

APPROVED

**SPRINGETTSBURY TOWNSHIP
ZONING HEARING BOARD
JULY 2, 2020**

MEMBERS IN

ATTENDANCE: Dale Achenbach, Chairman
David Seiler, Vice Chairman
Sande Cunningham, Secretary
Chris Shuttlesworth
Mark Bair
Stacey Ankrum, Alternate

ALSO IN

ATTENDANCE: Raphael Caloia, Assistant Planner
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.

2. ACTION ON THE MINUTES

A. JUNE 4, 2020

MR. SEILER MOVED FOR APPROVAL OF THE JUNE 4, 2020 ZONING HEARING BOARD MINUTES AS AMENDED. MR. BAIR SECONDED. MOTION UNANIMOUSLY CARRIED.

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

Mr. Caloia reviewed an amended procedure due to COVID-19. Masks will be required throughout the duration of the meeting. When speaking, please remove the mask in order to have a clear record of the proceedings.

3. OLD BUSINESS

A. Case ZHB-2020-0007 – 2279 Spangler Circle

Jason and Ashley Motter, Property Owners

Witnesses were sworn in.

Mr. Caloia stated this case was presented at the June meeting, but was continued in order for the applicant to provide additional information which was subsequently submitted to the Zoning Hearing Board. This information included a building specification plan, an additional site plan and a letter from the homeowner's association. Mr. Caloia indicated this case is to request a variance from Section 325.23.C of the Township zoning ordinance which requires a 15 ft. side setback within the R-20 zone. The applicant is requesting to build an accessory structure encroaching on the setback to have an 8 ft. setback as opposed to the 15 foot. Mr. Caloia noted concerns from several neighbors regarding the potential impacts this would have on their property.

Mr. Motter indicated the architect provided a rendering of the proposed building which is a 2-story detached garage with a brick front and siding on the other 3 sides which matches his house. He noted he has an existing retaining wall which runs the length of the property omitting the section where the garage would be located. The retaining wall will continue in the direct path across for erosion control. He is requesting the 2-car garage with an 8-foot setback as opposed to the 15 ft. setback, stating the logic is the 15 ft. offset will not line up with the driveway and would position the garage behind his house. The driveway and the asphalt are out of alignment in that area.

Mr. Caloia stated it was his belief that Mr. Motter has provided sufficient additional information to support his case. He pointed out this variance is dimensional in nature, so the applicant does have a reduced burden of proof as to a hardship or any other requirements for the variance.

Chairman Achenbach reiterated the concerns expressed at the June meeting which were the suitability within the homeowner's association for the project and also the opinions of the neighbors as to how they felt the project affected the neighborhood. He referred to a letter received from Carl Moon, Chairman of the Design Review Board. He asked if they had a continuing interest in reviewing the proposed plan. Mr. Motter stated he believed they were okay with the proposal and he would seek approval prior to proceeding with the project. He noted he met with Mr. Moon last year during his pool installation and discussed with him at that time his plan for the garage in the future. Mr. Moon reviewed the bylaws of the HOA and indicated the garage would be acceptable as long as it met Springettsbury Township zoning.

Chairman Achenbach asked Mr. Caloia if he had any concern with the homeowner's association's opinion except to the extent that it may affect the character of the neighborhood.

Mr. Caloia concurred noting it would be the homeowner's association final say on what type of character they are looking for the neighborhood. He noted as a Township official he could not make any determination based both on HOA regulations or policies.

Mr. Seiler asked about the second floor which indicates an office being proposed. Mr. Motter confirmed it would be a home office. He would not be conducting a business from his home.

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

John and Mary Dinkel – 2283 Spangler Circle

Mr. Dinkel stated they believe a 2-story building would be a detriment to them living there as well as affect potential resale value to their home. He was concerned that the height of the proposed garage would obstruct their view. He noted they were opposed to Mr. Motter constructing a garage of that size.

Mrs. Dinkel provided photos. The first photo (P-1) displayed a site plan showing how close their house is to the property line and the small size of their backyard. The second photo (P-2) showed the location of the Motters' pool and the approximate location of the proposed garage. The next photo (P-3) showed the Dinkel's back yard looking at the location of the Motter's proposed garage. She noted there are concrete blocks and stone placed at the retaining wall. Another photo (P-4) showed the Motter's driveway looking up at the slope of the hill showing the approximate 8 feet from the property line is not very far away in her opinion. Photo (P-5) shows the closeness of their house to the property line and to the Motter's driveway. She noted the plans shows how the driveway runs along the property line.

Mrs. Dinkel stated her back yard is 8 to 10 feet higher than the Motters and one of her concerns is they will be looking into the second floor of the garage. She felt the proposed building is too large for their property and will ruin their backyard.

Mr. Caloia confirmed the garage as submitted is less than 50% of the floor area of the principal structure on the property which meets the requirement of under 18 ft. height.

Mr. Motter stated he met with Mr. Dinkel regarding his plans and at that time Mr. Dinkel indicated he had no issues with the proposed garage.

Mr. Dinkel indicated at the time Mr. Motter spoke to him he was not aware of the size of the building. He was of the belief it would be a small shed.

Harold Kessler – 2277 Spangler Circle

Mr. Kessler stated he lives on the east side of the property. He stated he had an interest in the variance requested by the Motters. Mr. Kessler provided 17 photos. He indicated his concern was in relation to the pool side of the property with water drainage. He noted whenever there is a heavy rainfall he is inundated with water on his property. He presented five photos which showed the embankment in his back yard. The photos show weeds, several trees and bushes he planted last year. He noted he was waiting to see what the Motters were going to do with their property, after the installation of the pool. He noted he enjoyed looking "at the nice young ladies" and felt their privacy was important to them as it is to him. He indicated the photos also show drainage problems occurring on his property since the placement of the pool. The second five photos show the improvements made by the Motters. His opinion was that the lot was too small to accommodate all of the improvements, including the 2-story garage. The next five photos showed the property lines. He pointed out when he purchased the property there were swales on the back of the property to prohibit water from flowing onto his property, the Dinkels, and the Motters. He noted the photos show the swales have been removed with the installation of the pool and the surface is without swale and it directs the water onto his property. The last two photos display the openness of the neighborhood.

He stated he was there on his own behalf and was in support of the Dinkels. He felt compelled to appear before the zoning board and offer his opinion. Mr. Kessler stated he attended the initial meeting by Zoom but was unable to unmute his computer.

Mr. Kessler was of the opinion the water problem needs to be corrected and questioned who would be responsible for the repairs. He stated he felt that the 2-story garage is an overkill for the size of the Motter's lot and felt it would decrease the resale value of his property and the Dinkel's property.

Mr. Kessler stated he retired from Springettsbury Township after 18½ years of service as the Chief of Police. He mentioned he also served as a District Judge.

Mr. Kessler commented if the variance was granted to the applicant, he requested a "grandfather" clause that would allow him to build an identical size garage utilizing the newly established guidelines and regulations by the municipality to put his garage on his property at the same perimeters on the east side. He believed the granting of the variance would set a precedence which would allow others to propose the same concept.

Mr. Kessler's 17 photos were marked as exhibits by Att. Markey.

Mr. Motter stated the neighbor directly behind his house is Mr. Bucher. He noted their elevation is 20 ft higher than his. He noted the swale was removed by them. Mr. Bucher cut down 40 ft. pine trees because one side of the trees were dead and removed the entire swale. In its place he planted approximately 15-18 smaller pine trees.

Mr. Caloia clarified there was another issue brought up regarding an existing swale. He noted the Township can have their engineer survey the area to ensure any stormwater to be designed is per the approved subdivision plan. They will also determine if the swale was tampered and the appropriate parties who will need to re-install it. He noted this is a separate issue that requires follow up with the engineer to make sure the issue is resolved and is independent of this zoning hearing.

Mr. Motter stated the Dunkel's house is at an angle to their house and their backyard is not near their backyard but is turned sideways. He noted on the photos provided where the existing hill is shown the embankment is approximately at a 10 ft. height. He stated the proposed 18 ft. garage will not be above the height of the existing land, it will be 8 ft. He believed the actual elevation of the physical existing land will be lower than is being perceived.

Att. Markey stated on the side of the applicants, he noted the case summary by the zoning officer indicates except for the side yard setback, the structure being proposed is compliant with the zoning ordinance. He noted the Board's focus should be on the setback issue. All other aspects, i.e., lot coverage, stormwater management, etc. will be evaluated as part of the structure which will all be taken into account during the construction process, if approved. He mentioned the other item that weighs in favor of the applicant is as the zoning officer pointed out, there is a reduced burden of proof because what the applicant is proposing is allowed. Att. Markey stated in regards to the protests from the neighbors, it would be more persuasive from a legal perspective if there was a professional person who could offer an opinion as to causing a detriment to the property values.

Mr. Bair commented he believed this was an issue of aesthetics which the homeowner's association had already taken into account. He noted as Att. Markey stated, it does meet the requirements and while in deference to the protestors, he felt the Board must focus on the actual facts of the case and while being cognizant of the aesthetics it would be prudent to rely on the merits of what has been presented.

Chairman Achenbach commented the issues are not well-defined. He was concerned that the objections to the project have been couched in terms of what future occupants of the neighboring properties will perceive and the Board should not make a decision based on presumptions of future neighbors. He was concerned about granting a variance which is expressing agreement with the applicant and property owner noting they have done everything they can to minimize the extent of the variance. Chairman Achenbach quoted Subsection D of the Zoning Hearing Boards obligation with respect to variances “The variance if authorized will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.”

Ms. Cunningham questioned the applicant as to if there was any way he would consider moving the proposed garage to back to the 15 ft. setback from the property line instead of the 10 ft. requested.

Mr. Motter stated no because if the garage is moved beyond the 8 ft. it would be behind his house on the side. He noted the proposal is for a standard two car garage and as such the purpose is that it physically lines up with his driveway.

Ms. Arcuri stated as a licensed realtor, the point of contention as to whether or not the property value would drop, she stated in her professional opinion a garage would not impact the value of their properties. She noted that she has never encountered a potential buyer who was opposed to a well-maintained garage.

Mr. Shuttlesworth stated in his estimation the case is straight forward and he was not seeing a difference in other variances that were previously approved and did not believe it would establish a precedence.

Att. Markey stated precedence is not created when a variance is granted on a specific site. All neighbors could not automatically build the same structure, since each case is resolved on its own independent basis. Att. Markey stated if the board is inclined to approve the variance, he recommended a condition to state no business would be allowed to be conducted on site in the new structure, except a home office with no client visitation.

Mr. Caloia indicated the applicant would be required to mitigate 100% of the stormwater impact of that new structure.

Chairman Achenbach recommended the applicant determine whether or not there are any means of creating a natural barrier that would make the view from the Dinkel’s property any less intrusive.

Mr. Motter noted as the photo illustrates, he would replicate the other side with arborvitae.

**MR. SHUTTLESWORTH MOVED IN THE CASE OF ZHB-2020-0007 THAT THE VARIANCE TO S.325-23.C TO PLACE A GARAGE WITHIN 10 FEET OF THE SIDE PROPERTY LINE AT 2279 SPANGLER CIRCLE BE APPROVED SUBJECT TO THE FOLLOWING CONDITION AS IDENTIFIED BY ATT. MARKEY: NO BUSINESS SHALL BE CONDUCTED ON SITE IN THE NEW STRUCTURE WITH EXCEPTION OF A HOME OFFICE WITH NO CLIENT VISITATION.
SECONDED BY MR. BAIR. MOTION UNANIMOUSLY PASSED.**

4. NEW BUSINESS

A. Case ZHB-2020-0008 – 3901 West Sloway Circle

Matt March

Jennifer Arcuri

All witnesses were sworn in.

Mr. Caloia stated the applicant is requesting a variance to Section 325-20.C which is the rear yard setback requirements for the R-10 zone. The applicant is proposing to construct a patio on their property and encroach on the setback by 5.3 feet. The existing property is located within the Wallingford Development constructed with an open space provision, which allowed the developer to build smaller individual lots but have a large area of HOA owned land. Because of this there was a reduced setback already for the subdivision plan of 17.5 feet for a rear yard setback. The applicant would still be encroaching upon that with the 5.3 feet. Mr. Caloia indicated Staff has no significant concerns regarding this variance. The homeowner will be required to meet all other ordinances and the proposed plan does meet the other requirements of the ordinance, i.e., lot coverage and will be mitigating stormwater for the patio as well.

Mr. March stated they currently do not have anything at the back of their house and would like to add a concrete patio. Currently the setback is 17.5 feet off the rear property line. That allows 11.2 feet to construct anything on the back of the house. They are requesting to build the patio with a width of 14 ft. Their house backs up to the Wallingford HOA property so there are no direct neighbors behind their property who would be affected. In regard to the Township zoning ordinance, Section 325-19. B. permitted accessory uses, the patio is a permitted accessory use in the R-10 zoning district and they believe the patio would provide a finished look to the back of their property and ultimately increase the value of the neighborhood. Mr. March confirmed there are other residents in the neighborhoods with various types of patios and decks. Mr. March commented without the extension into the setback the patio would not provide the desired functionality they are looking for, since the 11.2 feet would be restrictive for the size of the patio.

Att. Markey stated he had no objection from a legal standpoint for the case.

Chairman Achenbach asked if there was anyone in attendance who wished to speak for or against the applicant. Hearing none, he called for a motion.

MR. BAIR MOVED IN THE CASE OF ZHB-18-2020-0008 THAT THE VARIANCE TO S.325-20.C FOR 3901 W. SLOWAY CIRCLE BE APPROVED. SECONDED BY MS. CUNNINGHAM. MOTION UNANIMOUSLY PASSED.

5. ADJOURNMENT

CHAIRMAN ACHENBACH ADJOURNED THE MEETING AT 7:30 P.M.

Respectfully submitted,

Secretary
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