

**ALPINE TOWNSHIP ZONING BOARD OF APPEALS
REGULAR MEETING
Monday, May 22, 2017**

CALL TO ORDER / PLEDGE OF ALLEGIANCE

Chair Bill Stachowiak called the meeting to order at 7:30 p.m. with the Pledge of Allegiance. Members present: Chair Bill Stachowiak, Mike O'Malley, Bill Homrich, Bill Schweitzer and Ted Spangenberg. Also present: Luke Arends, Planner Sue Becker and Recording Secretary Barb Griswold.

APPROVAL OF MINUTES

The Board reviewed the Monday, March 27, 2017 minutes. Schweitzer motioned, supported by O'Malley to approve the minutes with one change.

Ayes: 5 Nays: 0 Motion carried

APPROVAL OF AGENDA

Spangenberg motioned, supported by Schweitzer to approve the agenda as presented.

Ayes: 5 Nays: 0 Motion carried

Stachowiak stated he previously had worked with the applicant prior to his own retirement; however he did not feel it would affect his hearing the case and making a fair decision.

NEW BUSINESS

CASE #17-ZBA-03

David and Jeanette Van Oeffelen has requested a side yard setback variance at 5647 Baumhoff Ave. (PP#41-09-22-100-005) within the A, Agricultural zoning district.

Motion by Spangenberg to open the public hearing, supported by Homrich.

Ayes: 5 Nays: 0 Motion carried

Applicants David and Jeanette Van Oeffelen, 5647 Baumhoff Avenue, presented their request for a side setback variance for a lean-to addition on the back of their detached garage for a better appearance of the property concerning outside storage. They are asking for an 11-foot setback, instead of the required 20-foot setback for the 10 x 24 lean-to addition. They have lived here for 17 years. The house is old and they are sure the zoning laws have changed, and the property is not square with the road, so they feel this makes a unique circumstance.

Stachowiak stated the lean-to addition is already built and asked why the applicants built it on the rear of the garage instead of the side away from the lot line. Mr. Van Oeffelen said they have a pool in the back yard, so the lean-to was added to the rear of the garage.

O'Malley asked what the side lot setback is for the original detached garage and Becker said it is approximately 12 feet from the side lot, so it is a non-conforming structure since the required setback is 15 feet. O'Malley asked if the garage was there when Mr. and Mrs. Van Oeffelen bought the house, and Mr. Van Oeffelen replied yes, the garage was there.

Schweitzer asked when a survey was done on the property and Mr. Van Oeffelen wasn't sure, but did know there are metal poles marking the lot lines on the property.

O'Malley asked if Mr. Van Oeffelen had applied for a building permit to build the lean-to and he answered no he had not obtained a permit. O'Malley asked Mr. Van Oeffelen if he had used a contractor to build the lean-to and Mr. Van Oeffelen stated no that a friend and himself build it.

O'Malley asked what the original detached garage is considered, and Becker answered it is a legal non-conforming structure, and the garage addition is illegal non-conforming, so that is why the Van Oeffelens are asking for the variance.

Homrich asked Mr. Van Oeffelen if he has spoken with his neighbors about the addition, and Mr. Van Oeffelen stated he has and they do not object to it.

Stachowiak asked about the measurements of the garage and Becker said the original detached garage is 672 square feet and the new addition is 240 square feet for a total of 912 square feet. The total allowed for a 15 feet setback is 832 square feet, so the addition would have to be reduced by 160 square feet. Stachowiak added the lean-to addition would have to be a maximum 10 x 16 then.

Dan Alt of 5630 Baumhoff Avenue addressed the ZBA Board. He is a partner in a dairy farm that borders all 4 sides of the Van Oeffelen's property. He stated the original detached garage has been there for approximately 50 years and asked what the setbacks would have been that long ago. Becker stated there were setbacks, but wasn't sure what they were. Mr. Alt asked if the garage was in compliance 50 years ago, and Becker said she assumes that it was in compliance then.

Mr. Alt said they haven't worried about where the back lot line is between his property and the Van Oeffelen's property because they don't plan on putting any structures there, they use it for loading apples. Mr. Van Oeffelen also keeps it mowed and looking clean. Mr. Alt has no problem with a side setback variance because it has been that way for 50 years and hasn't been an issue. Mr. Alt stated Mr. Oeffelen has taken down trees that helped them maneuver farm equipment better too.

Stachowiak thanked Mr. Alt for his comments.

It was verified that meeting notices were sent to neighboring properties. No other audience members were present.

Motion by Schweitzer to close the public hearing, supported O'Malley.

Ayes: 5 Nays: 0 Motion carried

O'Malley stated the applicants bought the property 17 years ago and our ordinances were likely the same now as then for a 20-foot side yard setback. He is asking us to bless his construction done without permits in the wrong location.

Stachowiak said the ZBA Board has to be fair to everyone and treat everyone the same.

Homrich said the property is unique because it is less than an acre in size and the lot lines are on a slight angle.

Schweitzer stated the lot size is not unique because the lot was created when property owners were allowed to pick your own lot size in the Agricultural District.

Spangenberg said cul-de-sac lots have angled side lot lines also.

Chair Stachowiak asked Zoning Board Members to review the information presented. Board members discussed the four standards for a variance.

Motion for a Side Yard Setback at 5647 Baumhoff Ave. Case #17-ZBA-03

Variance Decision:

Schweitzer motioned, supported by Spangenberg to DENY the requested variance from Section 2.01(b) to vary the required side yard setback from 20 feet to 11 feet, to allow for a detached garage addition in the A, Agricultural zoning district for the property located at 5647 Baumhoff Avenue NW, PP# 41-09-22-100-005.

FINDINGS OF FACT:

1. The requested variance *doesn't* meet Standard # 1, that "There must be unique circumstances or conditions about this property, not the use of the property."

There are not unique circumstances or conditions about this property as that warrant a variance, as there are other lots in the Township that aren't square and are of the same size.

2. The requested variance *does not* meet Standard # 2, that "In giving the variance, the Zoning Board of Appeals will be assuring that the applicant has the same rights that other property owners in the same zoning district or vicinity have."

The applicant has the same rights that other property owners have to conform to the side yard setbacks.

3. The requested variance *does* meet Standard # 3, that "The variance will not create a situation that may be harmful or damaging to the neighbors' properties or the public interest."

The variance will not be harmful to the neighbors' properties.

4. The requested variance *does not* meet Standard # 4, that "The variance cannot set a precedent.

It would set a precedent because other property owners would want to change their side yard setbacks.

VOTES: AYES: 4 (Stachowiak, Schweitzer, O'Malley and Spangenberg)
 NAYS: 1 (Homrich)
 Motion passed to deny the requested variance. 4-1

STAFF UPDATES

Becker shared that a Tractor Supply Store will open in Spring 2018 and the Aldi store is currently expanding.

ADJOURNMENT

Motion made to adjourn the meeting at 8:50 PM by O'Malley, supported by Schweitzer.

Ayes: 5 Nays: 0 Motion carried

Susan Becker, Planning Director

Bill Stachowiak, Chair

Barb Griswold, Recording Secretary