

SPRINGFIELD TOWNSHIP
ZONING BOARD OF APPEALS
September 19, 2012

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

In attendance: Dean Baker, Zoning Board Member
 Denny Vallad, Zoning Board Member
 Skip Wendt, Chairperson
 Bill Whitley, Zoning Board Member

Absent: Virginia Fischbach, Zoning Board Member

AGENDA:

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

PUBLIC COMMENT: None

CONSENT MOTION: Minutes of the August 15, 2012 meeting.

Board member Whitley moved to approve the minutes of August 15, 2012 as presented. Supported by Board member Baker. Voted yes: Baker, Vallad, Wendt, Whitley. Voted no: None. Absent: Fischbach. Motion approved.

NEW BUSINESS:

1. Tabled from August 15, 2012: Request from Bruce Hynes, 13650 Neal Road, Davisburg 48350 to allow the construction of an attached garage and 1.) Grant an exemption for (1) historical barn building from the total Accessory Building floor area calculations 2.) grant a variance in a total accessory area of 492 square feet greater than the total allowable amount of 5400 square feet per Springfield Township Code of Ordinances, Chapter 40, Section 40-649(1) OR 3.) if a historical exemption is not granted, grant a variance to allow the construction of an attached garage resulting in a total accessory area of 2,142 square feet greater than the total allowable amount of 5400 square feet per Springfield Township Code of Ordinances, Chapter 40, Section 40-649.

The property that is the subject of this request is located at 13650 Neal Road, Davisburg in Springfield Township and is zoned R1A, One Family Residential. P.I.#07-31-100-008.

Mr. Robert Futrell of Futrell and Futrell Builders and Bruce Hynes appeared on behalf of this request.

Chairperson Wendt stated that he and all Board members should have received the document from Mr. Futrell showing his barn information and also a CD containing pictures of the barn. He stated that he visited the structure, did his own research and examined the information provided and reached the conclusion that the barn was constructed in approximately 1880 plus or minus 10 years. He referenced an article by Don Perkins from the internet which referenced the framing of the barn and style of the barn.

Board member Baker stated that he visited the site and he concurred with Chairperson Wendt. He stated that he does not have any issue in declaring it historical.

Board member Vallad and Board member Whitley concurred on the historical structure of the barn.

Chairperson Wendt stated that if they all agree that it is historical, than it will be taken out of the total allowable accessory square footage which would be a deduction of 1650 square feet.

Board members concurred.

Chairperson Wendt stated that they are dealing with a variance of 492 square feet. The new attached garage without the breezeway and with the pool equipment and bathroom result is 959 square feet which is slightly larger than the amount that was submitted. The applicant has said that the need for the garage is to allow Mr. Hynes to get to his transportation without having to traverse over his property to an outbuilding. He asked why the garage needs to be so large; a smaller garage would accommodate 2 cars and a small storage area.

Mr. Futrell stated that Mr. Hynes had attempted this before the historical allowance was added to the Zoning Ordinance. Mr. Hynes currently has a crew cab pickup with a full bed and they are actually short on square footage now. He has a gator type golf cart that he uses to get around his property and they may have to put in an additional garage door to allow easy access to this vehicle. They will have to reconfigure it to allow Mr. Hynes to park his long truck.

Chairperson Wendt stated that the square footage being asked for does not include the pool supply room and bathroom area or the breezeway and vestibule.

Mr. Futrell stated that it never included the breezeway because this was part of the house.

Chairperson Wendt stated that the pool supply room and bathroom area are about 90 square feet. He appreciated Mr. Hynes having a truck that long but if they are considering a vehicle for his practical use, he does not understand why a standard size garage of perhaps 24' X 28" would not be sufficient.

Mr. Futrell stated that it would not satisfy his needs and they are probably going to have to put another door in so that he could access the Gator used for enjoying his property.

Board member Baker stated that they are asking for square footage in excess of what the ordinance permits. The Board is bound by Ordinance language such that several conditions need to be present in order to grant a variance and none of them are based on how many vehicles you own. The Zoning Board of Appeals base the request on what special circumstances are unique to the land which has prevented him from enjoying the features of the land that the zoning district permits. They already have a number of accessory structures and they are proposing to build more and he believes that nothing on that land has prevented accessory structures to be built or to be built according to what the ordinance allows. What has been presented is that the applicant owns a lot of stuff and owning a lot of stuff is not a special circumstance that is unique to the land.

Mr. Futrell stated that what is unique to the land is the uphill topography that exists and that the applicant must traverse in order to get to the vehicles.

Board member Baker asked if this was the land that was the unique feature or was it the health of the applicant because the land is occupied with accessory structure.

Mr. Futrell stated that Mr. Hynes has a letter from his doctor and he is asking for a reasonable approach and he does not know how to answer. He stated that Mr. Hynes has a disability and he can no longer enjoy his property.

Board member Baker stated that Mr. Hynes would need to create some accessory space closer to the home by disposing of or reducing other accessory structure square footage.

Chairperson Wendt stated that he has had relatives that have had to go to assisted living and they could not get what they wanted in accessory structure in this Township. There is nothing on the property driving the hardship that requires the additional square footage that they are requesting.

Mr. Futrell stated that the applicant is looking for the same right as everyone else that he can access his vehicle without going to the outside and breathe cold air and clear of the vehicle.

Chairperson Wendt stated that this involves people who have that use who live in preexisting, nonconforming accessory storage areas or storage areas that conform to existing zoning. He stated that by law they are not allowed to increase the nonconformity. They are not presenting them with a hardship that the land or Mother Nature is driving.

Board member Baker stated that by eliminating the historical barn, they are permitted 5400 square feet and they currently can use 440 square feet that does not require ruling by the Board, but if they go beyond that, they are going beyond what the land is permitted for. They can either build a structure that is within the structure allowed, or part with some of the equipment that is taking up space in the structure that they already have

or they need to remove some of the square footage that they currently have and replace it with a facility closer to the house.

Board member Whitley asked if they have explored an alternative width for the proposed structure.

Mr. Futrell answered that they really didn't ask for enough because his vehicle is already over the depth of the barn so now they are forced to modify the barn.

Board member Whitley stated that he didn't understand.

Chairperson Wendt answered that instead of 24' deep; they were planning on making it 30' deep and not as wide.

Mr. Futrell answered that this was based on 24' by 36' which makes sense if you have a standard vehicle, which Mr. Hynes doesn't.

Chairperson Wendt stated that this is a condition that Mr. Hynes has created; not created by the land.

Board member Whitley asked if the other large barn was present when Mr. Hynes purchased the property.

Mr. Hynes answered yes; it was there when he purchased the property.

Board member Whitley stated that this might come into question whether or not the existence of these barns was Mr. Hynes doing; the total existing square footage area currently on the property was not his doing.

Mr. Hynes approached the Board and displayed pictures of 2 accessory structures that were present on the property when he purchased it and that he demolished.

Board member Whitley asked what the approximate square footage was of those buildings.

Mr. Hynes replied that he wasn't sure; it was a long time ago.

Board member Vallad asked Mr. Hynes when he purchased the property.

Mr. Hynes responded about 19 or 20 years.

Board member Vallad asked Supervisor Walls if he knew when the zoning ordinance was changed limiting accessory square footage.

Supervisor Walls answered no.

Mr. Hynes stated that those 2 structures that were torn down were 822 square feet and 429 square feet.

Chairperson Wendt asked the Board if they would consider the fact that there was a preexisting, nonconforming use and the use was vacated for a time period of a year or longer. He asked if it was possible to come back by Township ordinance and restart the clock and bring back the preexisting nonconforming condition. He stated that there was a greater number of preexisting nonconforming accessory square footage when Mr. Hynes purchased the property. Buildings were taken down and based on the current zoning ordinance the building is in conformity with the exemption considered.

Board member Whitley stated that he was suggesting that the Board allow the property to go back closer to the level of nonconformance that existed.

Chairperson Wendt stated that he was just asking if it was a possibility.

Board member Vallad stated that he remembers the discussions that took place when the accessory structure square footage was being evaluated and it was based on the size of the property and the levels allowed. He stated that 5400 square feet on a 10 acre parcel was about 1.2% of the property coverage. However, the total accessory square footage of 3200 square feet for a 5 acre parcel was about 1.5%. It is a larger percentage allowed on a smaller piece of property. He always thought that there was a discrepancy there.

Chairperson Wendt asked if it could be used as a basis for granting this variance.

Board member Baker asked if the property was zoned R1A at that time.

Board member Vallad responded yes; the lot was 10 acres then and it is now.

Board member Whitley stated that R1A has existed since 1983 or 1984.

Board member Whitley stated that it speaks to the fact that the current accessory structure is predated of the purchase of the property and is significantly remote from the residential structure and it is a reasonable desire to have an attached garage instead of using an existing accessory structure that is located a good deal from the home. This would not meet the ability to get enjoyment from the property in terms of being able to get to and from his vehicles.

Board member Baker stated that they are allowing the applicant to put an accessory structure on the property right now as long as it does not exceed 440 square feet; it is not that they do not have the opportunity; they just want one larger than the ordinance permits.

Board member Whitley stated that typical garages today are not single garages that would fall within the parameters of the ordinance; they see typically 2 or 3 car garages.

Board member Whitley moved to GRANT an exemption from the calculation of accessory building use for this parcel based on the barn being determined to be a historical building documented by several credible sources to date the construction of that building in the mid 1800's and supporting the preservation of historical buildings in Springfield Township. Seconded by Board member Vallad. Voted yes: Baker, Vallad, Wendt, Whitley. Voted no: None. Absent: Fischbach. Motion approved.

Board member Whitley moved to APPROVE the variance as requested to allow the construction of a proposed attached garage increasing the total accessory area to 492 square feet greater than the total allowable amount of 5400 square feet based on the fact that the existing accessory building was not constructed by the applicant; it predated his purchase of the property and therefore was not placed there by his own action and because of its remoteness from the existing residential building it does not meet the needs that allow for his enjoyable use of the property. Seconded by Board member Vallad. Voted yes: Vallad, Wendt, Whitley. Voted no: Baker. Absent: Fischbach. Motion approved.

ADJOURNMENT:

Board member Vallad moved to adjourn the meeting at 8:13 pm. Supported by Board member Whitley. Voted yes: Baker, Vallad, Wendt, Whitley. Voted no: None. Absent: Fischbach. Motion approved.

Erin Mattice, Recording Secretary