

SPRINGFIELD TOWNSHIP
ZONING BOARD OF APPEALS
May 21, 2014

Meeting is called to order at 7:30 pm by Chairperson Skip Wendt.

In attendance: Virginia Fischbach, Zoning Board Member
Denny Vallad, Zoning Board Member
Skip Wendt, Chairperson
Bill Whitley, Zoning Board Member

Absent: Dean Baker, Zoning Board Member

PUBLIC COMMENT: None

AGENDA:

Board member Whitley moved to approve the agenda as presented. Supported by Board member Fischbach. Voted yes: Fischbach, Wendt, Vallad, Whitley. Voted no: None. Absent: Baker. Motion approved.

CONSENT MOTION: Minutes of the March 19, 2014 meeting.

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

OLD BUSINESS:

1. (Tabled from September 18, 2013 meeting) Request from William Sash and Mary Lanesky, 10086 King Road, Davisburg, 48350 for a variance to construct a septic system seventy (70) feet to the ordinary high-water mark of Dixie Lake rather than the one hundred (100) 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 9877 Dixie Highway in Springfield Township and is zoned R-3 One Family Residential. P.I. #07-11-301-027.

William Sash introduced himself to the Board.

Chairperson Wendt asked Mr. Sash if he had any new information to present that may impact the decision of the Board in regards to his request.

Mr. Sash replied yes. He stated that this will be the third time coming to the Board. There are five things that are required for a variance. The first being "Special conditions and

circumstances that exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.” He stated that his property is located on a peninsula where there is water on the side and the front and this is a unique condition.

The second thing is, “Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter.” He stated that his lot is larger than most lots on Dixie Lake and by not having a variance; it would in fact impede his ability to have what everyone else has.

The third condition is, “The special conditions and circumstances referenced in subsection (d)(1) of this section do not result from the actions of the applicant.” He stated that he didn’t do anything or build anything; this lot is here because that is how the property is.

The fourth condition is, “the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.” Mr. Sash stated that reasonable would mean building a house, having a driveway, right to have a well installed, ability to have trucks get to that well and have it maintained which is required by Oakland County and the ability to live in it and have a septic field.

The fifth condition is, “The granting of a variance will be in harmony with the general purpose and intent of this chapter and master plan, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.” Mr. Sash stated that he is a graduate engineer from Michigan State and has a builder’s license in Michigan and Arizona. When he came to this Board originally, July of last year, he had a serious need to build a home on a piece of property and when he proposed the 70 feet it was done from his knowledge, experience and certifications and this was the best possible option for the reasonable use of the property. He stated that he has read the minutes of both prior meetings and he has copies of those minutes. At the first meeting he was denied because there were suggestions that he did not have a certified drawing which is untrue. Mr. Sash held up a document which he claimed was a certified copy done by Kieft Engineering which he obtained when he bought the property over 20 years ago. Mr. Sash stated that it was kind of his fault because he was trying to get this building built so he was doing the perk test at the same time that he was trying to turn in the materials so that is why he didn’t have the Board packets ready when they needed to be submitted and he only had them at the meeting. He stated that at that time, Judy Hensler said something to the effect that she didn’t believe the certified drawings that he had. Mr. Sash stated that Ms Hensler was upset because the certified drawing that he had showed that he owned part of the damn and she was the one responsible for spending the Dixie Lake Board’s money on that damn. There was a dispute and Mr. Sash was adamant about wasting the money on this issue.

At the next Zoning meeting, he stated that he would get the drawings from the money spent by the Dixie Lake Board to bring to this meeting. He stated that he called Ms.

Fischbach to get those drawings and the same engineering company, Kieft Engineering, and he used this drawing to put the dimensions of the property on there. He stated that Oakland County had to come out and mark up the drawing. He stated that the Board refused his request the second time because of something to the effect of he is not going to do anything unless it is an engineered system or some other septic system other than a standard bed system.

Chairperson Wendt stated that in asking for clarification, when Mr. Sash is using the word "Board", is he referring to the Township Board, Zoning Board or the Planning Commission.

Mr. Sash answered that every time he has used the word "Board" thus far, he is referring to the Zoning Board of Appeals. The only Board that he mentioned different was when he mentioned Judy Hensler and he was referring to the main Board.

Chairperson Wendt clarified the Township Board of Trustees.

Mr. Sash stated that he went to Kieft Engineering with the same drawing and same certification for the third time based on this piece of property. It was laid out proportionally and the system is set up with the distance of 70 feet to the water, 1200 square feet, 30 by 40, there is room for a driveway and it keeps it away from the neighbor's well. This was an issue last time. His neighbor, Kelly Morgan, called Oakland County because he was concerned that the septic was going to be too close to his well. Mr. Sash stated that he told Mr. Morgan that the Zoning Board wants him to push it right up to the 50 foot mark and it is also creating a problem because he can't get into his driveway and build a house. Mr. Morgan had concerns about getting too close to his house. His well is a 2 inch suction well and it is in the front yard and to get a truck to drill a new well you would have to put it on the street.

Chairperson Wendt stated that this is irrelevant to the applicant's request.

Mr. Sash stated that he would like to be neighborly and he wouldn't want to push his septic field forcing someone to never be able to remodel their house or do anything.

Chairperson Wendt asked him if as a good Samaritan, he would allow the neighbor to access his well using the applicant's property.

Mr. Sash answered that he is not saying that. He stated that because that well is pushed right up against his house, sooner or later the well will be need to be redone. This is forcing that homeowner to not be able to do anything to that house in the future and that is what this is about, doing things in the future. The other issue is the property to the south and the usage of the lot. He stated that it will not be injurious to the neighborhood or otherwise detrimental to public welfare. He stated that Springfield Township has a 100 foot ordinance and Oakland County is 50. He stated that Board member Whitley or Board member Vallad said it had been at least 20 or 30 years since they had been on the Board and that has been a 100 foot characteristic. He stated that his job is saying that by going

70 feet he is asking would he be detrimental to the neighborhood and he would have to say extremely not.

He asked that people like Ms. Fischbach would recuse herself from this meeting because a member may disqualify him or herself from a vote which he has a conflict of interest, failure as a member to disqualify himself from a vote which was a conflict of interest shall constitute misconduct in this office. He stated that he is saying this in reference to the fact that they abused that property for 18 years to put in weed cutting equipment on Dixie Lake.

Board member Fischbach stated that this was untrue. She stated that they have only used it for four years. They used the Plat 9 access prior to that. She stated that the Zoning Board is here because they are neighbors of everyone and she is not in any way related to Mr. Sash and has no interest in this property.

Mr. Sash stated that she has an extreme interest in that land. He has owned the land for 20 years.

Board member Fischbach stated that she would like to see that record because Mr. Sash bought the property after Ms. Fischbach moved onto the lake and she stated that she has not lived on the lake for twenty years.

Mr. Sash stated that it is a moot point.

Board member Whitley stated that Mr. Sash has raised a serious issue, conflict of interest. He asked Mr. Sash what documentation he had that a member of this Board has an interest in that property to the point that it would create a conflict of interest in participating in this decision. He asked what interest Board member Fischbach has on this property.

Mr. Sash replied that Board member Fischbach sits on the Board who handles the funds for Dixie Lake to pay for things like weed cutting.

Board member Whitley asked how this would unduly affect a decision that Board member Fischbach may make relative to a variance for the location of a septic field.

Mr. Sash stated that Dixie Lake doesn't have any another decent spot to use for the weed cutting equipment which they used his property for 18, or 15, or 12 years. He stated that he sat in a meeting with Board member Fischbach last year after these variances had been denied where she asked him if they could use his property again to put the weed cutting equipment in and he stated that he sat there dumbfounded because he wants to build a building there and he does not want them to ask him if that is an issue.

Chairperson Wendt stated that the comments are getting irrelevant and personal. He urged Mr. Sash to say something that is pertinent to anything reasonable that will affect this variance, nothing of a personal nature. He stated that when Mr. Sash has something

to say that is pertinent to this case, he may say it. He may not personally attack someone because of her affiliation with volunteer work on Dixie Lake. It is totally inaccurate and inappropriate.

Mr. Sash stated that if he builds on this property and keeps the island, the island easement is located next to Board member Fischbach's house and the only reason that he owns that property is that it was such a problem with boats being parked on that easement that he had to purchase another thing. He stated that Board member Fischbach has not paid him for over two years.

Chairperson Wendt reiterated to Mr. Sash that he needs to provide something that is pertinent that substantiates the request.

Mr. Sash answered that Board member Fischbach was on Dixie Lake also.

Chairperson Wendt stated that this is not what he asked him. Mr. Sash is talking about Board member Fischbach again. Mr. Sash said that he is an engineer, engineers deal in facts and he asked him for facts.

Mr. Sash stated that it is a fact that 80% of people on Dixie Lake enjoy a 50 foot distance.

Chairperson Wendt asked him to explain "50 foot".

Mr. Sash replied 50 foot from septic to lake; he referred to Board member Fischbach and the distance of the septic on her property and others.

Board member Whitley stated that the required ordinance distance is 100 feet.

Chairperson Wendt asked why Mr. Sash brought up Board member Fischbach again.

Mr. Sash answered that it is property in this area. He stated that Judy Hensler did a survey and her septic field sits 50 feet back.

Board member Whitley stated that he is interested in facts that are pertinent to the subject property only.

Mr. Sash stated that he is trying to say other people can enjoy it. He stated that he has a letter that he wrote to the Supervisor of the Health Department asking if there was a recommendation to go to 100 feet. The response back to him was that Oakland County's recommended distance is 50 feet and they are not recommending moving to 100 feet.

Chairperson Wendt stated that the Township ordinance is 100 feet and that is what the Board is concerned with.

Mr. Sash stated that systems are at 50 feet and they are said to be safe, he is asking for 70 feet and now they are asking for a special system which is a financial burden and now they are comparing apples to oranges.

Chairperson Wendt stated that this Board does not act on anything that is economically impacting the property.

Mr. Sash responded that this is not what he said. He stated that they are asking him to put in a system of extreme cost rather than regular system.

Board member Whitley stated that he is still looking for facts that would substantiate a reason for the Board to grant a 30 foot variance for a septic field and he is not hearing any.

Mr. Sash replied that he presented 3 full surveys and he asked if there was a problem with the last drawing that he submitted.

Board member Whitley answered that it shows that the proposed location of a septic field is only 70 feet from the water's edge and he is looking for a substantive reason why this Board would grant that variance as opposed to 100 feet.

Mr. Sash stated that he pushed it as far back to the road as possible and they could get a truck down between the properties. If he turned it, the distance would change by 3 feet and you can't see it on the drawing.

Board member Whitley stated that if Mr. Sash can't see it, then the Board can't see it.

Chairperson Wendt requested that the Board make a motion because they are not getting any more information regarding the request.

Mr. Sash stated that he has already consulted with an attorney in Wayne County and he knows that he has to wait for 30 days until the minutes come out. This Board is going to deny him and then he has to wait another 30 days to present it to Federal Court and then it is going to take another 6 months. He had a serious need to build this house because he sold his Arizona property and he has pushed the septic back as far as he can. He stated that what reason is the Board going to deny him, last time it was because of an engineered system.

Board member Whitley asked if this proposal was for an engineered system.

Mr. Sash replied no; this is for a two stage tank system and by asking for an engineered system they are putting a financial request that is not held by anyone else on the lake or anything else. He asked if anyone on the Board has any type of certification regarding engineered systems.

Chairperson Wendt stated that he has been on a lake board on this Township since 1978 and he has been to many seminars given by Oakland County, Michigan State and EPA. He stated that he does not have any certification, but he has been there.

Board member Whitley asked what Mr. Sash's answer was to question #3, paragraph c. on the application because he cannot read it.

Mr. Sash attempted to read his application and was unable to read what was written.

Board member Whitley stated that if he can't read his own writing, he should not expect Board members to be able to read it. He asked how Mr. Sash's rights would be deprived as compared to those enjoyed by others.

Mr. Sash stated that it says "rendering nothing" or "rendering useless." He stated the first time the Board automatically denied him and he had to pay another \$300.00 and file another application.

Board member Vallad stated that they need the definition of an engineered system because the permit does call for it to be dug down to the sand and gravel that is apparent in the perk and then replaced and backfilled with 2NS. He asked if that was considered engineered.

Board member Whitley stated that there were varying degrees of engineered systems and what they had spoken about before was systems with after treatment.

Board member Vallad concurred.

Board member Whitley moved to DENY the request from William Sash and Mary Lanesky, 10086 King Road, Davisburg, 48350 for a variance to construct a septic system seventy (70) feet to the ordinary high-water mark of Dixie Lake rather than the one hundred (100) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-639 for the following reasons:

- 1. The applicant has not demonstrated to the satisfaction of the Board how literal interpretation of provisions of the Springfield Township Code of Ordinances would deprive the applicant of rights commonly enjoyed by others in the same zoning district.**
- 2. When asked reasons for why the variance was being requested there was a strong indication that the interests are financial in nature and that is not a point on which the Zoning Board will make a decision.**
- 3. Given that the request is for a septic field to be located less than 100 feet required by Springfield Township Code of Ordinances, the proposed system does not include an after treatment system and for these above reasons, the variance request is denied.**

**Seconded by Board member Fischbach. Voted yes: Fischbach, Wendt, Whitley.
Voted no: Vallad. Absent: Baker. Motion approved.**

NEW BUSINESS:

1. Request from David and Maridith Campbell, 10136 Oakhill Road, Holly, 48442 for a variance to construct a pool resulting in a fifteen (15) foot side setback rather than the twenty-five (25) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-572.

The property that is the subject of the request is located at 10136 Oakhill Road in Springfield Township and is zoned R-1 One Family Residential. P.I.#07-03-101-005.

Mr. Campbell introduced himself to the Board. He stated when he originally went to get the permits for the pool and he was told the setbacks it seemed like the setbacks were large. He stated that his property is 100 feet wide and it is one acre total and according to the ordinance the R1 zoning has a minimum width of 150 feet and a minimum size of 1.5 acres. His property is smaller than the minimum R1 size. He stated that R2 zoning is 120 width minimum, 1.0 acre minimum with a 15 foot side setback. He stated that his property is closer to a R2 zoning. He stated that only 46% of his lot is able to be built on and this puts an undue burden on him. The reason that he has to have a side variance is because they are trying to avoid the septic on the other side. He stated that if he has to be the 25 feet as required, it will not fit. He stated that he is proposing an in ground swimming pool with approved fencing. It will not be an eyesore and will not cause a problem with the neighbors.

Chairperson Wendt stated that the lot was built on and afforded the applicant reasonable use of the property because there is already a house there. This is an adjunct to the original piece of property. He asked the applicant to explain the 19 feet that is on the drawing presented by the applicant.

Mr. Campbell replied that he did not know exactly where the pool contractor was going to want to put the pool. He did not want to ask for 19 feet and be an inch or two off and 15 feet gives him a window to work in.

Chairperson Wendt stated that the Zoning Board is charged with allowing the smallest amount of variance possible and the difference between 15 feet and 19 feet is right about 20% range difference. He stated that if the applicant needs 15 feet that is one thing, but if 19 feet works, then it works.

Mr. Campbell stated that he did not want to paint himself into a corner with an exact number.

Chairperson Wendt stated that they have to deal with exact numbers and if the applicant has to have the pool area surveyed with the exact numbers than that is what has to be done.

Mr. Campbell stated that he is asking for 15 feet.

Chairperson Wendt stated that he is asking for 15 feet but made a reference to the fact that he could do it in 19 feet. He stated that if he could do it in 19 feet, why should they grant him 15 feet?

Mr. Campbell stated that he is asking for 15 feet based on his inexperience in building a pool. He wanted to give the installer the biggest envelope that he could and since the R2 side setback was 15 feet, that seemed like a good number to use.

Board member Whitley asked what prevents the applicant to moving the pool to the west.

Mr. Campbell answered that there are two septic tanks and a septic line there too.

Board member Whitley asked why he wouldn't just move the septic line.

Mr. Campbell replied that it would be considerable hassle and cost. They would also have to remove an existing blacktop drive. If this were the case, he could not move forward and would exceed the cost of the pool.

Board member Vallad asked if they have any records regarding the previous variances that were granted for this property.

Ms. Mattice answered that they found previous information, but it was not relevant to this case.

Board member Vallad asked what the variances were for.

Ms. Mattice answered that she does not recall. The Supervisor indicated that the prior variance information did not need to be included.

Board member Vallad asked how this lot was created. It is in the same block as the property to the west and it is in a different block that looks like it is the right size for the zoning. He asked how and when the lot was created. He stated that they need to go with 19 feet since this was on the drawing and it seemed like if you moved the septic tank line and move the pool a little, it now fits.

Board member Whitley stated that the applicant should have the pool builder finalize the proper location of the pool instead of asking for a range of variances. The sequence is backwards.

Mr. Campbell stated that had he known it would be such a sticky point, he would have done a more advanced drawing. He stated that since the application submission, he has had the property surveyed and the property line is further to the west than he thought so he knows 19 feet would not work. He staked out the pool and it is very close to 15 feet for a minimum size pool.

Chairperson Wendt stated that he would encourage the Board to table the request to allow the applicant to come back with firm information.

Board member Vallad asked if the applicant had the surveyed drawing.

Mr. Campbell showed the Board members the professional drawing.

Board member Vallad stated that a tabling motion is in order because the submitted drawing did not help him at all.

Chairperson Wendt stated that they need to get with the pool contractor and place it on the engineered survey drawing.

Board member Whitley stated that after looking at the engineered drawing, it does not appear that moving the septic line would affect moving the parked area.

Board member Fischbach moved to TABLE the request from David and Maridith Campbell, 10136 Oakhill Road, Holly, 48442 for a variance to construct a pool resulting in a fifteen (15) foot side setback rather than the twenty-five (25) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-572 to allow the applicant to come back to the Board at the next available meeting with work done by the pool contractor showing the exact pool location on the survey and allowing the applicant to demonstrate why this is the only available option. The Township will provide information relative to previous variance requests granted for the property and the creation of the lot lines for this specific lot regarding how it was done and when it was done. Seconded by Board member Vallad. Voted yes: Fischbach, Wendt, Vallad, Whitley. Voted no: None. Absent: Baker. Motion approved.

2. Request from Mike Mills, 406 Bear Berry Lane, Ortonville, 48462 for a variance to construct a structure resulting in a thirty-five (35) foot front setback rather than the fifty (50) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-572.

The property that is the subject of the request is located at 9580 Dixie Highway in Springfield Township and is zoned OS-Office Service. P.I.#07-14-176-033.

Mr. Vancamp, Architect, introduced himself to the Board. He stated that this is the pole barn next to the old Whoopee Bowl on Dixie Highway. The current structure is about 40 foot setback. The ROW in front of their building jogs from a 60 foot ROW to a 75 foot ROW and no one knows exactly why. He stated that with this jog, they now need a setback variance. They are adding architectural features to the building and there is a severe drop in the rear. They have been working with the Planning Commission and as they requested, they have kept the parking in the rear of the building so they can maintain the greenbelt and create the community features in the front as recommended by the Dixie Overlay.

Board member Vallad stated that the jog in the ROW was created because the developments were done at different times and Oakland County had different rules for road ROW. If Oakland County decides that they need to maintain more ROW, they stake their claim.

Mr. Mills stated that the Building located to the south would need to be torn down if the same ROW existed in front of that building. He stated that they do have preliminary site plan approval from the Planning Commission with Special Land Use approval.

Mr. Vancamp stated to maintain the desired community features the building has to be located closer to the road.

Board member Vallad stated that this is the direction that the Planning Commission wanted to go on Dixie Highway.

Chairperson Wendt concurred and stated that according to the plan, it looks like they adhered to that theme. He stated that the applicant is not responsible for the preexisting, non conforming conditions that he has to now deal with.

Board member Vallad stated that it makes sense to have the building there. He asked if Mr. Mills had communicated to the neighbors to evaluate the possibility of a shared drive.

Mr. Mills stated that they had a meeting with Mr. Carlisle, Supervisor Walls and the property owner to the south. They had tried to communicate with the property owner to the north, but have not heard a response. At the meeting, they discussed the shared driveway but this is dependent on this variance request.

Board member Vallad moved to APPROVE the request from Mike Mills, 406 Bear Berry Lane, Ortonville, 48462 for a variance to construct a structure resulting in a thirty-five (35) foot front setback rather than the fifty (50) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-572 in finding that the road right of way distance in front of this particular property was increased from 60 feet to 75 feet requiring this variance when the building intended to be incorporated in new development aligns with the property to the south that has a road right of way of 60 feet. This aligns the buildings, the uniqueness of this property in that it falls off tremendously to the rear and the building location is optimized for additional consideration for parking in the rear of the proposed development. Seconded by Board member Whitley. Voted yes: Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: Baker. Motion approved.

ADJOURNMENT:

Board member Fischbach moved to ADJOURN the meeting at 8:35 PM. Seconded by Board member Vallad. Voted yes: Fischbach, Vallad, Wendt, Whitley. Voted no: None. Absent: Baker. Motion approved.

Erin Mattice, Recording Secretary