

SPRINGFIELD TOWNSHIP
ZONING BOARD OF APPEALS
REGULAR MEETING
October 21, 2020

Call to Order: Chairman Whitley called the October 21, 2020 Zoning Board of Appeals meeting to order at 7:30 pm VIA Video/Phone Conference and in-person at 12000 Davisburg Road, Davisburg, 48350.

In attendance: Dean Baker
 Jim Carlton
 Matt Underwood
 Denny Vallad
 Skip Wendt
 Bill Whitley

Absent: None

AGENDA:

Board member Vallad moved to proceed with the agenda as amended, adding “Minutes of the August 19, 2020” meeting and “Discussion of Meeting Format”. Supported by Board member Wendt. Roll Call Vote: Vote yes: Baker, Underwood, Vallad, Wendt, Whitley. Vote no: None. Absent: None. Motion approved.

APPROVAL OF MINUTES:

Board member Baker moved to approve the minutes of the August 19, 2020 meeting as amended, under Public Comment, change to “this evening”. Supported by Board member Vallad. Roll Call Vote: Vote yes: Baker, Underwood, Vallad. Vote no: None. Abstain: Wendt, Whitley. Absent: None. Motion approved.

Board member Carlton moved to approve the minutes of the September 16, 2020 meeting as amended, under Public Comment, change “Chairperson Wendt” to “Chairperson Whitley” in two places on page 4. Supported by Board member Underwood. Roll Call Vote: Vote yes: Carlton, Underwood, Vallad. Vote no: None. Abstain: Baker, Wendt, Whitley. Absent: None. Motion approved.

PUBLIC COMMENT:

None

Chairperson Whitley explained that at the September 16, 2020 meeting, there were 3 members present. Tonight, there are 6 members present including all Board members and the alternate. It is appropriate because Board member Carlton participated in the September meeting on the topic that was tabled and is on the agenda as an Old Business item. They have to choose between the remaining 3 members who did not participate and choose one of them to not participate in tonight’s Old Business item. This question was presented to the Township attorney,

Greg Need, and he advised that they request one of the 3 members to opt out of the Old Business discussion. If they do not have a volunteer to opt out, they would put names in a container and choose one name to opt out.

Board member Underwood volunteered to opt out.

Board member Baker and Board member Wendt will participate in the Old Business item.

OLD BUSINESS:

1. *(Tabled on September 16, 2020) Request from Craig Reynolds, 12901 Shaffer Road, Davisburg 48350 to retain an existing fence in the front yard of eight (8) feet rather than the three (3) feet allowed per Springfield Township Code of Ordinances, Chapter 40, Section 40-781 and a determination that the south side of the house is the front rather than the north (road) side.*

The property that is the subject of the request is located at 12901 Shaffer Road in Springfield Township and is zoned R1A One family residential. P.I. #07-32-101-006.

Mr. Reynolds introduced himself to the Board members. He explained his variance request. He stated that he built the fence mainly for safety reasons; he has nephews and nieces and a dog that he is concerned about. One of the hardships is that he is very close to the road. He looked on Google maps and commented that his house is 58 feet from the roadside and any other house, except for one, is at least 75 feet back. His house was built in 1937 and he acquired it 3 or 4 years ago. He pointed out a fence located at 5495 Ormond Road that is 6 foot high and only 15 foot back from the roadside. He spoke to his neighbors regarding his request. Also, the door is not located on the normal front side of the house, it is located on the other side which faces the pond. There is no door on the roadside. He would be willing to reduce the fence height to six feet.

Board member Baker asked the applicant to speak more about the safety element that he mentioned.

Mr. Reynolds commented that it is safer with the fence for his dog who is not aggressive but would run at people and startle them and if there was an animal crossing the road, it would stop him from running after it and getting hit by a car. The vehicles travel very fast down this narrow road. The road is unsafe for setback requirements. When you are pulling out of the driveway, the fence meets the setback requirements as far as the County is concerned which is 15 feet back and being able to see 300 feet down the road. He is concerned about the safety of animals and children that visit regularly as well as privacy.

Board member Baker agreed that the road is unimproved and asked if the fence is actually on the subject property and not in the road right-of-way.

Mr. Reynolds replied that he is not sure; he placed it as far back as he could and still stay out of the right-of-way.

Board member Wendt stated that there are many openings around the fence that would allow access for the dog. If safety is such a concern, why aren't any constraints placed on the dog to limit its movement and preclude having any type of situation take place.

Mr. Reynolds commented that they also have a significant hedge and the neighbor has a split rail fence too and the dog does not go into their yard. On the other side, there is an existing fence that was there before so there is no way for the dog to get out otherwise unless it is through the gate.

Board member Wendt asked why there wasn't any additional type of restraint to hold the dog on the property. He suggested a chain or some other type of material.

Mr. Reynold answered that he could do that for the dog, but this wouldn't protect any children that were in his yard. The fence prevents the children from going into the road.

Board member Carlton stated that last month they had discussion about what constituted the front yard and in reading the ordinance, it is clear that the front yard is what separates the structure from the road.

Chairperson Whitley added that this was another part of the request, determination of the front yard. At last month's meeting, they had discussion on whether or not this was a lakefront lot because of the size of the pond on the property. But even considering the pond on the property, the ordinance addresses the front yard by definition as the portion of the yard that is on the roadside of the house.

Board member Vallad conceded the definition of the front yard discussion that they had last month as being the part of the yard that is on the roadside. Part of the safety issue is related to keeping things out of the yard that aren't wanted. If the access to the home is on the other side of the house, it is away from the roadway and this improves the safety condition. When he visited the property, he noticed that the fence does not interfere with the line of sight. Whether the fence is there or not, the line of sight is the same. The 8 foot fence is not aesthetically pleasing and suggested that a condition of approval would include lowering the fence to 6 feet.

Mr. Reynolds stated that they are very close to the road due to the setback when the house was built. This makes it inconvenient because the driveway is right by the roadway creating another safety concern. He pointed out another fence on Ormond Road that is 6 foot high that is in the road area and is close to the road. He looked to see if a variance was granted to that property but could not find one.

Board member Wendt commented that a nonconforming fence in another location should place no influence on this request.

Chairperson Whitley confirmed that each application stands on its own.

Board member Wendt moved to deny the request from Craig Reynolds, 12901 Shaffer Road, Davisburg, for a fence that exceeds the ordinance allowed 3 feet in height and the request to determine that the road side is the back yard, because no practical difficulty has been displayed and it would be easy to meet Ordinance Section 40-781 on this property. Supported by Board member Carlton. Roll Call Vote: Vote yes: Baker, Carlton, Wendt, Whitley. Vote no: Vallad. Absent: None. Motion approved.

Board member Carlton left the meeting.

Board member Underwood joined the meeting.

NEW BUSINESS:

1. Request from Kevin Westlake, 10248 King Road, Davisburg, 48350 for variance to retain an accessory building with a nonconforming lake setback that has been enlarged and extended to occupy a greater area of land which is not in compliance with Springfield Township Code of Ordinances, Chapter 40, Section 40-931.

The property that is the subject of the request is 10248 King Road in Springfield Township and is zoned R3 One Family Residential. P.I. #07-10-427-035.

Chairperson Whitley acknowledged the receipt of a letter in support of the request from Judith Peel, 10271 King Road.

Mr. Kevin Westlake introduced himself to the Board members and summarized his request. He stated that he did not enlarge the structure; he just used the existing 4 walls unless it was due to the fact that he cantilevered the roof. He stated that there are 15-18 sheds in the neighborhood in the same vicinity as his shed. He had an old shed and he kept the same studs and replaced the roof of the shed because he was making improvements to the site. The previous owners hadn't done anything to the property. He is asking for approval of the existing shed and he referred to the pictures that he submitted.

Chairperson Whitley commented that the Board received the photos that Mr. Westlake submitted.

Mr. Westlake stated that it was recommended to him that he should go to the Board. He stated that he uses the shed for storage since there is not very much storage in the existing small house.

Chairperson Whitley commented on the pictures provided and said the structure was enlarged.

Mr. Westlake suggested that he cut the roof back to the original size because he did not change the four walls.

Chairperson Whitley asked if the original shed was less than 200 square feet.

Mr. Westlake answered yes.

Chairperson Whitley stated that with the longer roof added, it would exceed 200 square feet.

Mr. Westlake answered that if they are counting the roof as floor space, then yes. He is willing to cut the roof back to make the Board happy. He didn't realize that by cantilevering the roof, it would be such an issue.

Chairperson Whitley stated that it was an expansion that was not permitted. He doesn't know if it would be so simple as to bring the shed back to previous size. The question before the Board is to grant a variance for a shed that is larger than the original and would not be allowed.

Board member Vallad asked what the dimensions were on the original shed.

Chairperson Whitley confirmed that the shed was confirmed by the inspector to be under 200 square feet which is the threshold that the shed could not exceed in order to be permitted. But it is too close to the water and the electric was run to the shed without permit. It is the expansion of the shed and the electricity to the shed which seem to be the issues.

Supervisor Walls stated that on the survey in the Board packet, it shows the location of the shed which shows the size.

Chairperson Whitley confirmed it was 10'5" by 12'6" so below the 200 square foot threshold. The issue seems to be the setback from the water's edge.

Board member Baker asked if the square footage of the accessory structure is only the part of the structure that is enclosed with four walls and a roof and no matter how long a roof a person would add on to such structure with posts, they would still be dealing with a structure that was appropriate because the inside enclosed area is less than 200 square feet.

Supervisor Walls stated that this was not the determination made by the Building Department. The structure as defined by the ordinance includes the roof structure. The roof that Mr. Westlake added became an expansion of the structure itself.

Chairperson Whitley agreed.

Supervisor Walls stated that there is a limitation in the ordinance regarding cantilever in front of structures, but none as great as the addition put on this building.

Chairperson Whitley commented that once you put posts on something, it is no longer cantilevered. The posts determine the footprint for calculation of area.

Board member Baker stated that the structure that exists there today is considered greater than 200 square feet because the extension of the roof is supported by posts and it makes the entire footprint of the structure a part of the determination of whether or not it exceeds 200 square feet and thus requires a building permit.

Chairperson Whitley concurred.

Supervisor Walls stated that the determination was not on the 200 square feet, it was on the expansion of a preexisting, nonconforming structure too close to the water.

Chairperson Whitley replied that this is also correct. The issue that is raised was the expansion and location from the standpoint of setback. The issue of electrical permits being pulled is outside of the ZBA's review.

Brandon Groser, construction company owner, stated that the interpretation requires some more research because his understanding of the code is that if the location of the walls and the roof framing conflict with the square footage calculation, the code speaks to the space between the floor joists and the earth as the basis to document the area. The supportive roof would not be included in the area calculation.

Board member Vallad asked if there was water run to the shed.

Mr. Westlake replied no.

Board member Vallad asked who completed the electrical work.

Mr. Westlake stated that he redid the electrical; there was already electrical, and he redid it without permit and he has since pulled a permit.

Board member Wendt referred to the nonconforming section of the ordinance.

Chairperson Whitley stated that this speaks to the expansion irrespective of the method used to calculate square footage. If the expansion wouldn't have happened, the location never would have been raised since it was preexisting and the issue of electrical would not have been addressed either.

Mr. Westlake stated that if the roof expansion was the problem, he would be willing to bring the roof back. He pointed out others in the neighborhood that have the same type of roof. He didn't think he was doing anything wrong.

Chairperson Whitley reminded Mr. Westlake that the topic of discussion tonight is his property.

Mr. Westlake stated that he appreciated the comment from Mr. Groser earlier and he is willing to look deeper into the building codes to figure out what is deemed square footage.

Mr. Groser stated that he is speaking as a concerned constituent that the Township would be subject to liability if they ruled adversely to this property owner because the Building Code is quite clear that anything related to roof framing is not considered an extension.

Supervisor Walls referred to the definition of structure that is in the zoning ordinance; it isn't a definition relative to square footage. So, tabling the decision and looking into the Building Code wouldn't necessarily shed light on the issue but they can do that if that is the Board's decision.

Board member Wendt moved to deny the applicant's request because it is not in compliance with Section 40-931 of the Springfield Township Code of Ordinances.

Supported by Board member Underwood. Roll Call Vote: Vote yes: Underwood, Vallad, Wendt, Whitley. Vote no: Baker. Absent: None. Motion approved.

2. *Request from Andrew Donato, 8671 Ellis Road, Clarkston, 48348, for a variance to construct an addition to an existing home with a setback of twenty feet, four and one half inches (20' 4.5") from a structure to the high-water mark of Waumegah Lake instead of the fifty (50) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-639.*

The property that is the subject of the request is located at 8671 Ellis Road in Springfield Township and is zoned R1 One Family Residential. P.I. #07-12-427-025.

Mr. Andy Donato introduced himself to the Board members and summarized the request.

Mr. Brandon Groser, neighbor, asked if the plan would impede on future building plans that he might have for the vacant lot next door.

Mr. Donato replied no. He stated that there is approximately 200 feet to where the building envelope is on the lot next door.

Mr. Groser stated that he has no objection.

Board member Underwood asked if it was a 2 car garage.

Mr. Donato replied yes, and it has an 18 foot door. He minimized the distance as best as he could.

Board member Underwood asked about the width.

Mr. Donato replied that the actual garage is 20 feet on the inside. The door itself is 18 feet.

Board member Underwood asked about the need for a sunroom porch.

Mr. Donato replied that they live on a lake and it is a great place to have a sunroom porch. It overlooks the garden and allows them to enjoy the wildlife. He kept it further away then the nonconformance that exists on the other side of the house.

Chairperson Whitley asked if he had considered moving the entire addition closer to the road which would reduce the nonconformance.

Mr. Donato replied that he doesn't know exactly where the septic field is, and he didn't want to interfere with it.

Chairperson Whitley asked if the other end was originally the garage. So, the drive missed the septic field and there is another 35 feet or so further away.

Mr. Donato explained where the driveway would go.

Chairperson Whitley suggested moving the entire addition closer to Ellis Road.

Mr. Donato replied that he could probably move it a couple of feet for sure, but it will look funny to try and tie it into the rest of the house and having that much of an offset.

Board member Vallad asked about the need for a variance since it was already granted a 14 foot rear setback variance.

Chairperson Whitley replied that this was granted in 1974 and someone would have had to act on it within a period of time and adding to the beach has changed it. The request in front of them is less of a nonconformance than what already exists.

Board member Vallad replied that if the request is less of a nonconformance than has already been granted, he doesn't understand the request.

Chairperson Whitley suggested that perhaps the 18 foot that exists today is a result of the 14 foot variance granted and then the beach has been added to it.

Board member Baker concurred. The addition that is being proposed does not increase the nonconformity and is requesting less than what already has been granted on the site. He supports the request.

Board member Baker moved to approve the request of Andrew Donato, 8641 Ellis Road, Clarkston, 48348, for a variance to construct an addition to an existing home with a setback of 20 feet, 4.5 inches from the structure to the high water mark of Waumegah Lake instead of the 50 feet required per Springfield Township Code of Ordinances Chapter 40-Section 40-639 on the basis of this request does not increase the nonconformity of the site and the structure proposed is in keeping with the harmony of the surrounding properties that are similarly zoned. Supported by Board member Vallad. Roll Call Vote: Vote yes: Baker, Underwood, Vallad, Wendt, Whitley. Vote no: None. Absent: None. Motion approved.

Mr. Donator thanked Supervisor Walls for his years of service to the Township and all of the help that he has given him.

3. *Discussion of Meeting Format*

Board members discussed the possible meeting format for both the November and December meetings, and it was concluded that the Zoning Board of Appeals will hold the remaining meetings of 2020 as hybrid meetings, with both in-person and online accessibility.

PUBLIC COMMENT:

None

ADJOURNMENT:

Board member Wendt moved to adjourn the meeting at 9:11 pm. Supported by Board member Underwood Roll Call Vote: Vote yes: Baker, Underwood, Vallad, Wendt, Whitley. Vote no: None. Absent: None. Motion approved.

Erin Mattice, Recording Secretary