

SPRINGFIELD TOWNSHIP
ZONING BOARD OF APPEALS
May 18, 2011

Meeting is called to order at 7:30 pm.

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

CONSENT MOTION: Agenda.

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

PUBLIC COMMENT: None.

CONSENT MOTION: Minutes of the December 15, 2010 meeting.

Board member Whitley moved to approve the minutes of the December 15, 2010 meeting as presented. Supported by Board member Carlton. Voted yes: all. Voted no: none. Motion approved.

NEW BUSINESS:

1. *Request from John Shell, 11291 Bigelow, Davisburg, 48350 to allow applicant to retain a ground sign that directs attention to a business or profession not conducted on the premises which is in violation of Section 16.07.2(a) of the Zoning Ordinance and to retain a ground sign resulting in a zero (0) foot setback from the road right-of-way, rather than the required fifteen (15) feet per Section 16.07.3.a(5) of the Zoning Ordinance.*

The property that is the subject of this request is located at 9304 Dixie Highway in Springfield Township and is zoned C-2, General Business. P.I. #07-14-430-035.

John Shell, 11291 Bigelow, Davisburg stated that he went to Code Enforcement Services to obtain a sign permit to place the sign. He stated that Sue Weaver suggested that he call Mike Trout because the sign was not within the setbacks of the Ordinance. Mike Trout asked him to put the sign on the property so he could see what it looked like.

Chairperson Wendt asked Mr. Shell if he knew prior to putting the sign up that there were restrictions that needed to be adhered to as far as the sign and its location.

Mr. Shell stated yes.

Chairperson Wendt reiterated that Mr. Shell knew what the setback was supposed to be, the size of the sign, but yet he placed the sign in a nonconforming position.

Mr. Shell stated that he followed the ordinance.

Chairperson Wendt stated that if Mr. Shell knew where the sign was supposed to be, but then put it in its current location, he did not follow the ordinance.

Mr. Shell stated that Mike Trout spoke to him and told him to set it up so that he could look at it; so he set it up at its current location.

Chairperson Wendt stated that it sounds as if he is saying that Mike Trout asked him to set it up so he could look at it from an appearance standpoint, but then he put it in a nonconforming place on the property. He asked Mr. Shell if he felt that he had Mike Trout's stamp of approval to let him leave the sign where it currently sits.

Mr. Shell stated no.

Board member Vallad asked Mr. Shell if there was water or electric in any of those buildings.

Mr. Shell stated they both had electric.

Board member Baker asked Mr. Shell if he entertained clients in the building.

Board member Carlton asked Mr. Shell if he had another location where he did most of the work. He complimented Mr. Shell on his stone work.

Mr. Shell stated that his other location was at his home. He stated that he does house tools at the property location and he does do some work there, for example cutting stone. He provided addresses and business locations of several businesses along Dixie Highway and the setbacks for their signs.

Chairperson Wendt stated that the properties that he mentioned are preexisting, nonconforming and they have no bearing on a sign that has just been put up and that creates a nonconformity.

Board member Carlton asked Mr. Shell if he had any plans for the buildings to make them into a shop location.

Mr. Shell stated that he has owned the property for some time and that the issue right now was financial.

Board member Carlton stated that he doesn't see that there is business conducted on the property. This is not the main location and it does not justify the sign being there.

Chairperson Wendt stated that if the sign was hung up attached to the white building using a bracket, it would be as visible as it is now. He stated that Mr. Shell went ahead and put a sign up without getting a permit which is in violation of the ordinance. He stated that this is not how it works.

Board member Baker stated that he is struggling with the issue of the ordinance obligation to require the sign to draw attention to a business that is conducted on the property. He stated that he is not saying the sign is not attractive or well made, but the issue is that he does not currently entertain clientele at the location. This location does not attract vehicular traffic. There is no retail establishment located there and due to this fact, the ordinance says that the sign is essentially a billboard and billboards are not permitted. He stated that if he felt Mr. Shell was conducting a business on the premises, he would go on and start to consider alternatives for the sign, but he cannot get past the first issue. He stated that just storing materials and Mr. Shell personally visiting the site and working in there does not amount to conducting a business there.

Board member Whitley asked Mr. Shell if he wanted a fireplace built, where would he visit him.

Mr. Shell stated that he would probably come to the home to discuss the job.

Board member Vallad stated that his impression was that the sign is a billboard and there is no business conducted on the property. It may be used for storage and minor work, but there is no formalized setting to entertain clients.

Board member Vallad made a motion to deny the application by John Shell for a variance to construct a sign on the property at 9304 Dixie Highway, Property ID# 07-14-430-035. The applicant is being denied because the applicant has not demonstrated that the sign is in conformance with the requirement that business be conducted on said property. Support by Board member Whitley. Voted yes: all. Voted no: none. Motion approved

- 2. Request from Jessica Schmidt, 10560 Davisburg Road, Davisburg, 48350, to construct a fence along the front property line that is six (6) foot high rather than the three (3) foot allowed per Section 16.13 of the Zoning Ordinance.*

The property that is the subject of this request is located at 10560 Davisburg Road in Springfield Township and is zoned R-2, one family residential. P.I.#07-10-376-017.

Jessica Schmidt, 10560 Davisburg Road, Davisburg stated that she has a one year old Boxer and since several neighbors have lost dogs due to being hit on Davisburg Road, she wanted to construct the fence to keep the dog safe. She stated that boxers are known to jump and a 3 foot allowable fence would not be high enough.

Chairperson Wendt asked what would prevent the dog from jumping over the two side fences.

Ms. Schmidt stated that the side fence would be six foot as well.

Chairperson Wendt clarified that there would a six foot fence all the way around. He stated that it was indicated in the application that there were many other six foot high fences along Davisburg Road. He drove it twice and he stated that he could only find four that would impact a residential building and none of them went around the properties. They were basically stockade fences, for example the Mill Pond fence. He would like to know where these other fences were. He stated that with the size of their property, he asked the applicant if it would be possible to create a 40' X 40' area to allow the dog to exercise.

Mr. Schmidt stated that they wanted to be able to let the dog out and let the dog have free rein without having go out with the dog.

Chairperson Wendt stated that the Board is bound by law to not create a nonconforming property where there is not a hardship involved. He stated that they are asking the Board to create a nonconformity when there are many options allowing desired use of their property without constructing a six foot high fence.

Board member Carlton stated when they look at the request they have to look at whether denying the variance would not allow them to construct the fence. He stated they still could, just not in the front yard. He stated that he does not see how this could be approved since they have plenty of room to put a fence in other areas, and the dog would still be safe and have plenty of room.

Board member Baker concurred with what Board member Carlton stated and stated that in this circumstance, there are a number of options that are available due to the size of the lot. There is nothing about this lot indicating that it has unique features that would prevent the use of it in the same way that the neighbor's are enjoying their lots. He stated that this is another one of the tasks. Not only do they not want to create nonconforming situations when other options exist, but they are looking at the property and asking if there is something unique about their property that does not exist somewhere else. For example, 90% is a swamp and the only place that they could possible build a structure is in an area that requires a variance and if that is the case, they take those physical features into account. He stated that he is not aware of anything that makes this property markedly different than any of the other pieces of property. In fact, they have a sizeable lot to construct some type of physical constraint for the dog to keep it safe that would not demand the Board to create a nonconformity.

Board member Carlton moved to deny the request for a variance to put a six foot high fence along the front property line on 10560 Davisburg Road, property ID #07-10-376-017 because other alternatives exist. Supported by Board member Baker. Voted yes: all. Voted no: none. Motion approved.

3. *Request from Ray Myatt, 10180 Davisburg Road, Davisburg, 48350 to allow more than one principal building on a residential lot during the construction of a new dwelling unit which is not permitted per Article III, Section 3.03 of the Zoning Ordinance.*

The property that is the subject of this request is located at 10180 Davisburg Road, Davisburg in Springfield Township and is zoned R2, one family residential. P.I.#07-10-476-056.

Ray Myatt, 10180 Davisburg Road, stated that he had originally spoke to Collin Walls in reference to this construction.

Chairperson Wendt asked the applicant if he wanted to live in the existing home while he was constructing a new home on the property. He asked the applicant how long of a period of time it would take to construct the new home.

Mr. Myatt stated that he would ask for a year because of weather constraints and the inability to plan around the weather.

Chairperson Wendt asked the applicant if he was asked to post a bond to demolish the building within a month of completion of the new residence, would he be amicable to that.

Mr. Myatt stated yes.

Chairperson Wendt asked the applicant if he would be amicable to not getting a certificate of occupancy until the building is taken down. He stated that the Board could make stipulations in the motion.

Mr. Myatt stated yes, but he wanted to be able to move his things in.

Board member Carlton stated that the Board wants to make sure that the old building disappears.

Mr. Myatt stated that after he builds his new home, he is not going to want to continue to look at the old home; he will want it torn down and out of his line of sight.

Board member Carlton stated he did not know how the certificate of occupancy works. He would not like to see the applicant put things in storage with the other house right on the property. He stated that he didn't know if it meant that you could put items in the new

house, just not live there. He asked if the applicant would be able to move things into the new home, just not occupy it.

Board members concurred.

Board member Carlton asked about a temporary certificate.

Chairperson Wendt stated that generally it takes a week to demolish a house, but the Board could give the applicant two weeks.

Mr. Myatt stated that he had a demolition estimate of \$6700, but he thought he could do it cheaper. He also stated that you could take a house down in a much shorter time frame.

Chairperson Wendt stated that it would be possible to give the applicant a temporary Certificate of Occupancy for a month, and not get a final until the building is down.

Board member Vallad stated that he wouldn't have a problem with a temporary Certificate of Occupancy conditioned on the application for a demolition permit for the house to be removed within 6 months, thereby having plenty of available time for possible weather constraints. As long as it is a reasonable period of time, the second structure would be down.

Board member Carlton moved to approve the request at 10180 Davisburg Road, property ID # 07-10-476-056 to allow more than one principal building on a residential lot during the construction of a new dwelling unit per article III, section 3.03 of the zoning ordinance with the following conditions: the old structure be removed within 6 months and a bond is posted of \$7000.00 to be refunded at the completion of demolition. During the six months, a temporary certificate of occupancy will be allowed with a permanent certificate of occupancy to be received when the demolition is completed. In any case, the existing house is not allowed to be standing after 18 months from the commencement of construction of the new house. Seconded by Board member Vallad. Voted yes: all. Voted no: none. Motion approved.

4. *Request from Steven C. Reschak, 7501 Stonevalley Bluff, Clarkston, 48348 to allow the construction of an accessory building (swimming pool, pool house and patio) resulting in a ten (10) foot rear yard setback rather than the required thirty-five (35) foot setback required per Section 25.00 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.

Steven Reschak, 7501 Stonevalley Bluff and Dave Butz, Aquascapes Pools are present in regard to this request.

Chairperson Wendt stated that the Board members received a letter from the Bridge Valley partnership which basically states that they do not have any objections to the applicant's request as long as he follows the restrictions of the Bridge Valley partnership.

Board member Vallad questioned how much accessory structure was already on this property. He stated that with the addition of 120 square feet of pool house, he wants to make sure that we are not in violation of the allowable accessory structure square footage.

Steven Reschak stated that he did not know how many square feet are present currently in the garages. He has an attached and a detached garage.

Board member Vallad stated that he would have to add up the square footage for both garages and then add the pool house and make sure that it did not exceed the allowable square footage.

Chairperson Wendt stated that it could be added to the motion.

Board member Whitley stated since they did not know the square footage that was there currently, it really doesn't matter what the allowable is.

Chairperson Wendt stated that the previous pool structure that the Board dealt with on Stonevalley Bluff had to do with whatever retaining wall structure would be required to protect the conservancy side of the property. He stated that this was a rear yard setback issue.

Board member Vallad asked the applicant about the fence structure.

Mr. Reschak stated that he would be using what the Bridge Valley Association recommended. It is stated in the approval letter.

Board member Vallad asked if the access to the preserve property was used very much.

Mr. Reschak stated that it is used.

Board member Carlton stated that it seems as if there are ways to shift it around so that you are further from the property line.

Mr. Reschak approached the Board to further explain the pool plan and pool house plan presented to the Board. He pointed out the well head and septic and why the plan allowed sufficient distance from these structures and also to allow service to those two items.

Board member Baker stated that there is a lot of slope there, and it seems like it would be difficult to see even the fence.

Board member Baker stated that when he sees where it is positioned right now, the grade of the property does not seem of offer a view of it from the road. The fact that they have the natural area behind it, the access strip next to it which is not used, the corner spot seemed like the right area. It also gave them access to the well and septic field.

Board member Vallad stated that the position is where it needs to be. You may change it a foot here or there, but the impact is minimal. This is the proper location.

Board member Baker made a motion to approve the request by Steven Reschak to construct an accessory building which includes a swimming pool, pool house and patio resulting in a ten (10) foot setback rather than the required thirty-five (35) foot setback per section 25 of the zoning ordinance at 7501 Stonevalley Bluff, Clarkston, 48348, property ID #07-13-453-008 conditioned upon the accessory structure to be added does not exceed the lot coverage ordinance provisions permitted for that lot; and that the applicant does not impinge upon or create detrimental change to the common areas located at the rear or the side setback and that the applicant will observe the design standards provided by the architectural review committee of the homeowner's association. Supported by Board member Whitley. Voted yes: all. Voted no: none. Motion approved.

ADJOURNMENT:

Board member Whitley moved to adjourn the meeting at 8:26 pm, supported by Board member Carlton. Voted yes: all. Voted no: none. Motion approved.

Erin Mattice, Recording Secretary