point. The reason that this property was rezoned was it was a request from the homeowner with the understanding that it was for a small office and that is what the property could support.

Mr. Kindvater stated that they only have 3 people in the company, a couple of trucks and a trailer. He stated that the owner would like to be able to use it because right now they are leasing another building too.

Board member Vallad asked if the owner was aware of the zoning when he purchased the property.

Mr. Kindvater stated that the way it was presented to them by Century 21 last year was that the property could be used as planned. He stated that he talked to the former Supervisor last year and was told that it was residential slash Office Service and it was presented that they could live there and work there. He spoke to Mike Trout, described his needs and Mr. Trout was supportive. He stated that a year went by because the original deal fell through and now they are told that the residential status no longer exists. He stated that they were misled by Century 21 and the former Supervisor.

Board member Vallad asked for some discussion among the Board. He stated that he doesn't have a problem reverting to the former status temporarily. He stated that he is concerned about the parking of equipment for an extended period of time and the coming and going of equipment. He stated that he doesn't know that 6 months is enough time. He stated that he is inclined to agree with the request and they cannot change the time because that is what was published. He asked if it could be a variance from Article 740-931 (b) (3) to amend the period of time to allow the preexisting, nonconforming use to continue past the 180 day time limit.

Supervisor Walls concurred. This is an ordinance provision subject to variance. The Board could extend the period of vacancy before they lose the nonconformity. Board member Vallad stated that this appears to be the legal way to do that.

Board member Fischbach asked if they could do this and then put a six month limit on it.

Board member Vallad stated that they cannot go beyond the 6 months.

Board members concurred that they would have to come back in 6 months and ask for an extension.

Chairperson Wendt stated that perhaps they could table it for a month and republish it for a year time limit.

Mr. Kindsvater stated that he would rather get the ball rolling now with the 6 months.

Board member Fischbach concurred and stated that there were other homes in the same neighborhood.

Board member Vallad moved the appeal request from Above Board Construction for property id #07-14-476-026 commonly known as 9158 Dixie Highway, Clarkston be approved as a variance to Chapter 40, Section 40-931(b)(3) extending the time requirement for the preexisting nonconforming retention as a residential piece of property as the residential implied use is less intense than the Office Service zoning that the piece of property now enjoys. Seconded by Board member Fischbach.

**Voted yes: Fischbach, Vallad, Wendt. Voted no: none. Absent: Baker, Whitley.
Motion approved.**

2. *Request from Amber Rowen, 8223 Tindall Road, Davisburg, 48350 to construct a fence in the front yard that is five (5) foot six (6) inches rather than the three (3) foot allowed per Springfield Township Code of Ordinances, Chapter 40, Section 40-781(2).*

The property that is the subject of this request is located at 8223 Tindall, Davisburg 48350 in Springfield Township and is zoned R3, One-Family Residential. P.I. #07-17-226-002.

Mr. Tim Rowen introduced himself and Amber Rowen to the Board. He stated that they needed to move the fence up 20 feet because the septic field is located there. He stated that the fence will be in line with the front of the house and if he moved the fence back so that it does not interfere with the septic field, he will effectively eliminate his side yard. He stated that the front of the existing house is in the setback and he is building off the side of the house. He stated that he has small children and he wanted to keep his children safe and away from the busy traffic on Tindall Road.

Chairperson Wendt asked why a 5'6" fence was a bigger deterrent than a 3' fence if the child is going to climb.

Mr. Rowen stated that they chose a smooth, lattice topped fence that is impossible to climb. He stated that this is why they did not pick a picket fence.

Board member Vallad asked what Mr. Rowen's intent was for fencing for the rest of the property.

Mr. Rowen approached the Board members and indicated where the other fence lines would be located on his property using the drawing provided.

Board member Vallad asked Mr. Rowen how he knew where the septic was located.

Mr. Rowen answered that Oakland County Health Department had no record of the septic for his property. He stated that you can tell where it is based on how the grass grows and the neighbors on the south side have lived next to his property for their entire lives and they knew exactly where his septic field was.

Chairperson Wendt asked about the opacity of the fence.

Mr. Rowen answered that the top 6 inches is a lattice and from the ground to 5 feet is a cedar stockade fence.

Chairperson Wendt asked how old Mr. Rowen's children are.

Mr. Rowen replied 23 months and 5 months.

Chairperson Wendt asked when the property was acquired.

Mr. Rowen replied December 2010.

Karen Pilopovich, Property ID #07-17-226-001, stated that her concern is that with a fence that high, they lose vision of Tindall Road and there is a gap between the properties and they would be willing to talk to the applicant about taking all of the vegetation out.

Board member Vallad verified that Ms. Pilopovich's concern is that her sight was going to be limited if the variance was granted.

Ms. Pilopovich stated that they are used to being able to see up and down the road but there is not a safety concern in pulling out onto the road.

Ms. Amber Rowen stated that they approached the Building Department to see if they needed a permit to build a fence and were told no, as long as it was not in the front yard. They assumed that they were putting it in the side yard and they began construction on the fence. She stated that Greg Kazmierski stopped by and told them that they were about 20 feet into the variance and they stopped the construction.

Mr. and Mrs. Rowen explained that they are planning on cutting the large posts down and they were waiting to hear about the variance before they do anything else with the fence. Ms. Rowen stated that they were also concerned about the safety of their dog.

Board member Vallad stated that as long as the fence was in line with the front setback of the current home. He stated that he did not have a problem with it because of the reasons stated by the applicant.

Board member Fischbach concurred and she noticed a neighbor a few houses down with a higher fence even closer to the road.

Board member Vallad moved to approve the request from Amber Rowen, parcel ID #07-17-226-002, 8223 Tindall Road, Davisburg to allow the applicant to construct a fence that is within the front yard setback requirement at a height of 5 foot 6 inches rather than the 3 feet allowed per Springfield Township Code of Ordinances, Chapter 40, Section 40-781 (2) finding that the fence location is in line with the established preexisting nonconforming setback of the home and actually encloses the side yard of the home. Seconded by Board member Fischbach. Voted yes: Fischbach, Vallad. Voted no: Wendt. Absent: Baker, Whitley. Motion failed.

Board members made a decision to table the item until next month to allow a full Board to hear the case.

ADJOURNMENT:

Board member Vallad moved to adjourn the meeting at 8:18 pm. Supported by Board member Fischbach. Voted yes: Fischbach, Vallad, Wendt. Voted no: none. Absent: Baker, Whitley. Motion approved.

Erin Mattice, Recording Secretary