

DRAFT

**SPRING LAKE TOWNSHIP  
ZONING BOARD OF APPEALS MINUTES  
SEPTEMBER 27, 2018 – REGULAR MEETING**

Present: Ellen delaRosa-Pearn, Jack Ketchum, George Postmus, Tom TenCate  
Absent: Larry Mierle, Rachel Terpstra  
Participants: Lukas Hill, Community Development Director

**I. Call to Order**

The meeting was called to order by Ketchum at 7:00 p.m.

**II. Approval of Minutes**

TenCate moved to approve the minutes of the July 26, 2018 meeting as presented. DelaRosa-Pearn seconded the motion, which passed unanimously.

**III. Adopt Agenda**

DelaRosa-Pearn moved to adopt the agenda as presented. TenCate seconded the motion, which passed unanimously.

**IV. Fett – Fence Variance – 19091 W Spring Lake Rd**

Michael Fett presented his request for a 6-foot tall privacy fence in the front yard. He has had a survey done, and the property line is 193 feet from the road. He is planning to put a 4-foot fence along the driveway.

DelaRosa-Pearn asked if the survey in the packet was current. Fett stated that the survey that was done in 2018 confirmed the survey in the packet, but a new drawing wasn't created.

TenCate asked if the basis for the request for the privacy fence was problems with the neighbors. Fett stated that it wasn't initially, but that as the process has gone on there have been more issues.

Postmus asked if the fence on the north was chain link, and whether there was an intent to fence the west side of the property. Fett stated the north fence was chain link, and due to the gully and creek there is no plan for a fence on the west side.

Ketchum asked why landscaping was not an option, rather than a fence. Fett stated that it is hard to find 6-foot tall shrubbery that can handle the shade. He stated that due to the shape of the lot the variance is appropriate.

Ketchum asked what hardship would require a 6-foot fence rather than a 4-foot fence. Anne VanderBroek, attorney for Michael Fett, stated that the hardship related to the natural barrier is cost, and that a natural barrier is not significant enough to keep the neighbors off the Fett property. This

DRAFT

results in Fett not being able to enjoy his property due to the trespassing. He is not able to use his property as the law provides.

Donald Fett stated that when the property was purchased there was significant cleanup required along the side where they want the 6-foot fence. A 4-foot fence is too short and things can be thrown over.

The public hearing was opened at 7:27pm.

Randy Daley, 19045 Glendale Circle, stated that he has no problem with the fence.

Barbara Marzuki, representing the owners of 19075/19077 W Spring Lake Rd, stated that the proposed fence would negatively impact property values. They prefer a black 4-foot chain link fence.

William Belcher, 19053/19055 W Spring Lake Rd, stated they have an owner-occupied duplex. A 6-foot fence would devastate their garden due to blocked light and wind. He stated that they cleaned up all items along the property line the day the line was marked.

Julie Belcher, 19053/19055 W Spring Lake Rd, stated she found Fett's son in her yard cutting branches from trees. She said any fence was sufficient to keep them off the property. TenCate asked how tall the trees along the property line are, and how tall the trees further from the property line are. Belcher stated that the trees along the property line are six to eight feet tall, and the ones further west are about 20 feet tall.

Donna Phelps, 19056 W Spring Lake Rd, stated she objects to a 6-foot fence in a front yard, as it is not allowed by the ordinance.

Mickey Peterson, 19033 W Spring Lake Rd, stated she doesn't like a 6-foot fence, but she would find a 5-foot fence acceptable.

Don Smith, 19045 W Spring Lake Rd, stated that a 6-foot privacy fence would block the light and kill the landscaping at 19053/19055 W Spring Lake Rd.

Skip Westmaas, 16382 Highland Dr, requested clarification about where a 6-foot fence would be allowed. Ketchum stated that the 6-foot fence is allowed in the side yard of 19091 W Spring Lake Rd, which adjoins the Westmaas property. Westmaas asked if the fence can be placed directly on the property line, and if shrubbery can be removed to put up the fence. Hill stated a fence can be placed on the property line, and that an attorney should be consulted about the shrubbery.

Motion by Ketchum, support by Postmus to close the public hearing at 7:52pm. The motion was approved unanimously.

VanderBroek stated that the Belchers offered no reason for the denial, and that Fett has the right to enjoy his property rights even if the Belcher garden is right along the property line. She stated that continuity of the fence is important. Fett stated that the light coming into the back yard is already sparse due to the trees and the fence will not make it worse.

DRAFT

VanderBroek stated that as the property is adjacent to a creek, the creek side of the house is the front yard, which makes the property line in question a side or back yard, due to the Zoning Ordinance definitions for a waterfront lot. Hill stated that the definition of a waterfront lot only applies to lots which abut on Spring Lake, Lake Michigan, the Grand River, bayous or Little Black Lake. Creeks are not considered waterfront, so the definition does not apply.

Commissioners reviewed the criteria for granting a variance. There was considerable discussion related to the hardship requirement, the requirement that there not be substantial detriment to adjacent properties, and the requirement to not materially impair the intent of the Ordinance.

Motion by Postmus to grant the variance as presented. The motion died for lack of support.

Motion by delaRosa-Pearn, support by TenCate, to approve a 4-foot privacy fence in the proposed front yard location as depicted in the August 29, 2018 submission, with the following conditions:

- a. The applicant complies with all written representations to the Township, and all verbal representations as reflected in these minutes.

A roll call vote was taken. With Postmus as the dissenting vote, the motion was approved.

**V. Tidswell – Accessory Building Authorization – 18382 N Fruitport Rd**

Tony Tidswell presented his request for an accessory building in the rear yard. The height was chosen so he would have enough head room to stand on his boat.

Postmus asked if there was a second story in the accessory building. Tidswell stated there was an area for storage.

Postmus asked if the access to the garage doors was from the property to the north. Tidswell stated that the driveway is in an easement that is shared with the neighbor, and the garage doors will be accessed from the driveway.

DelaRosa-Pearn asked about the stairs indicated on the plan. Tidswell stated they were to access the loft for storage.

Postmus asked about utilities in the accessory building. Tidswell stated there would be gas and electric and water for a sink.

Ketchum asked about the garage door size. Tidswell stated he was proposing a 9-foot door.

Tidswell stated that there was no landscape plan submitted, but he would landscape the accessory building when he landscapes the new house. The accessory building will have vinyl siding and a shingle roof.

DRAFT

Ketchum stated that he had no problem with the square footage of the building, but he felt the 30-foot height was too much.

Tidswell then presented another accessory building plan. This one had the same footprint, shorter sidewalls and no gable roof.

DelaRosa-Pearn stated that this plan shows a 13.5-foot sidewall and 23 feet for the overall height. Tidswell stated there is still an area in the center of the building to allow for storage.

The public hearing was opened at 8:26pm. There were no comments. Motion by TenCate, support by Postmus to close the public hearing at 8:27pm. The motion was approved unanimously.

Commissioners reviewed the criteria for an accessory building authorization.

Motion by Postmus, support by delaRosa-Pearn, to authorize an accessory building 1,320 square feet in area with a sidewall height of 10 feet and an overall height of 23 feet, as presented in the second submission, dated September 27, 2018, at 18382 N. Fruitport Road as the application meets all criteria in Section 306, F, of the Zoning Ordinance with the following conditions:

- a. The applicant complies with all written representations to the Township, and all verbal representations as reflected in these minutes.
- b. No living quarters will be constructed in the accessory building.

A roll call vote was taken. The motion was approved unanimously.

## **VI. Papp – Waterfront Setback Determination and Waterfront Accessory Building Authorization – 18498 W Spring Lake Rd**

DelaRosa-Pearn recused herself due to being a neighbor of this property.

Shawn Kenyon, builder, presented the request for rebuilding an attached deck in the same footprint as the existing deck. The existing deck is sized for the three exit doors that open onto the deck. The requested detached deck will not be attached to the house. It will be located at the top of the ridge on the property. The deck will be ground level on the house side, but due to the ridge will be about seven feet high on the water side.

Scott Kenyon, builder, stated that the house to the west of the property is set very far from the water and skews the waterfront setback calculations.

The public hearing was opened at 8:49pm.

Amy Cleveland, 18486 W Spring Lake Rd, stated that she did not object to the project because the decks would not be visible from her property.

DRAFT

Motion by Ketchum, support by TenCate, to close the public hearing at 8:56pm. The motion was approved unanimously.

Commissioners reviewed the criteria for a Waterfront Setback Determination.

Motion by Ketchum, support by Postmus, to approve the Waterfront Setback as the footprint of the existing house and decks at 18498 W Spring Lake Road.

A roll call vote was taken. The motion was approved unanimously.

Commissioners reviewed the criteria for a detached Waterfront Accessory Structure (deck).

Motion by Ketchum, support by TenCate to approve the Waterfront Accessory Structure of 169 square feet as depicted on the site plan dated September 5, 2018 for 18498 W Spring Lake Road with the following conditions:

- a. The applicant complies with all written representations to the Township, and all verbal representations as reflected in these minutes.

A roll call vote was taken. The motion was approved unanimously.

**VII. Richardson – Waterfront Setback Determination – 15821 Vine Ave**

Tonia Richardson presented the request for two new decks on the waterfront side of the house. Hill stated that the Richardsons would prefer a waterfront setback determination, rather than approval for only the decks, to guide future expansion plans.

The public hearing was opened at 9:14pm. There were no comments. Motion by Ketchum, support by Postmus to close the public hearing at 9:15pm. The motion was approved unanimously.

Hill clarified that with a waterfront determination the homeowners can put anything inside the waterfront setback line, but nothing can be built past the determined line.

Motion by Postmus, support by TenCate, to approve the two decks as presented on the plan dated September 4, 2018.

A roll call vote was taken. DelaRosa-Pearn and Ketchum voted no. Postmus and TenCate voted yes. The motion failed.

Motion by Ketchum, support by delaRosa-Pearn, to determine the Waterfront Setback as a line between the closest waterfront foundations (not decks) of the two adjacent homes.

A roll call vote was taken. The motion was approved unanimously.

**VIII. Adjournment**

DRAFT

Ketchum moved to adjourn the meeting at 9:23pm with support from TenCate. With a unanimous vote, the motion passed.

Respectfully submitted,

George Postmus, Secretary  
Zoning Board of Appeals