

Westfield Township Board of Zoning Appeals

Public Hearing

Area Variance for side yard on 6959 Seville Road

August 26, 2014

Daugherty called the BZA Public Hearing to order at 7:00 PM. Roll call: Moore- aye, Simmerer- aye, Evans- aye, Daugherty- aye, Miller- aye.

The BZA will hear Timothy Molnar regarding an area variance at 5969 Seville Road under the Zoning Code, Accessory Buildings and uses, section 303-D1. BZA is a Quasi Judicial Board and the applicant will present their information and the audience will have time to make comments up to 10 minutes. Applicant has as long as he needs.

Timothy Molnar was sworn in by the zoning secretary, Cheryl Porter.

Timothy Molnar is applying for a variance from 25' off the property line to 12' due to the variance conditions on his property: septic mound, under group propane tank and a natural swale (wet lands) interfere with the area in which he could place the drive leading to his accessory building. Timothy Molnar explains to the BZA board that in order to comply with the zoning code he would have to cross over his septic mound and propane tank and have an "S" curve in his 175' drive way. By asking for this 13' variance the drive would be straight and there would be no interference with his existing septic mound. If Molnar was to change the size of the building then he would not be able to use this structure for his 77' rig and trailer.

BZA board member Miller asked for clarification of where the propane tank was on the property. Molnar shows the BZA members the location and explains how the change in the drive would create a blind side for backing his trailer into the barn.

BZA board member Evans suggested that the variance could be less and closer to the sand septic mound. He also mentioned that this was getting too close to the neighbors.

Miller asked how many property neighbors were notified and Porter said that 5 letters were sent out. Molnar explained that his closest neighbor did not have a problem with this variance and he did not even come tonight.

BZA board member Simmerer asked about the area on the map that was marked "wet" and Molnar explained that this was in fact a natural swale. Evans added that most of the water on this property runs to the front and Molnar said it ran into the swale in the back.

Comments from the Audience

None

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ZI Sims suggested that any additional evidence be stamped at this time.

Miller asked about how far is the septic mound from the new building and Molnar said about 25' from the building and about 12' wide. Miller added that this was poor planning from the county regarding the placement of the mound.

BZA board member Moore asked about the wet area behind the building and if this was owned by the neighbor? Molnar said it was owned by a neighbor and it is landlocked so nothing will be done with that area. He also explained that there is a long enough set back that it would not be an eye sore from the road.

Evans stated that the drive could be moved towards the septic mound and that the variance could be less. Moving it over 5 feet would lessen the large variance. He believed that this would bring you to the "toe of the mound" and they would still be able to work on the mound if necessary. A little jog wouldn't matter when you back into the area.

BZA board member Simmerer asked the board to review the Duncan Factors:

1. The property in question will yield a reasonable return without the variance because it is presently used as a residence.
2. The variance is not substantial since it will be 25' to 12'.
3. The essential character of the neighborhood is not altered since the adjoining properties did not come to the hearing and it would be better to have vehicles parked in a barn versus the yard.
4. Governmental services would not be altered.
5. The applicant purchased the property with the knowledge of this zoning restriction but had no choice about the placement of the septic.
6. The applicant's predicament cannot be obviated through some other means other than a variance unless he chooses not to build the building and lessening the variance does not make sense. (Give him the benefit of 5' rather than having to drive with a blind spot.
7. The spirit and intent of the zoning code would be observed and substantial justice would be done by granting the variance since the spot chosen by the applicant is the best location.

BZA board member Daugherty felt that he was aligned with everything that was said by other board members and he would not want to be closer to the septic bed. Storage inside rather than storing vehicles outside make sense and a straight shot to the building also makes sense. This is showing practical difficulty since there doesn't seem to be another practical solution and the project is what the resident needs. Since there are no neighbor comments Daugherty does not have a problem granting the variance.

Miller makes a motion to grant the Accessory Building and Use variance request from twenty-five foot (25') side-yard setback to twelve foot (12') (a 13' variance) according to Section 303-B1; seconded by

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Moore. Roll call: Moore- aye, Simmerer- aye, Evans- No, Daugherty- aye, Miller- aye. The motion passes.

Announcements:

BZA Public Hearing for North Coast Premier Soccer on August 28, 2014 at 7:00 PM

Respectfully submitted by:

Cheryl Porter, Zoning Secretary

Kevin Daugherty, BZA Chair

Wayne Moore, BZA Vice-chair

Lee Evans, BZA Member

Keith Simmerer, BZA Member

John Miller, BZA Member