

Minutes of  
**ZONING BOARD OF APPEALS**  
**REGULAR MEETING**

**May 18, 2022**

**SPRINGFIELD**  
CHARTER TOWNSHIP



Sean R. Miller, Clerk

**Call to Order:** Chairperson Baker called the May 18, 2022, Zoning Board of Appeals meeting to order at 7:30 p.m. at the Springfield Township Civic Center, 12000 Davisburg Rd., Davisburg, Michigan, 48350.

**In attendance:** Dean Baker, Chairperson  
Jim Carlton, Board Member  
Ryland Rusch, Board Member  
Bill Whitley, Board Member

Absent: Matt Underwood, Board Member

**Staff Members Present:**

Laura Moreau, Supervisor  
Joan Rusch, Planning Administrator

**Approval of Agenda:**

**Board Member Whitley moved to approve the agenda as presented. Supported by Board Member Rusch. Vote: Yes: Baker, Carlton, Rusch, Whitley. No: None. Motion approved.**

**Public Comment:**

None

**Approval of Minutes:**

**Board Member Whitley requested the minutes be amended on page 4 to remove the word "not" in the fifth line, to correctly state the intent of the motion. Board Member Carlton moved to approve the minutes of the April 20, 2022, Zoning Board of Appeals meeting as amended. Supported by Board Member Whitley. Vote: Yes: Baker, Carlton, Rusch, Whitley. No: None. Motion approved.**

**Old Business:**

None

**New Business:**

**1. Request from Jim Frazier, 12438 Birchcrest, Milford, 48380, for a variance to construct a five (5) foot high fence in the fifty-foot front yard setback instead of a three (3) foot high fence allowed per Springfield Township Ordinances, Chapter 40, Section 40-781.**

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**The property that is the subject of this request is located at 8225 Waumegah Rd, Clarkston, 48348, in Springfield Township and is zoned R-2 Single Family Residential with P.I. # 07-12-252-015 and P.I.# 07-12-252-016.**

Jim Frazier, 12438 Birchcrest, Milford, 48380, stated that he is the contact for this project. He explained that the homeowner is asking for a five-foot high fence instead of the three-foot high fence allowed. This fence will be masonry and finished on both sides. The fence is intended to provide privacy. Putting this fence at a fifty-foot setback would place it almost in the water. A three-foot high fence is inadequate for the privacy desired.

Board Member Whitley commented that a home on an island should provide enough privacy in itself.

Mr. Frazier stated that the owner also owns the peninsula on the cul-de-sac and there is evidence that people trespass on this property frequently.

Board Member Whitley questioned why Mr. Frazier thought a fence at the road would stop people from trespassing, but a fence at the edge of the water would not.

Mr. Frazier commented that a fence at the water is too far back. He stated that a fence at the water line would stop people from walking down to the water, but it would not stop people from using the rest of the property.

Board Member Carlton commented that the cul-de-sac does look like a common area. He stated that a three-foot fence should be enough to denote that it is private property. Even a five-foot fence would not provide privacy.

Mr. Frazier stated that most people would use the property anyway and trespass on it. A five-foot wall would be more intimidating.

Board Member Carlton stated that such a fence would not fit in with the character of the neighborhood.

Board Member Rusch asked what the distance was from the closest radius of the cul-de-sac to the water's edge.

Mr. Frazier stated that the distance from the cul-de-sac to the bridge was 85 feet.

Chairperson Baker stated that the Board received a correspondence from Charles Harding, 8485 Waumegah Road, which contains his opinion and that of six neighbors, that approval of the proposed fence would be out of character for the community. This letter will be made part of the official record of tonight's meeting. Chairperson Baker stated that the concept of a

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variance is that certain things are allowed in our ordinances, but due to a unique property situation, a property owner would not be allowed to enjoy those same rights and amenities as other property owners in the same district if the ordinances are strictly enforced. The ordinance allows a three-foot fence as long as other requirements of the ordinance are met. No one is allowed a five-foot high fence in the front setback area. A five-foot fence in the front yard is not a right commonly enjoyed by other neighbors. There might be circumstances unique to a certain property, such as low land, where variance for a five-foot fence might be warranted. However, this property is level and there is not a unique or unusual situation with this lot. This request is not keeping with the concept of a variance. Chairperson Baker commented that he is not in favor of approving this request.

**Board Member Whitley moved that the request from Jim Frazier to construct a five (5) foot high fence in the fifty-foot front yard setback instead of a three (3) foot high fence allowed per Springfield Township Ordinances, Chapter 40, Section 40-781, on the property located at 8225 Waumegah Road, Clarkston, MI, 48348, be denied for the following reasons: 1) The Board does not find that there are any special conditions or circumstances that are peculiar to this property that are not applicable to the front setbacks of other lands in this zoning district. 2) The Board does not find that literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district. 3) In his own words on the application, the applicant states that the proposed conditions would be of his own doing. 4) The Board finds that the variance requested is far from the minimum variance that will make possible reasonable use of the land, in fact the requested variance would have no impact on the reasonable use of the land at all. 5) The granting of the requested variance would be at distinct disharmony with the general purpose and intent of the ordinance, Master Plan, and the use and construction found in the nearby properties and other properties in the same zoning district. Supported by Board Member Rusch.**

Chairperson Baker asked if there was anyone present who would like to make public comment.

Mr. Charles Harding, 8485 Waumegah Road, commented that people are curious and like to look at projects under construction to see what is going on. Once a project is finished, the curiosity is lessened. He feels that traffic will decrease once the construction is complete.

**Vote: Yes: Baker, Carlton, Rusch, Whitley. No: None. Motion approved.**

**2. Request from Dustin and Christi McElroy, 9670 Forest Ridge Dr., Clarkston, 48348, for a variance to construct an inground swimming pool with a rear setback of ten (10) feet instead**

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**of the thirty-five (35) feet required by Springfield Township Ordinances, Chapter 40, Section 40-572.**

**The property that is the subject of this request is located at 9670 Forest Ridge Dr., Clarkston, 48348, in Springfield Township and is zoned R-3 Single Family Residential, P.I. # 07-14-377-007.**

Christi and Dustin McElroy explained that they wish to put a pool in their backyard. The backyard is tiered with six to seven steps up a ten-foot incline. The upper level of the yard was woods and trees, but now they would like to utilize this area. The septic system is at the bottom of this incline and impedes where they can put in a pool.

Chairperson Baker stated that the other pools referenced in their application that appear to be in similar situations, actually do meet the required setbacks and would not have needed to receive variances.

Mrs. McElroy explained that when they did their own calculations, the pool at 9630 Forest Ridge appeared not to meet the setbacks.

Chairperson Baker explained that when the Township did the research, this pool did meet the setbacks.

Board Member Whitley stated that the Supervisor's office has indicated that the two other pools that are referenced are indeed compliant with the ordinance and did not need variances.

Chairperson Baker clarified that the setback is to the pool and not to the concrete. The structure is the pool, not the concrete aprons surrounding it. The pavement in a setback is not an issue that requires a variance.

Mrs. McElroy commented that if they try to move the pool forward to meet the thirty-five feet required, the topography of the land and the placement of the septic would limit the placement of the pool.

Board Member Carlton asked if this was an inground pool and if it needed approval by the Homeowners Association.

Mrs. McElroy stated that this is an inground pool and that there is no requirement to get the pool signed off by the HOA.

Board Member Carlton asked if they had considered a smaller size pool.

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Mr. McElroy stated that they had considered a smaller size, but they chose the proposed pool because it has a simple design and could be enjoyed by their growing family.

Board Member Rusch asked if they had considered terracing options to cut down the gradient and possibly move the pool closer to the house.

Mrs. McElroy stated that they had considered that. This option would require a large retaining wall.

Mr. McElroy stated that there is a ten-foot change in elevation, which would require much earth to be moved and a very prominent retaining wall. They did have contractors out to look at this option. Moving the entire hill does not seem practical.

Chairperson Baker stated that the Board is trying to minimize the variance requested. He commented that perhaps they could choose a different size pool or change the size of the concrete apron. He understands that installing a pool and properly preparing a site is expensive. The Board cannot consider the expense of what it may take to decrease the requested variance. There appears to be some options with this proposal such as terracing, removing fill from the top of the hill, choosing a smaller pool, or modifying the apron around the pool and moving the pool closer to the house.

Board Member Carlton demonstrated other ways the pool could be placed to minimize the variance requested.

Chairperson Baker stated that the Board is looking for a setback of more than the ten feet proposed. He suggested that the applicants be given time to reconsider their proposal by tabling this request. There are several ways the placement of this pool could be adjusted to get the variance closer to the thirty-five-foot setback requirement.

Board Member Whitley suggested that the applicants get an opinion from an engineer on the stability of the soil both from it being disturbed during construction and the weight of the pool over time.

Mrs. McElroy stated that they have not done that. However, the neighbor has a similar situation with a pool on their lot.

Chairperson Baker commented that the Board is amenable to a pool, but a pool in the R-3 zoning district is not common because of the smaller lot size.

Board Member Carlton commented that the pool would be in harmony with the neighborhood as most people wouldn't see it.

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Chairperson Baker offered an opportunity for the applicants to take extra time to revise their proposal and come back at a later date, or the Board could rule on this matter tonight. If after a ruling, the applicants then decided they had a better idea, they would have to start all over again.

Mr. McElroy asked if the Board would recommend multiple variations of the proposal. He asked what the target setback would be that the board would consider.

Chairperson Baker replied that the Board would like to see somewhat better than the current proposal of ten feet and closer to the thirty-five feet required.

Board Member Whitley stated that the applicants must propose one idea, not many, and that they should bring forth their best idea.

**Board Member Carlton moved to table the request from Dustin and Christi McElroy, 9670 Forest Ridge Dr., Clarkston, 48348, for a variance to construct an inground swimming pool with a rear setback of ten (10) feet instead of the thirty-five (35) feet, based on the discussion had tonight, to the next meeting of the Zoning Board of Appeals. Supported by Board Member Whitley. Vote: Yes: Baker, Carlton, Rusch, Whitley. No: None. Motion approved.**

**Public Comment:**

None

**Adjournment: Board Member Whitley moved to adjourn the meeting at 8:20 p.m. Supported by Board Member Rusch. Vote: Yes: Baker, Carlton, Rusch, Whitley. No: None. Motion approved.**

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Joan Rusch, Recording Secretary