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**SPRING LAKE TOWNSHIP
ZONING BOARD OF APPEALS MINUTES
JANUARY 28, 2021 – REGULAR MEETING**

Present: Ellen delaRosa-Pearn, Jack Ketchum, Larry Mierle, George Postmus (arrived at 7:17pm), Tom TenCate
Absent: Rachel Terpstra
Participants: Lukas Hill, Community Development Director
Ron Bultje, Township Attorney

Pursuant to PA254 of 2020, the Township of Spring Lake Zoning Board of Appeals conducted its business via conference call to mitigate the spread of COVID-19. Members of the public were encouraged to dial in to this meeting. Members of the public were not required to register or otherwise provide information to attend.

I. Call to Order

The meeting was called to order by Ketchum at 7:05 p.m.

II. Approval of Minutes

Motion by delaRosa-Pearn, support by TenCate, to approve the minutes of the December 3, 2020 meeting as presented. A roll call vote was taken and the motion passed unanimously.

III. Adopt Agenda

Motion by TenCate, support by Mierle, to adopt the agenda as written. A roll call vote was taken and the motion passed unanimously.

IV. Public Comment

A time for public comment was provided. There were no comments.

V. Paskus: Waterfront Accessory Structure Authorization – 15777 Vine Avenue

Eric Rosendall of Lakeshore Property Services, presented the request for a waterfront shed to store water toys. The shed will be 6 feet by 15 feet to accommodate 13-foot kayaks. The shed will be built on stilts. The shed will have vinyl siding, windows, and shutters to match the house. Jack Paskus spoke to Mike Sepeshy, the neighbor to the north, who will be most affected by the shed, and Sepeshy has no problems with the request. The elevation change from the house to the waterfront is about 31 feet, so the shed will not block views. There are trees and a fence between the houses. The proposed location meets the required setbacks, and is not in the flood plain.

DelaRosa-Pearn asked if the existing seawall will be replaced. Rosendall stated that the failing wood wall will be replaced with a stone outcropping wall.

Ketchum asked about the distance to the property line. Rosendall confirmed that the shed will be 10 feet from the property line.

Ketchum asked if additional landscaping will be added. Rosendall stated that they did not feel it was necessary due to the fence and trees, and that the beach is not suitable for planting.

Ketchum asked if the shed will be compatible with the house. Rosendall stated that it will have the same siding as the house, and will be the same color. Shutters will be added to the window.

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Ketchum asked the location of the new seawall. Rosendall stated it will be in the same location as the old wall.

The public hearing was opened at 7:20pm. There were no comments. Motion by TenCate, support by delaRosa-Pearn, to close the public hearing at 7:21pm. A roll call vote was taken and the motion passed unanimously.

Commissioners reviewed the criteria in Section 306 I 5 of the Zoning Ordinance for Waterfront Accessory Structures.

Motion by delaRosa-Pearn, support by Mierle, to approve the authorization for a waterfront accessory structure as presented at 15777 Vine Ave, as it meets the requirements of Section 306 I 5 of the Zoning Ordinance, with the following conditions:

- a. The shed will match the architecture of the home as discussed.
- b. The applicant will comply with any other local, state, and federal laws.
- c. The applicant will comply with all verbal representations.

A roll call vote was taken and the motion passed unanimously.

VI. Peterson: Rear Yard Setback Dimensional Variance – 17330 Villa Park

Heather Peterson presented their request for an addition on their house. The house has no dining room or eat-in kitchen. They want a new addition to allow for a dining room and to expand the master bedroom. The only way to add on to the house that makes sense is to go out the back. They have a long, thin lot, and even with the addition will only have 20% lot coverage. They have talked to every neighbor who has property adjacent to their property, and nobody objects to the plan. The neighborhood is zoned R3 and has varied house placements. They considered adding on to the side of the house, but they would need to remove a large oak tree to do that. They submitted letters from all the neighbors supporting the project.

TenCate stated that houses usually have dining spaces, and wondered why this one did not. Peterson stated that the kitchen was remodeled by previous owners and no longer has an eat-in area.

TenCate asked what rooms were on the south end of the house. Peterson stated that there are bedrooms. The remodeling design changes a bedroom to a dining room and adds a new master bedroom.

TenCate asked if they purchased the house with this problem. Peterson stated they purchased the house with the hope that they could make changes.

Postmus stated that with an R3 zoning the house could become a duplex. Peterson stated that it was not their intent to create a duplex, and would agree not to add to the south side of the house if required by the ZBA.

Postmus asked if they were creating a formal dining room. Peterson stated that they were designing a great room with the kitchen.

Mierle asked if there was a basement, and whether there would be a basement under the addition. Peterson stated that the house has a basement, but the addition will only have a crawl space.

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DelaRosa-Pearn asked if they were re-siding the entire home. Peterson stated that they will use beadboard for the addition that will look good with the house. The current siding is aluminum and cannot be matched. The beadboard will be painted to match the color of the existing siding.

DelaRosa-Pearn confirmed if they had spoken with the neighbor to the rear. Peterson stated that they had, and the neighbor did not object to the plans.

TenCate asked if the addition could be shorter than 16 feet. Peterson stated that they are also including a laundry room in the addition. The addition is the same size as the existing deck. Expanding to the south would affect all the rooflines, and it will affect the neighborhood less if they add to the back of the house.

The public hearing was opened at 7:44pm.

Letters were received from all the nearest neighbors supporting the project:
James and Judy Ponstine, 17325 Villa Park (read by Peterson at the meeting)
Mike Cole, 17271 Benjamin Ave
Nicholas Paradiso, 17342 Villa Park
Jennifer Kure, 17250-52 Villa Park
John Deppe, 17252 Villa Park

Motion by TenCate, support by Mierle, to close the public hearing at 7:47pm. A roll call vote was taken and the motion passed unanimously.

Commissioners reviewed the criteria for a variance in Section 112 I of the Zoning Ordinance and found that all criteria were met.

Motion by delaRosa-Pearn, support by Mierle, to approve a rear yard setback reduction as presented at 17730 Villa Park , based on the criteria in Section 112 I being met per the Lukas Hill memo dated January 14, 2021, and the application materials, with the following conditions:

- a. The applicant will comply with the application materials as submitted.
- b. No duplex is allowed on the lot.
- c. Any future changes to the lot coverage will require ZBA review.
- d. The beadboard siding will be painted to match the existing siding color.
- e. There will be no basement under the addition.
- f. The applicant will comply with any other local, state, and federal laws.
- g. The applicant will comply with all verbal representations.

A roll call vote was taken and the motion passed unanimously.

VII. Kihnke: Lot Size Dimensional Variance – 18841 N. Fruitport Road

Steve Signor and Dennis Dryer of Dryer Architectural Group, and Alek Kihnke, property owner, presented the request to create three lots out of the existing parcel. Each lot would be about 225 square feet short of meeting the zoning ordinance requirements of one-acre lots. The parcel is near Legacy Point, where they have lots of 15,000 square feet, which were built before the zoning change requiring one-acre lots if using septic tanks. On the site plan presented, the blue area above the shared drive is a utility easement to the lot to the north. There is no intention to put the drive through to that lot. Dryer does not believe that a precedent would be set, as there are no other lots in the Township with a similar situation.

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TenCate asked if the Legacy Point infrastructure has been completed. Dryer stated the sewer line is not connected.

TenCate asked about the road construction for Legacy Point Drive. Dryer stated it was built to Ottawa County Road Commission standards.

TenCate asked about plowing and street repairs for Legacy Point Drive. Dryer stated the homeowner's association pays for that. TenCate asked if the current property owner was part of the homeowner's association. Dryer stated he was not, but he is willing to join. Kihnke stated that he has an easement to Legacy Point Drive.

Postmus asked if the existing driveway is going to be abandoned. Dryer stated that there is currently access from Legacy Point Drive to the existing house. They will use Legacy Point drive to access all three houses after the split.

Postmus asked if Kihnke owned the property before Legacy Point was developed. Kihnke stated he bought it around 2006.

The public hearing was opened at 8:19pm.

Kim Hammond, 18843 Legacy Point Drive, spoke for herself and 13 other homeowners strongly opposing the request. They provided written comments to the ZBA, and she read the key points of the letter. They object to the lot shapes and size, and they oppose allowing lots that do not meet the current R1 ordinance for the continued preservation and protection of Spring Lake. Hammond also noted that Kihnke has not talked to the neighbors about the plan.

Bill and Connie Widdis, 18867 N. Fruitport Road, submitted a letter opposing the variance request. They are concerned that the approval would set a precedent which could lead to excessive development along Fruitport Road, as there are many similarly sized and dimensioned properties along Fruitport Road.

Nicholas Morano, legal counsel to Caroldean Brocci, submitted a letter objecting to the variance, noting that the application does not meet the requirements for a variance as stated in the Zoning Ordinance.

Todd Tracey, 18837 Legacy Point Drive, stated he is opposed to the variance because the additional lot will be disruptive to the neighborhood. Tracey noted he was one of the signers of the letter referenced by Kim Hammond.

Jerry Koronkiewicz, Legacy Point Association president, 18831 Legacy Point Drive, clarified that Legacy Point was started in 1999. There is one remaining lot, but the Township declared in October, 2020, that it was not a buildable parcel.

Motion by Mierle, support by TenCate, to close the public hearing at 8:33pm. A roll call vote was taken and the motion passed unanimously.

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Dryer stated that the north side of Legacy Point is considerably higher than the south side, and the stormwater problems are due to the houses being raised above the street. They will be required by code to keep the stormwater on their site.

Kihnke stated that the lots will be about two and one half times the lot size of adjacent properties and will increase the value of the existing lots. The houses shown on their site plan are just for demonstration and the houses that will be built will be the same size as houses in Legacy Point.

Hill stated that the applicant's attorney sent materials related to the access easement, but that is not relevant to the matter before the ZBA. Bultje stated that just the variance request should be considered, and the ZBA could require proof of access as part of an approval.

Commissioners reviewed the criteria in Section 112 I of the Zoning Ordinance.

- a. Commissioners found that there are no exceptional or extraordinary circumstances or conditions applying to the property in question, as to its intended use, that do not apply generally to other properties or classes of uses in the same zone.
- b. Commissioners found that the Variance is not necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties or classes of uses in the same zone. The possibility of increased financial return shall not of itself be deemed sufficient to warrant the granting of a Variance.
- c. Commissioners found that the Variance, if granted, may be of substantial detriment to adjacent property and may materially impair the intent and purpose of this Ordinance or the public interest.
- d. Commissioners found that the condition or situation of the property or its intended use is not of so general or recurrent a nature as to make reasonably practicable a general regulation for the condition or situation.
- e. Commissioners found that any exceptional or extraordinary circumstances applying to the property in question were self-created.
- f. Commissioners found that the enforcement of the literal requirements of this Ordinance would not involve practical difficulties

Commissioners discussed the request, and all agreed that they are leaning to deny the request.

Motion by Ketchum, support by TenCate, to table the variance request for 18841 N. Fruitport Road and direct the Township attorney to prepare a resolution of denial. A roll call vote was taken and the motion passed unanimously.

VIII. Adjournment

Motion by TenCate, support by Mierle, to adjourn the meeting at 8:56pm. The motion passed unanimously.

Respectfully submitted,

George Postmus, Secretary
Zoning Board of Appeals