

SPRINGFIELD TOWNSHIP
ZONING BOARD OF APPEALS
January 21, 2015

Call to Order: Chairperson Wendt called the January 21, 2015 Zoning Board of Appeals meeting to order at 7:30pm at the Springfield Township Civic Center, 12000 Davisburg Road, Davisburg, MI 48350.

In attendance: Dean Baker
 Virginia Fischbach
 Denny Vallad
 Skip Wendt
 Bill Whitley

Absent: None

PUBLIC COMMENT: None

AGENDA:

Board members agreed to continue with the Agenda as presented.

CONSENT: Minutes of the November 19, 2014 meeting.

Board member Whitley moved to APPROVE the minutes of November 19, 2014 meeting as presented. Supported by Board member Fischbach. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Motion approved.

OLD BUSINESS: None

NEW BUSINESS:

1. Request from Marvin Stanley, 10551 Davisburg Road, for the following variances to split a 5.99 acre parcel into one 1.0056 acre parcel and one 4.9841 acre parcel with access strip.
 - A) Allow an access strip to a 4.98 acre parcel instead of the required minimum 5.0 acre parcel per Code of Ordinances, Chapter 40, Section 40-642; and
 - B) Allow a parcel with a lot depth to width ratio of 5.5:1 instead of the maximum ratio of 4:1 per Code of Ordinances, Chapter 40, Section 40-640.

The property that is the subject of the request is located at 10649 Davisburg Road in Springfield Township and is zoned R-2, One Family Residential. P.I. #07-15-126-017.

Mr. Stanley introduced himself to the Board.

Board member Whitley asked how the variance would address the issue of using the public right of way to access the barn.

Mr. Stanley replied that it doesn't. He stated that historically he has had access to the barn thru an adjacent access strip when the barn was owned by the previous owner. He stated that he had an easement to use but now with the fence there, he has to go around using the road to enter the barn on the far side. This is another reason that he wants the split.

Board member Whitley stated that there are comments in the memo to suggest that there used to be easement rights to the barn from the access strip that no longer exist and he asked why.

Mr. Stanley answered that the fence was put up so he cannot go across the easement now. The easement and the access strip that it applies to go right up against the barn. The owner of the access strip property put up a fence preventing his entry to the barn from the east side and the only entry now is through the west side.

Board member Whitley asked about easement rights.

Mr. Stanley stated that he still has easement rights but he can't use them.

Board member Fischbach stated that his easement rights are to the original property, not to the property that the barn is on.

Mr. Stanley confirmed that his original property owned the easement rights on the access strip. Now his original property and the purchased property are separated only by this access strip so he should be able to go from his original property across the easement strip because of his easement to the purchased property.

Board member Fischbach stated that she can understand why he would want to but the easement only allows access to the original property, not the property with the barn on it.

Mr. Stanley confirmed that the easement goes up to the edge of the other property including the edge of the barn.

Board member Whitley asked how the easement rights were defined when the easement was created and to whom they were granted.

Mr. Stanley answered to the owners of 10551 Davisburg Road.

Board member Whitley asked who else has easement rights.

Mr. Stanley answered no one. He provided the history of the proposed development on property ID 07-15-126-019 and stated that at the time, they needed an access strip of some width to accomplish this. At that time, Mr. Stanley sold 5 feet of his property to Lester Smith, owner of 07-15-126-017 to enable him with the variance to create a 63 feet wide access strip to enhance the ability to build the proposed subdivision on 07-15-126-019. This development never happened. He requested the easement at the time because if a paved road was built, there would be a chance that he would be able to split a piece of his property and still have access on a road. He stated that the easement rights would have also been extended to anyone who built a house in the new development proposed on parcel 07-15-126-019.

Supervisor Walls confirmed that the property owner of 07-15-126-019 owns the access strip; it is part of parcel -019.

Board member Fischbach confirmed that Mr. Stanley had easement rights to use it.

Mr. Stanley concurred. If the development had been built, all of the homeowners would have had an easement but the development never occurred.

Board member Fischbach confirmed that Mr. Stanley is not here to do anything with the existing access strip, he is here to put an access on the west side of the barn on parcel 07-15-126-017.

Mr. Stanley stated that he is asking the Board to approve the split of 07-15-126-017 to one parcel with a house and a garage and another parcel with just the barn and about 5 acres.

Board member Whitley stated that this all began by the property owner of 07-15-126-019 becoming uncooperative and not allowing access to the barn.

Mr. Stanley stated that it added to the desire to make the split but there are other reasons. He stated that they have a property management company that they have hired to manage these properties and if the split is granted, it would be easier to denote what property will have to be maintained by the person who leases the house and garage.

Board member Baker stated that even after the split, Mr. Stanley would have no right to travel directly to the property that the barn is on unless he goes back out to the road.

Mr. Stanley replied that he has the right to but he can't because the fence is there.

Board member Baker answered that is not what he heard.

Board member Whitley asked about the property owner of 07-15-126-019 and what his intentions were for the property. Was he planning on a development?

Supervisor Walls answered the property owner said no. There are two access strips from Davisburg Road that go to the forty acres in the rear but his plan that received approval was to use the access strip that Mr. Stanley has easement rights to for the road to the development. He confirmed that the Road Commission width is 60 feet for a new road and the proposal involved making the access strip a public road.

Board member Vallad asked if Mr. Stanley has spoken with the owner of property 07-15-126-019 regarding the fence.

Mr. Stanley answered no. The last time he tried to talk to him about the hay that he bales on the access strip, it resulted in a response back and a visit from the Sheriff telling Mr. Stanley that the property owner doesn't want to speak to him or write to him and he wants to be left alone.

Board member Fischbach reiterated that the only issue before the Board is the property split.

Board member Vallad stated that he brings it up because there are alternatives to the proposal.

Board member Fischbach asked if Mr. Stanley did have easement rights, how that would be different. How he would split the lot?

Mr. Stanley stated that it would not affect how it would be split.

Board member Fischbach stated that the ordinance requires that an access strip can only access one piece of property and no other lots or parcel shall be allowed to use the access strip for ingress or egress purposes.

Supervisor Walls concurred. Once the access strip becomes a road, it is no longer an access strip.

Board member Baker stated that it is not defined that Mr. Stanley can access lot 07-15-126-017 from the access strip.

Mr. Stanley stated that it is not defined, but he could literally step to the barn from the property where he has easement rights.

Board member Vallad stated that he has an issue with creating a property with an accessory structure and without a primary structure which is what they would be doing if they grant the split. There are several alternatives that are referenced in the memo that he has no knowledge of. He asked the applicant what the alternatives were.

Mr. Stanley stated that he considered a lot of different drawings but this is the design that requires the least amount of variance. There is a short term benefit because of the property that is leased and there is a long term benefit because all of the property will be

put in a trust. He explained that down the line, the house may then be handled differently than the buildable vacant lot. There is access on the west side that is adaptable for access to the site behind it.

Chairperson Wendt asked if the accessory building on the site is a concern to Board member Vallad because this is not uncommon. There are several proposals that have come to the Board where this has taken place.

Board member Vallad stated it is a concern without a proposal to build a primary structure on the property. He remembers seeing this development back in 1995 when Mr. Burskey proposed it and there were a lot of issues with the development and it resulted in two access strips. He asked if they are creating another issue granting the split with an accessory structure and without a primary structure.

Board member Fischbach asked if it made a difference that it is a historic barn as it is called in the minutes.

Board member Vallad stated that there is nothing in the minutes that designate it as a historic structure.

Chairperson Wendt described two situations in the Township that resulted in accessory structures being on a piece of property without a primary residential structure.

Board member Vallad stated that situation is being created if they grant the variance. They are creating another nonconformity. When they create a parcel that is u shaped around another parcel and is not in conformance with the ordinance, he has issues with that.

Chairperson Wendt stated that he always has a problem with creating nonconformity.

Board member Vallad stated that he doesn't know that they cannot do something with access from his property at 07-15-126-018 to gain access to 07-15-126-017 across the access strip to the property that he now owns. He did not own it in 1995 and was aware of the easements before he purchased it.

Board member Fischbach stated that this is not a case that they are deciding, whether or not he can get additional easement rights.

Board member Whitley stated that the request before them does not address the nonconformance that results by creating a parcel in a residential area without a residence that has an accessory building on it. This needs a variance and is not addressed in this request.

Supervisor Walls stated that he saw 4 versions of this lot split and he did not think about the barn or it would have been a part of this variance request. He suggested that the Board

could table and allow them to renote with the accessory structure being part of the request.

Chairperson Wendt concurred.

Chairperson Vallad stated that discussion with the property owner of 07-15-126-019 is in order to address the immediate need of access to the barn.

Board member Whitley stated that the applicant said he has already tried the reasonable approach to contact the property owner.

Board member Whitley moved to TABLE to the next available meeting the request from Marvin Stanley, 10551 Davisburg Road, Davisburg to allow the applicant to re-review the issue of the request creating a residential parcel with no residence on it but does have an accessory structure. Seconded by Board member Fischbach. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

ADJOURNMENT:

Board member Whitley moved to ADJOURN the meeting at 8:07 PM. Seconded by Board member Fischbach. Voted yes: Baker, Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: None. Motion approved.

Erin Mattice, Recording Secretary