

Westfield Township Board of Zoning Appeals

Public Hearing
March 19, 2019
Area Variance/ Nonconforming lot
Driveway Variance

Moore started the regular meeting at 6:30 PM.

Roll call: Thur- aye, Stacy- aye, Simmerer- aye, Moore- aye. Absent: McGlashan

Also in attendance: ZI Sims and Trustee Schmidt

Organizational Meeting Minutes to be approved:

Thur makes a motion to accept the February 19, 2019 Organizational Meeting Minutes as submitted; seconded by Stacy.

Roll call: Thur- aye, Stacy- aye, Simmerer- abstain, Moore- aye.

Thur makes a motion to close the regular meeting; seconded by Stacy. Roll call: Thur- aye, Stacy- aye, Simmerer- aye, Moore- aye.

Public Hearing

Chairman Moore opens the Public Hearing at 6:35 PM.

Roll call: Simmerer- aye, Stacy- aye, Thur- aye, Moore- aye. Absent: McGlashan

Richard D. Frank, PO Box 36, Loreito, TN 38469 and Mark Suppes, PO Box 101, Creston, Ohio 44217; were sworn in by Secretary Porter.

Chairman Moore discussed with the applicants that there is a Qu arum but not a full board and would the applicants wish to ask for a continuance to have a full board.

The applicants stated they were fine to proceed since everyone was in attendance.

Moore asked the BZA if there were a conflict with the application before them. All stated there were none.

Exhibit "A" – Application

Exhibit "B"- Public Notice

Moore read the BZA's process for the hearing to the audience.

ZI Sims provided the BZ with an over view of the application. She stated that the lot predates Westfield Township zoning (1949). Westfield Township's zoning was in 1957. A Title Search was completed on the

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property and a copy was provided to the BZA. The application was also reviewed by the Medina County Prosecutor's Office by Assistant Prosecutor Mike Lyons.

The property is Rural Residential and was created prior to zoning. The property cannot meet the driveway requirements and the road frontage; Article 303, Section E. H. 2 b, and H.4. B is to be reviewed.

Section 303 was copied and provided to the BZA by ZI Sims; Exhibit "C" – 5 pages and Exhibit "D" - 2 pages are submitted into the record.

Mark Suppes- representing Richard Frank who is recovering from an accident stated there are 70 years of a title search provided. The 8.25 acre property was transferred in 1949 and handed down through the family. It is a building lot that does not meet the drive requirements according to present zoning and therefore the owner is requesting an area variance.

Moore asked how long Richard Frank has owned the property and Suppes stated it was inherited from his father. Joe Letanzeo is representing the buyer who wishes to build if the variance is granted. Presently the frontage of the property is 17' by 734' and there is no room for a passing lane at 500' or side yard requirements.

Exhibit "E"- Map of Property

Moore opened the meeting to Public Participation. (Audience of 5 people).

Beverly Schmid and Roger Schmid, 7950 Greenwich Road, Lodi, Ohio; were sworn in.

Mrs. Schmid stated that there property would be affected on the western edge and there are large trees, bushes and an electric pole that would have to come down. The Schmid's were concerned about the lack of privacy and that the surveyor did not get an accurate record since it was over grown. The stakes for the surveying were on the Schmid's property and it would need to be resurveyed; and there was no right of way surveyed except at the road.

Moore- 734' with natural obstructions

Simmerer stated that this predates zoning and the zoning does not grant ingress and egress of property and since the property can't meet this requirement it does not have an effect on the board's decision. This would be considered a "takings" case if we as a township no provide him with a use of this property. The decision should be reasonable with the least amount of variance.

Thur asked about safety equipment be able to travel the 10' wide drive and there will only be a passing lane at the first possible spot on the property.

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Section 705- no longer conforms to the zoning text. ZI Sims read the section about nonconforming lot and stated this property was created and recorded prior to the zoning text. Sims stated that 1.) Suppes testified that the recorded property was prior to Westfield Township's zoning; 2.) affidavit provided; 3.) the lot complies with all applicable requirements.

Simmerer stated that the apron at the street is 17 feet and the property can't comply with the passing lane until past the 700 feet area of the drive where it will begin to widen. There is also not enough land to mound for privacy and the drive can be 10 foot wide but there will not be 10 feet from the property line. The request will be a 3 ½ foot variance from property lines.

Section 510. F. discusses there is a passing lane every 500 feet so the passing lane on this property will begin at 735 feet.

Section 303 H.2. B discusses the rear lot requirement and 60 feet of frontage.

Section 303 H. 4. C. discusses the 10 feet of property on each side of the drive can't be met since there is only 17 feet for the drive.

The BZA was in agreement they could not enforce the 10 feet from the property line because that ruling would deny the use of this property.

Moore asked about easements and Suppes testified there were no easements and all of the acreage was one property making it a nonconforming lot. A copy of the survey was provided as part of the application (Laurila Surveying). Boundaries of 1300 feet to the street and including the 734 feet drive.

Prosecutor has read and reviewed the application.

No additional evidence was provided to the Board.

- Nonconforming lot section 510.B a variance of 6 ½ feet on each side of drive for a 10 feet maximum.
- Section 510.F a 235 feet variance for passing lane
- Section 303 H.4.B an unobstructed drive
- Section 705 A.4 a nonconforming lot and all applicable yard dimensions predate zoning
- Section 510 B. "10 feet from property line" is not possible as stated by the zoning resolution so it will be split to each side for 3 ½ feet on each side

Thur makes a motion to close the public portion of the meeting seconded by Stacy. Roll call: Thur-aye, Stacy- aye, Simmerer- aye, Moore- aye. The motion passes.

The Board reviewed the Duncan Factors:

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1. Property will not yield a reasonable return without the variance; all said aye
2. The variance is substantial but it is a nonconforming lot which predates present township zoning; all said aye to variance is substantial
3. Essential character would not be altered and it is not detrimental to the neighbors; all said it would not alter and Stacy said it would be a detriment to the neighbors
4. The variance would not adversely affect the government services; all said aye
5. Property was not purchased with the knowledge of the zoning restrictions since there was not township zoning at that time; all said aye
6. The problem with the property could not be solved in another manner; all said it cannot
7. The variance preserves the spirit and intent of the zoning code would be observed; all said yes and that substantial justice would be done by granting the variance due to it being a nonconforming lot that predates township zoning; all said a substantial justice would be done by granting the variance

Motion to grant a variance due to practical difficulty with the following conditions:

1. According to nonconforming lot, variance 510.B a 6 ½ feet on each side of a maximum 10 feet driveway; making the driveway 3 ½ feet from any property line
2. According to nonconforming lot, variance 510.F should be a variance of 235 feet
3. According to nonconforming lot, variance 705.A.3 the lot shall comply with all other applicable requirements of this Resolution including but not limited to required yard dimensions.
4. This lot predates township zoning

Thur makes a motion to grant an area variance; Article 5 Section 510 and strike 510.E as not applicable; Section 303 E.H. 2. pp# 041 15C 05001 in Westfield Township with 4 conditions previously mentioned; seconded by Stacy. Roll call: Thur- aye, Stacy- aye, Simmerer- aye, Moore- aye. The area variance is granted.

Stacy makes a motion to adjourn at 8:48 PM; seconded by Simmerer. All said aye

Respectfully submitted by:

Cheryl Porter, Zoning Secretary

Date approved: _____

Wayne Moore, BZA Chair

Greg McGlashan, BZA Vice- chair

Westfield Township Board of Zoning Appeals

Keith Simmerer, BZA Member

Andy Thur, BZA Member

Jim Stacy, BZA Member