

Minutes of
ZONING BOARD OF APPEALS
REGULAR MEETING
August 18, 2021



Call to Order: Chairperson Whitley called the August 18, 2021, Zoning Board of Appeals meeting to order at 7:30 pm at the Springfield Township Civic Center with members of the public onsite in the Conference Room and remotely via phone/video conference.

In attendance: Bill Whitley, Chairperson
Jason Pliska, Board Member
Skip Wendt, Board Member
Dean Baker, Board Member

Absent:
Matt Underwood, Board Member
Jim Carlton, Alternate Board Member

Approval of Agenda:

- **Board Member Wendt moved to proceed with the agenda as presented. Supported by Board member Pliska. Vote: Yes: Baker, Pliska, Wendt, Whitley. Vote No: None. Motion approved.**

Public Comment:
none

Approval of Minutes:

- **Board Member Wendt moved to approve the minutes of the May 19, 2021, meeting as amended on p. 6 for the word “house” to be changed to “allow.” Supported by Board Member Pliska. Vote: Yes: Baker, Pliska, Wendt, Whitley. Vote No: None. Motion approved.**

Old Business:
none

New Business:

1. Request from Aaron Stanley, 9797 Norman Road, Clarkston, 48348, for a variance to construct a replacement for an existing garage with a side setback of eight (8) ft. instead of eight point seven (8.7) ft and a front setback of sixteen (16) ft. instead of forty-three (43) ft. allowed per Springfield Township Ordinances, Chapter 40, Section 40-932.

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The property that is the subject of this request is located at 9797 Norman Road in Springfield Township, and is zoned R-3 One Family Residential, P.I. #07-11-327-045.

Chairperson Whitley asked if there was anybody here to address this request.

Aaron Stanley, 9797 Norman Road, distributed photos to support his request.

Chairperson Whitley noted that an email was received regarding this appeal from Kathy Paul of 9789 Norman Road. He requested that this email be made part of the record.

Mr. Stanley asked for a setback variance to replace his current garage which is 8 ft. from the east side and 38 ft. from the edge of Norman Rd. Existing east side setback will be kept at 8 ft., but front setback will increase 4.5 ft. One item for support of a new garage is a drainage issue which allows water from the neighbor and road to come into the garage. A variance will also allow for the driveway to be moved to the west side which will allow more parking. The current parking situation makes it difficult for the owners and neighbors to see to pull out into the road. Due to the size of lot and location of septic, this is the best option they could come up with. It will eliminate the issue of moving cars around when an occupant must leave in a hurry due to work duties. Please note that one neighbor four houses down has only a 30 ft. setback.

Chairperson Whitley asked if they would park cars in the new garage instead of outside.

Mr. Stanley replied that they definitely would. They do not park cars in the garage today because of other items stored in the garage. There is currently room for one car and it is a tight fit.

Chairperson Whitley asked what the assurance would be that they would indeed park in the new garage to remedy the sight distance that has been raised.

Mr. Stanley responded that it is their intention because they will have more space, although a car will still need to be parked outside.

Chairperson Whitley noted that they will have a parking pad to the west of the garage for extra vehicles.

Mr. Stanley confirmed this. With the side entrance, there will be about 63 ft. of space to use for parking. They will be able to park closer to the house and eliminate the obstruction to Norman Rd.

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Board Member Pliska asked what kind of surface the driveway would be made of.

Mr. Stanley replied that it will be concrete.

Board Member Pliska expressed concern that with a larger garage and a concrete driveway there will not be a lot of permeable soil to absorb water in a rain event. He asked what has been considered to prevent runoff from going to neighbors and perhaps cause flooding.

Mr. Stanley replied that the plan is to run underground drainage towards the back of the house downhill towards the lake. Gutters will capture the water and direct it appropriately.

Board Member Baker commented that without a variance Mr. Stanley is allowed the current 8 ft. setback on the east side. So, when he tears the current structure down, he could reorient the new structure and build it attached to the house without a need for a variance.

Mr. Stanley replied that he was told that he would still have to ask for a variance because he is a nonconforming lot and if he tears down the current garage, he cannot put a new garage where the old one was. Having to meet the calculated allowed setback would put the new structure in the middle of his house.

Board Member Baker said that he understood that previously approved nonconforming lots, even if a structure was torn down, could build a new structure as long as they didn't increase the nonconformity without a variance request.

Mr. Stanley replied that that was not what he was told.

Board Member Baker commented that he would support an 8 ft. setback if the structure was not closer to the road. There is the option to increase the square footage of the garage by attaching it to the house and there is still an opportunity to move it to the west without getting it closer to the road.

Mr. Stanley replied that he wanted a three-car garage because of storage issues.

Board Member Baker said that for variance requests the board needs to look at what is peculiar about the lot, not about how limited storage space is. He does not feel this request meets all the parameters for the variance. One parameter is if this is the minimum variance that will make possible the reasonable use of the land, building, or structure. A two-car garage is standard and reasonable for the lot. Also, the fact that the garage is not bigger does not mean that the rules of the township prevent the applicant from using the property in the manner that is consistent with its size and zoning. Another parameter states that the literal

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interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance. A two-car garage is common in this situation. There are other options available like attaching the garage to the house with an 8 ft. setback to the east, and bump it out to the west, which would result in a bigger garage without going beyond the existing setbacks. Board member Baker said that he could support such a situation.

Mr. Stanley asked if he could keep the garage setbacks where they are and attach it to his house.

Board Member Baker said that he would support a request to maintain an 8 ft. east side setback and a 20.42 ft. front setback because these are the current circumstances and as long as the west setback does not violate the ordinance.

Mr. Stanley commented that they did explore other options, but those options did not meet their needs. His neighbors enjoy three car garages, and he would like the same. It would make the house look better and increase the property value.

Board Member Baker stated that such things as curb appeal, home value impact, increasing storage area, etc. are not elements that the ordinance is saying to consider. Rather the board must take into account the property, its dimensions, the way everything is laid out, and if the owner is limited by these circumstances which are beyond his control so that the owner cannot enjoy the property in a reasonable manner without a reasonable amount of conformance to the ordinances. The plan here today to allow for an increased front yard setback is not in keeping with what the ordinance tells us we have to account for.

Chairperson Whitley asked for other questions.

Craig Bockneck, 9769 Norman Road, attending remotely, commented that he is familiar with the situation. He supports the variance because a larger garage would allow cars to be parked away from the road and adds a safety factor.

Chairperson Whitley expressed concern regarding if this is the minimum variance that is workable. There is another alternative that requires less of a variance that still can provide the three-car garage desired. Another concern is if a future property owner was to start parking cars between the garage and the road, they could be impinging on the right of way.

Board Member Baker moved that per Springfield Township Code of Ordinances Section 40-63, paragraph (d), section one (1.), five elements must be met to permit a variance be granted by the Zoning Board of Appeals. One of those is: The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure. As

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the applicant already has a two-car garage, which its layout and removal would allow a garage with even larger square footage placed without creating further nonconformity, the element of this being the minimum variance is not met. Consequently, I move that the application for this variance be denied. Support by Board Member Wendt. Vote: Yes: Baker, Pliska, Wendt, Whitley. No: None. Motion approved.

Chairperson Whitley asked board members if there was general sentiment that there was no concern with what is built there as long as it does not increase the level of nonconformity.

Board Member Pliska commented that the solution Board Member Baker proposed is more in line with what the applicant is looking for and the township requirements.

Chairperson Whitley commented that the applicant has been told by the building department that he cannot build without a variance.

Mr. Stanley stated that if he tears down the garage, he needs a variance to build a new garage, even if it is in the same exact spot.

Board Member Baker understands that interpretation of the ordinance. He stated that he would support the applicant presenting a plan that tore down the existing garage and put up a new garage that had an 8 ft. east side setback and a 20.42 ft. front setback that was attached to the house and didn't encumber on the west setbacks.

Chairperson Whitley suggested that there be a motion that clarifies Board Member Baker's suggestion, so there is no question with the building department. He stated that a motion would be in order that supports the notion of no greater nonconformity than currently exists, so that the applicant can rebuild.

Board Member Baker commented if the board has the ability to say something about this circumstance even though that is not what was presented, now that there is a motion that has denied the request.

Chairman Whitley believes it is within the board's authority to approve something less than has been noticed but not more than has been noticed from a variance standpoint. It has been noticed for an 8 ft. side yard setback, so that the board can make a motion that approves that, so when a new garage is constructed, it can have the 8 ft. side yard setback. Front setback could be clarified in a motion that would be no closer than 20.42 ft. and does not increase the level of nonconformity. This clarifies for the applicant and the building department what the intent of the board was.

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Board Member Pliska commented that when the applicant continues this project, the intent is for the applicant to not have to appear before the board again.

Chairperson Whitley didn't think it was necessary for the applicant to come before the board again. The two elements that he asked for tonight have been denied. He shouldn't have to come back and ask for the 8 ft. setback, since he is already asking for it now. The other setback is a front setback, and he has asked for 16 ft. The existing structure is 20.42 ft. and that is less of a nonconformity than is being asked for, and it is within the board's scope to approve less than what is asked for without re-noticing. It does not seem fair to ask the applicant to come back to ask again for something he is asking for tonight. This can be clarified with a second motion with what has been agreed on tonight.

Board Member Baker moved to approve a variance to construct a garage at 9797 Norman Rd., PI # 07-11-327-045, providing that:

- **the easterly setback is 8 ft. or greater,**
- **the front setback is 20.42 ft. or greater,**
- **the garage does not impinge on the westerly setback, and**
- **the garage does not exceed the allowance of accessory square footage that is permitted on a lot of this size.**

Further to note that this is due to the rationale that the current garage is located on the property with these existing setbacks in place and no additional nonconformity will be created by this replacement structure being built. Supported by Board Member Pliska.

Board Member Baker asked to add to his motion the comment that due to the rationale that the current garage is located on the property with these existing setbacks in place and no additional nonconformity will be created by this structure being built. Board Member Pliska agreed to support.

Mr. Stanley asked that if he could have presented his case differently if it would have made a difference in the outcome, because he is not really gaining anything, as he has to keep his garage where it is.

Board Member Baker replied that it is the property talking, not the presentation.

Chairperson Whitley commented that the presentation was fine. The real issue is around the property and the setback from the road.

Vote: Yes: Baker, Pliska, Wendt, Whitley. No: None. Motion approved.

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Chairperson Whitley clarified that the applicant could reconstruct if he tears the existing structure down and rebuilds, keeping within the existing nonconformity.

Other Business:

1. Meetings Update – In person meetings beginning in September

The Township Board has determined that beginning in September all Zoning Board of Appeals meetings will be in-person with no remote option for applicants or the public.

Public Comment:

none

Adjournment:

- **Board Member Baker moved to adjourn the meeting at 8:13 pm. Supported by Board Member Wendt. Vote: Yes: Baker, Pliska, Wendt, Whitley. Vote no: None. Motion approved.**

Joan Rusch, Recording Secretary