

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

April 19, 2023

SPRINGFIELD
CHARTER TOWNSHIP



Sean R. Miller, Clerk

Call to Order: Chairperson Baker called the April 19, 2023, Zoning Board of Appeals meeting to order at 7:00 p.m. at the Springfield Township Civic Center, 12000 Davisburg Rd., Davisburg, Michigan, 48350.

In attendance: Dean Baker, Chairperson
Jim Carlton, Board Member (Arrived 7:06 p.m.)
Ryland Rusch, Board Member
Matt Underwood, Board Member
Bill Whitley, Board Member

Staff Members Present:
Joan Rusch, Planning Administrator

Consultants Present:
Julia Upfal, Planner, Giffels Webster

Approval of Agenda:
Board Member Whitley moved to approve the agenda as submitted. Supported by Board Member Rusch. Vote: Yes: Baker, Carlton, Rusch, Underwood, Whitley. No: None. Absent: None. Motion approved.

Public Comment:
None

Approval of Minutes:
Board Member Rusch moved to approve the minutes of the January 18, 2023, Zoning Board of Appeals meeting as presented. Supported by Board Member Whitley. Vote: Yes: Baker, Carlton, Rusch, Underwood, Whitley. No: None. Absent: None. Motion approved.

- New Business:**
1. Request from Karmen Orow, 9692 Susin Ln, Clarkston, MI 48348 for a variance to construct a home addition with:
 - A.) Setback from the water of forty-six feet (46') instead of the fifty (50) feet allowed per Springfield Township Ordinances, Chapter 40, Section 40-639 - Lots Abutting Water Bodies
 - B.) Setback from the side of twelve and a half feet (12.5') instead of the thirteen feet (13') allowed per Springfield Township Ordinances, Chapter 40, Section 40-932 - Setbacks for Nonconforming Lots
 - C.) Setback distance from the front maintained, with construction on the backside of the home within the setback area allowed per Springfield Township

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Ordinances, Chapter 40, Section 40-932 - Setbacks for Nonconforming Lots

The property that is the subject of this request is located at 9692 Susin Ln, Clarkston, MI 48348 and is zoned R-3: Single Family Residential with a Parcel ID of 07-11-378-003.

Mr. Orow explained that, currently, his garage sits further back than the house. He would like to make an addition to the rear of the house that would be 6.8 feet deep and 41.5 feet wide. This would make the living room and a bedroom bigger to give more living space.

Chairperson Baker commented that this is a unique lot with the front setback encompassing most of the structure. He asked the applicant if they would be increasing the number of bedrooms, which might impact the septic system.

Mr. Orow stated that the number of bedrooms would not be changing.

Chairperson Baker asked the applicant if there was a survey done for the property.

Mr. Orow stated that they do not have a copy of a survey.

Chairperson Baker stated that when he went to the property, he noticed stakes in the ground and wondered if they were from a survey. He would like to know the distances between the structure and the lot lines. The aerial imaging provided by the Township shows side setbacks of 5.6 feet and 27 feet, which differs from what the applicant provided of 12.5 feet on one side and 20 feet on the other. Knowing where the house sits on the property is foundational for determining what type of setback to propose.

Mr. Orow stated that he found a stake in the ground by the property line, and he did the measuring from there. That is how he came up with his figures.

Chairperson Baker stated that he found a survey marker in a tree stump but didn't personally do any measuring. The marker is from a local surveyor still in business in the Township, so he believes a survey exists, if not for this property, then for the neighboring property. It is important to see a survey for this property, so the board knows where this house is placed relevant to the side lot line.

Board Member Whitley asked the applicant if he was going to make the lakeside of the house wider than the existing house.

Mr. Orow stated that he was not. The addition will go towards the water but will end where the house currently ends.

Board Member Whitley stated that since the house addition will be going towards the water but will end where the existing structure ends, there appears to be no increase in nonconformity relative to side yard setbacks from his perspective.

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Chairperson Baker commented that the Board doesn't specifically know that because they don't know where the lot line is.

Board Member Carlton commented that the Board does not want to make the nonconformity worse.

Chairperson Baker stated that, based on the unique features of the parcel, he understands why the house was built on the lot where it is. He would like the specifics on what the side yard setback is and what the motion should be. He suggested that the applicant contact the surveyor to get the record of the survey, so they know where the house sits relative to the lot lines.

Board Member Carlton suggested that the neighbor might have a copy of a survey for his adjoining property line.

Chairperson Baker suggested that this request be tabled to give the applicant the opportunity to get the required information. The applicant could then bring the document back to the ZBA, possibly next month. Providing documentation would eliminate any speculation on the part of the applicant or the Board.

The Board discussed if they should comment on the setback from the water element. It was determined that the Board should wait to discuss all setback elements at the same time.

Chairperson Baker stated that the applicant should retrieve a survey with a seal from a licensed surveyor or engineer with distances of the structures to the property lines and waterlines clearly marked. He should provide the document to the Township so the ZBA members can review. This request can then be reviewed at another meeting without further noticing or cost to the applicant.

Board Member Whitley moved that the request for a variance at the property located at 9692 Susin Lane, Clarkston, be tabled, pending the applicant presenting dimensional information that clarifies the location of the home relative to the lot lines. Supported by Board Member Carlton. Vote: Yes: Baker, Carlton, Rusch, Underwood, Whitley. No: None. Absent: None. Motion carried.

2. Non-designated Land Use Determination – Proposed waste transfer station in M-2: Heavy Industrial District.

Chairperson Baker explained that the Township has requested an opinion from the ZBA for a determination on a non-designated land use. He introduced Ms. Upfal, the Township Planner, and explained the reason for her presence at this meeting. An applicant brought to the Township a request for a waste transfer facility. The applicant came to the Township for a pre-application meeting in February for a proposed use on an existing M-2 parcel. The Township Planner noted that a waste transfer center is not defined adequately in the ordinance. When there is a non-designated land use, the ZBA can be requested to make a determination of where this use is appropriate and whether or not the use is a permitted use by right or a special land use. A special land use obligates the noticing of all parcels within 300 feet. Prior to coming to the ZBA, this

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proposal came before the Planning Commission. At the Planning Commission the applicant was in the meeting and provided a narrative and a site plan and described the proposed use on this site. The Planning Commission made recommendations to the ZBA. The recommendations were that this use should be located in the M-2 Heavy Industrial District, have a 5-acre minimum lot size, which M-2 is supposed to have, and be a certain number of feet away from residentially zoned property due to the nature of the business conducted. Tonight, the ZBA should determine in which zoning district a waste transfer center should be allowed and if it should be a permitted use by right or a special land use. The ZBA could also consider itemizing elements that should be conditional, so the Planning Commission can make those conditions defined.

Ms. Upfal stated that conditions can be set with any motion of the ZBA. Conditions can be attached whether it is a permitted use or a special land use.

Board Member Rusch commented that if the ZBA decided this use was to be a special land use, then the Planning Commission would have the opportunity to define what those conditions would be for the special land use. This was not something the ZBA needed to do this evening.

Ms. Upfal stated that the ZBA could add conditions now or leave this up to the Planning Commission by making it a special land use.

Board Member Whitley asked if it was within the scope of the ZBA to impose conditions as part of the ZBA motion.

Mrs. Upfal confirmed that it was within the scope of the ZBA to impose conditions.

Chairperson Baker stated that the two items to be decided tonight are, first, the zoning district, and second, a use by right or a special land use. Then the opportunity exists for the ZBA to enumerate elements for conditions on the use. He asked if the ZBA were to enumerate elements for a special land use, then would the Planning Commission be obligated to use the conditions and could the Planning Commission also add additional conditions.

Ms. Upfal stated that the Planning Commission could use these conditions and add additional conditions. She explained that these conditions would apply to all waste transfer centers in the Township unless the Planning Commission makes an amendment.

Chairperson Baker stated that if the Planning Commission amends an ordinance, it goes to the Township Board for approval. He asked if the Township Board would be bound by what the ZBA decides.

Ms. Upfal stated that the Township Board would be bound by the ZBA's final land use designation until the ordinance is amended.

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Chairperson Baker stated that if the ZBA enumerated items for conditions and the Planning Commission decides some don't fit, then the Planning Commission could edit by amending the ordinance.

Ms. Upfal stated that an amendment could overturn the ruling of the ZBA. The finding of the ZBA remains in force until the ordinance is amended.

Board Member Whitley asked for clarification on what is amended. He asked if it would be the ZBA's decision or the ordinance.

Ms. Upfal stated that the Planning Commission could add waste transfer centers to the zoning ordinance with whatever conditions they wanted to apply. She referred to the attorney's memo, which states that, "The decision would be permanent, unless and until, the Township takes action to amend the Zoning Ordinance, or the ZBA makes a subsequent determination."

Chairperson Baker stated that it is the intent of the Planning Commission to take up this item after the ZBA makes its determination and move an ordinance amendment through the approval process.

Board Member Whitley stated that the ZBA is not to consider the proposed site plan. However, he was wondering if the proposal could go to site plan review before the ordinance has been amended.

Chairperson Baker stated that the ZBA determination on this use creates closure until the Planning Commission is ready to take on this item. This ruling can then be amended by the Planning Commission.

Phil Konopitski, 8535 Eaton Road, broker for the applicant, commented that he agrees that this use should be in heavy industrial zoning. It appears to him that with this non-designated use the Township is attempting to make this use go away in the Township by adding requirements like 5 acres and specific setbacks. He would like to know why these requirements are being imposed. This would be better than the use currently on the site.

Chairperson Baker stated that this is not a topic of the discussion this evening. That would be something for the Planning Commission to discuss.

Mr. Konopitski commented that everything should be considered. He is not sure how these decisions are made. All uses should be considered within the Township, and if they fall under a certain designation, like heavy industrial, then the use should be allowed. If there is a property that doesn't conform, then there should be a variance given.

Ms. Upfal stated that it is important that the conditions set have justifications and reasons given for them. The ZBA has the opportunity to set conditions for all waste transfer centers, but the Planning Commission will be reviewing on a site-specific basis. The ZBA can make broad justifications and must justify that a condition fits all waste transfer centers.

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Chairperson Baker stated that the motion must include which zoning district, and whether it should be a principal permitted use or subject to special land use. If it is a special land use, then elements could be itemized, along with the justifications associated with them.

Board Member Whitley moved that the Springfield Township Zoning Board of Appeals determines that:

- 1. A Waste Transfer Station is an appropriate land use in the M-2 zoning district, subject to the provisions of a Special Land Use, and further,**
- 2. Given the intensity of use of a waste transfer station, and potential for impacting surrounding and nearby properties, that the following special conditions, which are already present for other special land uses in M-2 in Springfield Township Code of Ordinances Section 40-485, be applied to any such Waste Transfer Station operation:**
 - **Minimum lot size, as already stipulated for the M-2 zoning district in Springfield Township Code of Ordinances Sec 40-572 Limiting height, bulk, density and areas by land use**
 - **8-foot-high obscuring masonry wall on all sides due to the intensity of use, to act as a noise barrier, and to provide a visual screening of the operation, consistent with other special land uses in M-2, and consistent with screening provisions as stipulated in sec 40-650 for a recycling facility**
 - **Must abut other properties zoned M-2 on all sides except an improved, paved roadway frontage of at least 66 feet right of way**
 - **Additional equipment other than that used as process equipment for the waste transfer station operation is not permitted unless approved by the Township Board**
 - **Dust control measures are implemented to prevent dust from the operation's roadways or process from travelling to abutting or nearby properties to assure nearby properties from being impacted by such dust**
 - **Maintenance and repair operations are conducted within a fully enclosed building to reduce noise concerns**
 - **No storage of inoperative vehicles, trailers, or waste is allowed**
 - **A performance guarantee as stipulated by the Township Board is posted to assure restoration of the property upon the conclusion of waste transfer station operations**
 - **Public hearing be conducted prior to the approval of the special land use**
 - **The Township Board may require the installation of a temporary fence to prevent the scattering of debris or litter**
 - **No portion of the site that is used in the operation of the waste transfer station shall be within 500 feet of any property that is used for or zoned for a residential purpose to assure those residents' abilities to enjoy their residential properties**

Supported by Board Member Carlton.

Discussion:

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The Board discussed these conditions and how the business of waste transfer is conducted. They removed the specific lot size requirement since a minimum is already stated in the ordinance, and provided reasons for the conditions regarding dust control, maintenance and repair operations in an enclosed building, and setbacks. Board Member Carlton agreed to support the changes.

Vote: Yes: Baker, Carlton, Rusch, Underwood, Whitley. No: None. Absent: None. Motion Approved.

Public Comment:

None

Adjournment:

Board Member Rusch moved to adjourn the meeting at 8:30 p.m. Supported by Board Member Underwood. Vote: Yes: Baker, Carlton, Rusch, Underwood, Whitley. No: None. Absent: None. Motion carried.

Joan Rusch, Recording Secretary