

MAYOR LISA - 4 APR 11 10:48 AM

Etna Township Board of Zoning Appeals

Held

May 23

2006

ADJUDICATORY HEARING

The adjudicatory hearing was called to order by Vice Chairman Rogers at 7:09 p.m. on May 23rd, 2006

at the Etna Township Hall. The meeting was audio and video taped for township records. Roll Call:

Mr. Goll, Mrs. Weber, Mrs. VanDyne, Mrs. Rogers, Mr. Johnson, and Laura Brown present.

The purpose of the hearing is to consider three variances submitted by Robert Yoakam Jr. of Rockford Homes. The first one is Building 14, 140-170 ParView Drive the northwestern corner is encroached 1.7' into the setback. The second is the garage for Building #14 the northwest corner is encroaching 0.1' into the setback. The third is Building 29 160-190 Cumberland Way the southern elevation of the building encroaches. The western end encroaches 1.5' and the eastern end encroaches 1.7' into the setback.

Vice Chairman Rogers explained how the hearing is conducted. Since all three variance are for the same property but different locations we will consider all three applications in this one hearing and will give motions on the three applications individually.

Robert Yoakam, Jr. of 999 Polaris Parkway Columbus Ohio explained the survey of the project. When the project was built about four years ago there were errors on the survey. Three buildings encroach over the building set back lines. One is the garage is something like 1 1/2 to 2 1/2 inches, one building along Route 40 is about 1 1/2 feet over the building line, and a sixteen family apartment building along the corner by the commercial property is about 1 1/2 feet into the five foot setback. Mr. Yoakam stated the largest encroachment is the building located by the commercial property. He has spoke with Mark Shilling one of the owners of the commercial and he stated they did not have an objection with the variance application. Mr. Yoakam presented a plan of the commercial property for the board to review. The commercial property has about a fifteen to eighteen foot sod area and then a parking area with no buildings in that area

The original survey was done by EMH&T and they found the error when meeting with the commercial developer's and their survey showed the building so close. There was enough room to have the buildings in compliance when building; it was an error when the buildings were staked.

The board discussed the buildings and how far they are off. The buildings were built around four years ago. Two of the buildings are apartments and one is a garage.

Cheri Roger stated Dallas Maynard is not a township zoning inspector. Dallas Maynard of 959 Pike Street was sworn in. He was not testifying as the zoning inspector he is just presenting evidence. He initially processed the applications on this project. He delayed issuance of the permits because of a concern of setbacks especially with the building off Route 40. Mr. Maynard stated some shuffling of buildings took place and there were six garages on the original plan. He can see where they had difficulties with the set backs. Mr. Maynard also issued occupancy permits for those buildings. Mr. Maynard's concern was with the setback lines and that they were established. There was not an encroachment at the time. Dallas Maynard did not physically measure the buildings, he is not a surveyor. Jeff Johnson asked if the water lines were in before the buildings. Dallas was not sure. Jeff wanted to know if the building was measured off the water lines.

Robert Yoakam showed the board a plan that shows the six garage units. The building was changed in Phase two. Because of the rental experience in Phase one the four family ranch with attached garages were renting better than the two story sixteen family buildings. So the substituted the sixteen family building with the four family. This did not effect Phase one. All the water lines were installed before the buildings. He would move the waterline if it is in the wrong place. He feels someone made a mistake in the field.

Claudette VanDyne moved to close the adjudicatory hearing. Johnson seconded. Roll call: Motion passed 5-0.

Jeff Johnson was trying to find a reason they would error on purpose and not by accident.

Claudette VanDyne feels it was an accident when staked. The board discussed that the variance would not cause a problem. It would not be a convenience or for profit but denial of it would result in practical difficulty by moving sixteen families. The garage is the only one that would not and it is only off approximately one inch. The entire project is built out. The commercial site has started construction.

Vice Chairman Rogers stated to base the motions on each application.

The first application is number 05122201 with regards to building 29, 160-190 Cumberland Way.

David Goll stated based on the fact that there is no monetary profit to be made and it would adversely affect a number of families that live there, he moved that the variance for Building 29 be granted with the statement he is tired of having to give variances on setback issues. Weber seconded. Discussion: Jeff Johnson does not feel that building is a problem. The one he would like to send a message with is the garage but it is only off a small amount. Michelle Weber stated how much is ok. Roll call: Mr. Goll, yes; Mrs. Weber, yes; Mrs. VanDyne, yes; Mrs. Rogers, yes; and Mr. Johnson, yes. Motion passed 5-0.

With regards to application 05122202 with regards to building 14, address 140-170 Par View Drive.

David Goll moved that the variance for Building 14 be granted with the statement he is tired of having to give variances on setback issues. Claudette VanDyne seconded. Roll call: Mr. Goll, yes; Mrs. Weber, yes; Mrs. VanDyne, yes; Mrs. Rogers, yes; and Mr. Johnson, yes. Motion passed 5-0.

With regards to application 05122203 Building 14 garage with no stated address.

Michelle Weber moved to deny the application for variance based on the previous decision. David Goll seconded. Discussion: Claudette VanDyne has concerns with the building has been there for four years. Michelle Weber wants the township to be taken serious we can not hand out variances because it is convenient. David Goll stated it does not affect any families. Cheri Rogers stated it is 1 ½ inches. Michelle Weber stated it is 1 ½ inches but added to how many other inches we have given away that adds up. Jeff Johnson stated it is the 1 ½ error. Michelle Weber stated it does not adversely affect any homes if that is the criteria for a variance. Jeff Johnson stated this is the only time Rockford has come before them for a variance. The garage is masonry foundation with framing and vinyl siding. The garage does not have a big over hang. Roll call: Mr. Goll, yes; Mrs. Weber, yes; Mrs. VanDyne, no; Mrs. Rogers, no; and Mr. Johnson, no. Motion failed 3-2.

David Goll asked if they could levy any penalties. Cheri Rogers stated it has to be approved by the Trustees. The prosecutor levy's fines of up to \$100 a day once a Zoning Violation is issued. It was surveyed for financial purposes. A clear title can not be made until the encroachment is corrected. One way to bring the property into compliance would be to purchase 1 ½ of property from the property next to them.

Jeff Johnson moved to grant the variance because it is such a small distance and is not encroaching on anything to cause a hardship to anyone else. Claudette VanDyne seconded.

OPTIONAL FORM NO. 10, APRIL 1964 EDITION, GSA FPMR (41 CFR) 101-11.6

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Roll call: Mr. Goll, yes; Mrs. Weber, no; Mrs. VanDyne, yes; Mrs. Rogers, yes; and Mr. Johnson, yes. Motion passed 4-1.

A final order will be provided for all three applications on the June 27th, 2006 meeting.

Jeff Johnson moved to adjourn. Goll seconded. Roll call: Mr. Goll, yes; Mrs. Weber, yes; Mrs. VanDyne, yes; Mrs. Rogers, yes; and Mr. Johnson, yes. Motion passed 5-0.

Meeting adjourned at 8:11 p.m.

Approved as read

6/27/06

Laura Brown

Laura Brown, Clerk

Approved as corrected/amended

Cheri Rogers

Cheri Rogers, Vice Chairman

Final Order Mailed: 6/28/06