

SPRINGFIELD TOWNSHIP  
ZONING BOARD OF APPEALS  
REGULAR MEETING  
January 15, 2020

Call to Order: Chairperson Whitley called the January 15, 2020 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  
                              Bill Whitley  
                              Matt Underwood  
                              Denny Vallad  
                              Skip Wendt

Absent:                   None

AGENDA:

**Board member Wendt moved to proceed with the agenda as presented. Supported by Board member Vallad. Vote yes: Baker, Underwood, Vallad, Wendt, Whitley. Vote no: None. Absent: None. Motion approved.**

PUBLIC COMMENT:

None

APPROVAL OF MINUTES:

**Board member Underwood moved to approve the minutes of the December 18, 2019 meeting as presented. Supported by Board member Vallad. Vote yes: Baker, Underwood, Vallad, Wendt, Whitley. Vote no: None. Absent: None. Motion approved.**

OLD BUSINESS:

1.       *(Tabled on December 18, 2019) Request from Al Deeby Chrysler Dodge, 8700 Dixie Highway, Clarkston, MI 48348 for reinstatement of a variance to allow the temporary storage of vehicles in a C-2 General Business District instead of the M-1 Light Industrial District approve on September 19, 2018. This variance granted on September 19, 2018 expired due to the applicant's failure to meet conditions of the approval. Applicant is requesting that the variance be reinstated to original term with an end date of September 19, 2020 due to the fact that the applicant has met conditions of the September 19, 2018 variance approval.*

*The property that is the subject of the request is located at 8731 Dixie Highway, P.I. #07-24-101-011, zoned C-2 General Business in Springfield Township.*

Mr. Jim Scharl, Engineer, introduced himself to the Board. He stated that Mr. Deeby was sick and unable to attend.

Chairperson Whitley asked if Mr. Scharl had received the opinion letter from Township Attorney, Greg Need.

Mr. Scharl answered yes.

Chairperson Whitley stated that there were three questions answered in Mr. Need's letter: the first was the adequacy of the Notice and Mr. Need concluded that the Notice published was adequate; the second question involved the question of can the Zoning Board of Appeals reinstate and Mr. Need concluded that the variance had expired but it was subject to reinstatement at the discretion of the Zoning Board of Appeals; the third question was raised as to whether this request involved a "Use Variance" of which the Zoning Board of Appeals does not have the authority to provide. Mr. Need commented that the ZBA's 2016 determination was not whether or not the use should be allowed as the ordinance already provides for same as a temporary basis, but rather if there should be a variance to the 30 day limit that the ordinance allows for. The variance would be varying from that 30-day limit opposed to a "use variance."

Mr. Scharl stated that the terms of the conditions of the September 2018 approval have been completed and exceeded. Instead of the 20-foot front yard greenbelt, they have built a 35-foot greenbelt. The plan that he presented in December had six or seven more parking spaces than the plan submitted previously. This was due to the parking parallel to the building being angled parking. They can reduce those parking spaces if the Board wants them to by making the parking in front of the building only parallel parking.

Board member Baker confirmed that he read the document from the Township Attorney. The Attorney speaks toward the 2016 approval of the variance and in that approval Section 40-645 was referenced. This section is relevant to temporary sales and special events. As such the attorney references temporary and seasonal sales permitting which is included in the ordinance. Board member Baker pointed out that these permits are associated with sales and the temporary nature of the items related to those sales. Board member Baker indicated the use of this site is vehicle storage, not sales and as such was unsure how Section 40-465 is connected to this variance request. With that being said, the Township Attorney has referenced Section 40-465 and indicates the Board should be considering that this is a variance request to vary from the temporary timeframe of 30 days allowed in the ordinance. In 2016 the ZBA granted a variance for two years, which is a lot more than the 30 days allowed for in the ordinance; and had the applicant completed the necessary work that is associated with their most recent request, they would have enjoyed another two years. He would think that as the Board considers the request and considers that they are supposed to look at the minimum variances required to allow reasonable use of this property, he feels that they have exceeded that minimum. To grant any reinstatement is moving way beyond a reasonable minimum time period. He is not in support of reinstatement.

Board member Vallad commented that this has been going on for several years, during which time the Township developed Section 40-645 and other provisions in the ordinance to allow for off-site parking away from a Principal Use of a property which in this case is the dealership across the street. The request is consistent with this applicant's inference that something would be done to address the parking situation. Multiple variances have

been requested. The applicant owns property in M-1 that is permitted parking in the Township and could be used for that purpose.

Board member Wendt asked if both Board members were saying the same thing.

Board member Vallad stated in a sense, yes.

Board member Baker agreed with Board member Vallad's comments.

Board member Baker stated that there is a suitably zoned property, M-1, that the applicant owns and has the ability to use with no further enhancements to be made. The applicant has chosen to maintain this facility near the principal business. He does not see the hardship and the need to continue to offer variances to the 30-day time frame.

Chairperson Whitley stated that this has gone on a long time and variance requests seem to keep coming back without being closer to a final resolution. He commented that a little over a year ago, the Board was willing to agree to a two-year extension. The applicant didn't do his part and the variance ended. But from the standpoint of where this Board was in September of 2018, the Board was willing to say another two years and if they are going to change that, this seems to him to be changing the mind in the middle of the stream. If there is a sense on the part of the Board that this should not be expected again, then they could indicate that to the applicant at tonight's meeting. But to end it now, it is really in the middle of a period that was okay with the Board fifteen months ago. If it is not going to be acceptable outside of that timeframe, then there is a way to convey that without a stoppage in the middle of what was otherwise okay fifteen months ago. The Board needs to see a final solution, but he is not sure that this is the opportunity to do that.

Board member Underwood stated that his understanding is that when the Board granted the variance in 2018, the Board indicated that the applicant should not expect a friendly outcome at the expiration of the variance. He agrees that the applicant did not satisfy the requirements in the time frame allowed, but they ultimately did satisfy the requirements. He thinks that the Board made a commitment, the applicant did the required work and he is in favor of reinstating. But he stated that the applicant should not expect a favorable result if he asks for additional time.

Board member Baker stated that the decision that was made in September 2018, according to the Township Attorney, is no longer in existence. The Board is not going down a stream the stream ceased to flow when the applicant did not meet the guidelines. He read from the Township Attorney's document. The Board has no obligation and no viewpoint that indicates since they did this in the past, the Board must do this now. The applicant did not meet the timeline, the variance no longer existed, the applicant removed the vehicles and they stand now requesting that the terms that were negotiated in 2018 be reinstated. He stated that this is coming to the Board as it is now, and he is weighing the things that make it the minimum required. The applicant owns suitably zoned property two miles up the road that does not need any more investment to have the vehicles parked there. The applicant also has inventory that is sitting adjacent to their property that was not a part of the original plan presented five years ago.

Chairperson Whitley stated that he never indicated that the Board had an obligation. He spoke to a consistency in how a particular request and said conditions around that request are handled by the Board. He questioned is now the time to take a stand or is now the time to look at what was appropriate when we agreed to two years in 2018. He agrees that the issues that have been raised with the other property owned were also raised and discussed in September 2018. At that time the applicant indicated this property use impacted the way he does business and the Board considered it.

Board member Vallad reiterated that the applicant missed the landscape install deadline and it has been completed now. If there was some way to get some assurances that this is going to go away by next September, he would like that to happen and then he could be persuaded to agree to the extension. The Board hasn't seen anything from the applicant to indicate that it is going to be done.

Board member Wendt stated that there has been adequate time since the time that the extension was granted for the applicant to meet the criteria that was asked of him in order to comply with the variance that was allowed. He does not see anything that substantiates or would make him agree to extend this based on the lack of performance of the applicant and the additional information as presented by the Township Attorney.

Mr. Scharl stated that there have been statements made that the applicant hasn't done anything to rectify this situation. The applicant has made progress in trying to alleviate the situation in terms of an application for temporary storage on this property. Last fall, the applicant made an application to the Township to completely redesign this site, remove the building and turn it into a vehicle storage facility in complete accordance with the zoning that was allowed. This plan that was submitted to the Planning Commission was rejected by the Planning Commission because it lacked a building. The applicant has taken steps to rectify the situation so they would no longer need Zoning Board approval. The applicant was denied being heard because it was determined that this use was only allowed in an M-1 District. If they have approval tonight, they will be doing some applications on the site to bring it in conformance with C-2 zoning. When the applicant made application last fall, the Planner was in complete agreement at the staff meeting and then they proceeded to the Planning Commission. But, because it did not have a building on it, it was denied review because it didn't meet the standards of C-2 zoning. The purchase of the Bordines's property is out of the applicant's hands because they will not sell to him.

Board member Baker stated that the meeting with the Planning Commission was one where a plan was brought to the Planning Commission that involved activity at the site where the applicant intended to set up an M-1 use in a C-2 zoning district. At that time, the Township Planner felt that in his reading of the C-2 requirements, that vehicle storage was found to be an appropriate use in that zoning. This Board is seeing from comments from the Township Attorney that he can see an association of a 30-day temporary use, but not a use where C-2 allows vehicle storage. He accepts that the Planner is an individual that can review and offer comment, but the Planning Commission did not agree with that viewpoint. When this plan was presented to the Planning Commission to begin a site development, the Planning Commission felt that it was a proposal for a use that is not allowed in the zoning ordinance. The Planning Commission directed the applicant to the Zoning Board of Appeals. If the applicant had done everything in their power and completed the landscaping that was required by the appropriate time, this meeting would not be held.

Mr. Scharl asked Board member Baker if the site had a small building on it, wouldn't it be in conformance with the C-2 zoning.

Board member Baker replied that without having the chance to review a plan, he would prefer to stick with the business that is in front of the Board this evening.

Mr. Scharl stated that Mr. Deeby is trying to work with the Planning Commission and not go to the Zoning Board of Appeals. He tried to do that. They now understand the Commission's position and they are likely to make some changes to their previous plan and alleviate the problems.

**Board member Baker moved to deny the request for reinstatement of the variance associated with allowing the temporary storage of vehicles in a C-2 General Business District instead of the M-1 Light Industrial District on the grounds that applicant currently owns property that is suitably zoned for this use within the Township, the amount of time the applicant has had opportunity to use this site through variance approval has vastly exceeded the 30 days that is stated in the ordinance and thus is not reflective of the minimum requirements to process this variance. Supported by Board member Wendt. Vote yes: Baker, Wendt. Vote no: Underwood, Vallad, Whitley. Absent: None. Motion failed.**

**Chairperson Whitley moved to approve the reinstatement of the variance originally granted on September 19, 2018 consistent with all of the conditions that were applied with that original variance in 2018 for the duration of that original variance which would end on September 19, 2020 for all of the reasons that were stated at the time of the original approval in 2018. Supported by Board member Underwood. Vote yes: Underwood, Vallad, Whitley. Vote no: Baker, Wendt. Absent: None. Motion approved.**

PUBLIC COMMENT:

None

ADJOURNMENT:

**Board member Wendt moved to adjourn the meeting at 8:10 pm. Supported by Board member Underwood. Vote yes: Baker, Underwood, Vallad, Wendt, Whitley. Vote no: None. Absent: None. Motion approved.**

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Erin Mattice, Recording Secretary