

**APPROVED**  
**SPRINGETTSBURY TOWNSHIP**  
**ZONING HEARING BOARD**  
**JULY 5, 2018**

**MEMBERS IN**

**ATTENDANCE:** Dale Achenbach, Chairman  
Sande Cunningham  
David Seiler  
Chris Shuttlesworth  
Mark Bair

**NOT PRESENT:** John Schmitt

**ALSO IN**

**ATTENDANCE:** Jessica Fieldhouse, Director of Community Development  
Gavin Markey, Solicitor  
Sue Sipe, Stenographer

**1. CALL TO ORDER:**

**A. Pledge of Allegiance**

Chairman Achenbach called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance. He introduced the members of the Board, noting that Mr. Bair is serving as an alternate member of the Board.

**2. ACTION ON THE MINUTES**

**A. MAY 23, 2018**

**MOTION MADE BY MR. SEILER TO APPROVE THE MINUTES OF MAY 23, 2018 AS PRESENTED. MR. SHUTTLESWORTH SECONDED. MOTION UNANIMOUSLY PASSED.**

Chairman Achenbach asked if the cases were properly advertised. Ms. Fieldhouse responded that notifications had been made.

**3. OLD BUSINESS - NONE**

**4. NEW BUSINESS**

**A. Case ZHB-18-07 Kenneth Cherry – 4299 Old Orchard Road**

All witnesses were sworn in.

Kenneth Cherry, Applicant

Ms. Fieldhouse stated this is an application for a variance to S.325-121.A of the Township Zoning Ordinance submitted by the property owner, Mr. Cherry. This is a corner property at the intersection of Campbell Road and Old Orchard Road. The owner is proposing to replace a 4 ft. chain link fence along the front yard at Campbell Road with a 6 ft. privacy fence. She noted the primary front yard is on Old Orchard where the front door of the house is located and the Campbell Road front is a front yard and a side yard.

Mr. Cherry affirmed he currently has a 4 ft. chain link fence surrounding his property. He noted he has a swimming pool and would like more privacy, so he is proposing to install a 6 ft. privacy fence which will replace the existing outline of the current fence.

Ms. Fieldhouse explained in regard to the fence, rather than being a zoning permit, the fence will require uniform construction code inspections because it will be the primary barrier between neighboring properties and the inground pool.

Mr. Cherry indicated the material to be used for the fence will be ¾” wood board that will be constructed individually as they are constructing the fence.

Chairman Achenbach referred to a note in the briefing which indicated the privacy fence cannot be constructed in conformance with the ordinance without having to relocate an existing pond and shed and significantly decreasing the usable area of the applicant’s yard. Ms. Fieldhouse indicated this was informational in nature and addresses the potential hardship. Attorney Markey concurred.

Chairman Achenbach asked if there was anyone in attendance who wished to speak for or against the applicant.

Attorney Markey determined Ms. Fieldhouse’s analysis is appropriate and lends itself to those series of cases and multiple decisions regarding a permitted use in conjunction with a variance, so the burden is reduced on the applicant and that would weigh in favor of approval of the variance as requested.

Chairman Achenbach called to attention to the criteria in the ordinance that control decisions regarding a variance and that all those criteria are satisfied due to a hardship.

**MS. CUNNINGHAM MOVED IN THE CASE OF ZHB-18-07 KENNETH CHERRY TO GRANT THE VARIANCE FOR S.325-121.A TO ALLOW A SIX-FOOT FENCE IN THE FRONT YARD OF THE CORNER PROPERTY. SECONDED BY MR. SEILER. MOTION UNANIMOUSLY PASSED.**

**B. Case ZHB-18-09 Steve & Dawn Trout – 3880 Druck Valley Road**

All witnesses were sworn in.

Steve Trout

Dawn Trout

Ms. Fieldhouse indicated this property had a variance decision by this Board go to an appeal for a similar project. The decision of the Zoning Hearing Board was upheld by the Court of Appeals. This was for an attached garage with setback variance. Once the property owners had the property surveyed, they realized there was more area to work with and wanted to modify their project. Consequently, they are proposing to build a 28 ft. by 34 ft. private garage towards the rear of their structure. In doing so, they have requested a variance to S.325-27.C Side Yard Setback and also a variance to S.325-27.B Lot Coverage. She noted their property is 24,394 sq. ft., with a single-family home. The applicant is proposing to remove their existing shed and construct a 952 sq. ft. accessory structure on the southeast corner of the property. They are also proposing to extend the driveway back to the proposed structure approximately 1050 sq. ft. of impermeable surface. Both of these actions will result in a variance request for the side yard setback and also for the total amount of lot coverage by impervious surface. It was clarified that the setback variance is relative to the carport but not the driveway.

Mrs. Trout indicated they are requesting a variance for the side setback for the lot coverage on their

property in order to build a garage. She noted the previous variance was unanimously approved by the Township on June 4, 2015 and further supported by the Court with a denial of the appeal on January 18, 2018. Mrs. Trout stated they proved the required hardship due to the unique characteristics of their property and provided substantial evidence. She indicated they are proposing a carport to be built on the side of the house over the existing yard with a 21 ft. side setback instead of the already approved garage with an 8 ft. setback. After further research and due diligence, she noted they determined a more suitable location for the garage to be in the rear of the property. A property survey revealed additional spacing on their property as the rear pin on the north side of the property had not previously been located. They were also able to remove the tops of two small boulders that opened up access to the rear of the property. They spoke to a contractor and found they could build the garage over a well but have decided not to do that because it would cause other problems. She noted the reasons for the need for the garage. She noted the specific sections of the zoning ordinance, and the hardships experienced for the site. This was provided to the Board in a written statement from the owners.

The property was pointed out the map and the site was reviewed and explained by the applicant.

#### Gilbert David

Mr. David confirmed his property is at 3882 Druck Valley Road located on the right side of the applicant's property. The neighboring lots were identified on the map. Mr. Gilbert indicated their property is similar to a farmette. He noted the Trout property was subdivided from his property before he purchased it. His concern is the garage they are proposing will be built in the existing swales, potentially causing water problems.

Ms. Cunningham pointed out during the permitting process for the garage the stormwater will be addressed at that time, and engineers will look at the project to assure that stormwater will not affect his property and may improve it.

Discussion was held concern the swale on the Trout property.

Ms. Fieldhouse clarified they will employ the stormwater management ordinance, which would be a waiver request to go before the Board of Supervisors so they have to enforce the stormwater to its entirety. She noted they currently have not been able to formally find a copy of the subdivision. However, based on the age of the subdivision the easement may no longer be in place and potentially would not prevent the property owner from moving the swale around. She recommended a condition of approval be put in place to require the township engineer to review the stormwater. She also pointed out the variances being requested for this application have no bearing on stormwater management, but recognized it as a critical issue to be addressed. She indicated the township staff and engineer can work with the property owners to determine if a swale has to be adjusted.

Chairman Achenbach asked if there was anyone in attendance who wished to speak for or against the applicant.

#### Charles Stuhre

Mr. Stuhre asked to see the development sketch plan.

Ms. Cunningham pointed out for the proposed driveway, the applicant would need to have an engineer design stormwater plans, which means they will need an engineer to submit those plans to the township engineer for approval.

Attorney Markey noted the letter submitted by Mr. David was marked as P-1. He asked for clarification on the setback distances for the carport and the garage.

In reviewing the site plan, Attorney Markey cited the unique physical circumstances and conditions of the property and the challenges they face for any development on the site. He stated the application is well prepared, as well as the case summary. He noted if the Zoning Hearing Board was inclined to approve the variances, he agreed with Ms. Fieldhouse that it would be appropriate for a condition to be placed on the approval of both variances for the township engineer to approve the stormwater management on-site as part of the permitting process.

**MR. SEILER MOVED IN THE CASE OF ZHB-18-09 STEVEN & DAWN TROUT TO GRANT THE VARIANCE FOR S.325-27.B LOT COVERAGE AND S325-27.C FOR THE SIDE SETBACK FOR THE PROPERTY OF 3880 DRUCK VALLEY ROAD, WITH THE CONDITION THE TOWNSHIP ENGINEER SHALL BE REQUIRED TO APPROVE THE STORMWATER MANAGEMENT PLAN AS PART OF THE PERMITTING PROCESS. SECONDED BY MR. SHUTTLESWORTH. MOTION UNANIMOUSLY PASSED.**

**C. Case ZHB-18-08 Melissa Brison – 400 Maywood Road**

It was noted the applicant was not in attendance.

Attorney Markey referred to two options for the case. The first would be to deny the request in that the applicant has failed to attend and therefore cannot carry their burden of proof with respect to the variance as requested. An alternate option would be a motion that the applicant is denied based on the failure to appear and present their case, contingent on the fact that the zoning officer obtain a continuance from the applicant until the next regularly scheduled hearing.

**MR. SEILER MADE A MOTION TO DENY THE VARIANCE REQUEST FOR CASE ZHB-18-08 AS A RESULT OF THE APPLICANT'S NON-APPEARANCE AND INABILITY TO CARRY BURDEN OF PROOF. HOWEVER, IN THE EVENT MS. FIELDHOUSE RECEIVES A LETTER OF CONTINUANCE FROM THE APPLICANT, THE VARIANCE REQUEST WILL BE PRESENTED AT THE NEXT ZHB MEETING. SECONDED BY MS. CUNNINGHAM. MOTION UNANIMOUSLY PASSED.**

**5. ADJOURNMENT**

**CHAIRMAN ACHENBACH ADJOURNED THE MEETING AT 7:00 P.M.**

Respectfully submitted,

Secretary

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