

SPRINGFIELD TOWNSHIP  
ZONING BOARD OF APPEALS  
October 20, 2010

Meeting is called to order at 8:00 pm.

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

CONSENT MOTION:        Agenda.

**Board member Whitley moved to approve the agenda as presented, supported by Board member Vallad. Voted yes: all. Vote no: none. Absent: none. Motion approved.**

PUBLIC COMMENT:        None.

CONSENT MOTION:        Minutes of the September 15, 2010 meeting.

**Board member Carlton moved to approve the minutes as presented, supported by Board member Baker. Voted yes: all. Vote no: none. Motion approved.**

OLD BUSINESS:

1.        *Tabled from September 15, 2010 meeting: Request from Dave Parker, 7603 Stonevalley Bluff, Clarkston, 48348 for the following variance: Allow the applicant to construct a pool at the above address resulting in a rear yard setback of five (5) feet rather than the thirty-five (35) feet required per Article XXV, Schedule of Regulations of Springfield Township Zoning Ordinance No. 26.*

*The property that is the subject of this request is located at 7603 Stonevalley Bluff in Springfield Township and is zoned R-1 One Family Residential. P.I. #07-13-453-005.*

Chairperson Wendt stated that the Board members received part of the Board's requested information from the applicant. He stated that there are dimensions that can be gained by subtracting numbers, but there is nothing that gives the Board lateral dimensions, right to left. He stated that he cannot tell where the right side of the pool is dimensionally from

the right side lot line, or the left side lot line. He stated that it shows that the pool is on the lot, and it can be determined where it is from the upper lot line from the drawing, but not side to side.

Mr. Parker apologized to the Board. He stated that he did not put those measurements in the drawing, but he could. He stated that he thought the Board was just concerned with the rear lot line in his variance request. He stated that as long as it was permitted through the Building Department, he believed that it was sufficient.

Chairperson Wendt stated that if he took the pool and determined the five foot setback from the rear lot line, he could not determine where it was being placed in reference to the right lot line. He stated that he could not determine if it was something that was allowed or not, it was just open-ended.

Mr. Parker asked if the Building Department would determine that.

Chairperson Wendt stated that they probably would, but at last month's meeting, the Board asked him to be very specific on the placement of the pool, and it is not represented that way on the drawing. He stated that it was only single dimension.

Mr. Parker stated that it was sitting right behind the house.

Chairperson Wendt stated that has nothing to do with what he stated or what the applicant was asked to do at last month's meeting. He stated that the application asks each applicant to provide as much information as possible to allow the Board to make a decision. He stated that it was impossible to determine side setbacks from the drawing.

Board member Vallad said that if you scale the drawing, you could determine the setbacks.

Chairperson Wendt stated that he does not scale anything. He stated that the Board originally asked the applicant for all of the pertinent data that the Board needs to make a decision and to resolve the situation. He stated that he does not have a problem looking at it and determining that it is where it should be, he stated that whoever prepared the drawing for Mr. Parker did not do an adequate job.

Board member Whitley concurred. He stated that in the motion, the dimension could be stated.

Mr. Parker stated that he does not know exactly where the pool is going to be because he has not hired a contractor yet. He stated that he first wanted to determine if he could get the variance accepted through the Board.

Board member Carlton stated that the five foot variance was determined to be five feet to the water's edge from the rear lot line.

Mr. Parker approached the Board to show them an additional drawing to provide more information.

Chairperson Wendt stated that the Board asked for something that they did not get. He stated all of the conditions that created the situation that the applicant is in that required him to approach the Board are not all his fault. There is also a green zone in the backside, so this will not impact any residential property. He stated that this pool is not a detriment to anything in the area.

Board member Carlton stated that he does not have concerns. He stated that he does not like that the concrete edge can go almost to the property line; however, there is nothing behind the property that would impact it.

Chairperson Wendt stated that he researched the pool set back through Township ordinances and through the Building Department, Carlisle Wortman. He stated that it could be solid concrete from the water's edge to the property line, there is nothing that prohibits it by statute.

Board member Vallad stated that it was similar to a driveway. He stated that the only concern he has is excavation and construction that could impact the nature conservancy behind the lot. He stated that he believes that we have something from the Association stating that they do not object to the pool's location; it comes very close to the back line. He stated that the Board needs assurances that they are not going to do any damage to the preserved area.

Chairperson Wendt stated he assumes that there will have to be a substantial retaining wall due to the huge amount of excavation that will need to be done that will fall within the five feet.

Mr. Parker pointed out the retaining wall on the sketch.

Board member Carlton recollected that the commons area starts at the applicant's rear lot line.

Mr. Parker stated that right on the other side of the lot line, this is where the conservancy property starts. He stated that there is 15 feet and then it drops off.

Board member Carlton stated the 15 feet was the Associations' common area, not the conservancy area.

Mr. Parker stated that he believes that they are one in the same.

Board member Baker stated that his only concern is that the construction of this pool not detrimentally impacting the common area. He also had the concern about the pool's surface having to maintain the appropriate set back.

Chairperson Wendt stated that it is the water's edge, not the perimeter hard surface.

Board member Carlton questioned the fence location. He urged the applicant to make sure he complies with Association regulations on this point.

Mr. Parker stated that he would.

Chairperson Wendt stated that because of the excavation, the retaining wall be capable of not impacting the conservancy on the contiguous property line.

Board member Carlton concurred that the excavation should not impact anything past the property line.

**Board member Baker made the motion to approve the request of the applicant to construct a pool at 7603 Stonevalley Bluff, Clarkston, 48348 with a five feet (5) rear yard setback as opposed to the thirty-five (35) feet statutory setback providing that the applicant maintains the integrity of all other setbacks as stated in the Ordinance and construction of this pool does not impinge upon or create a detrimental change to the commons area located along the rear lot line of this property. The applicant will need to maintain proper side yard setbacks which will be in accordance with the Architectural Review Committee of the Homeowner's Association requirements, though they are not specifically sited dimensionally by this Board. Supported by Board member Vallad. Voted yes: all. Vote no: none. Absent: none. Motion approved.**

NEW BUSINESS:

- 1. Request from Howard Carlson, 9014 Patrick, Davisburg, 48350 for the following variance: Allow the applicant to construct a garage resulting in a side yard setback of five (5) feet rather than the fifteen (15) feet required per Section 25 of Springfield Township Zoning Ordinance No. 26.*

*The property that is the subject of this request is located at 9014 Patrick in Springfield Township and is zoned R-3 One Family Residential. P.I. #07-10-253-016.*

Mr. Carlson introduced himself and his wife to the Board.

Chairperson Wendt asked the applicant why he doesn't put the proposed garage in the spot currently occupied by the garage that is going to be removed with some alteration of the driveway that would not require a variance.

Mr. Carlson stated that he would require a variance at this spot also.

Chairperson Wendt stated that it is preexisting, nonconforming. The current garage is located 9 feet from the property line and this 9 feet establishes the nonconformance. He asked the applicant why he cannot put the garage at 9 feet rather than the Board creating a greater nonconformity on the property.

Mr. Carlson stated that the location of the present garage is very hard to pull in to from the street because of where the driveway is located. He stated that he uses this driveway to pull boats in and out of the lake. This location for the garage is difficult to access from the driveway. He stated that the dormer proposed for the new garage raises the roof and would interfere with the power lines.

Board member Carlton stated that he sketched the garage out on the drawing. He stated that it encroached on the front a bit.

Board members work off the sketch to look at other locations for the proposed structure.

Chairperson Wendt stated that he is looking at the existing shed and the storage building located on the property. He stated that he can see there is an additional issue with the septic field. He stated that the Board is charged with not creating a nonconformity. He stated that the same garage can be built on the south side without changing the existing nonconformity.

Mr. Carlson approached the Board and Board member Carlton explained his sketch to him.

Chairperson Wendt stated that you could move the garage east. He stated that the applicant could get ride of the existing garage and put the new garage here.

Mr. Carlson stated that there was a wall there that he would have to move. He stated that this is a septic area and he would have to remove the retaining wall. He further showed the placement of the current retaining wall.

Board member Whitley explained that there was a way to get the garage inside the buildable envelope without an additional variance; perhaps the driveway would have to be moved.

Mr. Carlson stated that the drawing does not include the retaining wall.

Board members have a discussion about different placement of the garage in reference to moving the driveway with Mr. Carlson.

Mr. Carlson stated that this was an additional cost.

Chairperson Wendt stated that cost does not impact the Board's decision. He stated that the gravel driveway might have to be moved; the applicant would be charge with the labor to move the gravel only. He stated that the applicant has not explored every option

that is available from the raised sanitary field that would make it more in accordance with the ordinance rather than the Board creating a larger nonconformity.

Mr. Carlson questioned the placement of the power lines.

Chairperson Wendt stated that he does not know how the power lines impact anything from an ordinance standpoint. He stated that the power lines are not going to affect how the Board deals with the problem. He stated that the applicant has not explored every option.

Mr. Carlson stated his original idea was to construct a drive through garage but this would mean he would need a new wall.

Chairperson Wendt stated that the shed on the neighbor's property encroaches, and then to have a 5 foot setback from this building is not in harmony, nor conducive for the good will of the neighborhood.

Mr. Carlson stated that the property owner next door is in the process of moving this shed. He stated that he has a letter.

Chairperson Wendt stated that it still there and the Board needs to look at the situation with the shed present. He stated that he believes that a garage can be built on the south side which would not cause the Board to create a greater nonconformity. He stated that by state law, the Board cannot create a greater nonconformity if there is a viable alternative.

Board member Whitley stated that he believes there are other options that can be explored.

Board member Carlton stated that he doesn't know if the garage can be within the 9 feet current nonconformance with the retaining wall and the variance, but he believes that it can be greater than 5 feet. He stated that he is not asking for a smaller garage.

Chairperson Wendt showed an alternative site for the garage on the site drawing.

Board member Carlton and Whitley concurred.

Chairperson Wendt stated that he can understand the need and the use requirement, but he believes that the building can be put somewhere else. He stated that it would then not require a variance from the Board.

Mr. Carlson stated that the power lines are very low. He stated that the position that the Board proposed interferes.

Chairperson Wendt stated that he believes that you can move the building to the slope of the septic field and still be within the dimensions that the applicant wants. He stated that

if he accepts the plot plan to be reasonably to scale, the proposed garage will fit in this space.

Mr. Carlson stated that he cannot move it to the proposed area because that would be getting into the septic field.

Board member Whitley stated that the line denotes the septic field, not the retaining wall.

Mr. Carlson showed the placement of the septic and the retaining wall on the drawing. He stated that he would like to avoid going too close to the septic field. He stated that the current septic field is the third field that he has put into the property.

Chairperson Wendt stated that he would like to see the applicant use creativity to come up with some different options.

Board member Vallad questioned if the existing garage had a variance for the 9 feet.

[Chairperson Wendt excused himself from the meeting and returned.]

Chairperson Wendt stated that he is not satisfied that every alternative has been explored by the applicant. He stated that he would like to see the Board pass a motion to table the item to allow the applicant to explore whatever option he chooses to have a design that was more in conformity with the existing zoning laws and one that would make the best use of the land as practical.

Board member Carlton stated that before a motion is made, it should be clear that the structure of the retaining wall be included.

Chairperson Wendt stated that this could be in the motion.

Board member Baker stated that it is not an obligation to create no setback requirements for this construction. He stated that it is the Board's obligation to minimize any variances. There is a preexisting condition; there is a structure with a 9 foot setback.

Chairperson Wendt stated that the house is 15 feet from the side property line. This creates a preexisting, nonconforming condition. This was in place before the current ordinance was in effect. He stated this 15 feet could be used along the north property line to establish the wall of the garage, or the 9 feet on the other side could also be used to establish another wall for the garage on the opposite side of the lot and be in conformity.

Board member Carlton asked if the applicant could go 9 feet on the south side.

Board member Baker asked if the Board would consider the 9 feet existing setback that is present.

Mr. Carlson stated that he understood what the Board was trying to do.

Board member Whitley stated that there is not enough data to determine if there are alternatives or not. He stated that it appears that there are alternatives; however the Board does not have dimensions or data.

**Board member Whitley made a motion for the request to be tabled to allow the applicant to resubmit dimensional data that demonstrates the possible locations for the desired garage with dimensions shown to existing unmovable monuments on the property, around which the construction plan must be designed. Supported by Board member Carlton. Voted yes: all. Vote no: none. Absent: none. Motion approved.**

Mr. Carlson stated that there are also gas lines that interfere with the garage placement.

Board member Vallad stated that these gas lines can be moved.

ADJOURNMENT:

**Board member Baker moved to adjourn the meeting at 8:52 pm, supported by Board member Vallad. Voted yes: all. Vote no: none. Absent: none. Motion approved.**

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Erin Mattice, Recording Secretary