

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

July 19, 2023

SPRINGFIELD
CHARTER TOWNSHIP



Sean R. Miller, Clerk

Call to Order: Chairperson Baker called the July 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
Ryland Rusch, Board Member
Matt Underwood, Board Member
Judy Hensler, Alternate Board Member

Absent: Jim Carlton, Board Member
Bill Whitley, Board Member

Staff Members Present:
Laura Moreau, Supervisor
Brian Piper, Zoning Assistant
Joan Rusch, Planning Administrator

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

Public Comment:
None

Approval of Minutes:
Board Member Rusch moved to approve the minutes of the May 17, 2023, Zoning Board of Appeals meeting as presented. Supported by Board Member Underwood. Vote: Yes: Baker, Rusch, Underwood, Hensler. No: None. Absent: Carlton, Whitley. Motion approved.

New Business:

1. Request from Chris Green, 11979 Clark Rd, Davisburg, MI 48350 for a variance to reconstruct a home with a setback from the side of fourteen feet (14) instead of twenty-five feet (25) allowed per Springfield Township Ordinances, Chapter 40, Section 40-572 - Limiting Height, Bulk, Density, and Area by Land Use.

The property that is the subject of this request is located at 11979 Clark Rd, Davisburg, MI 48350 and is zoned R1A: Single Family Residential with a Parcel ID of 07-21-101-017.

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Mr. Green explained that his house was destroyed in a fire, and he would like to rebuild on the same foundation.

Chairperson Baker stated that building the house in the old location would make it not conforming to the setbacks required by the ordinance. Since the house is more than 50% destroyed and is beyond habitability, the ordinance does not allow rebuilding in the same location.

Mr. Green asked for clarification on what the 50% figure referred to.

Board members referenced the ordinance and clarified that it was 50% of the replacement costs.

Mr. Green stated that he cannot move the house and has no other option. He doesn't have money to put in a new foundation, and the septic tank and septic field by the lower-level walk out would be impacted if he had to move the house location.

The board members clarified the general location of the septic tank and field as noted on the Oakland County Health Department septic permit and the applicant's diagram.

Board Member Rusch stated that most of the foundation, except for the side bump out, is within the setback. There is just one section of the house that encroaches into the setback. He asked if it would be possible to expand the house on either end of the current foundation to keep the same square footage.

Mr. Green stated that he can't move the foundation because of the depression in the yard. Oakland County Health Department has indicated that he needs a new septic system. The only option for the septic is where it currently is.

Board Member Underwood asked Mr. Green if he had received any information from a septic installer and if it would be feasible to put the septic in the lower area.

Mr. Green stated that he had not, but noted that water accumulates in this low area.

Chairperson Baker noted that a remodel was done to the house in 1999. He inquired if the footprint changed as a result of this remodel.

Mr. Green stated that he added 2000 square feet which included the living room, kitchen, master bedroom, and master bath. This remodel created the bump out addition. He stated that he just wants to rebuild the exact same house on the existing foundation.

Chairperson Baker asked if the house was insured.

Mr. Green said that it was.

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Chairperson Baker stated that the house loss is so great that the structure needs to be razed and rebuilt. When this happens, the Township requires the rebuild to comply with the ordinance. He understands that the width of the lot and the acreage of the parcel do not currently comply with the requirements for the zoning district. The board is trying to determine how the ordinances of the community can be met while still allowing a structure to be built that will meet the needs of the applicant.

Board Member Rusch commented that there are other ways to get a similar square footage in the rebuild without encroaching into the setbacks, like building out towards where the garage is.

Mr. Green stated that there isn't room to go towards the back or the sides. He doesn't have the money to put in a new foundation that would be required to move the house.

Board Member Hensler stated that this is a unique situation, which was not caused by the applicant. He wouldn't be encroaching on neighbors by rebuilding in the same location. She is in favor of this request and feels it meets the requirements.

Board Member Underwood commented that there is plenty of width on the property and no topography challenges to prevent meeting a 25-foot setback.

Board Member Rusch asked Mr. Piper what the nonconforming setback calculations would be for a reduced setback.

Mr. Piper stated that if the applicant met all the requirements for an administrative approval, the reduced setback would be 17.4 feet.

Board Member Hensler commented that if one used the setback of 17.4 feet, then the variance request is not as large.

Chairperson Baker confirmed with Mr. Piper that with the setback requirements the Township has for nonconforming lots, the setback could be reduced to 17.4 feet.

Mr. Piper stated that if the situation met all of the criteria for the nonconforming setback, the maximum reduction would take it from the 25 feet to 17.4 feet. The equation is based on lot width, and it would have to be determined that a structure could not be built anywhere else on the lot.

Supervisor Moreau explained that the initial review indicated this situation did not meet the other criteria for an administrative approval. There is space on the parcel to construct within the setback requirements. If there was no other way to construct a home on the parcel, an administrative approval could be granted. However, she did not feel this situation was clear enough for an administrative approval, and as proposed, the structure was not meeting the 17.4 feet required. In reviewing this variance request, it is appropriate to consider the 17.4 foot setback and take this into account; if the home was still standing, then a 17.4 foot setback could have been approved.

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Board Member Underwood asked the applicant if a 17.4 foot setback would work for him.

Mr. Green stated that he can't add onto a block basement and moving it over is not a feasible option.

Board Member Hensler moved to approve the request from Chris Green, 11979 Clark Rd, Davisburg, MI 48350 for a variance to reconstruct a home with a setback from the side of fourteen feet (14) instead of twenty-five feet (25) allowed per Springfield Township Ordinances, Chapter 40, Section 40-572 - Limiting Height, Bulk, Density, and Area by Land Use. The property that is the subject of this request is located at 11979 Clark Rd, Davisburg, MI 48350 and is zoned R1A: Single Family Residential with a Parcel ID of 07-21-101-017.

Chairperson Baker stated that five elements must be met for the variance to be granted. Usually, these elements are included in the motion. This ensures that the Board is meeting those requirements.

The Board Members did not support this motion.

Tim Lamar, who lives in Highland, helped Mr. Green fill out the paperwork. He noted that this variance went from an 11-foot reduction to a reduction of 2.4 feet. He was confused by this.

Chairperson Baker stated that it is not the obligation of the board to take into account financial challenges or expense when deciding whether or not to grant a variance.

Mr. Green reiterated that he cannot move the septic system. The only place for the septic is where the Board suggests the house should be moved.

Board Member Underwood moved to deny the request from Chris Green, 11979 Clark Rd, Davisburg, MI 48350 for a variance to reconstruct a home with a setback from the side of fourteen feet (14) instead of twenty-five feet (25) allowed per Springfield Township Ordinances, Chapter 40, Section 40-572 - Limiting Height, Bulk, Density, and Area by Land Use. This request does not meet ordinance 40-932, as this ordinance indicates that a variance may be granted to allow reduced setbacks provided that three specific conditions are met. The two conditions that this request does not meet is that the lot can be reasonably developed for a proposed use with strict compliance with the setback requirements of section 40-572, and the variance granted is not the minimum necessary for reasonable use.

Supported by Board Member Rusch. Vote: Yes: Baker, Rusch, Underwood. No: Hensler. Absent: Carlton, Whitley. Motion carried.

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2. Request from Robert Fischer, 5761 Morning Dr, Davisburg, MI 48350 for a variance to construct an accessory structure with:

A.) Total accessory floor area of two thousand four hundred ninety-six square feet (2496) instead of the nine hundred ninety-two square feet (992) allowed per Springfield Township Ordinances, Chapter 40, Section 40-649 - Accessory Buildings and Structures and Uses

B.) Setback from the front of forty-nine feet (49) instead of fifty feet (50) allowed per Springfield Township Ordinances, Chapter 40, Section 40-572 - Limiting Height, Bulk, Density, and Area by Land Use

The properties that are the subject of this request are located at 5750 Morning Dr and 5761 Morning Dr, Davisburg, MI 48350 and are zoned R-2: Single Family Residential with a Parcel ID of 07-28-401-012 and 07-28-326-016.

Mr. Fischer explained that he would like to combine his two properties. He would demolish the home on 5750 Morning Drive, as both structures on this lot are nonconforming. Then he would build an accessory structure on that parcel.

Chairperson Baker explained that five criteria must be met for a variance to be granted. There must be unique elements with the property that impede the owner from enjoying the property as others would be able to in the same zoning district. The circumstances surrounding this request involve the lot with an occupied residence and a corner lot across the street. The acreage of both lots was tallied as if they were one lot, and the accessory square footage allowed was calculated to be 992 square feet. This request is for 2496 square feet. Chairperson Baker asked the applicant why he should get more square footage of accessory space than others are allowed in similar circumstances.

Mr. Fischer explained that the structure he is proposing to build is 2016 square feet. The rest of the square footage request comes from his existing garage at 5761 Morning Dr.

Chairperson Baker stated that this is correct. There is already 480 existing square feet at his current residence.

Mr. Fischer explained that his situation is unique because he has owned the lot at 5750 Morning Drive for 15 years. He always intended to use the property for storage. A new building would be constructed and tucked back on the parcel, landscaped nicely, and blend into the surroundings. Mr. Fischer described the vehicles, boat, and other items to be stored and explained that working on cars is his hobby. This building would improve the neighborhood as he would remove the structures currently on the property. He would raise the proposed structure to the level of the road which is 2.4 feet.

Chairperson Baker explained that the goal of the Board is to make sure an applicant gets to use his property to the same degree as others in the same circumstances are allowed to do. The limits on the amount of accessory square footage are set in the ordinance. The Board's goal is to get the applicant to 992 square feet, of which 480 currently exist. There is only 512 square feet of accessory

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space allowed on the parcel. What is being asked for goes beyond what other property owners are allowed. Having a lot of stuff or a hobby is not something the Board can take into account as a reason to grant a variance. The question the Board must determine is if the ordinance is preventing an applicant from getting the accessory square footage that is allowable. The answer in this case is no. The applicant can easily fit a 512 square foot structure on this parcel. The applicant cannot go beyond this amount.

Mr. Fischer stated that he was hoping to bargain with the Board. A two-car structure will not work for his purposes. He believes his proposal will improve the neighborhood and is requesting this for his neighbors as well. He is hoping to go around the rules to make everyone happy.

Board Member Hensler commented that she understands how 512 square feet may not be enough, but this request is four times what is allowed. She asked why the additional request for a one-foot variance from the setback.

Mr. Fischer stated that the building he wishes to construct is a package plan, and he had to choose the larger size that would meet his needs.

Board Member Rusch commented that his concern is that the size requested is so much more when compared to what is allowed.

Mr. Fischer commented that his neighbor owns three lots and has a three-car garage, so he doesn't understand why he can't have that size garage.

Chairperson Baker stated that Mr. Fischer is not being deprived of what the current zoning ordinance allows.

Board Member Underwood noted that the variance request is very large. He asked the applicant if he had considered a smaller footprint.

Mr. Fischer stated that he is here to barter and is open to a different size. He is willing to work with the Board to make everyone happy.

Chairperson Baker stated that the Board received an item of correspondence from Larry and Ruth Gruber indicating that they are supportive of this request. He invited others to make comment on this request.

Kelly Kemp, 5771 Morning Drive, stated that she has a concern with drainage on both her property and Mr. Fischer's property. Both of their properties have a drainage issue, and depending on how the elevation works out and how it is managed, there may be a problem. The elevation may change the drainage and she doesn't want to see the problem get worse. Trees on the property would be cut down and she is concerned about how that would be managed. She is not opposed to something on the property to improve the site, but she feels the size of the request is a lot and would set a precedent. She wondered if there would be a septic system on the site.

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Mr. Fischer stated that there will be no plumbing.

Gary Sypniewski, 5790 Morning Drive, who lives next door, stated that he does not have a problem with this request, as it will improve the site.

Gwendolyn Joyce, co-owner of the property at 5750 Morning Drive, asked if the square footage allowed includes both the lower and upper part of the structure, or just the lower.

Mr. Fischer stated that it is just the lower part of the structure.

Chairperson Baker moved to deny the request from Robert Fischer, 5761 Morning Dr, Davisburg, MI 48350 for a variance to construct an accessory structure with: A.) Total accessory floor area of two thousand four hundred ninety-six square feet (2496) instead of the nine hundred ninety-two square feet (992) allowed per Springfield Township Ordinances, and B.) Setback from the front of forty-nine feet (49) instead of fifty feet (50) allowed per Springfield Township Ordinances on the basis that there are no special conditions that exist which are peculiar to the land; a literal interpretation of the ordinance would not deprive the applicant of rights commonly enjoyed by other properties in the same zoning district; granting of the variance is not in harmony with the ordinance or Master Plan.

Supported by Board Member Rusch. Vote: Yes: Baker, Rusch, Underwood, Hensler. No: None. Absent: Carlton, Whitley. Motion carried.

Public Comment:

None

Adjournment:

Board Member Hensler moved to adjourn the meeting at 8:14 p.m. Supported by Board Member Underwood. Vote: Yes: Baker, Rusch, Underwood, Hensler. No: None. Absent: Carlton, Whitley. Motion carried.

Joan Rusch, Recording Secretary