

Leighton Township Zoning Board of Appeals Minutes

Date: July 21, 2009

Members Present: Dave Wright, David Gould, Mary Jane Merren,
Bob Skinner (Alternate)

Members Absent: Roger Alderink, John Hooker

Others Present: Mark Sisson, Bob Jones(PCI), Nathan Dempsey and 2 interested persons

Art. 1 Chairman Wright called the meeting to order at 7:30 p.m.

Art .2 Minutes

Minutes of the June 29, 2009 meeting were approved as presented.

Art .3 Public Comments – None

Art. 4 Inquiry of Conflict of Interest –None

Art. 5 Dempsey Variance Request – Parcel# 0313-010-100-00

Secretary, David Gould read the official Notice as it was published. Relief is being sought from Section 7.04(d) of the Leighton Township Zoning Ordinance. Said section relates to lot area and width for a single family residence.

When the Dempsey's bought the property, it was two parcels, each with a deed. The previous owner was combining the property around the time of sale, but continued to tell the Dempsey's that the property was two parcels. Later the Dempsey's put the parcel with the house on it for sale and were going to build on the second parcel, according to their paperwork. The Dempsey's then discovered that the 2 parcels had been combined into one. It became the above mentioned Parcel #0313-010-100-00.

Bob Jones stated that the timeline of the properties was:

- a. 1999 - It was a single parcel
- b. 5/2005 - Split approved to 2 parcels
- c. 4/10/2006 - Approval to combine to 1 parcel (actual date of recombination).
- d. 7//2006 -Dempsey's purchased what they thought was 2 parcels since each had its own deed
- e. 2006 - Summer Taxes – Received 2 tax bills
- f. 2/2007 - Zoning changed to increase lot size
- g. 2007 – Tax bill changed to one parcel (first indication of problem)

Chairman Wright opened the Public Hearing at 7:52 pm

Matt O' Conner, neighbor to the west , stated that he had moved from Boston and purchased the home 13 years ago. He feels that his property would be devalued if

the property was split into two parcels and another house built on the original 2nd parcel. He said the pitch of the land is bad. The road would have to be widened and in doing so, little buildable area would be left on the lot. He is against the Dempsey's building on that piece of land.

Chairman Wright closed the Public Hearing at 8:03 pm.

The Dempsey's stated that the pitch of the land would work for a house with a front walkout basement. The land had a drain field already for the house to the east, but was moved when the lots were split.

Discussion returned to the ZBA members with questions about the timeline. The Zoning Ordinance was changed in 2007. Prior to 2007, the minimum requirement for R-2 was 15,000 sq ft. Minimum requirements are now 25,000 sq ft. If divided again, neither parcel would now meet the requirements due to lack of public sewer.

It was noted when the property was two parcels, the one west parcel was not a legal parcel, since it was not large enough to meet the 15,000 sq. ft rule, exclusive of the land area within the street right of way. The lot would not have been buildable even if the lot size increase to 25,000 sq. ft. had not been instituted.

ZBA members stated that the roll of the Board is to uphold the ordinance, unless there is a unique physical circumstance or a practical difficulty in applying the ordinance to a specific parcel. In this case, there is really nothing unusual with the effect that the application of the ordinance has on this property. Only that the former owner and applicants acted without regard to or knowledge of the new rules that were put into effect. It was concluded that it was not the role of the ZBA to fix the errors of others. The Dempsey's were misled as they bought the property as two parcels while the previous owner was combining the property back into one and that is unfortunate but not the fault of the Township.

Motion by Merren, supported by Gould to deny the Dempsey Variance, on the basis that conditions are not the result of the Township and the circumstances are self created. The ZBA could not find any substantial evidence to support approving the variance.

Roll call vote: Aye: Gould, Merren, Skinner, Wright
Nay: None

All Ayes/ Motion Approved to Deny Variance

Art. 6 New Business – None

Art. 7 Unfinished Business – None

Art. 8 Public Comments – None

Art. 8 Board Member Comments- None

Meeting adjourned at 9:17 pm

Respectfully submitted,
Shari Harmon, Recording Secretary