

THORNAPPLE TOWNSHIP ZONING BOARD OF APPEALS

Tuesday, October 10, 2017

1. The meeting was called to order by Chairman Tim VerHey at 7:00 p.m. at the Township Hall. Chairman VerHey welcomed those attending.
2. Present: Tim VerHey, Mark Sevald, Curt Campbell, Linda Gasper and Martin Wenger. Also present: Catherine Getty, Stephanie Skidmore, Orpha Galloway, Spence Galloway, Jennifer Harmens, and Todd Harmens.
3. **MOTION** by Sevald, support by Gasper to approve the Agenda as printed. **MOTION CARRIED** with 5 yes voice votes.
4. **MOTION** by Wenger, support by VerHey to approve the May 15, 2017 Minutes. **MOTION CARRIED** with 5 yes voice votes.
5. Public Comments – No comments.
6. New Business
 - a. None.
7. Public Hearing
 - a. Variance #105 – 5630 108th Street, 08-14-005-001-10
 - i. Extension of a nonconforming side yard setback variance Section 26.3(b)
 - ii. Getty provided an overview of the Variance request and indicated that the applicant installed a 12 foot fence with screening along his property line to block the view of the public boat launch. In addition, the applicant installed a removable screened fence along his dock to discourage boat launch users from utilizing the applicant’s personal dock. S. Galloway apologized to the board for not applying for a permit prior to installing the fence. S. Galloway detailed the frustrations that his family has experienced with the public boat launch such as noise, vehicle lights shining into their residences and trespassing on the dock. Galloway indicated that his family has planted numerous trees and explored other solutions that failed prior to installing the screened fence.
 - iii. VerHey opened the Public Hearing at 7:16 p.m. No public comments.
 - iv. VerHey closed the Public Hearing at 7:16 p.m.
 - v. Deliberation: Campbell stated that he did not have any negative comments but was concerned about the privacy fence on the Galloway’s dock. S. Galloway indicated that the privacy fence has been in place for fifteen years and is taken out every winter.
 - vi. **MOTION** by Gasper, support by Campbell to approve Variance #105 based upon the following rationale:
 1. Strict compliance with a requirement for area, setback, width, building height, and other bulk or density regulation will have the effect of unreasonably preventing the property owner from using the property for a purpose permitted by the ordinance or would be unnecessarily burdensome. Is this a true statement? YES.

2. Substantial justice would be achieved for the applicant as well as other property owners in the district if the variance is approved. Is this a true statement? YES.
 3. The requested variance is the least relief in order to afford substantial justice for the property owners involved. Is this a true statement? YES.
 4. The practical difficulty is due to uniquely identified characteristics of the property and not related to general conditions in the area of the property. Is this a true statement? YES.
 5. The practical difficulty is not self-created. Is this true statement? YES.
 6. Findings of Fact:
 - a. VerHey indicated that it would be unreasonable for variance not to be granted based upon the fact that the parcel is located adjacent to the public boat launch and no other property is located adjacent to it.
 - b. Approving variance would grant substantial justice to homeowner and give peaceful experience to lot owner.
 - c. Granting of the variance would be the least relief that could solve the problem, since trees have failed and a berm would prove to be unsuccessful due to the topography of the parcel.
 - d. VerHey stated that the property is the only parcel located adjacent to the public boat launch which causes obtrusive light into residence from boat launch uses.
 - e. This issue is not self-created and due to the nature of the public boat launch, there is nothing that the property owner can do about it.
 7. **ROLL CALL VOTE:** Campbell, yes; Gasper, yes; Sevald, yes; VerHey, yes; Wenger, yes. **MOTION CARRIED.**
- b. Variance #106 – 2144 Cedar Hill Drive, 08-14-034-005-20
- i. Section 5.5(b)(1) Front Yard Setback
 - ii. Getty provided an overview of the Variance request and indicated that the parcel is on a curve. Due to parcel’s placement on the curve, the parcel has a large amount of road frontage. In addition, the parcel has a significant drop off close to the residence. In addition, the new owners indicated that the placement of the proposed accessory building was approved by their neighborhood association. The owners stated that the previous owners had indicated during the sale process that an accessory building had already been approved for construction on the site. This was determined not to be accurate after the property transferred ownership. Wenger inquired where the driveway access would be with the proposed placement of the accessory building. J. Harmens indicated that there is no access from the house to the proposed placement but there will be a natural path from the road. J. Harmens and T. Harmens provided an overview of their proposed placement and plan to keep the property as natural as possible.
 - iii. VerHey opened the Public Hearing at 7:40 p.m. No public comments.

- iv. VerHey closed the Public Hearing at 7:40 p.m.
- v. Deliberations: VerHey indicated the following:
 - 1. The applicant’s neighbors have accessory buildings, however, this parcel would require a variance to have an accessory building.
 - 2. By granting a variance, there is no harm to neighbors, however, provides justice to the applicant.
 - 3. It would be difficult to build an accessory building at the bottom of the hill on the parcel and must be provided relief to have it in proposed location.
 - 4. Preexisting conditions include elevation problems; well/septic barriers and curve of road creates a front yard setback where it normally would not be considered a front yard.
- vi. **MOTION** by Sevald, support by Wenger to approve Variance #106 based upon it meets the following standards:
 - 1. Strict compliance with a requirement for area, setback, width, building height, and other bulk or density regulation will have the effect of unreasonably preventing the property owner from using the property for a purpose permitted by the ordinance or would be unnecessarily burdensome. Is this a true statement? YES.
 - 2. Substantial justice would be achieved for the applicant as well as other property owners in the district if the variance is approved. Is this a true statement? YES.
 - 3. The requested variance is the least relief in order to afford substantial justice for the property owners involved. Is this a true statement? YES.
 - 4. The practical difficulty is due to uniquely identified characteristics of the property and not related to general conditions in the area of the property. Is this a true statement? YES.
 - 5. The practical difficulty is not self-created. Is this true statement? YES.
 - 6. Findings of Fact:
 - a. Unreasonable to prevent owners from enjoying their property in a similar manner as to their existing neighbors.
 - b. Topography involved necessitates proposed placement of structure.
 - c. Proposed placement of structure is least obtrusive in relation to zoning requirements.
 - d. Parcel’s topography is unique due to curved road along the parcel’s corner lot that increases its front yard setback while depriving it of placement options since it is not a straight road.
 - e. This issue is not self-created due to the parcel’s topography and current owners felt they were misled by the previous owners at the time of sale.
 - 7. **ROLL CALL VOTE:** Campbell, yes; Gasper, yes; Sevald, yes; VerHey, yes; Wenger, yes. **MOTION CARRIED.**

8. ZBA Member Comments:

- a. None.
- 9. Adjournment: **MOTION** by Sevald, support by Gasper to adjourn the meeting at 7:48 p.m.
MOTION CARRIED with 5 yes votes.

Respectfully submitted by:

Curt Campbell

Secretary

Stephanie L. Skidmore

Recording Secretary