

SPRINGFIELD TOWNSHIP
ZONING BOARD OF APPEALS
REGULAR MEETING
October 17, 2018

Call to Order: Vice-Chairperson Whitley called the October 17, 2018 Zoning Board of Appeals meeting to order at 7:30 pm at the Springfield Township Civic Center, 12000 Davisburg Road, Davisburg, MI 48350.

In attendance: Bill Whitley
 Dean Baker
 Ginny Fischbach
 Denny Vallad
 Matt Underwood

Absent: Skip Wendt

AGENDA:

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

PUBLIC COMMENT: None

APPROVAL OF MINUTES:

Board member Fischbach moved to approve the minutes of the September 19, 2018 meeting as amended, replacing “Vice-Chairperson Whitley” with “Chairperson Wendt” in the “Call to Order”. Supported by Board member Underwood. Vote yes: Baker, Fischbach, Underwood, Whitley. Vote no: None. Abstain: Vallad. Absent: Wendt. Motion approved.

NEW BUSINESS:

1. Request from Travis Sperow, 13035 Big Lake Road, Davisburg, MI 48350 for a variance to construct an accessory building with a fifteen (15) foot side setback rather than the twenty-five (25) feet required per Springfield Township Code of Ordinances, Chapter 40, Section 40-572.

The property that is the subject of the request is located at 13035 Big Lake Road in Springfield Township and is zoned R-1A One Family Residential. P.I.#07-30-426-005.

Mr. Travis Sperow introduced himself and architect, Dan Cooper, to the Board members. He summarized his request. The location that he presented is closer to his neighbor’s lot line than allowed, so they are asking for a ten foot variance so that they can be 15 feet from the lot line. His neighbor has no objections to the request. He stated that it is a very hilly lot and between the contour of the lot, location of the gas line and the location of the

utility pole, this is the only location for the proposed structure. He has looked at locations of buildings for his neighbors and he provided aerial pictures showing similar variances and closer setbacks than the one he is requesting. He doesn't believe that his proposed structure would look out of place because it is too close to the lot line.

Board member Whitley asked about the location of the natural gas line.

Mr. Sperow stated that the location of the proposed building would be over the natural gas line if he adhered to the 25 foot setback. The goal is to get behind it so they are not directly on top of it.

Board member Whitley asked if the dashed line on the drawing is the gas line.

Mr. Sperow answered yes. They are asking for 15 feet from one corner and 19 feet from the lot line on the other corner. The garage is perpendicular to the house which is cosmetically preferred.

Board member Whitley asked about the existing shed.

Mr. Sperow indicated it is a 198 square foot shed and is located underneath the existing power line.

Board member Whitley asked why they wouldn't move the shed and put the building where the shed is. At this location it would miss the gas line and meet the setback requirement.

Mr. Sperow replied that option still wouldn't meet the side yard setback requirement. The utility pole is right at the corner of the shed and depending on the height of the garage, there would be a conflict.

Board member Whitley commented that it would be doubtful he would get a permit to build underneath a power line.

Mr. Sperow approached the Board table and provided clarification on the location of the power lines and additional information.

Board members discussed the proposed plan.

Board member Whitley asked how far the structure would be from the buried gas line.

Mr. Sperow replied 5 feet; this is shown on the floor plan.

Board member Fischbach stated that she visited the property and the drop off is significant and it would take a lot of build up to make this area or behind the house accessible.

Board member Vallad stated that he visited the area today and he noticed this as well.

Board member Baker stated that the only option that the applicant has to avoid setback variances is to place the structure right in the middle of the driveway. He visited the site and noticed the severe grade issues on the west side and the impossible grade elements behind the house. He does not find the request to be unreasonable. The size is not creating an issue for this property. Once constructed, the applicant will have only used about 72% of the allowable accessory square footage on the site. Because of the hardships of the terrain of the property, he would be in favor of the proposal.

Board member Vallad suggested that the applicant relocate the gas line and move the building to the north and west and abandon the circle drive. If the garage was located here, you wouldn't necessarily need the circle drive for access. At minimum, you could reduce the variance required.

Board member Whitley asked when the gas line was installed.

Mr. Sperow replied last year or the year before. The utility company chose the location.

Board member Baker asked Mr. Sperow if he would be opposed to considering a variance that would be less than what he is requesting if the gas line would be relocated.

Mr. Sperow answered that the proposed location is the easiest location for access but he would be open to it. He stated that he doesn't know what is involved with moving a gas line.

Board member Baker replied that it is just a cost element for the applicant and the Board does not factor this in the decision making.

Mr. Sperow reiterated that there are many houses in the neighborhood that have the same type of variances.

Board member Baker stated that the feedback that the applicant has received suggests that if the applicant will maintain the proposed intent of a 10 foot variance, there is a certain kind of approval for that and if he is less than that, the likelihood may increase.

Board member Whitley suggested that the structure be squared up so that the long side of the structure is parallel to the lot line and rather than 15 feet at that end, it would be 19 feet at both ends. Rotating it would not require moving the gas line and would reduce the variance by another 4-5 feet.

Mr. Sperow stated that this would restrict the access to the shed and commented that the shed was not on footings.

Board member Whitley replied that the shed would be easy to move.

Mr. Sperow stated that he wonders why the gas company ran the line where it is and wonders if it is possible to relocate the line.

Board member Baker and Board member Whitley replied it is possible.

Board member Whitley commented that he would be more comfortable with the building rotated.

Board member Baker commented that there are two options available, neither of which affect the size of the proposed building. One is to rotate the building and square up the building with the property line which would make the variance request about 6 feet instead of the 10 that he is requesting. Another option would be to also move the building but might require the applicant to relocate the gas service.

Mr. Sperow concurred.

Board member Baker moved to approve a variance request from Travis Sperow of 13035 Big Lake Road, Davisburg, 48350, parcel ID #U-07-30-426-005 to construct an accessory structure which would have a setback not to be less than nineteen (19) feet from the adjoining property line. The variance granted would be a six (6) foot variance, not the requested ten (10) foot variance. Supported by Board member Vallad. Vote yes: Baker, Fischbach, Underwood, Vallad, Whitley. Vote no: None. Absent: Wendt. Motion approved.

OLD BUSINESS:

1. (TABLED ON SEPTEMBER 19, 2018) Request from Al Deeby Chrysler Dodge, 8700 Dixie Highway, Clarkston, MI 48348 and Collin Walls, Zoning Official to:

a. Confirm an interpretation by the Township Zoning Official that parcel P.I. # 07-24-126-007 owned by Al Deeby Chrysler Dodge, and portions of parcels P.I. #07-24-126-003 and # 07-13-301-006, owned by Bordine Investment Co. be considered a zoning lot as defined in Springfield Township Code of Ordinances, Chapter 40, Section 40-2, Definitions.

b. For a variance to allow use of property adjacent to the Al Deeby Chrysler Dodge dealership for vehicle display parking. The Township Attorney has indicated that the variance is not required if the interpretation is confirmed.

The properties that are the subject of the request are located at 8700 Dixie Highway, P.I. #07 24-126 007, zoned C2 General Business; part of 8600 Dixie Highway, P.I. #07 13 301 006, zoned C2 General Business/R1 One Family Residential and 8650 Dixie Highway, P.I. #07 24 126-003, zoned C2 General Business in Springfield Township.

Mr. Jim Scharl and Al Deeby introduced themselves to the Board. Mr. Scharl stated that at the last meeting it was suggested that they should come back to this meeting describing four areas that are currently used for vehicle display and storage and this site plan is displayed.

Board member Whitley stated that the drawing addresses what was asked for at the end of the discussion. This addresses the parcel behind the Bordines business and the dealership and the legal descriptions of all four. One of the concerns came up regarding

the areas as to how they were defined and to have them defined more than just stripes on pavement. The legal descriptions alleviate any concern about which areas are included.

Board member Baker asked Mr. Deeby how many cars he anticipates these areas will accommodate.

Mr. Deeby answered that in the front it is about two acres and he is guessing that this holds 250 cars. These are parked within the allotted space.

Board member Baker asked about the 1.5 acres in the back.

Mr. Deeby replied that there are probably half that number of cars in this area.

Board member Baker stated that in the previous variance for this site, the area in the back was not defined and it was not a part of the previous variance granted to allow for parking.

Mr. Deeby concurred.

Board member Baker commented that the areas in the front are the same as they were, and they are now clearly delineated. He asked if something changed in the business that demanded more cars be accommodated since the original discussion.

Mr. Deeby replied that the business has grown but this is the lesser reason. The main reason is that the manufacturer pushes cars on them. They are given very difficult to meet objectives on what they need to sell and therefore, what they need to stock.

Board member Baker commented that he just wondered if something happened with the business that caused such an increase in inventory since the last time this variance was granted.

Mr. Deeby reiterated the objectives and the inventory from the manufacturer.

Board member Whitley stated that he added up the parking spaces of the areas that are marked on the drawing and for the ones that didn't have marked spaces. Calculating available space using acreage, it comes out to 335 cars as a total. He estimated a range from 325-350 for the four parcels.

Mr. Deeby concurred.

Board member Baker asked how many cars Mr. Deeby has space for on the existing Deeby Dealership, primary site.

Mr. Deeby answered that he would guess 250-300.

Mr. Scharl answered 232 cars. This would include inventory, customer parking and service parking. There are 70 spaces across Dixie Highway.

Board member Fischbach asked what he does when he has 700 cars but only space for 672 cars.

Mr. Deeby replied that he would have cars down at the Enterprise Drive lot when necessary. That is a lot in Holly Green Industrial Park.

Board member Baker asked about the Enterprise lot.

Mr. Deeby replied that he owns this lot.

Board member Baker asked how many cars could be parked at this lot.

Mr. Deeby replied that it is about 3 acres. He has tried to park cars there but it doesn't work because customers are not interested in waiting 20 minutes while they go down and drive a car back. It was a failure to buy it.

Board member Baker asked if there was a master plan or an idea of when this might end. Is there an effort for Mr. Deeby to secure property that he owns that is intended to take the flux of car deliveries for the dealership?

Mr. Deeby replied that the plan has been and is to acquire property from the Bordines family. It could be the same property that he is parking in now but he would own it. Those negotiations are stalled temporarily. The real estate is owned by the Bordine family and they are working through things and when they are done, he believes he will be the owner of that property. It is the Bordines intention to develop all of that property. He doesn't know the time frame on when the property will be acquired.

Board member Baker stated that there is vehicle sales parking in front and vehicle storage in the back. The Township permits vehicle storage in specified zoning areas. Is that M-1?

Supervisor Walls replied that if it is the exclusive use, yes this is M-1. He doesn't think storage is precluded from a dealership's property.

Board member Baker estimated if vehicle storage is allowable in an area that is designated as C-2. He wondered if they got that clarity from the Township Attorney. It is a different use-storage as opposed to display. He is under the impression that it is not uncommon for it to be in a C-2 district. Storage he thought was allowed in M-1 and if this is true, does the designation of that area that is being requested to be used as storage run contrary to the use of a C-2.

Mr. Scharl stated that Mr. Deeby's dealership is C-2. The property across the street is C-2. The dealership is used for storage and sales.

Board member Whitley read a section from the minutes of September 19, 2018.

Board member Baker stated that he is confused because Mr. Need speaks toward C-2 being sales and display.

Board member Whitley read another portion of the minutes from September 19, 2018.

Board member Vallad stated that the change in the code was to address off-site parking in M-1. So, if a dealership is going to utilize off-site parking, it needs to be done in M-1.

Board members discussed the presence of vehicle storage area behind Bordines.

Board member Whitley stated that there was a lease agreement for the lots along Dixie Highway, does that make these lots Mr. Deeby's to use just like the property he owns as part of the dealership. This is what they have allowed for a previous variance.

Board member Fischbach stated that they have allowed it for sales and display, not for storage.

Board member Whitley stated that the question being raised now is regarding the lot behind Bordines, showed as Storage Area 1 on the drawing. He asked how it is different from the front three lots, two of which are contiguous to the dealership and one of which that isn't.

Board member Fischbach stated that she does not support it being a zoning lot. If it is not a zoning lot, then the ordinance makes it clear that what he is doing in Area 1 needs to go to an M-1 area.

Board member Whitley commented that the reason it is different is because it is designated as storage instead of sales display.

Board member Fischbach concurred.

Board member Baker stated that the lot in the back is not part of the variance request that has been made. It is asking to have sales display elements and there is an area in the back that is not sales display.

Board member Fischbach stated that the original interpretation did not include this back lot.

Supervisor Walls answered she is right.

Board member Whitley stated that Storage Area 1 does not belong in this evening's discussion other than they asked for a legal description.

Board member Fischbach concurred.

Board members agreed that this back lot should not be included in tonight's discussion, only the front three areas should be considered since they were part of the variance request and notice.

Board member Baker asked about the term of use that the applicant was asking for.

Mr. Deeby replied he doesn't know. He is confident that the property sale will be done, however he doesn't know when.

Board member Fischbach stated that she would be uncomfortable with anything more than two years. It is not a good look for Dixie Highway and they need it to end.

Board member Whitley stated that both the Township and Mr. Deeby want it to come to an end. He suggested two years with the applicant having to come back for a one year extension to go in front of the Board. This allows the applicant time to explore options if the variance is going to end.

Board members discussed the sequence of motions on both the variance and/or confirming the Zoning Official's interpretation.

Board member Whitley asked if there is a way to put in to the motion that future use upon change of ownership will trigger site plan review. There was concern raised at a previous meeting as to how they make sure that this key piece of property will become subject to site plan review.

Board member Fischbach asked if change in ownership triggers site plan review.

Board member Baker replied no; there is no construction, there is just a change in ownership.

Mr. Deeby stated that it would trigger construction once he was able to acquire more property.

Supervisor Walls stated that it appears that the concern is that if they grant a variance for two years and there is a sale within that period, they want to make sure that the variance allowing the use doesn't hinder the requirement for the site plan. He suggested that they include this as a condition of the variance.

Mr. Deeby stated that he intends to bring both sides of the street up to the Dixie Overlay requirements. He has a commitment to do that. He thinks that Mr. Bordine will allow him to extend this to the property adjacent to the south, area 2 on the plan. He thinks the overlay is a great idea.

Board member Vallad stated that the Board previously waived site plan review based on particular information that has completely changed in four years. The waiver isn't valid anymore because of the changes. He doesn't recall all these pieces being a part of the discussion at the last variance request. There is a requirement for site plan review now and he suggested that this is where they are going to get landscaping that adheres to the Dixie Highway Design Guidelines. He thinks if it is going to continue, a site plan review should be required.

Board member Whitley stated that one of the problems is it is difficult to require Mr. Deeby to carry out site plan submission on property that is not his.

Board member Vallad added that waiving the site plan requirements was in the discussion held in 2014.

Board member Whitley moved to grant a variance to allow the use of the property described in the drawing from Kieft Engineering dated 10/1/2018 and provided with tonight's information to allow lots designated as Sales and Display Area 2, 3 and 4 to be used for vehicle sales and display for a period of two (2) years with the possibility of a one year extension upon approval of the Board of Appeals after 2 years and with the stipulation that a change in ownership of any of those parcels will trigger the requirement for a site plan review for development of that property. Supported by Board member Fischbach.

Board member Fischbach asked about the exact area of Display area 3 and 4.

Mr. Scharl replied that the exact measurements are reflected in the descriptions.

Vote yes: Baker, Fischbach, Underwood, Vallad, Whitley. Vote no: None. Absent: Wendt. Motion approved.

Board member Whitley moved that whereas the Township Zoning Official has requested the Zoning Board of Appeals concurrence with his opinion regarding zoning lot usage of the Bordines property for Al Deeby Dodge in order to assure full transparency of the decision making process; and whereas the Zoning Board of Appeals can consider the issue either by confirmation of the Zoning Official's opinion or by variance; and whereas the Zoning Board of Appeals has chosen to consider the issue as a variance; and whereas the Zoning Board of Appeals has approved a variance to provide a resolution to the issue, now therefore be it resolved that the Zoning Board of Appeals does not confirm the opinion of the Zoning Official in the matter of the zoning lot for Al Deeby Dodge sales and display. Supported by Board member Baker. Vote yes: Baker, Fischbach, Underwood, Whitley. Vote no: Vallad. Absent: Wendt. Motion approved.

Board member Fischbach recommended that the Zoning Board make a request to the Township Board to define what a Zoning Official is. They need to define what the Zoning Official's limitations are.

Board member Whitley stated that his understanding is that the Zoning Official is defined by the Zoning Enabling Act.

Supervisor Walls replied yes.

Clerk Moreau stated that she asked Greg Need, Township Attorney, this question and that is not the answer that she got. She also recommends that the Zoning Official's limitations and definition goes to the Township Board.

Board member Fischbach commented that Greg Need answered that the Zoning Official was not defined in our ordinances. The Board could define those limitations.

Supervisor Walls stated that the Zoning Ordinance declares that the Zoning Official is the Supervisor which follows the statute. There are no clear parameters of the decision making or limitations.

Board members agreed to having the Township Board clarify the duties and limitations of the Zoning Official.

Supervisor Walls stated that this should start at the Planning Commission and suggested that this could be a topic at the upcoming joint meeting.

Board members and Mr. Scharl discussed Storage Area 1.

PUBLIC COMMENT:

Clerk Moreau commented that the Board spent quite a bit of time on the first case under New Business during tonight's meeting determining if this was the least variance that the applicant could have and in fact motioning for less of a variance than what was requested. She requested that this apply in all cases before the Board. If there is another option for an applicant as came up in Mr. Deeby's case that M-1 storage was available, she would like to remind the Board of that requirement and the fact that it is applicable to every applicant.

Board member Whitley reviewed the five questions provided to the Board by the Township Attorney to be considered with each case. One of those criteria, is if it is the minimum variance possible.

ADJOURNMENT:

Board member Whitley adjourned the meeting at 8:55 pm.

Erin Mattice, Recording Secretary